

Standards

Committee

Tue 8th Dec
2009
7.00 pm

Committee Room 2
Town Hall
Redditch



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- In addition, the public now has a right to be present when the Council determines “Key Decisions” unless the business would disclose confidential or “exempt” information.
- Unless otherwise stated, all items of business before the Executive Committee are Key Decisions.
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Welcome to today's meeting.

Guidance for the Public

Agenda Papers

The **Agenda List** at the front of the Agenda summarises the issues to be discussed and is followed by the Officers' full supporting **Reports**.

Chair

The Chair is responsible for the proper conduct of the meeting. Generally to one side of the Chair is the Committee Support Officer who gives advice on the proper conduct of the meeting and ensures that the debate and the decisions are properly recorded. On the Chair's other side are the relevant Council Officers. The Councillors ("Members") of the Committee occupy the remaining seats around the table.

Running Order

Items will normally be taken in the order printed but, in particular circumstances, the Chair may agree to vary the order.

Refreshments : tea, coffee and water are normally available at meetings - please serve yourself.

Decisions

Decisions at the meeting will be taken by the **Councillors** who are the democratically elected representatives. They are advised by **Officers** who are paid professionals and do not have a vote.

Members of the Public

Members of the public may, by prior arrangement, speak at meetings of the Council or its Committees. Specific procedures exist for Appeals Hearings or for meetings involving Licence or Planning Applications. For further information on this point, please speak to the Committee Support Officer.

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If you discover a fire, inform a member of staff or operate the nearest alarm call point (wall mounted red rectangular box). In the event of the fire alarm sounding, leave the building immediately following the fire exit signs. Officers have been appointed with responsibility to ensure that all visitors are escorted from the building.

Do Not stop to collect personal belongings.

Do Not use lifts.

Do Not re-enter the building until told to do so.

The emergency Assembly Area is on Walter Stranz Square.

Declaration of Interests: Guidance for Councillors

DO I HAVE A “PERSONAL INTEREST” ?

- Where the item relates or is likely to affect your **registered interests** (what you have declared on the formal Register of Interests)

OR

- Where a decision in relation to the item might reasonably be regarded as affecting **your own** well-being or financial position, or that of your **family**, or your **close associates** more than most other people affected by the issue,

you have a personal interest.

WHAT MUST I DO? **Declare the existence, and nature, of your interest and stay**

- The declaration must relate to specific business being decided - a general scattergun approach is not needed
- **Exception** - where interest arises only because of your membership of another **public body**, there is no need to declare unless you **speak** on the matter.
- You **can vote** on the matter.

IS IT A “PREJUDICIAL INTEREST” ?

In general only if:-

- It is a personal interest **and**
- The item affects your **financial position** (or conveys other benefits), or the position of your **family, close associates** or bodies through which you have a **registered interest** (or relates to the exercise of **regulatory functions** in relation to these groups)

and
- A member of public, with knowledge of the relevant facts, would reasonably believe the interest was likely to **prejudice** your judgement of the public interest.

WHAT MUST I DO? **Declare and Withdraw**

BUT you may make representations to the meeting before withdrawing, **if** the public have similar rights (such as the right to speak at Planning Committee).



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Committee

8th December 2009

7.00 pm

Committee Room 2 Town Hall

Agenda

Membership:

Cllrs:	D Andrews (Chair)	J James
	M Collins (Vice-Chair)	J Matthews
	A Clayton	P Mould
	A Fry	W Norton
	J Field	J Pearce
	M Hall	B Warwick

1. Apologies	To receive the apologies of any Member who is unable to attend this meeting.
2. Declarations of Interest	To invite Councillors to declare any interests they may have in items on the agenda.
3. Minutes (Pages 1 - 8) Chief Executive	To confirm as a correct record the minutes of the meeting of the Standards Committee held on 30th September 2009. (Minutes attached)
4. Matters arising	To consider any exceptional updates on matters raised at the previous meeting and not separately listed on the agenda.
5. Visit from representatives of Bromsgrove District Council Standards Committee Monitoring Officer, Head of Legal, Democratic and Property Services	To receive the following Members of the Bromsgrove District Council Standards Committee in order that Redditch Members can share experiences and pick up learning points from the operation of the Committee at their Council: Ms Debbie Roberts, Vice-Chairman, Bromsgrove District Council Standards Committee; and Mr John Cypher, Parish Councils' Representative, Bromsgrove District Council Standards Committee (Oral report) (No Direct Ward Relevance)

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6. Standards Board Interventions, Joint Standards Committees And Dispensations (Pages 9 - 24) Monitoring Officer, Head of Legal, Democratic and Property Services	To update the Standards Committee on the coming into force of a number of new Regulations and to seek the creation of a Dispensations Sub-Committee of the Standards Committee to consider dispensation requests and suggests Terms of Reference for the Sub-Committee as well as a draft standard application form and guidance. (Report attached) (No Direct Ward Relevance)
7. Raising Awareness Of Standards And The Standards Committee Within And Outside The Council (Pages 25 - 46) Monitoring Officer, Head of Legal, Democratic and Property Services	To consider options for and approaches to raising the profile of Standards and the Standards Committee within and outside the Council. (Report attached) (No Direct Ward Relevance)
8. Chair's / Members' Reports Chief Executive	To consider any Chair / Member updates not separately covered on the agenda list, including brief feedback from any Seminars or Conferences. (Oral report)
9. Parish Council Report (if any)	To consider any report in relation to Feckenham Parish Council. (Oral report)
10. Work Programme (Pages 47 - 48) Monitoring Officer, Head of Legal, Democratic and Property Services	To consider and review the Committee's Work Programme. (Report attached)



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Committee

30th September 2009

Minutes

Present:

Independent Members:

D Andrews (Chair) and B Warwick

Borough Council Members:

Councillors A Clayton, Field, Mould and Norton

Parish Council Members:

Councillor J James

Officers:

S Mullins (Monitoring Officer)

Committee Officer:

I Westmore

9. APOLOGIES

Apologies for absence were received on behalf of Councillors Fry and Pearce and Mr M Collins.

The Committee was informed that, unfortunately, Feckenham Parish Councillor J Matthews had decided to stand down from the Committee as he did not feel that he was able to devote sufficient time to the role.

10. DECLARATIONS OF INTEREST

There were no declarations of interest.

11. MINUTES

RESOLVED that

the minutes of the meeting of the Committee held on 24th June 2009 be confirmed as a correct record and signed by the Chair.

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Chair

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12. MATTERS ARISING

A member of the Committee asked Officers whether all Councillors had submitted updated Register of Interest forms following the Annual Meeting of the Council in May. The consequences of not returning an updated form were sought.

The Monitoring Officer confirmed that two Councillors, including one member of the Standards Committee, had not submitted updated forms as yet. It was stressed that Members were required to notify the Council of updates or changes to their registerable interests. However, no sanctions would be applied in respect of annual reissues as these were primarily a local convention provided as an assistance to elected members and intended to pick up amendments and changes of circumstance. Providing registerable interests had not changed, the Councillor would not have breached the Council's Code of Conduct.

The Monitoring Officer outlined her intention to follow up the matter with the Members' Services Officer and, directly or indirectly, the Members concerned.

The Chair informed the Committee that she and the Vice Chair had attended a recent meeting of the Planning Committee. This followed discussion at the previous meeting around the conduct and procedure at earlier Planning Committee meetings. The Chair reported that the meeting had been well chaired, members of the Planning Committee had conducted themselves properly, the procedure was clear and the public seemed well-informed and able to follow proceedings.

Councillor Norton informed the Committee that he, along with other elected Members from the West Midlands region, had attended a Standards Board for England Focus Group since the previous meeting.

13. MEMBERS' PLANNING CODE OF GOOD PRACTICE

The Monitoring Officer advised the Committee that the Planning Code of Good Practice required updating to remain in line with the changing role of Members in the Planning process. One of the more significant developments had been the recent guidance on pre-application discussions involving elected Members. Generally the new Code sought to prevent Members succumbing to the more common pitfalls associated with the planning process.

There was no desire to stifle the Council's role as a place-shaper but there was a wish to avoid the cause for complaint to the

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Standards Committee. It was proposed that the draft Code be referred to the Planning Committee for its consideration.

Members welcomed this updated guidance and the clarification it might provide on the known areas of difficulty for Councillors such as invitations to visit application sites and other forms of lobbying from interested parties. In response to a query over the precise terminology used in the Code (the word 'excessively' in this case) the Monitoring Officer indicated that the choice of terms and their interpretation might vary according to the circumstances of a case and the nature of the Members concerned. Furthermore, it was conceded that there was still a fine balance to be struck between the place-shaping role of an individual Councillor and their role as a representative of their Wards particularly where they were on the Planning Committee.

RESOLVED that

- 1) the draft Code be referred to the Planning Committee;**
- 2) that, if the Planning Committee suggests no substantive changes to the draft Code, the Code be recommended to Council for approval; and**
- 3) that, if the Planning Committee suggests substantive changes, the draft Code be brought back to this Committee for further consideration, prior to recommendation on to Council.**

14. STAKEHOLDER TRACKER 2009 (SATISFACTION WITH THE STANDARDS BOARD FOR ENGLAND AND ATTITUDES TO THE ETHICAL ENVIRONMENT)

The Committee received and considered a report detailing the findings of a satisfaction survey prepared for the Standards Board for England. The information was derived from a postal survey of all manner of local authorities.

Councillor Norton indicated that the information compiled was comparable to that being sought at the Focus Group which he had attended. The Monitoring Officer informed Members that the Standards Board did provide a professional helpline which was of use to practitioners but admitted that in other respects the Board was not necessarily as supportive and helpful as might be hoped.

RESOLVED that

the report be noted.

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15. REVIEW OF THE LOCAL ASSESSMENT PROCESS

The Monitoring Officer provided an oral report in respect of the local assessment process for complaints, making particular reference to the one case that had been considered during the course of the previous year by the Assessment Sub-Committee.

