



BROMSGROVE DISTRICT COUNCIL

MEETING OF THE STANDARDS COMMITTEE

THURSDAY, 11TH DECEMBER 2008 AT 6.00 P.M.

CONFERENCE ROOM, THE COUNCIL HOUSE, BURCOT LANE, BROMSGROVE

MEMBERS: Independent Members: Mrs. N. E. Trigg (Chairman), Mr. N. A. Burke (Vice-Chairman) and Ms. D Roberts

Councillors: Miss D. H. Campbell JP, S. P. Shannon and E. C. Tibby

Parish Councils' Representatives: Mr. J. Cypher and Mr. I. A. Hodgetts

Observer: Mr. S. Malek (Non-voting Deputy Parish Councils' Representative)

AGENDA

1. Welcome of new Independent Member

[To welcome to the Committee Ms. Debbie Roberts who, on 12th November 2008, was appointed by the Council to serve as an Independent Member on the Standards Committee for a four-year term of office.]
2. To receive apologies for absence and notification of substitutes
3. Declarations of Interest
4. To confirm the accuracy of the minutes of the meetings of the Standards Committee held on 26th September 2008 and 16th October 2008 (Pages 1 - 18)
5. Council Decisions on Standards Committee Matters (Pages 19 - 22)

[To inform the Committee of the decisions made by the Council in relation to:
(a) the appointment of an Independent Member to the Committee;
(b) the Council's Confidential Reporting Code; and

- (c) the Department of Communities and Local Government Consultation Paper entitled "Communities in Control: Real people, real power - Codes of Conduct for local authority members and employees".]

6. Monitoring Officer's Report (Pages 23 - 34)

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

- (a) Member Investigations and Associated Matters;
- (b) Complaints for Local Assessment;
- (c) Member Training;
- (d) Issues Arising from Standards Committee Training;
- (e) Training - Parish Councils;
- (f) Terms of Office of Parish Councils' Representatives on the Standards Committee;
- (g) Cardiff University Case Study; and
- (h) West Mercia Forum of Independent Members.]

7. Parish Councils' Representatives' Report

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

8. Review of Protocol on Relations Between Members (Pages 35 - 44)

[To consider how to conduct the review of the Protocol on Relations between Members.]

9. Review of Member-Officer Protocol (Pages 45 - 68)

[To consider how best to review the Member-Officer Protocol.]

10. Work Programme (Pages 69 - 74)

[To consider the Work Programme for the Committee.]

11. To consider any other business, details of which have been notified to the Head of Legal, Equalities and Democratic Services prior to the commencement of the meeting and which the Chairman, by reason of special circumstances, considers to be of so urgent a nature that it cannot wait until the next meeting

The Council House
Burcot Lane
BROMSGROVE
Worcestershire
B60 1AA
2nd December 2008

K. DICKS
Chief Executive

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Agenda Item 4

BROMSGROVE DISTRICT COUNCIL

MEETING OF THE STANDARDS COMMITTEE

FRIDAY, 26TH SEPTEMBER 2008 AT 10.00 A.M.

PRESENT: Independent Members: Mrs. N. E. Trigg (Chairman), Mr. N. A. Burke (Vice-Chairman) and Mr. S. E. Allard
Councillor: S. P. Shannon
Parish Councils' Representatives: Mr. J. Cypher and Mr. I. A. Hodgetts

Subject Member: Councillor P. J. Whittaker

Investigating Officer: Mrs. V. Brown

Officers: Mrs. S. Sellers and Ms. D. Parker-Jones

Observers: Councillor Mrs. C. M. McDonald and Councillor P. M. McDonald

27/08 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor Miss. D. H. Campbell JP, Mr. S. Malek (Deputy Parish Councils' Representative) and Councillor E. C. Tibby.

28/08 DECLARATIONS OF INTEREST

No declarations of interest were received.

29/08 FINAL DETERMINATION OF ALLEGATION OF FAILURE TO FOLLOW THE CODE OF CONDUCT

The Committee considered a report on an alleged failure to follow the Code of Conduct.

On 28th March 2008 the Standards Board for England had referred to the Monitoring Officer for local investigation an allegation, made by Councillor P. M. McDonald, that Councillor P. J. Whittaker had failed to comply with the Code of Conduct, in that following the adoption of the Council's revised Code of Conduct on 18th July 2007 he failed to complete and return his Register of Interests Form within the required 28 days.

A report of the Investigating Officer dated 22nd July 2008, which had found that Councillor Whittaker had failed to comply with Part 3 paragraph 13 (1) of the Code of Conduct, was considered. The Committee was asked to

determine whether, based on the facts set out in the report, it agreed with the Investigating Officer's findings.

RESOLVED:

- (a) that Councillor Whittaker failed to follow the Code of Conduct by being in breach of Part 3 paragraph 13 (1) in that he did not provide the Monitoring Officer with the Member's Register of Interests Form within 28 days of the Code of Conduct being adopted by the Council; and
- (b) that Councillor Whittaker be suspended as a Councillor for a period of one calendar month, to take effect from 1st November 2008.

(A copy of the Committee's full decision, together with the reasons for it, is appended.)

The meeting closed at 11.10 a.m.

Chairman

Appendix

Hearing in relation to a possible breach of the Code of Conduct

Standards Board for England ("SBE") Ref: 21159.08

Introduction

SBE reference number:	SBE: 21159.08
Date of report:	22 nd July 2008
Name of Member:	Councillor P Whittaker
Name of Member's representative:	N/A
Relevant authority concerned:	Bromsgrove District Council
Ethical Standards Officer:	Ms H Salisbury
Investigating Officer:	Mrs V Brown
Date of the hearing:	26 th September 2008
Names of Standards Committee members:	
Chairman:	Mrs. N. E. Trigg Mr. S. E. Allard Mr. N. A. Burke Mr. J. Cypher Mr I.A. Hodgetts Councillor S. P. Shannon
Standards Committee Legal Adviser:	Mrs. S. Sellers
Committee Services Officer:	Ms. D. Parker-Jones

Section 1: Preliminary documents

The referral from the ethical standards officer:

On 28th March 2008 the ESO referred an allegation about Councillor Whittaker to the Monitoring Officer for investigation. The allegation was investigated by Mrs. V. Brown, Solicitor, who prepared a report of her findings.

The Investigating Officer's report concerns a possible breach of the Code of Conduct and under paragraph 5(7)(d) of the Regulations the Investigating Officer referred her report to the Standards Committee for a hearing in accordance with the Regulations.

Summary of the Allegation:

That Councillor Whittaker failed to comply with the Council's Code of Conduct in that:-

- (1) following the adoption of the Council's revised Code of Conduct on 18th July 2007 he failed to complete and return his Register of Interests Form in accordance with the requirement to do so within 28 days in breach of Part 3 paragraph 14 of the Code of Conduct.
-

Section 2: Oral and written submissions (procedural)

No oral or written submissions were made.

Section 3: Findings of fact

3.1 The following facts in the Investigating Officer's report were undisputed and the standards committee finding of facts are:

The facts set out in paragraphs 4.1 to 4.116 of the report.

Section 4: Decision on whether the Code was breached

4.1 Summary of submissions by Councillor Whittaker:

- 4.1.1 Councillor Whittaker did not dispute that there had been a breach of the Code of Conduct. He accepted that he had failed to return his completed Register of Members Interests form within 28 days of the adoption of the revised Code of Conduct. He stated that he did not believe that the public had been disadvantaged as there were no material differences between the old form and the contents of the new form.

4.2 Summary of submissions by the Investigating Officer:

- Mrs Brown did not make any representations to the Committee other than to confirm that the contents of her report were accurate.

4.3 The Standards Committee's decision on whether or not there has been a breach of the Code.

- 4.3.1 The Standards Committee reached the following decision after considering the submissions of the parties:

- That Councillor Whittaker had failed to follow the Code of Conduct by being in breach of Part 3 paragraph 13(1) in that he did not provide the Monitoring Officer with the Member's Register of Interests Form within 28 days of the Code of Conduct being adopted by the Council.

- 4.3.2 The relevant sections of the Code of Conduct are:

Part 3 paragraph 13 (1)

- 4.3.3 The Standards Committee's reasons for this decision were:

- The revised Code of Conduct placing Councillors under an obligation to complete a new style Register of Members Interests form was adopted by the Council on 18th July 2007.
- Councillor Whittaker was informed of the change to the rules regarding the revised Code of Conduct by letter and was present at the Council meeting when the revised Code was adopted. He also attended training on the new Code of Conduct. Further, a reminder letter was sent out in December 2007 to all Councillors who had not returned the Register of Members Interests Forms.

- Councillor Whittaker does not dispute any of the above facts and admits that he did not return his form until 3rd April 2008 despite the requirement being for the form to be returned on or before 15th August 2007.

4.4 Details of legal advice given

None

Section 5: Sanction

5.1 Summary of submissions as to sanction by Councillor Whittaker

5.1.1 Councillor Whittaker stated that with the benefit of hindsight he now realised he should have submitted the form sooner. He was not able to specify any particular reason for the delay although he agreed that it was not due to lack of prompting by officers, and disagreed that the form was only completed when he was aware he was going to be investigated.

5.2 Summary of submissions by the Investigating Officer

5.2.1 No further submissions were made by Mrs Brown

5.3 The standard's committee's decision on what sanction ought to be imposed

5.3.1 After considering the Investigating Officer's report, the submissions of the parties and the guidance on deciding a penalty issued by the Standards Board for England, the standards committee decided to impose on Councillor Whittaker the sanction of one month's suspension.

5.3.2 The sanction will take effect from 1st November 2008 until 30th November 2008.

5.3.3 The standards committee's reasons for deciding to impose the sanction of one month's suspension are:

- The committee formed the view that the breach was significant and therefore a lesser penalty of censure or partial suspension would not be suitable.
- The committee noted Councillor Whittaker's leadership role within the Council as a member of the cabinet.

- The Committee further noted that numerous reminders by officers were sent and that the Council provided training to Members on the introduction of the new Code of Conduct which Councillor Whittaker had attended.
- The committee was of the view that the requirement to provide a Register of Members Interests Form is a pivotal part of the Code which had been breached. Further, that members of the public are entitled to transparency and accuracy with respect to Member's interests.
- The Committee therefore decided to impose a suspension of one calendar month from 1st November 2008. The reason the Committee decided to delay the start date of the suspension was to allow officers, constituents and other elected members the opportunity to organise their work streams accordingly.

5.4 Details of legal advice given

5.4.1 Interpretation of the phrase "breach of trust".

Section 6: Right to appeal

6.1 Councillor Whittaker has the right to apply in writing to the President of the Adjudication Panel for England for permission to appeal the Standards Committee's findings. The President of the Adjudication Panel must receive written notice requesting permission to appeal within 21 days of the receipt by Councillor Whittaker of notification of the Standards Committee's finding.

Section 7: Recommendations to the authority

No recommendations were made by the committee.

.....
Chairman of the Standards Committee

Dated:

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BROMSGROVE DISTRICT COUNCIL

MEETING OF THE STANDARDS COMMITTEE

THURSDAY, 16TH OCTOBER 2008 AT 6.00 P.M.

