



BROMSGROVE DISTRICT COUNCIL

MEETING OF THE STANDARDS COMMITTEE

THURSDAY, 12TH JUNE 2008 AT 6.00 P.M.

CONFERENCE ROOM, THE COUNCIL HOUSE, BURCOT LANE, BROMSGROVE

MEMBERS: Councillors: Miss D. H. Campbell JP, S. P. Shannon and E. C. Tibby
Independent Members: Mr. S. E. Allard, Mr. N. A. Burke and Mrs. N. E. Trigg
Parish Councils' Representatives: Mr. J. Cypher and Mr. I. A. Hodgetts

AGENDA

1. Election of Chairman for the ensuing municipal year
2. Election of Vice-Chairman for the ensuing municipal year
3. To receive apologies for absence
4. Declarations of Interest
5. To confirm the accuracy of the minutes of the meeting of the Standards Committee held on 28th April 2008 (Pages 1 - 6)
6. Monitoring Officer's Update Report (Pages 7 - 36)

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;
- (c) Standards Board for England guidance on Local Assessment of Complaints (guidance attached); and
- (d) First Annual Report of the Standards Committee (to follow).

7. Parish Councils' Representatives Update Report

To receive an update from the Parish Councils' Representatives on matters of relevance to the Committee.

8. Local Assessment - Composition of Sub-Committees (Pages 37 - 40)

To update the Committee on the Standards Board for England guidance on the composition of sub-committees and to consider one minor amendment to the composition of the Standard Committee's sub-committees.

9. Appointment of Independent Members (Pages 41 - 62)

To consider issues in relation to the appointment of Independent Members of the Standards Committee.

10. Review of the Code of Conduct (Pages 63 - 66)

To review the operation of the Code of Conduct and to decide if any further action is required in respect of both the Council and the parish councils within the district.

11. Annual Ombudsman Statistics (Pages 67 - 74)

To receive information as to complaints recorded against the Council during the twelve month period ending 31st March 2008.

12. Work Programme (Pages 75 - 80)

To consider the Work Programme for the Committee.

13. Local assessment training exercise

To undertake a training exercise on the local assessment of complaints.

14. 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

3rd June 2008

BROMSGROVE DISTRICT COUNCIL

MEETING OF THE STANDARDS COMMITTEE

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

PRESENT: 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) and Mr. J. Cypher (Parish Councils' Representative)

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

38/07 APOLOGIES FOR ABSENCE

Apologies for absence were received from Mr. N. Burke (Independent Member) and Mr. I. Hodgetts (Deputy Parish Councils' Representative).

39/07 DECLARATIONS OF INTEREST

No declarations of interest were received.

40/07 MINUTES

The minutes of the meeting of the Standards Committee held on 7th February 2008 were submitted.

RESOLVED that the minutes be approved as a correct record.

41/07 WEST MERCIA INDEPENDENT MEMBERS FORUM

The minutes of the meeting of the West Midlands Independent Members Forum held on 25th January 2008 were submitted.

It was noted that the next meeting of the Forum was due to be held at Redditch Borough Council on Friday, 11th July 2008 and that Bromsgrove District Council might host the January 2009 meeting.

RESOLVED that the minutes be noted.

42/07 LOCAL ASSESSMENT - COMPOSITION OF THE STANDARDS COMMITTEE AND CREATION AND COMPOSITION OF SUB-COMMITTEES

The Chairman referred to additional papers which had been circulated prior to the meeting, which set out the decision and recommendations of the Council on 23rd April 2008 on proposed amendments to the operation of the Committee in the light of the recently published Standards Committee (England) Regulations 2008. Unexpected provisions contained within the

Regulations had required the original report recommendations to be varied, with the Regulations providing that there had to be a minimum of two parish council representatives on the Standards Committee. The Council's amendments to the Articles of the Constitution were noted. It was for the Standards Committee to determine the size, composition and terms of reference of its sub-committees prior to the new local assessment regime coming into force on 8th May 2008.

Officers advised that separate memberships of the Assessment Sub-Committee and Final Determination Sub-Committee would be best practice, and that they understood the guidance due to be issued by the Standards Board would confirm this to be the case. The Committee decided that, notwithstanding this advice, it did not wish, as had been proposed, to limit membership of the Final Determination Sub-Committee to five members and extended this to a maximum of seven members (meaning membership of the two Sub-Committees could overlap). The membership would include a maximum of one Parish Representative, who would have to be present if the subject Member was a parish councillor. The Committee had, at its previous meeting, discussed the options at length and had agreed that it would wish to review the composition of all sub-committees and the new structure, and whether these were operating effectively, after a 12 month period. In addition, the Committee was minded that should guidance from the Standards Board be issued in the interim it would be reviewed at an earlier stage what best practice would be, particularly were the guidance to be vociferous in its view on separate sub-committee membership.

RESOLVED that with effect from 8th May 2008:

- (a) three sub-committees be formed to perform the functions of assessment, review of assessment decisions and final determinations; and
- (b) the membership of those sub-committees be as follows:
 - (i) Assessment Sub-Committee – 3 Members (1 Independent Member (Chairman), 1 Elected Member, 1 other member who should be a Parish Representative if the subject member is a parish councillor);
 - (ii) Review Sub-Committee – 3 Members (1 Independent Member (Chairman), 1 Elected Member, 1 other member who should be a Parish Representative if the subject Member is a parish councillor); and
 - (iii) Final Determination Sub-Committee – maximum 7 Members (1 Independent Member (Chairman), 1 Elected Member, 5 other members to include no more that one Parish Representative who must sit if the subject Member is a parish councillor).

43/07 **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). It was noted that nominations for Parish Council representatives on the Standards Committee for 2008/09 would be dealt with

at the next meeting in June. Mr Cypher also thanked officers for the training which was currently being put in place for parish councils, which was greatly appreciated.

RESOLVED that the updates provided be noted.

44/07 **RE-APPOINTMENT OF PARISH COUNCILS' REPRESENTATIVES**

The Deputy Monitoring Officer tabled a slightly amended 'job description' for Parish Representatives on the Standards Committee, which had required some minor updates in the light of certain provisions contained within the Standards Committee (England) Regulations 2008. This would be referred to the next Bromsgrove Area Committee meeting of the Worcestershire County Association of Local Councils (CALC) in June in order that parish council nominees had an understanding of the role of parish representatives on the Committee.

The Deputy Monitoring Officer advised that as the Regulations, which required that there be a minimum of two parish council representatives on the Standards Committee, came into force on 8th May 2008, there would be a recommendation put forward to the Annual Meeting of the Council on 7th May 2008 that Mr. Hodgetts, the Deputy Parish Council's Representative, be made a full member of the Standards Committee until the 16th July 2008 meeting of the Council, at which time the Parish Council Representative nominations for 2008/09 would be considered.

RESOLVED that the updated 'job description' for Parish Representatives on the Standards Committee be approved and forwarded to the Worcestershire CALC.

45/07 **PARISH COUNCILS TRAINING PROGRAMME**

Officers provided an update on training for parish councils. Equality and Diversity training sessions had taken place at County Hall and Wychavon District Council on 23rd and 24th April 2008 and the Monitoring Officer and Deputy Monitoring Officer had attended some parish council meetings to provide training on the Code of Conduct and associated matters. Further workshop style training sessions were also planned to assist councillors in completing their register of interests forms and officers would continue to assist where requested. Discussions were taking place with Richard Levett, Executive Officer of Worcestershire County Association of Local Councils, to see what additional training was required. However, resources were an issue as changes to the District Council's Constitution, which were due to come into effect on 1st May 2008, required that only Members who had received appropriate training by 1st September 2008 would be permitted to sit on or substitute on the Council's formal committees, boards or panels.

The Chairman welcomed the training that was being put in place for parish councils and thanked officers for the work they had undertaken with this. Thanks was also expressed to Mr. Cypher for the updates he was providing the Committee with on behalf of the Parish Councils.

RESOLVED that the position be noted.

46/07 **MONITORING OFFICER'S UPDATE REPORT**

Member Investigations/associated matters

Members heard that a final determination hearing would be taking place on 20th May 2008, for which the Investigating Officer's findings, in two respects, were that there had been no breach of the Code of Conduct and, in one respect, that there had been a breach of the Code. Two separate investigations, one in relation to a parish councillor and the other a district councillor, were currently being undertaken, the final reports for which were expected in mid and late June. The Standards Board was also considering a further district matter to see whether this was suitable for investigation. It was noted that as the Standards Committee (England) Regulations 2008 were due to come into force on 8th May 2008 any ongoing matters would be dealt with under the previous rules which were in place at the time the complaint was made.

Member Training

Officers advised as follows:

- A further 'Mock Council' training session was planned for 6.00pm on Wednesday, 21st May 2008 in the Council Chamber. This would include new furniture layout and a pilot for improved technical links for matters under discussion at Council meetings. An invite was extended to all members of the Committee should they wish to observe this.
- Any members of the Committee interested in attending the "Local First Sieve" event at Cannock Chase District Council on 10th June 2008 should notify officers as soon as possible.
- A training exercise, including case studies, on local assessment would be included in the agenda for meeting of the Committee on 12th June 2008.
- Chairmanship training for the Committee's Independent Members was to be arranged and the Council's Monitoring Officer would contact the Independent Members to agree a suitable date for this.
- A final training session on the new Code of Conduct was being arranged for those Members who had not yet undertaken training on this. The Leader of the Council had spoken with the Members concerned and the training for this was likely to be completed within the next couple of months.
- In accordance with impending Constitutional changes, Standards Committee training would need to be undertaken by any new members of the Committee by 1st September 2008.

RESOLVED that the updates provided be noted.

47/07 **WORK PROGRAMME**

Consideration was given to the Committee's Work Programme, which included additional items on training for the new local assessment regime and review of the effectiveness of the Code of Practice - Planning Services.

RESOLVED that the Work Programme be approved.

The meeting closed at 7.24 p.m.

Chairman

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LOCAL ASSESSMENT OF COMPLAINTS

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introduction

This guidance is designed to help members and officers in relevant authorities who are involved in the assessment of complaints that a member may have breached the Code of Conduct.

It details each stage of the assessment of complaints and offers suggestions for effective practice. In addition, it provides a toolkit of useful document templates that may be used or adapted by authorities as required.

The guide is aimed primarily at members of standards committees and monitoring officers, but will also provide a useful reference tool for all members and officers involved in the assessment of complaints.

It applies to:

- district, unitary, metropolitan, county and London borough councils
- English police authorities
- fire and rescue authorities (including fire and civil defence authorities)
- the London Fire and Emergency Planning Authority
- passenger transport authorities
- the Broads Authority
- national park authorities
- the Greater London Authority
- the Common Council of the City of London
- the Council of the Isles of Scilly

Each authority must develop effective procedures to fulfil its legislative requirements. Members and officers involved in the assessment of complaints must take this guidance into account when doing so.