The Monitoring Officer accepted that the initial case had been a learning process and had thrown up a number of points that may need addressing in due course. These were:

- a) length of time the process took – it had been a very protracted process;
- b) a lack of clarity as to what was involved in the process and how long each stage should take;
- c) the standard letters in the Standards Committee Toolkit needed amending;
- d) it would be more sensible to have the Monitoring Officer rather than the Chair of the Sub-Committee as the signatory of the decision letter, primarily for administrative reasons;
- e) a guide was needed to the process for both Members and Officers;
- f) there was a need to keep all relevant parties involved and informed during the course of a complaint; and
- g) there was a need to be clear as to the role of each person and each Sub-Committee in the process.

The Committee agreed with the points raised by Officers. It was noted that there was a resource issue that had been highlighted by this first hearing. The reasons for the length of time involved in disposing of this case were recognised by Members, but it did suggest that additional resources might be required should a more complex case or more than a single case at one particular time be referred to the Committee. It was also noted that the case in question had raised issues of due diligence on the part of all Council Members, a point that had been reflected in the response of the Sub-Committee to the finding of the investigation.

The Chair of the Committee commented that it had been difficult to assess the complaint at the initial stage given the information available and the relative unfamiliarity of Members with the process. It was proposed that Officers involved in undertaking a case might keep the Members involved and the wider Standards Committee informed of progress. In respect of the detail of this particular case it was noted that some Councils recorded the proceedings of their formal meetings, a practice which, it was suggested, might be considered at Redditch. Officers were of the opinion that this was not currently possible in the Civic Suite.

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RESOLVED that

- 1) the oral report be noted;
- 2) the learning points a) to g), listed above, be addressed in due course by the Monitoring Officer; and
- 3) the Monitoring Officer write to all Members of the Council outlining the learning points arising from the review of the assessment process, including to the need to exercise due diligence in the making of public statements.

16. CHAIR'S / MEMBERS' REPORTS

There were no additional reports from the Chair or other Members of the Committee.

17. PARISH COUNCIL REPORT

Parish Councillor James informed the Committee that the Parish Council was in the process of co-opting a Councillor onto their Council to fill a vacancy that had arisen. It was suggested that ex-Borough Councillor Pulsford might be appointed to the position.

18. WORK PROGRAMME

The Monitoring Officer proposed that the December meeting be used to host a visit from members of another Standards Committee. It was suggested that the Committee could benefit from the wealth of experience gained by the neighbouring authority of Bromsgrove. The Monitoring Officer undertook to seek the names of leading Standards Committees in the region from the Standards Board.

It was proposed that further items to be added to the December meeting were items regarding guidance on both Joint Standards Committees and also on Dispensations.

RESOLVED that

subject to the comments in the preamble, above, the Work Programme be noted.

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19. URGENT BUSINESS - REQUEST FOR DISPENSATION FROM FECKENHAM PARISH COUNCIL MEMBERS

The Chair advised that she had accepted an urgent item of business in respect of a request that had been received from the Clerk of Feckenham Parish Council for a dispensation for all of the Members of the Parish Council.

The Monitoring Officer reported that the Parish Council had received a grant request from the Fecknham Village Amenity Trust (the Trust) at the last meeting of the Council. All Feckenham Parish Councillors immediately became Trustees of the Trust on taking up office as Parish Councillors, meaning that all Members present had a personal and prejudicial interest in the matter before them. A dispensation for this very reason had been approved by the Borough Council for the Parish Council on 15th April 2002 under previous legislation.

New regulations had come into force on 15th June 2009 and these were tabled for Members of the Committee along with guidance from the Standards Board relating to the interpretation of these new regulations.

The Monitoring Officer informed the Committee that the request for dispensation was not in compliance with the guidance inasmuch as the Members of the Parish Council had not made individual requests for dispensation as was required. However, the Monitoring Officer advised that it was reasonable to accept the request from the Clerk as the interest was not personal to each of the Parish Councillors and there had been no dissenting voices from this course of action at the Parish Council meeting.

Members considered the matter in some detail but were content to grant the dispensations. They took into account the previous dispensations and the fact that the circumstances of the case had not materially altered since that earlier occasion. The Monitoring Officer noted that she intended to provide guidance for all Members on dispensations and would bring draft guidance back to a future meeting of the Committee for consideration.

RESOLVED that

under Section 81 of the Local Government Act 2000 the Council remove from all current and future members of the Feckenham Parish Council for a period of four years from the granting of the dispensation the disability imposed on them in relation to conducting any business relating to the Feckenham Village Amenity Trust because the number of members of the

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Parish Council who would be disabled at any one time would be so great a proportion of the whole as to impede the transaction of business.

(Prior to consideration of this item, and in accordance with the requirements of Section 81 of the Local Government Act 2000, Parish Councillor James declared a personal and prejudicial interest in view of her position on the Parish Council and, consequently, the Feckenham Village Amenity Trust and withdrew from the meeting.)

The Meeting commenced at 7.05 pm
and closed at 8.29 pm

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Chair

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No Specific Ward Relevance

8th December 2009

STANDARDS BOARD INTERVENTIONS, JOINT STANDARDS COMMITTEES AND DISPENSATIONS

(Report of the Monitoring Officer and Head of Legal, Democratic & Property Services)

1. Summary of Proposals

To update the Standards Committee on the coming into force of new Regulations:

1. allowing Standards for England to suspend the functions of a local Standards Committee where the Committee is failing to perform its functions satisfactorily; and
2. giving authorities the power to establish Joint Standards Committees; and
3. extending the powers of Standards Committees to give Members dispensations where they would otherwise be prohibited from participating on a matter because of a prejudicial interest;

The report also seeks the creation of a Dispensations Sub-Committee of the Standards Committee to consider dispensation requests and suggests Terms of Reference for the Sub-Committee as well as a draft standard application form and guidance.

2. Recommendations

The Committee is asked to RESOLVE that

- 1) the changes made by the Regulations be noted;**
- 2) the creation of a Dispensation Sub-Committee with the Terms of Reference set out in Appendix 1 be approved;**
- 3) the Dispensation Application Form and Guidance at Appendix 2 be approved; and**
- 4) the Monitoring Officer advise all Members of the new grounds for dispensation in respect of prejudicial interests.**

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3. **Financial, Legal, Policy Risk and Sustainability / Environmental Implications**

Financial

- 3.1 There are no financial implications arising from this report.

Legal & Policy

- 3.2 The legal implications are set out in the body of the report.

Risk

- 3.3 There is a risk that, if Members are unaware of the changed provisions in respect of dispensations, they may be unnecessarily prevented from participating in decision-making.

Sustainability / Environmental

- 3.4 There are no sustainability, environmental or climate change implications arising from this report.

Report

4. **Background**

- 4.1 The Standards Committee (Further Provisions) (England) Regulations 2009 (SI 2009/1255) came into force from 15 June 2009. The Regulations make provision for the Standards Board for England (now known as Standards for England) to suspend the functions of a local Standards Committee where the Committee is failing to perform its functions satisfactorily, and either to discharge the functions itself or to arrange for another authority's Standards Committee to discharge them.

- 4.2 The Regulations also give authorities a power to establish Joint Standards Committees, and extend the power of Standards Committees to give members dispensations where they would otherwise be prohibited from participating on a matter because of a prejudicial interest.

5. **Key Issues**

Suspension of Standards Committee Functions

- 5.1 The function of initial assessment of complaints of breach of Code of Conduct by Members was transferred from the Standards Board to the Standards Committees (or rather the Assessment/Referrals Sub-

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Committees) of local authorities from 8 May 2008. Most local authorities have taken on this new responsibility and are discharging this function effectively, but the Regulations now give a power for the Standards Board to intervene in an individual authority if that were necessary.

- 5.2 An intervention can be triggered by the Standards Board where:
- a) It is of the view that the authority's Standards Committee has failed:
 - i) to have regard to SBE guidance;
 - ii) to comply with a direction from SBE;
 - iii) to carry out its functions within a reasonable time or in a reasonable manner;
 - b) it is of the view that the authority's Monitoring Officer has failed to carry out his/her functions within a reasonable time or in a reasonable manner;
 - c) the authority or its Standards Committee has requested the Standards Board to intervene.
- 5.3 Where the Standards Board considers intervention, it must give the authority notice of its intentions and reasons and give the authority at least 28 days to respond before making a direction. The effect of a direction is to transfer the initial assessment function to either the Standards Board itself, or to the Standards Committee of another named authority ("the substitute authority"). In practice, as the Standards Board is not staffed up to resume the initial assessment function, the preferred route is to transfer the function to a substitute authority, but that is likely to be dependent on the two authorities reaching agreement on costs.
- 5.4 During the period of the intervention, the Standards Board, or the Standards Committee of the other named authority, would undertake the initial assessment and review in exactly the same manner as the original authority, and can decide to refer the allegation for a local or a Standards Board investigation, alternative action or no action, as appropriate. The intervention is strictly in respect of the initial assessment function, so the regulations give a discretion to the Standards Board to use their own investigators and the Adjudication Panel for hearings (or the substitute authority to use its own Monitoring Officer and Hearings Sub-Committee) or to use the Monitoring Officer and/or the Monitoring Officer and/or Hearings Sub-Committee of the original authority if that is appropriate.

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- 5.5 An intervention can be terminated by the Standards Board at any time.

