



## **BROMSGROVE DISTRICT COUNCIL**

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

**THURSDAY, 18TH OCTOBER 2007 AT 5.30 PM**

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

**MEMBERS:** Mrs. N. E. Trigg (Chairman - Independent Member), Councillor C. R. Scurrall (Vice-Chairman), Councillor S. P. Shannon, Councillor E. C. Tibby, Mr. S. E. Allard (Independent Member), Mr. N. A. Burke (Independent Member), Mr. J. Cypher (Parish Council Representative) and Mr. I. A. Hodgetts (Deputy Parish Council Representative)

### **AGENDA**

1. To receive apologies for absence
2. To confirm the accuracy of the minutes of the meeting of the Standards Committee held on 16th August 2007 (Pages 1 - 4)
3. Declarations of Interest
4. Monitoring Officer's Update Report (Pages 5 - 6)

To receive an update report from the Monitoring Officer on matters of relevance to the Committee, and to include the following:

- (a) Local Investigations (verbal update);
- (b) Member Training - Code of Conduct (verbal update);
- (c) Standards Committees in Worcestershire (letter attached); and
- (d) Standards Board for England - The Bulletin #35 (separate enclosure).

5. Local Filtering (Pages 7 - 12)

To consider and make recommendations in relation to the various options for the local filtering of complaints of breaches by Councillors of the Code of Conduct under the Local Government and Public Involvement in Health Bill, and in relation to any corresponding revisions to the Council's Constitution.

6. First Annual Report of the Standards Committee (Pages 13 - 20)

To receive an initial draft of the first Annual Report of the Standards Committee.

7. 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

K. DICKS  
Chief Executive

The Council House  
Burcot Lane  
BROMSGROVE  
Worcestershire  
B60 1AA

9th October 2007

# Agenda Item 2

## BROMSGROVE DISTRICT COUNCIL

### MEETING OF THE STANDARDS COMMITTEE

THURSDAY, 16TH AUGUST 2007 AT 6.00 P.M.

PRESENT: Councillors C. R. Scurrall (Vice-Chairman, in the Chair) and S. P. Shannon, Mr. S. E. Allard (Independent Member), Mr. N. A. Burke (Independent Member) and Mr. J. Cypher (Parish Council Representative).

Officers: Mrs. D. Warren and Ms. D. Parker-Jones.

#### 7/07 APOLOGIES FOR ABSENCE

Apologies for absence were received from Mrs. N. E. Trigg (Independent Chairman) and Mr. I. A. Hodgetts (Deputy Parish Council Representative).

#### 8/07 DECLARATIONS OF INTEREST

No declarations of interest were received.

#### 9/07 MINUTES

The minutes of the meeting of the Standards Committee held on 14th June 2007 were submitted.

**RESOLVED** that the minutes be approved as a correct record.

#### 10/07 COUNCIL DECISIONS ON STANDARDS COMMITTEE MATTERS

A report advising of the decisions made by the Council in relation to the new Code of Conduct for Members, as modified by the Standards Committee at its meeting on 14th June 2007 to include local amendments, and the Appointment of Parish Council Representatives to the Standards Committee was submitted.

Reference was also made to the Members' Interests Guide (copy attached to these minutes), which had been drawn up by officers following the introduction of the new Code and which it was noted would be available at all meetings of the Council's committees for quick reference.

**RESOLVED** that the contents of the report and the Members' Interests Guide be noted.

11/07 **OMBUDSMAN COMPLAINT STATISTICS - UPDATE**

Further to the request made by the Committee at its previous meeting, the Deputy Monitoring Officer provided an update on the subject matter of the six "other" complaints referred to in the annual statistics compiled by the office of the Local Government Ombudsman on complaints recorded against the Council during the twelve month period ending 31st March 2007. It was noted that the complaints covered: leisure and culture; homelessness; waste management; enforcement (Planning - although it was not known why this had not been included in the category of Planning and Building Control); transport and highways (this complaint having been referred to the County Council); and a miscellaneous matter.

Statistics were also provided in relation to Ombudsman complaints listed for other local authorities within Worcestershire. Although Bromsgrove had the highest number of complaints determined, none of these had resulted in a finding of maladministration. The Committee noted that the Council encouraged the right of parties to complain where this was felt to be necessary and there was a legitimate case for doing so.

**RESOLVED** that the position be noted.

12/07 **UPDATE ON LOCAL INVESTIGATIONS**

The Committee was advised that two local investigations into Member conduct were currently underway. The Investigating Officer had completed a draft report for one of these, which it was noted would necessitate an additional meeting of the Committee being convened for some time in September in order to decide whether a final determination hearing was required for this. The second investigation was still in the process of being completed and would likely be dealt with at the Committee's October meeting.

Exceptional circumstances had resulted in a slight delay with the initial investigations for these, which the Standards Board for England had been kept fully advised of and were satisfied with the position.

**RESOLVED** that the position be noted.

13/07 **STANDARDS COMMITTEES IN WORCESTERSHIRE**

The Committee considered a proposal from Mr. J. C. Blakeley, Chairman of Wychavon District Council Standards Committee, on the coming together of Standards Committee members on a county-wise basis to discuss issues of relevance to Standards Committees.

Members supported the proposal, which it was felt would be of particular use during the first twelve months of the introduction of local filtering of complaints. It was felt that both the Chairman of the Committee and the Council's Monitoring Officer should attend the meetings, and that if the Chairman was unavailable the Vice-Chairman should attend in his/her place.

**RESOLVED:**

- (a) that the Committee support the proposal; and
- (b) that it be requested that in the event of the Chairman of the Committee not being available to attend a meeting, the Vice-Chairman be permitted to attend in his/her place.

14/07 **STANDARDS COMMITTEE - MEMBER TRAINING**

A draft programme for 'The Changing Role of the Standards Committee' training which would take place at the Council House on 6th September 2007 was circulated and minor amendments were made to the running order of this. It was felt that practical scenarios would be particularly useful with such training. Changes to the current arrangements for the 'first sieve' of complaints was to be covered at the training, which the Deputy Monitoring Officer advised would also likely be included on the agenda for the Committee's October meeting for further discussion.

It was also noted that a further 'Mock Council' training session would take place on 11th October 2007, which Mr. Cypher (the Parish Council Representative) expressed an interest in attending and which it was felt would be of use to the other new members of the Committee who had not attended the previous session of this.

**RESOLVED:**

- (a) that the programme for 'The Changing Role of the Standards Committee' training session due to take place on 6th September 2007 be approved, subject to the minor amendments agreed to the running order of this; and
- (b) that arrangements be sought for Mr. J. Cypher (Parish Council Representative) and any other members of the Standards Committee to attend the 'Mock Council' training session due to take place on 11th October 2007 should they so wish.

The meeting closed at 6.50 pm

Chairman

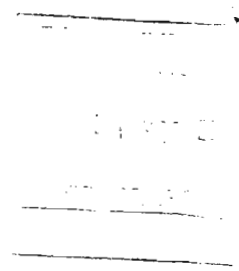
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# Agenda Item 4

Walnut House  
Hoden Lane  
Cleeve Prior  
Evesham  
WR11 8LH

20 September, 2007

Ms Deborah Warren  
Deputy Monitoring Officer  
Bromsgrove District Council  
The Council House  
Burcot Lane  
Bromsgrove  
B60 1AA



Dear Ms Warren,

*Worcestershire Standards Committees*

Thank you for your letter of 17 August, 2007.

Yours has been the only substantive response received to my 28 June letter. There have been provisional responses from two other Councils, and no responses at all from the remaining three.

In the circumstances it does not seem worthwhile to pursue the concept raised in my 28 June letter, and I will therefore not be taking any further action on it myself. If circumstance were to change, it would of course be open for the concept to be re-visited on the initiative of any Council so wishing.

As with my original letter, this letter is written with the knowledge and approval of members of my Council's Standards Committee, which met yesterday evening.

May I thank you for your own Council's interest, and in particular for the support lent by yourself and Mrs Trigg.

Yours sincerely,

John C Blakeley  
(Independent) Chairman, Standards Committee  
Wychavon District Council

Copies: Mrs Nichola Trigg, Mr Ian Marshall

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## BROMSGROVE DISTRICT COUNCIL

### STANDARDS COMMITTEE

18TH OCTOBER 2007

#### LOCAL FILTERING

Responsible Portfolio Holder	Councillor Smith
Responsible Head of Service	Claire Felton – Head of Legal, Equalities and Democratic Services

#### 1. SUMMARY

- 1.1 The Local Government and Public Involvement in Health (LGPIH) Bill will introduce local filtering of complaints of breaches by councillors of the Code of Conduct.

#### 2. RECOMMENDATION

- 2.1 That the Committee considers and makes recommendations in relation to the various options for local filtering and in relation to any corresponding revisions to the Constitution (in terms of the composition of the Standards Committee and terms of reference for the Committee/sub-committees) upon which Members will be consulted

#### 3. BACKGROUND

- 3.1 The LGPIH Bill will, when enacted, change the way in which complaints against councillors are considered.
- 3.2 Currently, all complaints about breaches of the Code of Conduct are referred to the Standards Board for England (SBE). The Standards Board then decides if the complaint appears to disclose a failure to observe the Code of Conduct and if so whether it should be investigated. The SBE may refer the investigation to either an Ethical Standards Officer (in the case of serious matters) or to the relevant principal authority for local determination.
- 3.3 It is proposed by the LGIPH Bill that all complaints will be referred to the principal authority's Standards Committee which will decide if the complaint appears to disclose a failure to observe the Code of Conduct and if so whether it should be investigated, and it is this process which is known as "local filtering".
- 3.4 In addition, Standards Committees are also likely to be required to conduct a review of its decisions not to refer a complaint for investigation (such reviews are triggered by a complainant).

- 3.5 It is anticipated that this part of the LGIPH Bill will come into force in April or May 2008. The SBE will in due course issue guidance to Standards Committees on the criteria to be applied in determining whether a complaint should be investigated.
- 3.6 The purpose of this report is to request the Standards Committee to consider how the local filtering might be carried out, and whether the constitution of the Standards Committee might need to be altered as a result. It will be for each principal authority to decide what system is most appropriate for that authority.
- 3.7 Options are set out below.
- 3.8 Option 1 – Whole Committee Filtering  
Filtering is carried out by the full Standards Committee. The same Committee would also hear any final determination of the complaint. Officers advise against this option as the members will only have heard one side of the complaint, possibly a persuasive, over-exaggerated complaint, which will remain unchallenged for months and may affect their judgement, or there may be a public perception (or more likely a perception by the Member who is the subject of the complaint) that their judgment has been affected.
- 3.9 Option 2 – Sub-Committees  
Two sub-committees are formed. One sub-committee would filter complaints and the other would hear the final determination; officers would ensure members would be given equal opportunities to both filter and deal with final determinations. It is suggested that the membership for the sub-committees would not be fixed and would remain flexible.  
Advantages: filtering remains “in-house” and impartiality is retained. It will also be more convenient from an administrative point of view.  
Practical considerations: the current Standards Committee may not contain a large enough pool of trained members to enable this to occur, and consideration should be given to enlarging the committee. In particular, the rules relating to the proportion of independent members and the requirement for a parish member to be present need to be considered. A statutory requirement for a parish member to be present whenever a parish matter is being considered will be applied to sub-committees dealing with parish matters; if so, the number of parish members would have to be increased to two, with a nominated substitute. Members should consider what the number of members for those sub-committees should be, and if 3 (as for Licensing Sub-Committee meetings, by way of example) what the appropriate quorum should be. Depending on the quorum, it might be prudent to consider whether there should be reserve members.
- 3.10 Members should also consider the role of the Chairman and whether the Chairman should participate in filtering, or whether the Chairman should always chair all final determinations. Members need to be aware that the LGIPH Act is likely to make it a requirement that the Chairman of the

Standards Committee and its sub-committees is an independent member (the requirement relating to sub-committees was omitted in the original draft but is expected to be included in the committee stages of the Bill), so if Members consider that the Chairman should participate in filtering, another independent member will have to be designated as the Chairman for the final determinations.

#### Joint Working

- 3.11 The Act will enable principal authorities to work jointly, for either filtering or final determinations. This could operate in a number of ways.

#### Option 3 – Filtering by neighbouring authority

- 3.12 Filtering could be carried out by a neighbouring authority.

Advantages: this would demonstrate complete impartiality. The final determination would be dealt with by this authority's full Standards Committee, enabling all members to participate in the final hearing. It also demonstrates the Council's ability to work jointly and in partnership with other authorities.

Disadvantages: Members who are the subject of the complaint may not be comfortable with the prospect of complaints being aired before another authority's members.

- 3.13 Option 4 – Joint filtering

A joint committee comprising a small number of members from two or more authorities could deal with filtering of complaints against Members of both authorities and parish councils within their districts.

Advantages: a degree of impartiality would be demonstrated. Again, the ability of this Council to work in partnership with other authorities would be demonstrated. Officer resources could be shared.

Disadvantages: those members who dealt with the filtering should not participate in the final determination.

- 3.14 Reviews – Whole Committee Filtering

It would not be good practice nor in the spirit of the rules of natural justice for a decision not to investigate a complaint to be reviewed by the same group of people which took the decision. For the review to be fair and indeed to be seen to be fair, it should be conducted by a different body of individuals. Therefore, whole-committee filtering would present a practical difficulty as all members of the Standards Committee would have taken the initial decision and would therefore be disqualified from conducting the review.

- 3.15 Reviews - Sub-Committee Filtering

The sub-committee which carried out the filtering should not undertake the review. The sub-committee earmarked to carry out the final determination might undertake the review but the risks of prejudice highlighted in paragraph 3.8 above exist.

### 3.16 Reviews – Separate Review Sub-Committee

Instead of dividing the Committee into 2 sub-committees as suggested in paragraph 3.9 above, the Committee could instead be divided into 3 sub-committees, enabling one pool of members to be entirely independent and able to carry out an independent review. This would require an increase in the membership of the Standards Committee.

### 3.17 Reviews – Joint Working

An arrangement with a neighbouring authority might be reached whereby reviews are conducted by the neighbouring authority's Standards Committee.

### 3.18 Changes to the Constitution

The Council is to consider a number of changes to the Constitution in the early part of 2008, to include a number of other issues arising from the LGIPH Act. It is intended that members will be consulted on all these issues and will be encouraged to feed into the review process. The Standards Committee is being requested to formulate proposals upon which members will be consulted.

## 4. FINANCIAL IMPLICATIONS

4.1 The changes being introduced by the LGIPH Bill will have financial implications. Members will recall that the pilot studies have demonstrated that local filtering results in a significant increase in the number of cases being referred for local determination. The Monitoring Officer does not have sufficient resources to manage the additional workload which is anticipated will arise as a result of both local filtering and the additional investigations. A budget bid will be made by the Monitoring Officer for an additional post, or alternatively for funds from which the outsourcing of investigations can be financed.

4.2 However, there are no significant financial implications arising from those issues under consideration in this report.

## 5. LEGAL IMPLICATIONS

5.1 These are set out in the body of the report.

## 6. COUNCIL OBJECTIVES

6.1 Current Council Objective – Improvement, priority – Reputation.

## 7. RISK MANAGEMENT

7.1 The main risks associated with the details included in this report are:

- If the Council does not conduct the filtering, hearings and reviews in a fair, open, transparent and lawful manner it exposes itself to the risk of

challenge by way of judicial review and the consequential costs and potential loss of reputation.

- If the Council is perceived as failing to conduct the filtering, hearings and reviews in a fair, open, transparent, lawful and competent manner the Standards Board for England has the power to take over those functions

7.2 These risks are being managed as follows:

- *Risk of judicial review and risk of intervention by Standards Board for England:*

Risk Register: *Legal, Equalities and Democratic Services*

Key Objective Ref No: 3

Key Objective: Effective ethical governance

## 8. **CUSTOMER IMPLICATIONS**

8.1 None.

## 9. **EQUALITIES AND DIVERSITY IMPLICATIONS**

9.1 None.

## 10. **OTHER IMPLICATIONS**

Procurement Issues	None
Personnel Implications	None
Governance/Performance Management	Governance – the Council is required to establish a process which is lawful, open and transparent. There are no performance management issues.
Community Safety including Section 17 of Crime and Disorder Act 1998	None
Policy	None
Environmental	None

**11. OTHERS CONSULTED ON THE REPORT**

Portfolio Holder	No
Chief Executive	No
Corporate Director (Services)	No
Assistant Chief Executive	No
Head of Service	Yes
Head of Financial Services	No
Head of Legal, Equalities & Democratic Services	Yes
Head of Organisational Development & HR	No
Corporate Procurement Team	No

**12. APPENDICES**

None.

**13. BACKGROUND PAPERS**

The Local Government and Involvement in Public Health Bill.

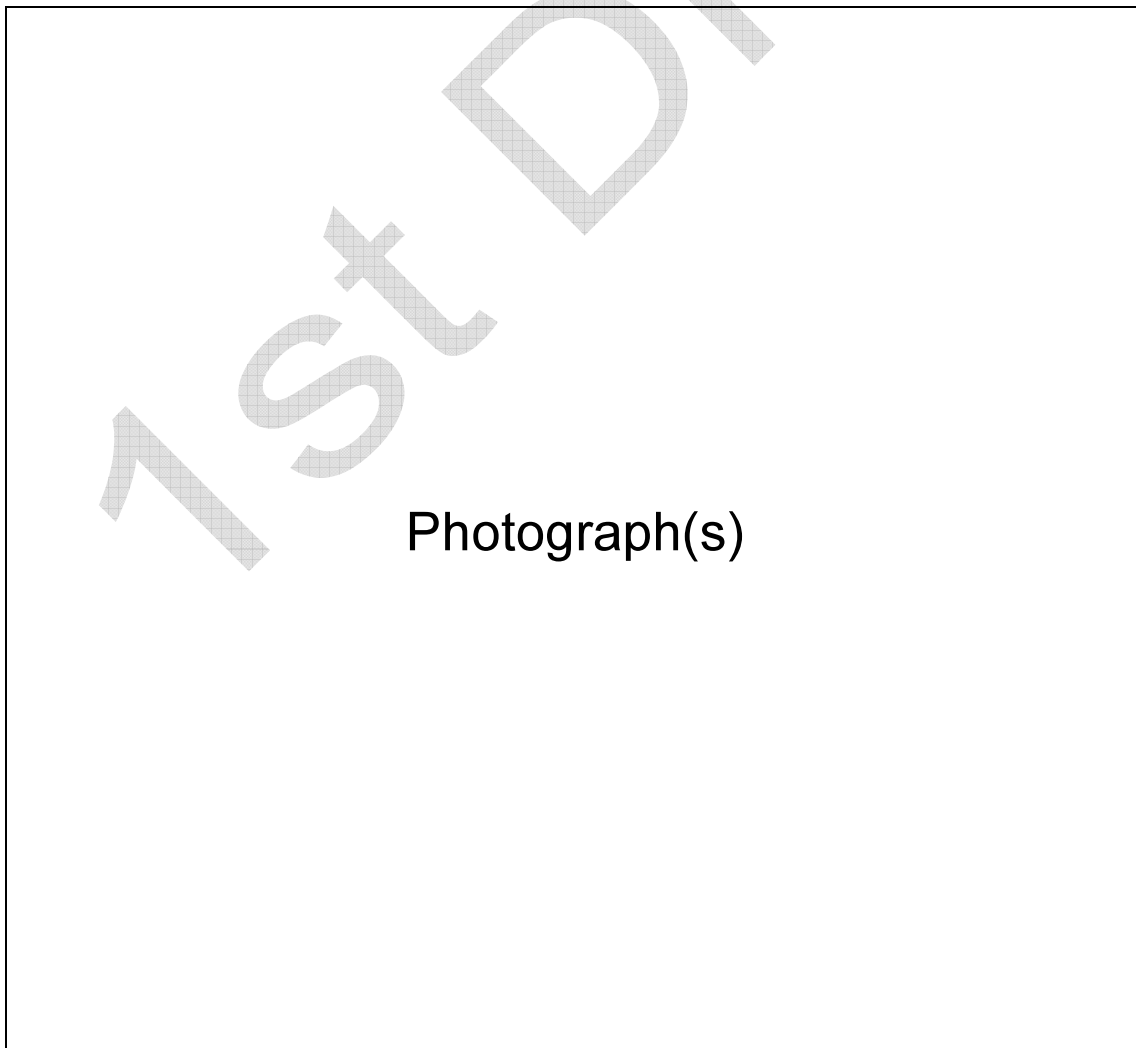
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Bromsgrove District Council logo

## **Standards in Local Government**

### **The First Annual Report of the Standards Committee - 2007/08**



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- The Standards Board for England	?
- West Mercia Independent Members' Forum	?
- Worcestershire County Association of Local Councils (CALC)	?



## Introduction from the Chairman

Welcome to this the First Annual Report of Bromsgrove District Council's Standards Committee for the 2007/08 Municipal Year, which I hope you will find both interesting and informative.

The Committee was established under section 53 of the Local Government Act 2000 and first met on 17th January 2002 ??? (this appears to be the first meeting at which Independent Members formed part of the Committee). The Committee comprises elected Members (local Councillors), Independent Members (not a Member or officer of this or any other relevant authority) and a Parish Council Representative. There are set rules which govern the membership of standards committees and at least 25% of our Committee members must be independent of the Council.

The main responsibilities of the Committee are: to promote and maintain high standards of conduct by Members (and co-opted Members) of the Town and Parish Councils; to advise on the Code of Conduct for local authority Members and Co-opted Members; to train Members on conduct issues and help them to observe the Code of Conduct; and, where appropriate, to hold local hearings and determine complaints against Members for alleged breaches of the Code of Conduct.

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 the Committee's approach.

2007/08 was a busy year for the Committee as it worked to raise its profile in order to enhance the reputation of local government. The Committee worked on the introduction of the revised Model Code of Conduct and recommended to the Council a number of local modifications to the national Code, all of which were accepted by the Council. Particular emphasis has been given to assisting Member development in ethical matters, with a number of training events having taken place in this field. The Committee also dealt with local investigations into alleged Member breaches of the Code of Conduct referred to it from the Standards Board for England.

The year ahead will see a particularly challenging time for the Committee as it embarks on the new system of local filtering of Member complaints, a role which was previously carried out by the Standards Boards for England but which has, with the recent introduction of the Local Government and Public Involvement in Health Act 2006, now transferred to standards committees.

Nichola Trigg  
Chairman (Independent Member)

## Membership of the Committee and support officers

- To contain individual Member and support officer photographs and profiles (subject to individuals' agreement to use of photos).
- 'Brief' individual profiles - somewhere in the region of 100-150 words (detailing role on the Committee / relevant career experience etc.).
- Support Officers: Claire Felton, Debbie Warren, Sarah Sellers & Debbie Parker-Jones.

## Key activities

### I. Training

Following the election of a number of new Councillors in May 2007 various training has taken place as part of the Member induction process under the Modern Councillor Programme. Training has also been held for all Councillors and the Council's Independent Members in areas such as the new Code of Conduct (which was adopted by the Council on 18th July 2007, Council Meetings and Bias and Predetermination.

Members of the Standards Committee are kept fully up to date with latest developments in relation to the ethical standards framework, with training having taken place on the changes brought about under the Local Government and Public Involvement in Health Act 2006, for the initial filtering of complaints against Members for alleged breaches of the Code of Conduct.

The Bulletins of the Standards Board for England are discussed at our meetings ..... ???? ..... relevant case summaries of determinations ..... ???? ..... attendance at the Annual Assembly of Standards Committees in 2007..... Refer to any leaflets which the Committee may have produced etc. **Areas to build upon during the course of the year and include as appropriate?**

### II. Hearings

The Committee has dealt with a number of local hearings. The latest of which took place in ..... following an investigation carried out by an officer from the Council's ..... team. Such investigations are of course kept entirely separately from the Committee's consideration of the matter, and our Legal Adviser had no involvement in the investigation.

In 2007/08, no cases of alleged Member breaches of the Code of Conduct have been investigated by the Standards Board for England **???**. There has been one application for leave to appeal against a decision of the Standards Committee, which was refused by the Adjudication Panel for England. **Check how much detail the Committee wishes to include on hearings which have taken place and whether there should be a web page where the findings of such hearings are displayed. Possibly insert a table of numbers / types / findings of investigations / hearings etc.**

The Committee takes a critical look at hearings guidance and best practice elsewhere, and adopts it when possible.

### III. Dispensations

The Committee is also charged with considering requests from town and parish councils for "dispensations" - that is, for its permission for Members who have a prejudicial interest to be able to participate in Council business when the subject of that interest is being discussed. Examples of when this might arise would include, for example, trustees of a village hall or of playing field.

??? requests for dispensation were made to the Committee during the 2007/08 Municipal Year.

1st Draft

## Associated organisations

### I. The Adjudication Panel for England

The Adjudication Panel for England is an independent judicial Tribunal which was established by Part III, Chapter IV of the Local Government Act 2000 to hear and adjudicate on matters concerning the conduct of local authority Members.

The Adjudication Panel considers references made to it by an Ethical Standards Officer of the Standards Board for England. The Panel also considers appeals pursuant to Part 3(9) of The Local Authorities (Code of Conduct) (Local Determination) Regulations 2003.

To date, the Panel has considered one appeal against a decision of the Committee, which was in 2007. The President of the Panel decided not to grant permission to appeal on the basis that such an appeal had no reasonable prospect of success, a decision which was obviously welcomed by the Committee.

### II. The Standards Board for England

**Appropriate wording to be inserted once the Local Government and Public Involvement in Health Bill has been enacted and the revised role of the Standards Board come into effect.**

### III. West Mercia Independent Members' Forum

The Standards Boards for England has encouraged the development of regional forums to support independent members of standards committees

The West Mercia region has a forum comprising standards committees from Shropshire, Herefordshire and Worcestershire. Where possible, a representative of our Committee (usually the Chairman) will aim to attend each of the meetings. The Forum has a valuable role to play in ensuring that independent members do not feel isolated and lacking in support.

It is hoped that Bromsgrove will host a meeting of the Forum later this year (..... or specify the date / details if arrangements have been made for this at time of publication of the Report).

### IV. Worcestershire County Association of Local Councils

The Worcestershire County Association of Local Councils (otherwise known as CALC) is the representative body for Parish and Town Councils - the first tier of government - in Worcestershire.

**The Committee will forge relations with ..... ???**

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