



BROMSGROVE DISTRICT COUNCIL

MEETING OF THE STANDARDS COMMITTEE

MONDAY, 28TH APRIL 2008 AT 6.00 P.M.

CONFERENCE ROOM, THE COUNCIL HOUSE, BURCOT LANE, BROMSGROVE

MEMBERS: Mrs. N. E. Trigg (Chairman - Independent Member), Councillors C. R. Scurrall (Vice-Chairman), S. P. Shannon and E. C. Tibby, Mr. S. E. Allard (Independent Member), Mr. N. A. Burke (Independent Member) and Mr. J. Cypher (Parish Councils' Representative)

Mr. I. A. Hodgetts (Non-voting Deputy Parish Councils' Representative)

AGENDA

1. To receive apologies for absence
2. Declarations of Interest
3. To confirm the accuracy of the minutes of the meeting of the Standards Committee held on 7th February 2008 (Pages 1 - 4)
4. To receive, for noting and any relevant discussion, the minutes of the meeting of the West Mercia Independent Members Forum held on 25th January 2008 (Pages 5 - 14)
5. Local Assessment - Composition of the Standards Committee and Creation and Composition of Sub-Committees (Pages 15 - 24)

To report back on the decision made by the Council at its meeting on 23rd April 2008 regarding the local assessment regime and to implement the regime accordingly.

6. Parish Councils' Representative Update Report

To receive an update from the Parish Councils' Representative on matters of relevant to the Committee, and to include an oral update on the latest Bromsgrove Area Committee meeting of the Worcestershire County Association of Local Councils (CALC).

7. Re-Appointment of Parish Councils' Representatives (Pages 25 - 26)

To agree a job description for Parish Representatives on the Standards Committee.

8. Parish Councils Training Programme

To establish a training programme for Parish Councils. Dates for Equality and Diversity training at County Hall have been set for 23rd and 24th April 2008.

9. Monitoring Officer's Update Report (Pages 27 - 28)

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

- (a) Member Investigations/associated matters;
- (b) Member Training:
 - (i) "Local First Sieve" event - Cannock Chase District Council (details attached); and
 - (ii) Local assessment - training exercise; and
- (c) Local Government and Public Involvement in Health Act 2007, including the latest position on regulations and Standards Board guidance.

[Note: at the time of preparation of this agenda neither the regulations nor the Standards Board guidance had been published. Should either of these become available by the date of the meeting officers will provide an appropriate update and the Committee will be asked to make any necessary decisions. Communities and Local Government has issued a summary of responses received to its consultation paper on the orders and regulations which will implement the new revised locally-based ethical regime. A copy of the summary can be accessed via the following link:
<http://www.communities.gov.uk/documents/localgovernment/pdf/743746.pdf>.

10. Work Programme (Pages 29 - 34)

To consider the Work Programme for the Committee.

11. 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

16th April 2008

BROMSGROVE DISTRICT COUNCIL

MEETING OF THE STANDARDS COMMITTEE

THURSDAY, 7TH FEBRUARY 2008 AT 6.00 PM

PRESENT: Councillors Mrs. N. E. Trigg (Chairman - Independent Member), Councillors C. R. Scurrall (Vice-Chairman), S. P. Shannon and E. C. Tibby, Mr. S. E. Allard (Independent Member), Mr. N. A. Burke (Independent Member) and Mr. J. Cypher (Parish Councils' Representative)

Officers: Mr. T. Beirne, Mrs. C. Felton, Mrs. D. Warren and Ms. D. Parker-Jones.

29/07 APOLOGIES FOR ABSENCE

No apologies for absence were received.

30/07 DECLARATIONS OF INTEREST

No declarations of interest were received.

31/07 MINUTES

The minutes of the meeting of the Standards Committee held on 23rd November 2007 were submitted.

RESOLVED that the minutes be approved as a correct record.

32/07 WEST MERCIA INDEPENDENT MEMBERS' FORUM

The minutes of the meeting of the West Midlands Independent Members' Forum held on 11th July 2007 were submitted.

RESOLVED that the minutes be noted.

33/07 MONITORING OFFICER'S UPDATE REPORT

The following updates were provided:

Current Member Investigations

Members were advised that there was currently one Member investigation underway and that the Investigating Officer was on target to complete the report for this by the end of February. It was anticipated that the matter would be considered by the Committee towards the end of March/early April.

Member Training

The Deputy Monitoring Officer (DMO) advised that officers had, the previous week, conducted a workshop style training session on the new Code of Conduct for those Members who had not previously attended training on this. The format of the session had proved to be very successful and had been more conducive to Member participation than the larger sessions run by external solicitors. Officers added that they had also provided training on the Code to some of the Parish Councils.

It was noted that seven Councillors had not attended training on the new Code. Officers advised that they would be happy to run a further training session on this, which would take place nearer the end of the current Municipal Year. The Committee requested that those Members who had not undertaken training on this be contacted and advised that it was the Committee's expectation that they should complete such training by the end of the current Municipal Year.

The DMO added that whilst the new Code of Conduct reduced the circumstances in which a Member would have a prejudicial interest, there were instances in which common law issues would come into play meaning it would be inadvisable for Members to participate in certain matters. It was felt that similar workshop style training sessions on bias and predetermination would therefore be useful. Chairmanship training for the Council's Independent Members was also being looked into, together with training on Register of Interests forms and the requirements for local assessment under the Local Government and Public Involvement in Health Act 2007.