Joint Standards Committees

- 5.6 The Regulations give a discretion for two or more local authorities to set up a Joint Standards Committee, and make it clear that such a Joint Standards Committee can be established to discharge all of each participating authority's standards functions, or can be established to discharge just some of the authorities' standards functions, such that each authority retains its own Standards Committee to discharge those standards functions which have not been allocated to the Joint Committee.
- 5.7 Accordingly, authorities might agree to establish a Joint Standards Committee which would establish a Referrals and a Review Sub-Committee, but each retain their own Standards Committees to discharge the functions of conducting hearings, providing member training and promoting high standards of conduct. But where all standards functions are allocated to the joint Standards Committee, then participating authorities would no longer maintain their own separate Standards Committees. Where a function is allocated to the Joint Standards Committee, it cannot then be discharged by the Standards Committee of an individual participating authority.
- 5.8 Where authorities wish to establish a Joint Standards Committee, the full Council of each participating authority would need to resolve:
- to establish the Joint Standards Committee;
- a) which standards functions are to be allocated to the Joint Committee and which, if any, are to be retained by the authority's own Standards Committee;
 - b) the administrative arrangements to support the Joint Standards Committee;
 - c) whether standards complaints should be addressed directly to the Joint Standards Committee, or should continue to be addressed to the individual authority;
 - d) the number of members, including Independent and Parish members, to be appointed to the Joint Standards Committee by each participating authority, and their terms of office;

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- e) make provision for the Joint Standards Committee to appoint members to its Referrals, Review and/or Hearings Sub-Committees, as required;
 - f) provide for the payment of allowances to members of the Joint Standards Committee;
 - g) provide a procedure for an authority to withdraw from the Joint Standards Committee; and
 - h) provide how the costs incurred by the Joint Standards Committee shall be shared between the participating authorities (or in default to be determined by an arbitrator).
- 5.9 Standards for England has issued Guidance on Joint Standard Committees to supplement the Regulations.

Dispensations

- 5.10 The original 2002 Dispensations Regulations provided that a Member who had a prejudicial interest in a matter which was coming before the authority could apply to the Standards Committee for a dispensation, and that the Standards Committee could give a dispensation to allow the member to speak and to vote on the matter at meetings. The Regulations specified two grounds for dispensation:
- a) the first ground (repeated in the new Regulations), was that the business of the authority would be impeded because more than 50% of the members of the decision-making body (Council, Committee, Sub-Committee or Executive) would otherwise be prohibited from voting on the matter;
 - b) the Regulations got the second ground wrong, by providing that it would apply where, because of the prejudicial interests of members, the business of the authority would be impeded because the authority was unable to comply with the proportionality requirements for Committees or Sub-Committees. In practice, the proportionality rules apply only to the process of appointment of Committees and Sub-Committees, and not to attendance at individual meetings, so this ground was ineffective.
- 5.11 The Regulations now re-state the second ground to apply where the business of the authority will be impeded because the absence of members as a consequence of prejudicial interests would upset the political balance of the meeting to such an extent as to prejudice the outcome of voting in that meeting.

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- 5.12 Where one or more members have made a written application for a dispensation, setting out why they consider that a dispensation would be desirable, the Standards Committee may only grant a dispensation if it is of the opinion that it is appropriate to grant a dispensation. A dispensation can be granted for a particular meeting or for a period, not exceeding four years.
- 5.13 A dispensation cannot be granted for a member who is prohibited from participating at an Overview and Scrutiny Committee by virtue of having been involved in taking the original decision, or for an Executive Committee Member for the exercise of delegated powers (on the basis that the appropriate course would be to refer the matter to the Leader or to Executive Committee for decision). All dispensations are then entered in the register of members' interests.
- 5.14 In practice, the granting of dispensations will continue to be problematic because members are rarely aware of the numbers of members who are going to be debarred from the consideration of a particular matter by reason of prejudicial interests until it is too late to call a Standards Committee to consider their requests for dispensation before the meeting takes place.
- 5.15 The re-drafted text of the second ground for a dispensation would suggest that a dispensation can now only be granted where the request is supported by clear evidence that voting at the meeting on this item will be conducted on strict party lines, and that the Standards Committee should only grant the minimum number of dispensations necessary to secure that the same result is achieved as would have been achieved had no members had prejudicial interests (i.e. that the majority party, if any, secures a majority of votes, but not that it secures the same degree of majority as it would otherwise have secured).
- 5.16 Standards for England has issued Guidance on Dispensations to supplement the Regulations. This guidance would need to be taken into account by the Standards Committee in deciding whether or not to grant a dispensation request.
- 5.17 At present, there is no standard Dispensation Application form within the Council and, if a dispensation request were to be received, a meeting of the full Standards Committee would need to be convened, unless the request was received at a time which enabled the request to be considered at a quarterly meeting of the Standards Committee.

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- 5.18 In order to enable dispensation request to be dealt with as efficiently as possible, your Monitoring Officer recommends the creation of a Dispensation Sub-Committee of the Standards Committee with the draft Terms of Reference set out in Appendix 1 to this report and the adoption of the standard dispensation application form set out in Appendix 2 to this report.

6. Other Implications

- Asset Management - There are no identified implications.
- Community Safety - There are no identified implications.
- Human Resources - There are no identified implications.
- Social Exclusion - There are no identified implications

7. Lessons Learnt

The revised Regulations represent, in part, new legislation so there are no lessons to be learnt from some of the Regulations. In respect of dispensations, the previous legislation was flawed and there are still practical difficulties in operating the revised Regulations in respect of dispensations because of the requirements imposed by the legislation.

8. Background Papers

The Standards Committee (Further Provisions) (England) Regulations 2009.

Standards for England Guidance on Joint Standards Committees and Dispensations

9. Consultation

There has been no consultation other than with relevant Council Officers in preparing this report.

10. Author of Report

The author of this report is Sue Mullins (Monitoring Officer), who can be contacted on extension 3210 (e-mail: sue.mullins@redditchbc.gov.uk) for more information.

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11. **Appendices**

Appendix 1 – Draft Terms of Reference for the Dispensation Sub-Committee

Appendix 2 – Draft Dispensation Application Form and Guidance

DISPENSATIONS SUB-COMMITTEE

TERMS OF REFERENCE

1. Terms of Reference

- (1) Upon receipt of a written request for a dispensation explaining why it is desirable the Sub Committee may, subject to paragraph (3) below, grant a dispensation to a Member in the following circumstances
 - (a) where the transaction of business of the Member's authority would, but for the grant of any other dispensation in relation to that business, on each occasion on which the dispensation would apply, otherwise be impeded by, or as a result of, the mandatory provisions because-
 - (i) the number of Members of the authority prohibited from voting on the business of the authority at a meeting exceeds 50% of those Members that, but for the granting of any dispensations relating to that business, would otherwise be entitled to vote on that business; or
 - (ii) the number of Members prohibited from voting on the business of the authority at a meeting would, but for the granting of any dispensations relating to that business, upset the political balance of that meeting to such an extent as to prejudice the outcome of voting in that meeting and
 - (b) the Sub-Committee concludes that having regard to the matters mentioned in paragraph (1)(a) above the written request, and to any other relevant circumstances of the case, it is appropriate to grant the dispensation
- (2) In granting a dispensation the Sub-Committee will also have regard to any guidance issued by Standards for England or any successor organisation and may allow the Member making the application to make oral representations to the Sub-Committee in support of the application
- (3) Nothing in paragraph (1) above shall permit a dispensation to be granted
 - (i) in respect of participation in business of the authority conducted more than four years after the date on which the dispensation is granted; or
 - (ii) where the effect of the mandatory provisions from which a dispensation is sought is that
 - (a) a Member is prohibited from voting on a matter at a meeting of an Overview and Scrutiny Committee of an authority relating to a decision made by any body of which that person was a Member at the time the decision was taken; or

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Appendix 1

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- (b) a Member of the authority's Executive is prohibited from exercising functions which are the responsibility of the Executive and which would otherwise be discharged by that Member solely
- (4) To undertake any other function or exercise any power which is the responsibility of this Sub-Committee.

2. Membership

The Sub-Committee will have no fixed membership but will consist of 3 members of the Standards Committee, including at least one Independent Member, one Elected Member and, if the request is from Feckenham Parish Council Member, a Parish Council Representative from the Standards Committee. The quorum for a meeting will be 3 members with an Independent Member as Chairman.

3. Frequency

The Sub-Committee shall meet as and when required.

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Redditch Borough Council Standards Committee Dispensation Requests

Application Process and Criteria for Determination

Introduction

1. The Standards Committee is responsible for determining requests for dispensation by Members of Redditch Borough Council and Feckenham Parish Council under the Standards Committee (Further Provisions) (England) Regulations 2009.
2. This note explains:
 - the purpose and effect of dispensations;
 - the procedure for requesting dispensations;
 - the criteria which the Standards Committee apply in determining dispensation requests;

Dispensations

3. In certain circumstances Members may be granted a dispensation which enables them to take part in Council business where this would otherwise be prohibited because the Member has a prejudicial interest. Provided Members act within the terms of their dispensation there is deemed to be no breach of the Code of Conduct.

Process for Making Requests

4. Any Member who wishes to apply for a dispensation must complete the attached form at Appendix A and submit it to the Monitoring Officer at least 14 days before the meeting for which the dispensation is required. Applications may be accepted within a shorter period in exceptional circumstances. The Monitoring Officer will arrange a meeting of the Dispensation Sub-Committee to consider the request at the earliest opportunity.
5. In order to avoid delay Members must ensure that they give full details of the grounds for their request and submit it to the Monitoring Officer as soon as they become aware that a dispensation is necessary.
6. A request for dispensation must be made on an individual basis. Group applications are not permitted.
7. Meetings of the Dispensation Sub-Committee will normally be open to the public and any member who has submitted a request will have the opportunity to attend and make representations in support of their application.