PRESENT: Independent Members: Mr. N. A. Burke (Vice-Chairman, in the Chair) and Mr. S. E. Allard
Councillors: Miss D. H. Campbell JP and S. P. Shannon
Parish Councils' Representatives: Mr. J. Cypher and Mr. I. A. Hodgetts

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

30/08 **APOLOGIES FOR ABSENCE**

Apologies for absence were received from Mrs. N. E. Trigg (Independent Member - Chairman) and Councillor E. C. Tibby.

Mr. S. Malek (non-voting Deputy Parish Councils' Representative and Councillor R. D. Smith (Portfolio Holder), both of whom were due to observe the meeting, also tendered their apologies.

31/08 **DECLARATIONS OF INTEREST**

No declarations of interest were received.

32/08 **MINUTES**

The minutes of the meeting of the Standards Committee held on 14th August 2008 were submitted.

RESOLVED that the minutes be approved as a correct record.

33/08 **MONITORING OFFICER'S REPORT**

The Committee noted the report of the Monitoring Officer contained in the agenda papers and the following issues were highlighted:

Complaints for Local Assessment

Regarding the local assessment statistics at Appendix 2 to the report, the Deputy Monitoring Officer advised that the final determination detailed for the period July to September 2008 related to a complaint which had been made under the old regime (as set out in paragraph 3.2 of the report) and not local assessment.

Member Training

In accordance with Constitutional requirements, all members of the Planning Committee had now received the requisite training in order to carry out their functions on the Committee. Councillor Miss Campbell had also undertaken a training session with the Monitoring Officer for the Standards Committee and two Members were due to complete Scrutiny training.

The Committee was advised that, at its meeting on 13th October 2008, the Council had approved changes to the existing overview and scrutiny functions. For a trial period until 30th April 2009, the functions, which had previously been performed by the Scrutiny Steering Board, would be separated and instead an Overview Board and a Scrutiny Board would be created. Members sitting on the new Boards would receive training on their roles by the end of the current municipal year.

General chairmanship training had been arranged for Members on 26th November 2008, which Parish Council chairmen would also be invited to attend. Separate chairmanship training, specifically tailored to the needs of the Standards Committee's Independent Members, was also to be arranged.

Training for Parish Councils

It was agreed that officers would liaise with the parish councils, via both the Worcestershire County Association of Local Councils (CALC) and the Parish Council Forum, over the development a training programme for Parish Councils. Once views had been obtained as to the preferred nature of such training a final report would be referred to the Committee for consideration.

Review of the Ethical Framework elements of the Member Development Programme

The Monitoring Officer referred to the Ethical Governance Health Check Report which had been issued by the Improvement and Development Agency in March 2007, together with the consequential action plan which had been produced to address some of the issues identified in this. The Council's Improvement Plan had, at the time, included dates for completion of some of the ethical governance issues, with the 2008/09 Improvement Plan setting out the ethical governance issues which needed to be addressed over the following 12 months.

Independent Member Vacancy

Members were advised that a total of eight applications had been received for the forthcoming Independent Member vacancy, with three candidates due to be interviewed for the position on Monday, 20th October 2008.

Cardiff University Case Study

Following interviews which had recently taken place at the Council House, the latest position in relation to the case study being undertaken by the School for

Central and Local Government Research at Cardiff University was queried. Officers advised that Dr James Downe, who was heading the project, was due to issue a report on his findings. It was not known, however, when the report would be available and officers agreed to check the position and report back to the Committee accordingly.

RESOLVED that the updates provided be noted.

34/08 **PARISH COUNCILS' REPRESENTATIVES' UPDATE REPORT**

Mr. Cypher advised the Committee of issues which he had raised at the last meeting of the Bromsgrove Area Committee of the Worcestershire County Association of Local Councils (CALC), which had included:

- the Deputy Monitoring Officer's previous request for each of the Parish Councils to provide the District Council with a copy of their Code of Conduct;
- Parish Councils looking at publicity of their Code of Conduct in order to raise public awareness of this;
- Members' completion of Register of Interests forms; and
- co-opted members of certain Parish Council Committees and application of the Code of Conduct.

RESOLVED that the position be noted.

35/08 **ISSUES ARISING FROM STANDARDS BOARD FOR ENGLAND BULLETIN 40**

Members considered a report on two issues arising from the Standards Board for England (SBE) Bulletin 40, relating to adjournment of local assessment decisions and joint Ombudsman/SBE investigations.

In relation to adjournment of local assessment decisions, whilst appreciating and seeing the benefits of resolving matters as quickly as possible, and without the need of proceeding to a full investigation, concerns were expressed by both the Committee and the Monitoring Officer that:

- i) the proposal would suggest that the role of the assessment sub-committee would move away from merely determining whether there was a prima facie case to answer, to effectively determining whether a complaint was justified and how the complaint should be dealt with, which would be in conflict with the terms of reference of the sub-committee; and
- ii) whilst it was felt appropriate for the Monitoring Officer to act as a 'post box' to ask specified questions of the subject member and to relay the subject member's responses back to the sub-committee, it would be inappropriate for the Monitoring Officer to raise any further questions on the back of the subject member's responses as this would effectively be tantamount to starting a mini investigation.

Regarding Standards Board and Ombudsman joint investigations, it was noted that there could be some difficulties with this proposal, as in many cases the issues would be slightly different. The ability to request the Standards Board to investigate such a matter would also depend upon the order in which the various complaints were received. There were also some issues of confidentiality which would need to be considered in each case.

RESOLVED:

- a) that the report be noted; and
- b) that officers formulate a response to the SBE, in the terms outlined in the preamble above, on the issue of adjourning local assessment decisions.

36/08 **REVIEW OF THE COUNCIL'S CONFIDENTIAL REPORTING CODE**

In accordance with the requirements set out in the Council's Articles of Constitution, the Committee reviewed, for the first time, the Confidential Reporting Code.

Members noted that, whilst it was the role of the Standards Committee to monitor and review the Code, paragraph 7.1 of the Code anticipated that the operation of the Code should be reported to the Audit Board. Members were, therefore, asked to consider making a recommendation to the Council that the Articles of Constitution be revised to transfer responsibility for monitoring and reviewing the Code to the Audit Board.

RECOMMENDED that the Articles of Constitution be amended to transfer responsibility for reviewing and monitoring the Confidential Reporting Code to the Audit Board.

37/08 **CONSULTATION PAPER ON NEW CODES OF CONDUCT FOR LOCAL AUTHORITY MEMBERS AND EMPLOYEES**

The Committee considered a report on a Consultation Paper issued by the Department of Communities and Local Government (DCLG) on changes to the Code of Conduct for local authority members and on a proposed new Code of Conduct for local government employees.

At its meeting on 21st October 2008, the Corporate Management Team (CMT) would consider the Consultation Paper insofar as it related to the Employees' Code. The comments and recommendations of the CMT would then be included in a report to full Council on 12th November 2008, with the DCLG's deadline for submission of responses being 24th December 2008.

RECOMMENDED that the Council note the following responses from the Standards Committee on the questions raised in the Department of Communities and Local Government Consultation Paper on changes to the Code of Conduct for local authority members and on a proposed new Code of Conduct for local government employees:

Chapter 2: Code of conduct for local authority members

Question 1

Do you agree that the members' code should apply to a member's conduct when acting in their non-official capacity?

Standards Committee response: Yes

Question 2

Do you agree with this definition of 'criminal offence' for the purpose of the members' code? If not, what other definition would you support, for instance should it include police cautions? Please give details.

Standards Committee response:

Yes, however it is felt that police cautions for offences for which there would not be the opportunity of paying a fixed penalty should also be included in the remit of the members' code.

Question 3

Do you agree with this definition of 'official capacity' for the purpose of the members' code? If not, what other definition would you support? Please give details.

Standards Committee response: Yes

Question 4

Do you agree that the members' code should only apply where a criminal offence and conviction abroad would have been a criminal offence if committed in the UK?

Standards Committee response: Yes

Question 5

Do you agree that an ethical investigation should not proceed until the criminal process has been completed?

Standards Committee response:

Generally yes. However there should be discretion to allow for a member's immediate suspension from office in cases which involve, for example, a serious allegation of sexual/physical abuse involving either a young or vulnerable person or persons, and where the member might in his or her official capacity have contact with such persons.

Such a mechanism for automatic suspension pending the outcome of a criminal investigation is felt necessary in order for the public to have confidence that where a serious allegation has been made young and vulnerable people would not be put at any possible risk.

Question 6

Do you think that the amendments to the members' code suggested in this chapter are required? Are there any other drafting amendments which would be helpful? If so, please could you provide details of your suggested amendments?

Standards Committee response:

Yes, however whilst agreeing that members who have already registered their interests in line with the 2007 model code should not have to repeat the process following the introduction of any new code, it is felt that members should be required to sign a declaration confirming that their existing register of interests remains up to date and correct.

Question 7

Are there any aspects of conduct currently included in the members' code that are not required? If so, please could you specify which aspects and the reasons why you hold this view?

Standards Committee response: No

Question 8

Are there any aspects of conduct in a member's official capacity not specified in the members' code that should be included? Please give details.

Standards Committee response: No

Question 9

Does the proposed timescale of two months, during which a member must give an undertaking to observe the members' code, starting from the date the authority adopts the code, provide members with sufficient time to undertake to observe the code?

Standards Committee response:

Yes, this is felt to be more than adequate and that maybe there is no need to extend the existing 28 day period for a member to provide such an undertaking.

Question 10

Do you agree with the addition of this new general principle, applied specifically to conduct in a member's non-official capacity?

Standards Committee response: Yes

Question 11

Do you agree with this broad definition of ‘criminal offence’ for the purpose of the General Principles Order? Or do you consider that ‘criminal offence’ should be defined differently?

Standards Committee response:

This should also include police cautions for offences where there would not be the opportunity of paying a fixed penalty.

Question 12

Do you agree with this definition of ‘official capacity’ for the purpose of the General Principles Order?

Standards Committee response: Yes

Chapter 3: Model Code of Conduct for local authority employees

Question 13

Do you agree that a mandatory model code of conduct for local government employees, which would be incorporated into employees’ terms and conditions of employment, is needed?

Standards Committee response: Yes, provided that this is not overly bureaucratic or onerous.

Question 14

Should we apply the employees’ code to firefighters, teachers, community support officers, and solicitors?

Standards Committee response: Yes

Question 15

Are there any other categories of employee in respect of whom it is not necessary to apply the code?

Standards Committee response: No

Question 16

Does the employees’ code for all employees correctly reflect the core values that should be enshrined in the code? If not, what has been included that should be omitted, or what has been omitted that should be included?

Standards Committee response: Yes

Question 17

Should the selection of ‘qualifying employees’ be made on the basis of a “political restriction” style model or should qualifying employees be selected using the delegation model?

Standards Committee response: Political restriction.

Question 18

Should the code contain a requirement for qualifying employees to publicly register any interests?

Standards Committee response: Yes

Question 19

Do the criteria of what should be registered contain any categories that should be omitted, or omit any categories that should be included?

Standards Committee response:

The model code of conduct for local authority employees should reflect, as closely as possible, the requirements of the code of conduct for local authority members.

Question 20

Does the section of the employees’ code which will apply to qualifying employees capture all pertinent aspects of the members’ code? Have any been omitted?