First Annual Report of the Standards Committee

It was anticipated that a further draft of the Annual Report would be referred to the next meeting of the Committee, with a final draft to be considered at the June meeting. The personal profiles of the members of the Committee were to be added to the Report and any further suggestions for inclusions could be referred to officers.

Local Government and Public Involvement in Health Act 2007 - Local Assessment of Complaints against Councillors - Consultation Responses

Further to the Committee's previous consideration of how local assessment might be carried out and the Council's current review of the Constitution, one response had been received from Members to the consultation on this which had suggested that any final determinations should be heard by the entire of the Standards Committee and not a separate sub-committee thereof. The DMO advised that a further report on local assessment would be referred to the Committee once the regulations for the revised ethical regime were available. Owing to the delay with the regulations the Council would not be making a decision on any required changes to the Constitution at its meeting in March and would instead consider this a later meeting. It was noted that a Consultation Paper from the Department for Communities and Local Government on Orders and Regulations Relating to the Conduct of Local

Authority Members in England appeared later in the agenda for the Committee's consideration.

RESOLVED:

- (a) that the updates provided be noted; and
- (b) that those Members who had not yet completed training on the new Code of Conduct be advised that it was the Standards Committee's expectation that they do so by the end of the current Municipal Year.

34/07 **PARISH COUNCILS' REPRESENTATIVE UPDATE REPORT**

Mr. J. Cypher, the Parish Councils' Representative on the Standards Committee, provided the Committee with an update on the latest meeting of the Bromsgrove Area Committee of the Worcestershire County Association of Local Councils (CALC).

The DMO advised that she would be attending the next Area meeting in March to alert them to the changes due to be brought about by the Local Government and Public Involvement in Health Act 2007, and to discuss the issue of additional Parish Council Representatives on the Standards Committee.

RESOLVED that the updates provided be noted.

35/07 **RESPONSE TO CONSULTATION PAPER - ORDERS AND REGULATIONS RELATING TO THE CONDUCT OF LOCAL AUTHORITY MEMBERS IN ENGLAND**

The Committee considered a consultation paper from the Department for Communities and Local Government (DCLG) on Orders and Regulations Relating to the Conduct of Local Authority Members in England. In view of the short consultation period and the closing date for responses (15th February 2008), it was noted that the Monitoring Officer would also be seeking views on the Consultation Paper from all Members and would compile an appropriate response on behalf of the Council.

Members made a number of comments on the Questions raised in the Consultation Paper, which officers agreed to incorporate in the final response to the DCLG.

RESOLVED that the comments raised by the Committee on the Questions contained within the Consultation Paper be included in the Monitoring Officer's response to the Department for Communities and Local Government.

36/07 **WORK PROGRAMME**

Consideration was given to a proposed Work Programme for the Committee.

Members welcomed the introduction of a Work Programme, which it was noted would appear as a regular item on future Committee agendas, save for those meetings which were dedicated to Member investigations.

RESOLVED that the Work Programme be approved.

37/07 **CALENDAR OF MEETINGS - 2008/09**

A report advising of the meeting dates of the Standards Committee for the 2008/09 Municipal Year was submitted.

RESOLVED that the Calendar of Meetings for the Standards Committee be noted.

The meeting closed at 6.58 pm

Chairman

Agenda Item 4

West Mercia Independent Members Forum
Friday 25 January, 2008 Headquarters, 2 Kings Court, Charles Hastings
Way, Worcester (2.30 pm)

Minutes

Present:

Mrs Val Ainsworth	West Mercia Police Authority
Mr Terry Bayliss	Shropshire County Council
Mr David Blakey	Worcestershire County Council
Mr John Bradburn	Shrewsbury Council
Mr John Cox	Wyre Forest District Council
Mrs Christine Davenport MBE	Worcester City Council
Mrs Sheila Garner	Worcester City Council
Mr Richard Gething	Hereford & Worcester Fire and Rescue Authority
Mr Paul Leopold	Malvern Hills District Council
Mr Wilfred Maddox	North Shropshire District Council
Dr Murray Mylechreest	Hereford & Worcester Fire and Rescue Authority
Mr Fred Noble	Wychavon District Council
Mr Peter Rowland	South Shropshire District Council
Mr Malcolm Smith	South Shropshire District Council
Mr David Stevens	Hereford & Worcester Fire and Rescue Authority
Mr Patrick Talbot	Bridgnorth Council
Mr David Turner	Shropshire County Council
Ms Sara Goodwin	Head of Legal - Standards Board for England
Mrs Alison Hughes	Corporate Support Manager - Hereford & Worcester Fire and Rescue Authority
Mr Alan McLaughlin	Clerk / Monitoring Officer - Hereford & Worcester Fire and Rescue Authority and Herefordshire Council

Apologies:

