



BROMSGROVE DISTRICT COUNCIL

MEETING OF THE STANDARDS COMMITTEE

TUESDAY 31ST MARCH 2009 AT 4.00 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: Ms. S. Malek (Non-voting Deputy Parish Councils' Representative)

AGENDA

1. To receive apologies for absence and notification of substitutes
2. Declarations of Interest
3. To confirm the accuracy of the minutes of the meeting of the Standards Committee held on 11th December 2008 (Pages 1 - 6)
4. Standards Board for England Final report on Alleged Breaches of Parish and District Codes of Conduct (Pages 7 - 12)

[To note the final report of the Standards Board for England's Ethical Standards Officer in relation to an allegation against a District/Parish Councillor.]

5. Monitoring Officer's Report (Pages 13 - 20)

[To receive a report from the Monitoring Officer on matters of relevance to the Committee.]

6. Parish Councils' Representatives' Report
[To receive an oral update from the Parish Councils' Representatives on any matters of relevance to the Committee.]
7. Training Programme for Parish Councils (Pages 21 - 26)
[To consider a report on the establishment of a training programme for the Parish Councils on ethical Governance issues.]
8. Terms of Office of Parish Councils' Representatives on the Standards Committee (Pages 27 - 32)
[To consider proposals to extend the current terms of office of the Parish Councils' Representatives on the Standards Committee.]
9. Review of Local Assessment and Determination of Complaints (Pages 33 - 40)
[To consider a report on a review of the local assessment and determination of complaints process.]
10. Ombudsman Statistics (Pages 41 - 44)
[To consider a six month update on Ombudsman statistics.]
11. Review of Protocol on Relations between Members (Pages 45 - 54)
[To consider a report on a review of the protocol on Relations between Members.]
12. Review of Member-Officer Protocol (Pages 55 - 80)
[To consider a report on a review of the Member-Officer Protocol.]
13. Planning Services Code of Practice (Pages 81 - 94)
[To consider a report on a review of the Planning Services Code of Practice.]
14. Calendar of Meetings - 2009/10 (Pages 95 - 98)
[To receive a report detailing the Calendar of Meetings for the Committee for the 2009/10 Municipal Year.]
15. Work Programme (Pages 99 - 104)
[To consider the future Work Programme of the Committee.]

16. 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 of the Committee
17. To consider, and if considered appropriate, to pass the following resolution to exclude the public from the meeting during the consideration of items of business containing exempt information:-

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

| <u>Item No.</u> | <u>Paragraph(s)</u> |
|-----------------|---------------------|
| 18 | 1, 2, 3 & 7A |
| 19 | 7A" |

18. Standards Board for England Final Report on Alleged Breaches of Parish and District Council Codes of Conduct (Pages 105 - 118)

[To note the Final Report of the Standards Board for England's Ethical Standards Officer in relation to an allegation against a District/Parish Councillor.]

19. Monitoring Officer's Confidential Report (Pages 119 - 132)

[To consider a confidential report of the Monitoring Officer.]

K. DICKS
Chief Executive

The Council House
Burcot Lane
BROMSGROVE
Worcestershire
B60 1AA

20th March 2009

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BROMSGROVE DISTRICT COUNCIL

MEETING OF THE STANDARDS COMMITTEE

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

PRESENT: 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

Observers: Councillor S. R. Peters

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

41/08 WELCOME OF NEW INDEPENDENT MEMBER

The Chairman welcomed Ms. D. Roberts, new Independent Member, to the Committee. Ms. Roberts had, on 12th November 2008, been appointed by the Council to serve as an Independent Member on the Committee for a four-year term of office.

42/08 APOLOGIES FOR ABSENCE

No apologies for absence were received from any members of the Committee.

An apology was received from Mr. S. Malek, non-voting Deputy Parish Councils' Representative on the Committee and Committee observer.

43/08 DECLARATIONS OF INTEREST

No declarations of interest were received.

44/08 MINUTES

The minutes of the meetings of the Standards Committee held on 26th September 2008 and 16th October 2008 were submitted.

RESOLVED that the minutes be approved as correct records.

45/08 COUNCIL DECISIONS ON STANDARDS COMMITTEE MATTERS

A report advising of the decisions made by the Council in relation to: the appointment of an Independent Member to the Standards Committee; the Council's Confidential Reporting Code; and 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" was submitted.

RESOLVED that the report be noted.

46/08 **MONITORING OFFICER'S REPORT**

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

Member Investigations and Associated Matters

Officers advised that a draft report detailing the Investigating Officer's findings in relation to two linked complaints against a district councillor had been received from the Standards Board for England ("SBE"). The SBE had sent a copy of the report to the subject Member, complainant and Monitoring Officer, all of whom had until 22nd December 2008 by which to submit comments on this. Once the final report had been received a date would be set for the Committee to consider the findings.

Member Training

It was reported that the Cabinet Procedure Rules training which had been due to take place the previous evening had had to be postponed and that this would now take place at a later date. Officers would also shortly be making the necessary arrangements for the Chairmanship Skills training for the Standards Committee's Independent Members to take place, which was to be conducted by the Monitoring Officer early in the New Year.

Issues Arising from Standards Committee training

(i) SBE Guide to the Code of Conduct

Emphasis was being placed by officers on the importance of Members completing and keeping up to date their Register of Interests forms, with workshop style sessions on this having also taken place with the parish councils.

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

Officers advised that a new local performance indicator would be coming into effect in the Spring of 2009 which would look at the percentage of people who were aware of the elected Member complaints system. As such, further emphasis would be placed on this and the role of the Committee in the New Year.

It was the majority view that the name of the Committee did not need to change, but that it was important to raise public awareness of the role of the Committee and to ensure that any associated publicity reinforce the fact that the Committee was responsible for the conduct of both parish and district councillors.

(iii) Chairing of Standards Sub-Committees

The Committee felt that whilst it would be preferable to have separate chairmen in place for meetings of an Assessment Sub-Committee and Final Determination Sub-Committee which were looking into the same matter, should the logistics of this prove to be difficult then the same chairman could chair both meetings as the chairman of the Assessment Sub-Committee should not, in any way, have compromised themselves given the nature of the initial assessment process.

(iv) Redditch Borough Council's Standards Committee

It was noted at the Standards training on 3rd November 2008 that Redditch Borough Council's Standards Committee had not, at that stage, dealt with any complaints against councillors under local assessment. In view of this, together with changes which had been brought about by the Standards Committee (England) Regulations 2008 which meant that an independent member of one standards committee could also sit on another standards committee, it was suggested that officers explore any opportunities which might exist for members of the Redditch Standards Committee to gain experience in the local assessment process.

(v) Training - Parish Councils

Mr. Cypher provided an update on the consideration given by the Bromsgrove Area Committee of the Worcestershire County Association of Local Councils ("CALC") to a proposed training programme for parish councils. It was noted that the proposal by Bromsgrove District Council to establish a training programme on ethical governance issues had been well received by the parish councils and that the items of particular interest were: personal and prejudicial interests - including the Members' Register of Interests, dual hatted Members and pre-determination and bias.

(vi) Terms of Office of Parish Council's Representatives on the Standards Committee

Officers confirmed that a report on the terms of office of the Parish Councils' Representatives on the Standards Committee would be considered by the Bromsgrove Area Committee of the Worcestershire CALC at its meeting in March 2009 and by the Standards Committee on 2nd April 2009.

(vii) West Mercia Forum of Independent Members

It was noted that Peter Rowland, Convenor of the West Mercia Forum of Independent Members ("the Forum"), had advised officers of the uncertain future, after February 2009, of the Forum. Mr Rowland had unfortunately not managed to secure a seat on the Standards

Committee of the new Shropshire unitary authority which would be coming into force in May 2009, and it was not known at this stage whether anybody else would take over the role.

RESOLVED:

- (a) that the report be noted;
- (b) that any action points detailed in the preamble above be acted upon and reported back to the Committee as appropriate; and
- (c) that whilst it was preferable for separate chairmen to chair meetings of the Standards Assessment Sub-Committee and Standards Final Determination Sub-Committee which were dealing with the same issue, should the logistics of this prove to be difficult then the same chairman could chair both meetings.

47/08 **PARISH COUNCILS' REPRESENTATIVES' REPORT**

Mr. Cypher advised the Committee of issues which he had raised at the last meeting of the Bromsgrove Area Committee of the Worcestershire CALC, which included:

- the Standards training which had taken place at the Council House on 3rd November 2008, which had been well received by all parties in attendance;
- the offer from Bromsgrove District Council to parish councils of establishing a training programme on ethical governance issues; and
- the report to be considered by the Bromsgrove Area Committee in March 2009 on the terms of office of the Parish Councils' Representatives on the Standards Committee.

RESOLVED that the position be noted.

48/08 **REVIEW OF PROTOCOL ON RELATIONS BETWEEN MEMBERS**

The Committee considered a report on how best to conduct a review of the Council's local Protocol on Relations between Members ("the Protocol").

There was felt to be insufficient detail contained in the report for the Committee to decide how best to undertake such a review and it was requested that a further report on this be submitted to the next meeting of the Committee. In particular, information as to the general types of issues which had arisen between Members and for which the Protocol had recently been relied upon was sought. The Committee also queried whether the Protocol had been superseded by the new Code of Conduct for Members and it was requested that views on this be sought from both the political Group Leaders and officers and that any feedback be detailed in the report.

