



## **BROMSGROVE DISTRICT COUNCIL**

### **MEETING OF THE STANDARDS COMMITTEE**

**WEDNESDAY 23RD MARCH 2011, AT 6.00 P.M.**

**CONFERENCE ROOM, THE COUNCIL HOUSE, BURCOT LANE, BROMSGROVE**

**MEMBERS:** Independent Members: Mr. N. A. Burke (Chairman), Ms. K. J. Sharpe (Vice-Chairman) and Mrs. G. Bell  
Councillors: Miss D. H. Campbell JP, Mrs. A. E. Doyle and E. C. Tibby  
Parish Councils' Representatives: Mr. J. Cypher (Alvechurch Parish Council) and Mr. I. A. Hodgetts (Romsley Parish Council)  
Observer: Ms. S. H. Malek (Non-voting Deputy Parish Councils' Representative - Clent Parish Council)

### **AGENDA**

1. To receive apologies for absence and notification of substitutes
2. Declarations of Interest
3. To confirm the accuracy of the minutes of the meetings of the Standards Committee held on 26th January and 2nd February 2011 (to follow)
4. Monitoring Officer's Report (to follow)  
[To receive a report from the Monitoring Officer on any matters of relevance to the Committee.]
5. Parish Councils' Representatives' Report  
[To receive an oral report from the Parish Councils' Representatives on any matters of relevance to the Committee, and to include an update on any recent meeting(s) of the Bromsgrove Area Committee of the Worcestershire County Association of Local Councils (CALC).]

6. Ombudsman Statistics (Pages 1 - 6)

[To provide the Committee with a six-monthly update on Ombudsman statistics.]

7. Publications (Pages 7 - 16)

[Attention is drawn to the following attached publications:

- (i) Standards for England: *Localism Bill A brief summary of Chapter 5: Standards*; and
- (ii) Local Government Improvement and Development: *Maintaining High Ethical Standards in Local Government*']

8. Review of Operation of the Standards Committee and its Sub-Committees (Pages 17 - 22)

[To seek Members' views on the general operation of the Standards Committee and its Sub-Committees over the last twelve months.]

9. Calendar of Meetings 2011/2012 (Pages 23 - 26)

[To advise Members of the meeting dates of the Standards Committee for the 2011/12 Municipal Year.]

10. Work Programme (Pages 27 - 32)

[To consider the future Work Programme of the Committee.]

11. Exclusion of the Public

[To consider, and if considered appropriate, to pass the following resolution to exclude the public from the meeting during the consideration of an item of business containing exempt information:

**"RESOLVED:** that under Section 100 I of the Local Government Act 1972, as amended, the public be excluded from the meeting during the consideration of the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in Part I of Schedule 12A to the Act, as amended, the relevant paragraphs of that part being as set out below, and that it is in the public interest to do so:

<u>Item No.</u>	<u>Paragraphs</u>
12	1, 2 & 7C" ]

12. Consideration of Investigating Officer's Final Reports - Complaint References: 07/10, 08/10 and 09/10 (Pages 33 - 116)

[To consider the Investigating Officer's Final Reports into three linked complaints against Clent Parish Councillors J. Skelding, Mrs. M. Hobbis and R. Waldron.]

13. Exclusion of the Public

[To consider, and if considered appropriate, to pass the following resolution to exclude the public from the meeting during the consideration of an item of business containing exempt information:

**"RESOLVED:** that under Section 100 I of the Local Government Act 1972, as amended, the public be excluded from the meeting during the consideration of the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in Part I of Schedule 12A to the Act, as amended, the relevant paragraph of that part being as set out below, and that it is in the public interest to do so:

<u>Item No.</u>	<u>Paragraph</u>
14	7C" ]

14. Consideration of Investigating Officer's Final Report - Complaint Reference: 94/09 (Pages 117 - 176)

[To consider the Investigating Officer's Final Report into a complaint against District Councillor Mrs. J. D. Luck.]

15. Exclusion of the Public

[To consider, and if considered appropriate, to pass the following resolution to exclude the public from the meeting during the consideration of an item of business containing exempt information:

**"RESOLVED:** that under Section 100 I of the Local Government Act 1972, as amended, the public be excluded from the meeting during the consideration of the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in Part I of Schedule 12A to the Act, as amended, the relevant paragraph of that part being as set out below, and that it is in the public interest to do so:-

<u>Item No.</u>	<u>Paragraph</u>
16	7C" ]

16. To confirm the accuracy of any confidential minutes of the meetings of the Standards Committee held on 26th January and 2nd February 2011, as appropriate (to follow)
17. To consider any other business, details of which have been notified to the Head of Legal, Equalities and Democratic Services prior to the commencement of the meeting and which the Chairman, by reason of special circumstances, considers to be of so urgent a nature that it cannot wait until the next meeting
18. Exclusion of the Public

[Should it prove necessary, in the opinion of the Chief Executive, to exclude the public from the meeting at any point during the proceedings in relation to any item(s) of business (in addition to the business set out at agenda items 12, 14 and 16 above) on the grounds that either exempt and/or confidential information is likely to be divulged, the following resolution(s) will be moved:

"That under Section 100 I of the Local Government Act 1972, as amended, it/they involve the likely disclosure of exempt information as defined in Part I of Schedule 12A to the Act, as amended, the relevant paragraphs of that part being (*...to be specified by the Chairman at the meeting*), and that it is in the public interest to do so.", and/or

"That under Section 100 A of the Local Government Act 1972, as amended, it/they involve the likely disclosure of confidential information which would be in breach of an obligation of confidence."]

K. DICKS  
Chief Executive

The Council House  
Burcot Lane  
BROMSGROVE  
Worcestershire  
B60 1AA

15th March 2011

## BROMSGROVE DISTRICT COUNCIL

### **STANDARDS COMMITTEE**

**23 MARCH 2011**

#### **OMBUDSMAN STATISTICS**

Relevant Portfolio Holder	Geoff Denaro
Relevant Head of Service	Claire Felton
Non-Key Decision	

#### **1. SUMMARY OF PROPOSALS**

- 1.1 The purpose of this report is to provide Members with a six monthly update on ombudsman statistics.

