

Agenda

Councillors: Herefordshire: Mr R. Preece
Worcestershire: Mr RJ Farmer

Independent Members: Dr M Mylechreest, Mr R Rogers (Chairman).

1. Named Substitutes (if any)

To receive details of either of the designated substitutes nominated to attend the meeting in place of the two Councillors on the Committee.

2. Declaration of Interests (if any)

To invite any Member of the Committee to declare any interest in any of the items on this Agenda.

3. Minutes

To confirm the Minutes of the meeting held on 11 March 2005. (copy attached – pink pages)

4. Protocol on the Use of Resources (p.1-4)

To consider recommending the adoption of a protocol to govern the use of resources by Members.

5. Appointment of Independent Members to the Standards Committee (p.5)

To consider recommending to the Authority the appointment of additional Independent Members to the Committee.

6. Independent Members' Forum (p.6)

To review the Forum's meeting held in August 2005 and arrangements for the next meeting in Herefordshire in February 2006.

7. Annual Assembly of Standards Committees (p.7-8)

To review the fourth Annual Assembly of Standards Committees held in September 2005.

8. Possible Ethical Audit – Preliminary Discussion

To discuss a possible ethical audit of the Authority by the Committee.

Minutes

Present

Councillors: **Herefordshire:** Brigadier Peter Jones CBE.
Worcestershire: Mr Philip Mould

Independent Members: Dr Murray Mylechreest, Mr Robert Rogers

Officers in attendance:

Ms Marie Rosenthal (on behalf of the Clerk)
Mrs Carole Williams (Senior Administrative Officer)
Mr Tim Brown (Committee Services)

Available Papers:

- A. The agenda paper and appendices referred to (previously circulated).
- B. The Minutes of the meeting held on 5 March, 2004 (previously circulated).

(A copy of the agenda papers will be attached to the signed minutes).

30. (Agenda item 1) Named Substitutes

None

31. (Agenda item 2) Election of Chair

The Committee reiterated its view that one of the Independent Members should take the chair and that the office should alternate annually between them, the other Independent Member being appointed Vice-Chair.

RESOLVED: that Mr Robert Rogers be elected Chair of the Committee for one year or until the first meeting thereafter.

32. (Agenda item 3) Appointment of Vice-Chair

RESOLVED: that Dr Murray Mylechreest be appointed Vice- Chair of the Committee for one year or until the first meeting thereafter.

33. (Urgent item) Fire and Rescue Authority Corporate Issues Update

In accordance with section 100B (4) (b) of the Local Government Act 1972 the Chair agreed to allow consideration of this item of business as a matter of urgency in order to ensure that the Committee was informed of the latest position.

The Committee was informed of the retirement of Mr David O'Dwyer as the Authority's Chief Fire Officer/Chief Executive and the appointment of Mr Paul Hayden, Deputy Chief Fire Officer of Norfolk Fire Service, as his successor.

The Committee was also informed of the imminent move to a new headquarters building at Atlanta House, off Newtown Road, Worcester. It was noted that the move would bring together functions currently delivered

from a number of sites, significantly improving the Service's efficiency and effectiveness.

34. (Agenda item 4) Declaration of Interests

There were no declarations of interests.

35. (Agenda item 5) Minutes

RESOLVED: that the minutes of the meeting held on 5 March, 2004 be confirmed as a correct record and signed by the Chair.

36. (Agenda item 6) Committee On Standards In Public Life Tenth Report "Getting The Balance Right: Implementing Standards Of Conduct In Public Life"

The Committee was informed of the recommendations of the Committee on Standards In Public Life's Tenth Report, which had looked at a number of areas including the management and enforcement of codes of conduct including declarations of interest across local government, the National Health Service and other public bodies.

The published summary of the Tenth Report had been circulated separately to Members of the Committee.

The Clerk drew attention to recommendation 18 of the report, which proposed the amendment of legislation to require Standards Committees to report annually to the Standards Board and the Authority on the operation of the ethical framework; and recommendation 19 of the report, which proposed that legislation should be introduced requiring Standards Committees to have a majority of Independent Members and an independent chair.

The Committee endorsed the suggestion that an annual report should be prepared.