Standards Committee response:

The model code of conduct for local authority employees should reflect, as closely as possible, the requirements of the code of conduct for local authority members.

Question 21

Does the section of the employees’ code which will apply to qualifying employees place too many restrictions on qualifying employees? Are there any sections of the code that are not necessary?

Standards Committee response:

The model code of conduct for local authority employees should reflect, as closely as possible, the requirements of the code of conduct for local authority members.

Question 22

Should the employees' code extend to employees of parish councils?

Standards Committee response: Yes

38/08 **ANNUAL OMBUDSMAN STATISTICS**

The Committee considered a report which provided Members with final information regarding the Council's Annual Letter from the Local Government Ombudsman office as to complaints recorded against the Council during the 12 month period ending 31st March 2008, and information regarding the performance of Bromsgrove District Council compared with that of the other districts within Worcestershire.

RESOLVED that the report be noted.

39/08 **WORK PROGRAMME**

Consideration was given to the Committee's Work Programme.

Officers advised that changes would likely be made to the future reporting of the Ombudsman statistics in order to avoid referring separate reports on initial (provisional) and then final statistics. Details of any new reporting dates would appear in the Work Programme for the Committee's December meeting.

RESOLVED that, subject to any amendment to the reporting dates of the Ombudsman Complaint Statistics, the Work Programme be approved.

40/08 **MR. S. E. ALLARD - INDEPENDENT MEMBER**

Thanks were expressed by the members of the Committee and the Monitoring Officer to Mr. S. E. Allard, Independent Member, for his work on the Committee since his appointment in November 2002. Mr. Allard's second term of office was due to expire on 31st October 2008 and his successor was to be appointed by the Council at its meeting on 12th November 2008.

The meeting closed at 7.55 p.m.

Chairman

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BROMSGROVE DISTRICT COUNCIL

STANDARDS COMMITTEE

11TH DECEMBER 2008

COUNCIL DECISIONS - APPOINTMENT OF INDEPENDENT MEMBER TO THE STANDARDS COMMITTEE, CONFIDENTIAL REPORTING CODE AND CONSULTATION PAPER ON NEW CODES OF CONDUCT FOR LOCAL AUTHORITY MEMBERS AND EMPLOYEES

Responsible Portfolio Holder	Councillor Roger Smith
Responsible Head of Service	Claire Felton
Non-Key Decision	

1. SUMMARY

To inform the Committee of the decisions made by the Council at its meeting on 12th November 2008 in relation to:

- (i) the appointment of an Independent Member to the Standards Committee;
- (ii) the Council's Confidential Reporting Code; and
- (iii) the Department of Communities and Local Government Consultation Paper entitled "Communities in Control: Real people, real power - Codes of Conduct for local authority members and employees".

2. RECOMMENDATION

That the contents of the report be noted.

3. BACKGROUND

I. **Appointment of an Independent Member to the Standards Committee**

- 3.1 Following interviews which took place with the Appointments Committee on 20th October 2008, the Council considered a recommendation of the Committee for the appointment of an Independent Member to the Standards Committee.

It was RESOLVED:

that Ms. Debbie Roberts be appointed to serve as an Independent Member on the Standards Committee for a four year term of office expiring November 2012.

II. Confidential Reporting Code

- 3.2 At its meeting 16th October 2008 the Standards Committee reviewed, for the first time, the Council's Confidential Reporting Code ("the Code") and made a recommendation to the Council that responsibility for reviewing and monitoring the Code be transferred to the Audit Board.

It was RESOLVED:

that the Constitution be amended to transfer responsibility for reviewing and monitoring the Confidential Reporting Code to the Audit Board.

III. Consultation Paper on new Codes of Conduct for Local Authority Members and Employees

- 3.3 At its meeting on 16th October 2008 the Standards Committee considered its responses to 22 questions posed in a Consultation Paper issued by the Department of Communities and Local Government ("DCLG") on changes to the Code of Conduct for local authority members and on a proposed new Code of Conduct for local government employees ("the Consultation Paper").
- 3.4 The Standards Committee's responses were considered by the Council, together with the responses of the Corporate Management Team and Head of Human Resources and Organisational Development in relation to the Employees' Code.

It was RESOLVED:

- (a) that the Group Leaders submit a response to the questions posed in the Consultation Paper to the Monitoring Officer by the end of November 2008; and that the Monitoring Officer collate these and send a formal response from the Council to the DCLG; and
- (b) that it be noted that individual responses may be sent to the DCLG.

4. FINANCIAL IMPLICATIONS

None

5. LEGAL IMPLICATIONS

None

6. COUNCIL OBJECTIVES

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

7. RISK MANAGEMENT

There are no risks associated with this report.

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	None
Community Safety including Section 17 of the 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
Head of Organisational Development & HR	No
Corporate Procurement Team	No

13. APPENDICES

None

14. BACKGROUND PAPERS

Minutes of the meeting of the Standards Committee held on 16th October 2008.

Minutes of the meeting of the Appointments Committee held on 20th October 2008.

Agenda for and minutes of the meeting of the Council held on 12th November 2008.

CONTACT OFFICER

Name: Debbie Parker-Jones
Ethical Standards Officer
Email: d.parkerjones@bromsgrove.gov.uk
Direct line: (01527) 881411

BROMSGROVE DISTRICT COUNCIL

STANDARDS COMMITTEE

11TH DECEMBER 2008

MONITORING OFFICER'S REPORT

Responsible Portfolio Holder	Cllr Roger Smith
Responsible Head of Service	Claire Felton, Monitoring Officer
Non-Key Decision	

1. SUMMARY

- 1.1 The Standards Committee has requested the Monitoring Officer to report to each meeting of the Standards Committee on a number of items, and this report sets out the latest position in relation to those items.
- 1.2 Any further updates will be reported orally at the meeting as appropriate.

2. RECOMMENDATION

- 2.1 Members are requested to note the report; and
- 2.2 to consider the issues arising from the Standards Committee training held on 3rd November 2008 (as detailed in paragraph 3.6 of the report).

3. BACKGROUND

Member Investigations and Associated Matters

- 3.1 The outcomes of the 4 complaints (2 of which arose from the same incident) which are currently being investigated by the Standards Board for England (SBE) are still awaited. The SBE's performance indicator for completion of investigations is 90% within six months of acceptance of a referral. The referrals in question were accepted by the SBE on 11th and 28th July 2008 respectively.
- 3.2 Members will recall the recent suspension of a district councillor, for failure to provide the Monitoring Officer with the Members' Register of Interests Form within the required 28 days, for a period of one calendar month, effective from 1st November 2008. Members are advised that the suspension took place without incident and that the Member concerned was reinstated on 1st December 2008.

Complaints for Local Assessment

- 3.3 Since the last meeting of the Standards Committee no complaints have been received and none have been assessed by the Assessment Sub-

Committee. A table showing the cumulative totals at the time of preparation of this report is attached at Appendix 1.

Member Training

3.4 Members are advised of the following training matters:

- (i) a further overview and scrutiny training session took place on 24th November 2008, which has enabled the new Members involved in scrutiny as a consequence of the recently approved split to the Scrutiny Steering Board to be trained in accordance with the mandatory requirements;
- (ii) Officers received training on 26th November 2008 to enable them to better understand the implications of the Local Government and Public Involvement in Health Act and the various other pieces of scrutiny legislation;
- (iii) there remains one elected Member who requires overview and scrutiny training, which is being negotiated through a 1-1 session in the New Year;
- (iv) Cabinet members will be receiving training in the Cabinet Procedure Rules and how to apply them on 10th December 2008 and will undertake a further session in January 2009 on the Full Council Procedure Rules;
- (v) any issues arising as a result of the Comprehensive Performance Assessment in relation to elected Member training will be picked up in the overall Member Development Programme and Ethical Governance Action Plan; and
- (vi) general Chairmanship Skills training for elected Members and Parish Council Chairmen took place on 26th November 2008 and Chairmanship Skills training specifically tailored for the needs of Independent Members on the Standards Committee is currently being arranged.

3.5 Issues Arising from Standards Committee Training

On 3rd November 2008 two training sessions on 'Handling Standards Complaints and the Code of Conduct', which were conducted by Beth Evans of Bevan Brittan Solicitors, took place at the Council House. Members of the Standards Committees, district councillors and representatives of the parish councils of both Bromsgrove District Council and Redditch Borough Council attended the training, which received positive feedback from all concerned.

3.6 The issues detailed below were highlighted during the course of the training, which the Committee is asked to give consideration to.

(i) SBE Guide to the Code of Conduct

A view was expressed that the SBE's Guide to the Code of Conduct did not place sufficient emphasis on the importance of, and reasons for, Members completing, and keeping up to date, their Register of Interests forms. The relevant extracts of the Guide are attached at Appendix 2.

(ii) Public awareness of the role of the Standards Committee

In order to assist in raising public awareness of the role of the Standards Committee, particularly in relation to Member complaints in light of the new local assessment process, and to make clear that the Committee is responsible for the conduct of both district and parish councillors, it was suggested that it might be appropriate to change the name of the Committee to 'Bromsgrove District & Parish Councils' Standards Committee'.

If not wishing to formally change the name of the Committee, the Committee might wish to consider how best to raise public awareness of the Committee and the local assessment process.

(iii) Chairing of Standards sub-committees

Members' views are sought as to whether the same Independent Member who chairs a meeting of the Assessment Sub-Committee should then go on to chair any meeting of the Final Determination Sub-Committee which is required for the same matter. Previous discussions on the composition of the Standards sub-committees have determined that membership of these two sub-committees can overlap; however the specific point as to whether the sub-committees should be chaired by separate Independent Members has not been clarified.

Training - Parish Councils

- 3.7 At the last meeting of the Committee it was agreed that officers should liaise with the parish councils in the district, via the Parish Council Forum and the Area County Association of Local Councils (CALC), on the development of a training programme for parish councils on ethical governance issues. This issue is to be considered by the Bromsgrove Area Committee of the Worcestershire CALC on 3rd December 2008 and the Parish Council Forum on 6th January 2009. A report detailing the findings will then be referred to the Standards Committee at its meeting on 5th February 2009.

Terms of Office of Parish Councils' Representatives on the Standards Committee

- 3.8 Officers have contacted the Secretary of the Bromsgrove Area Committee of the Worcestershire CALC to request that consideration be given, in the New Year, to looking at the possibility of extending the current terms of office of the Parish Councils' Representatives on the Standards Committee.
- 3.9 The current term of office of Parish Councils' Representatives is one year and all Representatives are appointed by the Council in July of each year. It is the view of officers that a lengthier term of office would be advantageous in order to retain experience on the Committee, and that the 'staggering' of such appointments would also be beneficial. This is felt to be particularly relevant in view of the time and effort which has recently been invested in training members of the Committee on ethical governance issues and following work involved with the introduction of local assessment.

- 3.10 It is anticipated that a report on this will be considered by CALC in March 2009, with CALC's views to be referred to the Standards Committee in April. If appropriate, any recommendations of the Committee will then be considered by the Council in late April, prior to CALC's nominations in June.