#### **2. RECOMMENDATIONS**

Members are requested:

- 2.1 to note the contents of the report.

#### **3. BACKGROUND**

- 3.1 The provisional Ombudsman statistics compiled by the Local Government Ombudsman(LGO) for the year ended 31 March 2011 will be circulated by the LGO in May. This report provides an update on the number of complaints received for the period from 01.04.10 to 31.10.10 based on the Council's records.

#### **4. KEY ISSUES**

- 4.1 For the period from 1st April 2010 to 31st October 2010 the number of ombudsman complaints made about the Council was 12. Of these 5 were referred for formal investigation by the LGO. The outcome of these 5 complaints was that no findings of maladministration were made against the Council.
- 4.2 A further 5 complaints were classed as premature meaning that the complainant had not given the Council an opportunity to resolve the complaint but had instead reported it directly to the LGO. These complaints are referred back to the Council to be considered through the internal complaints system.

## **BROMSGROVE DISTRICT COUNCIL**

### **STANDARDS COMMITTEE**

**23 MARCH 2011**

---

- 4.3 One complaint was discontinued because the complainant had complained against the District Council when in fact her complaint should have been made about Bromsgrove District Housing Trust.
- 4.4 Finally, on one matter the ombudsman rejected the complaint and made a finding of no maladministration based on the documents provided by the complainant and without conducting a formal investigation.
- 4.5 Response times to those complaints that are formally investigated are monitored by the Council as a performance indicator. The target response time is 28 days. The average response time for the 5 formal complaints that were investigated was just over 30 days. This is higher than usual due to staff absences over August which prevented one matter from being completed within the target response time.
- 4.3 Officers will be able to give Members a more detailed breakdown of the activity relating to the Ombudsman later in the year once the full statistics for 10/11 are available in the format of the Annual Report issued by the LGO. This item is already included in the work programme for the Standards Committee.

### **5. FINANCIAL IMPLICATIONS**

- 5.1 None

### **6. LEGAL IMPLICATIONS**

- 6.1 None

### **7. POLICY IMPLICATIONS**

- 7.1 None

### **8. COUNCIL OBJECTIVES**

- 8.1 Improvement/ One Community.

### **9. RISK MANAGEMENT INCLUDING HEALTH & SAFETY CONSIDERATIONS**

- 9.1 The main risks associated with the details included in this report are those linked to poor standards of complaint handling. The effects of not handling

## BROMSGROVE DISTRICT COUNCIL

### **STANDARDS COMMITTEE**

**23 MARCH 2011**

---

complaints efficiently can include poor customer service, increased customer dissatisfaction, increased numbers of complaints and damage to the Council's reputation.

9.2 These risks are being managed as follows:

- Through the Council's customer feedback system and Customer First Policy.

#### **10. CUSTOMER IMPLICATIONS**

10.1 The statistics should enable the Council to improve service delivery to customers.

#### **11. EQUALITIES AND DIVERSITY IMPLICATIONS**

11.1 None

#### **12. VALUE FOR MONEY IMPLICATIONS, PROCUREMENT AND ASSET MANAGEMENT**

12.1 None

#### **13. CLIMATE CHANGE, CARBON IMPLICATIONS AND BIODIVERSITY**

13.1 None

#### **14. HUMAN RESOURCES IMPLICATIONS**

14.1 None

#### **15. GOVERNANCE/PERFORMANCE MANAGEMENT IMPLICATIONS**

15.1 None

#### **16. COMMUNITY SAFETY IMPLICATIONS INCLUDING SECTION 17 OF CRIME AND DISORDER ACT 1998**

16.1 None

#### **17. HEALTH INEQUALITIES IMPLICATIONS**

**BROMSGROVE DISTRICT COUNCIL**

**STANDARDS COMMITTEE**

**23 MARCH 2011**

17.1 None

**18. LESSONS LEARNT**

18.1 N/a

**19. COMMUNITY AND STAKEHOLDER ENGAGEMENT**

19.1 N/a

**20. OTHERS CONSULTED ON THE REPORT**

Portfolio Holder	Yes
Chief Executive	No
Executive Director (S151 Officer)	No
Executive Director – Leisure, Cultural, Environmental and Community Services	No
Executive Director – Planning & Regeneration, Regulatory and Housing Services	No
Director of Policy, Performance and Partnerships	No
Head of Service	Yes
Head of Resources	No
Head of Legal, Equalities & Democratic Services	Yes
Corporate Procurement Team	No

**21. WARDS AFFECTED**

All wards

**22. APPENDICES**



**BROMSGROVE DISTRICT COUNCIL**

**STANDARDS COMMITTEE**

**23 MARCH 2011**

---

None

**23. BACKGROUND PAPERS**

None

**24. KEY**

N/A

**AUTHOR OF REPORT**

Name: Sarah Sellers – Senior Solicitor

E Mail: [s.sellers@bromsgrove.gov.uk](mailto:s.sellers@bromsgrove.gov.uk)

Tel: (01527) 881397

This page is intentionally left blank

## **Localism Bill A brief summary of Chapter 5: Standards**

1. The main provisions for the abolition of the standards regime are contained in Chapter 5 of the Localism Bill introduced into Parliament on 14 December 2010. Further provisions are set out in Schedules 4 and 24.
2. The Bill abolishes the standards regime overseen by the Standards Board for England, including the Model Code of Conduct for members of relevant local authorities in England and their standards committees. The abolition arrangements also affect the First- tier Tribunal (Local Government Standards in England) under the jurisdiction of the Ministry of Justice because the Tribunal will receive no further cases after those that it is already dealing with on the abolition date have been determined.
3. Authorities will be under a duty to promote high standards of conduct. The new arrangements for standards to help them comply with this duty will in part be voluntary, and in part mandatory, with criminal sanctions where certain interests are concerned. The Bill also makes provision for transitional arrangements regarding the Standards Board and ongoing cases.
4. The Standards Board for England will no longer exist and none of its functions will transfer to any other body. There will no longer be a requirement for relevant authorities to adopt a code of conduct for their members or to appoint standards committees, and there will be no mandatory enforceable code of conduct for members that they have to undertake to follow when they take up office (i.e. elected or appointed).
5. The relevant authorities that will be affected by the abolition of the current regime and the new arrangements cover 'relevant authorities'. These include authorities other than local councils - for example, police authorities in England and Wales until they are abolished (subject to the current Police Reform and Social Responsibility Bill being passed by Parliament). Relevant authorities will continue to include Parish Councils, but they will be responsible for their own standards instead of the relevant district or county authority.
6. Matters relating to standards will be the function, i.e. responsibility, of the relevant authorities but no function can be delegated to an executive (sometimes referred to locally as a cabinet), and the adoption of a voluntary code must be done by the authority as a whole.
7. There will still be a requirement, expressed as a duty, to promote high standards of conduct, but this will now be the function of the authority and not standards committees.
8. The duty and any voluntary arrangements adopted by an authority still only apply to members of authorities who can vote. This means that voting co-opted members will be covered by any new arrangements, but non-voting co-opted members will not.
9. Relevant authorities can create a voluntary code either by revising an existing code or adopting a code to replace an existing one. Because the code is voluntary, an authority can also withdraw an existing code without replacement. The authority can publicise what it has done about the code as it sees fit.