After discussing recommendation 19 the Committee concluded that there would be merit, irrespective of whether or not legislation was to be forthcoming, in recommending the Authority to make arrangements to appoint up to two additional Independent Members. The Committee considered that it would be desirable that the additional Member(s) had Standards Committee experience and training but did not think there was any particular merit in appointees being drawn, if possible, from the independent membership of the Standards Committees of the constituent authorities, as had been the practice to date.

RESOLVED:

- (a) that the publication of the Tenth Report of the Committee on Standards in Public Life and the series of recommendations in relation to local government be noted;**
- (b) that an annual report be prepared for submission to the Authority each June and submitted to the Standards Board if required; and**

- (c) **that the Authority be recommended to place an advertisement for Independent Members with a view to appointing a maximum of two additional Independent Members.**

37. (Agenda item 7) Code of Conduct for Members Review

The Committee's views were sought on the National Review of the Code of Conduct for Members.

The Standard Board for England's consultation paper seeking comments on twenty-nine aspects of the Code had been circulated separately to Members of the Committee.

As background to the consultation, the submission from Herefordshire Council's Standards Committee to the Committee on Standards in Public Life's consultation in relation to: "Getting The Balance Right: Implementing Standards Of Conduct In Public Life" was circulated at the meeting, together with that Standards Committee's memorandum to the ODPM Select Committee's Urban Affairs Sub-Committee in response to its Inquiry into the role and effectiveness of the Standards Board for England.

A draft response to the consultation paper prepared by the Clerk had been enclosed with the agenda papers. The Committee discussed each aspect of the Code in turn and approved a response as appended to these minutes.

RESOLVED: that the response to the consultation exercise on the review of the Code of Conduct for Members as set out in the appendix to these Minutes be approved.

38. (Agenda item 8) Code of Corporate Governance

Further to Minute no 24 the Committee considered progress on compliance with those elements of the Code of Corporate Governance which it was responsible for monitoring.

RESOLVED: That the position in relation to those aspects of the Code of Corporate Governance which the Committee was responsible for monitoring be noted.

39. (Agenda item 9) Review of Confidential Reporting (Whistleblowing)

The Committee was informed of the revised Service Policy and Instruction on confidential reporting ("whistleblowing").

RESOLVED: that the report be noted.

40. (Agenda item 10) External Auditors Audit Letter

The Committee discussed its role in relation to the annual audit letter produced by the Authority's external auditors.

The Committee had suggested in September 2003 that the annual audit letter might be a practical means of fulfilling the Committee's monitoring role in

relation to aspects of the Authority's Code of Corporate Governance. It had been agreed that when published the Audit Letter would be circulated to Members of the Committee and a meeting called should any Member consider that there were issues which warranted consideration.

Mr Rogers circulated a letter he had sent to the Clerk expressing his view that the audit letter was not proving to be a satisfactory means of assessing the robustness of the Authority's corporate governance arrangements, as it had tended to focus almost exclusively on financial governance matters. It was important that the Committee was not placed in a position where it was claiming to fulfil or being expected to have fulfilled its monitoring role on the basis of the audit letters as drafted.

Following discussion it was agreed that the majority of matters included in the audit letter were within the remit of the Authority's Audit and Budget Committee. It was suggested that the onus was on that Committee and officers to refer matters to the Standards Committee if its views were required. It was acknowledged that this was part of the Monitoring Officer's role in supporting the Committee.

In relation to external inspection of the Authority the Senior Administrative Officer informed the Committee that the Authority had recently been inspected under the Audit Commission's Comprehensive Performance Assessment framework. All Fire Authorities were being inspected and it was expected that the reports would be published simultaneously by August 2005. She undertook to supply a copy of the final assessment report to Members of the Committee upon its publication.

RESOLVED: that any matters in the external auditors' annual audit letter requiring the consideration and advice of the Standards Committee should be specifically referred to the Committee.

41. (Agenda item 11) Members Training Programme

The Committee received an update on training for Members of the Authority.

The Committee noted the 2004/05 training programme and requested a copy of the draft 2005/2006 programme, including induction training planned for new Members after the May 2005 elections in Worcestershire.

It was noted that Herefordshire Council had held two formal hearings in relation to alleged breaches of the Code of Conduct. It was requested that Members of the Committee should be given the opportunity to attend a future hearing, as observers, to gain experience of the procedure.

