B R O M S G R O V E D I S T R I C T C O U N C I L

MEETING OF THE STANDARDS COMMITTEE

WEDNESDAY, 20TH MAY 2009 AT 6.00 P.M.

PRESENT: Independent Members: Mr. N. A. Burke, Ms. D. Roberts and Mrs. N. E. Trigg
Councillor: Mrs. A. E. Doyle
Parish Councils' Representatives: Mr. I. A. Hodgetts and Mr. S. Malek (substituting for Mr. J. Cypher)

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

1/09 **ELECTION OF CHAIRMAN**

RESOLVED that Mr. N. A. Burke be elected Chairman of the Committee for the ensuing municipal year.

2/09 **ELECTION OF VICE-CHAIRMAN**

RESOLVED that Mrs. N. E. Trigg be elected Vice-Chairman of the Committee for the remainder of her term of office.

3/09 **APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors E. C. Tibby and Miss D. H. Campbell JP and Mr. J. Cypher, Parish Councils' Representative.

4/09 **DECLARATIONS OF INTEREST**

No declarations of interest were received.

5/09 **MINUTES**

The public minutes of the meeting of the Standards Committee held on 31st March 2009 were submitted.

RESOLVED that the minutes be approved as a correct record.

6/09 **COUNCIL DECISIONS**

A report advising of the decisions made by the Council at its meeting on 29th April 2009 in relation to the Terms of Office of the Parish Councils' Representatives on the Standards Committee and the Planning Services Code of Practice was submitted.

RESOLVED that the report be noted.

7/09 **STANDARDS BOARD FOR ENGLAND FINAL REPORTS ON ALLEGED BREACHES OF THE BROMSGROVE DISTRICT COUNCIL CODE OF CONDUCT**

Following referrals from the Standards Assessment Sub-Committee in June and July 2008, the Committee received, for information only, the final reports of the Standards Board for England's Ethical Standards Officer on the outcomes of the investigations into three separate allegations that Councillor Peter McDonald had breached the Bromsgrove District Council Code of Conduct. It each of the cases the Ethical Standards Officer had made a finding that Councillor McDonald had not failed to comply with the Code.

Copies of the Ethical Standards Officer's final reports, which were both exempt in accordance with Section 100 I of the Local Government Act 1972, as amended, as they involved the likely disclosure of exempt information as defined in paragraphs 1, 2, 3 and 7A of Part I of Schedule 12A to the Act, and confidential in accordance with Section 100 A of the Local Government Act 1972, as amended, as they included information provided under Section 63 of the Local Government Act as part of an Ethical Standards Officer's investigation under Part III of the Local Government Act 2000, appeared later in the agenda. Copies of the Standards Board's public case summaries of the Ethical Standards Officer's reports were included in the open part of the agenda.

RESOLVED that the Standards Board for England's Ethical Standards Officer's findings of no breach in relation to the three separate allegations against Councillor McDonald be noted.

8/09 **MONITORING OFFICER'S REPORT**

The Committee noted the contents of the Monitoring Officer's report and the following issues were raised during consideration of this:

(i) Member Investigations/Associated Matters and Complaints for Local Assessment

The Deputy Monitoring Officer advised that no new complaints had been received since publication of the agenda.

(ii) Member Training

The Monitoring Officer stated that a meeting of the Member Development Steering Group had taken place the previous week, at which it had been agreed that elected Members had until mid June 2009 by which to complete any appropriate training for the committees, boards or panels on which they now sat. A date had been set for Councillor Mrs. Doyle to attend Standards Committee/Code of Conduct training and it was noted that Councillor Mrs. Doyle had also attended the Mock Standards Assessment Sub-Committee training which had taken place on 11th May 2009. The Committee heard that 38 of the Council's 39 elected Members were due to attend planning training

the following evening, which represented the seriousness with which Members took their regulatory commitments.

In relation to the Council's success in achieving Primary level of the West Midlands Local Government Association Member Development Charter, and with the onset of the 2009/10 municipal year, the Monitoring Officer was currently working with the Council's Learning and Organisational Development Manager to identify any Member requirements over the proceeding twelve months. Monitoring and evaluation would be the key elements in obtaining the next level of the Member Development Charter.