RESOLVED that a further report on the review of the Protocol, in the terms outlined in the preamble above, be submitted to the next meeting of the Standards Committee.

49/08 **REVIEW OF MEMBER-OFFICER PROTOCOL**

The Committee considered a report on how best to conduct a review of the Council's Member-Officer Protocol ("the Protocol").

There was felt to be insufficient detail contained in the report for the Committee to decide how best to undertake such a review and it was requested that a further report on this be submitted to the next meeting of the Committee. In particular, it was noted that there was no reference in the Protocol to the Members' Code of Conduct and that there was employment legislation which might impact on this. It was requested that views on these points be sought from both the political Group Leaders and officers and that any feedback be detailed in the report. It was further requested that the report set out the position in relation to any impact on the Protocol of the consultation which was currently being undertaken by the Department of Communities and Local Government on a proposed new Code of Conduct for local government employees.

RESOLVED that a further report on the review of the Protocol, in the terms outlined in the preamble above, be submitted to the next meeting of the Standards Committee.

50/08 **WORK PROGRAMME**

Consideration was given to the Committee's Work Programme.

RESOLVED that the Work Programme be approved.

The meeting closed at 6.50 p.m.

Chairman

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BROMSGROVE DISTRICT COUNCIL

STANDARDS COMMITTEE

31ST MARCH 2009

STANDARDS BOARD FOR ENGLAND FINAL REPORT ON ALLEGED BREACHES OF THE ALVECHURCH PARISH COUNCIL AND BROMSGROVE DISTRICT COUNCIL CODES OF CONDUCT – CASE REFERENCES: SBE-01519-KTS3N & SBE-01797-JVTCP

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

1. SUMMARY

On 15th July 2008 the Standards Assessment Sub-Committee considered an allegation that Councillor Roger Hollingworth ("the Subject Member") had breached the Code of Conduct of both Alvechurch Parish Council and Bromsgrove District Council. The Assessment Sub-Committee determined that the allegations should be referred to the Standards Board for England for investigation. The Standards Board has now investigated the matter and the final report of the Ethical Standards Officer is being referred to the Standards Committee for information.

2. RECOMMENDATION

That the final report of the Standards Board for England's Ethical Standards Officer in relation to the outcome of the investigation into the allegations against Councillor Hollingworth be noted.

3. BACKGROUND

- 3.1 Following a referral from the Standards Assessment Sub-Committee, the Standards Board for England has conducted, under section 59 of the Local Government Act 2000, an investigation into an allegation that Councillor Roger Hollingworth had breached the Code of Conduct of both Alvechurch Parish Council and Bromsgrove District Council.
- 3.2 The finding of the Standards Board's Ethical Standards Officer is that there is no evidence of any failure by the Subject Member to comply with the Codes of Conduct in question.
- 3.3 A copy of the Ethical Standards Officer's final report can be found at agenda item 16. This report is confidential in accordance with paragraphs 1, 2, 3 and 7A of Schedule 12A of the Local Government Act 1972 as it contains information which relates to an individual, is likely to reveal the identity of an

individual, relates to the business affairs of particular persons and of the relevant authority and is subject to an obligation of confidentiality. Section 63 of the Local Government Act 2000 prohibits the disclosure of information gathered during an ethical standards officer's investigation, save for in certain circumstances. The Ethical Standards Officer responsible for the report has stated that the report should not be disclosed outside of the Standards Committee.

- 3.4 The report is for noting only as the Standards Committee has no powers to investigate or make its own findings on the case. The report is also being brought to the Committee in order to assist the Committee in the discharge of its functions under section 54 of Part III of the Local Government Act 2000, as amended by the Local Government Public Involvement in Health Act 2007, in particular "promoting and maintaining high standards of conduct by members" and "advising, training or arranging to train members.....on matters relating to the authority's code of conduct".
- 3.5 A copy of the Standards Board's case summary of the Ethical Standards Officer's final report, which has been published on the organisations website and which may therefore be disclosed, is appended to this report.
- 3.6 In cases where there is a finding of no breach the Subject Member has the choice of whether a notice detailing the Standards Board's findings appears in the local press.

4. FINANCIAL IMPLICATIONS

None

5. LEGAL IMPLICATIONS

The Local Government Act 2000 introduced primary legislation which set out the basis for the implementation of a Members' Code of Conduct. 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

Improvement – it is vital for the reputation and credibility of the Council that complaints against elected Members are seen to be robustly investigated.

7. RISK MANAGEMENT

The main risk associated with the details included in this report is loss of reputation. This risk is being managed as follows:

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

8. CUSTOMER IMPLICATIONS

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 | Adherence to the Code of Conduct is a key element of sound governance |
| 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 |
| Corporate Director (Services) | No |

| | |
|---|-----|
| Assistant Chief Executive | No |
| Head of Service | No |
| 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 Board's public summary of Ethical Standards Officer's final report.

15. BACKGROUND PAPERS

- 15th July 2008 Standards Assessment Sub-Committee papers (confidential).
- 15th July 2008 Standards Assessment Sub-Committee Decision Notice (public).

CONTACT OFFICER

Name: Claire Felton, Monitoring Officer
 Email: c.felton@bromsgrove.gov.uk
 Tel: (01527) 881429



Bromsgrove District Council and Alvechurch Parish Council

Case no. SBE 01519-KT3SN and SBE 01797-JVTCP
Member: Councillor Roger Hollingsworth
Authority: Bromsgrove District Council and Alvechurch Parish Council
Date received: 22 Jul 2008
Date completed: 22 Dec 2008

Allegation:

The member brought his office or authority into disrepute, prevented someone from accessing information and improperly secured an advantage or disadvantage.

Standards Board outcome:

The ethical standards officer found no evidence of a breach of the Code of Conduct.

The complainant, a member of Alvechurch Parish Council, alleged that Councillor Roger Hollingsworth, leader of Bromsgrove District Council and also a member of Alvechurch Parish Council, brought his office or authority into disrepute, prevented the town clerk from accessing information to which he was entitled and used his position as a district councillor to another's disadvantage.

It was alleged that Councillor Hollingsworth urged the Alvechurch Parish Council at their meeting on 12 May 2008 to apply for planning permission to change the use of the Rowney Green sports pavilion, and said that failing this, he would report the matter to the district council's planning enforcement section.

It was further alleged that Councillor Hollingsworth was party to the parish council's decision that the clerk should ask the district council's planning officer whether a change of use was necessary. The complainant stated that Councillor Hollingsworth, as leader of the district council, used his position improperly by instructing the planning officer not to return the clerk's calls and referring the matter to the enforcement officer instead.

The ethical standards officer took the view that Councillor Hollingsworth had changed his mind following the parish council meeting and requested that the district council's planning section decide whether enforcement action was required in respect of the pavilion. He did not do this in any improper way and acted in accordance with council procedures. Councillor Hollingsworth informed the clerk of the situation and the enforcement officer then contacted the clerk and decided after investigating that planning permission was not necessary.

The ethical standards officer found no evidence of any failure to comply with the Code of Conduct.

Relevant paragraphs of the Code of Conduct

The allegations in this case relate to paragraphs 4(b), 5, and 6(a) of the Code of Conduct.

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BROMSGROVE DISTRICT COUNCIL

STANDARDS COMMITTEE

31ST MARCH 2009

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 on orally at the meeting.

2. RECOMMENDATION

Members are requested to note the report and to comment on any aspects of this as appropriate.

3. BACKGROUND

Member Investigations and Associated Matters

- 3.1 The Final Reports of the Standards Board for England's Ethical Standards Officer in relation to 2 of the 4 complaints referred to the Standards Board have now been received. The Ethical Standards Officer has found no evidence of any failure by the Subject Member to comply with either the parish or district council Code of Conduct. A separate report, which includes a copy of the Standards Board's public case summary in relation to the complaints, can be found at agenda item 4. An exempt report appears at agenda item 18.
- 3.2 The Ethical Standards Officer's Final Reports in relation to the remaining 2 complaints are expected shortly.

Complaints for Local Assessment

- 3.3 Since the last meeting of the Standards Committee 6 complaints have been received, 5 of which relate to 4 separate district councillors and 1 to a parish councillor.
- 3.4 All 6 complaints have been assessed by the Standards Assessment Sub-Committee. The 5 complaints against district councillors resulted in no further action being taken, with the complaint against a parish councillor having been referred to the Monitoring Officer for local investigation. The

period within which the complainants may seek a review of the decisions not to take any further action has now passed and no requests for review have been received.

- 3.5 A table showing the cumulative totals for local assessment at the time of preparation of this report is appended.

New Local Performance Indicator – public awareness of the Member complaints system

- 3.6 As advised by officers at the last meeting, a new local performance indicator is to be introduced which will look at the percentage of people who are aware of the elected Member complaints system. The issue as to whether the current publicity given to the complaints process is sufficient is one of the items which has been identified for consideration as part of the review of local assessment and determinations of complaints at agenda item 9.