Cardiff University Case Study

- 3.11 Following recent interviews which took place with Dr James Downe and Paul Griffiths of the Centre for Local & Regional Government Research (CLRGR) at Cardiff University, as part of the five-year case study on the impact of the ethical framework for local government, officers have been advised that the CLRGR is currently in the process of drafting a report on its findings.
- 3.12 The report will also include the results of a public survey which the CLRGR has recently carried out in the district. The survey involves a questionnaire issued to a 200-resident sample, covering attitudes towards the Council and conduct issues. The survey data is currently being processed and will be added to the report.
- 3.13 It is understood that a copy of the final report will be sent to the Council, although the basis on which it will be disclosed and whether or not it may be published has not yet been made clear.

West Mercia Forum of Independent Members

- 3.14 The next meeting of the West Mercia Forum of Independent Members is due to take place at 2.30pm on Wednesday, 4th February 2009 at South Shropshire District Council. The guest speaker for the Forum will be Dr. Robert Chilton, the new Chair of the Standards Board for England. A formal invite for this will be issued to all Independent Members in the New Year.
- 3.15 A letter notifying Independent Members of the event was sent out by Peter Rowland, the Forum's Convenor, in October. This was inadvertently sent to Bromsgrove Parish Councils' Representatives as well. It has been agreed with Mr. Rowland that should any of our Parish Representatives wish to attend on this occasion then they are welcome to do so. The Forum will then be asked, at the meeting, whether or not it wishes to extend the invitation to all Parish Council Representatives for subsequent meetings.
- 3.16 Members are advised that an offer has been made by Bromsgrove District Council to host the summer 2009 Forum meeting.

4. FINANCIAL IMPLICATIONS

None

5. LEGAL IMPLICATIONS

The Local Government Act 2000 introduced primary legislation to enable the implementation of a Members' Code of Conduct, and this was amended by

the Local Government and Public Involvement in Health Act (LGPIHA) 2007 insofar as it related to the application of the Members' Code of Conduct to their private lives. Further details have been provided by the Local Authorities (Model Code of Conduct) Order 2007 and the Relevant Authorities (General Principles) Order 2001. The local assessment regime was introduced by the LGPIHA 2007, and further expanded in the Standards Committee (England) Regulations 2008 which also set out the rules and procedures governing the investigation and determination of complaints.

6. COUNCIL OBJECTIVES

This item does not link directly with any Council objectives.

7. RISK MANAGEMENT

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

- Risk of challenge to Council decisions; and
- Risk of complaints about elected members.

7.2 These risks are being managed as follows:

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

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	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	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
Head of Organisational Development & HR	No
Corporate Procurement Team	No

13. WARDS AFFECTED

All wards

14. APPENDICES

Appendix 1 - Table showing complaints received during the current municipal year.

Appendix 2 - Extracts of the Standards Board for England Guide to the Code of Conduct.

15. BACKGROUND PAPERS

None

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Local Assessment Statistics

Period	New complaints received	Complaints assessed	Reviews conducted	No further action	Referred for other action	Referred for local investigation	Referred to SBE...	.. and accepted by SBE	Final determinations
Apr-June 2008	9	9	0	4	1	0	4	4	0
July-Sept 2008	0	0	0	0	0	0	0	0	0 ¹
Oct-Dec ² 2008	0	0	0	0	0	0	0	0	0
Total	9	9	0	4	1	0	4	4	0

Note:

¹ - 1 final determination took place in September which related to a complaint made to the Standards Board for England prior to the introduction of local assessment.

² - The statistics shown for October to December 2008 relate to the period since the last meeting of the Committee on 16th October 2008 and run to the date of publication of the agenda. Any further statistics relevant to the period in question which arise subsequent to the agenda publication will be reported orally at the meeting.

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a) Interests you must register

Key points:

All members have to provide a record of their interests in a public register of interests.

You must tell your monitoring officer in writing (in the case of a parish councillor, perhaps through your clerk) within 28 days of taking office, or within 28 days of any change to your register of interests, of any interests which fall within the categories set out in the Code of Conduct, outlined below.

CHAPTER 3

know about any interest that might have to be declared by you or other members, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

As previously mentioned, you must tell your monitoring officer in writing within 28 days of taking office, or within 28 days of any change to your register of interests, of any interests which fall within the categories set out in the Code of Conduct.

You need to register your interests so that the public, authority staff and fellow members know which of your interests might give rise to a conflict of interest. The register is a document that can be consulted when (or before) an issue arises, and so allows others to know what interests you have, and whether they might give rise to a possible conflict of interest.

The register also protects you. You are responsible for deciding whether or not you should declare an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public

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BROMSGROVE DISTRICT COUNCIL

STANDARDS COMMITTEE

11TH DECEMBER 2008

REVIEW OF PROTOCOL ON RELATIONS BETWEEN MEMBERS

Responsible Portfolio Holder	Cllr Roger Smith
Responsible Head of Service	Claire Felton, Monitoring Officer
Non-Key Decision	

1. SUMMARY

- 1.1 The Standards Committee is responsible for monitoring and reviewing the Council's Protocol on Relations between Members on an ongoing basis. The Committee is requested to consider how to undertake such a review.

2. RECOMMENDATION

- 2.1 That Members decide how to conduct the review of the Protocol on Relations between Members.

3. BACKGROUND

- 3.1 The Protocol on Relations between Members forms Part 19 of the Council's Constitution and a copy of it is attached to this report as Appendix 1. There is no legal requirement to have such a Code or Protocol but it was drafted about 2 years ago in the context of issues which were arising at the time. Few other authorities have such a protocol.
- 3.2 The key function of the Protocol is to give guidance on developing mutual respect between Members. It includes a section on how disputes between Members might be resolved, which involves resolution between Group Leaders.
- 3.3 During recent months a number of issues have arisen between Members and the Protocol has been increasingly relied upon.
- 3.4 This is the first occasion on which this Protocol has been reviewed either by the Standards Committee or any other person or body, and no process or precedent exists as to how to go about this. Members are therefore requested to consider how to conduct this review. It is suggested that the Committee might find it helpful to request Members and Officers to provide evidence for the Committee to consider and to invite views from Members and Officers as to how the Protocol might be improved.

- 3.5 Members may also wish to consider investigating the processes used by other authorities or to consider model Protocols prepared by ACSeS (the Association of County Secretaries and Solicitors) or LACORS (Local Authorities Co-ordinators of Regulatory Services) or similar organisations.
- 3.6 The Committee needs to consider how to go about gathering and then reviewing this information. Bearing in mind that relations between Members have been highlighted in the past by the Audit Commission as a key area for improvement for this Council, this is an important and potentially high-profile task which the Committee needs to ensure is undertaken appropriately. There are a number of options;
- 3.6.1 Officers could be requested to undertake research and gather the views of key Members and Officers and prepare a report for consideration by the Standards Committee;
 - 3.6.2 in addition to the above, key Members and senior Officers could be requested to attend before the full Standards Committee to provide information; or
 - 3.6.3 the Committee might consider it more appropriate to form small working groups each of which would conduct one or more interviews or carry out specific pieces of research and then report back to the Standards Committee.
- 3.7 Members are requested to consider how to conduct this review.

4. FINANCIAL IMPLICATIONS

- 4.1 None.

5. LEGAL IMPLICATIONS

- 5.1 None

6. COUNCIL OBJECTIVES

- 6.1 This item does not link directly to any of the Council's objectives.

7. RISK MANAGEMENT

There are no significant risks associated with this report.

8. CUSTOMER IMPLICATIONS

- 8.1 None.

9. EQUALITIES AND DIVERSITY IMPLICATIONS

9.1 None.

10. VALUE FOR MONEY IMPLICATIONS

10.1 None

11. OTHER IMPLICATIONS:

Procurement Issues	None
Personnel Implications	None
Governance/Performance Management	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	Yes
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

14. APPENDICES

Appendix 1 Protocol on Relations between Members

15. BACKGROUND PAPERS

None

CONTACT OFFICER

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LOCAL PROTOCOL ON RELATIONS BETWEEN MEMBERS

1. INTRODUCTION

- 1.1 The Council will best serve the interests of local people if there are clear arrangements between the Members and Political Groups represented on the Council. The interests of local people will also be best served if the working relationship between Members of all Political Groups is characterized by mutual respect, informality and trust, whilst recognizing the need for healthy and constructive political debate within a vibrant democratic process. Such a relationship will mean that Members will speak to one another openly and honestly whilst political differences will be aired in an appropriate manner and not personalized.
- 1.2 This Protocol is intended to facilitate such a working relationship and to help Members to perform effectively. This Protocol gives guidance on Members' roles and on what to do on the occasions when things go wrong.
- 1.3 This Protocol must be read in the context of the Council's Constitution, the Members' Code of Conduct and the Officer-Member Protocol.
- 1.4 The Council will formally adopt this Protocol and a copy will be issued to all Members and Senior Officers.

2. INTERPRETATION

- 2.1 In this Protocol "Member" includes all elected Members of the Council and all non-elected Members of any Committee (including the Standards Committee and any Overview Group and Scrutiny Committee) (or any Sub-Committee) irrespective of whether or not they have any voting rights.

3. GUIDING PRINCIPLES

- 3.1 In their dealings with one another, Members will:
 - (a) serve only the public interest;
 - (b) behave properly and not place themselves in situations where their honesty and integrity may be questioned;
 - (c) make decisions on merit;

PART 19

- (d) be open about (and be prepared to give reasons for) their actions;
 - (e) promote equality by not discriminating against any person;
 - (f) treat each other with dignity and respect, accepting a strong presumption that everyone is acting in good faith, and show courtesy in all meetings and contacts, both formal and informal;
 - (g) uphold the law;
 - (h) seek to ensure that the Council uses its resources prudently;
 - (i) promote and support all these general principles by example, and act in a way that secures or preserves public confidence in local government; and
 - (j) respect the decisions and authority of the Chair and Vice-Chair of the Council.
- 3.2 In their dealings with one another, Members will also uphold the Members' Code of Conduct. The following provisions of the Code are particularly relevant to relations between Members:
- (a) paragraph 3(1) of the Code:
"You must treat others with respect"
 - (b) paragraph 5 of the Code:
"You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute."

4. POLITICAL DIFFERENCES AND PERSONAL CRITICISM

- 4.1 This Protocol is not intended to restrict or discourage legitimate, political debate. However, it is also in the interests of local people that there is a working relationship between Political Groups. That working relationship will be assisted if it is supported by a clear set of guidelines and it is these that this Protocol is intended to provide. The relationship between the Political Groups will also be supported if all Members adhere to high standards of courtesy and mutual respect in their dealings with one another.

PART 19

- 4.2 As with their relations with officers in their dealings with fellow Members, it is important that robust debate of the issues at stake does not deteriorate into personal criticism of another person who holds a different point of view. Courtesy and civility must be maintained at all times.
- 4.3 Members' integrity should not be questioned in public in any media nor should they be subject to any name-calling or abuse. Questioning a fellow Member's integrity is a particularly serious matter and must never occur unless there is very clear documentary evidence to substantiate any allegation made, and even in these circumstances it will rarely be appropriate to question a Member's integrity publicly without first pursuing other established procedures which are available for the investigation of allegations of ethical misconduct. The principles contained in this paragraph must be adhered to in meetings of the Council, the Cabinet and any Committee meeting, or any other meeting at which members of the public or third parties are present. This principle must also be observed in all dealings with the press and other media which should not under any circumstances be used to undermine or personally criticize fellow Members whether or not those Members are named or identified in any press or other media article or briefing.

