

BROMSGROVE DISTRICT COUNCIL

MEETING OF THE STANDARDS COMMITTEE

TUESDAY, 31ST MARCH 2009 AT 4.00 P.M.

PRESENT: Independent Members: Mrs. N. E. Trigg (Chairman), Mr. N. A. Burke (Vice-Chairman) and Ms. D. Roberts
Councillors: Miss D. H. Campbell JP (during Minute No's. 51/08 to part of 59/08 and 67/08 and 68/08), S. P. Shannon and E. C. Tibby
Parish Councils' Representatives: Mr. J. Cypher and Mr. I. A. Hodgetts

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

51/08 **APOLOGIES FOR ABSENCE**

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

52/08 **DECLARATIONS OF INTEREST**

No declarations of interest were received.

53/08 **MINUTES**

The minutes of the meeting of the Standards Committee held on 11th December 2008 were submitted.

RESOLVED that the minutes be approved as a correct record.

54/08 **STANDARDS BOARD FOR ENGLAND FINAL REPORT ON ALLEGED BREACHES OF PARISH AND DISTRICT CODES OF CONDUCT**

Further to a referral from the Standards Assessment Sub-Committee in July 2008, the Committee received, for information only, the final report of the Standards Board for England's Ethical Standards Officer on the outcome of the investigation into an allegation that Councillor Roger Hollingworth had breached both the Alvechurch Parish Council and Bromsgrove District Council Codes of Conduct. It was the finding of the Ethical Standards Officer that there was no evidence of any failure by Councillor Hollingworth to comply with either of the Codes of Conduct in question.

A copy of the Ethical Standards Officer's final report, which was confidential as it contained exempt information in accordance with paragraphs 1, 2, 3 and 7A of Schedule 12A of the Local Government Act 1972, as amended, appeared later in the agenda, with a copy of the Standards Board's public case summary of the report appearing in the open part of the agenda.

RESOLVED that the Standards Board for England's Ethical Standards Officer's finding of no breach in relation to the allegations against Councillor Hollingworth be noted.

55/08 **MONITORING OFFICER'S REPORT**

The Committee noted the report of the Monitoring Officer and the following issues were raised:

Member Investigations and Associated Matters

Officers advised of an amendment to the figures detailed in the Local Assessment Statistics table appended to the report, in that of the 15 complaints received since the introduction of local assessment, 8 had resulted in no further action being taken, with 5 having been referred to the Standards Board for England for investigation. The outcomes of all of the Standards Board investigations had now been received, all of which had resulted in a finding of no breach of the Code of Conduct. A report detailing the Standards Board's public case summaries for 2 of the complaints appeared separately in the agenda, with the remaining 3 cases to be reported on at the next meeting of the Committee in May.

The Committee requested that a future breakdown be provided as to the nature of the complaints received. It was also agreed that Sub-Committee decision notices would be copied to all members of the Standards Committee in future in order to keep members updated with complaints.

New Local Performance Indicator - public awareness of the elected Member complaints system

The Monitoring Officer advised of the likelihood, at some point in the future, of the introduction of a national performance indicator relating to public awareness of the elected Member complaints system. In anticipation of this, a new local indicator had been included in the Council's Business Plan on the percentage of people who were aware of the system. The Monitoring Officer detailed existing Council mechanisms which could be utilised in this regard, which would also be useful in publicising the system generally. Articles had appeared in both the local press and the Council's 'Together Bromsgrove' publication, with a future regular slot in Together Bromsgrove to be looked at.

In addition to raising public awareness of the complaints process, positive marketing of both the Members' Code of Conduct and the Standards Committee was felt to be of equal importance; to ensure the public, at both district and parish level, was fully aware of the ethical governance framework in local government. Members suggested that there could be a publicity stand at any relevant Council/community events and that the Worcestershire Hub could be used as a means for promoting the key elements of the ethical framework, with accompanying literature to be drawn up for this.

It was noted that public awareness of the elected Member complaints system was linked to the Review of Local Assessment and Determination of

Complaints report at agenda item 9, which would involve the Committee prioritising the various aspects of the work required for the review.

Redditch Borough Council's Standards Committee

The assistance available to Redditch Borough Council's Standards Committee, should a request for such assistance be made to Bromsgrove District Council, was noted.

West Mercia Forum of Independent Members

Ms. Roberts, Mr. Cypher and Mr. Hodgetts provided feedback on the West Mercia Independent Members' Forum meeting which they had attended on 4th February 2009, which they had found to be very interesting and informative. Dr Robert Chilton, Chair of the Standards Board, was guest speaker at the Forum and had given a speech on the Standard's Board's direction of travel.

A number of issues had been discussed at the meeting, including problems which had arisen with parish and town councils, which it was noted had arisen mostly as a result of such councils not having their own membership body which they could approach for advice and assistance. The Monitoring Officer stated that the visits which she and the Deputy Monitoring Officer had undertaken to parish councils within the district had assisted in averting procedural downfalls, and that whilst parish councils might not always have operated within the required structures this had in no way been intentional but had arisen as a result of their being unaware of the requirements. The proposed establishment of a training programme for the parish councils on ethical governance issues (for which a separate report appeared later in the agenda) would also assist with this.

A member of the Committee who had also been a parish councillor commented that they did not think the public was aware of the systems in place for making complaints against parish councillors, which again would be addressed as part of the Review of Local Assessment and Determination of Complaints report later in the agenda.

Update on referral of complaint to Monitoring Officer for Investigation

The Chairman sought clarification on the current position in relation to the complaint which the Standards Assessment Sub-Committee had referred to the Monitoring Officer for local investigation.

The Deputy Monitoring Officer advised that the matter had been referred to the Council's Investigating Officer and that once the Investigating Officer's final report was available a meeting of the Standards Committee would be convened in accordance with Regulation 17 of The Standards Committee (England) Regulations 2008. At that meeting, and on consideration of the report, the Committee would be required to make one of the following findings:

- (i) that it accepted the Monitoring Officer's finding of no failure (a finding of acceptance); or

- (ii) that the matter should be considered at a hearing of the Standards Committee conducted under Regulation 18 (of the said Regulations); or
- (iii) that the matter should be referred to the Adjudication Panel for England for determination.

RESOLVED:

- (a) that the report be noted; and
- (b) that any action points detailed in the preamble above be acted upon and reported back to the Committee as appropriate.

56/08 **PARISH COUNCILS' REPRESENTATIVES' REPORT**

Mr. Cypher referred to the separate reports which appeared later in the agenda in relation to the establishment of a training programme on ethical governance issues for the parish councils and the terms of office of Parish Councils' Representatives on the Standards Committee, the proposals for which had been considered by and had received support from the Bromsgrove Area Committee of the Worcestershire County Association of Local Councils ('CALC').

RESOLVED that the position be noted.

57/08 **TRAINING PROGRAMME FOR PARISH COUNCILS**

Consideration was given to a report which proposed the establishment of a training programme for the parish councils on ethical governance issues. It was noted that both the Bromsgrove Area Committee of the Worcestershire County Association of Local Councils ('CALC') and the Parish Councils' Forum had been consulted on the proposal and were in support of this.

The Deputy Monitoring Officer advised that officers would begin rolling out the programme of training to the parishes once the new Members' Code of Conduct had been had been published and the accompanying guidance distributed.

RESOLVED:

- (a) that the proposal for the establishment of an ethical governance training programme for the parish councils be approved;
- (b) that the Monitoring Officer be charged with formulating such a training programme, based on the wishes of the parish councils and in accordance with the general terms outlined in the report;
- (c) that details of the final training programme be referred to the Standards Committee for information; and
- (d) that authority be delegated to the Monitoring Officer, in consultation with the Chairman of the Standards Committee, to make any necessary changes to the training programme in the light of any significant changes to the Members' Code of Conduct and/or new guidance/legislation issued in relation to ethical governance.

58/08 **TERMS OF OFFICE OF PARISH COUNCILS' REPRESENTATIVES ON THE STANDARDS COMMITTEE**

The Committee considered a report which contained proposals to extend, for the 2009 appointments, the current terms of office of the Parish Councils' Representatives (including the Deputy Parish Councils' Representative) on the Standards Committee, and for a further review of the terms of office of the parish representatives to take place in 2011, in line with the next round of parish council elections.

Mr. Hodgetts and Mr. Cypher, the Parish Councils' Representatives on the Committee, advised that the Bromsgrove Area Committee of the Worcestershire County Association of Local Councils ('CALC') had considered the proposals at its meeting on 4th March 2009 and was in support of these.

RECOMMENDED:

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

59/08 **REVIEW OF LOCAL ASSESSMENT AND DETERMINATION OF COMPLAINTS**

The Committee considered a report on a review of the local assessment and determination of complaints process which had been introduced in May 2008 and for which the Standards Committee had adopted processes and procedures for a trial period of 12 months.

Members agreed the extent and timetable of the review (as per the table appended to these minutes), with a report on the high priority areas to be referred to the May meeting of the Committee.

RESOLVED that the table of items and priorities for the review of local assessment and determination of complaints appended to these minutes be approved.

60/08 **OMBUDSMAN STATISTICS**

Members received a report which provided a six monthly update on Ombudsman statistics.

RESOLVED:

- (a) that the contents of the report be noted; and
- (b) that the Committee Work Programme be amended to include two reports on Ombudsman statistics per year as follows:
 - (i) full report in September, to include the annual statistics (final version) and comparison with other neighbouring authorities; and

- (ii) interim update (based on records maintained by the Senior Solicitor) in February/March.

61/08 **REVIEW OF PROTOCOL ON RELATIONS BETWEEN MEMBERS**

Further to Minute 48/08 of the meeting of the Standards Committee held on 11th December 2008, the Committee considered a report which asked whether a recommendation should be made to full Council that the Protocol on Relations between Members be reviewed.

It was noted from the report that the Group Leaders had been consulted on the Protocol and that they generally welcomed the existence of this as it gave a framework within which they could resolve any inter-Member issues in a structured, albeit informal, manner. Members had confirmed that there were a number of instances when they had relied on the Protocol to resolve issues and had found that it had worked.

RESOLVED:

- (a) that no recommendation be made to full Council that the Protocol on Relations between Members be reviewed; and
- (b) that the Protocol be looked at by the Standards Committee again in twelve months' time.

62/08 **REVIEW OF MEMBER-OFFICER PROTOCOL**

Further to Minute 49/08 of the meeting of the Standards Committee held on 11th December 2008, the Committee considered a report which asked whether a recommendation should be made to full Council that the Member-Officer Protocol be reviewed.

The Monitoring Officer advised that the views of the Group Leaders as to the operation and effectiveness of the Protocol had been sought and that the Leaders felt the Protocol to have been well used, with this having been referred to on a frequent basis, and that they would be reluctant to lose this as they were satisfied that the current process worked well. Officer feedback on the Protocol had also been positive, with it being deemed an example of good practice for such a protocol to be in place.

It was noted that some general references in the Protocol were out of date and that officers would therefore need to make a few minor amendments to this.

RESOLVED:

- (a) that, whilst noting some minor amendments were required to the Member-Officer Protocol, no recommendation be made to full Council that the Protocol be reviewed; and
- (b) that the Protocol be looked at by the Standards Committee again in twelve months' time.

63/08 **PLANNING SERVICES CODE OF PRACTICE**

The Committee considered a report which recommended that the Council's Planning Services Code of Practice be reviewed and which sought suggestions from Members for areas for consideration for inclusion in the review.

Officers advised that the Association of Council Secretaries and Solicitors had recently updated the Model Members' Planning Code of Good Practice and that the Council's current Code was out of date.

RECOMMENDED:

- (a) that a review of the Council's Planning Services Code of Practice be undertaken by the Monitoring Officer in consultation with Group Leaders, the Planning Committee, the Standards Committee and individual Members; and
- (b) that the scope of the review also include the Planning Committee Procedure Rules contained within the Council's Constitution and the Public Speaking at Planning Committee Meetings guidance leaflet to see whether any aspects of these could be combined.

64/08 **CALENDAR OF MEETINGS - 2009/10**

A report advising of the meeting dates of the Standards Committee for the 2009/10 Municipal Year was submitted.

RESOLVED that the Calendar of Meetings for the Standards Committee for 2009/10 be noted.

65/08 **WORK PROGRAMME**

Consideration was given to the Committee's Work Programme.

RESOLVED that, subject to the proposed changes to the Work Programme highlighted in the report, together with the decisions made earlier in the meeting in relation to the Committee's consideration of future reviews of the Protocol on Relations between Members and the Member-Officer Protocol, the Work Programme be approved.

66/08 **LOCAL GOVERNMENT ACT 1972**

RESOLVED that, under Section 100 I of the Local Government Act 1972, as amended, the public be excluded from the meeting during the consideration of the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Part 1 of Schedule 12A to the Act, as amended, the relevant paragraphs of that part being as set out below, and that it was in the public interest to do so:

<u>Minute No.</u>	<u>Paragraph(s)</u>
67/08	1, 2, 3 & 7A
68/08	7A

67/08 **STANDARDS BOARD FOR ENGLAND FINAL REPORT ON ALLEGED BREACHES OF PARISH AND DISTRICT COUNCIL CODES OF CONDUCT**

Further to Minute 54/08 above, the Committee received, for information only, the final report of the Standards Board for England's Ethical Standards Officer on the outcome of the investigation into an allegation that Councillor Roger Hollingworth had breached both the Alvechurch Parish Council and Bromsgrove District Council Codes of Conduct. It was the finding of the Ethical Standards Officer that there was no evidence of any failure by Councillor Hollingworth to comply with either of the Codes of Conduct in question.

In a covering letter which accompanied the Ethical Standards Officer's report the Committee had been invited to comment to the Standards Board on the helpfulness of receiving such reports of investigations, and on anything that might make the reports more useful in the future. The Committee therefore agreed a response in this regard.

RESOLVED:

- (a) that the Standards Board for England's Ethical Standards Officer's finding of no breach in relation to the allegations against Councillor Hollingworth be noted; and
- (b) that officers write to the Standards Board with the Committee's views on the helpfulness of the Ethical Standards Officer's final report.

68/08 **MONITORING OFFICER'S CONFIDENTIAL REPORT**

The Committee received a confidential report of the Monitoring Officer on a matter which was exempt in accordance with paragraph 7A of Part 1 of Schedule 12A of the Local Government Act 1972, as amended, as it contained information which was subject to an obligation of confidentiality.

RESOLVED that the contents of the report be noted.

The meeting closed at 6.03 p.m.

Chairman

Agreed items and priorities for the review of local assessment and determination of complaints

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

6	Monitoring Officer pre-complaint protocol	<ul style="list-style-type: none"> Some authorities instruct the MO to try to resolve complaints before referring them to the Assessment Sub-Committee should this be considered? 	Rejected outright
7	Complaint form to be reviewed	<ul style="list-style-type: none"> To consider it from the perspective of members of the public. Should it be more specific in terms of identifying the part of the Code which has been breached? Should it ask the complainant to identify the remedy sought (to identify complaints about service delivery etc rather than conduct). Should it be scrapped? 	High (7, 8 & 9 to be taken together)
8	Guidance to be reviewed	<ul style="list-style-type: none"> To consider it from the perspective of members of the public. Inclusion of flow charts. 	
9	Review of website	<ul style="list-style-type: none"> To consider it from the perspective of members of the public. Submission of complaints on-line. 	
10	Review of report presented to the Assessment Sub-Committee	<ul style="list-style-type: none"> Should it include a suggestion as to the part of the Code which may have been breached? Should it include recommendations from officers? Should it include transcripts of meetings or other documentation other than minutes or other publicly available documents? Should the sub-committee's powers be clearly set out? 	Low

11	Review of assessment criteria	<ul style="list-style-type: none"> • These were based on those in the SBE guidance. Based on practical experience, could these be improved? 	High
12	Notification to subject member of complaint	<ul style="list-style-type: none"> • At what point should the subject member be notified of the complaint? Currently they are not notified until after the Assessment Sub-Committee has met. 	High
13	Decision Notices	<ul style="list-style-type: none"> • These are currently based on the SBE model. Could they be improved? • Should they include details of the members sitting on the committee? (NB – consider the <i>difference between Regulation 8 and Regulation 11 notices</i>) • Should these be published more widely? • Should they include more information about review? 	High
14	Review	<ul style="list-style-type: none"> • Should a form be developed and sent out as a matter of course in the case of each case not referred for investigation? • Should these take the form of a re-hearing or a review of the adequacy of the process? (There is a divergence of opinion on this in practice.) • Should the same officer advise the review sub-committee as advised the assessment sub-committee? 	High
15	Referrals to the MO for other action/adjournment of assessment to enable the MO to explore the possibility of other action	<ul style="list-style-type: none"> • To be explored in the light of advice from the SBE. 	Await SBE guidance.

16	Referrals to the Adjudication Panel under Regulation 17 (serious cases not appropriate for consideration by the Standards Committee)	<ul style="list-style-type: none"> The prior consent of the President of the APE is required before the Standards Committee may refer a matter to the APE. How is the MO to be authorised to seek the consent of the APE prior to consideration of the matter by the Standards Committee. 	Low Leave until have experience of APE referrals.
17	Final Determinations	<ul style="list-style-type: none"> How much guidance should be given to the subject member on how to prepare? Emphasise the slot in the process for the subject member to make representations on sanctions and any mitigating circumstances. 	Officers to implement separately.
18	Parish Councils	<ul style="list-style-type: none"> Notification to parish councils concerning complaints (see Town & Parish Standard issue 4), to prepare advice for parish councils. 	Officers to liaise separately with the parishes on this.
19	Recommendations to full Council	<ul style="list-style-type: none"> Who should present these on behalf of the Standards Committee? 	Low/medium