You can contact the Standards Board for England on **0845 078 8181** or email [**enquiries@standardsboard.gov.uk**](mailto:enquiries@standardsboard.gov.uk)

introduction

Regulations

The Standards Board for England has issued this guidance to reflect the Standards Committee (England) Regulations 2008 (the regulations) in respect of the local assessment of complaints. These regulations derive from the Local Government Act 2000, as amended by the Local Government and Public Involvement in Health Act 2007.

The regulations set out the framework for the operation of a locally based system for the assessment, referral, investigation and hearing of complaints of member misconduct. Under the regulations, standards committees must take this guidance into account.

The regulations do not cover joint working between authorities. The government plans to issue more regulations to provide a framework for authorities to work jointly on the assessment, referral, investigation and hearing of complaints of misconduct by their members.

Background

More than 100,000 people give their time as members of authorities. The majority do so with the very best motives, and they conduct themselves in a way that is beyond reproach. However, public perception tends to focus on a minority who in some way abuse their positions or behave badly.

Anyone who considers that a member may have breached the Code of Conduct may make a complaint to that member's local

standards committee. Each complaint must then be assessed to see if it falls within the authority's legal jurisdiction. A decision must then be made on whether some action should be taken, either as an investigation or some other form of action.

When a matter is referred for investigation or other action, it does not mean that the committee assessing the complaint has made up its mind about the allegation. It simply means that the committee believes the alleged conduct, if proven, may amount to a failure to comply with the Code and that some action should be taken in response to the complaint.

The process for dealing with matters at a local level should be the same for all members. It must be fair and be seen to be fair.

Responsibilities

The assessment of complaints that a member may have breached the Code of Conduct is a new function for standards committees. It was previously undertaken centrally by the Standards Board for England.

Where a member is the subject of an allegation, we shall refer to that member as a **subject member**.

We shall use the term **independent member** to describe a person – not a member or officer of that or any other relevant authority – who is appointed to an authority's standards committee.

Independent members work with the

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authority to develop and maintain standards of conduct for members and are appointed under Section 53 of the Local Government Act 2000 and Regulation 5 of the regulations. At least 25% of the members of a standards committee must be independent members.

In order to carry out its functions efficiently and effectively, the standards committee must establish sub-committees. Creating sub-committees will allow the separate functions involved in the handling of cases to be carried out without conflicts of interest. These functions are:

- the **initial assessment** of a complaint received by the standards committee
- any **request** a standards committee receives from a complainant **to review its decision to take no action in relation to a complaint**

The standards committee must establish a sub-committee which is responsible for assessing complaints that a member may have breached the Code. We shall refer to this as the **assessment sub-committee**.

The assessment sub-committee will need to consist of no less than three members of the standards committee, including an independent member. They must also be chaired by an independent member.

A complainant may make a request for a review of a standards committee's decision where it decides to take no further action on a complaint. The standards committee must establish a sub-committee which is

responsible for carrying out these reviews. We shall refer to this as the **review sub-committee**.

This committee will also need to consist of no less than three members of the standards committee, including an independent member. They must also be chaired by an independent member.

There should be a minimum of three independent members on the standards committee to ensure that there is an independent member available without a conflict of interest for both the assessment and review sub-committees.

The standards committee can then effectively carry out these statutory functions, allowing for the situation of one independent member of the standards committee being absent or unavailable.

If the authority is responsible for any parish or town councils there should also be a minimum of three parish or town council representatives on the standards committee. This will ensure that there is a parish or town council representative available without a conflict of interest for both the assessment and review sub-committees when a complaint is considered about a member of a parish or town council.

The assessment and review sub-committees are not required to have fixed membership or a fixed chair.

Standards committee members who have been involved in decision making on the

introduction

initial assessment of a complaint must not take part in the review of that decision.

This is to minimise the risk of conflicts of interest and ensure fairness for all parties.

Standards committee members involved in a complaint's initial assessment, or in a review of a standards committee's previous decision to take no further action, can take part in any subsequent standards committee hearing.

The purpose of the initial assessment decision or review is simply to decide whether any action should be taken on the complaint – either as an investigation or some other action. The assessment and review sub-committees make no findings of fact. Therefore, a member involved at the initial stage or the review stage may participate in a subsequent hearing, because a conflict of interest does not automatically arise.

pre-assessment

Publicising the complaints system

Each authority is required to publish a notice detailing where Code of Conduct complaints should be sent to. This is to ensure that members of the public are aware of the change of responsibility for handling Code complaints and what the process entails. If an authority is responsible for parish and town councils, the notice should make this clear.

The complaints system may be publicised through:

- an authority's website
- advertising in one or more local newspapers
- an authority's own newspaper or circular
- notices in public areas such as local libraries or authority reception areas

It is important that the public notice reaches as many people as possible so that members of the public know how to complain if necessary.

The standards committee must also continue to publicise regularly the address that misconduct complaints should be sent to. In addition, the standards committee needs to alert the public to any changes in such arrangements.

Authorities need to think carefully about how publicity for their complaints system is worded. This is to ensure that members of the public are clear about how to complain, who to complain to, and if there may be an alternative to a formal complaint to the standards committee.

Authorities should also consider whether their constitution requires an amendment to reflect the introduction of the local assessment of complaints. The constitution should make it clear that the citizen's right is to complain to the local standards committee and not to the Standards Board for England.

The standards committee must publish, in whatever manner it considers appropriate, details of the procedures it will follow in relation to any written allegation received about a member.

The submission of complaints and accessibility

There are two main ways in which authorities can set up procedures for the submission of complaints that a member may have breached the Code of Conduct:

- Authorities may choose to integrate the making of Code complaints into the existing complaints framework. This will mean that when a complaint is received, it can be analysed to decide which of the complaints processes is most appropriate. The authority can then advise the complainant accordingly.
- Authorities may choose to develop a separate process for Code complaints so the process for such complaints is distinct from all other complaints.

When deciding which option is most appropriate, authorities should consider that some complainants will not know where to direct their complaint.

pre-assessment

Some complaints may also need to be considered through more than one of an authority's complaint processes.

Officers dealing with incoming complaints will need to be alert to a complaint that a member may have breached the Code. If a written complaint specifies or appears to specify that it is in relation to the Code, then it should be passed to the assessment sub-committee for consideration.

Where an authority is responsible for parish and town councils, it should make this clear. It should also consider whether a separate complaint form or section of a complaint form should be used.

Where an existing complaint system is used, complaint forms may need to be amended to take into account complaints under the Code. Alternatively, authorities that choose to develop a separate system for the submission of Code complaints may produce a separate complaint form for this.

Without using a separate complaint form, authorities may find it sufficient to give clear guidelines as to the information that complainants need to provide.

This should include:

- the complainant's name, address and other contact details
- complainant status, for example, member of the public, fellow member or officer

- who the complaint is about and the authority or authorities that the member belongs to
- details of the alleged misconduct including, where possible, dates, witness details and other supporting information
- equality monitoring data if applicable, for example nationality of the complainant
- a warning that the complainant's identity will normally be disclosed to the subject member. **Note:** in exceptional circumstances, if it meets relevant criteria and at the discretion of the standards committee, this information may be withheld.

Complaints must be submitted in writing. This includes fax and electronic submissions. However, the requirement for complaints to be submitted in writing must be read in conjunction with the Disability Discrimination Act 1995 and the requirement to make reasonable adjustments.

An example of this would be in assisting a complainant who has a disability that prevents them from making their complaint in writing. In such cases, authorities may need to transcribe a verbal complaint and then produce a written copy for approval by the complainant or the complainant's representative.

Authorities should also consider what support should be made available to

pre-assessment

complainants where English is not the complainant's first language.

When a complaint is addressed to the authority's monitoring officer, the monitoring officer should determine whether the complaint should be directed to the assessment sub-committee or whether another course of action is appropriate. If the complaint is clearly not about member conduct, then the monitoring officer does not have to pass it to the assessment sub-committee.

A complaint may not necessarily be made in writing, for example it may be a concern raised with the monitoring officer verbally. In such cases, the monitoring officer should ask the complainant whether they want to formally put the matter in writing to the standards committee. If the complainant does not, then the monitoring officer should consider the options for informal resolution to satisfy the complainant.

Acknowledging receipt of a complaint

The monitoring officer has the discretion to take the administrative step of acknowledging receipt of a complaint and telling the subject member that a complaint has been made about them. When considering whether to do so, they should bear in mind the standards committee's procedures with regard to withholding summaries. Please see the section on **Notification requirements** on **page 18** for further information.

The notification can say that a complaint has been made, and state the name of the

complainant (unless the complainant has requested confidentiality and the standards committee has not yet considered whether or not to grant it) and the relevant paragraphs of the Code of Conduct that may have been breached. It should also state that a written summary of the allegation will only be provided to the subject member once the assessment sub-committee has met to consider the complaint, and the date of this meeting, if known.

If a monitoring officer chooses to tell a subject member, the monitoring officer will need to be satisfied that they have the legal power to disclose the information they choose to reveal. In particular, the monitoring officer will need to consider any of the restrictions set out in Section 63 of the Local Government Act 2000 and as modified by Regulation 12 of the regulations. These are the provisions which deal with restrictions on disclosure of information. Additionally, the impact of the Data Protection Act 1998 should be considered.

Only the standards committee has the power, under Section 57C(2) of the Local Government Act 2000, as amended, to give a written summary of the allegation to a subject member.

The administrative processes that the authority adopts should be agreed with the standards committee as part of the processes and procedures that they must publish.

pre-assessment

Pre-assessment reports and enquiries

Authorities may decide that they want the monitoring officer, or other officer, to prepare a short summary of a complaint for the assessment sub-committee to consider. This could, for example, set out the following details:

- whether the complaint is within jurisdiction
- the paragraphs of the Code of Conduct the complaint might relate to, or the paragraphs the complainant has identified
- a summary of key aspects of the complaint if it is lengthy or complex
- any further information that the officer has obtained to assist the assessment sub-committee with its decision – this may include:
 - a) obtaining a copy of a declaration of acceptance of office form and an undertaking to observe the Code
 - b) minutes of meetings
 - c) a copy of a member's entry in the register of interests
 - d) information from Companies House or the Land Registry
 - e) other easily obtainable documents

Officers may also contact complainants for clarification of their complaint if they are unable to understand the document submitted.

Pre-assessment enquiries should not be carried out in such a way as to amount to an investigation. For example, they should not extend to interviewing potential witnesses, the complainant, or the subject member.

Officers should not seek opinions on an allegation rather than factual information as this may prejudice any subsequent investigation. They should also ensure their report does not influence improperly the assessment sub-committee's decision or make the decision for it.

assessment

Initial tests

Before assessment of a complaint begins, the assessment sub-committee should be satisfied that the complaint meets the following tests:

- it is a complaint against one or more named members of the authority or an authority covered by the standards committee
- the named member was in office at the time of the alleged conduct and the Code of Conduct was in force at the time
- the complaint, if proven, would be a breach of the Code under which the member was operating at the time of the alleged misconduct

If the complaint fails one or more of these tests it cannot be investigated as a breach of the Code, and the complainant must be informed that no further action will be taken in respect of the complaint.