5. RELATIONSHIPS BETWEEN NEIGHBOURING WARD MEMBERS

- 5.1 Members contacted by a constituent of a Fellow Member's ward should refer the constituent to the appropriate Ward Member unless:
- (a) the Ward Member is absent or otherwise unable to deal with the query. In such cases the Members should ensure that the matter is referred to the Ward Member as soon as possible; or
 - (b) the Ward Member has expressly consented.
- 5.2 Members should not hold surgeries or open sessions within the ward of a Fellow Member unless that Member has given prior express consent to the proposal. This provision shall not apply in the six weeks before a District Council election.

6. MEETINGS BETWEEN GROUP LEADERS

- 6.1 The Leader of any Group may request a meeting with the other Group Leader(s) (or Deputy Group Leader(s) in cases where the issue relates to a complaint/concern about a Group Leader) at any reasonable time to discuss issues relating to current and/or forthcoming Council business.

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The Group Leaders will use all reasonable endeavours to meet as soon as is reasonably practicable thereafter.

- 6.2 Group Leaders may invite a fellow Member to be present at these meetings. Actions agreed at these meetings will be minuted or otherwise recorded (unless the Group Leaders agree otherwise). The record of the meetings may be made by an officer appointed by the Monitoring Officer who, if not present for the whole meeting, will be invited in to record the agreed outcomes and actions.
- 6.3 These provisions may all be varied by agreement between the Group Leaders.

7. MEMBERS' ACCESS TO INFORMATION AND TO COUNCIL DOCUMENTS

- 7.1 This is covered in the Council's Constitution in the Access to Information Procedure Rules and in the Member- Officer Protocol.
- 7.2 Members may share with other Members of the Council (but not third parties) exempt information unless expressly prohibited from doing so by the person or body providing the information, but must ensure that any recipient Member is aware that the information may not be disclosed to any party outside the Council.

8. WHEN THINGS GO WRONG

- 8.1 From time to time the relationship between Members may break down or become strained. Whilst it will always be preferable to resolve matters informally through conciliation, if necessary by the Group Leaders, this is not always possible. Where this is the case, and a Member considers that another Member has acted in breach of this Protocol, the following procedure will be followed.
- 8.2 If attempts at resolving matters informally have not been successful where a Member considers that another Member has acted in breach of this Protocol, the following procedure will be followed:-
 - (a) the Member must make a written complaint to the other Member and copy that complaint to Group Leaders. This must specify all incidents that the complainant intends to raise and set out the alleged breach of this Protocol;

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- (b) the Member who has been complained about shall (within 10 working days) respond in writing to the complainant and copy that response to Group Leaders;
 - (c) Group Leaders shall (within 10 working days (or as soon thereafter as is reasonably practicable)) meet to discuss the complaint. If they both consider that the complaint is unreasonable, frivolous, or vexatious, that shall be the end of the matter. If they both consider that the complaint is of a purely technical or minor nature, they may invite the Member who has been complained against to make a written apology, in a form (and within a timescale) agreed between the Group Leaders. Once that apology has been made that shall be the end of the matter unless the Member subsequently acts in a manner at variance with that apology;
 - (d) if either Group Leader considers the complaint is of a more serious nature than mentioned in the previous paragraph, or if the Member complained against fails to give the requisite apology, the Group Leaders shall agree a suitable course of action;
 - (e) both the Complainant and the Member complained about shall be advised in writing by the Group Leaders of their decision;
 - (f) a Complainant may at any time withdraw a complaint by notice in writing to the other Member and copy that notice to Group Leaders.
- 8.3 Exceptions may be made to the procedures outlined in paragraphs 7.2 above if to do otherwise would conflict with the Council's policy on "Whistle blowing" or potentially prejudice a criminal investigation (whether in progress or reasonably contemplated in the future).

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BROMSGROVE DISTRICT COUNCIL

STANDARDS COMMITTEE

11TH DECEMBER 2008

REVIEW OF MEMBER-OFFICER PROTOCOL

Responsible Portfolio Holder	Cllr Roger Smith
Responsible Head of Service	Claire Felton, Monitoring Officer
Non-Key Decision	

1. SUMMARY

- 1.1 The Standards Committee is responsible for monitoring and reviewing the Council's Member-Officer Protocol on an ongoing basis. The Committee is requested to consider how to undertake such a review.

2. RECOMMENDATION

- 2.1 That Members decide how to conduct the review of the Member-Officer Protocol.

3. BACKGROUND

- 3.1 This Protocol forms Part 18 of the Council's Constitution and is attached to this report as Appendix 1. It has formed part of the Constitution for some years but has not been thoroughly reviewed for some time. There is no requirement for the Council to have such a Protocol although most authorities do have a protocol or code on member-officer relations.
- 3.2 This Council's Protocol covers a very broad range of subjects including not only the respective roles of Members and Officers and the working relationship between them, but also guidance on Members' access to information and documents and on media relations.
- 3.3 This is the first occasion on which this Protocol has been reviewed formally by the Standards Committee and no process or precedent exists as to how to go about this. Members are therefore requested to consider how to conduct the review.
- 3.4 The Committee might find it helpful to request Members and Officers to provide evidence for the Committee to consider and to invite views from Members and from Officers, either individually or from the Corporate Management Team, as to how the Protocol might be amended or improved.
- 3.5 Members may also wish to consider investigating the processes used by other authorities or to consider model Protocols prepared by ACSeS (the

Association of County Secretaries and Solicitors) or LACORS (Local Authorities Co-ordinators of Regulatory Services) or similar organisations.

3.6 The Committee needs to consider how to go about gathering information. There are a number of options;

3.6.1 Officers could be requested to undertake research and gather the views of key Members and Officers and prepare a report for consideration by the Standards Committee;

3.6.2 in addition to the above, key Members and senior Officers could be requested to attend before the full Standards Committee to provide information; or

3.6.3 the Committee might consider it more appropriate to form small working groups each of which would conduct one or more interviews or carry out specific pieces of research and then report back to the Standards Committee.

3.7 Members are requested to consider how the review is to be undertaken and whether there are any specific issues to be considered.

4. FINANCIAL IMPLICATIONS

4.1 None.

5. LEGAL IMPLICATIONS

5.1 None

6. COUNCIL OBJECTIVES

6.1 This item does not link directly to any of the Council's objectives.

7. RISK MANAGEMENT

There are no significant risks associated with this report.

8. CUSTOMER IMPLICATIONS

8.1 None.

9. EQUALITIES AND DIVERSITY IMPLICATIONS

9.1 None.

10. VALUE FOR MONEY IMPLICATIONS

10.1 None

11. OTHER IMPLICATIONS:

Procurement Issues	None
Personnel Implications	None
Governance/Performance Management	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	Yes
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

14. APPENDICES

Appendix 1 Member-Officer Protocol

15. BACKGROUND PAPERS

None

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MEMBER - OFFICER PROTOCOL

Introduction and Principles

- 1.1 The purpose of this Protocol is to guide Members and Officers of the Council in their relations with one another in such a way as to ensure the smooth running of the Council.
- 1.2 Given the variety and complexity of such relations, this Protocol does not seek to be either prescriptive or comprehensive. Its objectives are
- To promote trust, openness, fairness and honesty by establishing some ground rules
 - To define roles so as to clarify responsibilities (i.e. who does what), avoid conflict and prevent duplication or omission
 - To secure compliance with the law, codes of conduct and the Council's own practices
 - To lay down procedures for dealing with concerns by members or officers.

Although the protocol offers guidance on some of the issues which most commonly arise, it forms part of the Council's Constitution and as such must be followed by Members and Officers. It is hoped, however, that the approach which it adopts to these issues will serve as a guide to dealing with other circumstances. Except as specifically set out in this Protocol, questions of interpretation will be determined by the Monitoring Officer unless the particular provision requiring interpretation relates to a matter to be determined by the Chief Executive.

- 1.3 This Protocol is to a large extent a written statement of current practice and convention. It seeks to promote greater clarity and certainty. If the Protocol is followed it should ensure that Members receive objective and impartial advice and that Officers are protected from accusations of bias and any undue influence from Members.
- 1.4 It also seeks to reflect the principles underlying the Code of Conduct which applies to Members. These are:
- Selflessness – serving only the public interest
 - Honesty and integrity – not allowing these to be questioned
 - Not behaving improperly
 - Objectivity – taking decisions on merit
 - Accountability – to the public; being open to scrutiny
 - Openness – giving reasons for decisions
 - Personal judgement – reaching one's own conclusions and acting accordingly
 - Respect for others – promoting equality; avoiding discrimination; respecting others (member/member as well as member/officer)

- Duty to uphold the law – not acting unlawfully
- Stewardship – ensuring the prudent use of the Council's resources
- Leadership – acting in a way which has public confidence

These principles underpin this protocol. They will also be reflected in a new national code of conduct for employees due in the near future, on which the Office of the Deputy Prime Minister began a consultation in August 2004. Until such time as the national code appears, officers are bound by the Council's own code of conduct for staff and, in some cases, by their professional associations. The purpose of this code is to enhance and maintain the integrity (real and perceived) of local government and the Code, therefore, demands very high standards of personal conduct.

- 1.5 This Protocol should be read in conjunction with the Members' Code of Local Government Conduct, the Council's Constitution and any guidance issued by the Standards Committee and/or Monitoring Officer. The protocol has been approved by the Council's Standards Committee, which will monitor its operation and which is responsible for reviewing the practical application of the Protocol, and making suggestions for its improvement and development. Breaches of the protocol by a member may result in a complaint to the Standards Board for England if it appears the Members' Code of Conduct has also been breached. Breaches by an officer may lead to disciplinary action.

The Role of Members

- 2.1 Members have a number of roles and need to be alert to the potential for conflicts of interest which may arise between the roles. Where such conflicts are likely, Members may wish to seek the advice of senior colleagues, the relevant senior officer(s), and/or the Monitoring Officer.
- 2.2 Collectively, Members are the ultimate policy-makers determining the core values and priorities of the Council and approving the authority's policy framework, strategic plans and budget.
- 2.3 Members represent the community, act as community leaders, and promote the social, economic and environmental well-being of the community, often in partnership with other agencies.
- 2.4 Every elected Member represents the interests of, and is an advocate for, his/her ward and individual constituents. He/she represents the Council in the ward, responds to the concerns of constituents, meets with partner agencies, and often serves on local outside bodies.
- 2.5 Some Members have roles relating to their position as members of the Executive, overview and scrutiny committees, or other committees of the Council.
- 2.6 Members of the Executive may have individual delegated powers, but will often work closely with officers in relevant departments in preparing policies and

decisions which are subsequently approved by the Executive. Although Executive members may, to a significant extent, determine matters within their portfolios, the implementation of their decisions is the responsibility of officers.