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Criteria for Determination of Requests

8. The Dispensation Sub-Committee may grant a dispensation where the transaction of the Council's business would otherwise be impeded by, or as a result of, the Code of Conduct because:
 - a) more than 50% of the Members who would be entitled to vote at a meeting are prohibited from voting; or
 - b) the number of Members prohibited from voting at a meeting would upset the political balance of the meeting to such an extent as to prejudice the outcome of voting in that meeting.
9. Dispensations will not be granted in the following circumstances:
 - a) to allow a Member to vote at an Overview and Scrutiny Committee in respect of a decision made by any body of which that person was a member at the time the decision was taken;
 - b) to allow a member of the Executive Committee with a prejudicial interest in an item of Executive business to take an Executive decision on the matter on their own.
10. The Dispensation Sub-Committee may grant a dispensation:
 - a) for one term of business
 - b) for a period not exceeding 4 years
 - c) allowing the Member to participate in the meeting and vote
 - d) allowing the Member to speak but not vote
11. In reaching a decision on a dispensation request the Dispensation Sub-Committee will:
 - a) have regard to guidance issued by the Standards Board for England - see Appendix B;
 - b) disregard any dispensations that have already been granted to other Members of the same body;
 - c) take into account:
 - (i) the nature of the member's prejudicial interest;
 - (ii) the need to maintain public confidence in the conduct of the Council's business;
 - (iii) the outcome of the proposed vote;
 - (iv) the need for efficient and effective conduct of the Council's business;
 - (v) any other relevant circumstances.

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Notification of Decision

12. The Monitoring Officer will notify the Member of the Dispensation Sub-Committee's decision and reasons in writing at the earliest opportunity and in any event within 5 working days of the meeting.
13. Any Member who has been granted a dispensation must declare the nature and existence of the dispensation before the commencement of any business to which it relates.
14. A copy of the dispensation will be kept with the Register of Members' Interests.

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Application to the Standards Committee for a Dispensation

To: The Standards Committee
c/o Head of Legal, Democratic & Property Services and Monitoring Officer
Town Hall
Walter Stranz Square
Redditch,
Worcestershire
B98 8AH

or email: sue.mullins@redditchbc.gov.uk

1. Full name of Member seeking dispensation

Note: the application must be submitted by the individual Member seeking the dispensation

2. Please indicate which of the following circumstances apply:

- (i) More than 50% of the Members who would be entitled to vote at a meeting are prohibited from voting; or
- (ii) The number of Members that are prohibited from voting at a meeting would upset the political balance of the meeting to the extent that the outcome of voting would be prejudiced.

3. Nature of the interest for which a dispensation is sought

4. Nature and duration of the dispensation sought

Note: dispensations may be granted for speaking only or for speaking and voting. They may be granted for a particular

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<i>meeting or may be granted for a specified period of time (up to a maximum of 4 years)</i>
5. Date of the meeting at which the interest will arise, if relevant
6. Reasons why you think the Standards Committee should grant the request for a dispensation. <i>Note: The Standards Committee has a discretion whether or not to grant the request for a dispensation.</i>

Signed:

Name (block caps):

Dated:

Your request will be considered by the Dispensation Sub-Committee at the earliest opportunity. You will receive written notification of their decision within 5 days of their meeting.

Appendix B
Guidance from the Standards Board for England on Dispensations

Please use the following link:

<http://www.standardsforengland.gov.uk/TheCodeofConduct/Guidance/Standardscommittees/Dispensations%20FINAL.pdf>

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No specific Ward Relevance

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RAISING AWARENESS OF STANDARDS AND THE STANDARDS COMMITTEE WITHIN AND OUTSIDE THE COUNCIL

(Report of the Monitoring Officer)

1. Summary of Proposals

To consider options for and approaches to raising the profile of Standards and the Standards Committee within and outside the Council.

2. Recommendations

The Committee is asked to **RESOLVE** which options and approaches mentioned in this report it would like to pursue.

3. Financial, Legal, Policy, Risk and Sustainability / Environmental Implications

Financial

- 3.1 There may be financial implications arising from this report, depending on which options or approaches the Standards Committee wishes to take. For example, if the Committee is minded to produce an annual report, there would need to be budgetary provision made to cover the cost of printing the report if this was to be circulated in hard copy. Any such costs would be minimised by making use of electronic means, where appropriate.

Legal and Policy

- 3.2 Part III of the Local Government Act 2000 established an ethical framework for the conduct of Members. Sections 51 and 52 of the Act placed a duty on Local Authorities to adopt a Code of Conduct for Members and a duty on Members to undertake to comply with the adopted Code of Conduct respectively. The current Code of Conduct came into effect on 3rd May 2007.

Risk

- 3.3 There is a risk that the role of the Standards Committee within and outside the Council may not be fully understood if the Committee is not proactive enough. There is also a risk that high standards amongst Members may not be promoted sufficiently well and this could lead to complaints being made about Members.

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Sustainability / Environmental

- 3.4 There are no sustainability, environmental or climate change implications arising from this report.

Report

4. Background

- 4.1 The Standards Committee Terms of Reference set out the Committee's functions and roles and these include the promotion and maintenance of high standards of conduct by the Mayor, Councillors, independent and co-opted members (including Feckenham Parish Councillors) as well as functions in respect of the Code of Conduct and investigation of complaints made about breaches of the Code.
- 4.2 In setting its work programme for the year, the Committee decided that it would like to consider approaches it could take to proactively raise the issue of standards within the Council.
- 4.3 The Council's arrangements in respect of the Standards Committee and standards matters generally form part of the Council's governance framework and contribute to demonstrating probity and propriety in the conduct of the Council's business.

5. Key Issues

- 5.1 According to Standards For England (Local standards; national perspectives – Annual Review 2008 – 09):
- a) "Standards of behaviour among members of English local authorities are generally very high. There are relatively low numbers of complaints overall – one for approximately every 25 members on average each year."
 - b) "Authorities have given good commitment to their duties to establish and operate a local standards framework. They have received enthusiastic support from independent members of standards committees. Standards committees are established and functioning across the country."
 - c) "While there is considerable Officer and Member confidence in the Code of Conduct and in the local standards framework's ability to uncover and deal with poor standards, the framework has made little impact on the public. We would like to see local authorities use this framework to engage their communities and to raise public trust in local democracy."

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5.2 The Annual Review contains a number of examples of notable practice and case studies which could help to inform the Committee's consideration of options and approaches to raising the profile of standards and the Standards Committee within and outside the Council. These are contained in Appendix 1.

5.3 One of the routes the Standards Committee could take is to publish an Annual report on its work during the year. A copy of the 2007 Annual report of Herefordshire Council's Standards Committee is attached at Appendix 2.

6. Other Implications

Asset Management - There are no identified implications.

Community Safety - There are no identified implications.

Human Resources - There are no identified implications.

Social Exclusion - There are no identified implications.

7. Lessons Learnt

More work needs to be done to raise the profile of standards and the Standards Committee within and outside the Council. There are a number of relatively simple steps, requiring few resources, that could take the Council a long way in promoting standards.

8. Background Papers

Standards For England – Local standards; national perspectives – Annual Review 2008 – 09

Standards in Local Government: Herefordshire's contribution – The Annual report of the Standards Committee for 2007

9. Consultation

There has been no consultation other than with relevant Council Officers in preparing this report.

10. Author of Report

The author of this report is Sue Mullins (Monitoring Officer), who can be contacted on extension 3210 (e-mail: sue.mullins@redditchbc.gov.uk) for more information.

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11. Appendices

- Appendix 1 - Extracts of Notable Practice and Case Studies relevant to raising the profile standards and Standards Committees.
- Appendix 2 - The Annual Report of Herefordshire Council's Standards Committee for 2007.

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1. Receiving, assessing and reviewing complaints

Under the new regulations, local authorities have to inform members of the public about how to make complaints. This can be done in a variety of ways, the most common of which is via the authority's website. Standards for England think that this is neither as easy to find or as well presented as it could be in many cases.

Other popular publicity methods include:

- ☐ the local press
- ☐ council newsletters to all households
- ☐ posters and leaflets displayed in public buildings
- ☐ complaints leaflets

There remains lots of scope for further developing publicity about complaints. This could include:

- 1.1 Carrying out advertising jointly with other local authorities in the area;
- 1.2 Giving information about how to make a complaint to the Citizens Advice Bureau and other Voluntary and Community Sector organizations;
- 1.3 Having a dedicated website for standards issues;
- 1.4 Placing an advert detailing the complaints process on employee payslips;
- 1.5 Engaging in local press interviews;
- 1.6 Placing an article in a publication circulated to all households with council tax bills.
- 1.7 Distributing leaflets in post offices.

2. Local investigations

Informing members of the results of investigations

A range of methods can be used, the most common being:

- ☐ report to the standards committee
- ☐ standards committee minutes and meeting agendas
- ☐ report to the full council
- ☐ letter to the member concerned (with or without a copy of the report)
- ☐ authority's website
- ☐ press announcements.

Other methods of communication can include email, intranets and keeping hard copies of the documents available for inspection. It is important that we consider how best to communicate the findings in individual cases both to meet the goals of learning for members and transparency and having regard for natural justice.

Approaches to communicating results to members could include:

- 2.1 Communicating the information to full council, group leaders and parish councils;
- 2.2 Ensuring parish councils are kept informed via the Standards Committee Parish Council Newsletter (may not be appropriate given the number of Parish Councils within Redditch);
- 2.3 Using complaint outcomes in training sessions.
- 2.4 Sending copies of press releases to all members.

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Informing the public of the results of investigations

Standards for England are disappointed that authorities aren't doing more to inform the public about standards hearings. This is important both to raise public trust that complaints are properly dealt with and to guard the framework against allegations that it lacks transparency.

The most common methods used by authorities are press notices (32%) and the authority's website (23%). But often the information on websites is hidden among records of standards committee meetings rather than being featured clearly as the outcome of a complaints process. Smaller numbers of authorities make documents available for public inspection, hold hearings in public, publish the findings in the council newsletter and/or have special arrangements for town and parish councils. The most common type of information to be provided to the public was papers associated with standards committee meetings (minutes, agendas and reports), followed by annual/regular update reports.

It is important to ensure that the work of the Standards Committee gets adequate publicity. Approaches could include:

- 2.5 Involving the Communications Team in the work of the Standards Committee .
- 2.6 Hold hearings in public;
- 2.7 Consider webcasting hearings;
- 2.8 Provide Media training and advice on how to handle media enquiries to Independent Members;
- 2.9 Produce a media protocol that sets out the publicity issued at the various stages of dealing with complaints;
- 2.10 For the outcome of hearings relating to Parish Councillors, send a copy to the clerk for them to arrange for the outcome to be published in the parish council's newsletter.