Member Training

- 3.7 Members are advised of the following training matters:
- (i) training for Cabinet members on the Cabinet Procedure Rules which was originally planned for December 2008 had to be postponed due to the fact that the Head of Service for Legal, Equalities and Democratic Services was unwell. Owing to diary commitments this will now take place in the new municipal year. Consequentially, the further planned session on the Full Council Procedure Rules has also been moved back to the new municipal year;
 - (ii) all Members have now received the required Code of Conduct, equality and diversity and scrutiny training;
 - (iii) any required training on the new Code of Conduct, which it is expected will be introduced with effect from 1st June 2009, will take place once the new Code has been published and accompanying guidance distributed;
 - (iv) following the general Chairmanship Skills training which took place for elected Members and Parish Council Chairmen on 26th November 2008, Chairmanship Skills training specifically tailored to the needs of the Independent Members on the Standards Committee was held on 2nd March 2009, which was attended by all three Independent Members;
 - (v) a mock Standards Assessment Sub-Committee training session has been arranged for the recently appointed Independent Member, the Vice-Chairman of the Standards Committee and the Deputy Parish Councils' Representative on the Committee and will take place on 11th May 2009;
 - (vi) comprehensive planning training will be taking place early in the new municipal year and will comprise of a number of elements including: probity (conduct, bias and predetermination), national, local and regional policies; a mock Planning Committee meeting; and a mock site visit; and
 - (vii) as part of the Standards Board's guidance on the induction of Independent Members it is recommended that, in addition to training on the Code of Conduct and the functions of standards committees,

inductions also include attendance at authority meetings, such as meetings of the full Council, Planning and Licensing Committees, Cabinet and the Overview and Scrutiny Board meetings. Officers feel that attendance at such meetings, particularly Planning Committee and full Council, would equally be of use to the Standards Committee's Parish Councils' Representatives. Details of all Council meetings are available on the Council's website or on request from the Monitoring Officer.

3.8 Redditch Borough Council's Standards Committee

At the last meeting of the Standards Committee in December 2008, and prompted by the Standards Committee training on 3rd November 2008 - which was attended by representatives of Redditch Borough Council and its Standards Committee and during which it was noted that the Redditch Standards Committee had not dealt with any complaints under local assessment, officers were asked to explore any opportunities which might exist for members of the Redditch Standards Committee to gain experience in the local assessment process.

3.9 In view of the confidentiality issues which surround meetings of both the Standards Assessment Sub-Committee and Standards Review Sub-Committee, it would not be possible for any other parties to either observe or be sent copies of the agenda papers relating to these meetings. However, Sub-Committee Decision Notices are available on request, once the subject Member has been notified of the outcome.

3.10 Depending on the particular nature of a complaint, it might be possible for meetings of either the Standards Final Determination Sub-Committee or the Standards Committee (when noting a Final Report of an investigation conducted by an Ethical Standards Officer of the Standards Board) to be observed. Officers could ensure that members of the Redditch Standards Committee be notified of any such meetings should this be deemed appropriate, but only where meetings are to be held in public. Equally, links to all Bromsgrove Standards Committee agendas could be sent to members of the Redditch Standards Committee for information should they wish to receive these.

3.11 In the event it ever proved necessary to call upon an Independent Member from the Redditch Standards Committee to consider a complaint against a Bromsgrove Member then the Independent Member concerned would, of course, be fully briefed by officers on the local assessment process.

Parish Council matters

3.12 A report on the establishment of a training programme for the parish councils on ethical governance issues appears at agenda item 7.

3.13 A report on the terms of office of the Parish Councils' Representatives on the Standards Committee can be found at agenda item 8.

West Mercia Forum of Independent Members

- 3.14 Various members of the Standards Committee attended the West Mercia Independent Members' Forum meeting which took place on 4th February 2009 and will report back on this orally at the meeting.

4. FINANCIAL IMPLICATIONS

None

5. LEGAL IMPLICATIONS

The Local Government Act 2000 introduced primary legislation which set out the basis for the current ethical governance regime and to enable the implementation of a Members' Code of Conduct. 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

Local Assessment Statistics.

15. BACKGROUND PAPERS

None

CONTACT OFFICERS

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Monitoring Officer
Email: c.felton@bromsgrove.gov.uk
Tel: (01527) 881429

Debbie Warren
Deputy Monitoring Officer
d.warren@bromsgrove.gov.uk
(01527) 881609

Local Assessment Statistics

| Period ¹ | Complaints received | Complaints assessed | Reviews conducted | No further action | Referred for other action | Referred for local investigation | Referred to SBE... | ...and accepted by SBE | SBE outcome | Final determination |
|---------------------|---------------------|------------------------|-------------------|-------------------|---------------------------|----------------------------------|--------------------|------------------------|-------------|---------------------|
| Total | 15 | 15 ² | 0 | 9 | 1 | 1 | 4 | 4 | 2 | 0 |

Note:

ag 1 - The statistics detailed cover the period since the introduction of local assessment in May 2008 to 19th March 2009.

Q2 - In 1 case the Monitoring Officer's discretion under Regulation 16(1)(a)(ii) of the Standards Committee (England) Regulations 2008 was used to refer the matter back to the Assessment Sub-Committee for reconsideration.

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BROMSGROVE DISTRICT COUNCIL

STANDARDS COMMITTEE

31ST MARCH 2009

TRAINING PROGRAMME FOR PARISH COUNCILS

| | |
|------------------------------|---|
| 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

- 1.1 At the meeting of the Standards Committee which took place on 16th October 2008 the Committee was asked to consider the issue of developing a training programme for the parish councils on ethical governance issues. It was agreed that officers should liaise with the parish councils, via both the Bromsgrove Area Committee of the Worcestershire County Association of Local Councils ("CALC") and the Parish Councils' Forum, on the development of such a training programme.
- 1.2 Officers have now carried out the required consultation for this and the Committee is therefore asked to approve the proposal for the establishment of an ethical governance training programme for the parish councils.

2. RECOMMENDATION

It is recommended:

- 2.1 that the Committee approve the proposal for the establishment of an ethical governance training programme for the parish councils;
- 2.2 that the Monitoring Officer be charged with formulating such a training programme, based on the wishes of the parish councils and in accordance with the general terms outlined in this report, together with any additional recommendations put forward by the Standards Committee;
- 2.3 that details of the final training programme be referred to the Standards Committee for information; and
- 2.4 that authority be delegated to the Monitoring Officer, in consultation with the Chairman of the Standards Committee, to make any necessary changes to the training programme in the light of any significant changes to the Members' Code of Conduct and/or new guidance/legislation issued in relation to ethical governance.

3. **BACKGROUND**

- 3.1 As part of its statutory duty the Standards Committee, via the District Council's Monitoring Officer, is responsible for promoting and maintaining high standards by Members (both district and parish) and co-opted Members of the authority. The Committee also assists Members and co-opted Members in observing the Members' Code of Conduct. In carrying out these functions the Standards Committee ensures that Members are appropriately trained on the Members' Code of Conduct and associated ethical governance issues.
- 3.2 In addition to inviting parish council representatives to relevant training sessions at the Council House, some of which have been conducted as part of the District Council's Modern Councillor Programme, the Monitoring Officer and Deputy Monitoring Officer have, when requested, held workshop sessions at parish councils on the Code of Conduct and declaring interests.
- 3.3 In order to build upon the training which has taken place to date, the Standards Committee is asked to consider developing a training programme for parish councils on ethical governance issues. Any training conducted as part of the District Council's training programme would be in addition to, and complement, training which is run for the parish councils by either the National Association of Local Councils ("NALC") or the Worcestershire CALC. Representatives of the parish councils will also continue to be invited to any relevant courses which are being run as part of the District Council's Modern Councillor Programme. Officers have been advised that the Worcestershire CALC intends to establish a 'Worcestershire Training Partnership' to allow relevant potential training providers within the county to meet to discuss training issues. Worcestershire CALC has not yet set its training programme for 2009, so any training dates set by the District Council will not conflict with CALC.
- 3.4 At its meeting on 3rd December 2008 the Bromsgrove Area Committee of the Worcestershire CALC considered the District Council's proposal to establish a training programme for the parish councils and general enthusiasm was expressed by the parish councils for this. The Area Committee felt that training should take place within the parishes, in clusters of three or four parishes at a time, and that a programme of visits should be established in order that parish councillors who missed their local sessions could attend a separate session elsewhere. The areas which were deemed to be of particular interest/relevance for training were as follows:
- personal and prejudicial interests – including the Register of Members' Interests;
 - 'dual-hatted' Members (those who serve on more than one relevant authority and other public bodies); and
 - bias and predetermination.

- 3.5 A report detailing the views of the Bromsgrove Area Committee of the Worcestershire CALC was considered by the Parish Councils' Forum on 6th January 2009. The Forum agreed with the views expressed by the Area Committee. A request was made at the Forum for training to be provided on a planning related issue, which the Deputy Monitoring Officer advised could be looked at separately, but which would not form part of the ethical governance training programme.
- 3.6 In addition to the topics listed under paragraph 3.4, the Committee is asked to consider whether there are any further areas of training which should be included in the training programme. A general overview of the Code of Conduct, particularly in light of proposed changes to this, would be included in the training sessions. Further training might also include:
- complaints against parish councillors; and
 - equality and diversity.
- 3.7 As well as conducting training sessions for the parish councils, the Monitoring Officer and Deputy Monitoring Officer will continue to work closely with the parish councils on ethical governance issues generally and to provide guidance and support when requested.
- 3.8 As there are 20 parish councils within the district it is suggested that for training session purposes these be divided into North, South, East and West regions, with the Monitoring Officer to determine the final geographical splits for these. Depending on the number of agreed areas of required training, consideration will need to be given as to the frequency of training sessions, bearing in mind that the training will be conducted by the Monitoring Officer and/or Deputy Monitoring. Given that at least four separate sessions will need to be held for each of the subject areas, officers are of the view that it would be appropriate for all four sessions to be held consecutively over a period of approximately 6 to 8 weeks and to then move onto a separate subject area once all sessions for a particular subject have been completed. In addition to ensuring that all parishes will be receiving similar training in close proximity, this will also assist officers in the delivery of training as they will be able to focus on one topic at a time. Ideally training sessions will rotate between different parish councils within a particular region, although this will depend on the availability of venues.