- 2.7 Members serving on overview and scrutiny committees monitor the effectiveness of the Council's policies and services, develop policy proposals and examine community issues. They also monitor service provision by other bodies insofar as it affects the District, e.g. local health service provision.
- 2.8 Members who serve on other committees and sub-committees collectively have delegated responsibilities, e.g. deciding planning applications, licensing applications and other quasi-judicial matters, which by law are excluded from the remit of the Executive.
- 2.9 Some Members may be appointed to represent the Council on local, regional or national bodies. Guidance for Members on their participation with external bodies is contained within the protocol "Guidance for Members on Outside Bodies".
- 2.10 As politicians, Members may express the values and aspirations of the party political groups to which they belong, recognising that in their role as members they have a duty always to act in the public interest.
- 2.11 Members are not authorised to instruct officers other than in the circumstances set out below, and should take care to ensure that their conduct is not open to misinterpretation in this regard. Instructions may legitimately be given:-
 - Through the formal decision-making process;
 - To request the provision of consumable resources provided by the Council for members' use
 - Where an Executive Member is indicating to a Senior Officer the way in which policies and decisions might be prepared, but any such instruction given must not compromise an officer's professional judgement and must not be inconsistent with the Council's established policies and procedures
 - Where staff have been specifically allocated to give support to a member or group of members; and
 - In the case of political assistants
- 2.12 Members are not authorised to initiate or certify financial transactions, or to enter into a contract on behalf of the Council.
- 2.13 Members must avoid taking actions which are unlawful, financially improper, or likely to amount to maladministration. Members have an obligation under their code of conduct to have regard, when reaching decisions, to any advice provided by the Monitoring Officer or the Chief Financial Officer.
- 2.14 Members must respect the impartiality of officers and do nothing to compromise it, e.g. by insisting that an officer change his/her professional advice.

The Role of Officers

- 3.1 Officers are responsible for giving advice to Members to enable them to fulfil their roles. In doing so, officers will take into account all available relevant factors.
- 3.2 Under the direction and control of the Council (including, as appropriate, the Executive and committees), officers manage and provide the Council's services within the framework of responsibilities delegated to them. This includes the effective management of employees and operational issues.
- 3.3 Officers have a duty to implement decisions of the Council, the Executive and committees which are lawful and which have been properly approved in accordance with the requirements of the law and the Council's constitution, and duly minuted.
- 3.4 Officers have a contractual and legal duty to be impartial. They must not allow their professional judgement and advice to be influenced by their own personal views.
- 3.5 Officers must assist and advise all parts of the Council. They serve the Council as a whole. They must always act to the best of their abilities in the best interests of the authority as expressed in the Council's formal decisions.
- 3.6 Officers must be alert to issues which are, or are likely to be, contentious or politically sensitive, and be aware of the implications for Members, the media or other sections of the public.
- 3.7 Officers have the right not to support Members in any role other than that of member, and not to engage in actions incompatible with this protocol. In particular, there is a statutory limitation on senior officers' involvement in political activities.

The Relationship: General Points

- 4.1 Both Councillors and Officers are servants of the public and they are indispensable to one another, but their responsibilities are distinct. Councillors are responsible to the electorate and serve only so long as their term of office lasts. Officers are responsible to the Council. Their job is to give advice to Councillors and the Council, and to carry out the Council's work under the direction and control of the Council, the Executive, their committees, and subcommittees.
- 4.2 At the heart of the Code, and this Protocol is the importance of mutual respect, confidence, and trust. Member/Officer relationships are to be conducted in a positive and constructive way. Therefore, it is important that any dealings between Members and Officers should observe standards of courtesy and that neither party should seek to take unfair advantage of their position or seek to exert undue influence on the other party.

- 4.3 A key element in the relationship is a recognition of and a respect for each other's roles and responsibilities. These should be reflected in the behaviour and attitude of each to the other, both publicly and privately. Informal and collaborative two-way contact between Members and officers is encouraged, but personal familiarity can damage the relationship, as might a family or business connection. Members and officers should inform the Monitoring Officer of any relationship which might be seen as unduly influencing their work in their respective roles. Inappropriate relationships can be inferred from language/style. When attending formal meetings, officers and Members should use formal forms of address to each other – e.g. Members should be addressed as "Councillor XX" or "Chairman", while Officers should be addressed as "Mr. XX" or "Mrs. XX". A greater level of informality may be appropriate in other circumstances, e.g. a one to one between a Head of Service and their respective Cabinet Member but it is safer to err on the side of formality..
- 4.4 It is not enough to avoid actual impropriety. Members and officers should always be open about their relationships to avoid any reason for suspicion and any appearance of improper conduct. Where a personal relationship has been disclosed, those concerned should avoid a situation where conflict could be perceived. Specifically, an officer should not sit on a body or participate in any decision which directly affects the officer on a personal basis. Members are bound by the Code of Conduct which contains a similar restriction.
- 4.5 A Member should not raise matters relating to the conduct or capability of an Officer in a manner that is incompatible with the objectives of this Protocol. This is a long-standing tradition in public service because an Officer has no means of responding to such criticisms in public. If a Member feels he/she has not been treated with proper respect or, courtesy or has any concern about the conduct or capability of an Officer, and fails to resolve it through direct discussion with the Officer, he/she should raise the matter with the respective senior officer. The senior officer will then look into the facts and report back to the Member. If the Member continues to feel concern, then he/she should raise the issue with the Chief Executive who will look into the matter afresh. Any action taken against an Officer in respect of a complaint will be in accordance with the provisions of the Council's Disciplinary Rules and Procedures.
- 4.6 An Officer shall not discuss with a Member personal matters affecting himself/herself or matters relating to the conduct or capability of another Officer or to the internal management of a Section/Division. This does not prevent an officer raising on a personal basis, and in his/her own time, a matter with his/her ward member.
- 4.7 Where an Officer feels that s/he has not been properly treated with respect and courtesy by a Member, he/she should raise the matter with his/her senior officer or the Chief Executive as appropriate, especially if they do not feel able to discuss it directly with the Member concerned. In these circumstances the senior officer or Chief Executive will take appropriate action either by

approaching the individual Member and/or group leader or by referring the matter to the Monitoring Officer in the context of the Council's Code of Conduct.

- 4.8 With the exception of political assistants, officers work to the instructions of their senior officers, not individual Members. It follows that whilst such officers will always seek to assist a Member, they must not be asked to exceed the bounds of authority they have been given by their managers. Except when the purpose of an enquiry is purely to seek factual information, Members should normally direct their requests and concerns to a senior officer, at least in the first instance.
- 4.9 Officers will do their best to give timely responses to Members' enquiries. However, officers should not have unreasonable requests placed on them. Their work priorities are set and managed by senior managers. Members should avoid disrupting officers' work by imposing their own priorities. Members will endeavour to give timely responses to enquiries from officers.
- 4.10 Members and officers should respect each other's free (i.e. non-Council) time.
- 4.11 Members seeking advice, information, or support from officers should as a normal rule make contact firstly with the Head of Service for the department in question, and although the Head of Service may refer the matter to another officer care should be taken to ensure that the other officer is supported in whatever manner may be required. In the event that officers receive direct contact from Members and are uncertain how to respond, they should immediately seek advice from their own Manager or Head of Paid Service. It is acceptable for a custom-and-practice arrangement to develop whereby Members approach other officers direct, but all parties should take care to ensure that the Member, the Officer, and the Head of Service are content with the arrangement.

The Relationship: Officer Support to Members: General Points

- 5.1 Certain statutory officers – the Chief Executive, the Monitoring Officer and the Chief Financial Officer – have specific roles and these are addressed in the Constitution. Their roles need to be understood and respected by all Members.
- 5.2 The following key principles reflect the way in which the Council's staffing body generally relates to Members:
- all officers are employed by and accountable to the authority as a whole;
 - support from officers is needed for all the authority's functions including Full Council, Overview and Scrutiny, the Executive, individual Members representing their constituents etc;
 - the authority will seek to avoid potential conflicts of interest for officers arising from the separation of the Executive and Overview and Scrutiny role; and
 - all officers will be provided with training and development to help them support the various Member roles effectively and to understand the Council's structures.

- 5.3 On occasion, a decision may be reached which authorises named Officers to take action between meetings following consultation with a Member or Members. It must be recognised that it is the Officer, rather than the Member or Members, who takes the action and it is the Officer who is accountable for it.

The Relationship: The Council as Employer

6.1 Officers are employed by the Council as a whole

6.2 Members' roles in employment matters are limited to

- The appointment of specified posts as defined in the Council's Officer Employment Procedure Rules and Scheme of Delegation
- Approving human resources policies and conditions of employment; and
- Hearing and determining appeals

Members should not act outside these roles.

6.3 If participating in the appointment of officers, members should

- Remember that the sole criterion is merit (other than in the case of political assistants, where political considerations may apply)
- Never canvass support for a particular candidate
- Not take part where one of the candidates is a close friend or relative
- Not be influenced by personal preferences, and
- Not favour a candidate by giving him/her information which is not available to other candidates

6.4 A member should not sit on an appeal hearing if the appellant is a friend, a relative or an officer with whom the Member has had a working relationship.

The Relationship: Officer Support to Members and Party Groups

7.1 It must be recognised by all Officers and Members that in discharging their duties and responsibilities Officers serve the Council as a whole and not any political group, combination of groups, or any individual Member of the Council.

7.2 There is now statutory recognition for party groups and it is common practice for such groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant Council decision-making body. Officers may properly be called upon to support and contribute to such deliberations by party groups but must at all times maintain political neutrality. All Officers must, in their dealings with political groups and individual Members, treat them in a fair and even-handed manner.

7.3 The support provided by Officers can take many forms. Whilst in practice such Officer support is likely to be in most demand from whichever party group is for the time being in control of the Council, such support is available to all party groups.

- 7.4. Certain points, must, however, be clearly understood by all those participating in this type of process, Members and Officers alike. In particular:
- Officer support must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of party business. The observance of this distinction will be assisted if Officers are not present at meetings or parts of meetings, when matters of party business are to be discussed;
 - Party group meetings, whilst they form part of the preliminaries to Council decision making, are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings do not therefore rank as Council decisions and it is essential that they are not interpreted or acted upon as such; and
 - similarly, where Officers provide information and advice to a party group meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice when the matter in question is formally considered by the relevant part of the Council.
- 7.5 Special care needs to be exercised whenever Officers are involved in providing information and advice to a party group meeting which includes persons who are not Members of the Council. Such persons are not bound by the Council's Code of Conduct (in particular, the provisions concerning the declaration of interests and confidentiality) and for this and other reasons, Officers must not attend and/or give advice to such meetings and Members should not ask officers to do so.
- 7.6 Officers must respect the confidentiality of any party group discussions at which they are present and, unless requested to do so by that party group, should not relay the content of any such discussion to another party group or to any other members. This must not prevent an officer providing feedback to other senior officers on a need-to-know basis.
- 7.7 Members must not do anything which compromises or is likely to compromise an officer's impartiality. The duration of an officer's attendance at a party group meeting will be at the discretion of the group, but an officer may leave at any time if he/she feels it is no longer appropriate to be there.
- 7.8 An officer accepting an invitation to the meeting of one party group shall not decline an invitation to advise another group about the same matter. He/she must give substantially the same advice to each. An officer should be given the opportunity of verifying comments and advice attributed to him/her in any written record of a party group meeting. No Member will refer in public or at meetings of the Council to advice or information given by officers to a party group meeting.
- 7.9 An officer who is not a senior officer shall not be invited to attend a party group meeting, but a senior officer may nominate another officer to attend on his/her behalf. It is recommended that a Group wishing to invite any officer to address

it must seek the approval of the relevant Corporate Director before approaching the officer.