The Council's further success in obtaining Level 3 of the Equality Standards for Local Government was also noted, which was felt to be of particular significance given the limited resources available in this area to district councils.

(iii) Parish Council matters

It was noted that a report detailing the Council's decision in relation to the Terms of Office of the Parish Councils' Representatives on the Standards Committee appeared later in the agenda.

(iv) Annual Report of the Standards Committee

Officers apologised that it had not been possible for a draft of the Annual Report to be produced in time for the meeting. It was agreed that this would be drawn up as soon as possible and that a copy of the draft Report be sent to all members of the Committee for comment, following which officers could finalise this in consultation with the Chairman, without the need of referring this back to a further meeting of the Committee for final approval.

(v) Standards Board Annual Assembly

The Deputy Monitoring Officer highlighted the Standards Board's Annual Assembly which was taking place in Birmingham on 12th and 13th October 2009. Members of the Committee were asked to contact the Monitoring Officer if interested in attending this. No expressions of interest were expressed at the meeting.

(vi) Standards Board Annual Return

The Deputy Monitoring Officer informed the Committee that officers had recently completed the Standards Board's annual on-line return, which covered the period 8th May 2008 (the introduction date of local assessment) to 31st March 2009. The Annual Return informed the Standards Board of the processes and procedures which the Council operated to manage the local standards framework and had included much more detail than in previous years.

Members heard that there was a section of the return associated with leadership which had questioned existing links between the Standards

Committee and the Council's senior officers and politicians. Based on current arrangements, a number of negative responses had had to be given to these questions and it was agreed therefore that a report on this would be referred to the next meeting of the Committee.

RESOLVED:

(a) that the report be noted;

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

(c) that authority be delegated to officers, in consultation with the Chairman of the Committee and following consultation with all members of the Committee, to finalise for publication the Committee's Annual Report for 2008/09.

9/09 **PARISH COUNCILS' REPRESENTATIVES REPORT**

Mr Hodgetts advised that no meeting of the Bromsgrove Area Committee of the Worcestershire County Association of Local Councils had taken place since the last meeting of the Standards Committee. The next meeting of the Area Committee was due to be held on 3rd June, at which nominations for the Parish Councils' Representatives on the Standards Committee would be considered.

RESOLVED that the position be noted.

10/09 **REVIEW OF THE LOCAL ASSESSMENT REGIME**

Further to Minute 59/08 of the 31st March 2009 meeting of the Committee, a report was received on the findings of the review undertaken by officers on aspects of the local assessment of complaints about Members regime. The Deputy Monitoring Officer provided an overview of the key aspects of the report and the following were noted/agreed:

(i) Publicity to and promotion of the ethical framework and complaints process

Members were advised of the various methods which were to be used in publicising and promoting the ethical framework and standards regime. A new "brand" was to be developed for use in all publicity, literature, information etc., which it was anticipated would be implemented in September 2009, following the Council's adoption of the new members' Code of Conduct. The primary aim of the new branding was to portray the positive benefits of the framework, in a language that was not legalistic and which would therefore be easily understandable to the public. The introduction of the new branding would coincide with the launch of the Council's new website and it was proposed that there a high profile press release, or series of releases, to promote the standards regime. Regular updates on progress in this regard would be given in future Monitoring Officer Reports.

(ii) Assessment criteria

The Deputy Monitoring Officer advised that an immediate change was required to the Standards Assessment Sub-Committee Assessment Criteria form to specify whether, at the time of the alleged breach of the Code of Conduct, the subject member was acting in either a personal or official capacity. Such a change was necessary as, save for conduct which constituted a criminal offence and which had resulted in a conviction, the Code currently only applied to Members acting in an official capacity. It was noted however that this issue might need to be revisited following the introduction of the new Code of Conduct, and that the form was an ever evolving document which was under constant review.