4. FINANCIAL IMPLICATIONS

As it is anticipated that any training will be conducted by either the Monitoring Officer or Deputy Monitoring Officer, and that training will take place at parish council venues, there are no financial implications associated with this report, save for officer time in preparing for and delivering the training.

5. LEGAL IMPLICATIONS

Sections 63-56 of Part III of the Local Government Act 2000 set out the requirements for standards committees. Section 50 of the said Act also introduced primary legislation to enable the implementation of a Members' Code of Conduct.

6. COUNCIL OBJECTIVES

This report is linked to Council objective 2 – Improvement.

7. RISK MANAGEMENT

7.1 The main risk associated with the details included in this report is:

- the risk of complaints about elected Members.

7.2 This risk is being managed as follows:

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

8. CUSTOMER IMPLICATIONS

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

None

15. BACKGROUND PAPERS

None

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BROMSGROVE DISTRICT COUNCIL

STANDARDS COMMITTEE

31ST MARCH 2009

TERMS OF OFFICE OF PARISH COUNCILS' REPRESENTATIVES ON THE STANDARDS COMMITTEE

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

1. SUMMARY

- 1.1 This report seeks the views of the Standards Committee on proposals to extend, for the 2009 appointments, the current terms of office of the Parish Councils' Representatives (which includes the Deputy Parish Councils' Representative) on the Committee, and for a further review of the terms of office of the parish representatives to take place in 2011, in line with the next round of Parish Council elections.
- 1.2 The Bromsgrove Area Committee of the Worcestershire County Association of Local Councils ("CALC") has considered and supports the proposals.

2. RECOMMENDATION

That Members recommend to full Council:

- 2.1 that the terms of office of the Parish Councils' Representatives on the Standards Committee for 2009 be extended from one year to two years; and
- 2.2 that a further review of the terms of office of the parish representatives be undertaken in 2011, following the next round of Parish Council elections.

3. BACKGROUND

- 3.1 The District Council's Standards Committee comprises: three Independent Members; three Members of the authority (district councillors); two Parish Councils' Representatives; and a (non-voting) Deputy Parish Councils' Representative (who acts, when required, as a substitute for the Parish Councils' Representatives).
- 3.2 Historically, the Council has appointed parish representatives on the Standards Committee for a one year term of office. The term of office of the Committee's Independent Members is four years, with Independent

Members being permitted to serve a maximum two terms of office. District councillor appointments are made annually and there are no restrictions as to the length of time a district councillor may serve on the Committee.

- 3.3 Nominations for the Parish Councils' Representatives on the Standards Committee are considered by the Bromsgrove Area Committee of the Worcestershire CALC in June of each year and formal appointments are made by full Council in July.
- 3.4 Following the introduction, in May 2008, of the local assessment of complaints against parish and district councillors for alleged breaches of their authority's Code of Conduct, a function which transferred from the Standards Board for England to standards committees, the Parish Councils' Representatives have taken on a more significant role on the Standards Committee and have also assisted in the development of the new regime.
- 3.5 In order to equip members of the Standards Committee in carrying out their functions the Council has recently arranged training sessions, which have been conducted by external experts, on the role of standards committees, local assessment and the model Code of Conduct. The training, which has taken place at significant expense to the Council, has been attended by all three current parish representatives. In view of the costs involved, it is not anticipated that training of this nature will take place annually. General training in ethical governance issues will however be conducted by the Monitoring Officer and Deputy Monitoring Officer as and when required.
- 3.6 The Parish Councils' Representatives also act as a link between the Standards Committee and the Bromsgrove Area Committee of the Worcestershire CALC. Regular items appear on the agendas of both Committees to enable information to be passed on to the parish councils and to enable the parish councils to feed back information to the Standards Committee. Any extension to the current terms of office of the parish representatives would assist with the continuity of this link.
- 3.7 A lengthier term of office for the Parish Councils' Representatives might also be beneficial as it would ensure that the experience gained by parish representatives is both retained and built upon over a more realistic and relevant period of time. As such, it is suggested that the terms of office of the parish representatives for the July 2009 appointments might be extended to two years, thus taking appointments through to 2011, when the next round of parish council elections will take place.
- 3.8 If agreed, it is proposed that a further review of the terms of office of the parish representatives take place in 2011, following the parish council elections. Such a review might include, for example, looking at the possibility of four year terms of office, which would give parity to parish council and Independent Member appointments.

- 3.9 At its meeting on 4th March 2009 the Bromsgrove Area Committee of the Worcestershire CALC considered the proposals on the terms of office of the Parish Councils' Representatives and was in support of these. Any recommendations from the Standards Committee will be referred to full Council on 29th April 2009 for final decision. This timetable will allow clarity on the position prior to the Bromsgrove Area Committee's consideration, in June, of the 2009 nominations.

4. FINANCIAL IMPLICATIONS

The Council's Constitution requires all members of Council committees to be trained in that committee's subject area. Any extension to the current one year term of office of the Parish Councils' Representatives on the Standards Committee would reduce the frequency of training for parish representatives, which would see savings in both officer time and training costs.

5. LEGAL IMPLICATIONS

The Local Government Act 2000 provides that the Secretary of State may, by regulations, make provision as to the size and composition of standards committees of relevant authorities in England. The Standards Committee (England) Regulations 2008 require that where an authority is a responsible authority, it must ensure that at least two members of the standards committee are members of parish councils for which it is responsible, who are not also members of the responsible authority. The Regulations also state that, subject to having regard to any relevant guidance issued by the Standards Board in making an appointment, an authority may adopt such procedures as it thinks fit for the appointment to the standards committee of members of parish councils.

6. COUNCIL OBJECTIVES

This report is linked to Council objective 2 - Improvement.

7. RISK MANAGEMENT

There are no significant 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 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

None

15. BACKGROUND PAPERS

None

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BROMSGROVE DISTRICT COUNCIL

STANDARDS COMMITTEE

31ST MARCH 2009

REVIEW OF LOCAL ASSESSMENT AND DETERMINATION OF COMPLAINTS

| | |
|------------------------------|------------------------|
| Responsible Portfolio Holder | Councillor Roger Smith |
| Responsible Head of Service | Claire Felton |

1. SUMMARY

- 1.1 Local assessment of complaints was introduced in May 2008 and the Standards Committee adopted processes and procedures for a trial period of 12 months. This report suggests a process and timetable for review and a list of suggested issues for consideration.

2. RECOMMENDATION

- 2.1 That the Committee scopes the extent and timetable of the review of the local assessment and determination of complaints process.
- 2.2 That the Committee decides on the extent of any consultation required.

3. BACKGROUND

- 3.1 New legislation which came into force last year introduced local assessment of complaints against councillors and new regulations revised the process for determination of complaints. The Standards Committee, in consultation with the full Council, constituted a number of sub-committees to handle the various stages of the process on the basis that these would be reviewed after 12 months.
- 3.2 In addition, officers have prepared a variety of documentation and guidance for use in the process and it is suggested that this would be an appropriate point at which to review these.
- 3.3 It is suggested that the review is undertaken by the Standards Committee following the conclusion of the 12 month trial period.
- 3.4 A list of the issues which have been identified by members and officers to date is included in a table at Appendix 1 to assist the Committee in deciding what should be reviewed at this stage, how this should be done and what priority should be attached to it. Members are asked to consider whether there are any other issues which should be included in the review at this stage and whether any consultation or research should be undertaken in respect of any aspects of the review.

- 3.5 The list of issues for review is already fairly long it is likely that members will wish to add to it. The Committee should bear in mind that a new Code of Conduct is expected to be introduced with effect from 1 June 2009 (although it is not yet known when this will be published or when the accompanying guidance is to be distributed). Bearing this in mind it is suggested that it would be appropriate to try to conclude the review at the May meeting. However, it might be unrealistic to expect all the issues which have been identified to be considered in detail in May and so the Committee may consider that some of the issues in the list are less pressing and can be reviewed at a later stage or could be delegated to officers to resolve in consultation with the Chairman and/or Vice-Chairman of the Committee who would report back to the Committee in due course.
- 3.6 It is suggested that the annual review of the operation of the Standards Committee would be considered at the same meeting as the review of local assessment and local determination.

4. FINANCIAL IMPLICATIONS

- 4.1 None

5. LEGAL IMPLICATIONS

- 5.1 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 2007 insofar as it related to the application of the Members' Code of Conduct to their private lives. 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

- 6.1 This item does not link directly with any Council objectives.