7.10 In relation to budget proposals:

- the Executive Cabinet shall be entitled to confidential discussions with Officers regarding options and proposals. These will remain confidential until determined by the Executive Cabinet or until published in advance of Committee/Council meetings, whichever is the earlier; and
- the opposition groups shall also be entitled to confidential discussions with Officers to enable them to formulate alternative budget proposals. These will remain confidential until determined by the respective opposition groups or until published in advance of Committee/Council meetings, whichever is the earlier.

7.11 It must not be assumed by any party group or Member that any Officer is supportive of any policy or strategy developed because of that Officer's assistance in the formulation of the policy or strategy.

7.12 Any particular cases of difficulty or uncertainty in this area of Officer advice to party groups should be raised with the Chief Executive who will discuss them with the relevant group leader(s).

The Relationship: Officer Support: The Executive

8.1 It is clearly important that there should be a close working relationship between Executive Members and the Officers who support and/or interact with them. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the Officer's ability to deal impartially with other Members and other party groups.

8.2 Executive Members will take collective decisions in accordance with the constitution and will not otherwise direct staff except in such circumstances as may be permitted by the Scheme of Delegations.. Senior officers will be responsible for instructing staff to implement the Executive's decisions.

8.3 In addition to individual members of the Executive, senior officers have the right to submit papers to the Executive as a whole or to individual Executive members for consideration. Whilst Executive Members will routinely be consulted as part of the process of drawing up proposals for consideration or the agenda for a forthcoming meeting, it must be recognised that in some situations an officer will be under a professional duty to submit a report. Similarly, a senior officer will always be fully responsible for the contents of any report submitted in his/her name. This means that any such report will be amended only where the amendment reflects the professional judgement of the author of the report. This is to be distinguished from a situation where there is a value judgement to be made. Any issues arising between an Executive Member and a senior officer in this area should be referred to the Chief Executive for resolution in conjunction with the Leader of the Council.

- 8.4 Senior officers and Executive members shall agree mutually convenient methods of regular contact. Before taking any formal decisions, the Executive will seek appropriate professional advice including that of the Monitoring Officer and Chief Financial Officer, and will not direct officers in the framing of recommendations.
- 8.5 Before any formal decisions with a financial implication are taken by the Executive, the Chief Financial Officer and the senior officer(s) for the service(s) concerned must be consulted. This is to ensure that those officers who are budget holders:
- are aware of the proposed decision
 - have had the opportunity to offer advice, and
 - are subsequently able properly to authorise the financial transactions needed to implement decisions.
- 8.6 An individual Executive member who is minded to write or commission a report about a matter within his/her portfolio must ensure that those other members and officers who need to know of the matter are so informed. There is a particular requirement to involve other Executive members on cross-cutting issues.
- 8.7 When making decisions, Executive members must state the reasons for those decisions. The written record of the decisions must include the reasons.
- 8.8 Where functions which are the responsibility of the Executive are delegated to Officers or other structures outside the Executive, the Executive will nevertheless remain accountable to the Council, through Overview and Scrutiny Committees, for the discharge of those functions. That is to say, the Executive will be held to account for both its decision to delegate a function and the way that the function is being carried out. Officers taking decisions under delegated powers must consider the advisability of informing the relevant Executive member(s) of their intentions in advance when the matter to which the decisions relate is likely to be sensitive or contentious, or has wider policy implications.
- 8.9 Officers will continue to work for and serve the local authority as a whole. Nevertheless, as the majority of functions will be the responsibility of the Executive, it is likely that in practice many Officers will be working to the Executive for most of their time. The Executive must respect the political neutrality of the Officers. Officers must ensure that, even when they are predominantly supporting the Executive, their political neutrality is not compromised.
- 8.10 In organising support for the Executive, there is a potential for tension between senior officers and Cabinet Members with portfolios. All Members and Officers need to be constantly aware of the possibility of such tensions arising and Officers and Members need to work together to avoid such tensions and conflicts existing or being perceived.

The Relationship: Officer Support: Overview and Scrutiny

- 9.1 Chairmen and other leading overview and scrutiny members shall maintain regular contact with the officer(s) providing the principal support to the overview and scrutiny function. In consultation with chairmen, it shall be the responsibility of those officers to ensure that those who need to know of matters being considered or for possible future consideration are so informed.
- 9.2 An overview and scrutiny committee or its chairman acting on its behalf may require officers to attend overview and scrutiny meetings. Regard must be had to the provisions of the Council's Overview and Scrutiny Procedure Rules in respect of the periods of notice which must be given about such attendance. Members should not normally expect junior officers to give evidence. All requests should be made to senior officers in the first instance.
- 9.3 It is recognised that officers required to appear before an overview and scrutiny committee may often be those who have advised the Executive or another part of the Council on the matter under investigation. In these circumstances, the officer may have a conflict of interest. Both members and officers need to consider the severity of the conflict. If deemed appropriate, research and advice may be sought from external sources.
- 9.4 Subject to 9.3 above, officers should be prepared to justify advice given to the Council, the Executive, or other committees, even when the advice was not accepted. Officers must also be prepared to justify decisions they have taken under delegated powers.
- 9.5 In giving evidence, officers must not be asked to give political views.
- 9.6 Officers should respect Members in the way in which they respond to Members' questions.
- 9.7 Members should not ask questions of officers or other witnesses in a way which could be interpreted as harassment. Neither should they ask about matters of a disciplinary nature. It is not overview and scrutiny's role to act as a disciplinary tribunal in relation to the actions of Members or officers. Neither is it the role of officers to become involved in what would amount to disciplinary investigations on a Panel's behalf. This is the Chief Executive's function alone in relation to staff, the Monitoring Officer's and the Standards Committee as regards the conduct of Members. This means:
- Whilst overview and scrutiny may seek to establish the facts about what occurred in the making of decisions or implementing of Council policies, their questioning should not be directed to the conduct of individuals in such a way that there is the implication of allocating criticism or blame;
 - In these circumstances, it is for the Chief Executive to institute a formal enquiry, and overview and scrutiny may ask (but not require) him/her to do so.
- 9.8 Overview and scrutiny proceedings must not be used to question the capability or competence of officers. Chairmen and Members need to make a distinction

between reviewing the policies and performance of the Council and its services, and appraising the personal performance of staff. The latter is not an overview and scrutiny function.

- 9.9 Overview and scrutiny should not act as a 'court of appeal' against decisions or to pursue complaints by individuals (Councillors, Officers, or members of the public) as other procedures exist for this. Some of these are internal, e.g. the Corporate Complaints Procedure, and others are external/statutory, e.g. Commissioner for Local Administration or appeal to the Courts. That said,
- Overview and scrutiny may investigate the manner in which decisions are made
 - They can comment on the merits of a particular policy affecting individuals.
- 9.10 It would be unfair to invite someone to appear before a Panel without telling them in general terms what they will be asked, or not giving them adequate time to prepare. Overview and scrutiny Members ought to provide written questions ('Indicative Topics') beforehand, so that the answers can form the basis of the questioning and discussion. In addition, speakers ought to be told the general line that further questioning is likely to take. Questioning should not stray outside the subject area that the Panel had previously indicated.

The Relationship: Officer Support: Regulatory Committees

- 10.1 The appropriate senior officers will offer to arrange regular informal meetings with chairmen, vice-chairmen, and spokesmen of regulatory committees and sub-committees.
- 10.2 Senior officers have the right to present reports and give advice to regulatory committees.
- 10.3 Members of a regulatory committee or sub-committee shall take decisions within the remit of that committee or sub-committee, and will not otherwise instruct officers to act.
- 10.4 At some regulatory committee or sub-committee meetings, a resolution may be passed which authorises a named officer to take action between meetings in consultation with the chairman. In these circumstances it is the officer, not the chairman, who takes the action and is responsible for it. A chairman has no legal power to take decisions on behalf of a committee or sub-committee, neither should he/she apply inappropriate pressure on the officer.

Local Members and Officers

- 11.1 To enable them to carry out their ward role effectively, Members need to be fully informed about matters affecting their ward. Senior officers must ensure that all relevant staff are aware of the requirement to keep local Members informed, thus allowing Members to contribute to the decision-making process and develop their representative role.

11.2 This requirement is particularly important:

- During the formative stages of policy development, where practicable
- In relation to significant or sensitive operational matters
- Whenever any form of public consultation exercise is undertaken, and
- During an overview and scrutiny investigation

Issues may affect a single ward but where they have a wider impact, officers should ensure that all relevant Ward Members are informed.

11.3 Whenever a public meeting is organised by the Council to consider a local issue, all the Members representing the wards affected should be invited to attend the meeting as a matter of course.

11.4 If a local Member intends to arrange a public meeting on a matter concerning some aspect of the Council's work, he/she should inform the relevant officer. Provided that the meeting has not been arranged on a party political basis:

- An officer may attend and
- The meeting may be held in Council-owned premises

No such meetings should be arranged or held in the immediate run-up to Council elections (i.e. from the date on which Notice of Election is issued).

11.5 Whilst support for Members' ward work is legitimate, care should be taken if staff are asked to accompany Members to ward surgeries. In such circumstances:

- The surgeries must be open to the general public, and
- Officers should not be requested to accompany Members to surgeries held in the offices or premises of political parties.

11.6 Officers must never be asked to attend ward or constituency political party meetings.

11.7 It is acknowledged that some Council staff (e.g. those providing dedicated support to Executive members) may receive and handle messages for Members on topics unrelated to the Council. Whilst these will often concern diary management, care should be taken to avoid Council resources being used for private or party political purposes.

11.8 In seeking to deal with constituents' queries or concerns, Members should not seek to jump the queue but should respect the Council's procedures. Officers have many pressures on their time. They may not be able to carry out the work required by Members in the requested timescale, and may need to seek instructions from their managers.