Developing assessment criteria

The standards committee or its assessment sub-committee will need to develop criteria against which it assesses new complaints and decides what action, if any, to take. These criteria should reflect local circumstances and priorities and be simple, clear and open. They should ensure fairness for both the complainant and the subject member.

Assessing all new complaints by established criteria will also protect the committee members from accusations of bias. Assessment criteria can be reviewed and amended as necessary but this should not be done during consideration of a matter.

In drawing up assessment criteria, standards committees should bear in mind the importance of ensuring that complainants are confident that complaints about member conduct are taken seriously and dealt with appropriately. They should also consider that deciding to investigate a complaint or to take other action will cost both public money and the officers' and members' time. This is an important consideration where the matter is relatively minor.

Authorities need to take into account the public benefit in investigating complaints which are less serious, politically motivated, malicious or vexatious. Assessment criteria should be adopted which take this into account so that authorities can be seen to be treating all complaints in a fair and balanced way.

To assist in developing the criteria for accepting a complaint or for deciding to take no further action on it, a standards committee or assessment sub-committee may want to ask itself the following questions and consider the following response statements. These will provide a good foundation for developing assessment criteria in the context of local knowledge and experience:

assessment

Q: Has the complainant submitted enough information to satisfy the assessment sub-committee that the complaint should be referred for investigation or other action?

If the answer is **no**: “The information provided was insufficient to make a decision as to whether the complaint should be referred for investigation or other action. So unless, or until, further information is received, the assessment sub-committee is taking no further action on this complaint.”

Q: Is the complaint about someone who is no longer a member of the authority, but is a member of another authority? If so, does the assessment sub-committee wish to refer the complaint to the monitoring officer of that other authority?

If the answer is **yes**: “Where the member is no longer a member of our authority but is a member of another authority, the complaint will be referred to the standards committee of that authority to consider.”

Q: Has the complaint already been the subject of an investigation or other action relating to the Code of Conduct? Similarly, has the complaint been the subject of an investigation by other regulatory authorities?

If the answer is **yes**: “The matter of complaint has already been subject to a

previous investigation or other action and there is nothing more to be gained by further action being taken.”

Q: Is the complaint about something that happened so long ago that there would be little benefit in taking action now?

If the answer is **yes**: “The period of time that has passed since the alleged conduct occurred was taken into account when deciding whether this matter should be referred for investigation or further action. It was decided under the circumstances that further action was not warranted.”

Q: Is the complaint too trivial to warrant further action?

If the answer is **yes**: “The matter is not considered to be sufficiently serious to warrant further action.”

Q: Does the complaint appear to be simply malicious, politically motivated or tit-for-tat?

If the answer is **yes**: “The matter appears to be simply malicious, politically motivated or tit-for-tat, and not sufficiently serious, and it was decided that further action was not warranted”.

The assessment criteria that the standards committee adopts should be made publicly available.

decision

Initial assessment decisions

The assessment sub-committee should complete its initial assessment of an allegation within an average of 20 working days, to reach a decision on what should happen with the complaint.

The assessment sub-committee is required to reach one of the three following decisions on a complaint about a member's actions in relation to the Code of Conduct:

- referral of the complaint to the monitoring officer of the authority concerned, which under section 57A(3) of the Local Government Act 2000, as amended, may be another authority
- referral of the complaint to the Standards Board for England
- no action should be taken in respect of the complaint

New rules have been made about what the assessment sub-committee must do when a decision has been made. Please see the section on **Access to meetings and decision making** on **page 22** for further information.

The time that the assessment sub-committee takes to carry out its initial assessment of a complaint is key in terms of being fair to the complainant and the subject member. It is also in the public interest to make a timely decision within an average of 20 working days. The assessment sub-committee should

therefore aim to achieve this target wherever possible.

Referral for local investigation

When the assessment sub-committee considers a new complaint, it can decide that it should be referred to the monitoring officer for investigation.

The monitoring officer must write to the relevant parties informing them of the decision and, if appropriate, advising who will be responsible for conducting the investigation. Please see the section on **Notification requirements** on **page 18** for further information.

Referral to the Standards Board for England

In most cases, authorities will be able to deal with the investigation of complaints concerning members of their authorities and, where relevant, the parish and town councils they are responsible for. However, there will sometimes be issues in a case, or public interest considerations, which make it difficult for the authority to deal with the case fairly and speedily. In such cases, the assessment sub-committee may wish to refer a complaint to the Standards Board to be investigated by an ethical standards officer.

If the assessment sub-committee believes that a complaint should be investigated by the Standards Board, it must take immediate steps to refer the matter. It would be helpful if the assessment

decision

sub-committee let us know the paragraph or paragraphs of the Code of Conduct that it believes the allegation refers to and the reasons why it cannot be dealt with locally.

We may accept cases for investigation by an ethical standards officer, take no action, or refer cases back to the standards committee which referred them. When deciding which of these actions to take, we will be principally concerned with supporting the ethical framework nationally and locally.

We will take the following matters into account in deciding which cases we should accept in the public interest:

- Does the standards committee believe that the status of the member or members, or the number of members about whom the complaint is made, would make it difficult for them to deal with the complaint? For example, is the member a group leader, elected mayor or a member of the authority's cabinet or standards committee?
- Does the standards committee believe that the status of the complainant or complainants would make it difficult for the standards committee to deal with the complaint? For example, is the complainant a group leader, elected mayor or a member of the authority's cabinet or standards committee, the chief executive, the monitoring officer or other senior officer?
- Does the standards committee believe that there is a potential conflict of interest of so many members of the standards committee that it could not properly monitor the investigation?
- Does the standards committee believe that there is a potential conflict of interest of the monitoring officer or other officers and that suitable alternative arrangements cannot be put in place to address the conflict?
- Is the case so serious or complex, or involving so many members, that it cannot be handled locally?
- Will the complaint require substantial amounts of evidence beyond that available from the authority's documents, its members or officers?
- Is there substantial governance dysfunction in the authority or its standards committee?
- Does the complaint relate to long-term or systemic member/officer bullying which could be more effectively investigated by someone outside the authority?
- Does the complaint raise significant or unresolved legal issues on which a national ruling would be helpful?
- Might the public perceive the authority to have an interest in the outcome of a case? For example if the authority could be liable to be judicially reviewed if the complaint is upheld.
- Are there exceptional circumstances which would prevent the authority or its

decision

standards committee investigating the complaint competently, fairly and in a reasonable period of time, or meaning that it would be unreasonable for local provision to be made for an investigation?

We will normally inform the monitoring officer within ten working days whether we will accept a case or whether we will refer it back to the standards committee, with reasons for doing so. There is no appeal mechanism against our decision.

Referral back to a standards committee from the Standards Board for England

If we decline to investigate a complaint referred to us, we will normally send it back to the authority's standards committee with the reasons why. The standards committee must then decide what action should be taken next.

The assessment sub-committee must again take an assessment decision and should complete this within an average of 20 working days.

This may be a decision not to take any further action, to refer the matter for local investigation, or to refer the matter for some other form of action. As the assessment sub-committee initially decided that the matter was serious enough to be referred to the Standards Board for investigation, it is likely that it will still think that it should be investigated.

However, if the circumstances of the complaint have changed since the

assessment sub-committee's original decision, it may be reasonable to take a different decision. This decision will again need to be communicated to relevant parties in the same way as the original decision was. Please see the section on **Notification requirements** on **page 18** for further information.

If we decline to investigate a case referred to us, we may, in the circumstances, offer guidance or give a direction to the standards committee, which may assist with the standards committee's decision.

In exceptional circumstances, we may decide to take no further action on a complaint referred to us by a standards committee. This is likely to be where circumstances have changed so much that there would be little benefit arising from investigation or other action, or because we do not consider that the complaint discloses a breach of the Code of Conduct.

Referral for other action

When the assessment sub-committee considers a new complaint, it can decide that other action to an investigation should be taken and it can refer the matter to the monitoring officer to carry this out. It may not always be in the interests of good governance to undertake or complete an investigation into an allegation of misconduct. The assessment sub-committee must consult its monitoring officer before reaching a decision to take other action.

decision

The suitability of other action is dependent on the nature of the complaint. Certain complaints that a member has breached the Code of Conduct will lend themselves to being resolved in this way. They can also indicate a wider problem at the authority concerned. Deciding to deal pro-actively with a matter in a positive way that does not involve an investigation can be a good way to resolve matters that are less serious. Other action can be the simplest and most cost effective way of getting the matter resolved, helping the authority to work more effectively, and of avoiding similar complaints in the future.

The assessment sub-committee can choose this option in response to an individual complaint or a series of complaints. The action decided upon does not have to be limited to the subject member or members. In some cases, it may be less costly to choose to deal with a matter in this way rather than through an investigation, and it may produce a more effective result.

It is not possible to set out all the circumstances where other action may be appropriate, but an example is where the authority to which the subject member belongs appears to have a poor understanding of the Code and authority procedures. Evidence for this may include:

- a number of members failing to comply with the same paragraph of the Code
- officers giving incorrect advice
- failure to adopt the Code
- inadequate or incomplete protocols for use of authority resources

Other action may also be appropriate where a breakdown in relationships within the authority is apparent, evidence of which may include:

- a) a pattern of allegations of disrespect, bullying or harassment
- b) factionalised groupings within the authority
- c) a series of 'tit-for-tat' allegations
- d) ongoing employment issues, which may include resolved or ongoing employment tribunals, or grievance procedures

The assessment sub-committee is encouraged to consider other action on a practical basis, taking into account the needs of their own authority and of the parish and town councils which they serve. Everyone involved in the process will need to understand that the purpose of other action is not to find out whether the member breached the Code – the decision is made as an alternative to investigation. If the monitoring officer embarks on a course of other action, they should emphasise to the parties concerned that no conclusion has been reached on whether the subject member failed to comply with the Code.

Complaints that have been referred to the monitoring officer for other action should not then be referred back to the standards committee if the other action is perceived to have failed. This is unfair to the subject member, and a case may be jeopardised if it has been discussed as part of a mediation process. There is also a difficulty with defining 'failure' in terms of

decision

the other action undertaken. The decision to take other action closes the opportunity to investigate and the assessment sub-committee should communicate this clearly to all parties.

Standards committees may find it helpful to introduce a requirement for the parties involved to confirm in writing that they will co-operate with the process of other action proposed. An example of this would be writing to the relevant parties outlining:

- what is being proposed
- why it is being proposed
- why they should co-operate
- what the standards committee hopes to achieve

However authorities choose to take this forward, the important thing is that all parties are clear about what is, and what is not, going to happen in response to the complaint.