(iii) Notification of complaint to subject member prior to assessment

Members noted the legal advice detailed in the report as to whether or not a subject member should be notified of a complaint prior to the complaint having been assessed: in particular, the prohibitions in place under s63 of the Local Government Act 2000 on the disclosure of any information obtained by a monitoring officer in the course of performing any of his or her duties relating to complaints about members, except in specified circumstances. Were the Committee to decide that it intended to notify the subject member of a complaint prior to assessment, the only information which could be given to the subject member at that stage was the fact that a complaint had been made, the name of the complainant (subject to Data Protection and any request by the complainant for confidentiality) and the relevant paragraph(s) of the Code which may have been breached. A written summary of the actual allegation could only be provided once the Assessment Sub-Committee had met to consider the complaint.

Members agreed that there was little point in making such a notification to the subject member prior to assessment, particularly as no details as to the nature of the complaint could be given. As such, it was agreed that the existing practice of notifying the subject member once an initial assessment decision had been made should continue, and that the position be kept under review, particularly should any changes be made to the Standards Board's guidance on this.

(iv) Decision notices

It was noted that the content and format of the template decision notices/letters were to be reviewed, together with the separate decision notices required under Regulations 8 and 11 of The Standards Committee (England) regulations 2008, and that proposals in this regard would be brought back to the Committee.

(v) Review of assessment decisions

Members considered the two separate schools of thought detailed in the report as to what constituted a review of an assessment decision, namely: whether a review should be a re-hearing of the assessment hearing by a

different group of members, based on the same information given to the initial Assessment Sub-Committee; or whether this should be a review of the soundness of the decision-making process followed by the Assessment Sub-Committee. Although the Standards Board advocated the initial of these approaches, officers had been advised by specialist solicitors that this was not the correct approach, and that if the review hearing was effectively an assessment hearing then theoretically it should also be capable of being subject to review.

On balance, members agreed that the re-hearing approach was the most appropriate as from a public perception six different members of the Committee would have considered the matter, with there also being the ability for the Review Sub-Committee to reach a different conclusion should this be deemed appropriate.

(vi) Parish Councils publicity and promotion of the standards regime and complaints process

The Deputy Monitoring Officer advised that she would be liaising separately with the Parish Councils' Representatives on this matter and it was agreed that an item in this regard should be placed on the agendas of the Parish Councils' Forum and/or the Bromsgrove Area Committee of the Worcestershire County Association of Local Councils ("WCALC"), as appropriate.

(vii) Parish Councils - notification of complaints

The Deputy Monitoring Officer advised that she would also be liaising separately with the Parish Councils' Representatives on this matter, again with a view to placing an item on the agenda for the relevant meeting of the Parish Forum and/or WCALC. Members felt that it would be useful for parish clerks to have an agreed procedure to follow when receiving notification of a complaint about one of their Members, as this would assist in avoiding any difficulty or embarrassment a clerk might face when publicising a complaint.

(viii) Composition of the Standards Committee

As the Committee had yet to undertake a final determination of a complaint which it had assessed, it was felt inappropriate to make any recommendations to the Council regarding whether the same members should be able to sit on both the Assessment Sub-Committee and Final Determination Sub-Committee and, equally, whether the size of the Standards Committee should be increased. It was agreed however that the position should be reviewed once members had gained sufficient experience of final determinations.

Regarding whether a Cabinet member should sit on the Standards Committee, members felt that as the local assessment regime was still in its infancy, and as the Committee was currently determining whether the processes in place were working, it was again inappropriate at that stage to consider such changes, and felt that the position should be reviewed in 12 months time when looking at the other issues relating to the composition of the Committee.

Furthermore, as discussed earlier in the agenda (Minute 08/09 (vi) above refers), the issue of the Committee's links with senior Council officers and politicians, which had arisen as part of the leadership questions contained in the Standards Board's Annual Return, was to be considered separately at the next meeting of the Committee.

In relation to the suggestion that the Parish Councils' Representatives on the Committee be required to have been elected, as opposed to having been co-opted, it was the Committee's view that the parishes needed to have confidence in the representatives whom they nominated to sit on the Committee and that it was therefore for the parishes, via the Area Committee of the WCALC, to raise any concerns in this regard.

A separate issue raised under this heading was whether there should be a limit as to the number of members of the Standards Committee who also served on the Council's Planning Committee. This followed a recent hearing of the Standards Assessment Sub-Committee which the majority of district councillors on the Standards Committee had been precluded from participating in as the complaints in question related to a particular meeting of the Planning Committee, in which the district councillors had had an interest. The Committee noted that this issue could apply equally to other Council committees and that there was a mechanism in place for district councillors on the Standards Committee to be substituted by another district councillor in such circumstances. The Monitoring Officer stated that the only issue which had arisen in this regard was the appropriate method by which to appoint a substitute, and whether the substitute needed to come from a particular political group, and she advised that it would be helpful for her to have a clear procedure to follow should the same situation arise in the future. It was agreed therefore that a report on this be brought to the next meeting of the Committee.

RESOLVED:

(a) that the assessment criteria at Appendix 1 be amended to include a question as to whether, at the time of the alleged breach of the Code of Conduct, the subject member was acting in either a personal or official capacity;

(b) that a subject member should not be notified of a complaint before assessment;

(c) that a review hearing should be a re-hearing of the complaint and not a review of the soundness of the decision-making process followed by the Assessment Sub-Committee;

(d) that no recommendations be made to Council at this stage regarding the composition of the Standards Committee and that the position be reviewed in 12 months time; and

(e) that a report on the mechanism for appointing district councillor substitutes on the Standards Committee and its Sub-Committees be brought to the next meeting of the Committee.

11/09 **REVIEW OF OPERATION OF THE COMMITTEE**

The Committee was asked to give consideration to the general operation of the Committee over the preceding twelve months and to comment on any aspects of this as appropriate. Officers advised that this would be an annual report from hereon, the aim of which was to give members an opportunity to raise any issues of relevance or concern, and that this would usually be programmed for the last meeting of the municipal year, prior to any change in membership following the Annual Meeting of the Council.

Members felt that the Committee had operated in a very positive manner and it was noted that the Committee was currently undertaking a major review of the local assessment of complaints about Members regime, which had now been in operation for twelve months.

RESOLVED that the position be noted.

12/09 **WORK PROGRAMME**

Consideration was given to the Committee's Work Programme.

It was noted that no items were currently scheduled for consideration at the July 2009 meeting. Officers advised that the date of the next meeting would depend on when the new Code of Conduct was issued.

RESOLVED that the Work Programme be approved.

13/09 **LOCAL GOVERNMENT ACT 1972**

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

Item No.	Paragraph(s)
15 & 16	1, 2, 3 & 7A; and

b) that under Section 100 A 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 confidential information, namely information provided under Section 63 of the Local Government Act as part of an Ethical Standards Officer's investigation under Part III of the Local Government Act 2000:

Item No.
15 & 16."

14/09 **CONFIDENTIAL MINUTES**

The confidential minutes of the meeting of the Standards Committee held on 31st March 2009 were submitted.

RESOLVED that the minutes be approved as a correct record.

15/09 **STANDARDS BOARD FOR ENGLAND FINAL REPORTS ON ALLEGED BREACHES OF THE BROMSGROVE DISTRICT COUNCIL CODE OF CONDUCT**

Further to Minute 07/09 above, the Committee received, for information only, the final reports of the Standards Board for England's Ethical Standards Officer on the outcomes of the investigations into three separate allegations that Councillor Peter McDonald had breached the Bromsgrove District Council Code of Conduct. It each of the cases the Ethical Standards Officer had made a finding that Councillor McDonald had not failed to comply with the Code.

The Committee noted that it was bound by the Investigating Officer's findings and that it had no powers to either investigate or make its own findings on the cases. The Assessment Sub-Committee needed to give careful consideration when referring possible breaches of the Code to the Standards Board for investigation, rather than to the Monitoring Officer for local investigation, and it was noted that the Monitoring Officer could appoint an independent external investigating officer should the particular circumstances warrant this.

RESOLVED that the Standards Board for England's Ethical Standards Officer's findings of no breach in relation to the three separate allegations against Councillor McDonald be noted.

The meeting closed at 7.08 p.m.

Chairman