



**WYRE FOREST
DISTRICT COUNCIL**

**ETHICS AND STANDARDS
COMMITTEE**

A G E N D A

Date: Tuesday, 1st February 2005

Time: 6 pm

**Venue: Council Chamber
Civic Centre
Stourport – on -Severn**

ETHICS AND STANDARDS COMMITTEE

Members of Committee

Reverend M. Warren* (Chairman)
Mrs A McDowell* (Vice-Chairman)

Mr C J Brighton*

Councillor Mrs I M Dolan
Councillor P Dyke
Councillor Mrs S M Hayward

Councillor M Hobson
(Parish Councillor)
Councillor Miss S C Meekings
Councillor C D Nicholls
Councillor J C Simmonds
Councillor T Whatmore
(Parish Councillor)

* Independent Members

Information for Members of The Public:-

Part I of the Agenda includes items for discussion in public. You have the right to request to inspect copies of Minutes and reports on this Agenda as well as the background documents used in the preparation of these reports.

Part II of the Agenda (if applicable) deals with items of "Exempt Information" for which it is anticipated that the public may be excluded from the meeting and neither reports nor background papers are open to public inspection.

There are particular circumstances when the Ethics and Standards Committee may exclude the public, which are in addition to those available at meetings of the Council, its Executive and Committees etc. These apply when the Ethics and Standards Committee considers the following:

- Information relating to a particular chief officer, former chief officer or applicant to become a chief officer of a local probation board within the meaning of the Criminal Justice and Court Services Act 2000.
- Information relating to the personal circumstances of any person.
- Information which is subject to any obligation of confidentiality.
- Information which relates in any way to matters concerning national security.
- A matter referred by an ethical standards officer under the provisions of section 64(2) of the Local Government Act 2000. (Ethical standards officers investigate cases for the Standards Board for England)

Delegation - All items are presumed to be matters which the Committee has delegated powers to determine. In those instances where delegation will not or is unlikely to apply an appropriate indication will be given at the meeting.

For further information:-

If you have any queries about this Agenda or require any details of background papers, further documents or information you should contact Mrs Diana Glendenning, Committee Officer, Civic Centre, Stourport-on-Severn. Telephone : 01562-732763 or email diana.glendenning@wyreforestdc.gov.uk.

AGENDA

PART 1

Open to the Press and Public

1. **APOLOGIES FOR ABSENCE**

2. **APPOINTMENT OF SUBSTITUTE MEMBERS**

To receive the name of any Councillor who is to act as a substitute, notice of which has been given to the Head of Legal and Democratic Services, together with the name of the Councillor for whom he/she is acting.

3. **DECLARATION OF INTERESTS**

To invite Members to declare any interests in any item on this Agenda (including any declaration in relation to Section 106 of the Local Government Finance Act 1992).

4. **MINUTES**

To confirm the Minutes of the meeting held on the 2nd November 2004.
(Pages 1 - 3)

5. **CODE OF CONDUCT - UPDATE**

To receive an update from the Monitoring Officer on: -

- Conducting Local Investigations (Page 4)
- Implementing Tribunal Recommendations (Page 4)
- Preliminary Enquiry Pilot Scheme in Full Swing (Pages 4 - 5)
- Unfair Procedures May Give Rise to Appeal (Page 5)

6. **TO CONSIDER ANY OTHER BUSINESS, DETAILS OF WHICH HAVE BEEN COMMUNICATED TO THE HEAD OF LEGAL AND DEMOCRATIC SERVICES BEFORE THE COMMENCEMENT OF THE MEETING, WHICH THE CHAIRMAN BY REASON OF SPECIAL CIRCUMSTANCES CONSIDERS TO BE OF SO URGENT A NATURE THAT IT CANNOT WAIT UNTIL THE NEXT MEETING**

7. **EXCLUSION OF THE PRESS AND PUBLIC**

To consider passing the following resolution:

"That under Section 100A (4) of the Local Government Act 1972 the press and public be excluded from the meeting during the consideration of the following items of business on the grounds that they involve the likely disclosure of "exempt information" as defined in paragraph 4 of Part 1 of Schedule 12A to the Act."