RESOLVED:

- (a) that the Authority's Members' training programme be noted; and**
- (b) that it be requested that Members of the Committee be given the opportunity to attend a future hearing conducted by Herefordshire Council's Standards Committee, as observers.**

43. (Urgent item) Independent Members Forum, Standards Board Events and Future Meetings

In accordance with section 100B (4) (b) of the Local Government Act 1972 the Chair agreed to allow consideration of this item of business as a matter of urgency in order to ensure the Committee was aware of recent developments.

Independent Members' Forum

Dr Mylechreest informed the Committee that he had recently attended a meeting of Independent Members of Standards Committees at which the establishment of an Independent Members' Forum to enable Independent Members to share experiences had been discussed.

Rather than creating a Forum for the West Midlands Region it had been concluded that a forum for Independent Members of Standards Committees in Herefordshire, Shropshire and Worcestershire would be more practical. The proposal was that the Forum would meet biannually, each Authority taking it in turn to host the meeting, with the next meeting to be hosted by Worcester City Council in August. He asked the Committee to consider representation, payment of expenses and whether the Authority would host a meeting.

The Committee felt that on balance it would be beneficial to participate in the Forum, with travel and subsistence allowances being payable. It was suggested that if a meeting were to be hosted by the Authority an offer could be made to share Herefordshire Council's experiences of formal hearings in relation to alleged breaches of the Code of Conduct.

It was agreed that Dr Mylechreest and Mr Rogers would attend the August meeting, if they were available, and explore what level of future involvement might be appropriate.

Standards Board Events

The Committee was also informed of the forthcoming Standards Board Roadshow and the fourth annual assembly of Standards Committees and it was noted that details would be circulated inviting expressions of interest.

Future Meetings

In relation to future meetings of the Committee it remained the Committee's view that whilst it should hold an annual meeting it did not want to meet unless there was business for the Committee to consider. It was agreed that it would, however, be sensible to make provision for a meeting in the diary. A meeting was accordingly provisionally arranged for 2.00 pm on Friday, 4 November, 2005 at Atlanta House, Worcester.

The meeting ended at 4.40 pm.

Chair.....

**(Appendix to Minute No 37
of the Fire and Rescue Authority's
Standards Committee – 11th March, 2005**

**Standards Board for England Consultation on the Local Government Code of
Conduct 18 February 2005**

NO	ISSUE	PROPOSED RESPONSE
The general principles		
1	Should the ten general principles be incorporated as a preamble to the Code of Conduct?	Agreed – this will reinforce and assist in interpreting standards and be helpful in Member training on the Code.
2	Are there any other principles which should be included in the Code of Conduct?	No.
Disrespect and freedom of speech		
3	Is it appropriate to have a broad test for disrespect or should we seek to have a more defined statement?	The broad test is appropriate.
4	Should the Code of Conduct include a specific provision on bullying? If so, is the ACAS definition of bullying quoted in the full consultation paper appropriate for this?	Yes. Yes
Confidential information		
5	Should the Code of Conduct contain an explicit public interest defence for members who believe they have acted in the public interest by disclosing confidential information?	No – these are matters for common sense mitigation should a breach be found.
6	Do you think the Code of Conduct should cover only information which is in the law “exempt” or “confidential”, to make it clear that it would not be a breach to disclose any information that an authority had withheld unlawfully?	No – again, these are matters for common sense mitigation should a breach be found.
Disrepute and private conduct		

7	Should the provision relating to disrepute be limited to activities undertaken in a member's official capacity or should it continue to apply to certain activities in a member's private life?	It should continue to apply to certain activities in a member's private life.
8	If the latter, should it continue to be a broad provision or would you restrict it solely to criminal convictions and situations where criminal conduct has been acknowledged?	Broad provision.
Misuse of resources		
9	We believe that the Code should prohibit breaches of the publicity code, breaches of any local protocols, and misuse of resources for inappropriate political purposes. Do you agree?	Yes.
10	If so, how could we define "inappropriate political purposes"?	<p>It is important that there is a national standard. This would amongst other things provide clarity for Members who serve on more than one Authority.</p> <p>The LGA86 provision means that "inappropriate political purposes" in terms of seeking "to affect support for a political party" includes e-mails on party matters. This is part of the political process; not only would it be impractical to bar this activity, but it would bring such a prohibition into disrepute. There must be a means of distinguishing between use of (e.g.) publicly supplied stationery for party purposes -- clearly unacceptable -- and the use of ICTs where a marginal cost cannot be identified and a bar would be impossible to police.</p>
11	Is the Code of Conduct right not to distinguish between physical and electronic resources?	Yes.
Duty to report breaches		
12	Should the provision of the Code of Conduct that requires members to report breaches of the Code by fellow members	See 13 below