10. Where an authority has adopted a code, it can put in place any procedure it wishes to deal with complaints and take any action it sees fit, although this may exclude suspension or disqualification as these sanctions are expressly forbidden by provisions relating to how the council deals with failure to register or declare interests.
11. The arrangements regarding interests and criminal sanctions will be dealt with by way of Regulations issued by the Secretary of State, and the main requirement to maintain a register will remain with the monitoring officer for authorities which have monitoring officers. Although the Bill allows a specified person in parish councils to be responsible for maintaining a register, it may be that the regulations could specify that this responsibility will remain with monitoring officers for parish councils in their area.
12. The Regulations will be able to specify –
  - The interests to be registered
  - The requirements for disclosure
  - Participation in decision-making
  - Dispensations
  - Sanctions (but these cannot include suspension or disqualification) and
  - Access and publicity arrangements for a register.
13. Prosecutions in relation to interests can only be brought with the consent of the DPP. Offences can only be dealt with in the Magistrates Court, and will relate to:
  - a failure to register without reasonable excuse;
  - a failure to disclose without reasonable excuse; and
  - taking part in relevant authority business (which could be wider than taking part in formal meetings).
13. Sanctions available to the court on conviction are
  - A fine, the current maximum for which is £5,000
  - Disqualification for up to 5 years from any relevant authority or from standing or becoming a member.
  - The time limit for prosecutions is 12 months from when the prosecutor decides there is sufficient evidence to support a case, but no later than 3 years from when the offence occurred.
14. The transitional provisions will be made by secondary legislation and are referred to mainly in Part 2 of Schedule 4. Part 1 consists of amendments of specific legislation which mentions the Standards Board. Transitional provisions refer to property and assets of the Standards Board and arrangements for cases.
15. There is still much to be made clear on how some of these matters are to be dealt with in practice and how they link with existing legislation and the general law, particularly in relation to misconduct cases decided before the LGA 2000 came into force.



### **MAINTAINING HIGH ETHICAL STANDARDS IN LOCAL GOVERNMENT**

The Localism Bill published on 13<sup>th</sup> December contains proposals to abolish the Standards for England regime. Whilst subject to Parliament approving the necessary legislation, the changes can be summarised as Standards for England (formally the Standards Board for England) ceasing to operate, councils no longer being required to have a local standards committee, the national code of conduct for elected members being dispensed with and council's being allowed to adopt voluntary codes of conduct.

Following the abolition of the standards regime, councils will no longer have a single body of law to refer to for dealing with elected member conduct but will, instead, be able to call upon a range of remedies, including existing criminal and civil law provisions and those provisions contained in the Localism Bill. This paper seeks to summarise the proposals contained within the Bill and outline those provisions available to authorities to call upon. The paper covers the following:

- Summary of changes proposed in the Bill
- The position of the Nolan Principles
- Registering interests
- Fiduciary duty of councillors
- Criminal and civil law including discrimination and electoral offences
- Local Government Ombudsman
- Audit Commission powers
- The common law position of bias, predisposition and predetermination

The Local Government Group acknowledges the valuable contributions of the senior members of the Association of Council Secretaries and Solicitors (ACSeS) in helping to produce this paper.

## **SUMMARY OF CHANGES PROPOSED IN THE BILL**

The proposals outlined in the Bill are as follows:

- The Relevant Authorities (General Principles) Order 2001, which sets out the principles which govern the conduct of members and co-opted members of relevant authorities in England and police authorities in Wales, will be revoked
- The Local Authorities (Model Code of Conduct) Order 2007 (S.I 2007/1159) which prescribes the model code of conduct to apply to members of relevant authorities will be revoked
- The requirement for local authorities to have standards committees will be abolished
- Standards for England will be abolished. Established by the Local Government Act 2000 and the regulator for local authority standards committees, the Standards Board requires primary legislation to abolish it and its legislative functions. None of the Standards Boards functions will be transferred to other bodies.
- The First-tier Tribunal (Local Government Standards in England), the independent judicial tribunal established as a disciplinary body to hear and determine references and appeals concerning the conduct of local authority councillors, will lose its jurisdiction over the conduct of local authority members
- Elected members will be required to continue to register and declare personal interests and will not be allowed to use their position improperly for personal gain. The government intends that wilful failure to comply with these requirements will constitute a criminal offence.
- The requirement for local authorities to adopt a model code of conduct and for local authority members to abide by that code will be abolished. However, local authorities will be free to adopt their own, voluntary code of conduct should they so wish.
- The requirement for councils to maintain a standards committee will be abolished. However, local authorities will be free, should they choose, to establish voluntary standards committees to consider complaints about the conduct of elected and co-opted members. Such committees will, according to councils' local constitutions, be able to censure but will not be able to suspend or disqualify members from council membership.

It is anticipated that the Bill will receive Royal Assent in late 2011. The present conduct regime (a model code governing local authority members' conduct and enforced through local authority standards committees, regulated in turn by the Standards for England), will continue to function in a normal manner, considering, investigating and determining allegations of misconduct, until a fixed date ("the appointed day"), probably two months after the Bill receives Royal Assent.