PART 2
Exempt Information
Not open to the Press and Public

8. COMPLAINTS TO THE LOCAL GOVERNMENT OMBUDSMAN 2003/2004

To consider a report that details the outcome of complaints to the Local Government Ombudsman in accordance with Council Policy. (Pages 6 - 10)

- 9. TO CONSIDER ANY OTHER BUSINESS, DETAILS OF WHICH HAVE BEEN COMMUNICATED TO THE HEAD OF LEGAL AND DEMOCRATIC SERVICES BEFORE THE COMMENCEMENT OF THE MEETING, WHICH THE CHAIRMAN BY REASON OF SPECIAL CIRCUMSTANCES CONSIDERS TO BE OF SO URGENT A NATURE THAT IT CANNOT WAIT UNTIL THE NEXT MEETING**

8. TO CONSIDER ANY OTHER BUSINESS, DETAILS OF WHICH HAVE BEEN COMMUNICATED TO THE HEAD OF LEGAL AND DEMOCRATIC SERVICES BEFORE THE COMMENCEMENT OF THE MEETING, WHICH THE CHAIRMAN BY REASON OF SPECIAL CIRCUMSTANCES CONSIDERS TO BE OF SO URGENT A NATURE THAT IT CANNOT WAIT UNTIL THE NEXT MEETING.

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ETHICS AND STANDARDS COMMITTEE
COUNCIL CHAMBER, CIVIC CENTRE, STOURPORT ON SEVERN
TUESDAY, 2ND NOVEMBER 2004

PRESENT:

Independent Members: Reverend M Warren (Chairman), Mrs A McDowell and Mr C J Brighton

Councillors: Mrs J Fairbrother-Millis, P Dyke, Mrs S M Hayward, Miss S C Meekings, C D Nicholls and J C Simmonds

Parish Representatives: Councillors M Hobson and T Whatmore.

CM.388 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor Mrs I M Dolan

CM.389 APPOINTMENT OF SUBSTITUTE MEMBERS

Councillor Mrs J Fairbrother-Millis was appointed as a substitute for Councillor Mrs I M Dolan.

CM.390 DECLARATIONS OF INTERESTS

No declarations of interest were made.

CM.391 MINUTES

The minutes of the meeting held on the 25th March 2004 were confirmed as a correct record and were signed subject to one alteration: that apologies for absence had been received from Councillor P Dyke.

CM.392 A PROTOCOL FOR RELATIONSHIPS BETWEEN OFFICERS AND MEMBERS OF THE LOCAL AUTHORITY

A document entitled 'A Model Protocol for Relationships between Officers and Members of the Local Authority' was considered. The Protocol had been issued by the Association of Council Secretaries and Solicitors and had been drafted to be of a general nature so as to cover all types of Councils.

The Head of Legal and Democratic Services commented that the Standards Board was looking for an all encompassing document on this matter that they could adopt which would cover all types of Council. She commented that some of the paragraphs would not apply to Wyre Forest District Council as they related to different types of Council and operating systems. The Protocol discouraged improper relationships and encouraged professional contact between Members and Officers that was open and transparent

DECISION : that the Protocol for Relationships between Officers and Members of the Local Authority be adapted for this Authority and be referred to Council for adoption.

CM.393 ACCESS TO INFORMATION - SECTION 12A OF THE LOCAL GOVERNMENT ACT 1972

A report was considered regarding Access to Information. Members were informed that with the full implementation of the Freedom of Information Act 2000 on 1st January 2005, the Government wanted to ensure the specific local government access to information rules were compatible with both the Data Protection Act 1998 and the Freedom of Information Act 2000.

The Head of Legal and Democratic Services commented that in the current system the Committee Section produced open and exempt agendas. Where agendas were exempt they used 15 categories for exemption. However the Government wished to remove from the exemption categories those that related to data protection legislation.

Representation had been made to the government that it was not helpful to remove categories of exempt information and reply on officers identifying relevant paragraphs under the Data Protection legislation.

The Government had therefore agreed to revisit this issue in the light of the concerns raised and it was anticipated that a more comprehensive list of reasons for exemption would be drawn up. Further advice from the Government was therefore awaited.

CM.394 DRAFT CODE OF CONDUCT FOR LOCAL AUTHORITY EMPLOYEES AND RESTRICTIONS ON POLITICAL ACTIVITIES

A report was considered that sought a response to two consultation paper entitled 'A Model Code of Conduct for Local Government Employees' and 'Review of the Regulatory Framework Governing the Political Activities of Local Government Employees.