	be retained in full, removed altogether, or somehow narrowed?	
13	If you believe the provision should be narrowed, how would you define it? For example, should it apply only to misconduct in a member's public capacity, or only to significant breaches of the Code?	It should apply to breaches which are serious, significant or material.
14	Should there be a further provision about making false, malicious or politically-motivated allegations?	There should be a provision making it a breach of the Code to make <i>knowingly false</i> allegations, which should be capable of objective proof, but we think that judging malice and political motivation would often involve subjective judgements and be difficult to police.
15	Does the Code of Conduct need to provide effective protection for complainants against intimidation, or do existing sections of the Code of Conduct and other current legislation already cover this area adequately?	No further provision needed.
Personal interests		
16	Do you think the term "friend" requires further definition in the Code of Conduct?	No. This is a matter which is better dealt with through guidance, as issued by the Board, using a common sense definition of "friend"
17	Should the personal interest test be narrowed so that members do not have to declare interests shared by a substantial number of other inhabitants in an authority's area?	No.
18	Should a new category of "public service interests" be created, relating to service on other public bodies and which is subject to different rules of conduct?	Yes.
19	If so, do you think public service interests which are not prejudicial and which appear in the public register of interests should have to be declared at meetings?	Yes.

20	Do you think paragraph 10(2)(a-c), which provides limited exemption from the prejudicial interest rules for some members in certain circumstances, should be removed from the Code of Conduct?	No.
21	Do you think less stringent rules should apply to prejudicial interests which arise through public service and membership of charities and lobby groups?	Yes.
Prejudicial interests		
22	Should members with a prejudicial interest in a matter under discussion be allowed to address the meeting before withdrawing?	Yes, but only to give the views of constituents (if any).
23	Do you think members with prejudicial public service interests should be allowed to contribute to the debate before withdrawing from the vote?	Yes.
Registration of interests		
24	Should members employed in areas of sensitive employment, such as the security services, need to declare their occupation in the public register of interests?	No
25	Should members be required to register membership of private clubs and organisations? And if so, should it be limited to organisations within or near an authority's area?	Yes No

Gifts and hospitality		
26	Should the Code of Conduct require that the register of gifts and hospitality be made publicly available?	Yes.
27	Should members also need to declare offers of gifts and hospitality that are declined?	No.
28	Should members need to declare a series of gifts from the same source, even if these gifts do not individually meet the threshold for declaration? How could we define this?	Use an annual threshold.
29	Is £25 an appropriate threshold for the declaration of gifts and hospitality?	No. A benchmark of £35 should be set. This sum should be updated annually for inflation (rounding up the figure to the nearest pound).

4. PROTOCOL ON THE USE OF RESOURCES

Purpose of Report

1. To consider recommending the adoption of a protocol to govern the use of resources by Members.
-

Background

2. The Standards Committee's terms of reference provide for it to promote and maintain high standards of conduct by the Members of the Authority. The Authority has adopted a Code of Corporate Governance which is a means of putting in place proper arrangements for the governance of the Authority's affairs and the stewardship of the resources at its disposal. The Standards Committee is responsible for monitoring compliance with certain requirements placed upon the Authority by the Code.
3. One aspect of the Code, dimension 5(a), requires the Authority to '*Develop and adopt formal codes of conduct defining the standards of personal behaviour to which individual members, officers and agents of the Authority are required to subscribe and put in place appropriate systems and processes to ensure that they are complied with.*'
4. In reviewing compliance with the Code at its meeting in March, 2005, the Committee noted that the adoption of a Code governing Members' use of resources, possibly based on the model being developed by Herefordshire Council, would assist this aim.
5. The National Statutory Code of Conduct for Councillors provides that a Councillor when using council resources must act in accordance with the Council's requirements and ensure such resources are not used for political purposes (except in certain specified circumstances).
6. The Standards Board for England strongly recommended that local authorities should adopt protocols to guide Members in this area but to date have not issued any model text or detailed guidance.