7. RISK MANAGEMENT

- 7.1 The main risk associated with the details included in this report is:

- *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

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 | No |
| Chief Executive | No |
| Executive Director - Partnerships and Projects | No |
| Executive Director - Services | No |
| Assistant Chief Executive | No |
| Head of Service | <u>Yes</u> |
| Head of Financial Services | No |
| Head of Legal, Equalities & Democratic Services | <u>Yes</u> |

| | |
|---|-----------|
| Head of Organisational Development & HR | No |
| Corporate Procurement Team | No |

13. WARDS AFFECTED

All wards

14. APPENDICES

Appendix 1 List of issues for consideration for inclusion in the review

15. BACKGROUND PAPERS

None

CONTACT OFFICER

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Tel: (01527) 881429 and 01527 881609

Items identified to date for considering as part of the review of local assessment and determination of complaints

| | Summary of issue | Reason/comments | Priority |
|---|--|---|----------|
| 1 | Review of publicity to the process | <ul style="list-style-type: none"> To ensure appropriate levels of awareness A new performance indicator is to be introduced to measure the % of people who are aware of the elected member complaints system | |
| 2 | Joint working with neighbouring authorities | <ul style="list-style-type: none"> Regulations to be published in May to enable this | |
| 3 | Constitution of the main Standards Committee | <ul style="list-style-type: none"> Are there sufficient members to deal appropriately with all aspects of the process? Should a recommendation to Council be considered to increase the size of the Committee? Should there be a Cabinet member on the Committee? Should parish representatives be elected (as opposed to co-opted?) | |
| 4 | Composition of the sub-committees | <ul style="list-style-type: none"> Separation of membership of assessment and final determination sub-committees? Are the sub-committees working well? Final Determination Sub-Committee composition – should it be revisited? | |
| 5 | Receipt of Investigating Officer's report (Regulation 17(1) hearing) | <ul style="list-style-type: none"> Should this be undertaken by the full Standards Committee or a sub- | |

Appendix 1

| | | | |
|----|--|---|--|
| 6 | Monitoring Officer pre-complaint protocol | <p>committee?</p> <ul style="list-style-type: none"> Some authorities instruct the MO to try to resolve complaints before referring them to the Assessment Sub-Committee – should this be considered? | |
| 7 | Complaint form to be reviewed | <ul style="list-style-type: none"> To consider it from the perspective of members of the public Should it be more specific in terms of identifying the part of the Code which has been breached? Should it ask the complainant to identify the remedy sought (to identify complaints about service delivery etc rather than conduct) Should it be scrapped? | |
| 8 | Guidance to be reviewed | <ul style="list-style-type: none"> To consider it from the perspective of members of the public Inclusion of flow charts | |
| 8 | Review of website | <ul style="list-style-type: none"> To consider it from the perspective of members of the public Submission of complaints on-line | |
| 10 | Review of report presented to the Assessment Sub-Committee | <ul style="list-style-type: none"> Should it include a suggestion as to the part of the Code which may have been breached? Should it include recommendations from officers? Should it include transcripts of meetings or other documentation | |

Appendix 1

| | | | |
|----|---|---|--|
| | | <p>other than minutes or other publicly available documents?</p> <ul style="list-style-type: none"> • Should the sub-committee's powers be clearly set out? | |
| 11 | Review of assessment criteria | <ul style="list-style-type: none"> • These were based on those in the SBE guidance. Based on practical experience, could these be improved? | |
| 12 | Notification to subject member of complaint | <ul style="list-style-type: none"> • At what point should the subject member be notified of the complaint? Currently they are not notified until after the Assessment Sub-Committee has met | |
| 13 | Decision Notices | <ul style="list-style-type: none"> • These are currently based on the SBE model. Could they be improved? • Should they include details of the members sitting on the committee? (NB – consider the difference between Regulation 8 and Regulation 11 notices) • Should these be published more widely? • Should they include more information about review? | |
| 14 | Review | <ul style="list-style-type: none"> • Should a form be developed and sent out as a matter of course in the case of each case not referred for investigation? • Should these take the form of a re-hearing or a review of the adequacy of the process? (There is a divergence | |

Appendix 1

| | | | |
|----|--|---|--|
| | | <p>of opinion on this in practice)</p> <ul style="list-style-type: none"> Should the same officer advise the review sub-committee as advised the assessment sub-committee? To be explored in the light of advice from the SBE | |
| 15 | Referrals to the MO for other action/adjournment of assessment to enable the MO to explore the possibility of other action | <ul style="list-style-type: none"> The prior consent of the President of the APE is required before the Standards Committee may refer a matter to the APE. How is the MO to be authorised to seek the consent of the APE prior to consideration of the matter by the Standards Committee | |
| 16 | Referrals to the Adjudication Panel under Regulation 17 (serious cases not appropriate for consideration by the Standards Committee) | <ul style="list-style-type: none"> How much guidance should be given to the subject member on how to prepare? Emphasise the slot in the process for the subject member to make representations on sanctions and any mitigating circumstances | |
| 17 | Final Determinations | <ul style="list-style-type: none"> Notification to parish councils concerning complaints (see Town & Parish Standard issue 4), to prepare advice for parish councils | |
| 18 | Parish Councils | <ul style="list-style-type: none"> Who should present these on behalf of the Standards Committee? | |
| 19 | Recommendations to full Council | | |

BROMSGROVE DISTRICT COUNCIL

STANDARDS COMMITTEE

31ST MARCH 2009

OMBUDSMAN STATISTICS

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

1. SUMMARY

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

2. RECOMMENDATION

Members are requested:

- 2.1 to note the contents of the report; and
- 2.2 to amend the Committee Work Programme to include two reports on Ombudsman statistics per year as follows:
- 2.2.1 full report in September, to include the annual statistics (final version) and comparison with other neighbouring authorities; and
- 2.2.2 interim update (based on records maintained by the Senior Solicitor) in February/March.

3. BACKGROUND

- 3.1 The provisional Ombudsman statistics were reported the Standards Committee in July 2008 and the final statistics and comparison with neighbouring authorities were reported in September 2008. This report provides an update on the number of complaints received so far in 08/09, and is based on the records maintained by the Senior Solicitor.
- 3.2 For the period from 1st April 2008 to 31st December 2008 the number of ombudsman complaints about the Council was 14. Of these 8 were referred for investigation and 5 were classed as premature meaning that the complainant had not given the Council an opportunity to resolve the complaint but had instead reported it directly to the LGO. These complaints are referred back to the Council to be considered through the internal complaints system. Finally one further complaint was discontinued because

the decision complained about was found to have had no adverse effect on the complainant.

3.3 With reference to response times, 6 of the complaints fell to be replied to over holiday periods, 2 being received just prior to August bank holiday and 4 during the first two weeks of December. This had the effect of cutting down the time available for responses to be prepared as the 28 days runs regardless of bank holidays and staff absences on leave. Despite these difficulties the majority of responses were submitted within the time limit and the average response time currently stands at 26.5 days.

3.4 The current figures do not reveal a significant increase or decrease in the number of complaints compared to the 07/08 figures. Members will receive a more detailed analysis of the numbers of complaints in the next report in September 09 which will include the Council's annual statistics as published by the LOG for 08/09.

4. FINANCIAL IMPLICATIONS

None

5. LEGAL IMPLICATIONS

None

6. COUNCIL OBJECTIVES

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

7. RISK MANAGEMENT

7.1 The main risks associated with the details included in this report are those linked to poor standards of complaint handling. The effects of not handling complaints efficiently can include poor customer service, increased customer dissatisfaction, increased numbers of complaints and damage to the Council's reputation.

7.2 These risks are being managed as follows:

- Through the Council's customer feedback system and Customer First Policy.
- Through training for all staff and managers in implementing the Customer First Policy and managing complaints.

8. CUSTOMER IMPLICATIONS

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

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 | No |
| Chief Executive | No |
| Executive Director - Partnerships and Projects | No |
| Executive Director - Services | No |
| Assistant Chief Executive | No |
| Head of Service | <u>Yes</u> |
| Head of Financial Services | <u>No</u> |
| Head of Legal, Equalities & Democratic Services | <u>Yes</u> |
| Head of Organisational Development & HR | <u>No</u> |
| Corporate Procurement Team | <u>No</u> |

13. WARDS AFFECTED

All wards

14. APPENDICES

None

15. BACKGROUND PAPERS

None

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BROMSGROVE DISTRICT COUNCIL

STANDARDS COMMITTEE

31ST MARCH 2009

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 was requested to consider how to undertake such a review at its last meeting and members requested more information before taking a decision.

2. RECOMMENDATION

- 2.1 That no recommendation is made to Council to review the Protocol.

3. BACKGROUND

- 3.1 Following the last meeting the Group Leaders have been consulted for their views on the Protocol. They have generally welcomed the existence of the Protocol as it gives a framework within which they can resolve any inter-member issues in a structured, albeit informal, manner. They have confirmed there have been a number of instances when they have relied on the Protocol to resolve issues and have found that it has worked. The Group Leaders did not consider it appropriate to disclose examples of the issues resolved using the Protocol. The Protocol makes it clear that any issues should be resolved by the respective Group Leaders; officers do not get involved and are therefore not in a position to give examples of instances when the Protocol has been relied upon.
- 3.2 Members also requested clarification on whether the new Code of Conduct has superseded this Protocol. The Protocol is intended to cover different issues which would not generally amount to a breach of the Code of Conduct. Members of the Standards Committee will be aware from training and the Standards Board Case Review that on the whole a fairly robust attitude was taken by the SBE when assessing cases as to what constituted disrespect as between elected members. The Protocol is intended to fill that void and to deal with other issues, such as one member operating in another member's ward, which are not covered by the Code of Conduct.

3.3 It is suggested that in view of the Group Leaders' comments it is unnecessary to recommend to Council that this Protocol be reviewed at this point.

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

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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;

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- (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.

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- 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

31ST MARCH 2009

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 was requested at its last meeting to consider how to undertake such a review but requested further information before taking a decision.