The following are some examples of alternatives to investigation:

- arranging for the subject member to attend a training course
- arranging for that member and the complainant to engage in a process of conciliation
- instituting changes to the procedures of the authority if they have given rise to the complaint

Standards committees may find that resolving a matter in this way is relatively

quick and straightforward compared to a full investigation.

Decision to take no action

The assessment sub-committee can decide that no action is required in respect of a complaint. For example, this could be because the assessment sub-committee does not consider the complaint to be sufficiently serious to warrant any action. Alternatively, it could be due to the length of time that has elapsed since the alleged conduct took place and the complaint was made. The decision reached by the assessment sub-committee and the reasons for it should adhere to the assessment criteria that the standards committee or assessment sub-committee have agreed.

It is important to underline that where no potential breach of the Code of Conduct is disclosed by the complaint, no matter what its source or whoever the subject member, no action can be taken by the standards committee in respect of it. The matter of referral for investigation or other action therefore does not arise.

The complainant should be advised of their right to ask for a review of a decision to take no action. They should be told that they can exercise this right by writing to the standards committee with their reasons for requesting a review. The complainant should be advised of the date by which their review request should be received by the standards committee.

decision

That date is 30 working days after the initial assessment decision is received.

Notification requirements – local assessment decisions

If the assessment sub-committee decides to take no action over a complaint, then as soon as possible after making the decision it must give notice in writing of the decision and set out clearly the reasons for that decision. Where no potential breach of the Code is disclosed, the assessment sub-committee must explain in the decision notice what the allegation was and why they believe this to be the case. This notice must be given to the relevant parties.

The relevant parties will be the complainant and the subject member. If the subject member is a parish or town councillor, their parish or town council must also be notified. We suggest that the standards committee sends out its decision notice within five working days of the decision being made.

If the assessment sub-committee decides that the complaint should be referred to the monitoring officer or to the Standards Board for England, it must send a summary of the complaint to the relevant parties. It should state what the allegation was and what type of referral it made, for example whether it referred the complaint to the monitoring officer or to the Standards Board for investigation. The decision notice must explain why a particular referral decision has been made. After it has made its decision, the assessment sub-committee does not have

to give the subject member a summary of the complaint, if it decides that doing so would be against the public interest or would prejudice any future investigation.

This could happen where it is considered likely that the subject member may intimidate the complainant or the witnesses involved. It could also happen where early disclosure of the complaint may lead to evidence being compromised or destroyed. The assessment sub-committee needs to take such possibilities into account when developing with its monitoring officer any process that notifies a member about a complaint made against them.

The assessment sub-committee should take advice from the monitoring officer in deciding whether it is against the public interest to inform the subject member of the details of the complaint made against them. It should also take advice from the monitoring officer in deciding whether informing the subject member of the details of the complaint would prejudice a person's ability to investigate it.

The monitoring officer will need to carry out an assessment of the potential risks to the investigation. This is to determine whether the risk of the case being prejudiced by the subject member being informed of the details of the complaint at that stage may outweigh the fairness of notifying the subject member. An example of this is allowing the subject member to preserve any evidence. The monitoring officer should then advise the assessment sub-committee accordingly.

decision

The assessment sub-committee can use its discretion to give limited information to the subject member if it decides this would not be against the public interest or prejudice any investigation. Any decision to withhold the summary must be kept under review as circumstances change.

review

Reviews of 'no further action' decisions

If the assessment sub-committee decides not to take any action on a complaint, then the complainant has a right of review over that decision.

The review sub-committee must carry out its review within a maximum of three months of receiving the request. We recommend that the review sub-committee adopts a policy of undertaking the review within the same timescale as the initial assessment decision is taken, aiming to complete the review within an average of 20 working days.

The review must be, and must be seen to be, independent of the original decision. Members of the assessment sub-committee who made the original decision must not take part in the review of that decision. A separate review sub-committee, made up of members of the standards committee, must consider the review.

The review sub-committee should apply the same criteria used for initial assessment. The review sub-committee has the same decisions available to it as the assessment sub-committee.

There may be cases where further information is made available in support of a complaint that changes its nature or gives rise to a potential new complaint. In such cases, the review sub-committee should consider carefully if it is more appropriate to pass this to the assessment sub-committee to be handled as a new

complaint. In this instance, the review sub-committee will still need to make a formal decision that the review request will not be granted.

For example, a review may be more appropriate if a complainant wishes to challenge that:

- not enough emphasis has been given to a particular aspect of the complaint
- there has been a failure to follow any published criteria
- there has been an error in procedures

However, if more information or new information of any significance is available, and this information is not merely a repeat complaint, then a new complaint rather than a request for review may be more suitable.

Notification requirements – reviews of local assessment decisions

If the standards committee receives a review request from the complainant, it must notify the subject member that it has received the request. We recommend that all relevant parties are notified when a review request is received.

When the review sub-committee reviews the assessment sub-committee's decision it has the same decisions available to it that the assessment sub-committee had. It could be decided that no action should be taken on the complaint. In this case, the review sub-committee must, as soon as

review

possible after making the decision, give the complainant and the subject member notice in writing of both the decision and the reasons for the decision. If the subject member is a parish or town councillor, the review sub-committee must also give written notice to the parish or town council.

If it is decided that the complaint should be referred to the monitoring officer or to the Standards Board for England, the standards committee should write to the relevant parties telling them this and letting them have a summary of the complaint. The decision notice must explain why that particular referral decision has been made.

We recommend that the review sub-committee sends out its decision notice within five working days of the decision being made.

other issues to consider

Access to meetings and decision making

Initial assessment decisions, and any subsequent review of decisions to take no further action on a complaint, must be conducted in closed meetings. These are not subject to the notice and publicity requirements under Part 5 of the Local Government Act 1972.

Such meetings may have to consider unfounded and potentially damaging complaints about members, which it would not be appropriate to make public. As such, a standards committee undertaking its role in the assessment or review of a complaint is not subject to the following rules:

- rules regarding notices of meetings
- rules on the circulation of agendas and documents
- rules over public access to meetings
- rules on the validity of proceedings

Instead, Regulation 8 of the regulations sets out what must be done after the assessment or review sub-committee has considered a complaint. The new rules require a written summary to be produced which must include:

- the main points considered
- the conclusions on the complaint
- the reasons for the conclusion

The summary must be written having regard to this guidance and may give the name of the subject member unless doing so is not in the public interest or would prejudice any subsequent investigation.

The written summary must be made available for the public to inspect at the authority's offices for six years and given to any parish or town council concerned. The summary does not have to be available for inspection or sent to the parish or town council until the subject member has been sent the summary.

In limited situations, a standards committee can decide not to give the written summary to the subject member when a referral decision has been made and, if this is the case, authorities should put in place arrangements which deal with when public inspection and parish or town council notifications will occur. This will usually be when the written summary is eventually given to the subject member during the investigation process. Please see the section on **Notification requirements** on **page 18** for further information.

Review of a decision to take no further action on a complaint is not subject to access to information rules in respect of local government committees.

In addition, authorities must have regard to their requirements under Freedom of Information and Data Protection legislation.

Withdrawing complaints

There may be occasions when the complainant asks to withdraw their complaint prior to the assessment sub-committee having made a decision on it.

other issues to consider

In these circumstances, the assessment sub-committee will need to decide whether to grant the request. It would be helpful if the assessment sub-committee had a framework by which to consider such requests. The following considerations may apply:

- Does the public interest in taking some action on the complaint outweigh the complainant's desire to withdraw it?
- Is the complaint such that action can be taken on it, for example an investigation, without the complainant's participation?
- Is there an identifiable underlying reason for the request to withdraw the complaint? For example, is there information to suggest that the complainant may have been pressured by the subject member, or an associate of theirs, to withdraw the complaint?

Multiple and vexatious complaints

An authority may receive a number of complaints from different complainants about the same matter. Authorities should have procedures in place to ensure that they are dealt with in a manner that is a practical use of time and resources.

A number of complaints about the same matter may be considered by the assessment sub-committee at the same meeting. If so, an officer should be asked to present one report and recommendation that draws together all the relevant

information and highlights any substantively different or contradictory information. However, the assessment sub-committee must still reach a decision on each individual complaint and follow the notification procedure for each complaint.

Unfortunately, a small number of people abuse the complaints process. Authorities may want to consider developing a policy to deal with this. For example, they could bring it within the scope of any existing authority policies on vexatious or persistent complainants, or take action to limit an individual's contact with the authority.

However, standards committees must consider every new complaint that they receive in relation to the Code of Conduct. If the standards committee has already dealt with the same complaint by the same person and the monitoring officer does not believe that there is any new evidence, then a complaint does not need to be considered.

A person may make frequent allegations about members, most of which may not have any substance. Despite this, new allegations must still be considered as they may contain a complaint that requires some action to be taken.

Even where restrictions are placed on an individual's contact with the authority, they cannot be prevented from submitting a complaint.

Vexatious or persistent complaints or complainants can usually be identified through the following patterns of

other issues to consider

behaviour, which may become apparent in the complaints process:

- repeated complaints making the same, or broadly similar, complaints against the same member or members about the same alleged incident
- use of aggressive or repetitive language of an obsessive nature
- repeated complaints that disclose no potential breach of the Code
- where it seems clear that there is an ulterior motive for a complaint or complaints
- where a complainant refuses to let the matter rest once the complaints process (including the review stage) has been exhausted

There are ways that authorities can reduce the resources expended. For example, they can allow a vexatious complainant to deal with only one named officer or refuse email communication. Authorities can also include a statement in their referrals criteria that malicious or tit-for-tat complaints are unlikely to be investigated unless they also raise serious matters. This will allow authorities to decide not to investigate or take other action on such complaints if appropriate.

Case history

Authorities should consider developing a complaints management system. Records of all complaints and their outcomes

should be retained in line with the authority's records management policy. This policy may need to be amended to reflect the authority's new responsibilities in the local assessment of complaints.

Documents that relate to complaints that the assessment sub-committee decided not to investigate should be kept for a minimum of 12 months after the outcome of any review that has been concluded. This is in case of legal challenges, and also in order to meet the Standards Board for England's monitoring requirements.

Authorities should set a time limit for records retention after the outcome of any hearing or result of further action in respect of a complaint is known. This should be set in accordance with the authority's own file retention policy and in accordance with the principles of data protection.

Authorities should keep details of cases in a format that is easy to search by complainant name, by member name, and by authority where an authority is responsible for parish and town councils. Authorities may also want to search by paragraph of the authority's Code of Conduct.

Old cases may be relevant to future complaints if they show a pattern of behaviour. Authorities will also be able to identify complaints about the same matter that have already been considered by the standards committee.

other issues to consider

Authorities will need to consider records management alongside the law on keeping records of committees.

Confidentiality

As a matter of fairness and natural justice, a member should usually be told who has complained about them. However, there may be instances where the complainant asks for their identity to be withheld. Such requests should only be granted in exceptional circumstances and at the discretion of the assessment sub-committee. The assessment sub-committee should consider the request for confidentiality alongside the substance of the complaint itself.