3. Promotion of standards of conduct in public life

An important part of a local standards committee's work is underlining the benefits of ethical standards in local government to create a sense of 'ethical well-being' in the authority. Standards committees and monitoring officers are at the heart of the standards framework and have a duty to promote, educate and support members in following the highest standards of conduct and ensuring that those standards are fully owned locally.

Training

A specific function of a standards committee is to train members on the Code of Conduct, or arrange for such training. A standards committee can also arrange training on the local standards framework. Some standards committees put together programmes of regular training, while others prefer to arrange training in response to specific requirements, such as information sessions explaining changes to the Code.

Examples of standards committee involvement in more specialised training include:

- 3.1 training on member roles, such as what the requirements of being a parish councillor or independent member are;
- 3.2 chairing skills;
- 3.3 understanding and preparing for interaction with the media;
- 3.4 equality and diversity;

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3.5 utilising Standards for England's guidance materials

Examples of training methods and approaches used by local authorities include:

- 3.6 in-house training delivered by the standards committee or other people in the local authority
- 3.7 induction of new members
- 3.8 commissioning external training partners
- 3.9 attending conferences
- 3.10 group workshops using case study style materials
- 3.11 using Standards for England training materials and attending the Annual Assembly
- 3.12 approaching Standards for England to discuss inviting representatives to speak at meetings or contribute to seminars
- 3.13 general seminar and Q&A sessions with guest presenters
- 3.14 joint training events with other local authorities
- 3.15 online training
- 3.16 undertaking a skills audit designed to test knowledge and understanding of constitutional and ethical issues.
- 3.17 The Standards Committee be involved in agreeing the member training and development programme each year based on feedback from the previous year's programme, discussions with the party whips, and from responses to an annual members' survey. The programme is split into specific skills training, knowledge based events, 1:1 support and group support.

Meetings of the council

Standards committees can promote their role by ensuring there is an ethical standards presence or voice at council meetings. This could be by standards committee members taking an observer role at other council meetings, as happens here. This allows them to experience council business and member conduct first-hand, before reporting back to the Standards Committee.

Other approaches include:

- 3.18 Placing a standing item about standards on the agenda of other meetings. This ensures that standards issues are regularly discussed and remain at the forefront of council business;
- 3.19 The chair of the Standards Committee or the Monitoring Officer could bring regular updates on Code and standards issues to the full Council meeting;
- 3.20 Joint meetings of the Standards Committee with other Committees or groups. This includes the overview and scrutiny committee, and audit & governance committee. Many standards committees also hold regular meetings with their parish groups.

Publications

Almost a fifth of standards committees contribute articles to council newsletters. Many produce regular briefing documents that highlight key standards issues and outline recent activities.

Approaches include:

- 3.21 Use of an intranet site;
- 3.22 Standards committees having their own sections on the council website and intranet, where news items, training materials, minutes and reports could be published;

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- 3.23 Production of an annual report on the Standards Committee's work, to promote standards issues both internally and externally (could include publication on the Council's website, the issue of a press release, sending to the Parish Council, putting copies in ,libraries etc.);
- 3.24 Conduct poster campaigns.

Informing and engaging the public

Getting the wider standards message across to the public is a challenge. The Council website is by far the most popular vehicle for promoting confidence in local democracy to the public. There is clearly scope for improved communication and higher profile. Approaches include:

- 3.25 Conducting a survey of public perceptions to gain awareness of current understanding before starting to build up the Standard's Committee's profile and, in turn, public confidence.

Promoting standards in partnerships

Local authorities and standards committees have been taking an interest in the governance arrangements of partnerships. Almost half of the local authorities in England have taken the time to consider how they monitor and ensure high standards of behaviour when working in partnership with other organizations. Standards Committees can play an important part in drawing up partnership arrangements, by offering advice, guidance, or training related to relevant ethical matters. Approaches can include:

- 3.26 Involving Standards Committees in risk assessments, reviews, or audits of partnership arrangements, paying close attention to ethical standards issues.
- 3.27 Organise a seminar on ethical governance, to include a focus on 'What is good ethical behaviour in partnership working?';
- 3.28 Invite partners to a 'standards in partnerships master class'.

Other ways of promoting standards

Some standards committees are engaged in specific ethical governance activities, such as :

- 3.29 self assessment and standards surveys;
- 3.30 Staging 'ethical awareness weeks', where standards issues are brought to the fore;
- 3.31 Contribute to inductions and training, and ensure that ethical standards are considered in relation to recruitment or performance appraisal procedures.
- 3.32 hold annual officer quizzes that include questions on standards.

4. Helping members to follow the Code of Conduct

The Standards Committee and your associated officers have carried out a range of activities to help Members to follow the Code of Conduct, including

- ☐ advice from officers, including the Guidance Notes
- ☐ providing members with Standards for England publications (such as the *Bulletin*, guidance and DVDs)
- ☐ giving regular reminders to declare interests
- ☐ having a legal adviser available at meetings

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- ☐ providing members with their own copy of the Code
- ☐ providing information via email or the council intranet
- ☐ providing a flow chart that explains when to declare interests

Other initiatives could include:

- 4.1 supplying members with information about decisions from the Adjudication Panel for England;
- 4.2 Enlisting officers to proactively check the register of interests before meetings;
- 4.3 Periodically print messages from the Standards Committee on the reverse side of members' Declaration of Interest forms.

5. Reviews of the authority's constitution (or standing orders)

Standards for England think that reviewing the Council's Constitution is a good task for standards committees to engage in. Approaches could include:

- 5.1 Reviewing the constitution being a formal part of the Committee's Terms of reference and work programme in relation to:
 - ☐ the committee's own composition, procedures and terms of reference
 - ☐ the authority's codes and protocols
 - ☐ member-officer relations
 - ☐ licensing and planning codes
 - ☐ confidential reporting/whistle blowing
 - ☐ officers' code of conduct
 - ☐ corporate governance
 - ☐ use of resources (including IT equipment).
 - ☐ gifts and hospitality
 - ☐ the role of the monitoring officer
 - ☐ financial regulations
 - ☐ anti-fraud and
 - ☐ anti-corruption policies
 - ☐ members' allowances
 - ☐ members' websites
 - ☐ executive arrangements
 - ☐ audit arrangements.
- 5.2 Considering whether proposed amendments to the Constitution will promote high standards in public life.
- 5.3 Provide challenge to proposed changes from a probity viewpoint.
- 5.4 Having provision in the constitution that no changes to the constitution can be made without prior consideration by the standards committee with advice from the monitoring officer.

6. Standards committees and leadership

Standards for England believes that a key factor in creating a strong ethical framework in authorities is clear ethical leadership from leaders and chief executives, setting the tone for the rest of the organisation. Approaches include:

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- 6.1 The standards committee (or standards committee chair) meeting with the chief executive to discuss ethical issues at least once during the year.
- 6.2 The chief executive officer, chair of the standards committee, and monitoring officer having a pre-meeting to discuss the agenda items before each standards committee meeting.
- 6.3 The chief executive attending a standards committee meeting once a year to discuss ethical issues.

Case Studies

Leeds City Council

Shortlisted in the Standards and Ethics category at the 2009 LGC Awards, Leeds City Council has a strong track record of making standards a central part of its culture.

Standards committee chair Mike Wilkinson explained how the committee has sought to get involved in various activities to promote ethical governance. These activities form a communications plan which covers awareness-raising work aimed at members, including parish councillors, and the general public. An annual standards committee report is made available to the local press and to the public via the council's website. This report not only outlines the past year's ethical successes but also sets out the standards committee's planned work for the months to come.

In terms of advertising the complaints process itself, Leeds City Council has placed notices in local press and council buildings. It also contacted the city's many Citizens Advice Bureaux with notices for them to display and letters explaining the new system, should they be asked to help a member of the public with a complaint about an elected member.

Training and development for members has been made easier with the provision of an elearning course, Cracking the Code. It covers general obligations and members' interests. The benefits of e-learning materials are that they can be used by busy members at times that suit them. This is particularly useful in reaching parish councillors. By making sure that training on key aspects of the Code is readily and conveniently available to parish members, Leeds City Council has been able to help prevent potential problems before they occur.

Mansfield District Council

Mansfield District Council is an example of an authority with a commitment to standards from the highest level.

Monitoring officer Anita Bradley meets regularly with the executive mayor to discuss relevant issues and decide whether they fit the standards committee's remit. Discussions may also take place with the cabinet, and the managing director has a role in contributing to the forward work plan before it is run past the committee.

As well as putting standards at the heart of its own governance, Mansfield also tries to monitor and ensure high standards when it works with external partners. The council has a Partnership Protocol Toolkit which it uses to evaluate all the council's significant partnerships each year. This includes assessing risks against particular criteria – including governance risks and levels of conduct. This means that Mansfield District Council is also well-placed to talk to partnership organisations about ethical governance. The council's monitoring officer has visited a local Tenants and Residents Forum, for example, and talked to the Forum's members about standards

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to encourage them to take an ethical approach, using the Ten Principles of Public Life as a starting point.

The authority's member-officer protocol is designed to run on 'mutual respect', and much is done to boost awareness of it. It is part of the council's constitution and is available on its website. It is also given to all new employees when they are appointed and to members on their election. To promote the protocol further, articles have also appeared in the council's internal newsletter, *Insider*. Training sessions for members also help to clarify things further.

When it comes to actual standards complaints and their outcomes, the authority has tried to balance openness and transparency with a positive and forward-looking approach. The monitoring officer produces briefing notes based on the issues raised in the complaint. This enables her to draw learning points from the process which can be looked at as part of the standards committee's agenda, and has also helped to make members more aware of how the Code of Conduct is applied and when a complaint is or is not appropriate.

