



BROMSGROVE DISTRICT COUNCIL

MEETING OF THE STANDARDS COMMITTEE

WEDNESDAY, 23RD SEPTEMBER 2009 AT 6.00 P.M.

CONFERENCE ROOM, THE COUNCIL HOUSE, BURCOT LANE, BROMSGROVE

MEMBERS: Independent Members: Mr. N. A. Burke (Chairman), Mrs. N. E. Trigg (Vice-Chairman) and Ms. D. Roberts
Councillors: Miss D. H. Campbell JP, Mrs. A. E. Doyle and E. C. Tibby
Parish Councils' Representatives: Mr. J. Cypher and Mr. I. A. Hodgetts

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

AGENDA

1. 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 22nd July 2009 (under separate cover)
4. Exclusion of the Public

[To consider, and if considered appropriate, to pass the following resolution to exclude the public from the meeting during the consideration of an item 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 item of business on the grounds that it involves the likely disclosure of exempt information as defined in Part I of Schedule 12A to the Act, as amended, the relevant paragraph of that part being as set out below, and that it is in the public interest to do so:

<u>Item No.</u>	<u>Paragraph</u>
5	7C"]

5. Consideration Meeting - Complaint Ref: 14/08 (Pages 1 - 46)

[To consider the Investigating Officer's Final Report in relation to complaint ref: 14/08.]
6. Standards Sub-Committees (Pages 47 - 54)

[To consider revising the constitution of the Standards Committee's sub-committees in the light of the Committee's previous request to the Monitoring Officer to develop a scheme for determining how substitutes are selected.]
7. Monitoring Officer's Report (Pages 55 - 62)

[To receive a report from the Monitoring Officer on any matters of relevance to the Committee.]
8. Election of Vice-Chairman

[In anticipation of the expiry of the current Vice-Chairman's second term of office on 20th October 2009 the Committee is asked to elect a successor Vice-Chairman effective from 21st October 2009, for the remainder of the current municipal year. No separate report.]
9. Parish Councils' Representatives' Report

[To receive an oral report from the Parish Councils' Representatives on any matters of relevance to the Committee.]
10. Ombudsman - Annual Review (Pages 63 - 84)

[To receive a report on the Local Government Ombudsman's Annual Review of Bromsgrove District Council for the period ending 31st March 2009.]
11. Ombudsman Report into Maladministration (Pages 85 - 104)

[To consider a Report of the Ombudsman on an investigation into complaint no. 07B13868 against Bromsgrove District Council.]
12. Publications (Pages 105 - 120)

[Attention is drawn to the list of publications detailed below which members of the Committee may find of interest. Those publications which are of direct relevance to the Committee have been copied and are attached for reference. The links of any other publications have been included should members wish to view these online:

 - (i) Standards for England: *Public perceptions of ethics* (July 2009) (copy attached); *and*

- (ii) Standards for England: *The Bulletin 45* (August 2009). Link: <http://www.standardsforengland.gov.uk/Publications/TheBulletin/Issue45/>]

13. Work Programme (Pages 121 - 126)

[To consider the future Work Programme of the Committee.]

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

15. Exclusion of the Public

[Should it prove necessary, in the opinion of the Chief Executive, to exclude the public from the meeting at any point during the proceedings in relation to any items of business (in addition to the business set out at agenda item 5 above) on the grounds that either exempt and/or confidential information is likely to be divulged, the following resolution(s) will be moved:

"That under Section 100 I of the Local Government Act 1972, as amended, it/they involve the likely disclosure of exempt information as defined in Part I of Schedule 12A to the Act, as amended, the relevant paragraphs of that part being (...to be specified by the Chairman at the meeting), and that it is in the public interest to do so.", and/or

"That under Section 100 A of the Local Government Act 1972, as amended, it/they involve the likely disclosure of confidential information which would be in breach of an obligation of confidence."]

K. DICKS
Chief Executive

The Council House
Burcot Lane
BROMSGROVE
Worcestershire
B60 1AA

14th September 2009

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Agenda Item 5

By virtue of paragraph(s) 7c of Part 1 of Schedule 12A of the Local Government Act 1972.

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of the Local Government Act 1972.

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BROMSGROVE DISTRICT COUNCIL

STANDARDS COMMITTEE

23RD SEPTEMBER 2009

STANDARDS SUB-COMMITTEES

Responsible Portfolio Holder	Councillor Geoff Denaro
Responsible Head of Service	Claire Felton, Head of Legal, Equalities & Democratic Services

1. SUMMARY

- 1.1 The Standards Committee is requested to consider revising the constitution of its sub-committees in the light of its previous request to the Monitoring Officer to develop a scheme for determining how substitutes are selected.

2. RECOMMENDATION

- 2.1 That the Committee agrees to restructure its sub-committees with immediate effect by creating the following:

- Assessment (District Councillor Complaints) Sub-Committee A (3 members)
- Review (District Councillor Complaints) Sub-Committee A (3 members)
- Assessment (District Councillor Complaints) Sub-Committee B (3 members)
- Review (District Councillor Complaints) Sub-Committee B (3 members)
- Assessment (Parish Councillor Complaints) Sub-Committee A (3 members)
- Review (Parish Councillor Complaints) Sub-Committee A (3 members)
- Assessment (Parish Councillor Complaints) Sub-Committee B (3 members)
- Review (Parish Councillor Complaints) Sub-Committee B (3 members)

as illustrated in Appendix 1.

- 2.2 Sub-committees A and B are to sit in strict rotation.

- 2.3 Substitutes to be permitted as follows:

- 2.3.1 If an Independent Member is unable to attend a sub-committee meeting which they are scheduled to attend, he or she should be responsible for requesting another member of the Standards Committee to sit in his or her place subject to 2 provisos; firstly that if the Independent Member is unable to sit on an assessment sub-committee the substitute cannot be a member of the Standards

Committee who would sit on the relevant review sub-committee; secondly that if the Independent Member is due to chair the meeting, the substitute must be another Independent Member. If no other Independent Member is able to substitute but an Independent Member is required then officers will arrange for an Independent member from a neighbouring authority to sit.

2.3.2 If an elected Member is unable to attend a sub-committee meeting which they are scheduled to attend, he or she is responsible for arranging for a substitute to take his or her place. In the first instance the elected Member should seek to find another member of the Standards Committee to sit in his or her place subject to 2 provisos; firstly that if the elected member cannot sit on an assessment (District Councillor Complaints) Sub-Committee the substitute cannot be the elected Member who would sit on the relevant Review Sub-Committee; and secondly, that the elected member must bear in mind the requirement for there to be at least 1 elected Member on each Sub-Committee. If no member of the Standards Committee is able to substitute for the elected Member, the Member will be provided with a list of all elected Members who are not members of the Standards Committee but who have been trained in Standards Committee business and must select the substitute from that list.

2.3.3 If a Parish Representative is unable to attend a sub-committee meeting which they are scheduled to attend he or she should arrange for the Deputy Parish Representative to attend in their place.

2.4 No substitutes be permitted on the parent Standards Committee.

2.5 Consideration meetings and Final Determination Hearings will be considered by the full Standards Committee.

3. BACKGROUND

3.1 At its meeting on 20 May 2009 the Standards Committee reviewed its composition and the composition of its sub-committees and decided that for the time being no restructuring was required. However, the Committee did request the Monitoring Officer to develop a scheme for the selection of trained substitutes for the sub-committees which was transparent and fair. Officers have been unable to develop a policy for appointing a trained substitute to a sub-committee which meets these requirements, which is suited to the current composition of the sub-committees and which is legally compliant. For this reason the Committee is requested to reconsider the constitution of the sub-committees.

3.2 It is proposed that the sub-committees have fixed membership to ensure a system whereby:

- Members of the Standards Committee have equal and fair participation in sub-committees in accordance with procedures determined by the Committee;
- A clear process for selection of substitutes exists; and
- Officers do not exercise any discretion in the composition of members of sub-committees.

3.3 It is suggested that the following sub-committees could be created:

- 3.3.1 Assessment (District Councillor Complaints) Sub-Committee A
- 3.3.2 Review (District Councillor Complaints) Sub-Committee A
- 3.3.3 Assessment (District Councillor Complaints) Sub-Committee B
- 3.3.4 Review (District Councillor Complaints) Sub-Committee B
- 3.3.5 Assessment (Parish Councillor Complaints) Sub-Committee A
- 3.3.6 Review (Parish Councillor Complaints) Sub-Committee A
- 3.3.7 Assessment (Parish Councillor Complaints) Sub-Committee B
- 3.3.8 Review (Parish Councillor Complaints) Sub-Committee B

An illustration of how this would operate in practice with the current composition of the Standards Committee is at Appendix 1.

3.4 Sub-Committees A and B (whether assessment or review subcommittees) would sit strictly in rotation.

3.5 In relation to substitutes:

3.5.1 If an Independent Member is unable to attend a sub-committee meeting which they are scheduled to attend, he or she should be responsible for requesting another Independent Member of the Standards Committee to sit in his or her place subject to 2 provisos; firstly that if the Independent Member is unable to sit on an assessment sub-committee the substitute cannot be a member of the Standards Committee who would sit on the relevant review sub-committee (as members who have assessed a complaint cannot subsequently review that assessment decision); secondly that if the Independent Member is due to chair the meeting, the substitute must be another Independent Member. If no other Independent Member is able to substitute but an Independent Member is required then officers will arrange for an Independent member from a neighbouring authority to sit.

3.5.2 If an elected Member is unable to attend a sub-committee meeting which they are scheduled to attend, he or she is responsible for arranging for a substitute to take his or her place. In the first instance the elected Member should seek to find another member of the Standards Committee to sit in his or her place subject to 2 provisos; firstly if the elected member cannot sit on an Assessment (District Councillor Complaints) Sub-Committee the substitute cannot be the elected Member who would sit on the relevant Review Sub-Committee (as members who have assessed a

complaint cannot subsequently review that assessment decision); and secondly, that the elected Member must bear in mind the requirement for there to be at least 1 elected Member on each Sub-Committee, which might in some cases preclude requesting a Parish Representative or Independent Member from acting as substitute. If no member of the Standards Committee is able to substitute for the elected Member, the Member will be provided with a list of all elected Members who are not members of the Standards Committee but who have been trained in Standards Committee business and must select the substitute from that list.

3.5.3 If a Parish Representative is unable to attend a sub-committee meeting which they are scheduled to attend he or she should arrange for the Deputy Parish Representative to attend in their place.

3.6 It is proposed that no substitutes should be permitted on the parent Standards Committee.

3.7 It is proposed that consideration hearings and final determinations would be considered by the whole Standards Committee.

3.8 Members are requested to consider this proposal and, if approved, to implement it with immediate effect.

4. FINANCIAL IMPLICATIONS

4.1 None

5. LEGAL IMPLICATIONS

5.1 Section 102 of the Local Government Act 1972 as amended gives local authorities the power to appoint committees, and to committees to appoint sub-committees.

5.2 The requirement for political balance in section 15 of the Local Government and Housing Act 1989 does not apply to standards committees or their sub-committees.

5.3 The Standards Committee (England) Regulations 2008 set out the statutory requirements for the composition of standards committees and their sub-committees. These provide:

- Sub-committees discharging functions relating to complaints against councillors must be chaired by an independent member;
- At least 3 members of the sub-committee must be present;
- At least 1 elected member of the District Council must be present at each sub-committee meeting;

- At least 1 parish representative must be present when a sub-committee is considering a complaint relating to a member of a parish council;

5.4 The laws of natural justice preclude a member of the Standards Committee who participated in the assessment of a complaint from subsequently reviewing that decision.

6. COUNCIL OBJECTIVES

6.1 N/a

7. RISK MANAGEMENT

No significant risks arising from this report have been identified, but any minor risks arising are being managed as follows:

Risk Register: Legal, Equalities and Democratic Services
Key Objective Ref No: 2
Key Objective: Effective ethical governance

8. CUSTOMER IMPLICATIONS

8.1 No impact on customers is anticipated.

9. EQUALITIES AND DIVERSITY IMPLICATIONS

9.1 The proposal ensures all members of the Standards Committee equal and fair participation in the business of the Standards Committee.

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

13. WARDS AFFECTED

All wards

14. APPENDICES

Appendix 1 Illustration of proposed sub-committee structure

15. BACKGROUND PAPERS

None

CONTACT OFFICER

Name: Claire Felton
E Mail: c.felton@bromsgrove.gov.uk
Tel: (01527) 881429

APPENDIX 1

Current Composition of the Standards Committee:

- 3 Elected District Councillors
 - DC1
 - DC2
 - DC3

- 3 Independent Members
 - IM1
 - IM2
 - IM3

- 2 Parish Representatives
 - PR1
 - PR2

Proposed Sub-Committees:

Assessment (District Councillor Complaints) Sub-Committee A <ul style="list-style-type: none"> • IM1 • DC1 • DC2 	Review (District Councillor Complaints) Sub-Committee A <ul style="list-style-type: none"> • IM2 • IM3 • DC3
Assessment (District Councillor) Complaints Sub-Committee B <ul style="list-style-type: none"> • IM2 • IM3 • DC3 	Review (District Councillor) Complaints Sub-Committee B <ul style="list-style-type: none"> • IM1 • DC1 • DC2
Assessment (Parish Councillor Complaints) Sub-Committee A <ul style="list-style-type: none"> • IM1 • DC1 • PR1 	Review (Parish Councillor Complaints) Sub-Committee A <ul style="list-style-type: none"> • IM3 • DC3 • PR2
Assessment (Parish Councillor Complaints) Sub-Committee B <ul style="list-style-type: none"> • IM2 • DC2 • PR2 	Review (Parish Councillor Complaints) Sub-Committee B <ul style="list-style-type: none"> • IM1 • DC1 • PR1

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BROMSGROVE DISTRICT COUNCIL

STANDARDS COMMITTEE

23RD SEPTEMBER 2009

MONITORING OFFICER'S REPORT

Responsible Portfolio Holder	Councillor Geoff Denaro
Responsible Head of Service	Claire Felton, Head of Legal, Equalities and Democratic Services and 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 investigation into complaint reference 14/08, which was referred to the Monitoring Officer for local investigation, has now been completed and the Investigating Officer's final report appears at agenda item 5 of this evening's agenda for the Committee's consideration under Regulation 18 of The Standards Committee (England) Regulations 2008.

Complaints for Local Assessment

- 3.2 One meeting of the Standards Assessment Sub-Committee has taken place since the last meeting of the Standards Committee. A total of 4 complaints were considered at the meeting, which had been made against 2 parish councillors and 1 district councillor (2 of the complaints being against the same district councillor for the same matter). The Sub-Committee determined that no further action should be taken in relation to the 2 parish councillor complaints and that the 2 complaints against the district councillor should be referred to the Monitoring Officer for local investigation. A request for review has been received from the complainant for the parish complaints and a meeting of the Standards Review Sub-Committee will shortly be arranged to undertake the reviews. An external Investigating

Officer has been appointed by the Monitoring Officer to conduct the investigation into the district councillor complaints.

- 3.3 A table showing the cumulative totals for local assessment at the time of preparation of this report is appended. It should be noted that only those complaints which have been through the initial assessment stage are included in the figures detailed, as the existence of any complaints would not be made known until the subject Member has been advised of the complaint and the Assessment Sub-Committee's decision.

Member Training

- 3.4 Members are advised of the following training matters:
- (i) the Corporate Management Team ("CMT") will be dedicating a CMT session on Tuesday 15 September to discussing departmental Member training requirements, with specific emphasis on shared services and any service specific training needs arising as a consequence of the shared services agenda;
 - (ii) at the end of September training, to be conducted by the Assistant Chief Executive, will take place for all Members on the new Comprehensive Area Assessment (CAA) requirements;
 - (iii) Ombudsman training, as a consequence of the recent Ombudsman Report which found that there had been maladministration by members of the Planning Committee in the way in which they had taken a decision to grant planning permission for an affordable housing scheme (agenda item 11 refers), will be taking place for all Planning Committee members;
 - (iv) general planning training is also to be held for all Members; and
 - (iv) further Standards Committee training, to be conducted by Beth Evans of Bevan Brittan LLP, will take place in late Autumn 2009. This will link in with any changes to the Members' Code of Conduct (see paragraph 3.5 below) and will also coincide with the appointment of the new Independent Member on the Standards Committee (paragraph 3.7 refers).

3.5 New Code of Conduct

Current advice from the Department for Communities and Local Government is that a revised Code of Conduct will be ready in late autumn 2009. Few changes are expected to the Code at this stage; the main change being to allow the Code to cover Members in their non-official capacity, where that conduct would be a criminal offence. Further consultation on the introduction of a code for officers is anticipated to take place in 2010.

3.6 Parish Council matters

- (i) Ethical governance training programme

As reported at the last meeting, it is anticipated that training for the parish councils, as part of the new ethical governance training programme, will commence in the autumn (see (ii) below), which should also tie in with publication of the revised Code of Conduct.

(ii) Meetings with Parish Council Clerks/Executive Officers

Following the suggestion previously put forward by the Parish Councils' Representatives regarding the possibility of the Monitoring Officer's team holding periodic meetings with the Parish Council Clerks/Executive Officers ("EOs") on ethical governance issues, the Deputy Monitoring Officer has approached the Clerks/EOs to ascertain whether they wish for such meetings to take place. The offer for this has been warmly received by a number of Clerks/EOs and the first meeting will take place shortly. One of the issues to be discussed at the first meeting will be the roll-out of the ethical governance training programme for the parishes. Further updates on progress with these meetings will be reported to the Committee, as appropriate.

(iii) Appointment of Parish Councils' Representatives to the Standards Committee

As reported at the last meeting of the Committee, the nominations put forward by the Bromsgrove Area Committee of the Worcestershire County Association of Local Councils following its meeting on 3rd June 2009 for Messrs. Cypher, Hodgetts and Malek to continue in their previous roles on the Standards Committee were due to have been considered at the meeting of Full Council on 29th July 2009. Unfortunately, circumstances were such that it was necessary for the Council meeting to end before the majority of the evening's business had been concluded, meaning no Parish Councils' Representatives were appointed on 29 July. An additional meeting of Full Council was held on 9 September at which Messrs. Cypher, Hodgetts and Malek were re-appointed to their former roles on the Standards Committee - for extended terms of office to July 2011; to coincide with next round of Parish Council elections.

3.7 Appointment of new Independent Member to the Standards Committee

The recruitment process for a new Independent Member on the Committee (which has arisen as a consequence of the expiry of Mrs. Trigg's second term of office on 20th October 2009) has now commenced and an advertisement and accompanying article detailing the upcoming vacancy and the work of the Committee will appear in the local press shortly. As agreed by the Committee at its last meeting, any recommendation of either the Monitoring Officer or the Appointments Committee in relation to Mrs Trigg's proposed successor will be considered by Full Council at its meeting on 18th November 2009.

3.8 Standards for England - Annual Review

Following information provided by the Council as part of Standards for England's Annual Return for 2008-09, the Council has been selected as one of five councils which has demonstrated good practice in standards work. Standards for England will be including a case study in its Annual Review

which is to be published in October and it is understood that Bromsgrove will feature as part of this. Further details in this regard will be reported to the next meeting of the Committee, as appropriate.

3.9 Review of the Local Assessment regime

The Monitoring Officer will provide an oral update at the meeting on the ongoing review of the local assessment regime.

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. APPENDIX

Local Assessment Statistics.

15. BACKGROUND PAPERS

- (i) Written Summaries of the meeting of the Standards Assessment Sub-Committee held on 27th July 2009.
- (ii) Minutes of the meeting of full Council held on 9th September 2009.

CONTACT OFFICERS

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Local Assessment Statistics

Period ¹	Number of complaints assessed	Reviews conducted	No further action	Referred for other action	Referred for local investigation	Referred to Standards for England for investigation	... and accepted by Standards for England	Standards for England outcome	Final determinations
Total	19 ²	0 ³	10	1 ⁴	3 ⁵	5	5	5 ⁶	0

Nature of complaints	Number of complaints
Register of Members' Interests (failure to declare in full/failure to complete and return within required 28 days of adoption of the Code of Conduct)	2
Failure to treat others with respect	1
Acted in a manner which brought office/the Council into disrepute	4
Bullying/intimidation of Council officers	2
Combined: brought office into disrepute/improper use of position/ prevention of access to information to which a person is entitled by law	1
General inappropriate behaviour (relating to actions at a meeting of the Council's Planning Committee)	5
Inappropriate articles appearing in Parish Council newsletter	2
Disclosure of confidential information	2

-
- ¹ - The statistics detailed cover the period since the introduction of local assessment in May 2008 to 14th September 2009 (the date of preparation of this report).
- ² - 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.
- ³ - a request for review on 2 linked complaints has been received for which the reviews have not yet been conducted.
- ⁴ - Other action was duly completed by Subject Member.
- ⁵ - The Investigating Officer's Final Report for 1 of the complaints referred for local investigation is due to be considered by the Standards Committee on 23rd September 2009. The remaining 2 investigations have still to be conducted.
- ⁶ - In all 5 cases investigated by Standards for England it was the Ethical Standards Officer's finding that there had been no breach of the Code of Conduct.

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BROMSGROVE DISTRICT COUNCIL

STANDARDS COMMITTEE

23RD SEPTEMBER 2009

OMBUDSMAN – ANNUAL REVIEW

Responsible Portfolio Holder	Councillor Geoff Denaro
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 information regarding the Local Government Ombudsman's Annual Review of Bromsgrove District Council. The Annual Review (previously called the Annual Report) sets out the statistics for complaints made against this Council during the 12 month period ending 31st March 2009.

2. RECOMMENDATION

- 2.1 Members are requested to receive and note the contents of the Annual Review from the Local Government Ombudsman and make any recommendations to Council as necessary.

3. BACKGROUND

- 3.1 The Annual Review from the Local Government Ombudsman is attached at Appendix A. In particular Members are referred to the table of statistics which is Appendix 2 of the Annual Review.
- 3.2 The following observations can be made based on the statistics:-
- Number of first enquiries – this has remained constant compared to 07/08 at 11.
 - With regard to the outcome of decisions, there were no formal findings of maladministration recorded. On 7 matters there was no maladministration and 4 were outside the Ombudsman's jurisdiction. There were 2 local settlements. A complaint is resolved by a local settlement if the ombudsman accepts that the outcome is satisfactory for the complainant. This will usually involve the payment of a small amount of compensation, and generally the reason for the settlement reflects that there has been maladministration by the Council or poor communication with the complainant.

- Response times – the Council’s recorded response time to first enquiries has improved again. It has gone down from 26.3 days in 07/08 to 24.5 days in 08/09. The target response time is 28 days. This is a continuing downward trend which is specifically referred to as “continuing excellent performance” on page 4 of the Review. There is an internal performance indicator in place to monitor response times.
- With regard to subject matter of complaints, the highest category continues to be Planning and Building Control.

3.3 With reference to comparing this Council with other district councils, I attach at Appendix B an extract from the statistics for 08/09 from the LGO website showing the performance of all the district councils in England, including Bromsgrove. To add some more local detail the table below sets out some of the statistics for Bromsgrove and the five other district councils in Worcestershire. The figures in italics show the same statistics for the previous year (07/08). Members will see that Bromsgrove continues to have the highest number of actual complaints determined. However, BDC has no greater number of complaints where there is a formal finding of maladministration (column 3) and in correlation with the higher level of complaints the highest number of findings of no maladministration. With reference to column 2, local settlements are defined as decisions to discontinue investigations because action has been agreed by the authority and accepted by the Ombudsman as a satisfactory outcome for the complaint. As referred to in paragraph 3.2, this will normally involve the payment of a small amount of compensation. The level of local settlements has remained very low at 2.

Authority	Total complaints determined (excluding premature complaints)	Local settlements	Maladministration reports	No Maladministration
Bromsgrove	13 (22)	2 (1)	0 (0)	7 (13)
Malvern Hills	8 (7)	3 (1)	0 (0)	4 (4)
Redditch	7 (9)	1 (3)	0 (0)	4 (3)
Worcs City	2 (10)	0 (1)	0 (0)	0 (6)
Wychavon	7 (14)	1 (1)	0 (0)	4 (7)
Wyre Forrest	3 (7)	2 (0)	0 (0)	0 (3)

3.4 Members can take from these statistics that there is not a link between the number of complaints and findings of maladministration. Appendix B shows that across England as a whole Bromsgrove is not unusual in the number of complaints determined and a significant number of other district councils have levels of total complaints determined of 20 or above. More information

regarding the ombudsman scheme can be found at the Local Government Ombudsman's website www.lgo.org.uk.

4. FINANCIAL IMPLICATIONS

None

5. LEGAL IMPLICATIONS

None

6. COUNCIL OBJECTIVES

6.1 Information on complaint handling links to Improvement – Customer Service

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 First Policy under which there is a defined procedure for responding to complaints before they reach the stage of being referred to the Ombudsman.
- Through on-going training for staff and managers in implementing good customer service and managing complaints.

8. CUSTOMER IMPLICATIONS

8.1 The statistics in the review will assist officers in the on-going monitoring of complaint handling and resolution.

9. EQUALITIES AND DIVERSITY IMPLICATIONS

9.1 None

10. VALUE FOR MONEY IMPLICATIONS

10.1 None

11. OTHER IMPLICATIONS

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

12. **OTHERS CONSULTED ON THE REPORT**

Portfolio Holder	No
Chief Executive	Yes
Executive Director - Partnerships and Projects	No
Executive Director - Services	No
Assistant Chief Executive	No
Head of Service	<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 A – Ombudsman’s Annual Review for Bromsgrove District Council.

Appendix B – Extract of statistics for District Councils in England for 2008/2009.

15. BACKGROUND PAPERS

None

CONTACT OFFICER

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Local Government
OMBUDSMAN

**The Local Government Ombudsman's
Annual Review
Bromsgrove District Council
for the year ended
31 March 2009**

The Local Government Ombudsman (LGO) provides a free, independent and impartial service. We consider complaints about the administrative actions of councils and some other authorities. We cannot question what a council has done simply because someone does not agree with it. If we find something has gone wrong, such as poor service, service failure, delay or bad advice, and that a person has suffered as a result, the Ombudsmen aim to get it put right by recommending a suitable remedy. The LGO also uses the findings from investigation work to help authorities provide better public services through initiatives such as special reports, training and annual reviews.

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Section 1: Complaints about Bromsgrove District Council 2008/09

Introduction

This annual review provides a summary of the complaints we have dealt with about Bromsgrove District Council. We have included comments on the authority's performance and complaint-handling arrangements, where possible, so they can assist with your service improvement.

I hope that the review will be a useful addition to other information your authority holds on how people experience or perceive your services.

Two appendices form an integral part of this review: statistical data for 2008/09 and a note to help the interpretation of the statistics.

Changes to our way of working and statistics

A change in the way we operate means that the statistics about complaints received in 2008/09 are not directly comparable with those from 2007/08. Since 1 April 2008 the new LGO Advice Team has been the single point of contact for all enquiries and new complaints. The number of calls to our service has increased significantly since then. It handles more than 3,000 calls a month, together with written and emailed complaints. Our advisers now provide comprehensive information and advice to callers at the outset with a full explanation of the process and possible outcomes. It enables callers to make a more informed decision about whether putting their complaint to us is an appropriate course of action. Some decide to pursue their complaint direct with the council first.

It means that direct comparisons with some of the previous year's statistics are difficult and could be misleading. So this annual review focuses mainly on the 2008/09 statistics without drawing those comparisons.

Enquiries and complaints received

Our Advice Team received 27 complaints and enquiries during the year. The bulk of these (16) were about planning and building control matters.

We treated seven of these complaints and enquiries as premature and in a further four cases advice was given (usually to pursue the matter through the Council's complaints process). The 16 remaining complaints were referred to the investigative team either as new complaints to be considered or as premature complaints that had been resubmitted.

Complaint outcomes

I decided 13 complaints during the year. In seven cases I found no evidence of maladministration. In a further four I used my discretion not to investigate the complaint further. Typically these are cases where even though there may have been some fault by the Council there is no significant injustice to the complainant that warrants my pursuing the matter further. Two cases resulted in a local settlement.

Local settlements

A 'local settlement' is a complaint where, during the course of our investigation, a council takes or agrees to take some action that we consider to be a satisfactory response to the complaint. In 2008/09, 27.4% of all complaints the Ombudsmen decided and which were within our jurisdiction were local settlements. Of the complaints we decided against your authority two were determined as local settlements.

Both of those concerned complaints about local taxation. In one case I criticised the Council for mislaying a cheque the complainant had sent as part of an agreement to settle her council tax arrears, with the result that bailiffs continued to pursue her. I also criticised the Council for failing to ensure that bailiff action was put on hold, as it had agreed, while my investigation was continuing. The Council agreed to apologise and pay the complainant £100 compensation. In addition, the bailiffs agreed to pay her £100 compensation, remove all court costs and pay her remaining arrears of £206.

In the second case the Council agreed to refund the complainant's fees and summons costs in recognition of its failure to apply small business rate relief.

Of the 13 complaints that I decided in the year two were resubmitted after initially being referred to your Council as premature. In one case I found no maladministration and in the other I exercised my discretion not to pursue the complaint further.

Liaison with the Local Government Ombudsman

Formal enquiries were made on 11 complaints during the year. Your Council's average response time was 24.5 days, which is well within the 28 day target. The average times were affected by the response times on three planning cases, where it took your Council 30, 31 and 44 days to respond to our enquiries. I am very grateful for the Council's continuing excellent performance in this area.

Training in complaint handling

Part of our role is to provide advice and guidance about good administrative practice. We offer training courses for all levels of local authority staff in complaints handling and investigation. All courses are presented by experienced investigators. They give participants the opportunity to practise the skills needed to deal with complaints positively and efficiently. We can also provide customised courses to help authorities to deal with particular issues and occasional open courses for individuals from different authorities.

I have enclosed some information on the full range of courses available together with contact details for enquiries and bookings.

Conclusions

I welcome this opportunity to give you my reflections about the complaints my office has dealt with over the past year. I hope that you find the information and assessment provided useful when seeking improvements to your Council's services.

**J R White
Local Government Ombudsman
The Oaks No 2
Westwood Way
Westwood Business Park
Coventry
CV4 8JB**

June 2009

Section 2: LGO developments

Introduction

This annual review also provides an opportunity to bring councils up to date on developments – current and proposed – in the LGO and to seek feedback. It includes our proposal to introduce a 'statement of reasons' for Ombudsmen decisions.

Council First

From 1 April 2009, the LGO has considered complaints only where the council's own complaints procedure has been completed. Local authorities have been informed of these new arrangements, including some notable exceptions. We will carefully monitor the impact of this change during the course of the year.

Statement of reasons: consultation

The Local Government and Public Involvement in Health Act 2007 made provision for the LGO to publish statements of reasons relating to the individual decisions of an Ombudsman following the investigation of a complaint. The Ombudsmen are now consulting local government on their proposal to use statements of reasons. These will comprise a short summary (about one page of A4) of the complaint, the investigation, the findings and the recommended remedy. The statement, naming the council but not the complainant, will usually be published on our website.

We plan to consult local authorities on the detail of these statements with a view to implementing them from October 2009.

Making Experiences Count (MEC)

The new formal, one stage complaint handling arrangement for adult social care was also introduced from 1 April 2009. The LGO is looking to ensure that this formal stage is observed by complainants before the Ombudsmen will consider any such complaint, although some may be treated as exceptions under the Council First approach. The LGO also recognises that during the transition from the existing scheme to the new scheme there is going to be a mixed approach to considering complaints as some may have originated before 1 April 2009. The LGO will endeavour to provide support, as necessary, through dedicated events for complaints-handling staff in adult social care departments.

Training in complaint handling

Effective Complaint Handling in Adult Social Care is the latest addition to our range of training courses for local authority staff. This adds to the generic Good Complaint Handling (identifying and processing complaints) and Effective Complaint Handling (investigation and resolution), and courses for social care staff at both of these levels. Demand for our training in complaint handling remains high. A total of 129 courses were delivered in 2008/09. Feedback from participants shows that they find it stimulating, challenging and beneficial in their work in dealing with complaints.

Adult Social Care Self-funding

The Health Bill 2009 proposes for the LGO to extend its jurisdiction to cover an independent complaints-handling role in respect of self-funded adult social care. The new service will commence in 2010.

Internal schools management

The Apprenticeship, Skills, Children and Learning Bill (ASCL) 2009 proposes making the LGO the host for a new independent complaints-handling function for schools. In essence, we would consider the complaint after the governing body of the school had considered it. Subject to legislation, the new service would be introduced, in pilot form, probably in September 2010.

Further developments

I hope this information gives you an insight into the major changes happening within the LGO, many of which will have a direct impact on your local authority. We will keep you up to date through LGO Link as each development progresses but if there is anything you wish to discuss in the meantime please let me know.

**J R White
Local Government Ombudsman
The Oaks No 2
Westwood Way
Westwood Business Park
Coventry
CV4 8JB**

June 2009

Appendix 1: Notes to assist interpretation of the statistics 2008/09

Introduction

This year, the annual review only shows 2008/09 figures for enquiries and complaints received, and for decisions taken. This is because the change in the way we operate (explained in the introduction to the review) means that these statistics are not directly comparable with statistics from previous years.

Table 1. LGO Advice Team: Enquiries and complaints received

This information shows the number of enquiries and complaints received by the LGO, broken down by service area and in total. It also shows how these were dealt with, as follows.

Formal/informal prematures: The LGO does not normally consider a complaint unless a council has first had an opportunity to deal with that complaint itself. So if someone complains to the LGO without having taken the matter up with a council, the LGO will usually refer it back to the council as a 'premature complaint' to see if the council can itself resolve the matter. These are 'formal premature complaints'. We now also include 'informal' premature complaints here, where advice is given to the complainant making an enquiry that their complaint is premature. The total of premature complaints shown in this line *does not include* the number of resubmitted premature complaints (see below).

Advice given: These are enquiries where the LGO Advice Team has given advice on why the Ombudsman would not be able to consider the complaint, other than the complaint being premature. For example, the complaint may clearly be outside the Ombudsman's jurisdiction. It also includes cases where the complainant has not given enough information for clear advice to be given, but they have, in any case, decided not to pursue the complaint.

Forwarded to the investigative team (resubmitted prematures): These are cases where there was either a formal premature decision, or the complainant was given informal advice that their case was premature, and the complainant has resubmitted their complaint to the Ombudsman after it has been put to the council. *These figures need to be added to the numbers for formal/informal premature complaints (see above) to get the full total number of premature complaints. They also needed to be added to the 'forwarded to the investigative team (new)' to get the total number of forwarded complaints.*

Forwarded to the investigative team (new): These are the complaints that have been forwarded from the LGO Advice Team to the Investigative Team for further consideration. The figures may include some complaints that the Investigative Team has received but where we have not yet contacted the council.

Table 2. Investigative Team: Decisions

This information records the number of decisions made by the LGO Investigative Team, broken down by outcome, within the period given. **This number will not be the same as the number of complaints forwarded from the LGO Advice Team** because some complaints decided in 2008/09 will already have been in hand at the beginning of the year, and some forwarded to the Investigative Team during 2008/09 will still be in hand at the end of the year. Below we set out a key explaining the outcome categories.

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

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

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

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

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

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

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

Table 3. Response times

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

Table 4. Average local authority response times 2008/09

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

LGO Advice Team

Enquiries and complaints received	Children and family services	Housing	Public Finance inc. Local Taxation	Planning and building control	Transport and highways	Other	Total
Formal/informal premature complaints	1	0	1	1	1	3	7
Advice given	0	0	0	2	0	2	4
Forwarded to investigative team (resubmitted premature)	0	1	0	2	0	0	3
Forwarded to investigative team (new)	0	1	0	11	0	1	13
Total	1	2	1	16	1	6	27

Investigative Team

Decisions	MI reps	LS	M reps	NM reps	No mal	Omb disc	Outside jurisdiction	Total
01/04/2008 / 31/03/2009	0	2	0	0	7	4	0	13

Average local authority response times 01/04/2008 to 31/03/2009

Response times	FIRST ENQUIRIES	
	No. of First Enquiries	Avg no. of days to respond
1/04/2008 / 31/03/2009	11	24.5
2007 / 2008	11	26.3
2006 / 2007	18	34.3

Types of authority	<= 28 days %	29 - 35 days %	> = 36 days %
District councils	60	20	20
Unitary authorities	56	35	9
Metropolitan authorities	67	19	14
County councils	62	32	6
London boroughs	58	27	15
National park authorities	100	0	0

Authority	Total complaints determined (excluding premature complaints)		Maladministration and injustice reports		Local settlements		Maladministration reports		No maladministration reports		No maladministration without report		Ombudsman's discretion		Outside jurisdiction	
	2008/09	2007/08	2008/09	2007/08	2008/09	2007/08	2008/09	2007/08	2008/09	2007/08	2008/09	2007/08	2008/09	2007/08	2008/09	2007/08
District councils																
Adur DC	9	12	0	0	3	0	0	0	0	0	2	10	0	0	2	4
Allerdale BC	19	11	0	0	3	2	0	0	0	0	4	2	7	5	5	5
Alnwick DC	11	6	0	0	2	0	0	0	0	0	8	3	0	0	3	1
Amber Valley DC	11	22	0	0	2	1	0	0	0	0	6	10	2	2	9	1
Arun DC	20	23	0	0	2	2	0	0	0	0	10	10	5	5	5	3
Ashfield DC	12	21	0	0	2	2	0	0	0	0	4	12	3	4	4	3
Ashford BC	21	16	0	0	3	0	0	0	0	0	9	7	6	2	3	3
Aylesbury Vale DC	18	13	0	0	1	3	0	0	0	0	9	6	7	3	1	1
Babergh DC	8	7	0	0	2	2	0	0	0	0	2	1	3	2	1	1
Barrow-in-Furness BC	6	11	0	0	2	1	0	0	0	0	3	4	1	2	2	0
Basildon DC	39	46	4*	1	15	17	0	0	0	0	14	18	3	5	3	3
Basingstoke & Deane BC	8	10	0	0	2	3	0	0	0	0	4	3	1	1	3	1
Bassetlaw DC	29	16	0	0	3	6	0	0	0	0	19	5	3	3	3	4
Bedford BC	7	16	0	0	2	1	0	0	0	0	2	8	1	1	6	2
Berwick-upon-Tweed BC	12	7	0	0	3	2	0	0	0	0	4	0	5	3	0	0
Blaby DC	3	8	0	0	0	0	0	0	0	0	0	3	1	1	4	2
Blyth Valley BC	7	9	0	0	1	1	0	0	0	0	3	4	3	1	0	0
Bolsover DC	12	13	0	0	1	0	0	0	0	0	5	7	4	5	2	2
Boston BC	4	14	0	0	1	1	0	0	0	0	2	5	0	1	1	1
Braintree DC	15	18	0	0	2	4	0	0	0	0	11	9	1	1	1	1
Breckland DC	9	19	0	0	3	1	0	0	0	0	4	13	1	4	1	1
Brentwood BC	5	8	0	0	1	1	0	0	0	0	3	6	0	0	1	1
Bridgnorth DC	4	9	0	0	1	0	0	0	0	0	2	3	0	1	1	1
Broadland DC	11	13	0	0	1	2	0	0	0	0	6	7	3	1	1	1
Bromsgrove DC	13	22	0	0	2	1	0	0	0	0	7	13	4	5	0	0
Broxbourne BC	12	24	0	0	0	3	0	0	0	0	7	12	4	4	6	1
Broxtowe BC	9	3	0	0	2	0	0	0	0	0	2	1	4	1	1	1
Burnley BC	10	21	0	0	0	4	0	0	0	0	3	9	5	5	2	2
Cambridge City C	10	19	0	1	6	4	0	0	0	0	4	8	0	0	4	0
Cannock Chase DC	11	10	0	0	3	2	0	0	0	0	3	4	3	2	2	2
Canterbury City C	28	45	1	1	5	12	0	0	0	0	5	11	11	12	6	6
Caradon DC	35	29	4*	0	11	5	0	0	0	0	11	12	8	9	1	1
Carlisle City C	11	15	0	1	2	2	0	0	0	0	8	5	1	4	0	0
Carrick DC	17	21	0	0	4	2	0	0	0	0	7	6	3	6	3	3
Castle Morpeth BC	5	13	1	0	0	3	0	0	0	0	2	7	2	0	0	0
Castle Point BC	10	22	0	0	2	2	0	0	0	0	2	13	4	5	2	2
Charnwood BC	12	11	0	0	1	1	0	0	0	0	7	7	1	1	3	3
Chelmsford BC	6	11	0	0	0	2	0	0	0	0	5	7	1	1	1	0
Cheltenham BC	8	9	0	0	1	0	0	0	0	0	3	9	4	4	0	0
Cherwell DC	6	10	1	0	0	0	0	0	0	0	3	8	1	1	1	1
Chester City C	8	13	0	0	3	2	0	0	0	0	2	7	2	3	1	1
Chesterfield BC	20	32	0	0	4	10	0	0	0	0	11	19	4	4	3	1

Authority	Total complaints determined (excluding premature complaints)		Maladministration and injustice reports		Local settlements		Maladministration reports		No maladministration reports		No maladministration without report		Ombudsman's discretion		Outside jurisdiction	
	2008/09	2007/08	2008/09	2007/08	2008/09	2007/08	2008/09	2007/08	2008/09	2007/08	2008/09	2007/08	2008/09	2007/08	2008/09	2007/08
Chester-le-Street DC	7	12	0	0	0	2	0	0	0	0	4	5	1	4	2	
Chichester DC	9	15	0	0	0	2	0	0	0	0	6	8	2	3	1	
Chiltem DC	5	12	0	0	0	1	0	0	0	0	2	5	1	2	2	
Chorley BC	10	6	0	0	1	0	0	0	0	0	3	1	5	1	1	
Christchurch BC	9	20	0	0	1	2	0	0	0	0	5	4	2	14	1	
Colechester BC	27	29	0	0	2	8	0	0	0	0	12	10	12	9	1	
Compton BC	4	6	1	0	1	1	0	0	0	0	0	4	2	1	0	
Copeland BC	13	9	0	0	2	0	0	0	0	0	7	3	2	4	2	
Corby BC	21	15	0	0	8	6	0	0	0	0	5	3	6	3	2	
Colswold DC	10	12	0	0	0	1	0	0	0	0	6	6	2	2	2	
Craven DC	4	5	0	0	2	0	0	0	0	0	0	1	0	3	2	
Crawley BC	10	17	0	0	0	3	0	0	0	0	6	11	2	3	2	
Crewe & Nantwich BC	17	15	0	0	1	4	0	0	0	0	7	6	8	3	1	
Dacorum BC	18	17	0	0	4	3	0	0	0	0	7	7	5	6	2	
Dartford BC	5	11	0	0	1	1	0	0	0	0	2	9	1	1	1	
Derby DC	8	10	0	0	4	5	0	0	0	0	1	4	0	0	3	
Derbyshire Dales DC	7	11	0	0	2	0	0	0	0	0	3	8	1	1	1	
Derwentside DC	16	15	0	0	3	3	0	0	0	0	7	5	5	6	1	
Dover DC	17	24	0	0	4	1	0	0	0	0	9	7	2	13	1	
Durham City C	16	14	0	1	4	3	0	0	0	0	9	5	2	5	1	
Easington DC	24	25	3*	0	9	6	0	0	0	0	10	13	0	4	1	
East Cambridgeshire DC	9	13	2*	4*	2	3	0	0	0	0	5	6	1	0	0	
East Devon DC	40	26	0	0	14	1	0	0	0	0	13	18	4	2	2	
East Dorset DC	5	10	0	0	0	1	0	0	0	0	3	3	1	1	1	
East Hampshire DC	12	8	0	0	2	3	0	0	0	0	9	5	0	0	1	
East Hertfordshire DC	7	12	0	0	0	0	0	0	0	0	4	5	1	3	2	
East Lindsey DC	28	42	0	0	5	3	0	0	0	0	16	26	5	7	2	
East Northamptonshire DC	4	11	0	0	0	2	0	0	0	0	3	6	1	0	0	
East Staffordshire DC	2	6	0	0	0	0	0	0	0	0	1	2	1	3	0	
Eastbourne BC	14	19	0	0	1	3	0	0	0	0	5	10	4	2	4	
Eastleigh BC	11	12	0	1	2	3	0	0	0	0	3	3	3	2	3	
Eden DC	1	5	0	0	0	0	0	0	0	0	0	0	0	2	1	
Ellesmere Port & Neston BC	9	18	0	0	1	3	0	0	0	0	4	8	4	4	0	
Elmbridge BC	16	22	0	0	1	2	0	0	0	0	6	9	8	6	1	
Epping Forest DC	10	10	0	0	1	1	0	0	0	0	4	4	2	1	3	
Epsom & Ewell BC	7	7	0	0	0	2	0	0	0	0	3	3	3	2	1	
Erewash BC	21	10	0	0	10	3	0	0	0	0	4	4	4	2	3	
Exeter City C	18	22	1	0	1	3	0	0	0	0	9	6	4	9	3	
Fareham BC	14	10	0	1	1	2	0	0	0	0	4	6	7	0	2	
Fenland DC	8	15	0	0	2	9	0	0	0	0	5	4	1	1	0	
Forest Heath DC	8	9	0	2*	2	3	0	0	0	0	5	2	0	1	1	
Forest of Dean DC	8	8	0	0	0	3	0	0	0	0	2	2	4	2	2	
Fyde BC	5	15	0	0	1	2	0	0	0	0	2	7	2	4	0	

Authority	Total complaints determined (excluding premature complaints)		Maladministration and injustice reports		Local settlements		Maladministration reports		No maladministration reports		No maladministration without report		Ombudsman's discretion		Outside jurisdiction	
	2008/09	2007/08	2008/09	2007/08	2008/09	2007/08	2008/09	2007/08	2008/09	2007/08	2008/09	2007/08	2008/09	2007/08	2008/09	2007/08
Gedling BC	29	14	0	0	6	4	0	0	0	0	18	9	2	0	3	
Gloucester City C	15	3	0	0	4	0	0	0	0	0	10	1	1	0	0	
Gosport BC	4	2	0	0	1	1	0	0	0	0	1	1	1	0	1	
Gravesham BC	12	15	0	0	3	1	0	0	0	0	6	8	2	3	1	
Great Yarmouth BC	14	22	0	0	0	2	0	0	0	0	10	13	1	2	3	
Guildford BC	8	15	0	0	1	1	0	0	0	0	4	8	0	4	3	
Hambleton DC	9	17	0	0	0	1	0	0	0	0	5	11	3	5	1	
Harborough DC	11	6	0	0	4	0	0	0	0	0	4	4	3	1	0	
Harlow DC	15	17	0	0	6	6	0	0	0	0	3	8	4	1	2	
Harrogate BC	16	30	0	0	0	0	0	0	0	0	9	18	2	8	5	
Hart DC	5	17	0	0	0	3	0	0	0	0	5	9	0	3	0	
Hastings BC	26	23	0	0	2	1	0	0	0	0	18	14	3	5	3	
Havant BC	8	10	0	0	0	0	0	0	0	0	5	4	0	3	3	
Hertsmere BC	5	19	0	0	1	5	0	0	0	0	1	2	3	4	0	
High Peak BC	13	27	0	0	2	7	0	0	0	0	7	8	2	11	2	
Hinckley & Bosworth BC	9	9	0	0	0	1	0	0	0	0	9	2	0	4	0	
Horsham DC	9	16	0	0	3	6	0	0	0	0	1	3	5	6	0	
Huntingdonshire DC	9	9	0	0	0	1	0	0	0	0	7	3	1	1	1	
Hyndburn BC	6	11	0	0	2	4	0	0	0	0	2	3	1	1	1	
Isle of Wight BC	10	21	0	0	3	1	0	0	0	0	4	9	2	8	1	
Isles of Scilly, Council for the	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Isnet DC	4	7	0	0	1	1	0	0	0	0	2	3	1	2	0	
Kerrier DC	22	16	0	0	8	2	0	0	0	0	10	6	2	4	2	
Kettering BC	13	23	0	0	0	7	0	0	0	0	10	6	3	6	0	
King's Lynn & West Norfolk BC	18	20	1	1	2	0	0	0	0	0	5	12	6	4	4	
Lancaster City C	11	24	0	2*	1	1	0	0	0	0	7	10	0	4	3	
Lewes DC	7	7	0	0	1	0	0	0	0	0	5	3	1	3	0	
Lichfield DC	8	11	0	0	0	0	0	0	0	0	5	10	3	1	0	
Lincoln City C	7	15	0	0	3	3	0	0	0	0	2	3	1	6	1	
Macclesfield BC	15	22	0	1	0	4	0	0	0	0	8	9	5	5	2	
Maldstone BC	27	29	0	0	4	7	0	0	0	0	8	11	12	9	3	
Maldon DC	8	9	0	0	0	2	0	0	0	0	5	6	0	0	3	
Maldern Hills DC	8	7	0	0	3	1	0	0	0	0	4	4	1	2	0	
Mansfield DC	7	10	0	0	1	0	0	0	0	0	2	6	2	0	2	
Melton BC	5	9	0	0	1	0	0	0	0	0	3	8	1	1	0	
Mendip DC	10	22	0	0	1	5	0	0	0	0	4	9	5	3	0	
Mid Bedfordshire DC	12	14	0	0	2	4	0	0	0	0	5	5	4	4	1	
Mid Devon DC	15	12	0	0	4	1	0	0	0	0	8	5	2	6	1	
Mid Suffolk DC	22	20	0	0	2	5	0	0	0	0	10	7	2	6	8	
Mid Sussex DC	7	12	0	0	1	3	0	0	0	0	5	6	1	1	0	
Mole Valley DC	5	12	0	0	0	5	0	0	0	0	4	4	1	2	0	
New Forest DC	15	33	0	0	0	0	0	0	0	0	8	24	6	3	1	
Newark & Sherwood DC	26	15	0	0	2	2	0	0	0	0	11	5	11	5	2	

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	2008/09	2007/08	2008/09	2007/08	2008/09	2007/08	2008/09	2007/08	2008/09	2007/08	2008/09	2007/08	2008/09	2007/08	2008/09	2007/08
Newcastle-under-Lyme BC	4	16	0	0	2	3	0	0	0	0	1	11	1	1	0	0
North Cornwall DC	16	16	0	0	2	1	0	0	0	0	10	12	3	3	1	1
North Devon DC	25	21	5*	0	2	1	0	0	0	0	11	11	2	2	5	5
North Dorset DC	3	8	0	0	1	0	0	0	0	0	2	4	0	2	2	0
North East Derbyshire DC	19	13	0	0	2	2	0	0	0	0	7	6	6	4	4	4
North Hertfordshire DC	13	23	0	0	2	2	0	0	0	0	7	11	2	2	4	2
North Kesteven DC	6	20	0	0	1	3	0	0	0	0	3	11	2	2	4	0
North Norfolk DC	21	36	0	0	4	2	0	0	0	0	5	10	10	20	2	2
North Shropshire DC	11	20	0	0	1	3	0	0	0	0	7	10	2	2	5	1
North Warwickshire BC	5	3	0	0	0	1	0	0	0	0	2	2	2	2	0	1
North West Leicestershire DC	8	27	0	0	2	6	0	0	0	0	5	15	1	1	3	0
North Wiltshire DC	19	23	0	0	4	7	0	0	0	0	4	5	4	4	6	7
Northampton BC	47	50	13*	1	11	18	0	0	0	0	14	11	5	9	4	4
Northwich City C	27	18	0	0	8	4	0	0	0	0	11	4	6	3	2	2
Nuneaton & Bedworth BC	7	14	0	0	1	5	0	0	0	0	3	6	3	3	1	0
Oadby & Wigston BC	6	3	0	0	1	0	0	0	0	0	5	2	0	0	0	0
Oswestry BC	7	11	0	1	0	1	0	0	0	0	6	6	0	0	2	1
Oxford City C	21	27	0	0	7	7	0	0	0	0	11	13	1	1	2	2
Pendle BC	9	14	0	0	2	2	0	0	0	0	5	6	0	0	6	4
Pennwith DC	30	25	0	0	2	4	0	0	0	0	18	11	6	4	4	4
Preston City C	14	21	0	0	4	1	0	0	0	0	4	5	4	4	9	1
Purbeck DC	7	17	0	0	2	1	0	0	0	0	3	11	1	2	2	1
Redditch BC	7	9	0	0	1	3	0	0	0	0	4	3	0	0	0	0
Reigate & Banstead BC	9	13	0	0	0	1	0	0	0	0	5	7	4	4	2	2
Restormel BC	23	12	0	1	2	2	0	0	0	0	8	4	10	3	3	3
Ribble Valley BC	3	7	0	0	1	1	0	0	0	0	1	5	1	1	1	0
Richmondshire DC	4	15	0	0	1	0	0	0	0	0	1	11	2	2	2	0
Rochford DC	6	14	0	0	0	3	0	0	0	0	5	7	1	1	2	0
Rossendale BC	16	14	0	0	2	3	0	0	0	0	1	6	8	8	4	5
Rother DC	18	17	0	0	6	2	0	0	0	0	8	10	2	2	0	2
Rugby BC	5	15	0	0	2	1	0	0	0	0	2	9	0	0	4	1
Runnymede BC	9	10	0	0	0	0	0	0	0	0	3	7	5	5	1	1
Rushcliffe BC	9	9	0	0	1	1	0	0	0	0	6	4	2	2	1	0
Rushmoor BC	9	8	0	0	0	1	0	0	0	0	7	6	0	0	1	2
Ryedale DC	10	1	0	0	4	0	0	1	0	0	6	0	0	0	0	0
Salisbury DC	15	11	0	0	4	5	0	0	0	0	6	2	3	3	0	0
Scarborough BC	26	33	0	0	7	3	0	0	0	0	9	16	5	11	5	5
Sedgemoor DC	9	18	0	0	2	7	0	0	0	0	2	8	2	2	1	3
Sedgemoor DC	20	13	0	0	0	1	0	0	0	0	14	4	4	4	5	2
Selby DC	26	24	0	2	4	4	0	0	0	0	13	7	8	8	9	1
Severnorks DC	16	14	0	0	0	4	0	0	0	0	9	1	6	4	1	1
Shepway DC	19	15	0	0	4	6	0	0	0	0	2	3	12	6	1	1
Shrewsbury & Atcham BC	9	14	0	0	1	2	0	0	0	0	5	6	2	2	2	1

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	2008/09	2007/08	2008/09	2007/08	2008/09	2007/08	2008/09	2007/08	2008/09	2007/08	2008/09	2007/08	2008/09	2007/08	2008/09	2007/08
South Bedfordshire DC	9	15	0	0	4	4	0	0	0	0	4	4	1	4	0	0
South Bucks DC	7	4	0	0	1	0	0	0	0	0	5	1	0	1	1	1
South Cambridgeshire DC	17	12	0	0	2	1	0	0	0	0	10	7	2	4	3	3
South Derbyshire DC	7	11	0	0	0	0	0	0	0	0	4	7	2	4	1	1
South Hants DC	8	19	0	1	0	2	0	0	0	0	4	7	3	5	1	1
South Holland DC	14	9	0	0	2	2	0	0	0	0	4	5	6	2	2	2
South Kesteven DC	12	15	0	0	2	3	0	0	0	0	4	5	1	3	5	5
South Lakeland DC	12	11	0	0	1	2	0	0	0	0	6	6	2	3	3	3
South Norfolk DC	20	9	0	0	2	2	0	0	0	0	6	2	8	1	4	4
South Northamptonshire DC	4	11	0	0	3	2	0	0	0	0	0	3	1	3	0	0
South Oxfordshire DC	5	13	0	0	1	1	0	0	0	0	2	7	1	2	1	1
South Ribble BC	15	4	0	0	3	0	0	0	0	0	6	1	5	3	1	1
South Shropshire DC	16	12	0	0	3	0	0	0	0	0	3	4	8	5	2	2
South Somerset DC	42	35	0	1	2	2	0	0	0	0	34	8	2	19	4	4
South Staffordshire DC	6	5	0	0	1	0	0	0	0	0	2	2	2	1	1	1
Spelthorne BC	5	5	0	0	1	1	0	0	0	0	3	2	1	1	0	0
St Albans City C	26	33	0	0	11	8	0	0	0	0	6	9	4	5	5	5
St Edmundsbury BC	12	11	0	0	2	1	0	0	0	0	8	4	2	4	0	0
Stafford BC	10	17	0	0	0	4	0	0	0	0	8	5	2	2	0	0
Staffordshire Moorlands DC	4	10	0	0	0	1	0	0	0	0	1	5	2	3	1	1
Staveley BC	10	17	0	0	4	4	0	0	0	0	3	2	1	5	2	2
Stafford-on-Avon DC	22	26	0	0	4	5	0	0	0	0	11	13	6	4	1	1
Stratford DC	9	12	0	0	2	1	0	0	0	0	5	9	2	1	0	0
Suffolk Coastal DC	9	18	0	0	1	3	0	0	0	0	7	11	1	2	0	0
Surrey Heath BC	2	10	0	0	1	3	0	0	0	0	1	1	0	2	0	0
Swale BC	14	14	0	0	3	5	0	0	0	0	6	5	1	1	4	4
Tamworth BC	7	15	0	0	1	2	0	0	0	0	3	10	2	2	1	1
Tandridge DC	11	13	0	0	1	1	0	0	0	0	7	7	2	5	1	1
Taunton Deane BC	13	16	0	0	3	5	0	0	0	0	6	8	4	3	0	0
Teesdale DC	3	7	0	0	1	0	0	0	0	0	2	4	0	2	0	0
Teignbridge DC	12	23	0	0	1	2	0	0	0	0	9	16	1	1	1	1
Tending DC	22	23	0	0	3	2	0	0	0	0	13	13	3	5	3	3
Test Valley BC	7	5	0	0	0	0	0	0	0	0	3	3	3	0	1	1
Tewkesbury BC	12	20	0	0	1	2	0	0	0	0	4	15	1	1	6	6
Thanet DC	29	59	0	0	6	12	0	0	0	0	16	32	5	10	2	2
Three Rivers DC	5	15	0	0	0	3	0	0	0	0	3	5	1	6	1	1
Tonbridge & Malling BC	3	7	0	0	0	0	0	0	0	0	1	5	1	2	1	1
Torridge DC	20	24	0	0	4	1	0	0	0	0	14	13	2	8	0	0
Tunbridge Wells RB	17	11	0	0	2	1	0	0	0	0	7	7	3	0	5	5
Tynedale DC	4	11	0	0	1	1	0	0	0	0	2	6	1	3	0	0
Uttlesford DC	10	10	0	0	2	1	0	0	0	0	6	5	2	4	0	0
Vale of the White Horse DC	11	8	0	0	1	2	0	0	0	0	6	1	2	5	2	2
Vale Royal BC	11	15	0	0	1	4	0	0	0	0	6	6	4	4	0	0

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	2008/09	2007/08	2008/09	2007/08	2008/09	2007/08	2008/09	2007/08	2008/09	2007/08	2008/09	2007/08	2008/09	2007/08	2008/09	2007/08
Wansbeck DC	14	5	0	0	4	3	0	0	0	0	5	1	2	0	3	
Warwick DC	16	18	0	0	5	4	0	0	0	0	6	9	5	4	0	
Watford BC	17	17	0	1	5	6	0	0	0	0	3	5	6	1	3	
Waverley DC	13	26	0	0	4	5	0	0	0	0	3	10	5	7	1	
Waverley BC	17	30	0	0	2	4	0	0	0	0	5	15	7	6	3	
Wealden DC	29	31	0	0	0	3	0	0	0	0	20	20	6	3	3	
Wear Valley DC	8	17	0	0	3	5	0	0	0	0	2	6	1	4	2	
Wellingborough BC	5	18	0	0	0	3	0	0	0	0	5	11	0	2	0	
Welwyn Hatfield DC	20	18	0	0	4	5	0	0	0	0	4	8	12	3	0	
West Devon BC	2	6	0	0	0	1	0	0	0	0	1	3	1	1	0	
West Dorset DC	11	15	0	0	1	2	0	0	0	0	3	5	4	3	3	
West Lancashire DC	14	13	0	0	2	3	0	0	0	0	4	3	5	4	3	
West Lindsey DC	7	10	0	0	1	1	0	0	0	0	3	3	1	1	2	
West Oxfordshire DC	9	6	0	0	1	2	0	0	0	0	6	1	2	2	0	
West Somerset DC	7	6	0	0	0	1	0	0	0	0	5	3	1	1	1	
West Wiltshire DC	10	18	0	4	3	2	0	0	0	0	4	9	1	1	2	
Weymouth & Portland BC	9	10	0	0	0	0	0	0	0	0	5	4	2	5	2	
Winchester City C	20	21	0	0	5	5	0	0	0	0	11	10	2	6	2	
Woking BC	6	13	0	3	1	2	0	0	0	0	5	4	0	1	1	
Worcester City C	2	10	0	0	0	1	0	0	0	0	0	6	1	2	4	
Worthing BC	9	13	0	0	2	2	0	0	0	0	4	7	2	4	4	
Wycharon DC	7	14	0	0	1	1	0	0	0	0	4	7	1	4	4	
Wycombe DC	18	26	0	4	3	4	0	0	0	0	10	9	3	6	6	
Wyre BC	19	12	0	0	2	0	0	0	0	0	11	8	4	1	1	
Wyre Forest DC	3	7	0	0	0	0	0	0	0	0	0	3	1	2	2	

BROMSGROVE DISTRICT COUNCIL

STANDARDS COMMITTEE

23RD SEPTEMBER 2009

OMBUDSMAN REPORT INTO MALADMINISTRATION

Responsible Portfolio Holder	Councillor Geoff Denaro
Responsible Head of Service	Claire Felton, Head of Legal, Equalities and Democratic Services
Non-Key Decision	

1. SUMMARY

- 1.1 On 30th June 2009 the Local Government Ombudsman issued a Report on investigation 07B13686 relating to a decision of the Planning Committee to grant planning permission for an affordable housing scheme. The Report found that there had been maladministration by Members of the Planning Committee in the way the decision had been taken. This matter has already been reported to Full Council.

2. RECOMMENDATION

Members are asked to approve the following recommendations:-

- 2.1 To note the contents of this report.
- 2.2 If appropriate, to make any recommendations arising out of the issues addressed in the Ombudsman's Report to Full Council.

3. BACKGROUND

- 3.1 In March 2008 a local resident complained to the Local Government Ombudsman regarding a decision made by the Planning Committee in September 2007 to approve an application for planning permission for 20 affordable houses. He also complained that a petition regarding the development signed by local residents had been given to a Member of the Council but had not been passed on to the planning Department.
- 3.2 The site of the development was in the Green Belt. The officer recommendation was for refusal based on a number of issues including Green Belt policy, wildlife habitat, tree cover preservation and inadequate evidence of housing need in the locality of the site. Members voted to approve the application against officer advice.
- 3.3 The Ombudsman investigation involved an examination of all the relevant Council records, including the production of a transcript of the Planning

Committee Meeting and checking all the Council files. Officers were interviewed together with all the Councillors on the Committee who had voted to approve the application and the Councillor who was said not to have passed on the petition. After a long delay the decision of the Ombudsman was issued on 30 June 2009 and a copy of his Report is attached at Appendix 1. Please note that the Report uses anonymous names and locations to preserve the confidentiality of the Members and complainant.

- 3.4 Members will see that the Ombudsman makes 5 specific findings of maladministration regarding the Members of Planning Committee as follows:-
- i. Members placed too much weight on the land at the site being undeveloped leading them to take this into account when it was an irrelevant factor.
 - ii. Members failed to distinguish between housing demand and housing need.
 - iii. Members failed to consider adequately the impact of the development on wildlife habitat/ protected species.
 - iv. Members failed to consider adequately the advice of the Tree Officer.
 - v. Members failed to give adequate reasons for their decision.
- 3.5 There was an additional finding that failure by the Member concerned to pass on the resident's petition, before the planning decision was taken, was maladministration likely to cause outrage to the signatories. The Report also noted that the petition did not refer to a material planning consideration that would allow the Council to refuse the application. Members are referred to paragraph 3.11 below which sets out further information relating to petitions.
- 3.6 It is important to note that the Ombudsman recognises that this was a decision which was within the powers of the Council to make, or in other words that the Council was not acting outside its powers in approving the scheme. It was more the lack of proper detailed consideration of the issues at the site, and the failure to give adequate reasons which resulted in the finding of maladministration.
- 3.7 To put the finding into a wider context, this is the first time that the LGO made a finding of maladministration and issued a Report to the Council since 2004. The issue of affordable housing is a problem for all Councils but particularly those located in the Green Belt. The report is now a public document and in one sense the contents of it will be valuable to other Councils who face similar difficult decisions of balancing the need for affordable housing against the duty to preserve the Green Belt.
- 3.8 The Ombudsman has recommended that a compensation payment be made to the complainant of £1000 to reflect the injustice caused by the

maladministration and the time and trouble taken by him to make his complaint.

- 3.9 The current position is that the Ombudsman Report was considered by Full Council on 9th September. This was necessary under the relevant legislation to enable the report to be noted by Full Council and for the compensation payment to be approved. The recommendations for noting and payment of the compensation were approved and the plans for training to address the issues raised by the report, and for the future handling of petitions were also noted by Full Council.
- 3.10 With reference to training the position is that officers from legal and planning are in the process organising a de-brief/ training session for Members of the Planning Committee. The session will concentrate on the learning points coming out of the Ombudsman's Report. The aim will be to ensure that through advice and training, and changes to procedures where necessary, that the same mistakes will not be repeated on future applications. For example the system of giving reasons on officer overturn decisions has already been amended to ensure that Members address all the headings under which objections have been identified.
- 3.11 Since the original report to Council was drafted that have also been further developments in that officers have been in contact with the assistant Ombudsman David Pollard regarding additional training. It has been agreed (dates to be confirmed) that in addition to the training referred to in 3.10 the Ombudsman team will also attend at the Council House to do a training session for all Members on the work of the Ombudsman generally and with a second presentation specifically relating to planning issues.
- 3.12 With reference to petitions, which Members will note were also an issue in this matter, there is currently legislation before Parliament which will place a requirement on Councils to develop a petition scheme (The Local Democracy, Economic Development and Construction Bill). Pending implementation of the new legislation the Council will manage the receipt of petitions as follows:-
- As approved by Members at Full Council on 29th April, the Joint Overview and Scrutiny Board has been given responsibility for receiving resident's petitions.
 - As an extra check, to ensure that petitions relating to regulatory matters (planning and licensing applications) are allocated to the correct department, all staff and Members have been instructed to pass any petitions received to the Monitoring Officer.
- 3.13 As Members can see, a number of steps have been taken both through planned training and changes to procedures to address the points arising out of the maladministration finding. However, the Standards Committee retains the ability to make additional recommendations as to actions needed

should it be of the view that there are any further measures which should be looked at.

4. FINANCIAL IMPLICATIONS

- 4.1 There are no direct financial implications arising out of this report, other than the recommendation that £1000 be paid as compensation to the complainant. In the wider sense it is important that Members learn from the mistakes identified by the Ombudsman in order to avoid placing the Council at risk of having to make other compensation payments in the future.

5. LEGAL IMPLICATIONS

- 5.1 There are no legal implications arising out of this report, save for the need for the findings of the Ombudsman to be considered by the Council as referred to in paragraph 3.9 above. Once this has been done and the payment of compensation authorised the Council is required to officially report back to the Ombudsman to confirm that it has considered the report and agreed to implement the findings. At that stage the LGO will formally confirm that it is satisfied and take no further action.
- 5.2 As regards the legal status of the decision made to grant planning permission to the scheme, this is not affected by the finding of maladministration made by the LGO. The Ombudsman does not have the legal authority to overturn decisions made by any local authority. The decision could only be overturned by legal action taken against the Council for judicial review.

6. COUNCIL OBJECTIVES

- 6.1 This report does not link directly to Council objectives.

7. RISK MANAGEMENT

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

- *Risk of the Council being found to have caused maladministration on a future planning application.*

- 7.2 These risks are being managed as follows:

- As referred to in paragraphs 3.10 and 3.11 officers will be organising a training/learning session for Members based on the findings in the report and additional training by the LGO. In addition officers will consider making changes to the planning process to reflect the learning points where necessary.
- More generally, the risk will also be managed by the on-going training of Members through the Member Development programme.

8. **CUSTOMER IMPLICATIONS**

8.1 There are therefore no direct customer implications.

9. **EQUALITIES AND DIVERSITY IMPLICATIONS**

9.1 There are no implications for Equalities and Diversities arising out of this report.

10. **VALUE FOR MONEY IMPLICATIONS**

10.1 There are no value for money implications.

11. **OTHER IMPLICATIONS**

Procurement Issues None
Personnel Implications None
Governance/Performance Management The finding of maladministration will be recorded on the Council's annual LGO statistics for 09/10
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	No
Executive Director - Partnerships and Projects	<u>No</u>
Executive Director - Services	<u>No</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 Report of an Investigation into complaint no 07B13868 against Bromsgrove District Council

15. BACKGROUND PAPERS

None

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Report

on an investigation into
complaint no 07B13868 against
Bromsgrove District Council

June 2009

Investigation into Complaint No 07B13868 Against Bromsgrove District Council

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Key to names used

Mr Miller	the complainant
Councillors A to H	Members of the Planning Committee
Councillor I	Ward Member
Fendale	a parish within the authority's responsibility
Pinton	a hamlet within the parish of Fendale

Report Summary

Subject

A local resident, on behalf of a Residents' Committee, complained that the Council did not consider properly an application for 20 affordable housing development units in the Green Belt, adjacent to a hamlet of around 60 dwellings.

Local residents submitted a petition opposing the development but the Councillor did not pass this to the Council.

To demonstrate local need for affordable housing, the applicant submitted a survey of housing need in the wider parish, some data about average house prices and incomes in the area, and information from the Council's housing register.

The Planning Manager recommended that the Council refuse the application because the development did not meet local or national planning policy. In particular, the officer considered that:

- The development was not small scale, suitable for its location or sustainable and that the applicant had not demonstrated a local housing need.
- The development is inappropriate in the Green Belt and there were no special circumstances that outweigh the harm caused to it.
- More information was needed about harm to potential protected wildlife habitats and the loss of protected trees.

Members approved the development against the Officer's recommendation.

The Ombudsman found that Members:

- Failed to distinguish between housing need and housing demand.
- Took an irrelevant factor into account in assessing harm to the Green Belt.
- Failed to give adequate consideration to officer advice about protected tree cover, and to Natural England's advice about possible habitats for protected species on the site.
- Failed to give adequate reasons for approving the application.

Finding

Maladministration causing injustice.

Recommended remedy

To remedy the injustice I have recommended that the Council should pay the complainant £1000.

Complaint

1. Mr Miller has complained (on behalf of a Residents' Committee) about how Members approved an affordable housing scheme in the Green Belt. In particular Mr Miller has complained that:
 - a) Councillor C made a misleading statement about housing need in Pinton which influenced the Planning Committee's decision, and
 - b) Councillor I failed to pass on to the Council a petition opposing the development given to him by the Residents' Committee.
2. I have not used the complainant's real name in this report.¹
3. An officer of the Commission has examined the Council's files and interviewed officers and elected Members who have been involved in the decision-making process.

Legal and Administrative Background

4. Government guidance allows local authorities to approve development of 'exception sites' in Green Belts for affordable housing.² The guidance is reflected in the District Local Plan and this sets out the criteria by which a development for affordable housing may be deemed a rural exception site.³
 - a) The site should be within or adjoin a settlement, be "small scale and suitable for the location".
 - b) A local needs survey should show "conclusively that there is a genuine local need for the type, mix and scale of the proposed dwellings".
 - c) The site should conform with environmental and control policies in local and county plans.
 - d) The benefits of the affordable housing scheme should be safeguarded for future occupiers.
 - e) There must be no cross-subsidy by open market development.
5. In addition, the Worcestershire County Structure Plan seeks to control local housing supply but allows the Council to approve development for 100% affordable housing where this will meet local need.⁴

1 The Local Government Act 1974, section 30(3)

2 Planning Policy Statement 3: Housing

3 Policy S16 Bromsgrove District Local Plan: Affordable Housing in the Green Belt

4 Supplementary Guidance Note 10: Managing Housing Supply in the District of Bromsgrove

6. The Council should take account of government guidance for planning authorities when determining applications for development in the Green Belt. This says that (except in limited circumstances), the construction of new buildings in the Green Belt is inappropriate and is by definition harmful to the Green Belt. The guidance says that “Very special circumstances to justify inappropriate development will not exist unless the harm by reason of inappropriateness, and any other harm is clearly outweighed by other considerations”.⁵
7. The Council has a duty to give clear reasons for its decision to approve or refuse a planning application.⁶ Where the officer recommendation is for refusal and Members resolve to approve the application, Members should be able to give clear explanation of the reasons for the decision.

Investigation

What happened

8. The Council tasked Bromsgrove District Housing Trust with locating and developing land for affordable housing. Following consultation, the Trust identified a list of potential sites and ranked these in order of preference. Negotiations with owners of the three most preferred sites were unsuccessful.
9. A plot of land adjacent to Pinton was the fourth preference. Pinton is a hamlet within the parish of Fendale and comprises around 60 dwellings. The application site is currently overgrown wooded scrubland bounded by houses on two sides and a brook and hedgerow on the remaining boundary. The application is for 20 affordable dwellings. The entire site is designated Green Belt (including an area that previously contained garaging).
10. In support of the application, the Trust submitted information from the Fendale Parish Housing Survey, which indicated a high demand for affordable housing in the Parish although it did not give information specifically relating to Pinton. The Survey was conducted by a Rural Housing Enabler. It also submitted information from the Council’s housing register showing 22 families in Pinton on the housing waiting list. The Council automatically accepts onto the housing register families currently living on the static caravan site at Pinton.
11. Following a public meeting about the proposed development, the Residents’ Committee submitted a petition with around 200 signatories to the Parish Clerk. The petition is headed ‘[Pinton] against proposed housing development in our village’. The Clerk forwarded the petition to the Council’s main office marked for the attention of Councillor I, the Ward Member, who was not a member of the

5 Planning Policy Guidance 2: Green Belts

6 The Town and Country Planning (General Development Procedure) Order 1995 paragraph 22 (as amended)

Planning Committee. This was not passed to the planning officers and so it was not referenced on the relevant Planning Committee report.

12. The Planning Committee Members visited the site prior to its meeting. Members were unable to access the site by foot because it is overgrown and so viewed the site from their parked position on the adjoining road.
13. The Planning Manager dealing with the application recommended that the application be refused. A summary of his reasons is:
 - a) The development does not meet all criteria for the rural exception site policy. The site adjoins the hamlet boundary but is a significant addition to the village and so cannot be described as small scale. It is not sustainable or suitable for that location because it will encourage private car use. In the Strategic Planning Manager's view, a genuine local need for affordable housing had not been demonstrated. The local survey indicates a desire for housing within Fendale but not a need within Pinton. The housing register information is specific to Pinton but again, it indicates a demand for rehousing but not necessarily housing need.
 - b) The proposal is inappropriate development in the Green Belt. It will cause harm to the openness of the Green Belt and encroach on it.
 - c) Local housing need in itself does not constitute very special circumstances that clearly outweigh harm to the Green Belt as this could be applied widely to sites adjacent to urban areas.
 - d) As no specific local housing need has been proven, the development cannot be considered an exception to policies seeking to control housing supply, despite the fact that the proposal is for a scheme of 100% affordable housing.
 - e) He had concerns about harm to potential protected wildlife habitats and the loss of protected trees. He recommended that further surveys were completed.
14. The Strategic Housing Manager was consulted on the application. He disagreed with the planners' view of the evidence of local housing need. He said that the needs survey indicates a significant level of local need and this is supported by the Council's housing register which indicates a demand for housing in Fendale.
15. The Committee report makes clear the views of Natural England that without additional surveys to establish the presence of protected species an informed planning decision cannot be made. The report also sets out the Tree Officer's view that the development posed a direct threat to woodland and the habitat for

fauna. The Tree Officer concluded that although there was potential for some housing, the present scheme is too extensive.

16. The Council had received several objections to the application from the public and a summary of these are included in the Committee report.

Reasons given by Members

17. In response to my enquiries Councillor I said that he recalls having received the petition with other post sent via the Council's main office but failed to pass this on to the Council as it was misplaced among other papers at his office. Councillor I later found the petition and forwarded it to the planning department but only after the Committee had taken its decision. He said that he had not intended to withhold the petition deliberately.
18. The application was considered at a meeting of the Planning Committee. The Committee report included objections by the Residents' Committee and the comments of the Strategic Housing Manager. Much of the debate was around the need for affordable housing locally. During the meeting, Councillor C stated "...we need 22 families rehoused in [Pinton]."
19. The Committee voted to approve the application against officer recommendation by six votes to two with one abstention. The reason for the Committee's decision was;
"The need and requirement for affordable housing in [Pinton] constituted very special circumstances, which outweighed the harm that would be caused to the openness of the Green Belt and other harm."
20. At interview, Members gave their reasons for considering that the application meets the criteria of the rural exception site policy. In summary, Members considered that the scale of the development was acceptable for the location and the local transport links meant that it was sustainable. In terms of local housing need, Members referred to a well-known need for affordable housing (nationally and at district level) and that they had taken account of the Senior Strategic Housing Manager's comments in support of the application and the local needs survey for Fendale parish of which Pinton is part.
21. Members also assessed the harm to the Green Belt. They considered that the land was of poor quality, and neglected, and could not have any other use. Members considered that the development's encroachment on the Green Belt was minimal and the site's boundaries of the brook and existing housing would discourage further development. They were satisfied that local housing need had been sufficiently demonstrated and that this constituted very special circumstances that outweighed harm to the Green Belt.

22. A summary of the individual comments on those Members who voted in favour of the application appears below.

Councillor A	Councillor A used her experience of an affordable housing scheme in her local area. She considered the scale acceptable and the location to be 'just right' as new dwellings could be absorbed by the existing community. The survey demonstrated need in the parish and the housing register gave information specific to the hamlet. This constituted very special circumstances to outweigh harm. She thought that wildlife would go elsewhere but no further advice was needed from the officers or applicant.
Councillor B	Councillor B knows the area and considered that the plot of land had not been maintained. The development would be sustainable as it is close to a main road with bus stop and transport links, a brand new school and library is being built. The survey demonstrates local need in the parish of which the hamlet is a part and this is sufficiently specific to the area to be a local housing need. These are the very special circumstances needed to outweigh the harm to the Green Belt. He disagreed with the Strategic Planning Manager's interpretation of this and could find no reason to doubt the survey (either in its robustness of methods or soundness of conclusion). He felt that the housing register shows a small part of overall need for housing and the Council should consider a wider area to demonstrate need. Councillor B was satisfied that the potential threat to habitat and trees could be adequately controlled by planning condition and a Tree Preservation Order.
Councillor C	Councillor C knows the area well. She took into account that the site only partly comprises Green Belt land and that the existing bus service made the development sustainable and suitable for the location. She considered that the issue of local housing need was the Housing Manager's remit and favoured his interpretation of the survey and supporting information, which she felt concurs with local knowledge. Councillor C believed she was quoting from the housing need survey for Fendale in stating that there were 22 families in need of rehousing in Pinton. She sought the opinion of Worcestershire Wildlife Society about the threat to wildlife and was satisfied that the need for housing outweighed this. Councillor C considered that the Council needed a local policy to allow affordable housing in the Green Belt as the issue is becoming increasingly difficult for Members.
Councillor D	Councillor D reported a tremendous pressure on the Council to provide affordable housing in the Green Belt. He considered that it was better for this land to be utilized than to be left derelict and that it was the only site available in a semi-rural area that is not agricultural. He did not feel that the development would cause

	<p>undue harm to residents. Councillor D took into account prior knowledge that there was a need for affordable housing in the district and had no doubt that the information available demonstrated a need within the parish. He felt that the need for housing in the parish was sufficient to constitute very special circumstances that outweigh the limited harm to the Green Belt. He does not recall taking into account habitat or wildlife issues.</p>
Councillor E	<p>Councillor E considered that the existing housing adjacent to the site already constitutes development in the Green Belt and so the impact of additional housing here would not be significant. The scale was not excessive and the development is sustainable due to the transport links. In his view, the additional housing would redress an imbalance caused by the loss of council houses in the adjacent area that are now privately owned. Councillor E was satisfied that the survey demonstrated a need within the district and said that Trust would not make an application unless there was a housing need. This was very special circumstances to outweigh harm. He also took into account that other potential sites had not been successful and this was the agreed next preference.</p>
Councillor F	<p>Councillor F described the site as ideal as it has the natural boundaries of the road, housing, and brook and so it was unlikely to intrude any further on the Green Belt. He also took into account that the site could not be used for anything else. Councillor F considered that 20 houses is acceptable and in keeping with the area. He was satisfied that a local housing need had been demonstrated and that the Council had set up the Trust and he would only expect it to submit an application where need was established. The Councillor considered that the housing needs constituted very special circumstances to outweigh harm. He felt that any wildlife habitat would not be large and so the protection of this would not be a significant consideration.</p>
Councillor G	<p>Councillor G voted against granting permission primarily because he considered that the applicant had not proved a local need for affordable housing and that the site forms a vital part of the Green Belt. The Councillor also needed some more information about any threat to protected trees and potential wildlife habitat.</p>

Councillor H	Councillor H abstained. He was satisfied that there is a local need for affordable housing but he was not familiar with the site and could not assess whether it was suitable for this development because it is overgrown and Members viewed it from the minibus.
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Conclusions

The residents' petition

23. The petition indicates the strength of feeling locally against the development. It does not refer to a material planning consideration that would allow the Council to refuse the application. Councillor I's failure to forward the petition to the Council before it took the decision to approve the application however, is maladministration likely to cause outrage to the signatories.

That the development meets the criteria of the exception site policy

24. The rural exception site policy says that the Council should have regard to a number of criteria, including that the development be small scale and suitable for the location. On the one hand, an increase of 20 dwellings in a hamlet of 60 seems on the face of it to be hardly 'small scale'. Yet, within a district-wide housing development programme, 20 houses might well be small scale. In the final analysis, it seems to me that scale and suitability are matters for Members to interpret. In my view it was not maladministration for Members to decide that this was a development which accorded with, or could be allowed under, its rural exception policy.
25. The same policy requires the applicant to demonstrate that there is a genuine local housing need. The applicant relied on information about the hamlet from the housing register, the parish needs survey, and information about average house prices and how these relate to average income. The Strategic Planning Manager and the Strategic Housing Manager had opposing views about whether this information demonstrated a local housing need.
26. Councillor C has said that she believed that she was referring to the needs survey when she said that 22 families in Pinton needed rehousing. In fact, this information relates to households in Pinton on the housing register. The housing register can only indicate **demand** for housing in the area but Councillor C and several other Members have misinterpreted this as demonstrating a **need** for housing. The failure to distinguish between housing need and housing demand was maladministration.

27. At interview, Councillor E and Councillor F both assumed that there was a local need because the Housing Trust had submitted the application. Several other Members relied on their own knowledge of the need for affordable housing at a district or national level. The parish needs survey was three years old by the time the Council decided to approve the application and so was not as up to date as it might reasonably have been. The applicant's information about house prices and income was more recent but the Council could reasonably have sought more and more recent information to demonstrate housing need. I consider that it would have been good practice to do so but I do not conclude that any shortcomings here were so serious as to amount to maladministration.
28. In the absence of clear guidance on what may constitute 'local' in terms of housing need, I consider that the Council could reasonably conclude that housing need within the wider parish could amount to local need when considering development in the hamlet.

Assessment of harm to the Green Belt

29. The Council must be satisfied that there are very special circumstances that outweigh the harm to the Green Belt and other harm caused by the development. Where the existing use of land is harmful, it does not seem unreasonable for Members to weigh this in the balance when assessing any harm that a proposal would cause to the Green Belt.
30. But in this case, Councillors D and F concluded that because the land is undeveloped and could not be put to use other than for housing, then its development will cause minimal harm to the Green Belt. But undeveloped land is an expected feature of the Green Belt and is not in itself harmful. As such, the fact that the land is undeveloped cannot reasonably be taken into consideration when assessing the harm to the Green Belt of a proposal to develop the land in question. It seems to me that some Members took into account an irrelevant factor and that was maladministration.

Wildlife Habitat

31. The applicant had established that the site is a potential habitat for several species and the Committee report recommends additional surveys to establish whether these are in fact present.
32. Councillor B said that the threat to a potential wildlife habitat could be controlled adequately by planning conditions but the Committee report makes it clear that this approach is not acceptable. Councillor F concluded that any protected wildlife populations would not be large and Councillor C said that the need of any wildlife for its habitat would be outweighed by the need for affordable housing. But without the additional surveys, Members did not have sufficient information to

reach these views. Councillor D did not recall having taken into account protected species issues. I consider that Members failed to consider adequately the impact of the development on protected species including Natural England's advice on the matter. Nor did it have sufficient regard for the relevant local and national planning policy. That was maladministration.

Tree Cover Preservation

33. The Tree Officer has made clear that although tree cover of woodland on the site is protected by a Tree Preservation Order, the development is a threat to the integrity of the woodland because it is too extensive. Councillors B and E concluded that the threat to the protected tree cover could be managed by the Tree Preservation Order. I consider that Members failed to consider adequately the Tree Officer's advice. That was further maladministration by the Council.

Reasons for Approval

34. The Council must give reasons for approving a planning application. Spelling out clearly the reasons for approval is especially necessary where Members are approving an application against officer advice. In particular, Members must say why they reject officer advice and how they feel that the development satisfies their local planning policies. It seems to me that Members failed to give adequate reasons for their decision here and that was further maladministration by the Council.

Injustice

35. On balance, I conclude that this was development that it was open to Members to approve. But I do not believe that they gave the application the careful consideration that was due to it, especially when officer advice was clear that permission should have been refused. Some Members misdirected themselves, and the Committee's reasons for approval did not adequately address officer concerns. Accordingly Mr Miller is left with a degree of understandable outrage that the Council should have handled matters better, and he has been put to some time and trouble in pursuing matters with the Council and with me.

Finding

36. For the reasons set out in paragraphs 23 to 34 above, I find that there has been maladministration by the Council, leading to the injustice I have described in paragraph 35.
37. To remedy the injustice the Council should pay Mr Miller £1000.

**J R White
Local Government Ombudsman
The Oaks No 2
Westwood Way
Westwood Business Park
Coventry
CV4 8JB**

June 2009



Public perceptions of ethics

July 2009

1 Introduction

- 1.1 Standards for England is a strategic regulator providing an independent national oversight of how local authorities promote and improve the ethical behaviour of members.
- 1.2 We assist local authorities in this work by providing support and guidance, as well as investigating cases which are inappropriate for authorities to deal with themselves. We are a non-departmental public body, set up by an Act of Parliament.
- 1.3 Every two years, Standards for England measures and monitors the public's perceptions of local councillors' ethical standards and their confidence in the redress mechanisms for dealing with shortcomings in individuals' behaviour. The findings presented in this report relate to measures of perceptions taken in June 2009. Comparisons are made with data collected in 2005 and 2007.
- 1.4 It is worth noting, when comparing findings across the time periods, that data for this survey was collected in 2009 and following the Local Government and Public Involvement in Health Act (2007). This Act resulted in local government being given greater responsibility for its own local standards arrangements including the initial receipt and assessment of allegations.
- 1.5 As this report shows, there are many factors which impact upon public perceptions, and of these, many are outside of the control of local government. Therefore, this project alone will not identify the causality of any changes in public perceptions i.e. we will not be able to directly attribute any changes in public perceptions directly to changes in the standards framework.
- 1.6 The research reported on here is part of a programme of research to assess the impact of the standards framework. This programme of research enables us to assess impacts from the perspective of members, officers and the public on public trust, member behaviour and confidence in accountability mechanisms, as well as changes in culture, values and systems and processes in local government.

2 Research objectives

- 2.1 The purpose of this research is to monitor, and identify any changes over time, in:
 - a) levels of public trust in member behaviour and integrity
 - b) levels of public confidence in the accountability mechanisms for dealing with instances where member behaviour has not met the required standard
 - c) public expectations of the behaviour of members.

3 Methodology

- 3.1 In 2005 baseline measurements of public perceptions of ethics in local government were taken. In 2007 and 2009 the survey was repeated in order to track any changes over time. The survey will continue to be repeated every two years.
- 3.2 This paper provides a summary of the main 2009 findings. A total of 1,735 (weighted) adults aged 18+ were interviewed face-to-face in home using Computer Assisted Personal Interviewing (CAPI) by Gfk NOP Research. Interviews took place between 11 and 16 June 2009. Comparisons are made with 2007 and 2009.

4 Public perceptions

- 4.1 It should be noted that perception data carries health warnings. Ipsos MORI (Duffy, 2009) identify five key areas in particular which should be noted when interpreting perceptions data. Firstly, is that perceptions are just that and people can be wrong. Secondly, is the media influence on public opinion and their role in the agenda setting of current issues. Thirdly, is that there is a relationship between peoples' political values and the way they rate services. Fourthly, our expectations as service users are rising as we see ourselves as consumers of public services. Finally, the way in which people view their local area has been found to be an indicator of satisfaction with services.
- 4.2 Other factors which have been found to influence public perceptions of services, and therefore their favourability towards and trust in councils, are experiences of council services, levels of council tax, individuals' loyalty toward an organisation, the political party in control at that council and the extent to which individuals identify with their local area (Cowell *et al*, 2009).
- 4.3 Therefore, while it is important to measure and monitor public perceptions there are a variety of factors, many of which are outside of the control of local government and local politicians, which influence public perceptions.
- 4.4 That said, any work which seeks to assess the impacts of the standards framework in local government must include an assessment of public perceptions. It is, after all, the public that we want to have trust in politicians and confidence in accountability mechanisms. Public disengagement with

politics has already begun^{*}. Some characteristics of disengagement are falling voter turn out, falling civic engagement and falling party memberships[†]. While the actual cause of this disengagement is not clear, it is not hard to imagine how public perceptions of members' standards of behaviour might influence public desire to engage in local democracy.

5 Executive summary

Findings

- 5.1 It was to be expected that the MPs' expenses scandal would have an impact on public perceptions of MPs and it was also considered likely that this might impact on perceptions of local councillors. This research provides evidence to suggest, however, that while there has been a negative impact on public perceptions of councillors, there has been a more marked affect on perceptions of MPs and government ministers.
- 5.2 The perception that local MPs, government ministers and politicians generally tell the truth either 'always' or 'most of the time' has fallen since 2007 (-5%, -3% and -3% respectively). Similarly, over the same period, perceptions that these groups 'rarely' or 'never' tell the truth have increased significantly (+9%, +9% and +10% respectively). The extent to which it is perceived that local councillors tell the truth 'always' or 'most of the time' has not changed significantly since 2007 (30% in 2007 and 28% in 2009).
- 5.3 That said, local councillors' behaviour is more likely to be rated by the public as 'low' in 2009 and is more likely to be said to have 'got worse' compared to 2007. However, the proportions of the public saying that local councillors' behaviour is 'high' overall or has 'improved' recently are the same in 2009 as in 2007.
- 5.4 Interestingly, the rise in the proportion of the public who think that the behaviour of local councillors has got worse does not translate into a corresponding rise in the number of the complaints the public say they have made about local councillors. Similar proportions of the general public report ever having made a complaint about a local councillor in 2005, 2007 and 2009 (3%, 4% and 3% respectively).
- 5.5 It is clear that those within local government have, when compared to the public, a far higher level of confidence in the ability of local government to uncover poor behaviour and to deal with it appropriately.
- 5.6 Other research referred to in this paper indicates that the local standards framework has had a positive impact on local government. Not least, there is a view from within local government that the behaviour of members has improved. The proportion of our members and officers that have told us they think that members' standard of behaviour has improved in their authority has increased each time we conducted this survey.

Conclusions

^{*} For example, there has been a fall in general election turnouts since 1992 (Ipsos MORI, Blair's Britain).

[†] Ipsos MORI, Blair's Britain

- 5.7 Field work for this survey was undertaken in June and therefore the timing of this survey suggests that these changes could be a result of the recent revelations about MPs' expenses. The findings show that public attitudes towards local councillors have changed less markedly than for local MPs, politicians generally and government ministers. This suggests that the public are able to discern, to an extent, between local and national politicians. We also know from other research that the public are more favourable about the local context than the national.
- 5.8 Ipsos MORI recently reported that satisfaction with local government is decreasing with fewer than half of residents satisfied with the performance of their authority, the lowest national score recorded in a decade or more (Duffy, 2009). It is possible then that the fall in confidence in local authorities' ability to uncover and deal with breaches is proportionate to and part of this trend of decreasing satisfaction with councils generally.
- 5.9 We also know from other research that a key driver of the general public's satisfaction with services is the amount to which they are kept informed. Informing the general public about the existence of the local standards framework and the role of standards committees may be the key to increased confidence in local authorities' ability to uncover and deal with breaches in standards. There is much work to be done on increasing the public's confidence in the accountability mechanisms of local government.
- 5.10 Finally, although public perceptions are an important part in assessing any impacts of the local standards framework, it cannot be used in isolation to measure impact. Firstly, because there are a variety of factors which influence public perceptions, many of which are outside of the control of local government and local politicians. And secondly because there will be other changes, aside from public perceptions, that have occurred alongside the local standards framework which need to be captured. This research, therefore, is one part of a wider research programme which seeks to assess the impacts of the local standards framework.

6 Findings

Trust

- 6.1 It was to be expected that the MPs' expenses scandal would have an impact on public perceptions of MPs. It was also likely that this might impact on perceptions of local councillors.
- 6.2 The perception that local MPs, Government Ministers and politicians generally tell the truth either 'all' or 'most of the time' has fallen since 2007 (-5%, -3% and -3% respectively). Similarly, over the same period, perceptions that these groups 'rarely' or 'never' tell the truth have increased significantly (+9%, +9% and +10% respectively).
- 6.3 Between 2005 and 2007 there was a decrease of 6% in the proportion of respondents who thought that local councillors tell the truth 'always or most of the time' (36% in 2005, 30% in 2007). However, in 2009 and post the

MPS' expenses scandal, the extent to which the public think local councillors tell the truth remains largely unchanged compared to 2007.

- 6.4 Public attitudes towards local councillors seem to have changed less markedly than for local MPs, politicians generally and government ministers. This suggests the public are able to discern, to an extent, between local and national politicians.

Table 1

Q1 How often do you think the following types of people tell the truth?

	Always/most of the time				Rarely/never			
	2005	2007	2009	% point change 07-09*	2005	2007	2009	% point change 07-09*
Your local MP‡	23%	29%	24%	-5%	30%	20%	29%	+9
Your local councillor/s	36%	30%	28%	-2%	13%	18%	20%	+2
Politicians generally	n/a	17%	14%	-3%	n/a	33%	42%	+9
Government ministers	n/a	18%	15%	-3%	n/a	33%	43%	+10

Base: 2005 All answering (1,027), 2007 All answering (1,720), 2009 All answering (1,735).

na: not asked in 2005

*Significant changes (i.e. changes of greater than 2%) have been highlighted.

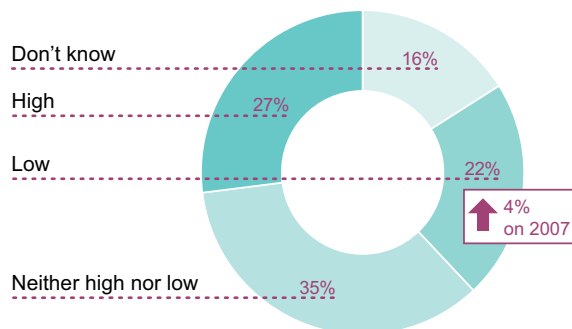
6.5 Another possible reason comes from a recent Ipsos MORI report** on public perceptions. Their data suggests that public perceptions are more favourable of the local context than of the national context. For example, the proportion of the general public who do not trust MPs in general to tell the truth is 76%, this drops to 44% when asked to consider their own local MP.

** Julia Clark, Public reaction to the expenses scandal, Ipsos MORI Social Research Institute, Understanding Society, The Perils of Perception, Summer 2009.

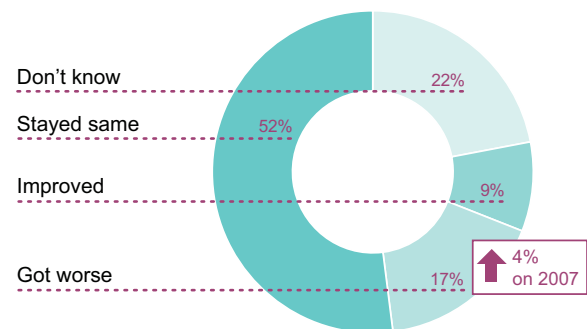
Rating standards

- 6.6 When asked to rate the behaviour of local councillors, the most frequently expressed perception was that councillor behaviour was neither high nor low (35%). In 2007 the perception was similar with 34% saying neither high nor low in response.
- 6.7 Despite the majority staying neutral, councillor behaviour is also more likely to be rated as low than in 2007. Around three in ten rated behaviour as high (27%). A further two in ten rated behaviour as low (22%), representing a four percentage point increase on 2007 findings.
- 6.8 However, the converse, that behaviour is less likely to be rated as high and less likely to have said to have improved, is not true. The perception that their behaviour has improved (9%) or stayed the same (52%) is the same in 2009 as it was in 2007.
- 6.9 The findings contrast with those from our research with members and officers in local government which indicates that they have a more favourable perception of local councillors than the public do. The proportion of our stakeholders that told us they think that members' standard of behaviour has improved in their authority has increased (from 27% in 2005, to 44% in 2007 to 47% in 2009)^{††}.

Q. Overall, how would you rate the standards of behaviour of local councillors in your area?



Q. In the last few years, do you think the standard of behaviour of local councillors in your area has ...?



Making a complaint

- 6.10 Interestingly, the rise in the proportion of the public who think that the behaviour of local councillors has got worse does not translate into a corresponding rise in the number of the complaints the public say they have made about local councillors. Similar proportions of the general public report ever having made a complaint about a local councillor in 2005, 2007 and 2009 (3%, 4% and 3% respectively).

^{††} Satisfaction with the Standards Board for England and Attitudes to the Ethical Environment – BMG Research 2009.

- 6.11 And of those who have not made a complaint, similar proportions have never wanted to make a complaint about a local councillor in 2005, 2007 and 2009 (89%, 89% and 99% respectively).

Behaviours exhibited by councillors

- 6.12 The general public were asked the extent to which they think local councillors exhibit certain types of behaviour (See Table 2 below). The behaviours are a 'loose' proxy of the Nolan principles (see Appendix I for an explanation of which Nolan Principles are demonstrated in each behaviour). The three behaviours that the most respondents thought councillors exhibited "always" or "most of the time" were:

- "they treat people with respect" (42%)
- "they work in the interests of the neighbourhood" (34%)
- "they use their power for their own personal gain" (32%).

- 6.13 The public are now more likely to say that only "a few" or "none" of their local councillors undertake the behaviours outlined in the statements below. The largest increases in the numbers of the public saying that only "a few" or "none" of their local councillors undertake the following behaviours can be seen for:

- "they set a good example for others in their private lives" (+9%)
- "they treat everyone equally" (+7%)
- "they tell the truth" (+6).

Table 2

Q4 Thinking of all the local councillors in your area, how many councillors, if any, would you say each of the following statements applies to?

	All/Most			A few/None		
	2007	2009	% point change 07-09*	2007	2009	% point change 07-09*
They are in touch with what the general public thinks is important (A)	26	23	-3	40	45	+5
They do what they promised they would do when elected (B)	18	15	-3	49	53	+4
They explain the reasons for their actions and decisions (C)	26	22	-4	38	45	+7
They make sure public money is used wisely (D)	25	21	-4	42	46	+4
They take bribes (E)	8	8	0	51	53	+2
They own up when they make mistakes (F)	13	12	-1	58	62	+4
They set a good example for others in their private lives (G)	25	20	-5	30	39	+9

They tell the truth (H)	29	25	-4	35	41	+6
They treat everyone equally (I)	31	29	-2	33	40	+7
They use their power for their own personal gain (J)	28	32	+4	40	40	0
They treat people with respect (K)	46	42	-4	24	29	+5
They work in the interest of this neighbourhood (L)	39	34	-5	32	29	+3

Base: 2005 All answering (1,027), 2007 All answering (1,720), 2009 All answering (1,735)

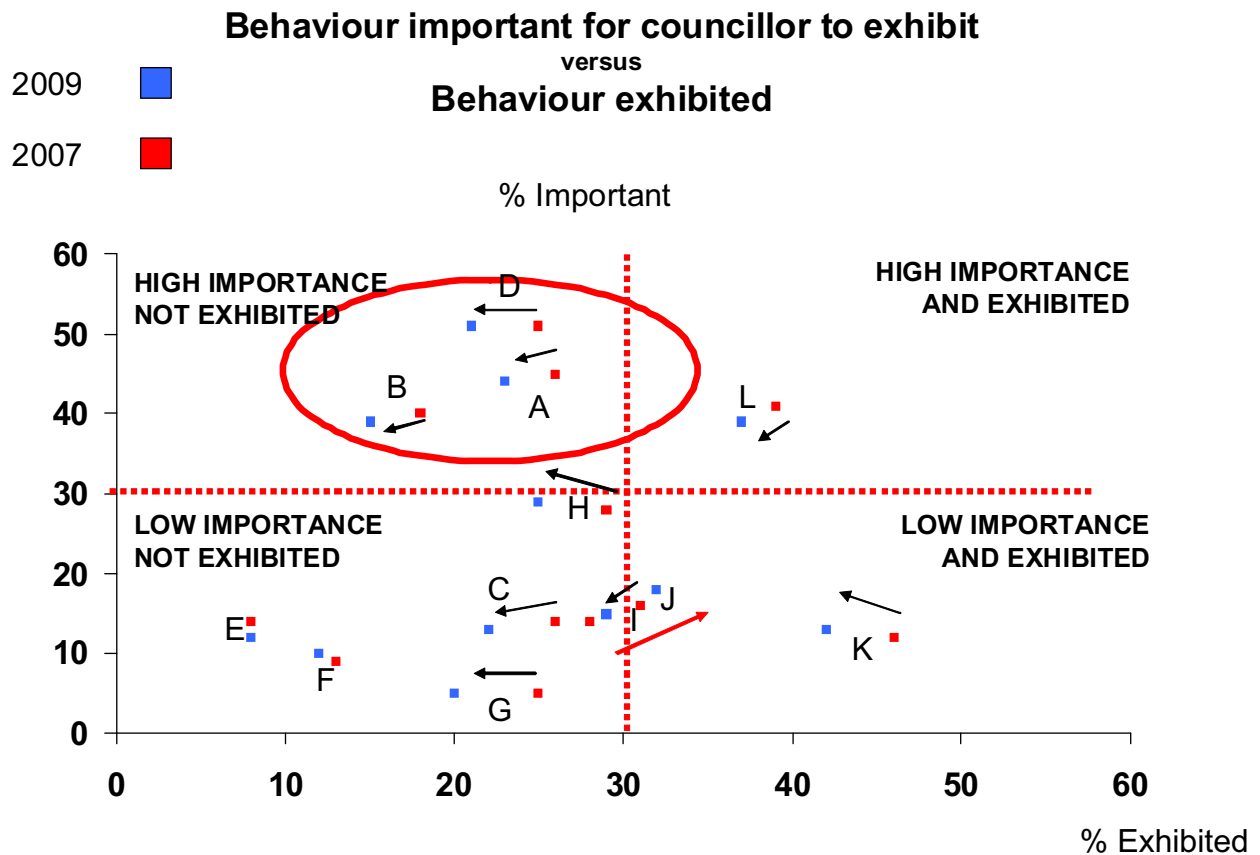
*Significant changes (i.e. changes of greater than 2%) have been highlighted.

6.14 Respondents were then asked to rate how important they thought these behaviours to be. Findings are the same in 2009 as they were in 2005 and 2007. The top three are:

- “make sure that public money is used wisely”
- “be in touch with what the general public thinks is important”
- “work in the interests of this neighbourhood”.

6.15 The only significant change has been that there has been an increase in the proportion of people who think it is important for local councillors “not to use their power for their own personal gain”. This has increased four percentage points from 14% in 2007 to 18% in 2009 and it could be that this change could have been prompted by the MPs’ expenses scandal.

- 6.16 The chart below plots the behaviours the public think it is important for councillors to display against behaviours they think councillors actually exhibit.



*It should be noted that quadrants of importance and apply have been plotted at less than 50% on each axis.

- 6.17 Behaviours that appear above the horizontal dotted line can be considered by the public as most important for councillors to exhibit. Behaviours on the right of the dotted line are those that it is considered that members should exhibit. Behaviours below the line are considered less important. Behaviours that appear on the left of the vertical dotted line are those that the public feel councillors are not exhibiting overall.
- 6.18 The chart shows, therefore, that the public feel that the only attribute which it is important for councillors to exhibit and that councillors actually do exhibit, is '*work in the interests of this neighbourhood*' (L). This was also the case in 2005 and in 2007.
- 6.19 The attributes highlighted in the top left quadrant represent those that people think are important for councillors to do, but that they do not think councillors are doing, or are doing but to a limited extent. These are:
- do what they promised when elected (B)
 - make sure that public money is used wisely (D)
 - they are in touch with what the general public thinks is important (A).

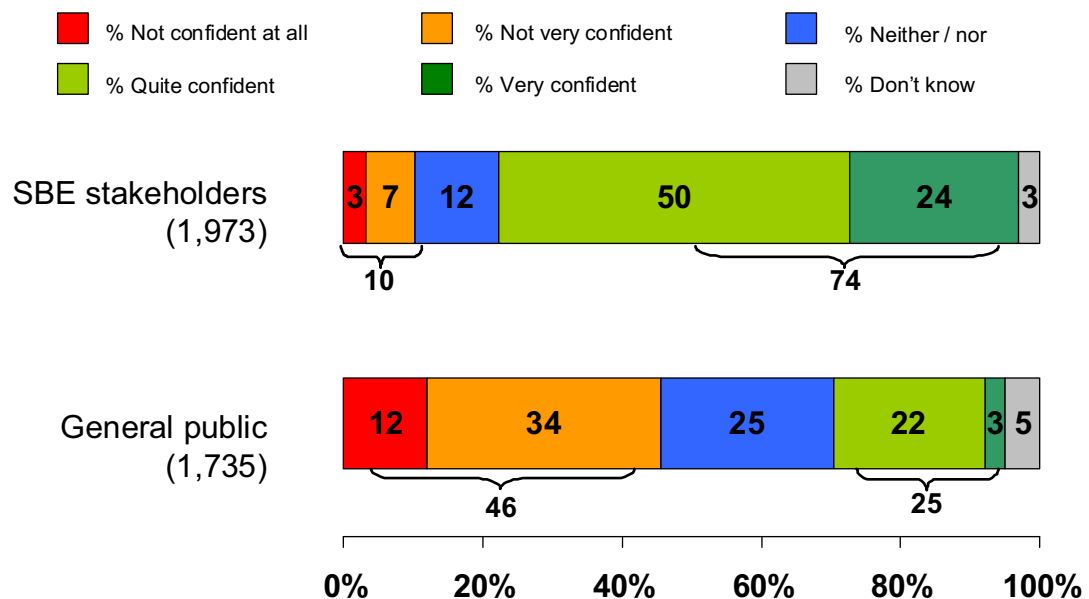
This was also the case in 2005 and 2007.

- 6.20 It would be reasonable to assume then that if councillors want the public to think more positively about them, then changing perceptions of their behaviour in these three areas would be very useful.
- 6.21 The arrows show direction of change between 2007 and 2009. A general trend as demonstrated by the directional arrows is that the perception is that the behaviours are exhibited to a lesser extent than in 2007. The exception is J (“They use their power for their own political gain”) which is perceived to be more important by more people and to be exhibited more than it was in 2007.

Confidence in accountability mechanisms

- 6.22 Public perceptions of local councillors have for the most part held up against the recent MPs’ scandal. Local authorities by contrast seem to have suffered. Levels of confidence in local authorities’ ability to uncover standards issues have fallen. This could be explained by a recent finding from Ipsos MORI^{††} (2009) that despite an increase in ratings of local quality of life by the public, there has been a significant and simultaneous reduction in satisfaction with the way councils run things.
- 6.23 One quarter of respondents in our public perceptions survey are confident that the local authority would uncover any issues (25%), representing a 4% drop in confidence compared to 2007. The proportion of those who are not confident that breaches in standards would be uncovered has increased from 40% in 2007 to 46% in 2009.

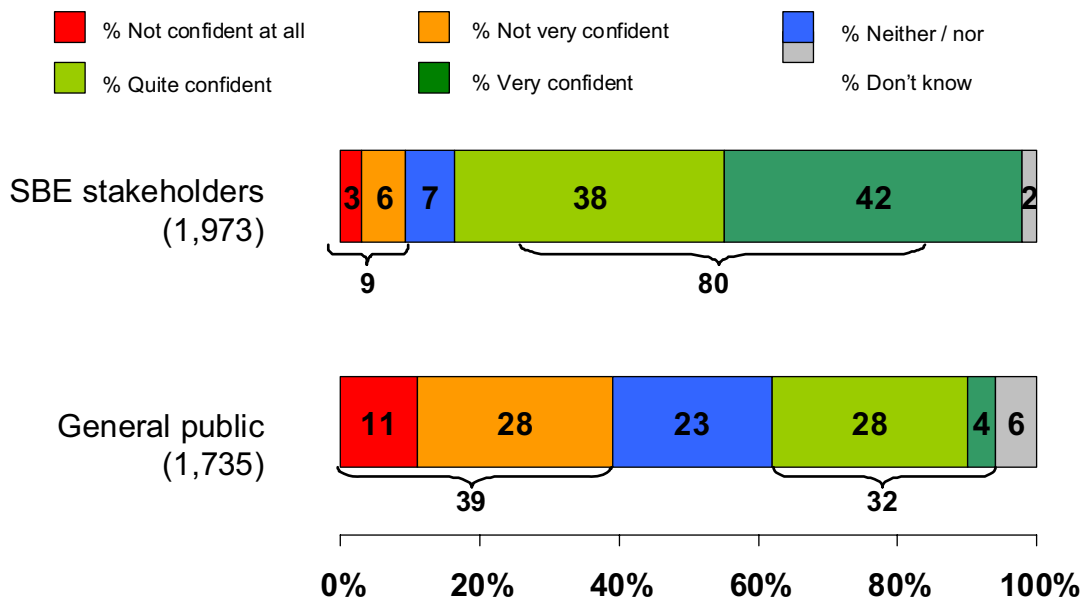
Q If there was a breach of standards in behaviour by a councillor of your local authority, how confident, or not, are you that the local authority would uncover this?



^{††} Based on analysis of a partial national dataset from the Place Survey which was released by CLG on 23 June 2009.

- 6.24 However, as this chart demonstrates our stakeholders (members and officers) are more than twice as likely to be confident than the public, that their local authority would uncover a breach of standards in behaviour by a local councillor.
- 6.25 Levels of confidence that local authorities will deal appropriately with breaches in the standard of behaviour of a local councillor have also dropped. In 2007 almost four in ten were confident the authority would deal appropriately with such issues (39%), however this has dropped to around one in three in 2009 (32%). Similarly, in 2007 one third were not confident the authority would deal appropriately with such issues (33%), while this has increased to almost four in ten in 2009 (39%).

Q If a breach of standards of behaviour is uncovered, how confident, or not, are you that the councillor involved would be dealt with appropriately?



- 6.26 Again, the chart demonstrates that members and officers are more than twice as likely, compared to the public, to think that a councillor would be dealt with appropriately if it was uncovered that their behaviour had fallen short of the expected standard.
- 6.27 According to Ipsos MORI (2009) many of the key drivers impacting on satisfaction levels are not directly concerned with quality of service provision. For example, most variation in satisfaction levels can be explained by factors such as: the proportion of the population with degrees, the deprivation level, the region, the proportion of the population aged under 21 and the proportion of people who under-occupy their homes. Of the factors that are in the control of local authorities, it is suggested that the following have the most impact: satisfaction with an area, crime and liveability factors, how the council actually delivers services and relates to citizens, and information – being informed correlates highly with satisfaction.

- 6.28 Therefore our finding that people are less confident that local authorities will detect and deal with breaches in standards could be part of wider trend of reducing satisfaction. However, drawing on Ipsos MORI's key driver analysis informing the general public about the existence of the local standards framework and the role of standards committees may be the key to increased confidence in local authorities' ability to deal with breaches in standards.
- 6.29 Indeed, further evidence from the public perceptions survey suggests that there is room for improvement in the levels of public awareness of these issues. For example, one in five says they know that their local authority has a standards committee (19%). And of those, eight in ten say they know 'not very much' or 'nothing at all' about what it does (79%). Four in ten say they do not know whether they know that their local authority has a standards committee or not (42%) and a further four in ten say no, they don't know that it has a standards committee (39%).

Public interest in what councillors do

- 6.30 There was little change in the levels of public interest in what councillors do and how they do their jobs compared to 2007. Respondents were asked to select a statement (See Table 3) that best reflects their interest in councillors and the work that they do. The most common response was "I like to know what councillors are doing but I am happy to let them get on with it" (36%), followed by "I'm not interested in what councillors do as long as they do their job" (28%).
- 6.31 Compared with 2005, in 2007 there was an increase in the proportion of those not interested in their councillors; the increase has been sustained in 2009. It is perhaps surprising that the general public do not want more of an oversight of what councillors do.

Table 3

Which one of these statements best represents your feelings about local councillors in your area?

	2005 %	2007 %	2009 %	% point change 07-09*
I'm not interested in what councillors do, or how they do their job	3	6	7	+1
I'm not interested in what councillors are doing but I am happy to let them get on with it	22	27	28	+1
I like to know what councillors are doing but I am happy to let them get on with it	44	37	36	-1
I would like to have more of a say in what councillors do	23	19	21	+2
I already know about councillors and feel able to get across my views	5	6	5	-1

Base: all answering 2005 (1,027), 2007 (1,720) and 2009 (1,735)

7 Further information

For further information on this paper, please contact **Hannah Pearson** on 0161 817 5417 or email hannah.pearson@standardsboard.gov.uk.

Appendices and attachments

Appendix I

- Behaviour attributes and also which of the Seven Principles in Public Life it is intended to represent.

Appendix I Behaviour attributes and also which of the Seven Principles in Public Life it is intended to represent

In the 2005 MORI survey behaviour attributes were devised as loose proxies for the Seven Principles in Public Life. The general public were asked about their perceptions in relation to these behaviour attributes as it was thought it easier for people to relate to.

The same behaviour attributes were used again in this 2007 survey. The table below shows the behaviour attributes and also which of the Seven Principles in Public Life it is intended to represent.

	Behaviour attribute	Seven Principles in Public Life
A	They treat people with respect	Respect for others
B	They work in the interests of this neighbourhood	Honesty Integrity
C	They treat everyone equally	Objectivity Respect for others
D	They set a good example for others in their private lives	Leadership
E	They tell the truth	Honesty Integrity
F	They are in touch with what the general public thinks is important	Personal judgement Selflessness
G	They do not use their power for their own personal gain	Selflessness
H	They explain the reasons for their actions and decisions	Openness
I	They make sure that public money is used wisely	Stewardship
J	They do what they promised they would do when elected	Honesty Integrity
K	They take bribes	Honesty Integrity Duty to uphold the law
L	They own up when they make mistakes	Accountability

References

Julia Clark, Public reaction to the expenses scandal, Ipsos MORI Social Research Institute, Understanding Society, The Perils of Perception, Summer 2009.

Bobby Duffy and Debbie Lee Chan, People, Perceptions and Place, Ipsos MORI Local, Ipsos MORI Social Research Institute, June 2009.

Stakeholder Tracker Survey (2009) Satisfaction levels with the Standards Board for England and Attitudes to the Ethical Environment, research conducted by BMG Research on behalf of Standards for England.

Duffy, 2009, Perils of perception, Ipsos MORI Social Research Institute, Understanding Society, The Perils of Perception, summer 2009.

Richard Cowell, James Downe and Karen Morgan, Assessing the Impact and Effectiveness of the Ethical Framework in Local Government in England, Cardiff University, 2009.

BROMSGROVE DISTRICT COUNCIL

STANDARDS COMMITTEE

23RD SEPTEMBER 2009

WORK PROGRAMME

Responsible Portfolio Holder	Councillor Geoff Denaro
Responsible Head of Service	Claire Felton, Head of Legal, Equalities and Democratic Services and Monitoring Officer
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 district and parish 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 Standards Committee agendas.

3.4 Officers will update the Work Programme, as appropriate, in between meetings and any amendments to this 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 public 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. APPENDIX

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(s) for consideration
11th November 2009	<ul style="list-style-type: none">• Leadership report on links between Standards Committee and Council's senior officers and politicians (<i>Min. 08/09 (vi) of 20th May 2009 Standards Committee meeting refers</i>)
13th January 2010	<ul style="list-style-type: none">• <i>Review of Planning Services Code of Practice/ Planning Committee Procedure Rules/Public Speaking at Planning Committee Meetings guidance</i> (<i>Min. 125/08 (ii) of 29th April 2009 full Council meeting refers</i>)
24th March 2010	<ul style="list-style-type: none">• Ombudsman Complaint Statistics (<i>interim update for period ending 31st September 2009</i>)• Annual Review of Council protocols on Member-Officer and Member-Member Relations• Parish Councils' Training Programme - update• Annual Review of the operation of the Standards Committee• Calendar of meetings - 2010/2011
May 2010 (<i>Date to be determined</i>)	<ul style="list-style-type: none">• Appointment of Chairman and Vice-Chairman• Annual Report of the Standards Committee - 2009/10• Annual Review of the operation and effectiveness of the Members' Code of Conduct (<i>provisional date dependent on when new/revised Code introduced</i>)
July 2010 (<i>Date to be determined</i>)	
September 2010 (<i>Date to be determined</i>)	<ul style="list-style-type: none">• Annual Ombudsman Complaint Statistics (<i>final report for period ending 31st March 2010 and to include comparison with neighbouring authorities</i>)• Parish Councils' Training Programme - update

November 2010 <i>(Date to be determined)</i>	
January 2011 <i>(Date to be determined)</i>	<ul style="list-style-type: none"> • Annual Review of Planning Services Code of Practice <i>(provisional date dependent on when 2009 review completed)</i>
Later meetings	<ul style="list-style-type: none"> • 2011 Review of terms of office of Parish Councils' Representatives on the Standards Committee <i>(to be completed prior to June 2011/CALC nominations to full Council - Min. 125/08 (i) of 29th April 2009 Council meeting refers)</i>
<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; • Parish Councils' Representatives' Report; and • Work Programme. 	