This means that until the appointed day, an allegation of misconduct can be made but that after the appointed day no further allegations of misconduct can be made under the Standards for England regime. It also means that at the appointed day, allegations will be in the process of investigation and, further, that appeals against sanctions will be pending. Transitional measures are to be put in place to address this and the way in which they will operate is detailed in the following paragraphs:

- Any cases in the system at the appointed day will make their way through a transitional regime. This would meet the expectation of those who had made allegations that these would be properly dealt with. It also provides an elected member who has had an allegation made against them with the opportunity to clear their name.
- The government proposes that any investigations being undertaken by Standards for England transfer, on the appointed day, to the local authority that referred the investigation. It will be for that local authority to arrange for the conclusion of the investigation. The local authority's standards committee will remain established until the last complaint it is considering, referred either internally or from Standards for England, has been dealt with.
- Any cases with which the First-tier Tribunal (Local Government Standards in England) is dealing on the appointed day will be concluded by that tribunal. It will not receive any appeals against standards committee rulings after that date. The right of appeal will not exist for those cases standards committees deal with as they work their way through the transitional system. The government considers that the risk of protracted proceedings justifies this approach. The sanctions available to standards committees are significantly less severe than the sanctions available to the First-tier Tribunal (Local Government Standards in England).
- The government proposes that the suspension sanction is removed from standards committees for the transitional period. Hence the most a standards committee could do, for instance, is to issue a councillor with a censure or a request that they undergo training.

### **THE NOLAN PRINCIPLES**

The **Committee on Standards in Public Life** is an advisory non-departmental public body established in 1994. The Committee's landmark First Report published in 1995 established ***The Seven Principles of Public Life*** often described as the Nolan Principles.

The Seven Principles of Public Life are:-

- **Selflessness** – Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other benefits for themselves, their family or their friends.
- **Integrity** – Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

- **Objectivity** – In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.
- **Accountability** – Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.
- **Openness** – Holders of public office should be as open as possible about all the decisions and actions they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.
- **Honesty** – Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.
- **Leadership** - Holders of public office should promote and support these principles by leadership and example.

Whilst it is anticipated that the statutory principles will be repealed, they have the potential to continue to be utilised more informally by people looking to develop their understanding of the standards expected of those in public office.

### **FIDUCIARY DUTY OF COUNCILLORS**

A councillor is treated as a trustee of council assets, with a fiduciary duty to apply those assets in the public interest. Where a councillor abuses that trust, for example by disposing of those assets for personal gain, he/she can be held liable for the resulting loss - as with the House of Lords landmark ruling against Dame Shirley Porter in her capacity as Leader of Westminster City Council.

### **REGISTERING INTERESTS**

The Local Government Act 2000 requires each councillor to make a declaration of his or her interests and to ensure that any addition or amendment to that declaration is made within 28 days of any change occurring in relation to his or her interests. The Bill intends to strengthen this by making it a criminal offence for a councillor to fail to register a relevant interest or withdraw for a personal interest, although the scope of this offence awaits Regulations.

### **CIVIL LAW**

As councillors do not enjoy legal privilege they are subject to the same laws of **libel and slander** as the rest of the population. However, a council cannot itself be libelled so this remedy would only be available for the individual claiming they have been libelled or defamed rather than the authority itself.

**Misfeasance in public office** is a cause of action in the civil courts. It is an action against the holder of a public office, alleging in essence that the office-holder has misused or abused his power. There are two types of misfeasance in public office. One, known as 'targeted malice', occurs when a public office holder intentionally abuses his or her position with the motive of inflicting damage upon the claimant. The second is termed 'untargeted malice' and is committed by a public office holder who acts knowing that he/she has no power to undertake the act complained of.



## **EQUALITIES AND DISCRIMINATION LAW**

Other civil law remedies would be available to individuals, but not councils, in the area of **equalities and discrimination law** for unlawful discrimination.

Discrimination law governs the right of individuals not be treated less favourably than others on grounds that include sex, race, religion, sexual orientation, age and disability. It also deals with the duty of public bodies to promote equality although the coalition government have announced that they are to repeal the social-economic duty on council's enacted in the Equalities Act 2010.

Councillors may, of course, be specifically named as a party to proceedings by claimants in discrimination proceedings.

## **CRIMINAL LAW**

A councillor sentenced to a term of imprisonment of not less than 3 months is disqualified from office by virtue of **Section 80 of the Local Government Act 1972**.

A councillor using their position to support or influence a planning application for a project or venture that they have a financial interest in or otherwise using their position for self financial gain would be committing an offence under the **Fraud Act 2006**. Conviction under this Act carries a maximum penalty of 10 years imprisonment or an unlimited fine or both

The **Bribery Act 2010** provides a legal framework to combat bribery in the public (or private) sectors. It replaces the fragmented and complex offences at common law and those previously contained in the Prevention of Corruption Acts 1889-1916

The new Act creates two general offences covering the offering, promising or giving of an advantage, and requesting, agreeing to receive or accepting of an advantage in a public office. Again, the maximum penalty for individuals is 10 years' imprisonment or a fine, or both

The Crown Prosecution Service, rather than councils, would decide whether there was sufficient evidence to prosecute for criminal offences.

## **ELECTORAL OFFENCES**

The relevant legislation relating to electoral offences can be found in the:

- The Representation of the People Act 1983 (the Act)
- The Representation of the People Act 1985
- The Political Parties, Elections and Referendums Act 2000
- The Electoral Administration Act 2006 ("EAA")

There are a number of electoral offences specified in the Representation of the People Act 1983 and 1985, with the key ones being:

**Undue influence:** Where an individual, directly or indirectly, makes use of or threatens to make use of force, violence or restraint; or inflicts or threatens to inflict injury, damage or harm in order to induce or compel any voter to vote or refrain from voting. This offence has been modified by the Electoral Administration Act to extend the effect of it to include intention and not just where an act has taken place. A

person may be guilty of undue influence if they impede or prevent, or intend to impede or prevent, the free exercise of the franchise of an elector.

**Bribery:** Where any individual, directly or indirectly, gives any money to any voter, in order to induce any voter to vote or not to vote for a particular candidate, or to vote or refrain from voting.