2. RECOMMENDATION

- 2.1 That Members decide whether to recommend to Council that a review of the Member-Officer Protocol should be undertaken.

3. BACKGROUND

- 3.1 Members raised a number of issues at the last meeting. First, clarification was sought as to whether the forthcoming Officers' Code of Conduct would supersede the need for this Protocol. Members will note that there is little overlap between the content of the proposed Officers' Code and the Protocol; the proposed Code on which the consultation was based (although a draft has not yet been produced) is expected to include the following:

- Core values applicable to all officers, including accountability, political neutrality, relations with members, equality, stewardship and personal interests; and
- Additional requirements for more senior officers relating to the declaration of interests.

The Protocol covers:

- The role of members;
- The role of officers
- The relationship between officers;
- Officer support to members, the Cabinet, scrutiny, regulatory committees and the Council;
- The relationship between officers and the Council as its employer;
- The involvement of local ward members in local issues;
- Members' access to information and documents;

- Media relations;
 - Access to premises; and
 - Use of Council resources.
- 3.2 Officers consider that the Protocol does address issues which are not otherwise covered in either the Code of Conduct or the proposed Code of Conduct for Officers. It is intended to set out the basis for the every day working relationship between members and officers.
- 3.3 Secondly, the Committee requested guidance as to how employment legislation might affect the issues covered by the Protocol. Employment law will reinforce and enforce where appropriate the terms of conditions of an individual officer's contract of employment. This Protocol does not form specifically form part of the terms and conditions of Bromsgrove District Council's officers' contracts of employment. However, officers would be expected to act in accordance with the principles set out in the Protocol which should be reinforced as part of the employees' induction process and ongoing in-house training programme. It is therefore important that officers are aware of the Protocol, but failure to adhere to the Protocol would not in itself amount to a breach of the officer's contract of employment. The Protocol is intended to be guidance to ensure smooth working relationships between members and officers.
- 3.4 Thirdly, the Committee noted that there was no cross-reference between the Protocol and the Members' Code of Conduct. The current Protocol is based on a model Protocol drafted by the Association of County Secretaries and Solicitors in 2004 and was not tailored specifically to the needs of Bromsgrove, nor has it been reviewed since the Code of Conduct was revised. The Members' Code of Conduct has of course been amended since this Protocol was introduced to include specific reference to bullying, and there are many examples of findings of breach of the Code of Conduct since its introduction arising from conflicts between members and officers. In reviewing this Protocol the Committee might feel it appropriate to include such cross-reference. However, officers' views are that the Protocol is intended to be guidance to minimise the risk of conflicts between members and officers arising in the first place and that there is no overlap between the two.
- 3.5 Senior officers have been asked to comment on the Protocol and its operation in practice. The following comments have been received:
- The Protocol is clear and useful for clarification of roles and responsibilities;
 - Awareness of the existence or content of the Protocol amongst both Members and Officers is not high enough and needs to be reinforced regularly;
 - The Member-Officer Protocol should link with the Descriptions of Members' Roles and Responsibilities;

- The Protocol requests Members to ensure that all requests for information or advice are directed through the Head of Service; two different views have been expressed about this. On the one hand, one senior officer considers that there may be some instances when it would be more appropriate for a Member to contact a Team Manager or Team Leader rather than a Head of Service; on the other hand, another welcomes the fact that contact should be made via the Head of Service;
- The Protocol does not address the relationship between Portfolio Holders and officers; as Portfolio Holders are undertaking more individual responsibility, and with the likely advent of individual Portfolio Holder decision making, this is perhaps something which needs to be addressed;
- Officers realise that at times the Protocol is not adhered to at meetings in terms of addressing Members and Officers.

3.7 The views of the Group Leaders as to the operation and effectiveness of the Protocol are currently being sought and officers will provide an oral update on these at the meeting.

3.6 Members are requested to consider whether the Protocol should be reviewed and if so, a recommendation to Council should be made that this Protocol be reviewed.

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

CONTACT OFFICER

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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

31ST MARCH 2009

PLANNING SERVICES CODE OF PRACTICE

| | |
|------------------------------|-----------------------------------|
| Responsible Portfolio Holder | Councillor 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 Planning Services Code of Practice on an ongoing basis. Officers recommend that the Code of Practice is reviewed and Members are requested to suggest areas for consideration for inclusion in the review.

2. RECOMMENDATION

- 2.1 That Members recommend to the Full Council that a review of the Planning Services Code of Practice is undertaken and that Members suggest areas for consideration for inclusion in the review.

3. BACKGROUND

- 3.1 The Code of Practice – Planning Services has formed part of the Council's Constitution for some years and has not been substantially reviewed since its introduction.
- 3.2 The Code of Practice covers the following areas:
- The role of members on the Planning Committee;
 - The role of ward members in the planning process;
 - Membership of Parish Councils;
 - Site visits procedure;
 - The role of officers;
 - Committee reports;
 - Pre-application discussions;
 - Decisions contrary to policy;
 - Decisions contrary to officer recommendation; and
 - Members', officers' and the Council's own applications for planning permission.
- 3.3 Some of the content of the Code of Practice is allied to principles contained in the Members' Code of Conduct, and the Code of Practice needs to be reviewed to ensure that recent changes to the Code are reflected.

- 3.4 Much of the Code of Practice is designed to minimise the risk of challenge to Planning Committee decisions on the basis of bias and/or predetermination. Consideration should be given to highlighting these issues within the Code of Practice and giving clear guidance to members so as to avoid challenge and to protect Members' interests.
- 3.5 Revision of this Code of Practice should include a wide scale consultation with all Elected Members for two reasons; firstly, all members who have been trained in accordance with the requirements of the Council's Constitution are entitled to sit or substitute on the Planning Committee, and secondly as the Code of Practice covers the responsibilities of Ward Members in the planning process.
- 3.6 It is therefore proposed that members recommend that the Full Council undertake a review of the Planning Committee Code of Practise through a consultation exercise that will be carried out by the Monitoring Officer who will seek the views of Group Leaders, the Planning Committee and individual members as well as the Standards Committee.

4. FINANCIAL IMPLICATIONS

None

5. LEGAL IMPLICATIONS

There are no statutory requirements to have a Code of Practice for Planning Services.

6. COUNCIL OBJECTIVES

N/a

7. RISK MANAGEMENT

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

- Failure by the Planning Committee to take decisions in accordance with good practice may expose the Council to the risk of challenge by way of judicial review or appeal which may result in awards of damages and costs against the Council and loss of reputation

7.2 This risk is being managed as follows:

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

8. **CUSTOMER IMPLICATIONS**

None

9. **EQUALITIES AND DIVERSITY IMPLICATIONS**

None

10. **VALUE FOR MONEY IMPLICATIONS**

10.1 N/a

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 | <u>No</u> |
| Executive Director - Services | <u>Yes</u> |
| Assistant Chief Executive | <u>No</u> |
| Head of Service | <u>Yes</u> |
| Head of Financial Services | <u>No</u> |
| Head of Legal, Equalities & Democratic Services | <u>Yes</u> |

| | |
|---|------------------|
| Head of Organisational Development & HR | <u>No</u> |
| Corporate Procurement Team | <u>No</u> |

13. WARDS AFFECTED

All wards

14. APPENDICES

Appendix 1 Code of Practice – Planning Services

15. BACKGROUND PAPERS

None

CONTACT OFFICER

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CODE OF PRACTICE - PLANNING SERVICES

1. INTRODUCTION

- 1.1 The role of a Member serving on the Planning Committee involves balancing the representation of the needs and interests of individual constituents and the community, with the need to maintain an ethic of impartial decision-making on what can be highly controversial proposals.
- 1.2 This document has been prepared to guide Members and Officers in dealing with planning matters in a manner consistent with good practice, including the conduct of Members in its processes and procedures and is an extension of the statutory code of conduct.
- 1.3 Failure to follow the recommendations set out in this Code of Practice, without good reason, may be regarded as being incompatible with good administration by the Local Government Ombudsman and affect how the Council, its Officers or Members may be perceived by others.
- 1.4 By setting out clearly what is expected of both Members and Officers, it is anticipated that this Code will engender greater mutual understanding and support between all those involved in the planning process. The Code has been produced in the spirit of looking for continuous improvements in the delivery of services, discharging duties responsibly in an open, professional and consistent way compatible with the Council's Code of Conduct and its Protocol for Members/Officer relations.
- 1.5 Both Members and Officers dealing with planning matters and advising Committees will be required to observe all the provisions of this Code. Any allegations that the Code has been breached may be reported to the Standards Committee,. If the Standards Committee finds the allegation(s) proven, it has the power to take any sanctions which it deems appropriate, including the removal, either temporarily or permanently, of a Member of the Planning Committee, but excluding formal disciplinary action against an Officer, which must be taken by the appropriate Head of Service, or the Head of Paid Service.
- 1.6 The Code is set out in the form of a series of headings followed by a brief discussion of the issues involved and best practice advice.

2. THE ROLE OF COUNCILLORS

- 2.1 The role of Members is central to the planning system, which operates within a political arena. It is well recognised that planning is not an

exact science and, provided that Members are properly briefed by Officers, they are well placed to make decisions.