Mr Simon Allard	Bromsgrove District Council
Mr Francis Beasland	Telford & Wrekin Council
Mr Noel Burk	Bromsgrove District Council
Mrs Joan Casewell	Bridgnorth District Council
Mr R W Kimber	Oswestry Borough Council
Mr Tony Lyons	Malvern Hills District Council
Mr I A H Murray	Oswestry Borough Council
Mr Ray Needham	Worcester City Council
Mr Mark Pearson	Oswestry Borough Council
Mr J Roberts	Oswestry Borough Council
Mr Robert Rogers	Hereford & Worcester Fire and Rescue Authority
Mr Mark Salt	Bridgnorth District Council
Mrs N Shaw	Oswestry Borough Council
Mr Gordon Singleton	South Shropshire District Council
Mr M L Tebbutt	Shropshire Fire & Rescue Authority
Ms Nichola Trigg	Bromsgrove District Council
Mr I O Webb	Shropshire Fire & Rescue Authority
Ms Clare Felton	Monitoring Officer - Bromsgrove District Council
Mr Simon Mallinson	Head of Democratic & Legal Services - Worcestershire County Council

1. WELCOME AND INTRODUCTIONS

Mr Peter Rowland welcomed attendees to the meeting and thanked Hereford & Worcester Fire and Rescue Authority for hosting the event. Mr Rowland invited attendees to introduce themselves.

The Clerk and Monitoring Officer for Hereford & Worcester Fire and Rescue Authority (HWFRA), Mr Alan McLaughlin, introduced the background to the Service and the responsibilities of the Authority. The Fire & Rescue Authority (FRA) was constituted under the Fire and Rescue Services Act 2004 and comprised 25 Elected Members, 19 from Worcestershire and 6 from Herefordshire. The Service attended approximately 11,000 emergency incidents each year from its 27 Fire Stations across the two counties.

Mr McLaughlin informed the meeting that the governance procedure at HWFRA included a Standards Committee, comprising 5 independent members and 2 elected members. Fire Authority members were required to sign up to the Code of Conduct as elected members of their constituent authorities and also signed the Code as members of the Fire and Rescue Authority. Therefore, if a misconduct allegation was made against an FRA Member, it was possible that there may have been a failure to comply with more than one authority's code.

Mr McLaughlin explained that under the current regime, standards committee members who had been involved in an investigation could not consider any subsequent appeal. It was likely that sub-committees would need to be created to separate the investigation and review functions.

In addition to the new powers under the Local Government and Public Involvement in Health Act 2007 which enabled local authority standards committees to make initial assessments of misconduct allegations, standards committees also had responsibility for granting and supervising the exemption of posts from political restrictions. This responsibility was previously delegated to the Adjudication Panel.

Mr McLaughlin raised the question as to whether there were sufficient resources within authorities, particularly those with many parish councils, to take on increased workloads due to the new responsibilities of investigation, review and consideration of exemptions.

2. COUNCILLORS BEHAVING BADLY? ADJUDICATION PANEL DECISIONS

Ms Sara Goodwin, Head of Legal at the Standards Board for England (SBE) gave a presentation to illustrate some recent cases and raise awareness amongst independent members of the following issues:

- Appeals against decisions of standards committees
- Bullying
- Disrepute and securing an advantage
- Declaration and registration of interests
- Confidentiality

The cases were based on the previous Code of Conduct, but were still relevant under the new Code. A copy of the presentation is attached at Appendix 1.

During the presentation and in the ensuing discussion, the following issues were raised:

- an appeal was lodged against the decision by Bassetlaw Council's Standards Committee because the sanction imposed was not within the remit of the Committee. It was important that any sanctions given to councillors for breaching the Code were phrased correctly and that a default position was set out
- determinations had to be heard within three months of an allegation being made. It was not a valid reason to cite a lack of standards committee members as grounds for failing to comply with this timescale. If it was likely that a standards committee would be inquorate due to prejudicial interests being declared, a sub committee could be established to hear the case. Members were reminded that the key test to any prejudicial interest was whether or not a reasonable member of the public who had all the facts would perceive a member as having a close association with those involved in the case.
- Mr Rowland suggested that some light touch guidance for independent members was needed from the SBE with regards to quorum. Ms Goodwin explained that for parished authorities, the standards committee would comprise 15 or 12 members and in non-parished authorities the number would be 9. It was noted that many authorities found it difficult to recruit independent members and that the SBE website (www.standardsboard.gov.uk) included training material to assist in the recruitment of independent members.
- training on the Code of Conduct and ethical standards issues was particularly important for independent or non-aligned councillors who did not have the support structure of the political groups. It was crucial in ensuring good governance, that councils reviewed training for new councillors, particularly for those members outside the political structure.
- breaches of the Code could be due to the lack of understanding about certain roles and remits. It was suggested that different authorities had different cultures and therefore the type of language used in one authority could be seen as acceptable but may not be viewed as acceptable in another. It was important that authorities had protocols set out with regards to member/officer relations and regarding the use of resources.
- Ms Goodwin explained that councillors would be automatically disqualified from office for any criminal convictions longer than 3 months, whereas convictions for less than 3 months would enable them to carry on in their role as a councillor. Ms Goodwin agreed to clarify the position on suspended sentences.
- Monitoring Officers provided the SBE with quarterly returns of data in relation to allegations, which would help to identify any local trends and assist standards committees to ensure that organisations had good governance processes
- Ms Goodwin urged members to ask whether investigations were necessary in cases where there could be systemic failure; good governance in decision making processes was key

- Ms Goodwin reminded Members that the SBE had produced guidance in relation to the roles and responsibilities of Chairmen and Clerks. Mr Rowland suggested that Chairmen of Standards Committees may find the syllabus issued by the Judicial Studies Board useful.