Authorities should develop criteria by which the assessment sub-committee will consider requests for confidentiality. These may include the following:

- The complainant has reasonable grounds for believing that they will be at risk of physical harm if their identity is disclosed.
- The complainant is an officer who works closely with the subject member and they are afraid of the consequences to their employment or of losing their job if their identity is disclosed (this should be covered by the authority's whistle-blowing policy).
- The complainant suffers from a serious health condition and there are medical risks associated with their identity being disclosed. In such

circumstances, standards committees may wish to request medical evidence of the complainant's condition.

In certain cases, such as allegations of bullying, revealing the identity of the complainant may be necessary for investigation of the complaint. In such cases the complainant may also be given the option of requesting a withdrawal of their complaint.

When considering requests for confidentiality, the assessment sub-committee should also consider whether it is possible to investigate the complaint without making the complainant's identity known.

If the assessment sub-committee decides to refuse a request by a complainant for confidentiality, it may wish to offer the complainant the option to withdraw, rather than proceed with their identity being disclosed. In certain circumstances, the public interest in proceeding with an investigation may outweigh the complainant's wish to have their identity withheld from the subject member. The assessment sub-committee will need to decide where the balance lies in the particular circumstances of each complaint.

Anonymous complaints

Authorities should publish a statement setting out how complaints received anonymously will be dealt with. The assessment sub-committee may decide that an anonymous complaint should only be referred for investigation or some other action if it includes documentary or

other issues to consider

photographic evidence indicating an exceptionally serious or significant matter. If so, this needs to be included in the standards committee's assessment criteria.

Members with conflicts of interest

Note: this section does not deal with any interests which may arise under the Code of Conduct, which members must also keep in mind and deal with as appropriate.

A member of the standards committee who was involved in any of the following decisions **can** be a member of the committee that hears and determines the complaint at the conclusion of an investigation:

- the initial assessment decision
- a referral back for another assessment decision
- a review of an assessment decision

The assessment decision relates only to whether the complaint discloses something that needs to be investigated or referred for other action. It does not determine whether the conduct took place or whether it was a breach of the Code. The standards committee hearing the case will decide on the evidence before it as to whether the Code has been breached and, if so, if any sanction should apply.

The assessment process must be conducted with impartiality and fairness. There may be cases where it would not be

appropriate for a member to be involved in the process, even if not disqualified from doing so by law. Any member who is a complainant or one of the following should not participate in the assessment process:

- anyone closely associated with someone who is a complainant
- a potential witness or victim relating to a complaint

In certain situations, a standards committee member might initially be involved with the initial assessment of a case that is then referred to the Standards Board for England or to the authority's monitoring officer. The case might then be referred back to the standards committee to consider again. In such circumstances, the member may continue their participation in the assessment process.

However, a standards committee member who is involved at these assessment stages of the process, either initially or following a referral back from the Standards Board or monitoring officer, must not participate in the review of that decision.

Authorities should ensure that their standards committee has sufficient independent members, and parish or town representatives where applicable, for the framework to operate effectively. This should allow for circumstances where members are unable to participate for reasons of conflict of interest.

other issues to consider

Officers with conflicts of interest

An officer who has previously advised a subject member or who has advised the complainant about the issues giving rise to a complaint should consider whether they can properly take part in the assessment process. For example, a conflict of interest could mean that the officer will not be able to:

- draft letters
- prepare reports
- contact complainants
- attend the final hearing of that complaint

The officer should also consider whether they should stand aside due to their prior involvement, which has been such that others involved may view them as biased. Officers should take legal advice if they have any doubts.

If the officer has taken part in supporting the assessment or hearing process then they should not be involved in the investigation of that matter. This is so that the officer can minimise the risk of conflicts of interest that may arise and ensure fairness for all parties.

The monitoring officer should act as the main adviser to the standards committee unless the monitoring officer has an interest in a matter that would prevent them from performing the role independently.

If the monitoring officer is unable to take part in the assessment process, their role

should be delegated to another appropriate officer of the authority, such as the deputy monitoring officer. Similarly, the role of any other officer who is unable to take part in the assessment process should be taken by another officer.

Smaller authorities may find it useful to make reciprocal arrangements with neighbouring authorities. This is to ensure that an experienced officer is available to deputise for the monitoring officer if they are unable to take part in the assessment process.

Personal conflicts

Members and officers should take care to avoid any personal conflicts of interest arising when participating in the consideration of a complaint that a member may have breached the Code of Conduct. The provisions of the authority's Code relating to personal and prejudicial interests apply to standards committee members in meetings and hearings.

Anyone who has a prejudicial interest or who is involved with a complaint in any way should not take part in the assessment or review sub-committee. Decisions made in an assessment or review sub-committee should not be influenced by anything outside the papers and advice put before the members in that committee. The members should not discuss complaints with others who are not members of the committee which deals with the assessment or review.

Discussions between members should only take place at official meetings.

other issues to consider

Authorities should have clear guidelines in place on when a member or officer should not take part in the assessment of a complaint because of personal interests. These may include consideration of the following:

- The complaint is likely to affect the well-being or financial position of that member or officer or the well-being or financial position of a friend, family member or person with whom they have a close association.
- The member or officer is directly or indirectly involved in the case in any way.
- A family member, friend or close associate of the member or officer is involved in the case.
- The member or officer has an interest in any matter relating to the case. For example, it concerns a member's failure to declare an interest in a planning application in which the member or officer has an interest. This is despite the fact that the outcome of any investigation or other action could not affect the decision reached on the application.

Complaints about members of more than one authority

The introduction of the local assessment of complaints may raise an issue relating to what should happen if a complaint is made against an individual who is a member of more than one authority – often known as a dual-hatted member.

In such cases, the member may have failed to comply with more than one authority's Code of Conduct. For example, an individual who is a member of a district council and a police authority may be the subject of complaints that they have breached the Code of both authorities.

As such, it would be possible for both the assessment sub-committee of the district council and the assessment sub-committee of the police authority to receive complaints against the member.

Where a complaint is received about a dual-hatted member, the monitoring officer of the authority should check if a similar allegation has been made to the other authority, or authorities, on which the member serves.

Decisions on which standards committee should deal with a particular complaint must then be taken by the standards committees themselves, following discussion with each other. They may take advice as necessary from the Standards Board for England.

This will allow for a cooperative approach, including sharing knowledge and information about local circumstances, and cooperation in carrying out investigations to ensure resources are used effectively.

Authorities should also consider whether they need to establish a data sharing protocol with other relevant authorities. The government and the Information Commissioner's Office have produced guidance on such protocols. Visit www.ico.gov.uk for further details on the work of the Information Commissioner.

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BROMSGROVE DISTRICT COUNCIL

STANDARDS COMMITTEE

12TH JUNE 2008

LOCAL ASSESSMENT – COMPOSITION OF SUB-COMMITTEES

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

1. SUMMARY

The Standards Committee decided upon the composition of its sub-committees at its meeting on 28th April 2008. This report updates members on the Standards Board for England guidance and requests members to consider one minor amendment to the composition of those sub-committees.

2. RECOMMENDATION

To amend the composition of the Final Determination Sub-Committee to allow up to 2 parish councillors to sit on the Final Determination Sub-Committee when the subject member is a parish councillor.

3. BACKGROUND

3.1 The Standards Committee agreed the composition of the Standards Committee sub-committees at the meeting on 28th April 2008. Officers had advised against allowing members to participate in both assessment and final determinations, based partly on oral advice received from the Standards Board for England (“SBE”). However, the SBE guidance has now been published and does not recommend that members should not sit at both assessment and final determination stages of the process. Therefore this aspect does not need to be reconsidered.

3.2 However, one consequence of the decision taken on 28th April 2008 is that the composition of the Final Determination Sub-Committee allows only one parish councillor to sit, irrespective of whether the subject member is a district or parish councillor. It is suggested that it would be appropriate for up to two parish councillors to sit on the Final Determination Sub-Committee when the subject member is a parish councillor and members are requested to consider this minor amendment.

4. FINANCIAL IMPLICATIONS

None.

5. **LEGAL IMPLICATIONS**

The Local Government and Public Involvement in Health Act 2007 and Standards Committee (England) Regulations 2008 introduce the new local assessment system.

6. **COUNCIL OBJECTIVES**

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**

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

None.

10. VALUE FOR MONEY IMPLICATIONS

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

None.

15. BACKGROUND PAPERS

None.

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BROMSGROVE DISTRICT COUNCIL

STANDARDS COMMITTEE

12TH JUNE 2008

APPOINTMENT OF INDEPENDENT MEMBERS

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

1. SUMMARY

The Local Government Act 2000 requires at least 25% of the Standards Committee to be made up of Independent Members. No clear policy has been adopted by the Council as to how vacancies for Independent Members should be advertised or the selection criteria which should be applied. Members are requested to give consideration to these issues and make recommendations to Council as appropriate.

2. RECOMMENDATION

Members are requested to decide on how vacancies for Independent Members of the Standards Committee should be advertised, the information which should be provided to prospective candidates and the selection criteria to be applied and to make recommendations to Council accordingly.

3. BACKGROUND

- 3.1 The Local Government Act 2000 as amended and regulations made thereunder require the composition of Standards Committees to include at least 25% independent members. The term of office of each independent member is 4 years. Vacancies for the role of Independent Members on the Standards Committee arise from time to time.
- 3.2 In view of the changes to the way complaints are assessed and the new requirements for committees and sub-committees to be chaired by independent members, it is considered appropriate to revisit the process by which independent members are co-opted. In particular, advice is sought from members as to how much and what information candidates should be provided with and whether any particular skills should be sought.
- 3.3 The latest Standards Board for England guidance on Independent Members is attached as Appendix 1 and the model recruitment pack referred to in that guidance is attached as Appendix 2; the document in this pack have been used by this Council in the past in recruiting Independent Members for the Standards Committee.

3.4 Members are requested to consider these documents and to decide on the extent to which they should be revised to reflect the requirements and objectives of this Standards Committee.

4. FINANCIAL IMPLICATIONS

None.

5. LEGAL IMPLICATIONS

Sections 53 – 56 of the Local Government Act 2000 as amended introduced the requirement for an authority to have a Standards Committee and the Standards Committee (England) Regulations 2008 set out the detailed requirements for the composition of Standards Committees and the requirements for independent members.

6. COUNCIL OBJECTIVES

This report does not directly link with any of the Council's objectives.

7. RISK MANAGEMENT

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

- Failure to comply with the ethical governance framework may expose Council decisions to the risk of challenge and loss of reputation,

7.2 This risk is being managed as follows:

- Risk Register: Legal, Equalities and Democratic Services
- Key Objective Ref No: 3
- Key Objective: Effective ethical governance

8. CUSTOMER IMPLICATIONS

The role of the independent members is important in ensuring public confidence in the ethical standards regime.