Bromsgrove District Council

Bromsgrove District Council is proud of the improvements it has made in its approach to standards and ethics.

To coincide with the start of the new local assessment system, Bromsgrove published articles in its own publication, 'Together Bromsgrove', delivered to every household in the area. They also issued press releases to the local media.

The standards committee's annual report is circulated to the district's libraries and parish councils as well as the council's Customer Services Centre and Planning reception. Automatic updates on related matters are emailed to key internal and external contacts, including the local press, and the council's website is also used to promote the standards committee's work.

Much of Bromsgrove's publicity around standards has highlighted the positive role that members have in working to improve communities, while at the same time reminding the public what to do should their councillor appear to be falling short of the high ethical standards expected of them. Importantly, Bromsgrove District Council is also making sure that its successes in raising awareness are measurable. An annual performance indicator has been set based around responses in the council's annual survey, with a benchmark set for the percentage of respondents who know how to raise issues under the local standards framework.

With the emphasis on development, training has included small workshops on the Code of Conduct and informal one-to-one meetings with the monitoring officer and deputy monitoring officer, which have not only proved useful in reminding members of their obligations under the Code, but also in building good working relationships. Development needs for parish councils – Bromsgrove has 21 – were identified through face-to-face meetings. It is a preemptive approach which aims to prevent potential pitfalls rather than waiting for complaints to come in.

A demonstrable commitment to promoting and maintaining standards at Bromsgrove was made when a full-time officer was appointed to deal specifically with standards and ethics related work within the council.

Stockton-on-Tees Borough Council

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At Stockton-on-Tees Borough Council, the standards committee's forward work plan is informed by comments from people across the council, both officers and members, and also meetings between the chief executive and monitoring officer David Bond, who initiates the plan's proposed content.

David also discusses the plan with the senior legal assistant, who administers the authority's local assessment arrangements, the cabinet member for standards ethics, and with the council's political group leaders.

It is an all-inclusive approach that enables the monitoring officer and the standards committee to get different perspectives on ethical issues. The plan is reviewed and revised on a monthly basis. And in keeping with this approach, the standards committee also has a role in reviewing the council's constitution.

Partnership working is an area to which Stockton-on-Tees has devoted considerable attention and made excellent progress. The council has developed a partnership toolkit to help all those involved set up proper structures to manage their partnerships. The governance arrangements for them are based on the six principles of good governance and the standards expected in public life. The internal audit service reviews these arrangements based on those principles and standards. Moreover, any partnership that the council is part of has a nominated link officer, whose role includes alerting the council to any potential issues, such as conduct and decisionmaking. The link officer also undertakes periodic self-assessment 'health checks', a sample of which is audited each year to ensure their reliability and which can also pick up any concerns quickly and allow them to be swiftly resolved. Ethically-sound partnerships are considered essential and the council's commitment in this area continues to grow.

Stockton-on-Tees is proud of its ethical standards and has taken lots of steps to promote the standards framework to its many different audiences, raising its profile as much as possible. Standards committee members have visited town and parish councils as well as full council, planning, licensing and scrutiny meetings in order to meet councillors at all levels. When it comes to the general public, the council has a dedicated set of standards committee pages on its website, highlights the standards committee's work through the *Stockton News*, the council's external newsletter, and displays posters and information in libraries, council buildings and community centres.

Suffolk Coastal District Council

The standards committee at Suffolk Coastal District Council plays an important role not just in overseeing issues involving the members' Code of Conduct but also in wider standards matters.

For instance, the standards committee periodically reviews a number of parts of the council's constitution, including the Officer Code of Conduct, the whistleblowing policy and the Codes of Good Guidance in Planning and Rights of Way.

Monitoring officer Hilary Slater finds their input very useful: as many of the standards committee members are not councillors and have a wide range of experience between them, their external viewpoints can be invaluable when it comes to practical, common sense suggestions. It also helps the independent standards committee members to get a feel for the wider council and how it works.

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The authority works hard to raise the profile of standards and ethics internally, among both officers and members. Suffolk Coastal's intranet has its own standards page, and the monitoring officer makes sure officers and members are up to speed with their ethical obligations by periodically issuing reminders. These are sometimes prompted by questions members have asked, or are based on feedback from officers.

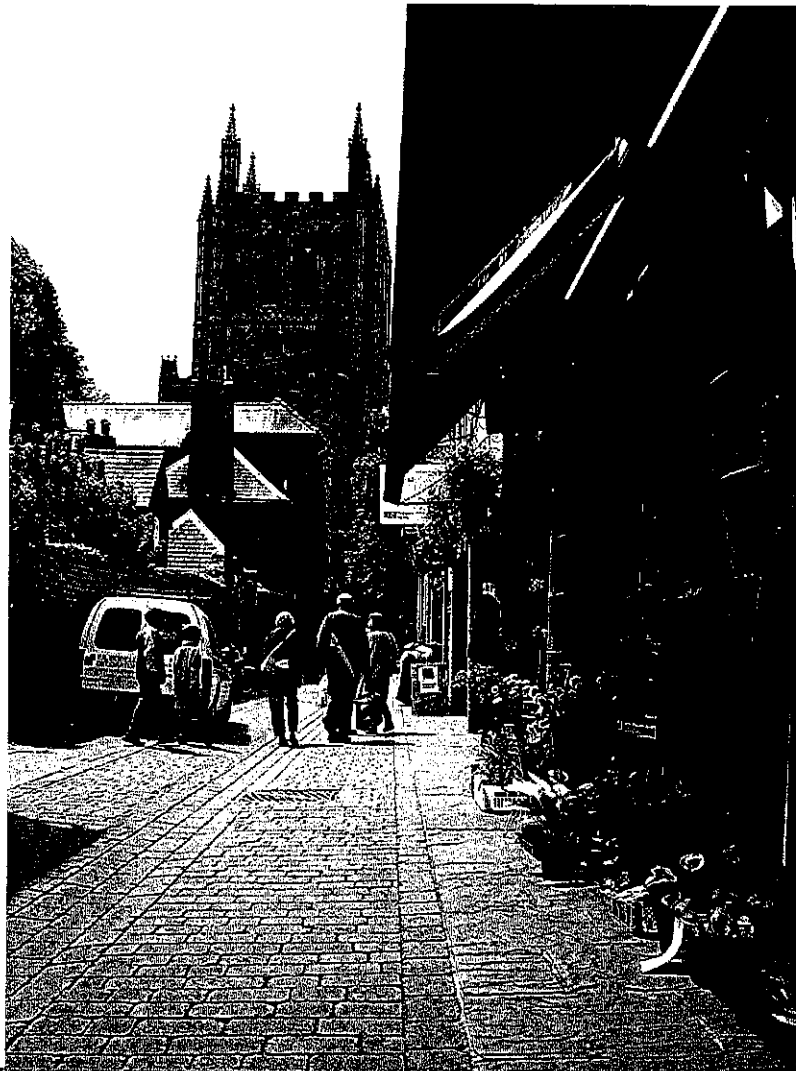
When it comes to the general public, Suffolk Coastal is keen to ensure that they are well informed about member conduct. As well as an article in *Coastline*, the council's newsletter, to coincide with the launch of the local assessment system, Suffolk Coastal District Council's monitoring officer also worked with her counterparts across the county to produce a leaflet on how to complain. This was widely circulated to the county's libraries and council reception areas.

Working with neighbouring authorities has proved useful in other ways, too. Suffolk's monitoring officers meet regularly to share information and good practice, and discuss recent developments in case law or new Standards for England guidance. This contributes to regular updates to the standards committee at their meetings, and in turn, the standards committee chair presents the minutes to the full council. This means that the standards committee and its chair have a profile among members, and that Councillors also get to hear about the standards committee's work and recent case decisions from elsewhere.



Standards in Local Government: Herefordshire's contribution

The Annual Report of the Standards
Committee for 2007



HEREFORDSHIRE.....covers 842 square miles (218,000 hectares). In area it is the second largest non-metropolitan unitary authority in England.

It has a population of 179,000, just over half of whom live in Hereford City, and five market towns (Bromyard, Kington, Ledbury, Leominster and Ross-on-Wye

In addition to Herefordshire Council, there are 134 Town and Parish Councils (and four Parish meetings), more than in any other unitary authority.

About 1,300 councillors are involved in representing Herefordshire communities.

Visit our pages on Herefordshire Council's website....

Go to <http://www.herefordshire.gov.uk>

Take the quick link to **Standards and Ethics** on the right of the homepage
You will then be able to access

- Our agendas, minutes and working papers
- An electronic version of this Annual Report, and the Annual Report for 2006
- The Constitution of Herefordshire Council
- The Model Code of Conduct
- Herefordshire Codes of Conduct on Planning, the use of Council resources, IT and Member/Officer relations
- Guidance on chairing meetings, and on how to apply for a dispensation when prejudicial interests would otherwise conflict out more than half of the members of a Town or Parish Council
- Briefing for those attending a hearing
- Our decisions on recent complaints

You will also find a link to the Herefordshire Association of Local Councils (HALC), our partners on local standards issues

Contact the Committee

By post: Heather Donaldson, Standards Committee, Herefordshire Council, Brockington, 35, Hafod Road, Herefordshire HR1 1SH

By email: hdonaldson@herefordshire.gov.uk

Contact the Monitoring Officer

By post: Alan McLaughlin, at the address above;

email: amclaughlin@herefordshire.gov.uk

OPEN, FAIR AND PROPORTIONATE

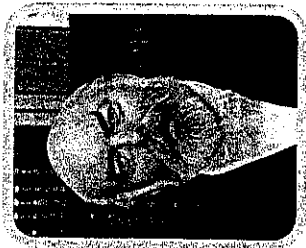
What we do

The Committee was established on 1st July 2001 under section 53 of the Local Government Act 2000 and first met on 8th February 2002.