Mr Rowland thanked Ms Goodwin for her presentation.

3. ADDITIONAL MATTERS

i) Consultation on orders and regulations relating to the conduct of local authority members in England.

Mr Talbot urged Members to consider the consultation document and respond to william.tandoh@communities.gsi.gov.uk by 15 February 2008.

ii) Annual Assembly of Standards Committees

Members briefly discussed the Annual Assembly. The following points were made:

- the event was generally useful and although there were some very good presentations, the quality of the workshops varied and there did not seem to be enough content for independent members
- the need for a two day event was questioned as the content on the second day was not seen as useful as the issues covered on the first day. A two day event was generally not seen as good value for money and it was felt that the cost could have deterred some independent members.

Mr Rowland suggested that the SBE may wish to consider smaller local or regionally based events.

iii) Media Training

Mr Noble raised the issue of media training and the impact that enquiries from the press could have on potential investigations. It was suggested that media awareness should be incorporated into the next Annual Assembly.

Mr McLaughlin suggested that Monitoring Officers needed to be legally protected from the media during investigations, as was the case for Ethical Standards Officers.

4. DATE OF NEXT MEETING

Mr Rowland thanked Emma Roberts and Alison Hughes from Hereford & Worcester Fire and Rescue Authority and Paul Rogers from Herefordshire Council for organising the meeting.

The meeting ended at 4.15pm


Following discussions after the meeting, the next Forum meeting will be held on Friday 11 July at Redditch Town Hall at 2:00 for 2:30pm.

The speaker will be Dr Brian Woods-Scawen, a member of the Committee on Standards in Public Life.



Confidence in local democracy

**West Mercia Independent Members of
Standards Committees Forum**


25 January 2008


Confidence in local democracy

Councillors Behaving Badly?
Adjudication Panel Decisions
Sara T Goodwin
Head of Legal


Confidence in local democracy


**Appeals Against Decisions
Of
Standards Committees**


Confidence in local democracy

No Power!

Not within its remit to insist that the
 councillor should make a full public
 apology to the officer


Bassetlaw 373


Confidence in local democracy

Poor Administration!

- Could not be determined with any certainty what the purpose of the agenda item was and that this was symptomatic of the poor administration practice operated by the parish council.
- Burden of proof is upon the complainant and had not been discharged at any time

North Kesteven 369


Confidence in local democracy

Quashed!

- Considered the preliminary legal point about failure to hold the hearing within the three months required
- Failure was not for reasons beyond the councils control or what could reasonably have been anticipated
- Dawkins v Bolsover District Council 2004 applied

Wear Valley 368 & 367

the Standards Board for England Confidence in local democracy

Bullying

the Standards Board for England Confidence in local democracy

Insincere!

- Councillor was ignorant of his role and responsibilities, that his purported apologies were less than wholehearted, and noted that he had already been found on another occasion to be in breach of the Code by the manner in which he spoke to an officer

Decision – 3 months disqualification

Portsmouth 374

the Standards Board for England Confidence in local democracy

Temper! Temper!

- 22 Allegations
- Only 7 proven
- Decision – 6 month suspension

Recommendations – Councillor to make contact with council only via one designated officer and that he should always be accompanied by another specific councillor in any dealings he has with officers

- Already received 4 separate training/advice sessions on an individual basis

Recommended: further individual training, particularly in relation to loss of temper

Wigan 361

the Standards Board for England Confidence in local democracy

Training! Training!

- Relentless campaign of destructive criticism in bad faith against the clerk and fellow town councillors without any evidence to support allegations
- 32 written complaints to the council about its employees and other councillors
- 19 complaints against councillors to the Standards Board

Decision – 3 years disqualification

Recommendation – Council should review its training for new councillors particularly independents outside the normal political support structures
Ensure appropriate training for councillors who join these councils out of the normal electoral cycle

Haverhill 319

the Standards Board for England Confidence in local democracy

Interference!

- Did not treat the clerk or local constabulary with respect
- Interfered with the relationship between the town council and its suppliers
- Caused the council to incur unnecessary expenditure

Decision – 12 months disqualification

Oswestry 312


the Standards Board for England Confidence in local democracy

Unacceptable!


- Accused Town Clerk of lying, siding with a political group, being political and using her sex unprofessionally
- Conduct was unacceptable
- Showed no sense of the responsibilities imposed by the code or any likelihood of change

Decision – Disqualification for 3 years

Immingham 144


Confidence in local democracy

Disrepute and Securing an Advantage etc.



Confidence in local democracy

Off Duty!

- Convicted on fifteen charges of false accounting arising out of the conduct of his horticultural business
- At the time of the commission of the offences, neither acting in his official capacity as a councillor nor performing the functions of his office as a councillor
- Collins J had indicated that a councillor who commits a criminal offence is not, in his judgement, caught by the code "if his offending had nothing to do with his position as a councillor."

Decision – No breach

Shifnal 365



Confidence in local democracy

Misunderstood!