**Treating:** Where either before, during or after an election, any person, directly or indirectly, gives or provides (or pays wholly or in part the expense of giving or providing) any food, drink, entertainment or provision in order to influence corruptly any voter to vote or refrain from voting.

**Personation:** Where any individual votes as someone else (whether that other person is living or dead or is a fictitious person), either by post or in person at a polling station as an elector or proxy. Further, the individual voting can be deemed guilty of personation if they vote on behalf of a person they have reasonable grounds for supposing is dead or fictitious, or where they have reasonable grounds for supposing the proxy appointment is no longer in force.

**Postal and proxy voting:** Where an individual applies for a postal or proxy vote as some other person, otherwise makes a false statement in connection with an application for a postal or proxy vote, requests an Electoral Registration Officer or a Returning Officer to send a postal vote or associated communication to an address which has not been agreed by the person entitled to vote, or causes a postal or proxy voting communication not to be delivered to the intended recipient.

**False information in nomination papers:** Where a person gives false information in a nomination paper or in their consent to nomination, they are guilty of a corrupt practice.

**False information in relation to registration:** Where an individual, for any purpose in connection with the registration of electors, provides false information to the Electoral Registration Officer in connection with the registration of electors, that person is guilty of offence.

**The Electoral Administration Act 2006** created two new offences which are:

**Supplying false information to the Electoral Registration Officer, and**

**Making fraudulent application for a postal vote**

The majority of electoral offences carry a maximum penalty of 1 or 2 years imprisonment or an unlimited fine.

### **AUDIT COMMISSION FOR LOCAL AUTHORITIES**

Whilst powers of surcharge were abolished under the **Local Government Act 2000** an auditor appointed by the Audit Commission under the **Audit Commission Act 1998** will continue to play their role in investigating financial impropriety in local government and can recover financial losses from individuals councillors on the basis that he or she is responsible for the authority incurring unlawful expenditure. It is yet to be seen whether this power will be transferred to another body given the government's announced abolition of the Audit Commission.

## **LOCAL GOVERNMENT OMBUDSMAN**

The Local Government Ombudsman was set up to investigate maladministration causing injustice. The law does not define maladministration but the Local Government Ombudsman currently defines its' mandate as follows:

*"We can consider complaints about things that have gone wrong in the way a service has been given or the way a decision has been made, if this has caused problems for you"*

Individual or collective actions or failings of councillors may amount to maladministration.

The government has announced that it intends to give the Local Government Ombudsman, the established body for investigating public complaints over the way they have been treated by their council, greater influence. For the first time local authorities will be legally compelled to implement the Ombudsman's findings.

## **BIAS, PREDISPOSITION AND PREDETERMINATION**

This is a complex area of common law (i.e. judge-made law) that has implications for councillors individually and councils. It is wrong, therefore, to associate such matters exclusively as having been caused by Standards for England or as a direct result of the introduction of the standards regime under the Local Government Act 2000.

The long established legal position is that a councillor may not be party to decisions in relation to which he/she either is actually biased (in the sense that he/she has a closed mind and has pre-determined the outcome of the matter to be decided irrespective of the merits of any representations or arguments which may be put to him/her) or gives an appearance of being biased, as judged by a reasonable observer.

A finding of bias and/or predetermination can make a decision unlawful with costs and reputational implications for councils and the First-tier Tribunal (Local Government Standards, England (formerly the Adjudication Panel for England) has held that such a finding could be a breach of Paragraph 5 of the current code of conduct which could lead to the disqualification of a councillor.

The Localism Bill aims to clarify the rules on pre-determination and bias: the Bill provides that an indication by a councillor that he takes a particular view on a matter is not to be taken as evidence of a closed mind. The intention is that the normal activities of a councillor, such as campaigning, talking with constituents, expressing views on local matters and seeking to gain support for those views, should not lead to an unjust accusation of having a closed mind on an issue that can lead to a legal challenge. The government claims that that this will give councillors the assurance that they can campaign, discuss and vote on issues with confidence and so encourage more people to stand in local elections. In practice, the Court of Appeal has already asserted that such activities will not preclude participation in decision-making, unless the councillor is so committed that they are not even prepared to listen to the evidence, but courts may fret that, where a councillor says that he has a closed mind on a matter, the court cannot take this assertion into evidence;

The government previously announced that a power of electoral recall of councillors is also being proposed to allow for the removal of councillors mid term for cases of 'serious misconduct'; although this has also not been included in the Localism Bill.

## **MISCELLANEOUS**

It will remain open to councils to agree local arrangements whereby councillors could be censured for breaching local codes of conduct and other local protocols; including other activity regarded as inappropriate and to remove councillors from committees, outside bodies and other appointments, when appropriate. Whilst there will be a need for local authorities to reflect constitutional changes as a result of abolition of the current standards regime, other local protocols covering, for example, member/officer relations and guidelines regarding use of council resources, will continue to have effect and be subject to any local sanctions adopted by individual councils, though there will be no statutory sanctions against an offending member and therefore no powers to suspend or disqualify councillors.

## **FURTHER CONTACT**

Chris Bowron, Local Government Group e-mail – [chris.bowron@local.gov.uk](mailto:chris.bowron@local.gov.uk)

## BROMSGROVE DISTRICT COUNCIL

### **STANDARDS COMMITTEE      23rd March 2011**

#### **REVIEW OF OPERATION OF THE STANDARDS COMMITTEE AND ITS SUB-COMMITTEES**

Relevant Portfolio Holder	Councillor Geoff Denaro
Relevant Head of Service	Claire Felton, Monitoring Officer

#### **1. SUMMARY OF PROPOSALS**

This report seeks Members' views on the general operation of the Standards Committee and its Standards Sub-Committees over the last twelve months.