Issues

7. Herefordshire Council approved a protocol on the use of Council resources in July 2005. A protocol modelled on the one adopted by that Council is appended.
8. Two issues which exercised Herefordshire Council were:
 - the prohibition on using council resources for political purposes and the definition of "political purposes"; and
 - the use of ICT facilities and in particular access to the World Wide Web and the use of the Council's e-mail address.

9. Herefordshire Council's Standards Committee sought advice from the Standards Board for England on aspects of the protocol, but were critical of the Board's response on the definition of "political purposes". Another issue was the wish by the Council's ICT Department to include detailed ICT conditions and instructions in the use of resources protocol. In the end the Committee opted for a simple user-friendly document which at the same time offered sound guidance for Members. Detailed ICT issues were exported to a document for which the Council administration took responsibility.
10. The Fire and Rescue Authority has not at the moment got sufficient guidance in place to cover these detailed ICT issues. It is proposed that policies will be revised as appropriate and reported to the Committee.

Recommendation

The Clerk and Chief Fire Officer recommend that

- (a) **the Authority be recommended to adopt the Protocol on the use of resources by Members as appended, and**
- (b) **a further report be made to the Committee on detailed provisions to govern the use of ICT resources.**

Background Papers

None

PROTOCOL ON THE USE OF AUTHORITY RESOURCES BY MEMBERS**1. Introduction**

- 1.1 The Authority's Code of Conduct for Members provides that, when using Authority resources, you must ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate the functions of the Authority or of any office to which you have been elected or appointed.
- 1.2 A breach of this Protocol is a breach of the Code and carries penalties up to and including disqualification from office.
- 1.3 If you are in any doubt about the application of this Protocol, you should seek advice from the Director of Corporate Services.

2. Authority Resources

- 2.1 These include: the use of Authority premises; ICT equipment such as computers and software; telephone and fax; photocopiers; stationery; postage; Authority transport; secretarial and clerical support; and allowances and expenses

3. Permitted use

- 3.1 Except as set out in Section 5 of this Protocol, you may use Authority resources only on Authority business. If you represent the Authority on outside bodies you may use Authority resources to assist you in this role, and this Protocol applies to such use.
- 3.2 You may use Authority resources for political purposes where that use will facilitate the functions of the Authority or any office you hold at the Authority. This will include e-mailing colleagues in your and other political groups registered with the Authority (this will include the Independent Group), setting up political group meetings and conducting discussions on policy with political colleagues locally, regionally or nationally.

4. Prohibited use

- 4.1 You may not use Authority resources:
 - For the publication of material which, in whole or in part, appears designed to affect public support for a political party. This includes campaigning leaflets and correspondence.
 - For mass mailings, even if these are related to Authority business.
 - During an election period to promote yourself or others as candidates to the electorate.

5. ICT equipment

5.1 You may make modest personal use of Authority-installed computers but you must not permit others (for example, family members) to do so.

6. Use of the herefordshire.gov.uk or worcestershire.gov.uk address for Fire and Rescue Authority Business

6.1 The Authority should not publish material designed to affect public support for a political party. You should therefore not use your e-mail address as registered with the Authority (name@herefordshire.gov.uk)/(name@worcestershire.gov.uk) for this purpose nor, on a matter of controversy, to promote a point of view which is associated with a political party.

6.2 E-mails from your official address will be seen to be associated with the Authority and may get preferential treatment, or may be thought by the public to be seeking such treatment. You should not therefore use the address for placing orders and similar activity as a private individual.

6.3 You will be provided with a personal e-mail address to allow modest personal use of ICT equipment as permitted in Section 5.