- Little understanding of the Code and misunderstood his role as a councillor
- During the hearing, the councillor was warned that his conduct at the hearing was likely to constitute a breach of 2(b) both in the way he handled the case and referred to local residents and councillors, and the sometimes rude way he addressed the Tribunal

Decision – 12 months suspension

Sonning 324



Confidence in local democracy

Post Office Pugilists!

- Two minute altercation in a post office between a shopkeeper and councillor about a controversial road closure during which each gave as good as they got.
- In the absence of swearing or profane or discriminatory language by the councillor few people would consider that the council or the office had been brought into disrepute

Decision – No breach

Redbridge 305



Confidence in local democracy

No Breach!

- Former Council Leader wrote two letters on council members' headed notepaper to the daughter of fellow councillor in his own hand and signed one in the name of the Chief Executive
- Conduct was foolish and inappropriate and silly and a childish practical joke but did not bring council into disrepute
- Wrong to sign the letter in the name of the Chief Executive but that the use of the headed notepaper did not breach 5(b)

Decision – No breach

Ipswich 289


Confidence in local democracy

Assault!

- Assaulted another councillor during a wreath laying ceremony and had already served a five month suspension for assaulting the same councillor on another occasion

Decision – 6 months disqualification

Maldon 283

Abusive Tirade!

- Series of sustained, premeditated, intimidatory actions and threats against a member of the public
- Launched a premeditated tirade of abuse and insult against a member of the public present at a parish council meeting

Decision – 4 years disqualification

Recommendation – Parish councillors should receive induction training and training of clerks and chairmen of parish councils should be encouraged to assist them in running effective meetings

Banham 249

Declaration and Registration of Interests

Truth Will Out!

- Cabinet chairman failed to declare personal and prejudicial interest on two occasions and made statements she knew to be untrue at her parish council meeting
- Tribunal deprecated her repeated attempts to blame a number of council employees for her own failures

Decision – 9 month suspension

Recommendation – Councillor should receive further training on the Code

Hinckley and Bosworth 271

No Hope!

- Councillor criticised in an Employment Tribunal report which found that the clerk had been unfairly dismissed
- Councillor subject of outstanding grievance lodged by the clerk but he seconded a motion to dismiss the clerk and said he would resign if the clerk was reinstated
- Failed to understand the seriousness of his actions
- Little prospect of his adopting a different approach to public life

Decision – 2 years disqualification

Thornaby 330

Personal Gain!

- Deliberately sought personal gain for himself and others at the public's expense
- Showed no sign of appreciating the gravity of his actions

Decision – 12 months disqualification

Recommendation – Training should be provided by the metropolitan council for all four councillors in the district

Thorne Moorends 308

NIMBY!

- Parish Councillor living near to a planning application site for development proposed by the Parish Council, membership of a lobby group, seeking advice from the monitoring officer and Parish Councils Association and objection to application lodged by spouse
- Councillor had resigned

Decision – 3 months disqualification

Keelby 244

Not Telling!

- Entries in the register pertaining to his occupation and interests in land were not sufficiently clear
 - Had refused to comply with requests to amplify them
- Decision – 1 year disqualification

North Pemberton 192

Confidentiality

No Public Interest!

- Leader of the opposition disclosed to the media information marker "confidential" in emails from the monitoring officer.
 - Considerable exposition on the law relating to confidentiality and Articles 10(1) and 10(2)
 - Tribunal concluded that the councillor was not acting in the public interest and had breached paragraph 3(a)
- Decision – No sanction due to several mitigating factors

Westminster 241

Proper Procedures!

- Unauthorised disclosure of confidential information re results of tendering exercise for sale of council land
- Tribunal applied tests laid down by Megarry J. to determine confidentiality
- Refused a request that the hearing be cancelled, as the councillor was not standing for re-election in the imminent election as it would not be in the public interest

Decision – 1 year disqualification

Recommendation - A procedure be adopted by the council for considering in appropriate cases any community benefit of the tenders as opposed to monetary consideration

Walsall 163

Any Questions?

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BROMSGROVE DISTRICT COUNCIL

STANDARDS COMMITTEE

28 APRIL 2008

LOCAL ASSESSMENT – COMPOSITION OF THE STANDARDS COMMITTEE AND CREATION AND COMPOSITION OF SUB-COMMITTEES

Responsible Portfolio Holder	Councillor Roger Smith
Responsible Head of Service	Claire Felton – Monitoring Officer

1. SUMMARY

Members of the Standards Committee will be advised of the decision made by the Council on 23 April 2008 regarding the local assessment regime. The Standards Committee will be requested to implement the regime accordingly.

2. RECOMMENDATION

To effect the Council's decision on the implementation by the Standards Committee of the local assessment regime.

