

**BROMSGROVE DISTRICT COUNCIL**

**MEETING OF THE STANDARDS COMMITTEE**

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

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

30/08 **APOLOGIES FOR ABSENCE**

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

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

31/08 **DECLARATIONS OF INTEREST**

No declarations of interest were received.

32/08 **MINUTES**

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

**RESOLVED** that the minutes be approved as a correct record.

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

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

**Complaints for Local Assessment**

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

### Member Training

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

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

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

### Training for Parish Councils

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

### Review of the Ethical Framework elements of the Member Development Programme

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

### Independent Member Vacancy

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

### Cardiff University Case Study

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

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

**RESOLVED** that the updates provided be noted.

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

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

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

**RESOLVED** that the position be noted.

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

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

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

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

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

**RESOLVED:**

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

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

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

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

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

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

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

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

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

## Chapter 2: Code of conduct for local authority members

### Question 1

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

Standards Committee response: Yes

### Question 2

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

Standards Committee response:

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

### Question 3

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

Standards Committee response: Yes

### Question 4

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

Standards Committee response: Yes

### Question 5

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

Standards Committee response:

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

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

**Question 6**

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

Standards Committee response:

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

**Question 7**

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

Standards Committee response: No

**Question 8**

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

Standards Committee response: No

**Question 9**

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

Standards Committee response:

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

**Question 10**

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

Standards Committee response: Yes

**Question 11**

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

Standards Committee response:

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

**Question 12**

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

Standards Committee response: Yes

**Chapter 3: Model Code of Conduct for local authority employees**

**Question 13**

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

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

**Question 14**

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

Standards Committee response: Yes

**Question 15**

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

Standards Committee response: No

**Question 16**

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

Standards Committee response: Yes

**Question 17**

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

Standards Committee response: Political restriction.

**Question 18**

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

Standards Committee response: Yes

**Question 19**

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

Standards Committee response:

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

**Question 20**

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

Standards Committee response:

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

**Question 21**

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

Standards Committee response:

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



**Question 22**

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

Standards Committee response: Yes

38/08 **ANNUAL OMBUDSMAN STATISTICS**

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

**RESOLVED** that the report be noted.

39/08 **WORK PROGRAMME**

Consideration was given to the Committee's Work Programme.

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

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

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

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

The meeting closed at 7.55 p.m.

Chairman