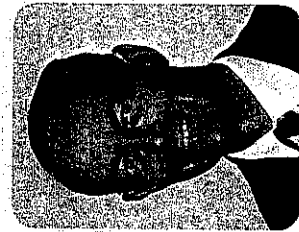
- We promote and maintain high standards of conduct by the members and co-opted members of Herefordshire Council, and of Town and Parish Councils in the County
- We advise on codes of conduct, and draft and revise them where necessary
- We train members on conduct issues, and help them to observe codes of conduct
- We hold local hearings and determine complaints against councillors which are referred to us by the Standards Board for England, or which come to us after a complaint is referred by the Board for local investigation
- With the introduction of the "local filter", complaints about councillor conduct will come to us first and not to the Standards Board; it will then be for us to decide whether a complaint should be investigated and, on the basis of the investigation, whether to hold a hearing
- We respond to inquiries from the public on any aspect of our work

In all that we do, we seek to ensure that Herefordshire demonstrates best practice and is at the forefront of developments nationally.

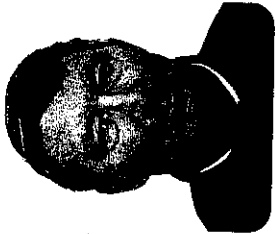
The regulation of standards and ethics issues is now an established part of public life, and plays an important part in enhancing and maintaining confidence. In local government, as elsewhere, that regulation must be open, fair and proportionate. These principles remain at the heart of our work.



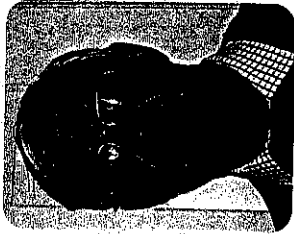
■ **Robert Rogers (Independent Member) (Chairman):** Robert Rogers has been in the service of the House of Commons since 1972, and is now the House's Clerk of Legislation, and a Clerk at the Table. During his time at the House he has been involved in every area of its work. He writes on Parliamentary and governance issues, and is the co-author of How Parliament Works, the sixth edition of which appeared in 2006. He is a member (and has been Chair and Vice-Chair) of the Standards Committee of the Hereford and Worcester Fire and Rescue Authority, and a member of the Standards Committee of the West Mercia Police Authority. He is also Chairman of the Hereford Cathedral Perpetual Trust. He is married with two grown-up daughters and has lived in the County since 1977.



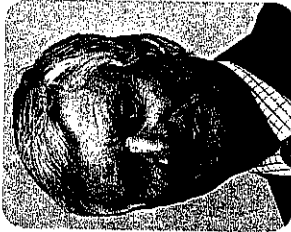
■ **Councillor John Stone:** John Stone joined the Council in 2000 having been in the teaching profession for many years. He became Vice-Chairman of Herefordshire Council on 13 May 2005, and Chairman on 25 May 2007. He has also held a number of other offices with the Council including Vice Chairman of the Education Scrutiny Committee, Vice Chairman of the Northern Area Planning Sub-Committee, Vice Chairman of the Social and Economic Development Scrutiny Committee, Chairman of the Courtyard Review Group, and he was a Member of the Herefordshire Local Admissions Forum. He has continued to be Chairman of the Standing Advisory Council for Religious Education. He has been a member of Brimfield and Little Hereford Parish Council for ten years and is a churchwarden of St Michaels, Brimfield.



■ **David Stevens (Independent Member: Deputy Chairman)** David Stevens is the current Chairman of Herefordshire Young Enterprise and was formerly Chairman of West Mercia Crimestoppers, the Area Council of the Herefordshire Chamber of Commerce, and an independent member of the West Mercia Police Authority. He worked for many years with Bulmers' Export Department. He lives in Hereford city, and is married with three grown up children. He is also a member of the Herefordshire and Worcestershire Fire and Rescue Authority Standards Committee.



■ **Richard Gething (Town and Parish Council Representative)** Richard Gething is Chairman of the Herefordshire Association of Local Councils, Bridstow Parish Council and the Local Access Forum. He is a retired Army Officer, and currently Non-Executive Director of a management consultancy company (public and private sector). He is married with two grown up sons and lives in Glewstone. He is also Vice-Chair of the Herefordshire and Worcestershire Fire and Rescue Authority Standards Committee.



■ **John Hardwick (Town and Parish Council Representative)** John Hardwick farms in the Fownhope area and is the current Chairman and a founder Director of Marches Quality Meats Ltd, based in Ludlow. He is also the Vice-Chairman of the Herefordshire Association of Local Councils Executive Committee, National Farmers' Union (NFU) representative on the Wye Forum, and Vice-President of Woolhope and District Young Farmers, having been associated with the Young Farmers movement for the past 42 years. He was formerly the Chairman of the NFU County Livestock Committee and also Fownhope Parish Council, having been a member of the council since 1979. He is married to Maria with a daughter of 19 years reading Music at Bath Spa University and a son of 16 years currently studying for his GCSEs.



Until the elections in May 2007: Councillor John Edwards

- John Edwards was Vice-Chairman of Herefordshire Council until 13 May 2005 when he became Chairman. He helped to found How Caple, Sollers Hope and Yatton Group Parish Council in 1974, and has been a member ever since. He has been a churchwarden for forty-six years, was County Chairman of the Young Farmers Club in the fifties, and represented local farmers at national level. He is a farmer and landowner in How Caple, and is married with a grown up daughter and two sons, and six grandchildren.



Following the elections in May 2007: Councillor Beris Williams

- Beris Williams was born and still lives in Rowlestone where his father farmed, then himself, and now his son. He held a number of posts in the local Young Farmers Club, and when he was eighteen he did national service in the RAF. On returning to the farm, he became involved with Dore NFU, eventually becoming Chairman, and then County Chair of the Milk Committee. He joined South Herefordshire District Council following a by-election in 1990 and has been a local councillor ever since. He has been a member of Herefordshire Council since its beginnings in 1998, and is currently its Vice-Chairman. He is a school governor at Kingstone High School and has recently retired from being Churchwarden for 40 years. He has a very supportive wife Margaret, three married children, and six grandchildren.

We are assisted and supported by:



- **Alan McLaughlin, Assistant Chief Executive (Legal and Democratic), and Monitoring Officer**

Alan McLaughlin has worked in local government since 1983 having previously been in private practice. Alan previously worked for a London Borough, two District Councils and two Shire Counties. He has been with Herefordshire Council since April 2006. He qualified as a solicitor in 1992. He received a Diploma in Local Government Law and Practice in 1997, and was previously a member of the Law Society's Children's Panel. He has been involved with Code of Conduct and Governance issues with Herefordshire Council and other local authorities and is the Council's Monitoring Officer. As part of this role he is required to support the Committee's work and to promote good governance with parish councils.



- **Heather Donaldson, Clerk of the Committee**

Heather Donaldson has worked in local government since 1989, initially for the West Midlands Police Authority, where part of her role was to clerk the Chief Constable's staff disciplinary hearings. She later moved into full-time committee work with South Herefordshire District Council, and has been a Democratic Services Officer with Herefordshire Council since its inception in 1998. The Standards Committee is one of several that she looks after. Her role is to provide advice on internal and statutory decision making processes to Members, officers, clients and the public. She deals with all aspects of planning, managing, co-ordinating, arranging, attending and servicing meetings, and facilitating democratic decision-making.

We also draw upon the services of Herefordshire Council Officers and Departments for support in arranging meetings and hearings, printing and publication, and website publication. We are very grateful for this support, and for the readiness with which it is provided.

This was a year of considerable change in the local government standards and ethics framework. A new national Code of Conduct was introduced, requiring training and familiarisation, and the revision of our subsidiary codes and guidance.

The arrangements for an entirely new national approach to the handling of complaints about councillor conduct were finalised. We played a part in the formulation of these, and warmly welcomed the move from a centralised system to local ownership and control.

We continued to work closely with partners within the County and beyond: the Herefordshire Association of Local Councils, and Herefordshire Town and Parish Councils; the Standards Board for England; neighbouring authorities; and the West Mercia Independent Members' Forum.

We have been involved in a wide range of other activities, which are described in greater detail on the following pages.

There was one change in the membership of our Committee: John Edwards left the Council following the elections in May 2007. He was formerly Vice-Chairman of the Council, and Chairman of the Council from May 2005. We have benefited greatly from his deep knowledge of the County and his wise counsel. His place on the Committee was taken by Councillor Beris Williams, the new Vice-Chairman of the Council; and our member Councillor John Stone became Chairman of the Council.

Neil Pringle, the Chief Executive of the Council, left towards the end of the year. We have been very grateful for his strong support for the work of the Standards Committee, and for ensuring that we have the resources to do our job thoroughly and professionally. We were glad to welcome his successor, Chris Bull, to a meeting of the Committee in January 2008 shortly after his arrival.

THE LOCAL AUTHORITIES (MODEL CODE OF CONDUCT) ORDER 2007

The long-awaited new Code of Conduct came into effect during the year. We contributed to the consultation run by the Department for Communities and Local Government early in the year, and recommended adoption to Herefordshire Council, which took place in July 2007. In addition, almost all the Town and Parish Councils in the County took formal decisions to adopt the new Code before it was statutorily enforced.

It was common ground that the first (2001) Code needed replacing, and the new version is in many ways an improvement (for example, it omits the controversial requirement to "whistleblow" and is in a clearer and more direct style). However, we regretted that, following the judgement in the Livingstone case, it applies only to conduct in a narrowly defined performance of official duty. We thought that the public's view of reputational issues required a wider application, and argued for that; but without success.

GUIDANCE, PROTOCOLS AND THE CONSTITUTION

The introduction of the new Code has required some amendment of Herefordshire codes and protocols on specific areas. We have revised the following:

Code for Members and Officers Dealing with Planning Matters;

Protocol on the Use of Council Resources by Members;

Protocol for Member/Officer Relations;

Communications Protocol.

and they, and the Constitution, are now consistent with the new Code of Conduct.