3. BACKGROUND

- 3.1 Members will recall that the Local Government and Public Involvement in Health Act 2007 changes the process by which complaints against councillors are handled; instead of complaints being made to the Standards Board to decide whether or not each complaint should be investigated, complaints will instead be received by the Standards Committee which will carry out this "local assessment" exercise together with another new role of reviewing those decisions, in addition to its existing role of making the final determination on cases.
- 3.4 Members of the Standards Committee will recall that in October 2007 they considered various options for the local assessment of complaints against councillors and made recommendations to Council. For ease of reference Appendix 1 sets out those options (pages 1-3 of Appendix 1) and the Standard Committee's recommendations (pages 4-5).
- 3.2 Those options were considered by the Council at its meeting on 23 April 2008; at the date of writing the report it is not known if they have been approved by the full Council and an update will be provided at the meeting.
- 3.3 The Standards Committee is requested to note and implement the decision of the Council. That decision includes the terms of reference for the sub-committees to be set up to deal with local assessment; at present, those

terms of reference are fairly vague, and it may be that following the publication of the regulations, Standards Board guidance and experience that they may need to be revised or set out in more detail.

- 3.4 It will be necessary to recruit an additional deputy parish representative to the Standards Committee/co-opted member of the sub-committees and this forms a separate agenda item.

4. FINANCIAL IMPLICATIONS

- 4.1 Pilot schemes have demonstrated that following the introduction of local assessment, the number of complaints made against councillors will increase and the number of complaints referred for investigation will significantly increase. This will have an impact on current resources, and it is for this reason that a new Ethical Standards Officer post has been created.

5. LEGAL IMPLICATIONS

- 5.1 The Local Government and Public Involvement in Health Act 2007 introduces the new local assessment system; regulations will be published in due course.

6. COUNCIL OBJECTIVES

- 6.1 Improvement – Customer Service. Complaints against councillors will be dealt with more locally and, once the new system has been embedded, more efficiently.

7. RISK MANAGEMENT

- 7.1 The main risks associated with the details included in this report are:
- *Loss of public confidence in the ethical standards of elected members.*
 - *Intervention by the Standards Board for England in the event of the local assessment regime not being satisfactorily implemented.*

- 7.2 These risks are being managed as follows:

Risk Register: *Legal, Equalities and Democratic Services*
Key Objective Ref No: 2
Key Objective: *Effective Ethical Governance*

8. CUSTOMER IMPLICATIONS

- 8.1 The new local assessment regime will be widely publicised in accordance with guidance to be issued by the Standards Board for England to ensure that the public are aware of how to make a complaint that a councillor may have breached the Code of Conduct. This is likely to include:

- Prominent and easy-to-navigate links on the Council’s website, especially on the ‘democracy’ and ‘councillors’ pages.
- Leaflets on display, and available in the Customer Service Centre, libraries and in the public areas of the Council House and from parish clerks and offices in the district.
- Posters and publicity in Citizens Advice Bureaux and community groups, including those serving people who are traditionally more difficult to reach.
- Articles in the local press.
- Leaflets put out at meetings.
- Publicity during Local Democracy Week and at other community events.
- Assistance for people with a disability or whose first language is not English.

9. EQUALITIES AND DIVERSITY IMPLICATIONS

9.1 None.

10. VALUE FOR MONEY IMPLICATIONS

10.1 None.

11. OTHER IMPLICATIONS

Procurement Issues	None
Personnel Implications	None
Governance/Performance Management	None
Community Safety including Section 17 of Crime and Disorder Act 1998	None
Policy	None
Environmental	None

12. OTHERS CONSULTED ON THE REPORT

Portfolio Holder	Yes
Chief Executive	Yes
Executive Director (Partnerships and Projects)	No

Executive 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	Yes
Corporate Procurement Team	Yes

13. WARDS AFFECTED

All Wards.

14. APPENDICES

Appendix 1 Options on local assessment considered by the Standards Committee on 18 October 2007 and its recommendations to Council

15. BACKGROUND PAPERS

- Report to Standards Committee meeting on 18 October 2007 - Local Filtering
- Report to the Council meeting on 14 November 2007
- Report to the Council meeting on 23 April 2008

CONTACT OFFICER

Name: Debbie Warren
E Mail: d.warren@bromsgrove.gov.uk
Tel: (01527) 881609

STANDARDS COMMITTEE - 18 OCTOBER 2007**LOCAL FILTERING****3. BACKGROUND**

3.5 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.

3.6 Options are set out below.

3.7 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.

3.8 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.

3.9 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

- 3.10 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

- 3.11 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.

- 3.12 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.

- 3.13 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.

- 3.14 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 3.7 above exist.

3.15 Reviews – Separate Review Sub-Committee

Instead of dividing the Committee into 2 sub-committees as suggested in paragraph 3.8 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.

3.16 Reviews – Joint Working

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

3.17 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.

RECOMMENDATIONS OF THE STANDARDS COMMITTEE ON LOCAL FILTERING

A report detailing the various options for local filtering of complaints of breaches by councillors of the Code of Conduct under the Local Government and Public Involvement in Health Bill, and which also looked at corresponding revisions to the Council's Constitution, was considered.

Members preferred Option 2 "Sub-Committees", which it was noted would involve the formation of sub-committees of the Standards Committee.

- An initial sub-committee (consisting of one independent member, one elected member and one parish member) would be responsible for filtering complaints;
- A second sub-committee (consisting of two independent members, two elected members and one parish member) would hear any final determinations.
- The membership of the sub-committees would not be fixed and would remain flexible.
- Any reviews of decisions by the filtering sub-committee not to investigate a complaint would be dealt with by a separate review sub-committee, consisting of at least three members who had not sat on the initial filtering sub-committee.
- In the event of the review sub-committee deciding that there should be a final determination, any such determinations would be heard by the whole Standards Committee.
- The quorum of all sub-committees would be three.