#### **2. RECOMMENDATIONS**

**It is recommended that, subject to any specific issues highlighted by the Committee which might require specific follow-up action, the report be noted.**

#### **3. BACKGROUND**

- 3.1 Members were first asked to review the general operation of the Standards Committee, for the preceding twelve months, at the meeting of the Committee on 20th May 2009.
- 3.2 It was agreed at that time that the report should feature annually in the Committee's Work Programme and that this would normally be considered by the Committee as its final meeting of the municipal year; prior to any change in membership of the district councillors on the Committee which might take place at the Annual Meeting of the Council in May.
- 3.3 At its meeting on 23rd September 2009 the Committee revised the constitution of its sub-committees in the light of its previous request to the Monitoring Officer to develop a scheme for determining how substitutes should be selected. The Assessment and Review Sub-Committees were therefore restructured and fixed memberships introduced for these. It was agreed that the position should be reviewed once the new sub-committees had been in operation for six months.
- 3.4 At its meeting on 24th March 2010 the Committee considered the operation of the fixed memberships of the Assessment and Review Sub-Committees which had been introduced in September 2009. In

**BROMSGROVE DISTRICT COUNCIL**

**STANDARDS COMMITTEE      23rd March 2011**

view of the large number of complaints which had been received during the previous year and the difficulties which officers had from time to time faced in coordinating the assessment of complaints, the Committee resolved that the Monitoring Officer be tasked with preparing a report for consideration by full Council on increasing the membership of the Standards to include a fourth elected Member. The issue of appointing a third full Parish Representative to the Committee was also raised, which it was agreed would be looked at separately, as appropriate. On 24th March 2010 full Council resolved to increase the membership of the Standards Committee from 8 to 9, with the additional member being an elected Member. The additional elected Member vacancy on the Committee currently remains vacant.

- 3.5 At its meeting on 19th May 2010 the Committee further considered the process for selecting substitutes to its sub-committees and the appointment of its members to the sub-committees and agreed further policy in this regard. The Committee also reviewed its policy on which documentation should accompany reports to the sub-committees, which it was agreed should be reviewed further in 12 months' time and which therefore appears on the Committee's Work Programme for the June 2011 meeting.

**4.    KEY ISSUES**

- 4.1 Reviewing the general operation of the Standards Committee and its sub-committees is beneficial as it provides Members and officers with an opportunity to reflect on the work carried out over the last twelve months and to consider whether any changes are required to the practices or procedures currently in place to facilitate that work.
- 4.2 The information detailed at paragraphs 3.4 and 3.5 above reflects the Committee's continual review and development of its policies and procedures.
- 4.3 Members are asked to consider the operation of the Standards Committee and its sub-committees over the last 12 months and to comment on any aspects of these accordingly.

**5.    FINANCIAL IMPLICATIONS**

None

**BROMSGROVE DISTRICT COUNCIL**

**STANDARDS COMMITTEE**      **23rd March 2011**

---

**6. LEGAL IMPLICATIONS**

None

**7. POLICY IMPLICATIONS**

As detailed in report.

**8. COUNCIL OBJECTIVES**

8.1 This report is linked to the Council's Improvement Objective.

8.2 Reviewing the general operation of the Standards Committee and its sub-committees will assist Members and officers in identifying any areas which show good practice and/or which may require change. This shows that the Committee is conscious of the need to continually review, develop and, where appropriate, refine any systems which are not meeting the needs of Members, the Council and the public in relation to ethical governance under the local standards framework.

**9. RISK MANAGEMENT INCLUDING HEALTH & SAFETY CONSIDERATIONS**

None

**10. CUSTOMER IMPLICATIONS**

None

**11. EQUALITIES AND DIVERSITY IMPLICATIONS**

None

**12. VALUE FOR MONEY IMPLICATIONS, PROCUREMENT AND ASSET MANAGEMENT**

None

**13. CLIMATE CHANGE, CARBON IMPLICATIONS AND BIODIVERSITY**

None

**BROMSGROVE DISTRICT COUNCIL**

**STANDARDS COMMITTEE      23rd March 2011**

**14. HUMAN RESOURCES IMPLICATIONS**

None

**15. GOVERNANCE/PERFORMANCE MANAGEMENT IMPLICATIONS**

15.1 The Standards Committee is responsible for promoting and maintaining high standards of behaviour among Members and its work is therefore key to the ethical governance arrangements in place within the Council.

15.2 Reviewing the general operation of the Standards Committee and its sub-committees on an annual basis will assist the Committee in being proactive in fulfilling its role in ethical governance under the local standards framework.

**16. COMMUNITY SAFETY IMPLICATIONS INCLUDING SECTION 17 OF CRIME AND DISORDER ACT 1998**

None

**17. HEALTH INEQUALITIES IMPLICATIONS**

None

**18. LESSONS LEARNT**

None

**19. COMMUNITY AND STAKEHOLDER ENGAGEMENT**

None

**20. OTHERS CONSULTED ON THE REPORT**

Portfolio Holder	No
Chief Executive	No
Executive Director (S151 Officer)	No



**BROMSGROVE DISTRICT COUNCIL**

**STANDARDS COMMITTEE      23rd March 2011**

Executive Director – Leisure, Cultural, Environmental and Community Services	No
Executive Director – Planning & Regeneration, Regulatory and Housing Services	No
Director of Policy, Performance and Partnerships	No
Head of Service	Yes
Head of Resources	No
Head of Legal, Equalities & Democratic Services	Yes
Corporate Procurement Team	No

**21. WARDS AFFECTED**

All wards

**22. APPENDICES**

None

**23. BACKGROUND PAPERS**

Relevant reports to and minutes of previous Standards Committee meetings.

**AUTHOR OF REPORT**

Name:            Debbie Parker-Jones  
E Mail:         d.parkerjones@bromsgrove.gov.uk  
Tel:              (01527) 881411

This page is intentionally left blank

## BROMSGROVE DISTRICT COUNCIL

### **STANDARDS COMMITTEE      23rd March 2011**

#### **CALENDAR OF MEETINGS - 2011/12**

Relevant Portfolio Holder	Councillor Geoff Denaro
Relevant Head of Service	Claire Felton, Monitoring Officer

#### **1. SUMMARY OF PROPOSALS**

This report advises Members of the meeting dates of the Standards Committee for the 2011/12 Municipal Year.