THE LOCAL FILTER

This is a major change in the local government ethical framework. The Local Government and Public Involvement in Health Act 2007 provided for a change from a centralised system in which every complaint went to the Standards Board for England (SBE), which had the option of investigating it, or of referring the complaint for investigation to the authority concerned, whose Standards Committee could then hold a hearing and determine the matter.

We thought from the start that this was far from ideal. The centralised system was seen by many as remote and bureaucratic; the lack of local ownership was a real disadvantage. To their credit, the SBE were well aware of the problems, and made great efforts both to involve local standards committees and to speed up the process of assessment and investigation.

The move to the local filter means that all complaints will now come in the first instance to a standards committee. That committee will decide whether a complaint merits investigation. If there is an investigation, its findings will be considered by the committee, and if necessary there will be a hearing.

This change is very welcome. It will be a real challenge for standards committees, and we think we are well placed to meet that challenge.

- from our establishment in 2002 we have conformed first with best practice, and now with the statutory requirement, that all our meetings and hearings should be chaired by an independent member (not just “independent” in the purely political sense, but someone entirely independent of the Council)
- we have extensive experience of local investigations and hearings, more than most standards committees, and the practice and procedure for those has been developed case by case
- we took part in the SBE’s local filter pilot, in which a small number of standards committees dealt with scenarios reflecting the practical implications of dealing with complaints at a local level

Under the new system a complaint will first come to our Monitoring Officer. He will make an initial assessment and then seek our view as to whether the complaint should be investigated. We plan to give that task to a small sub-committee.

If the sub-committee decides that no investigation is necessary, that decision may be appealed. The hearing of that appeal must be entirely independent of that sub-committee. We have good relations with other standards committees in the region, and plan to set up reciprocal arrangements for the hearing of appeals against decisions not to investigate.

If a complaint is investigated (and that investigation will always be undertaken by someone other than the Monitoring Officer to provide a properly independent view), we must then decide whether a hearing and determination is necessary. The SBE’s guidance sees no difficulty about the members involved in the first stage taking part in the consideration of the outcome of an investigation (and in a hearing if necessary), so we do not need a further independent element for this task.

At six members, our committee is one of the smallest standards committees. We have found that this has great advantages; we work together very closely; and we maintain a high degree of embodied knowledge and experience. However, we have to ensure that we are able to operate effectively if one or more of our members is unavoidably absent, or “conflicted out” because they know the subject of the complaint, or otherwise have an incompatible interest. If this affects either of our two Herefordshire Councillor members, we are able to co-opt replacements. A similar procedure can be used in respect of our two Town and Parish Council representative members. This is not the case with our independent members, however, and so to provide a reserve capability we will be recruiting an additional independent member.

The costs of the local filter will of course depend entirely on the number of complaints with which it has to deal. But we may assume that the present level of complaints will need to be dealt with at local level (only the most serious complaints, or those with which a standards committee feels for whatever reason that it cannot handle, will go to the SBE). This will have resource implications for every authority in England; and these may well be greater for unitary and district councils, which have responsibility for Town and Parish councillors in addition to those of the principal authority.

It is vital for the credibility of the new process that it is handled thoroughly and professionally; and we have every confidence that Herefordshire Council will continue to provide us with the resources that we need to do our job effectively.

The period before an election is usually a time when feelings run high, and charge and counter-charge are part of the political exchange. It is important that the formal process of complaint and investigation is not used in this debate.

Our Monitoring Officer produced guidance for Herefordshire Council about the statutory restrictions on Council publicity in the run-up to the May 2007 elections (the “purdah period”), and we supplemented this with a leaflet for Town and Parish Councils.

In presenting our report to the last meeting of Council before the elections, our Chairman stressed the importance of making a clear distinction between political debate and personal charge.

TRAINING

Following the May 2007 elections, we contributed to the induction briefing pack and the Councillors’ induction programme. Our Chairman gave a talk to members on standards and ethics, and on the role of the Committee.

We held joint training sessions with the Herefordshire Association of Local Councils (HALC) in June and October 2007. We focused on the implications (and implementation) of the new Code of Conduct, and on prejudicial and personal interests, as part of HALC’s broader training programme for Town and Parish councillors. We continue to work closely with HALC; the excellent relationship we have with them is greatly valued, and will be drawn upon in the SBE pilot project which we describe in the *Outlook for 2008* below.

We are arranging joint training for Standards Committee members from Herefordshire and Worcestershire County Councils, the Hereford and Worcester Fire and Rescue Authority, and the West Mercia Police Authority. This will concentrate on the practical operation of the new Code of Conduct and the Local Filter.

HEARINGS AND LOCAL INVESTIGATIONS

We have produced briefing papers for those involved in, or attending, Standards Committee hearings. This can often be a daunting and stressful experience, and we are keen that participants should understand the process and be aware of what to expect at a hearing. Together with a new procedure note for officers, this will provide comprehensive guidance for everyone involved.

We have considered the final reports of investigations relating to closely related complaints against eight councillors (involving in all around a thousand pages of evidence). In each case, we found that there was no failure to follow the Code of Conduct. The full texts of all our decision notices can be found on the Council’s website (see page 2).

THE STANDARDS BOARD FOR ENGLAND

We have maintained our close relations with the SBE, and have enjoyed working with Sir Anthony Holland, the Chairman; David Prince, the Chief Executive; Paul Hoey, Head of Policy and Guidance; and Sara Goodwin, Head of Legal, together with their colleagues. We look forward to establishing similarly close working relations with Sir Anthony’s successor after 30th June 2008, and with Glenys Stacey, who replaces David Prince on 2nd June 2008.

We have continued to monitor the Board’s handling of complaints, and are pleased to see continued improvement in the speed with which these are dealt with, and the readiness to refer cases for local investigation – especially useful in the transition to the local filter.

DISPENSATIONS

It has been a particularly busy year for requests from Town and Parish councils for “dispensations” – that is, for our permission for members who have a prejudicial interest to be able to participate in council business when the subject of that interest is being discussed. This is partly due to the impact of the May 2007 elections, which brought in new members.

Our plain-language guide (available on the Council website) explains the background to dispensations, the legal basis for which is complex. We sought advice from the SBE in respect of whether the regulations applied the “50% test” to the total membership of a council or to its quorum as we thought the wording to be ambiguous. The SBE agreed with us, but suggested that we should make our own interpretation on the basis that any reasonable interpretation is unlikely to be challenged. We have adopted the more generous interpretation, because we are concerned that the business of parish and town councils might otherwise be unnecessarily obstructed.

WEST MERCIA INDEPENDENT MEMBERS’ FORUM

Our two independent members, Robert Rogers and David Stevens (and Richard Gething in his other role as independent Vice-Chair of the Hereford and Worcester Fire and Rescue Authority Standards Committee) have taken an active part in the Forum, and in the meetings at Shrewsbury in January 2007, at which the guest was Patricia Hughes, Deputy Chair of the SBE, and July 2007, which was addressed by David Laverick, President of the Adjudication Panel for England. Both generated lively question and answer sessions.

The Forum continues to be a useful way of exchanging experience and best practice among standards committees (and supporting independent members in those authorities where their role is not fully recognised), and a report is made to our committee on each occasion.

STANDARDS BOARD FOR ENGLAND SUMMER ROADSHOW

David Stevens and Richard Gething represented the Committee at the SBE Roadshow in Birmingham on 14 June. It focused primarily on the new Code, and was a valuable forum for sharing views, and Richard and David represented our views energetically.

SIXTH ANNUAL ASSEMBLY OF STANDARDS COMMITTEES

The Committee was well represented at the Annual Assembly of Standards Committees in October. All members attended, and the Chairman and the Head of Legal and Democratic Services both led seminars.

It was once again an invaluable experience, especially with its focus on the new Code of Conduct and on the practical implications of local assessment. As ours is a committee with a stable membership and a good deal of experience, we were delighted that the Assembly events were targeted at different levels of training and experience amongst Standards Committees – as we had proposed in 2006.

We also had the opportunity to share our 2006 annual report, chairing checklist, and hearing guidance with other authorities. There was a very good reaction, and numerous requests to take the documents away and replicate them. We felt that this said a lot for best practice in Herefordshire.

WEBSITE

As foreshadowed last year, we have developed our web presence. The Standards Committee now has its own web pages on the Council website, where you can find more information about what we do, view agendas, minutes, and hearing details, and download forms and practical guidance. There are also links to other related organisations such as the Standards Board and the Herefordshire Association of Local Councils. More information appears on page 2 of this Report.

OUTLOOK FOR 2008

The main challenge will be the practical implementation of local assessment, investigation and hearings (see pages 9 to 11). We feel we are well equipped for this, and look forward to local ownership of the process.

We hope to run a Standards Board for England “model of excellence” pilot based on our close and successful relationship with the Herefordshire Association of Local Councils.

We will maintain and extend our training programme, both in conjunction with other authorities and HALC, and with the aim of reaching more Town and Parish councillors as part of our risk management policy.

We will continue to be active in the other areas covered in this Annual Report, building on the Committee’s six years’ experience, and following the principle that the system for which we are responsible in Herefordshire should be **open, fair and proportionate**.

STANDARDS COMMITTEE WORK PROGRAMME 2009/10**SEPTEMBER**

- Review of the operation of the local assessment process
- Consideration of revised Planning code of conduct

DECEMBER

- Visit by Members from other authorities' Standards Committees
- Consideration of approaches Standards Committee could take to proactively raise the issue of Standards within the Council

MARCH

- Work Programme for 2010/11
- Canvass Member opinion on what Members are looking for Standards Committee to do/ any areas where Standards Committee should be more active

TO BE ALLOCATED TO SUITABLE AVAILABLE DATES, DEPENDENT ON AGENDA

- Compulsory Code of Conduct Training for all Members
- CRB checks
- Revised Code of Conduct (when amended by legislation)
- Mock complaints training
- Training DVD on Code of Conduct