November 2005

5. APPOINTMENT OF INDEPENDENT MEMBERS TO THE STANDARDS COMMITTEE

Purpose of Report

1. To consider recommending to the Authority the appointment of additional Independent Members to the Committee.
-

Background

2. In March the Committee considered the recommendations of the Committee on Standards in Public Life's Tenth Report. One of these recommendations proposed that legislation should be introduced requiring Standards Committees to have a majority of Independent Members.
3. The Committee agreed that there would be merit, irrespective of whether or not legislation was to be forthcoming in recommending to the Authority that up to two additional Independent Members should be appointed to the Committee. The Authority approved the Committee's recommendation at its meeting in June 2005.

Issues

4. In accordance with the Regulations an advertisement was placed in September inviting applications. Five applications were received and, following a sifting meeting conducted by the Chairman and Vice-Chairman, every applicant was invited for interview. One applicant subsequently withdrew. The remaining applicants are to be interviewed by the Chairman and Vice-Chairman and a third wholly independent person, the Clerk of the National Assembly for Wales.
5. These interviews are to be held before the Committee's meeting on 18th November and a recommendation will be made to the Committee at the meeting.
6. The Regulations provide that the appointment of an Independent Member must be approved by a majority of the Members of the Authority. If the Committee chooses to recommend the appointment of additional Independent Members the matter will need to be considered by the Authority at its meeting in December.

Recommendation

The Clerk recommends that consideration be given to recommending the appointment of up to two additional Independent Members to the Committee.

Background Papers

None

6. INDEPENDENT MEMBERS' FORUM

Purpose of Report

1. To review the Forum's meeting held in August 2005 and arrangements for the next meeting in Herefordshire in February 2006.
-

Background

2. The Standards Board for England have encouraged the development of regional forums to support independent members of standards committees with their role and responsibilities. A Forum has now been initiated for the West Mercia region comprising standards committees within Shropshire, Herefordshire and Worcestershire. These forum meetings have proved extremely useful in providing training, development and support to independent members across the region.
3. The last meeting was held in Ludlow on 18 August 2005 and the Chairman and Vice-Chairman were able to attend.

Issues

4. The Chairman and Vice-Chairman will report to the Committee on the business at the last Forum.
5. Forum meetings are to be held twice a year with the next meeting to be hosted by Herefordshire Council on 3 February. The Committee might wish to discuss whether there are any matters they might like to have considered at that meeting.

Recommendation

The Clerk recommends that the report, and the oral report to be made at the meeting, be noted.

Background Papers

None

7. ANNUAL ASSEMBLY OF STANDARDS COMMITTEES

Purpose of Report

1. To review the fourth Annual Assembly of Standards Committees held in September 2005.
-

Background

2. The Standards Board for England have been hosting an annual conference of standards committees since 2001. These occasions have become important events in both training and developing Standards Committee Members and also allowing for a series of high-level debates with government ministers and other stakeholders in developing the ethical framework for local government.
3. The Fourth Assembly, held on 5/6 September 2005 at the International Conference Centre (ICC), Birmingham, was entitled “Ethical Standards – In Your Hands” and focused on developing participants’ skills in dealing with investigations and local hearings.

Issues

4. The conference programme included a number of important plenary sessions (attended by over 800 delegates) led by Phil Woolas MP, Minister for Local Government, and Sir Alistair Graham, Chair of the Committee on Standards in Public Life. The conference also held a number of workshops, question and answer sessions and partnership events looking in more detail at investigations, hearings and decision-making.
5. David Prince, the Chief Executive of the Standards Board for England (SBE) was also able to present the Annual Report 2004/05 “Taking an Objective Approach – Regulation with a Local Focus”. The SBE have met a number of key objectives over the year including:
 - Clearing the backlog of 400 investigations that had built up whilst the full legislative framework was put in place.
 - Speeding up investigations – completing nearly twice as many during 2004/05 as the previous year.
 - Halving the time taken to make a decision or whether to investigate a complaint.
 - Filtering out malicious, vexatious and tit-for-tat complaints.
 - Focusing positively on cases with the potential to damage local democracy.
 - Enabling successful local investigations.
 - Encouraging local authorities to take leadership on ethics.

- Developing the ethical governance toolkit jointly with the Audit Commission and the Improvement and Development Agency.
6. The Chairman and Vice-Chairman of the Committee attended the conference and will comment at the meeting.

Recommendation

The Clerk recommends that the report be noted.

Background Papers

None