Members' Access to Information and to Council Documents

- 12.1 This part of the protocol should be read in conjunction with the Access to Information Rules in the Council's constitution. Regard should also be had to the provisions of the Freedom of Information Act, and the rights of Members described in this section of the protocol are supplementary to their rights as members of the public under that Act.
- 12.2 Members have the ability to ask for such information explanation and advice as they may reasonably need in order to assist them in discharging their role as a Member of the Council. This can range from a request for general information about some aspect of the Council's activities to a request for specific information on behalf of a constituent. Where information is requested on behalf of a third party, it will only be provided if:
- It is in the public domain, and
 - the Data Protection Act does not prevent disclosure
- 12.3 Every member of the Executive, an overview and scrutiny committee, and/or any other committee or sub-committee, has a right to inspect documents about the business of that overview and scrutiny committee, other committee or sub-committee or the Executive. In relation to business of the Executive, by virtue of Regulation 17 of the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000:
- where there is a meeting (e.g. Cabinet) and there is a document which is in the possession/under the control of the Executive relating to the business to be conducted at that meeting, that document shall be available for inspection;
 - there are exceptions for exempt and confidential material and any document that contains advice provided by a political advisor or assistant.
- 12.4 A Member who is not a member of a specific overview and scrutiny committee, other committee or sub-committee, or the Executive may have access to any document of that specific part of the Council provided:
- He/she can demonstrate a reasonable need to see the documents in order to carry out his/her role as a member (the "need to know" principle), and
 - The documents do not contain "confidential" or "exempt" information as defined by law.
- 12.5 The exercise of the "need to know" principle depends upon an individual Member being able to demonstrate that he/she has the necessary 'need to know'. In this respect a Member has no right to 'a roving commission' to go and examine documents of the Council. Mere curiosity is not sufficient. The crucial question is the determination of the 'need to know'. This question must initially be determined by the particular senior officer whose Division holds the document in question (with advice from the Head of Legal & Democratic Services). In the event of dispute, the question falls to be determined by the Head of Paid Service

- 12.6 A member should obtain advice from the Monitoring Officer and/or Head of Legal & Democratic Services in circumstances where he/she wishes to have access to documents or information:
- Where to do so is likely to be in breach of the Data Protection Act, or
 - Where the subject matter is one in which he/she has a personal or prejudicial interest as defined in the Members' Code of Conduct.
- 12.7 Any Council information given to a Member must only be used by the Member for the purpose for which it was requested, i.e. in connection with the proper performance
- 12.8 Whilst the term 'Council document' is very broad and includes for example, any document produced with Council resources, it is accepted by convention that a Member of one party group will not have a 'need to know' and therefore a right to inspect a document which forms part of the internal workings of another party group.
- 12.9 Members and officers must not disclose information given to them in confidence without the consent of a person authorised to give it, or unless required by law to do so. When requested to do so, officers will keep confidential from other Members advice requested by a Member.
- 12.10 Further and more detailed advice regarding Members' rights to inspect Council documents may be obtained from the Head of Legal & Democratic Services.

Media Relations

- 13.1 Local authorities are accountable to their electorate. Accountability requires local understanding. This will be promoted by the Authority, explaining its objectives and policies to the electors and rate-payers. In recent years, all local authorities have increasingly used publicity to keep the public informed and to encourage public participation. Every Council needs to tell the public about the services it provides. Increasingly, local authorities see this task as an essential part of providing services. Good effective publicity aimed to improve public awareness of a Council's activities is, in the words of the Government, to be welcomed.
- 13.2 Publicity is, however, a sensitive matter in any political environment because of the impact it can have. Expenditure on publicity can be significant. It is essential, therefore, to ensure that local authority decisions on publicity are properly made in accordance with clear principles of good practice. The Government has issued a Code of Recommended Practice on Local Authority Publicity. The purpose of the Code is to set out such principles. The Code affects the conventions that should apply to all publicity at public expense and which traditionally have applied in both central and local government. The Code is issued under the provisions of the Local Government Act 1986 as amended by the Local Government Act 1988 which provides for the Secretary of State to issue Codes of Recommended Practice as regards the content,

style, distribution and cost of local authority publicity, and such other matters as he/she thinks appropriate. That section requires that all local authorities shall have regard to the provisions of any such Code in coming to any decision on publicity. The following is extracted from the Code:-

“The period between the notice of election and the election itself should preclude proactive publicity in all its forms of candidates and other politicians involved directly in the election. Publicity should not deal with controversial issues or report views, proposals or recommendations in such a way that identifies them with individual members or groups of members. However, it is acceptable for the authority to respond in appropriate circumstances to events and legitimate service enquiries provided that their answers are factual and not party political. Members holding key political or civic positions should be able to comment in an emergency or where there is a genuine need for a member level response to an important event outside the authority’s control. Proactive events arranged in this period should not involve members likely to be standing for election.”

- 13.3 All formal relations with the media therefore must be conducted in accordance with the Council’s agreed procedures, with the law on local authority publicity, and with the Government’s Code of Recommended Practice on Local Authority Publicity.
- 13.4 Press releases or statements made by officers must promote or give information on Council policy or services. They will be factual and consistent with Council policy. They must not be used to promote a party group.
- 13.5 Officers will keep relevant Members informed of media interest in the Council’s activities, especially regarding strategic or contentious matters. Likewise officers will inform the Council’s Press Officer of issues likely to be of media interest, since that unit is often the media’s first point of contact.
- 13.6 If any Member is contacted by, or contacts the media, on an issue, he/she should
- Indicate in what capacity he/she is speaking (e.g. as Portfolio Holder, as Ward Member, on behalf of the Council, or on behalf of a party group)
 - If necessary (and always when he/she would like a press release to be issued), seek assistance from the Council’s Press Officer and/or relevant senior officer, except in relation to a statement which is party political in nature, in which case the statement should not be issued under the Council’s name
 - Consider the likely consequences for the Council of his/her statement (e.g. commitment to a particular course of action, image, allegations of jumping to conclusions or pre-determining a decision)
 - Never give a commitment in relation to matters which may be subject to claims from third parties and/or are likely to be an insurance matter
 - Consider whether to consult other relevant Members

- Take particular care in what he/she says in the run up to local or national elections (i.e. from the date on which Notice of Election is issued) to avoid giving the impression of electioneering, unless he/she has been contacted as an election candidate or as a political party activist

Correspondence

- 14.1 Correspondence between an individual Member and an Officer should not normally be copied (by the Officer) to any other Member. Where exceptionally it is necessary to copy the correspondence to another Member, this should be made clear to the original Member. In other words, a system of 'silent copies' should not be employed.
- 14.2 Official letters on behalf of the Council should normally be sent in the name of the appropriate Officer, rather than in the name of a Member. It may be appropriate in certain limited circumstances (e.g. representations to a Government Minister) for a letter to appear in the name of a Cabinet Member or the Leader, but this should be the exception rather than the norm. Letters which, for example, create legal obligations or give instructions on behalf of the Council should never be sent out in the name of a Member, Executive or otherwise. The Chairman of the Council may initiate correspondence in his/her own name.
- 14.3 When writing in an individual capacity as a ward Member, a Member must make clear that fact.

Access to Premises

- 15.1 Officers have the right to enter Council land and premises to carry out their work. Some officers have the legal power to enter property in the ownership of others.
- 15.2 Members have a right of access to Council land and premises to fulfil their duties. When making visits as individual Members, Members should
- Except in the case of visiting The Council House, and wherever practicable, notify and make advance arrangements with the appropriate manager or officer in charge;
 - Comply with health and safety, security and other workplace rules;
 - Not interfere with the services or activities being provided at the time of the visit.

Use of Council Resources

- 16.1 The Council provides all Members with services such as IT,, printing and photocopying, and goods such as stationery and computer equipment, to assist them in discharging their roles as Members of the Council. These goods and

services are paid for from the public purse. They should not be used for private purposes or in connection with party political or campaigning activities.

- 16.2 Members should ensure that they understand and comply with the Council's own rules about the use of such resources, particularly
- Where facilities are provided in Members' homes at the Council's expense
 - In relation to locally-agreed arrangements, e.g. payment for private photocopying; and
 - Regarding ICT security
- 16.3 Members should not put pressure on staff to provide resources or support which officers are not permitted to give. Examples include::
- Business which is solely to do with a political party
 - Work in connection with a ward or constituency party political meeting
 - Electioneering
 - Work associated with an event attended by a Member in a capacity other than as a member of the Council
 - Work in connection with another body or organisation where a Member's involvement is other than as a Member of the Council
 - Support to a Member in his her capacity as a councillor of another authority

Interpretation, complaints and allegations of breaches

- 17.1 This part of the protocol should be read in conjunction with the Council's Confidential Reporting Code.
- 17.2 Members or officers with questions about the implementation or interpretation of any part of this protocol should seek the guidance of the Monitoring Officer.
- 17.3 A Member who is unhappy about the actions taken by or conduct of an officer should:
- Avoid personal attacks on or abuse of the officer at all times
 - Ensure that any criticism is well-founded and constructive
 - Never make a criticism in public, and
 - Take up the concern with the officer privately.
- 17.4 If direct discussion with the officer is inappropriate (e.g. because of the seriousness of the concern) or fails to resolve the matter, the Member should raise the issue with the officer's manager or the relevant senior officer.
- 17.5 A serious breach of this protocol by an officer may lead to an investigation under the Council's disciplinary procedure. Members may not themselves undertake investigations under the Council's disciplinary procedure and such investigations must be undertaken solely by the Head of Paid Service or other officer acting under his/her direction.

17.6 An officer who believes a Member may have acted other than in accordance with this protocol or the Members` Code of Conduct should raise his/her concerns with the Monitoring Officer, who will consider how the complaint or allegation should be handled. At a minor level, this may be no more than informally referring the matter to the leader of the relevant party group, but more serious complaints may be referred to the Standards Board for England.

Conclusion

18.1 Mutual understanding, openness on these sort of sensitive issues, and basic respect for each other are the greatest safeguard of the integrity of the Council, its Members and Officers.

18.2 This Protocol was first adopted by the Council as part of the Constitution on 5th July 2005 and revised in September 2006..

18.3 Copies of the Protocol will be issued to all Members as part of the Constitution upon election.

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BROMSGROVE DISTRICT COUNCIL

STANDARDS COMMITTEE

11TH DECEMBER 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
Non-Key Decision	

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 alleged 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 Standard Committee agendas.
- 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 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
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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
Head of Organisational Development & HR	No
Corporate Procurement Team	No

13. WARDS AFFECTED

All Wards

14. APPENDICES

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 should be removed from the Work Programme are denoted by a strikethrough, with any new additions appearing in bold italics.]

Meeting date	Item for consideration
5th February 2009	<ul style="list-style-type: none">• Calendar of meetings - 2009/2010.• Review of the effectiveness of the Code of Practice - Planning Services.• Ombudsman Complaint Statistics - six month update (for period ending 31st September 2008).• Training programme for parish councils.
2nd April 2009	<ul style="list-style-type: none">• Review of Member training - ethical framework elements.
<p>Note: with effect from the 2009/10 Municipal Year meetings of the Standards Committee will take place on Wednesday evenings. The Calendar of Meetings for 2009/10 is to be considered by the Cabinet on 7th January 2009 and the Committee will be notified of the confirmed 2009/10 meeting dates at its meeting on 5th February 2009.</p>	
May 2009 (date to be agreed)	<ul style="list-style-type: none">• Second Annual Report of the Standards Committee - 2008/09.• Review of operation/effectiveness of the Members' Code of Conduct.• 12 month review of the local assessment process, operation of the Committee and training needs of Committee members.
July 2009 (date to be agreed)	<ul style="list-style-type: none">• Annual Ombudsman Complaint Statistics 2008/09 (for period ending 31st March 2009).
September 2009 (date to be agreed)	<ul style="list-style-type: none">• Review of Member Training - ethical framework elements.• Update on training programme for parish councils.
November 2009 (date to be agreed)	<ul style="list-style-type: none">• Review of the Council's protocols on Member-Officer and Member-Member Relations.

January 2010 (date to be agreed)	• Ombudsman Complaint Statistics - six month update (for period ending 31st September 2009).
<p>Note: All meetings of the Committee will include regular items such as:</p> <ul style="list-style-type: none">• Minutes of previous meeting;• Monitoring Officer's Report; and• Parish Councils' Representatives' Report.	