Parish Members

In view of the statutory requirement for a parish member to be present whenever a parish matter was being considered, and in order to allow for a reserve parish member if required, it was agreed that:

- the Standards Committee needed to be enlarged to include a third parish member, with all parish members to originate from different parish councils. A third parish member would also enable the determinations sub-committee to be divided into two should a large number of complaints against councillors be received.
- Although all three parish members would have full voting rights when sitting on sub-committees, only one parish member would have voting rights on the Standards Committee.

Members further agreed that the proposed structure should be reviewed in twelve months time to see how this had worked in practice.

RECOMMENDED:

- (a) that, in order to carry out local filtering of complaints of breaches by councillors of the Code of Conduct under the Local Government and Public Involvement in Health Bill, sub-committees of the Standards Committee be formed (as detailed in the preamble above);
- (b) that any reviews of a decision of the filtering sub-committee not to investigate a complaint be carried out by a review sub-committee consisting of at least three members who had not participated in the original filtering sub-committee;
- (c) that in the event of the review sub-committee deciding that there should be a final determination on the matter which had been the subject of a review, any such determinations be heard by the entire of the Standards Committee;
- (d) that the membership of the Standards Committee be enlarged to include a third parish member, with the three parish members to originate from separate parish councils, and of which only one parish member would have voting rights on the Standards Committee; and
- (e) that the proposed structure be reviewed in twelve months time.

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Role of the Parish Representative on the Standards Committee and Deputy/Co-opted Parish Representative

1. Attendance at Meetings of the Standards Committee

The Local Government Act 2000 requires there to be at least one parish representative on a principal authority's Standards Committee who must be present at any meeting when parish matters are to be considered. Bromsgrove District Council has decided that there should be one parish representative on its Standards Committee.

The Parish Representative is therefore required to attend meetings of the Standards Committee. There are 6 scheduled meetings each year generally starting at 6pm which work to a Work Programme, the current version of which is attached for information (Note: this is reviewed and revised on a regular and ongoing basis).

(Note: If the Parish Representative is unable to attend, one of the Deputy Parish Representatives may carry out this function on behalf of the Parish Representative and may vote at the meeting.)

The Deputy Parish Representatives are encouraged to attend meetings of the Standards Committee. Whilst they may participate in the meetings, they have no voting rights.

2. Attendance at Meetings of Standards Sub-Committees

Complaints that district or parish councillors may have breached their authority's Code of Conduct are now referred to the Standards Committee for local assessment. The Standards Committee will refer such complaints to an assessment sub-committee which will decide whether or not the complaint should be investigated.

If the assessment sub-committee decides that the complaint should not be investigated, the complainant may request that that decision should be reviewed; the Standards Committee will refer that decision to a separate sub-committee (the membership of which must be different to that of the assessment sub-committee).

If the assessment sub-committee decides that the complaint should be investigated, there will in due course be a hearing before a final determination sub-committee (the membership of which will normally be different to that of the assessment sub-committee).

The Parish Representative will be requested to attend some of these sub-committee meetings. In addition, the Deputy Parish Representatives will be co-opted onto some of these sub-committees; attendance by a Parish Representative or a Deputy/Co-opted Parish Representative is required by the Local Government Act 2000 when the complaint relates to a parish councillor but it is anticipated that the Parish Representative and Deputy/Co-opted Parish Representatives will participate in all matters relating to district councillors. It is not

possible to say how many meetings will be required each year, but the Parish Representative and Deputy/Co-opted Parish Representative should be prepared to attend between approximately 4 and 6 such sub-committee meetings each year. The time of such meetings will vary on a case by case basis.

3. Training

The Council's Constitution requires all members of Council committees to be trained in that committee's subject area. Therefore, the Parish Representative is required to attend training sessions provided for members of the Standards Committee; there are likely to be approximately 2 – 3 training sessions each year.

From time to time external training or networking opportunities may be offered; these are not compulsory.

4. Keeping Abreast

Members of the Standards Committee are regularly sent information or guidance published by the Standards Board for England or other organisations to ensure they are kept abreast of changes, developments, best practice or experiences.

5. Parish Forum Link

The Parish Representative acts as a link between the Standards Committee and the County Association of Local Councils (CALC) Area Committee Meeting. There are regular items on the agendas of both committees to enable information to be passed on to the parish councils and to enable the parish councils to feed back information to the Standards Committee.

The Parish Representative will therefore normally attend meetings of the CALC Area Committee of which there are 4 per year. (Note: A Deputy Parish Representative may carry out this function on behalf of the Parish Representative.)

A working knowledge of and easy access to email and the internet is desirable as the Council is moving towards electronic delivery of agendas and other papers

“Local First Sieve”

12:00-8:00pm, 10 June, 2008
Cannock Chase District Council Offices

From April 2008, all complaints of misconduct by Members will go direct to the local authority, and the Standards Committee will have to decide whether each complaint appears to relate to the Code of Conduct and whether it merits investigation.

This training seminar takes Members and Officers from the initial complaint, through the first sieve process, into the investigation process and the preparation of the investigation report. It provides practical advice on the preparation for and conduct of local standards hearings, including sanctions and appeals.