Ward Interests

- 2.2 Members have a special duty to their ward constituents but their overriding responsibility is to the whole community. In terms of the planning process, this can produce a conflict of interest between Members legitimately and effectively giving vent to local, sometimes individual, concerns and the need to reflect the interests of the wider community in decisions reached on planning merits alone. Much is often at stake in this process, and opposing views are often strongly held by those involved. Whilst Members should take account of these views, they should not favour any person, company, group or locality above the wider community interest, nor put themselves in a position where they appear to do so. Members should be mindful of the need to carefully weigh up all of the arguments before deciding what view to take.
- 2.3 Members should also be very cautious about accepting gifts and hospitality. The Code of Conduct requires any Members receiving any gift or hospitality, in his or her capacity as a Member, over the value of £25, to record that gift or hospitality in the Register of Interests which is open to inspection by the public. A personal or prejudicial interest may arise as a result of accepting such a gift or hospitality.

Lobbying

- 2.4 It is a fact of public life that Members will be subject to varying degrees of lobbying. This is part of the democratic process. However, when individuals or groups seek to influence the outcome of a planning decision, which should be treated upon its individual planning merits in the wider public interest, the impartiality of the decision may be questioned. Such problems might arise if Members indicate their voting intention or support for a particular cause in advance of all the relevant information and Officer advice.
- 2.5 When being lobbied, Members should take care about expressing an opinion that may be taken as indicating that they have already made up their mind on the likely outcome of a planning application before they have heard all the evidence and arguments. If they do express an opinion, they should make it clear that they will only be in a position to make a final decision when all the facts are known and they have heard both sides of the argument at Committee. However, if the Member responds to lobbying by deciding to go public in support of a particular outcome, or even campaigning actively for it, the proper course of action for such a Member would be to withdraw from the meeting while the application is being considered.
- 2.6 Members should not represent an applicant or individual objector and should not organise support or opposition. In particular, they should avoid representing applicants or objectors in discussions with Planning

Officers which may take place before an application is considered by the Planning Committee. Instead they should suggest to those who are lobbying, that they should speak or write to the relevant Planning Officer, in order that their opinions can be included in the officer's report to committee. Any letters referred to and relied upon by Councillors in speaking on an application should be given to the Head of Planning & Environment Services to be placed on the respective planning file immediately after the meeting.

- 2.7 Members should not lobby other Members or put pressure on Officers to make a particular recommendation. Therefore no political group meeting must take place prior to the committee meeting to discuss the planning applications.
- 2.8 Members of the Planning Committee need to take account of the general public's expectation that a planning application will be processed and determined in an open and fair manner. There is the possibility that an aggrieved party may seek judicial review on the way in which a decision has been arrived at, or complain to the Local Government Ombudsman on the grounds of maladministration or complain to the Standards Committee that a Member has breached the Code of Conduct.
- 2.9 Members who are unsure as to whether an interest should be declared should seek the advice of the Council's Monitoring Officer.

3. MEMBERSHIP OF PARISH COUNCILS

- 3.1 Parish Councils are consulted and asked to comment on planning applications prior to their being considered by the District Council's Planning Committee. Sometimes, a member of the Planning Committee will also be a member of a Parish Council and such a situation could give rise to a perception that there is a conflict between these two roles.
- 3.2 Members of the Planning Committee may participate in the formulation of their Parish Council's comments on a planning application and may vote on motions put forward in connection with the making of such comments. However, in doing so, they must recognise that they have not yet received full information about the application e.g. the planning history, comments by other consultees and officer recommendation. They should therefore declare, at the Parish Council's meeting, that in assisting in the formulation of the Parish Council's comments, that they are only forming a preliminary view on the application, that they recognise that there is further information about the application which they have not yet received, and that they reserve the right to change their preliminary view, in the light of such further information, when the application is considered by the District Council's Planning Committee.

- 3.3 In this way, members of the Planning Committee, who are also members of Parish Councils, will avoid any perception that they have fettered their judgment on an application before knowing the full facts about it.

4. PLANNING SITE VISITS PROCEDURE

- 4.1 Members visit sites to which applications for planning permission relate because the Planning Committee has decided that Members should have the opportunity of seeing a site or its relationship to adjoining property so that they will be in the best position to decide whether or not planning permission should be granted when next the Committee meets, or whether, say, a condition should be imposed on any grant of planning permission. Site visits may also take place on request by members of the Committee, or by Ward Councillors, prior to the planning application first being considered by the Planning Committee.
- 4.2 The undertaking of site visits by Members should not be agreed to as a matter of course, bearing in mind the need to determine applications as quickly as possible in accordance with Government advice. A Member should justify/explain any request and the Committee should have regard to whether such justification/explanation is sufficient to warrant the undertaking of a site visit. If not, the request should be refused.
- 4.3 The site visit does not constitute a meeting of the Planning Committee.
- 4.4 Accordingly, Members should not form a collective view on the issue.
- 4.5 Since Members are attending a site merely to “see what is to be seen”; it is inappropriate to hear either the applicant or his representative. Similarly, it is inappropriate to hear anybody else who wishes to make representations. The occasion is not a local hearing.
- 4.6 Members should leave each site with no collective view - the occasion is simply to assist them individually to form a view.
- 4.7 Consequently, when the application is next considered by the Planning Committee, the Chairman of the Committee should remind Members that the application was the subject of a site visit, and then let the debate proceed normally.

5. THE ROLE OF OFFICERS

- 5.1 Officers, as the paid employees of the Council, have the principal responsibility for carrying out the Council’s work. They should provide professional and impartial advice to Members to assist them in reaching their decisions and to the public at large on all planning matters. It is very important that such advice is consistent with the

provisions of the prevailing planning policies and guidance so that the planning system is seen to be fair whatever the outcome.

- 5.2 The Planning Committee has given delegated authority to the Head of Planning & Environment Services to approve certain categories of planning application as set out in the Council's Scheme of Delegation.
- 5.3 Any decisions delegated to Officers should be clearly minuted.

6. OFFICER REPORTS TO COMMITTEE

- 6.1 All reports shall provide a clear technical appraisal of the application including site location and description, planning history, consultations received and the policy contents for the recommendation, which should be justified in the Officers' written comments.
- 6.2 Reports should have a written recommendation of action; oral reporting (except to update a report) should be avoided and carefully minuted.
- 6.3 Reports should contain technical appraisals, which clearly justify a recommendation.
- 6.4 If the report's recommendation is contrary to the provisions of the development plan or Local Development Framework, the material considerations, which justify the departure, must be clearly stated.
- 6.5 Terms for Planning Obligations (Section 106 Agreements) must be clearly set out, discussed openly and recorded in the minutes.
- 6.6 The Monitoring Officer or his or her representative shall attend all Planning Committee meetings and provide advice, together with legal advice as required.

7. PRE-APPLICATION DISCUSSIONS

- 7.1 Officers are often asked informally during meetings whether planning permission is required for changes of use and/or for new development.
- 7.2 Officers will always endeavour to be as helpful as they can in this matter but can only offer an informal opinion as to whether or not planning permission is required for the development someone wishes to undertake, whether it is a new building, an extension to a home, or a change of use of land or building. Any advice that they offer in this respect is an individual opinion based on the information the enquirer has provided at the time. It is not binding on the Council.
- 7.3 For an official decision, enquirers should be invited to apply for a Certificate of Lawfulness of Proposed Use or Development, under

Section 192 of the Town and Country Planning Act 1990. A fee is payable for the processing of such an application but the enquirer will be presented with a legally binding determination, in other words, an official decision of the Council telling him/her whether or not planning permission is required.

7.4 The fee varies according to the type of development proposed and staff will be able to advise on the amount payable. It is in the interests of the enquirer to have an official written determination relating to development should he/she want to sell his/her land/property or should any legal challenge arise relating to the work which has been undertaken.

7.5 The following guidelines have been adopted to ensure that all parties involved are treated fairly and that the Planning Officers' role is clearly understood:

- Planning Officers will give informal advice in the spirit of helpfulness. It is however only informal advice which is not binding on the Local Planning Authority;
- Planning Officers will negotiate and offer advice to overcome problems at application stage where a solution is apparent and the proposal can be determined within eight weeks as a consequence;
- The onus to negotiate falls upon the applicant/agent to offer alternatives to the original submission;
- Planning Officers cannot advise what a potential recommendation will be should an application be made.

8. DECISIONS CONTRARY TO THE DEVELOPMENT PLAN/ LOCAL DEVELOPMENT FRAMEWORK

8.1 The law requires that where the development plan/Local Development Framework is relevant, decisions should be taken in accordance with it, unless material considerations indicate otherwise.

8.2 If an application does not conform to the development plan/Local Development Framework it must be identified as soon as possible and then advertised in the local press. If it is intended to approve such an application, the material considerations must be clearly identified, and how these considerations justify overriding the development plan/Local Development Framework. The application may then have to be referred to the Government Office for the West Midlands, depending on the scale of the development.

9. DECISIONS CONTRARY TO OFFICER RECOMMENDATION

- 9.1 Members are perfectly entitled to reach different decisions to those recommended to them by Officers by attaching different weight to the various relevant planning criteria. That this happens from time to time is inevitable but it is essential that the public be left in no doubt as to how the decision was reached. Officer reports must be well structured and the public should not be given the impression that decisions reached contrary to advice are made hastily or new conditions imposed on the spur of the moment. A full detailed minute of the Committee's reasons should be made. The Officer should also be given an opportunity to explain the implications of the contrary decision.
- 9.3 Where a Member is minded to raise new issues, information or questions, they are advised to contact the respective Planning Officer or Head of Planning & Environment Services before the meeting wherever possible.
- 9.4 Where a Member is minded to make a recommendation, which is contrary to the Officer recommendation, then:-
- (i) in the case of a refusal, the planning reasons should be clearly set out;
 - (ii) in the case of an approval, the type of conditions proposed should be indicated.
- 9.5 If an imminent decision is thought to be perverse, the Head of Planning & Environment Services or the Monitoring Officer should so advise the Committee, but it remains the role of the Chairman to decide whether or not it would be preferable to defer consideration to allow for a period of reflection on the advice given before proceeding.
- 9.6 Where an application is refused or conditions imposed contrary to an officer recommendation, it may not be in the Council's best interests for the Case Officer to give evidence at any subsequent public inquiry or hearing resulting from an appeal. In such circumstances it will be a matter for the Head of Planning & Environment Services in consultation with the Head of Legal, Equalities and Democratic Services to establish whether a suitably experienced and qualified Officer exists within his establishment who is able to concur professionally with the decision taken. If so, then they will act as the Council's professional witness. If not, then the use of planning consultants will be explored. It is rarely in the Council's best interests for individual Members to represent the Council but this may be appropriate where factual evidence is in dispute particularly in enforcement appeals.
- 9.7 All planning approvals and refusals shall be fully minuted. Unless otherwise stated, these should accord with those set out in the Agenda subject to the incorporation of any further conditions or reasons (or

variations) thought to be necessary by the Head of Planning & Environment Services to give full effect to the Council's wishes about any particular application.

10. DEALING WITH APPLICATIONS SUBMITTED BY MEMBERS AND OFFICERS AND COUNCIL SERVICE AREAS

10.1 The submission of planning applications and/or development plan proposals by serving Members, Officers, or their close friends and relatives can easily give rise to suspicions of impropriety, including proposals for the Council's own development. The following points should be taken into account:

Members

10.2 Serving Members and Officers should never act as agents for people pursuing a planning matter.

10.3 Members should take no part in the processing of their own applications or those of their immediate family or close friends or anyone with whom the Member has a close personal association, and the necessary prejudicial interest must be declared in accordance with the Code of Conduct.

10.4 As soon as a planning application is received from a Member, the Head of Planning & Environment Services must inform the Council's Monitoring Officer, who will take such steps as are necessary to ensure that applications for dispensations from other Members of the Planning Committee are considered as soon as possible by the Standards Committee.

10.5 Members who are members of the Planning Committee should declare a prejudicial interest in respect of applications prepared by them or on their behalf and leave the meeting while such applications are under consideration, subject to any rights of public speaking agreed by the Council which are exercised in accordance with the Code of Conduct.

10.6 Applications of currently serving Officers and Members should not be dealt with under delegated powers and should be decided by the Planning Committee.

Officers

10.7 Serving Officers should never act as agents for people pursuing a planning matter.

10.8 Officers should take no part in the processing of their own applications or those of their immediate family or close friends.

10.9 Applications of currently serving Officers should not be dealt with under delegated powers and should be decided by the Planning Committee.

Developments by the Council

- 10.10 Planning applications made by Council Service Areas must be processed in accordance with existing policy and treated in the same way as a private application except that all such applications shall be considered by the Planning Committee and not determined under delegated powers. Any Members on the Planning Committee who also sat on an initiating Committee (usually the Cabinet) should consider if they have a personal or prejudicial interest.

Applications submitted by former Members and former employees

- 10.11 There has been some considerable concern about former employees setting up their own consultancies and providing planning advice in the Bromsgrove District area and about the consideration of applications by or on behalf of former Members. Both circumstances occur from time to time and the guiding principles should be that:-

- (i) applications by former Members will be treated in the same way as any other application;
- (ii) applications by former employees whether they are acting for themselves or an agent for others will be treated in exactly the same way as any other application.

Applications by Members of Political Associations

- 10.12 Where a planning application is made by someone who is not a Member, but is known to be a member of the same Political Association as some of the members of the Planning Committee, those Members will need to give consideration as to whether they should declare a personal or prejudicial interest when the application is considered; the Code of Conduct states that a Member has a personal interest in any business where it might reasonably be regarded as affecting the well-being or financial position of a member of his or her family or any person with whom he or she has a close association. Standards Board for England guidance states that a person with whom you have a close association is someone that you are in either regular or irregular contact with over a period of time who is more than an acquaintance. It is someone a reasonable member of the public might think you would be prepared to favour or disadvantage when discussing a matter that affects them. A personal interest will also be a prejudicial interest if a member of the public with knowledge of the relevant facts would reasonably regard the interest as so significant that it is likely to prejudice the Member's judgment of the public interest.

- 10.13 In some cases, no declaration will be necessary, but in other cases the relationship between the parties may be close enough to warrant a declaration of interest. Councillors should have regard to the Council's Code of Conduct and should err on the side of safety.

11. REVIEW AND MONITORING

The effectiveness of this Code will be monitored by regular reports to the Standards Committee by the Monitoring Officer. Formal complaints made under the Council's Customer Feedback System and on investigations made by the Local Government Ombudsman will also be taken into account in monitoring the effectiveness of the Code.

BROMSGROVE DISTRICT COUNCIL

STANDARDS COMMITTEE

31ST MARCH 2009

CALENDAR OF MEETINGS – 2009/10

| | |
|------------------------------|---|
| 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 advises members of the meeting dates of the Standards Committee for the 2009/10 Municipal Year.

2. RECOMMENDATION

It is recommended that the meeting dates of the Standards Committee for the 2009/10 Municipal Year be noted.

3. BACKGROUND

- 3.1 The Calendar of Meetings for the 2009/10 Municipal Year was agreed by full Council at its meeting on 22nd January 2009.
- 3.2 The final meeting of the Committee of the 2008/09 Municipal Year will take place on 31st March 2009.
- 3.3 With effect from the 2009/10 Municipal Year meetings of the Standards Committee will take place on Wednesday evenings as opposed to Thursday evenings.
- 3.4 The dates set for the Committee for the 2009/10 Municipal Year are as follows:
 - Wednesday 20th May 2009
 - Wednesday 22nd July 2009
 - Wednesday 23rd September 2009
 - Wednesday 11th November 2009
 - Wednesday 13th January 2010
 - Wednesday 24th March 2010

3.5 In addition to the meeting dates detailed at paragraph 3.4, the introduction of the local assessment of complaints against elected Members for alleged breached of the Code of Conduct under the Local Government and Public Involvement in Health Act 2007 has resulted in the establishment of three Sub-Committees of the Standards Committee. Meetings of the Sub-Committees will take place as and when required in accordance with any statutory timeframes.

4. FINANCIAL IMPLICATIONS

None

5. LEGAL IMPLICATIONS

None

6. COUNCIL OBJECTIVES

Objective - Improvement, Priority - Customer Service.

7. RISK MANAGEMENT

None

8. CUSTOMER IMPLICATIONS

None

9. EQUALITIES AND DIVERSITY IMPLICATIONS

None

10. VALUE FOR MONEY IMPLICATIONS

None

11. OTHER IMPLICATIONS

| |
|---|
| Procurement Issues - None |
| Personnel Implications - None |
| Governance/Performance Management - 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

None

15. BACKGROUND PAPERS

Committee Programme 2009/10 - as referred to the meeting of the Cabinet on 7th January 2009 and approved by full Council on 22nd January 2009.

CONTACT OFFICER

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Tel: (01527) 881411

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BROMSGROVE DISTRICT COUNCIL

STANDARDS COMMITTEE

31ST MARCH 2009

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 |
|--------------------|------|

| | |
|--|---|
| 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 and/or rescheduled items appearing in bold italics.]

| Meeting date | Item for consideration |
|---------------------|---|
| 20th May 2009 | <ul style="list-style-type: none"> • <i>Review of the local assessment and determination of complaints process</i> • <i>Review of the operation of the Standards Committee (will appear as an annual item from hereon)</i> • Second Annual Report of the Standards Committee 2008/09 - final draft • Review of the operation and effectiveness of the Members' Code of Conduct |
| 22nd July 2009 | |
| 23rd September 2009 | <ul style="list-style-type: none"> • <i>Final Annual Ombudsman Complaint Statistics (for period ending 31st March 2009 and to include comparison with neighbouring authorities)</i> • Review of Member training – ethical framework elements (already included in Member Training section of Monitoring Officer's Report) • Update on training programme for parish councils (depending on any timetable agreed in relation to the 31st March 2009 report) |
| 11th November 2009 | <ul style="list-style-type: none"> • Review of the Council's protocols on Member Officer and Member Member Relations (Committee to determine if and when it wishes to review in light of the 31st March 2009 report) |
| 13th January 2010 | |

| | |
|--|---|
| 24th March 2010 | <ul style="list-style-type: none"> • Calendar of meetings - 2010/2011 • Review of Member training – ethical framework elements (already included in Member Training section of Monitoring Officer's Report) • Review of the effectiveness of the Code of Practice – Planning Services (Committee to determine if and when it wishes to review in light of the 31st March 2009 report) • Interim update on Ombudsman Complaint Statistics (for period ending 31st September 2009) • Update on training programme for parish councils (depending on any timetable agreed in relation to the 31st March 2009 report) |
| May 2010 (date to be determined) | <ul style="list-style-type: none"> • Annual Report of the Standards Committee 2009/10 • Review of the operation and effectiveness of the Members' Code of Conduct • Review of the operation of the Standards Committee |
| <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. | |

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