CM.395 ANY OTHER BUSINESS

Referral of Cases to Ethics and Standards Committee

The Head of Legal and Democratic Services confirmed that the Standards Board was now able to refer cases of complaints for hearing to this committee. The Ethics and Standards Committee had formally agreed procedures for the appointment of a Hearings Sub Committee and adoption of the relevant protocols at the meeting of the committee on 25th March 2003 (Minute CM.341 refers). The Standards Board had a backlog of cases to

consider but had agreed to refer less complex cases to local Ethics and Standards Committees as from November 2004.

A long debate ensued on whether referrals from the Standards Board should be dealt with in open or closed session. Guidance on this was awaited from the Standards Board and the Head of Legal and Democratic Services agreed to publish the advice in the Information Bulletin when it became available.

The meeting ended at 6.47 pm.,

J:Committee/Ethics and Standards/minutes/02/11/04

Code of Conduct/Standards Committee Update

Conducting Local Investigations

The Regulations governing local investigations came into force on 4 November 2004, and cases are now being referred to monitoring officers for investigation.

Occasionally, referrals may require some kind of action other than investigation. The ethical standards officer may, for example, direct a Monitoring Officer to make recommendations to a standards committee about the wider issues for the authority raised by the case, or ensure that the parties concerned attempt some form of reconciliation. It may be necessary to consider the need for professional mediation services. Ethical standards officers will consult monitoring officers before issuing directions.

The Standards Board for England will increasingly focus its own investigations on the more serious cases that have the biggest potential to damage the public's confidence in local democracy. They believe that the combination of local and national framework working side-by-side is most likely to produce an effective way of dealing with misconduct and improving general standards.

Implementing Tribunal Recommendations

Authorities have a statutory duty to implement recommendations made by The Adjudication Panel for England

Under Section 80(3) of the Local Government Act 2000 an authority has three months in which to consider recommendations made to it by The adjudication Panel for England. An authority must also prepare a report for The Standards Board for England within this time, giving details of what action it has taken or proposed to take as a result of those recommendations.

If The Standards Board for England is dissatisfied with the authority's actions or proposals, section 80(5) of the Act enables it to require the authority to publish a statement outlining details of recommendations made by the case tribunal and the reasons why the authority has not implemented the recommendations.

Preliminary Enquiry Pilot Scheme In Full Swing

The Monitoring Officer from the authority of a member named in an allegation may be contacted by The Standards Board for England to gather additional information, before a decision is made on whether to refer the allegation for investigation, under the terms of a pilot scheme which is now fully operational.

The preliminary enquiry scheme is designed to help officers at The Standards Board for England collect certain facts from the Monitoring Officers and clerks of the related authorities that were missing from the original allegation. It

should enable The Standards Board for England to filter out those allegations that have little or no credible evidence to substantiate them.

The scheme is limited to enquiries relating to factual information. They are not seeking opinions on the merits of a particular allegation and will not take opinions into account when deciding whether to refer an allegation for investigation. The letter notifying interested parties of a decision will indicate if information from a preliminary enquiry informed the decision.

During November 2004, preliminary enquiries were made into 16 allegations. In the majority of these cases, the Monitoring Officer was contacted, and in all cases the information received helped the assessment of the allegation. In half of these cases, the information gained played a decisive role in determining whether the allegation should be referred for investigation.

Unfair Procedures May Give Rise To Appeal

Members who are dissatisfied with the outcome of a standards committee hearing into their conduct can appeal to The Adjudication Panel for England. The subject member must first request permission to appeal the decision from the president of The Adjudication Panel for England, setting out which aspects of the hearing the member wishes to appeal – the decision as to whether the subject member has breached the Code of Conduct, the sanction, or both. The president will consider whether permission to appeal should be granted.

In some of the appeals that have been permitted to date it is noticeable that the subject member has alleged that members of the standards committee hearing the matter were biased or partial. And in some cases, the subject member has alleged that the standards committee procedures were unfair, preventing that member from receiving a fair hearing.

It is, therefore, important that standards committee members hearing cases against councillors should consider not only whether they have a personal and prejudicial interest as set out in the Code of Conduct, but also whether their connection to, relationship with or knowledge of the subject member could be considered to be biased or give a reasonable member of the public the impression that the decision could be partial.

Standards Committees should also ensure that, as far as possible, the procedures of the committee hearing a matter concerning the conduct of a councillor are fair. In this regard, the members should take advice from the Monitoring Officer or legal advisor to the committee