The training centres on a role-play in which Members and Officers will take the part of the Referrals Panel of Middleton District Council, faced at their first meeting with 5 complaints against District Councillors and 5 complaints against Parish and Town Councillors. The panel will have to determine whether each complaint relates to the Code of Conduct and whether it merits investigation, so the seminar gives very hands-on experience of the task to come. This will be a perfect opportunity to learn in a safe environment how the new Standards arrangements will be run.

Please support this local event in the West Midlands. This will be a great opportunity for Standards Board members to discuss current topics and exchange experiences with colleagues. The cost will be £110 per person, including tea/coffee and lunch.

In an effort to accommodate those Councillors who are in paid employment, the session will start at noon.

Part 1

Start at 12.00 with a buffet lunch
Break for tea/coffee mid way, ending at 4.00pm

Tea/coffee and sandwiches 4:00-5:00pm

Part 2

Start at 5.00pm
Break for tea/coffee mid way ending at 8.00pm

Please RSVP to Jan Turner, Training Officer at Cannock Chase District Council by 4 April, 2008.

Tel: (01543) 464420 or by email at janturner@cannockchasedc.gov.uk

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BROMSGROVE DISTRICT COUNCIL

STANDARDS COMMITTEE

28TH APRIL 2008

WORK PROGRAMME

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

1. SUMMARY

1.1 This report sets out a Work Programme for the Standards Committee.

2. RECOMMENDATION

2.1 It is recommended 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 which are due to be brought about with the introduction of the local assessment of complaints of breaches by councillors of the 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 all future Standard Committee agendas, save for those meetings which are dedicated to Member investigations.
- 3.4 Officers will update the Work Programme, as appropriate, in between meetings. Any amendments to the Work Programme will be referred to the next relevant meeting of the Committee for approval. Members of the Committee are welcome to contact officers, at any time, with suggested changes.
- 3.5 The Committee is asked to consider the Work Programme and to comment on this accordingly.

4. FINANCIAL IMPLICATIONS

- 4.1 None.

5. LEGAL IMPLICATIONS

- 5.1 None.

6. COUNCIL OBJECTIVES

- 6.1 The Work Programme is linked to the Council's Improvement Objective, Priority - Customer Service.
- 6.2 A Work Programme will assist in informing Members, officers and the community of the work being undertaken by the Committee in ensuring that the Council is an ethical organisation, which is proactively working towards improvement.

7. RISK MANAGEMENT

- 7.1 None.

8. CUSTOMER IMPLICATIONS

- 8.1 None.

9. EQUALITIES AND DIVERSITY IMPLICATIONS

- 9.1 None.

10. VALUE FOR MONEY IMPLICATIONS

- 10.1 None.

11. OTHER IMPLICATIONS

Procurement Issues - None
Personnel Implications - None
Governance/Performance Management - A work programme will assist the Committee in being proactive in fulfilling its role in ethical governance.
Community Safety including Section 17 of Crime and Disorder Act 1998 - None
Policy - None
Environmental - None

12. OTHERS CONSULTED ON THE REPORT

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

13. WARDS AFFECTED

All Wards.

14. APPENDICES

Appendix 1 - Standards Committee Work Programme

15. BACKGROUND PAPERS

None.

CONTACT OFFICER

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Tel: (01527) 881411

STANDARDS COMMITTEE WORK PROGRAMME

[Note: Any items that it is proposed be removed from the Work programme are denoted by a strikethrough, with new additions appearing in bold italics.]

Meeting date	Item for consideration
12th June 2008	<ul style="list-style-type: none">• First Annual Report of the Standards Committee 2007/08 - final draft• Ombudsman Complaint Statistics 2007/08• Review of operation/effectiveness of the Members' Code of Conduct (new Code came into force on 19th July 2007)• Appointment of Independent Member (Mr. Allard's term of office expires on 31st October 2008 - Appointments Committee recommendation to be considered by full Council on 17th September 2008)• <i>Local assessment training exercise</i>
14th August 2008	[No business currently scheduled as holiday commitments may necessitate cancellation of this meeting]
16th October 2008	<ul style="list-style-type: none">• Review of Member Training - Ethical Framework elements• Update on training programme for Parish Councils• Review of the Council's Confidential Reporting Code ("whistle blowing" policy - Code approved by the Cabinet on 7th March 2007)
11th December 2008	<ul style="list-style-type: none">• Review of the operation of the Committee, including the local assessment process and training needs of Committee members• Review of the Council's Protocols on Member-Officer and Member-Member Relations• Ombudsman Complaint Statistics - six month update

5th February 2009	<ul style="list-style-type: none"> • Calendar of Meetings • <i>Review of the effectiveness of the Code of Practice - Planning Services</i>
2nd April 2009	<ul style="list-style-type: none"> • Second Annual Report of the Standards Committee 2008/09 - draft • Review of Member Training - Ethical Framework elements • Review of training programme for Parish Councils • Re-appointment of Parish Councils' Representatives
No fixed date	
<p>NB: All meetings will include regular items such as:</p> <ul style="list-style-type: none"> • Minutes of previous meetings; • Monitoring Officer's Update Report; and • Parish Councils' Representative Update Report. 	