9. EQUALITIES AND DIVERSITY IMPLICATIONS

None.

10. VALUE FOR MONEY IMPLICATIONS

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	No
Corporate Procurement Team	No

13. WARDS AFFECTED

All wards.

14. APPENDICES

Appendix 1

Guidance from SBE on independent members

Appendix 2

ACSeS recruitment pack for independent members

15. BACKGROUND PAPERS

None.

CONTACT OFFICER

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

independent members

Independent members are important in helping increase public confidence in local government. They provide a clear signal that the standards committee acts fairly and impartially. Independent members also bring a wider perspective from their outside experiences. There is no limit to the number of independent members you can have on your standards committee. Indeed some authorities may wish to have a majority of independent members.

Your authority decides how to select independent members and how long an independent member should sit on the committee. We recommend that you set a fixed period of four years. This will be long enough for them to gain an understanding of the committee, the authority and its workings, but not so long that they could be perceived as losing their independence.

When re-appointing an independent member, you should bear in mind that we recommend that independent members should serve no longer than two terms, which is a maximum of eight years. It may be helpful for independent members to be appointed for differing lengths of time so that the experience they gain is not all lost simultaneously.

Choosing an independent member

Independent members must be chosen in a fair and open way.

A person can only be an independent member if that person:

- has not been a member or employee

of your authority within the five years before the date of appointment

- is not a member or officer of that or any other relevant authority. Please see the section **Recruiting independent members from another standards committee** on page 13 for further information on when this does not apply
- is not a relative or close friend of a member or employee of your authority
- has applied for the appointment
- has been approved by a majority of the members of the council
- the position has been advertised in at least one newspaper distributed in your authority's area, and in other similar publications or websites that the authority considers appropriate. The decision on which other publications or websites to use may be something that the authority delegates to the standards committee.

The regulations say that a 'relative' means:

- a partner (a spouse, civil partner or someone a person lives with in a similar capacity)
- a parent
- a parent of a partner
- a son or daughter
- a stepson or stepdaughter
- the child of a partner
- a brother or sister
- a brother or sister of a partner

independent members

- a grandparent
- a grandchild
- an uncle or aunt
- a nephew or niece
- the partners of any of the people mentioned above

The regulations do not provide a specific definition of a close friend. The Standards Board for England's publication the *Case Review 2007* includes a section on defining a close associate, which might be helpful in identifying a close friend. The *Case Review 2007* is available at www.standardsboard.gov.uk.

The regulations require a majority of all members of the authority to approve the appointment. However, we believe that in practice, a report only needs to go to full council when selecting independent members. If so, we recommend that the monitoring officer ensures the majority of members approve, not just those attending the meeting.

We recommend that the power to assist the recruitment of independent members is delegated to the standards committee by the authority and is included in the committee's terms of reference. A standards committee may appoint a sub-committee to take on some of its functions, for example, if your standards committee is asked to advise members of the council on the appointment of independent or parish members. If so, then the standards committee may set up a sub-committee of suitably trained members to shortlist and interview candidates and make recommendations to council. The sub-committee may find it

helpful to have the monitoring officer and a human resources officer present to provide advice and assistance.

An individual's membership of a political party does not automatically bar them from being an independent member of a standards committee. However, the more politically active an independent member is the less likely they will be seen as being independent. You should consider public perception before making an appointment of this sort.

If you are finding it difficult to attract suitable people to become independent members, you should review the criteria in your advertisement to make sure they are reasonable. For example, you should make sure that the time you are asking the member to invest is reasonable for the role.

You may also want to consider additional methods of attracting candidates. This could include:

- placing articles in the local press about the role of an independent member
- placing advertisements on your website or on your local radio station
- placing flyers in libraries, adult learning centres or places of worship
- advertising through other authorities' partnerships or through the local voluntary or community sector
- approaching your citizen's panel
- the personal approach. For example,

independent members

contacting neighbouring authorities which may have more suitable candidates than they can appoint.

- approaching a person who is an independent member of a standards committee of a different authority. This person may also be appointed as an independent member of the standards committee of your authority. This is unless they were a member or officer of your authority within the five years preceding the appointment, or are a relative or a close friend of a member or officer of your authority.

Remember that all the selection criteria for the position will still apply, so even if you approach someone directly, they must still make a formal application.

We recommend that the application form includes sections on:

- personal details
- qualifications
- summary of experience
- relevant expertise/skills

Accepting a CV with an application form may make the process easier for busy candidates. You may also want to consider online applications. We recommend that the monitoring officer should be involved throughout the recruitment process to advise the panel and the authority.

Skills and competencies of independent members

The competencies you should look for in an independent member include:

- a keen interest in standards in public life
- a wish to serve the local community and uphold local democracy
- high standards of personal integrity
- the ability to be objective, independent and impartial
- sound decision making skills
- questioning skills
- leadership qualities, particularly in respect of exercising sound judgment
- the ability to act as the chair of an assessment or review sub-committee or a determination hearing

Please see the section **The role of the chair** on **page 13** for further information on acting as a chair.

You should assess candidates looking for these qualities in interviews and any other assessment process you carry out. You also need to ensure that your authority complies with its duties under the Equality Act 2006. The human resources department of your authority may be able to advise you further on this matter.

independent members

For further information on the recruitment of independent members, you may want to look at the recruitment pack produced by the Association of Council Secretaries and Solicitors (ACSeS). The pack provides practical advice on how to set about recruiting independent members, together with their roles and responsibilities. The pack can be downloaded at www.acses.org.uk

Recruiting independent members from another standards committee

An independent member of one standards committee may also sit on other standards committees. For example, the member can sit on county and district, or county, police and fire authorities' standards committees.

Independent members may also be temporarily appointed to another standards committee to consider a particular assessment, review or hearing or for a particular period of time. For example, it would be appropriate to appoint an independent member of a neighbouring standards committee for a short period in situations where the permanent member is unwell or if there is a conflict of interest.

These appointments can be made without needing to advertise the position. The appointments do not need to be ratified by a majority of the members of the authority, but proper procedures should be in place to appoint independent members on a temporary basis.

Independent members appointed on a temporary basis cannot have been a member or officer of that authority in their

five years before the appointment, and cannot be a close friend or a relative of a member or officer of that authority. They must also comply with the Code of Conduct of each authority whose standards committee they sit on.

Ceasing to be an independent member

Under the regulations, any person appointed as an independent member who becomes a member or officer of an authority, or a relative of a member or officer of that authority, will no longer be able to be an independent member of that authority's standards committee.

The role of the chair

It is a legal requirement that the chair of the standards committee must be an independent member. It is important for the chair to be independent because of the key role they play in the business of the standards committee. By being independent, the chair can ensure that the standards committee's business is conducted in such a way that no one can question its integrity.

Authorities should aim to select a person who will command the respect of members and the local community. We recommend that the decision on who should be appointed as chair be taken by the full council or delegated to the standards committee. You may also choose to appoint an independent vice chair for the reasons discussed in the section on **Size and composition** on **page 9**.

independent members

An effective chair will ensure that the business of the meeting is completed while allowing a fair and balanced debate and any professional advice to be taken into account. The chair may summarise the points put to the committee, and will ensure that the meeting is run correctly from a procedural point of view. They will also ensure that the decisions made are accurately recorded. The chair is responsible for keeping order and adjourning meetings where necessary. They should also have a good level of assertiveness. It is also the chair's responsibility to ensure that members of the public and press leave the meeting when a private report is being considered. Please see the section **Skills and competencies of independent members** on **page 12** for further information.

Preliminary matters will often arise in relation to hearings. The chair, with the advice of the monitoring officer, may make initial process decisions in relation to such matters. However, it is important that the hearing committee or sub-committee considers and approves such arrangements.

Ultimately, it is the way the chair operates independently, and is seen to operate independently, that should enhance confidence in the integrity of the standards committee. It is also the chair's status as an independent member, a role drawn from outside the authority and independent from the authority that should provide a clear signal that the committee is fair.

Induction of independent members

While it is not mandatory, we recommend that an induction programme should be provided for independent members. This should include training on the Code of Conduct and the functions of standards committees. Inductions should also include attendance at authority meetings, such as meetings of planning and licensing committees and the full council. If authorities are operating executive arrangements, then attendance at cabinet meetings and overview and scrutiny committee meetings should be part of the induction.

Independent and parish representatives should also receive a copy of the authority's constitution. In addition, they should receive a copy of the Code of Conduct that has been adopted by your authority, the protocol for member/officer relations and any other protocol in use.

The constitution should also include the authority's scheme of delegations of functions. Whistle-blowing policies, any policies and procedures under the Equality Act 2006, and the authority's anti-bullying policy should also be included. It may be helpful to add an A-Z of people in the authority, a list of authority services and the municipal calendar.

There are a number of regional independent member organisations. Many authorities use a mentoring system to assist new independent members of standards committees. In some parts of the country regional groups of independent

independent members

members have been established. Information relating to these will be helpful as may a list of useful websites.

To find out if there is a regional group of independent members in your area you should contact the Standards Board for England. The Association of Independent Members of Standards Committees in England (AIMSce) may also be able to provide support. Information about AIMSce can be found at www.aimsce.org.uk Authorities may also want to consider making members' IT facilities available to both their independent and parish representatives.

Remuneration for independent members

Authorities must introduce an annual scheme for the payment of a basic allowance to their members, based on the recommendations of an independent remuneration panel. The annual scheme can also extend to the payment of other allowances, including a co-optee's allowance. A co-optee's allowance relates to a person who is not a member of the authority but is a member of a committee or sub-committee, for example an independent member of a standards committee.

We recommend that independent members should be able to claim for financial loss, travel and subsistence. This will help attract those people that may have been deterred from the role because of the costs involved. Each authority must consider the recommendations of its panel

as to whether it should provide for the payment of a co-optee's allowance and of travelling and subsistence expenses.

Indemnities for independent members

Where independent members are carrying out their statutory duties, they may be protected by their authority's indemnity arrangements under the Local Authorities (Indemnities for Member and Officers) Order 2004. We recommend that all authorities include independent members in their indemnity arrangements.

Complying with the Code of Conduct and the register of members' interests

Independent members must sign an undertaking to comply with the Code of Conduct and disclose their interests in the register of members' interests maintained by the monitoring officer, in the same way as other members. Complaints about the conduct of independent members must be treated in the same way as that of other members.

NEWARK AND SHERWOOD DISTRICT COUNCIL



STANDARDS COMMITTEE APPOINTMENT OF INDEPENDENT MEMBER

The Council is required to have a Standards Committee to oversee the standards and ethics of elected, co-opted and independent members including Town and Parish Councillors within the district's area. Meetings are usually held during the day and take place at the District Council's offices at Kelham Hall. The Committee's role includes local determination of standards investigations as well as advising and raising awareness on issues relating to ethics and conduct.