#### **2. RECOMMENDATIONS**

**It is recommended that the meeting dates of the Standards Committee for the 2011/12 Municipal Year be noted.**

#### **3. BACKGROUND**

- 3.1 The Programme of Council and Committee meetings for the 2010/11 Municipal Year was considered by the Cabinet at its meeting on 6th January 2010 and was approved by full Council on 20th January 2010.
- 3.2 The Council also agreed at that time that authority be delegated to the Head of Legal, Equalities and Democratic Services, in consultation with the Leader and relevant Portfolio Holder, to agree the Programme of Council and Committee meetings for future years. The 2011/12 Programme of Meetings has therefore been approved in accordance with that delegation.
- 3.3 The final meeting of the Standards Committee of the current (2010/11) Municipal Year will take place on Wednesday 23rd March 2011.
- 3.4 The agreed dates of Standards Committee meetings for the 2011/12 Municipal Year are as follows:
  - Wednesday 8th June 2011
  - Wednesday 27th July 2011
  - Wednesday 21st September 2011
  - Wednesday 23rd November 2011
  - Wednesday 25th January 2012
  - Wednesday 21st March 2012

**BROMSGROVE DISTRICT COUNCIL**

**STANDARDS COMMITTEE      23rd March 2011**

- 3.5 The above meetings are scheduled to commence at 6.00pm. However the start times may, on occasion, be subject to change, with the prior approval of the Committee.
- 3.6 In addition to the meetings detailed at paragraph 3.4 above, meetings of the Standards Assessment Sub-Committee and Standards Review Sub-Committee will also take place as and when required. These will deal with the local assessment of complaints against elected Members for alleged breaches of the Members' Code of Conduct. Sub-Committee meetings, which are not open to the public, will take place during the daytime or evening, in accordance with any statutory timeframes.

**4. KEY ISSUES**

Members are asked to note the Committee's meeting dates for 2011/12.

**5. FINANCIAL IMPLICATIONS**

None

**6. LEGAL IMPLICATIONS**

None

**7. POLICY IMPLICATIONS**

None

**8. COUNCIL OBJECTIVES**

This item does not link directly with any Council objectives.

**9. RISK MANAGEMENT INCLUDING HEALTH & SAFETY CONSIDERATIONS**

None

**10. CUSTOMER IMPLICATIONS**

None

**STANDARDS COMMITTEE      23rd March 2011**

**11. EQUALITIES AND DIVERSITY IMPLICATIONS**

None

**12. VALUE FOR MONEY IMPLICATIONS, PROCUREMENT AND ASSET MANAGEMENT**

None

**13. CLIMATE CHANGE, CARBON IMPLICATIONS AND BIODIVERSITY**

None

**14. HUMAN RESOURCES IMPLICATIONS**

None

**15. GOVERNANCE/PERFORMANCE MANAGEMENT IMPLICATIONS**

The Standards Committee is responsible for promoting and maintaining high standards of behaviour among Members and its work is therefore key to the ethical governance arrangements in place within the Council.

**16. COMMUNITY SAFETY IMPLICATIONS INCLUDING SECTION 17 OF CRIME AND DISORDER ACT 1998**

None

**17. HEALTH INEQUALITIES IMPLICATIONS**

None

**18. LESSONS LEARNT**

None

**19. COMMUNITY AND STAKEHOLDER ENGAGEMENT**

None

**BROMSGROVE DISTRICT COUNCIL**

**STANDARDS COMMITTEE      23rd March 2011**

**20. OTHERS CONSULTED ON THE REPORT**

Portfolio Holder	No
Chief Executive	No
Executive Director (S151 Officer)	No
Executive Director – Leisure, Cultural, Environmental and Community Services	No
Executive Director – Planning & Regeneration, Regulatory and Housing Services	No
Director of Policy, Performance and Partnerships	No
Head of Service	Yes
Head of Resources	No
Head of Legal, Equalities & Democratic Services	Yes
Corporate Procurement Team	No

**21. WARDS AFFECTED**

All wards

**22. APPENDICES**

None

**23. BACKGROUND PAPERS**

None

**AUTHOR OF REPORT**

Name:            Debbie Parker-Jones  
E Mail:         d.parkerjones@bromsgrove.gov.uk  
Tel:              (01527) 881411

## BROMSGROVE DISTRICT COUNCIL

### **STANDARDS COMMITTEE**

**23rd March 2011**

#### **WORK PROGRAMME**

Relevant Portfolio Holder	Councillor Geoff Denaro
Relevant Head of Service	Claire Felton, Monitoring Officer and Head of Legal, Equalities and Democratic Services

#### **1. SUMMARY OF PROPOSALS**

Members are requested to consider the future Work Programme of the Standards Committee.

#### **2. RECOMMENDATIONS**

**That, subject to any amendments made to it by the Committee, the Work Programme be approved.**

#### **3. BACKGROUND**

3.1 The Standards Committee established a Work Programme at its meeting on 7th February 2008.

3.2 A Work Programme is beneficial to the Committee for the following reasons:

- (a) to ensure the Committee is fulfilling its roles and functions in accordance with the Council's Constitution;
- (b) to enable officers to be proactive in supporting the Committee and for the Committee to be equally proactive in introducing change to ensure the Council is an ethical organisation, which promotes and maintains high standards of conduct of elected Members, and is an organisation which relates to the community and improves the service it provides; and
- (c) the rising profile of standards committees and, in particular, the changes brought about by the introduction of the local assessment of complaints of alleged breaches by district and parish councillors of the Members' Code of Conduct, under the Local Government and Public Involvement in Health Act 2007.

3.3 The Work Programme will appear as a regular item on Standards Committee agendas.

**BROMSGROVE DISTRICT COUNCIL**

**STANDARDS COMMITTEE**

**23rd March 2011**

---

- 3.4 Officers will update the Work Programme, as appropriate, in between meetings and any amendments to this will be referred to the next meeting of the Committee for approval. Members of the Committee are welcome to contact officers, at any time, with suggested changes to the Work Programme.

**4. KEY ISSUES**

The Committee is asked to consider the Work Programme and to comment on this accordingly.

**5. FINANCIAL IMPLICATIONS**

None

**6. LEGAL IMPLICATIONS**

None

**7. POLICY IMPLICATIONS**

None

**8. COUNCIL OBJECTIVES**

The Work Programme is linked to the Council's Improvement Objective.