If you are interested in playing a key role in enhancing local democracy and maintaining and enhancing standards and ethics in Newark and Sherwood, you are invited to apply for the position as an independent member of the Standards Committee. The Committee currently comprises eight members in total of which two are independent and two represent Parish Councils within the district with the remaining four members being elected Members of Newark and Sherwood District Council.

To be eligible to apply you should not: -

- Have been a Member or Officer at Newark and Sherwood District Council or of a Parish or Town Council within the district within the last five years
- Be a relative or close friend of a Member or Officer at Newark and Sherwood District Council.

Ideally, you should have: -

- A keen interest in standards in public life
- A wish to serve the local community and uphold local democracy
- Demonstrate high standards of personal integrity
- Be objective, independent and impartial
- Have direct experience of implementing and upholding standards and/or dealing with complaints and customer care issues.

A small fixed annual allowance is payable together with travel and subsistence expenses. Preference will be given to applicants who are resident within the district of Newark and Sherwood.

For an information pack, please visit the Council's Website www.newark-sherwooddc.gov.uk or contact: -

Nigel Hill
Democratic Services Manager
Newark and Sherwood District Council
Kelham Hall
Newark
Notts
NG23 5QX
Tel: 01636 655243
E-mail: nigel.hill@nsdc.info

The closing date for applications is 24th February 2006
Interviews will be held on Wednesday 22nd March 2006

ROLE AND FUNCTION OF THE STANDARDS COMMITTEE

The Council is required by law to establish a Standards Committee. The role and responsibilities of the Standards Committee is set out below: -

1. Promoting and maintaining high standards of conduct by members and co-opted members of the authority
2. Assisting members and co-opted members of the authority to observe the authority's Code of Conduct
3. Advising the Council on the adoption or revision of the Members' Code of Conduct
4. Monitoring and advising the Council on the operation of the Members' Code of Conduct
5. Advising, training or arranging to train members and co-opted members of the authority on matters relating to the Members' Code of Conduct
6. Granting dispensations to Councillors and co-opted members from requirements relating to interests set out in the Members' Code of Conduct
7. Dealing with any reports from the Monitoring Officer or an Investigating Officer on behalf of the Monitoring Officer and dealing with any reports referred by an Ethical Standards Officer for local determination
8. Exercising all of the above functions in respect of Parish Councils within the district and members of those Parish Councils
9. To investigate and consider alleged breaches by Members of Newark and Sherwood District Council of the Financial Regulations adopted from time to time by the Council
10. To deal with unresolved issues arising under the Member/Officer protocol referred by the Leader and/or Chief Executive.

GENERAL PRINCIPLES OF HOLDING PUBLIC OFFICE
(THE RELEVANT AUTHORITIES (GENERAL PRINCIPLES) ORDER 2001)

The ten general principles (set out below) form the basis of the Members' Code of Conduct.

Selflessness

1. Members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.

Honesty and Integrity

2. Members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.

Objectivity

3. Members should make decisions on merit, including when making appointments awarding contracts, or recommending individuals for rewards or benefits.

Accountability

4. Members should be accountable to the public for their actions and the manner in which they carry out their responsibilities and should co-operate fully and honestly with any scrutiny appropriate to their particular office.

Openness

5. Members should be as open as possible about their actions and those of their authority and should be prepared to give reasons for those actions.

Personal Judgement

6. Members may take account of the views of others, including their political groups, but should reach their own conclusions on the issues before them and act in accordance with those conclusions.

Respect for Others

7. Members should promote equality by not discriminating unlawfully against any person and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the authority's statutory officers and its other employees.

Duty to Uphold the Law

8. Members should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them.

Stewardship

9. Members should do whatever they are able to do to ensure that their authorities use their resources prudently and in accordance with the law.

Leadership

10. Members should promote and support these principles by leadership and by example and should act in a way that secures or preserves public confidence.

NEWARK AND SHERWOOD DISTRICT COUNCIL



**APPLICATION FOR THE POSITION OF
INDEPENDENT MEMBER
OF THE STANDARDS COMMITTEE**

Individuals who wish to be considered for the appointment as an Independent Member of the Standards Committee of Newark and Sherwood District Council are requested to provide the following information to support their application. All information provided will be treated in the strictest confidence and will only be used for the purposes of selecting committee members. Please feel free to use a separate continuation page if you wish to expand upon your answer to any question outlined below.

1. PERSONAL DETAILS:

Name:

Address:

Postcode:

Date of Birth:

National Insurance Number:

Contact details:

Daytime Telephone Number:

Daytime Fax Number

E-mail Address:

2. QUALIFICATIONS

(Please list in particular any qualifications which you think are relevant to the position of Independent Member of the Standards Committee)

3. SUMMARY OF EXPERIENCE

(Please give a brief account of your experience including career, public and voluntary work together with the nature of your current or most recent occupation)

4. RELEVANT EXPERTISE / SKILLS

(Please outline briefly any knowledge or expertise which you believe would be particularly relevant to your role as an Independent Member of the Standards Committee having regard to the selection criteria for the position)

5. Why do you wish to be considered for membership of the Standards Committee and what particular attributes do you believe you would bring to the work of the Committee?

6. Any additional information you may wish to give to support your application:

7. References will be taken up for all applicants who are invited for interview

1. Name:	2. Name:
.....
Address:	Address:
.....
.....
.....
.....
Telephone no.	Telephone no.

I wish to apply to be an Independent Member of the Newark and Sherwood District Council Standards Committee.

In submitting this application, I declare that: -

- I am not and have not during the past five years been a Member or Officer of Newark and Sherwood District Council or of any Town or Parish Council within the district's area
- I am not related to, or a close friend of, any Member or Officer of Newark and Sherwood District Council.
- I am not actively engaged in local party political activity.

Signed

Date

Please return this application form in the envelope provided by **Friday 24th February 2006** addressed to:

Kirsty Cole
Monitoring Officer
Newark and Sherwood District Council
Kelham Hall
Newark
Notts
NG23 5QX

NEWARK AND SHERWOOD DISTRICT COUNCIL

INDEPENDENT MEMBERS OF STANDARDS COMMITTEE

Selection Criteria

The ideal candidate for the position of independent member of the Standards Committee will have:-

1. A broad range of experience, preferably in public, private, voluntary or charitable sector employment or service including self-employed, employed and voluntary positions.
2. Good analytical skills and be able to demonstrate clarity of thought. The ability to assimilate information quickly and arrive at balanced judgments.
3. Independence of mind, objectivity and impartiality.
4. A high level of personal integrity.
5. A commitment to the general principles governing the conduct of Councilors generally and matters of probity and integrity in particular.
6. Good interpersonal skills, including good communication skills both written and oral and the ability to co-operate with others in a committee setting. Tact and diplomacy in handling sensitive matters.

Desirable additional criteria are: -

1. Experience of dealing with matters of the kind which will be the concern of the Standards Committee in other contexts.
2. Working knowledge / experience of local government or some other aspects of the public service and/or of large, complex organisations at a senior level and substantial awareness and understanding of the political process
3. Knowledge/ experience of procedures for meetings
4. A preference will be given to applications from residents within the district of Newark and Sherwood.

You should demonstrate in your application how you meet the above criteria as this will assist the short listing process.

Means of assessment: -

Will be by assessment of application form and by interview.

NOTE:

1. Meetings will normally be held in the daytime but occasionally be held in the early evening and/or at short notice. The successful appointee will therefore need to be flexible in being able to attend such meetings on occasion at short notice.

NOTE: ELIGIBILITY FOR APPOINTMENT

2. A person who has: -

- within the last five years been a Member or Officer of Newark and Sherwood District Council or of any Town or Parish Council within the district
- or who is a relative or close friend of a Member or Officer of the Council

is not eligible to be an independent member of the Standards Committee and should not apply.

NEWARK AND SHERWOOD DISTRICT COUNCIL

INDEPENDENT MEMBER OF STANDARDS COMMITTEE

ROLE DESCRIPTION

Responsible to: The Standards Committee and to the Council

Liaison with: Members of the Standards Committee, Officers and Members of the District Council and of Town and Parish Councils within the District, Independent Members of the other Standards Committees, key stakeholders within the community.

Duties and Responsibilities:

1. To attend meetings of the Standards Committee and any sub-committees as and when required (NOTE: meetings will normally be held during the daytime but maybe held during the early evening and may occasionally be called at short notice).
2. To actively promote ethics and standards within Newark and Sherwood District Council and within Town and Parish Councils within the District area.
3. To participate in training events to promote awareness of the Code of Conduct.
4. To attend meetings of the District Council and Civic and other functions in order to raise the profile of ethics and standards within the authority.
5. In the absence of the Chairman, to participate in any forum established for independent members of the Standards Committee.

NEWARK AND SHERWOOD DISTRICT COUNCIL
INDEPENDENT MEMBERS OF STANDARDS COMMITTEE

NOTES ON ELIGIBILITY

By regulations: -

a person may not be appointed as an independent member of a Standards Committee of an authority or sub-committee of the Standards Committee unless the appointment is: -

- (a) approved by a majority of the Members of the authority;
- (b) advertised in one or more newspapers circulating in the area of the authority;
- (c) of a person who has submitted an application to the authority;
- (d) of a person who has not within the period of five years immediately preceding the date of the appointment been a Member or Officer of the authority and;
- (e) of a person who is not a relative or close friend of a Member or Officer of the authority.

[The Relevant Authorities (Standards Committee) Regulations 2001: Statutory Instrument 2001 No. 2812]

By primary legislation: -

A person may not be appointed as an independent member of a Standards Committee if he/she is currently an Officer or Member of any relevant authority (including Town, Parish or District Councils).

[The Local Government Act 2000 Section 53 (4) (b)]

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BROMSGROVE DISTRICT COUNCIL

STANDARDS COMMITTEE

12TH JUNE 2008

REVIEW OF THE CODE OF CONDUCT

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

1. SUMMARY

- 1.1 Members are requested to review the operation of the Code of Conduct since its adoption by the Council on 17th July 2007 and to decide if any further action is required in respect of both the Council and the parish councils within the district.

2. RECOMMENDATION

- 2.1 Members are requested to:

- 2.1.1 consider the effectiveness of the operation of the Code of Conduct in practice and whether any action is required;
- 2.1.2 consider further training requirements and make recommendations to Council as appropriate; and
- 2.1.3 consider whether to make any recommendations to Council in relation to whether any amendments to the Code are required.

3. BACKGROUND

- 3.1 The new Code of Conduct was adopted by the Council with effect from 17th July 2007.
- 3.2 Training on the new Code was provided by external trainers in June 2007 and July 2008; parish councillors and clerks were invited to the July session. An internal training workshop was provided for members in January 2008.
- 3.3 All parish councils within the district have adopted a new Code of Conduct.
- 3.4 Officers' observations, particularly from attendance at regulatory committee meetings, are that members have some difficulty with aspects of the new Code, in particular in relation to declaring interests at meetings. As a result, officers propose to hold a series of workshops with members to focus on this aspect. It is the opinion of officers that workshops are a more productive forum for training on the Code than formal training sessions.

- 3.5 Discussions with parish councils suggest that parish councillors are having similar difficulties and so it is proposed that the Monitoring Officer and Deputy Monitoring Officer attend parish councils to provide practical guidance on these issues and a number of these have already been set up.
- 3.6 Members' views and guidance is sought on developing a training programme for both parish and district councillors on the Code of Conduct.
- 3.7 Members are also asked to consider whether, in light of a recent final determination hearing, an alteration to the Code of Conduct might be appropriate by inserting a new paragraph 13 (and renumbering subsequent paragraphs) as follows:

“Accuracy of Declarations of Interest

13. You must ensure that interests disclosed at meetings are factually accurate.”

- 3.8 If members consider this would be appropriate, a recommendation might be made to the next meeting of the full Council on 16th July 2008.

4. FINANCIAL IMPLICATIONS

None

5. LEGAL IMPLICATIONS

- 5.1 Sections 49 – 56 of the Local Government Act 2000 as amended introduced the requirement for an authority to have a Code of Conduct and for members to formally agree to abide by it.

6. COUNCIL OBJECTIVES

- 6.1 This report does not directly link with any of the Council's objectives.

7. RISK MANAGEMENT

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

- Failure to comply with the Code of Conduct may expose Council decisions to the risk of challenge and loss of reputation,
- Failure to follow the Code of Conduct may expose individual members to complaints and investigations

- 7.2 This risk is being managed as follows:

- Risk Register: Legal, Equalities and Democratic Services
- Key Objective Ref No: 3

- Key Objective: Effective ethical governance

8. CUSTOMER IMPLICATIONS

8.1 Adherence to the Code of Conduct is fundamental in ensuring the trust and confidence of the public in the Council.

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	No
Corporate Procurement Team	No

13. WARDS AFFECTED

All wards.

14. APPENDICES

None.

15. BACKGROUND PAPERS

None.

CONTACT OFFICER

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Tel: (01527) 881609

BROMSGROVE DISTRICT COUNCIL

STANDARDS COMMITTEE

12TH JUNE 2008

ANNUAL OMBUDSMAN STATISTICS

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

1. SUMMARY

The purpose of this report is to provide Members with information from the annual statistics compiled by the Local Government Ombudsman's office as to complaints recorded against this Council during the 12 month period ending 31st March 2008.

2. RECOMMENDATION

Members are requested to receive and note the provisional annual statistics from the Local Government Ombudsman and make any recommendations to Council as necessary.

3. BACKGROUND

3.1 The provisional annual statistics of complaints made to the Local Government Ombudsman (LGO) have been produced and are attached as Appendix 1. The Council is due to receive the Annual Letter confirming the provisional statistics from the LGO by the end of June.

3.2 The Local Authority Report at Appendix 1 sets out the figures for the last municipal year and the previous two municipal years. Members will note that:

3.2.1 There has been a reduction in the total number of complaints made to the LGO. In 2006/2007 the number of complaints made was 33. For 2007/2008 this figure has reduced to 26. This figure includes complaints which fall outside the jurisdiction of the Ombudsman or which are discounted for other reasons. Of the 26 complaints made 14 were disregarded for various reasons including that they were premature, outside the Ombudsman's jurisdiction or related to incidents that had happened too long ago to be investigated. The number of complaints which were actually investigated was 12 compared to 18 the previous year.

3.2.2 The number of local settlements was also significantly lower than in the previous year. A complaint is resolved by a local settlement if the ombudsman accepts that the outcome is satisfactory for the complainant. This will usually involve the payment of a small amount of compensation, and generally the reason for the settlement reflects that there has been maladministration by the Council or poor communication with the complainant. In 2006/2007 there were 7 local settlements; in 2007/2008 this figure reduced to 1.

3.2.3 The LGO also monitors average response times to first enquiry letters. In 2006/2007 there had been an upward trend in this figure and the response time had increased to 34.4 days. In 2007/2008 the response time was 28.3 days. The target response time is 28 days. For the current municipal year officers have introduced a corporate performance indicator to try and reduce the response time to below 28 days. The target is for officers responding to first enquiry letters to collate their responses and return them to the Council's LGO Link Officer within 10 working days, and for finalised responses to be forwarded to the LGO by the Link Officer in no less than 28 days from the date of the first enquiry letter.

3.2.4 With regard to subject matter of complaints, the highest category continues to be Planning and Building Control of which there were 12 complaints received in 2007/2008 and 6 investigated.

3.3 Overall the provisional statistics are showing some positive trends compared to the previous figures for 2006/2007 including fewer complaints, less local settlements and faster response times.

4. FINANCIAL IMPLICATIONS

None.

5. LEGAL IMPLICATIONS

None.

6. COUNCIL OBJECTIVES

Improvement – Customer Service: the statistics will enable the Council to improve its services to customers

7. RISK MANAGEMENT

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

7.2 These risks are being managed as follows:

- Through the recent introduction of the Council's Customer First Policy which sets out a defined procedure for responding to complaints before they reach the stage of being referred to the Ombudsman.
- Through a comprehensive programme of training for all staff and managers in implementing the Customer First Policy and managing complaints.

8. CUSTOMER IMPLICATIONS

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

9. EQUALITIES AND DIVERSITY IMPLICATIONS

None.

10. VALUE FOR MONEY IMPLICATIONS

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	No
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	Yes
Head of Legal, Equalities & Democratic Services	Yes
Head of Organisational Development & HR	No
Corporate Procurement Team	No

13. WARDS AFFECTED

All wards.

14. APPENDICES

Appendix 1 – Local Authority Report on Ombudsman statistics for Bromsgrove DC plus notes to assist in interpretation.

15. BACKGROUND PAPERS

None.

CONTACT OFFICER

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Complaints received by subject area	Benefits	Housing	Other	Planning & building control	Public finance	Transport and highways	Total
01/04/2007 - 31/03/2008	2	0	7	12	3	2	26
2006 / 2007	3	1	6	18	4	1	33
2005 / 2006	1	0	4	15	1	2	23

Note: these figures will include complaints that were made prematurely to the Ombudsman and which we referred back to the authority for consideration.

Decisions	MI reps	LS	M reps	NMI reps	No mal	Omb disc	Outside jurisdiction	Premature complaints	Total excl premature	Total
01/04/2007 - 31/03/2008	0	1	0	0	14	5	3	7	23	30
2006 / 2007	0	7	0	0	11	1	4	9	23	32
2005 / 2006	0	2	0	0	6	1	3	6	12	18

See attached notes for an explanation of the headings in this table.

Average local authority response times 01/04/2007 to 31/03/2008

Response times	FIRST ENQUIRIES	
	No. of First Enquiries	Avg no. of days to respond
01/04/2007 - 31/03/2008	12	28.3
2006 / 2007	18	34.3
2005 / 2006	7	26.4

Types of authority	<= 28 days %	29 - 35 days %	> = 36 days %
District Councils	57.2	21.2	21.6
Unitary Authorities	39.1	50.0	10.9
Metropolitan Authorities	58.3	30.6	11.1
County Councils	44.1	41.2	14.7
London Boroughs	45.5	21.2	33.3
National Park Authorities	71.4	14.3	14.3

Notes to assist interpretation of the Commission's provisional local authority statistics

1. Local authority report

This information will form an integral part of the Annual Letter to your council, which the Ombudsman will send to you in June 2008. Again this year, the Annual Letter will be published on our website, at www.lgo.org.uk

The detailed information in the printouts is confidential.

2. Complaints received

This information shows the number of complaints received by the LGO, broken down by service area and in total within the periods given. These figures include complaints that are made prematurely to the LGO (see below for more explanation) and that we refer back to the council for consideration. The figures may include some complaints that we have received but where we have not yet contacted the council.

3. Decisions

This information records the number of decisions made by the LGO, broken down by outcome, within the periods given. **This number will not be the same as the number of complaints received**, because some complaints are made in one year and decided in the next. Below we set out a key explaining the outcome categories.

MI reps: where the LGO has concluded an investigation and issued a formal report finding maladministration causing injustice.

LS (local settlements): decisions by letter discontinuing our investigation because action has been agreed by the authority and accepted by the Ombudsman as a satisfactory outcome for the complainant.

M reps: where the LGO has concluded an investigation and issued a formal report finding maladministration but causing no injustice to the complainant.

NM reps: where the LGO has concluded an investigation and issued a formal report finding no maladministration by the council.

No mal: decisions by letter discontinuing an investigation because we have found no, or insufficient, evidence of maladministration.

Omb disc: decisions by letter discontinuing an investigation in which we have exercised the Ombudsman's general discretion not to pursue the complaint. This can be for a variety of reasons, but the most common is that we have found no or insufficient injustice to warrant pursuing the matter further.

Outside jurisdiction: these are cases which were outside the Ombudsman's jurisdiction.

Premature complaints: decisions that the complaint is premature. The LGO does not normally consider a complaint unless a council has first had an opportunity to deal with that complaint itself. So if someone complains to the LGO without having taken the matter up with a council, the LGO

will usually refer it back to the council as a 'premature complaint' to see if the council can itself resolve the matter.

Total excl premature: all decisions excluding those where we referred the complaint back to the council as 'premature'.

4. Response times

These figures record the average time the council takes to respond to our first enquiries on a complaint. We measure this in calendar days from the date we send our letter/fax/email to the date that we receive a substantive response from the council. The council's figures may differ somewhat, since they are likely to be recorded from the date the council receives our letter until the despatch of its response.

5. Average local authority response times 2007/08

This table gives comparative figures for average response times by authorities in England, by type of authority, within three time bands.

6. Complaints about personnel matters (employment and pensions)

We receive some complaints from members of council staff about personnel matters. These are usually outside our jurisdiction, and our practice is now to advise you that we have received the complaint without informing you of who made it.

For that reason, any such complaints on the attached printouts will show a blank space for the complainant's name.

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BROMSGROVE DISTRICT COUNCIL

STANDARDS COMMITTEE

12TH JUNE 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

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

2. RECOMMENDATION

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 brought about by 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

None.

5. LEGAL IMPLICATIONS

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

None.

8. CUSTOMER IMPLICATIONS

None.

9. EQUALITIES AND DIVERSITY IMPLICATIONS

None.

10. VALUE FOR MONEY IMPLICATIONS

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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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
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• Review of the effectiveness of the Code of Practice - Planning Services
2nd April 2009	<ul style="list-style-type: none">• Second Annual Report of the Standards Committee• Review of Member Training - Ethical Framework elements• Review of training programme for Parish Councils• Re-appointment of Parish Councils' Representatives

<p>June 2009 (date to be agreed)</p>	<ul style="list-style-type: none"> • Ombudsman Complaint Statistics 2008/09 • Review of operation/effectiveness of the Members' Code of Conduct • <i>12 month review of the local assessment process.</i>
<p>No fixed date</p>	
<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' Representatives Update Report. 	