**9. RISK MANAGEMENT INCLUDING HEALTH & SAFETY CONSIDERATIONS**

None

**10. CUSTOMER IMPLICATIONS**

A Work Programme will assist in informing Members, officers and the public of the work being undertaken by the Committee in ensuring that the Council is an ethical organisation, which is proactively working towards improvement.

**11. EQUALITIES AND DIVERSITY IMPLICATIONS**

None



**BROMSGROVE DISTRICT COUNCIL**

**STANDARDS COMMITTEE**

**23rd March 2011**

**12. VALUE FOR MONEY IMPLICATIONS, PROCUREMENT AND ASSET MANAGEMENT**

None

**13. CLIMATE CHANGE, CARBON IMPLICATIONS AND BIODIVERSITY**

None

**14. HUMAN RESOURCES IMPLICATIONS**

None

**15. GOVERNANCE/PERFORMANCE MANAGEMENT IMPLICATIONS**

None

**16. COMMUNITY SAFETY IMPLICATIONS INCLUDING SECTION 17 OF CRIME AND DISORDER ACT 1998**

None

**17. HEALTH INEQUALITIES IMPLICATIONS**

None

**18. LESSONS LEARNT**

None

**19. COMMUNITY AND STAKEHOLDER ENGAGEMENT**

None

**20. OTHERS CONSULTED ON THE REPORT**

Portfolio Holder	No
Chief Executive	No
Executive Director (S151 Officer)	No

**BROMSGROVE DISTRICT COUNCIL**

**STANDARDS COMMITTEE**

**23rd March 2011**

Executive Director – Leisure, Cultural, Environmental and Community Services	No
Executive Director – Planning & Regeneration, Regulatory and Housing Services	No
Director of Policy, Performance and Partnerships	No
Head of Service	Yes
Head of Resources	No
Head of Legal, Equalities & Democratic Services	Yes
Corporate Procurement Team	No

**21. WARDS AFFECTED**

All wards

**22. APPENDICES**

Appendix 1 Work Programme

**23. BACKGROUND PAPERS**

None

**AUTHOR OF REPORT**

Name: Debbie Parker-Jones  
E Mail: d.parkerjones@bromsgrove.gov.uk  
Tel: (01527) 881411

**BROMSGROVE DISTRICT COUNCIL**

**STANDARDS COMMITTEE**

**23rd March 2011**

**APPENDIX 1**

**STANDARDS COMMITTEE WORK PROGRAMME**

[Note: Any items that it is proposed should be removed from the Work Programme are denoted by a strikethrough, with any new additions and/or rescheduled items appearing in bold italics.]

<b>Meeting date</b>	<b>Item(s) for consideration</b>
8th June 2011	<ul style="list-style-type: none"><li>• Appointment of Chairman and Vice-Chairman for 2011/12</li><li>• Sub-Committee appointments for 2011/12</li><li>• Annual Review of the Operation and Effectiveness of the Members' Code of Conduct</li><li>• 12 month review on policy regarding documentation accompanying reports to Assessment and Review Sub-Committees (<i>Min. 10/10 of 19th May 2010 Standards Committee meeting refers</i>)</li></ul>
27th July 2011	<ul style="list-style-type: none"><li>• Standards Committee Annual Report 2011/12</li></ul>
21st September 2011	<ul style="list-style-type: none"><li>• Annual Ombudsman Complaint Statistics (<i>final report for period ending 31st March 2011 and to include comparison with neighbouring authorities</i>)</li></ul>
23rd November 2011	
25th January 2012	
21st March 2012	<ul style="list-style-type: none"><li>• Ombudsman Complaint Statistics (<i>interim update for period ending 31st September 2011</i>)</li><li>• Annual Review of the Operation of the Standards Committee and its Sub-Committees</li><li>• Calendar of meetings 2012/13 (<i>dependent on outcome of Localism Bill</i>)</li></ul>

**BROMSGROVE DISTRICT COUNCIL**

**STANDARDS COMMITTEE**

**23rd March 2011**

Date to be confirmed	<ul style="list-style-type: none"><li>• Review of Planning Services Code of Practice/ Planning Committee Procedure Rules/Public Speaking at Planning Committee Meetings guidance <i>(Min. 125/08 (ii) of 29th April 2009 Council meeting refers. Date for Annual Review to be added to Work Programme on completion of Review. To be referred to Committee as soon as practicable - Mins. 50/09 (iv) and 57/09 of 24th March 2010 and Min. 33/10 of 26th January 2011 Standards Committee meetings refer.)</i></li><li>• 'Planning Ahead' training session <i>(For members of the Standards Committee - as developed by Standards for England in partnership with the Planning Advisory Service. To take place once any issues arising as a result of the Review of Planning Services Code of Practice above identified. Min. 50/09 (iv) of 24th March 2010 Standards Committee meeting refers.)</i></li><li>• Draft Procedure for Processing Applications for Dispensations <i>(Min. 21/09 (c) of 22nd July 2009 Standards Committee meeting refers.)</i></li><li>• Annual Review of Council Protocols on Member-Officer and Member-Member Relations</li><li>• Establishment of Parish Councils' Ethical Governance Training Programme <i>(To be revisited once more known about the future of the standards regime under the Localism Bill - Monitoring Officer's Report to 22nd September 2010 Standards Committee meeting refers.)</i></li></ul>
<p>Note: All meetings of the Committee will include regular items such as:</p> <ul style="list-style-type: none"><li>• Minutes of previous meeting;</li><li>• Monitoring Officer's Report;</li><li>• Parish Councils' Representatives' Report;</li><li>• Complaint / investigation updates; and</li><li>• Work Programme.</li></ul>	

By virtue of paragraph(s) 1, 2, 7c of Part 1 of Schedule 12A of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 1, 2, 7c of Part 1 of Schedule 12A  
of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank



By virtue of paragraph(s) 1, 2, 7c of Part 1 of Schedule 12A  
of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 1, 2, 7c of Part 1 of Schedule 12A  
of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 7c of Part 1 of Schedule 12A of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 7c of Part 1 of Schedule 12A  
of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank



By virtue of paragraph(s) 7c of Part 1 of Schedule 12A  
of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank