

**SOLIHULL
METROPOLITAN BOROUGH COUNCIL**

**REPORT OF THE STANDARDS COMMITTEE AND
MONITORING OFFICER**

2008 - 09

June 2009

Contents

1	Introduction	5
2	Role of the Standards Committee	5
3	Membership	5
4	Meetings in 2008-09	6
5	Summary of matters considered	6
6	Training	7
7	Local Assessment of Complaints	7
8	Registration of Interests	8
9	CRB Checks for Members	9
10	Monitoring Officer	9
11	Future Work Pprogramme	11

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REPORT OF STANDARDS COMMITTEE AND MONITORING OFFICER

2008 – 09

1 Introduction

- 1.1 This is a combined report of the Standards Committee and the Council's Monitoring Officer to report on activities of the Committee and the Monitoring Officer during the 2008-9 municipal year.
- 1.2 The 2008-09 municipal year saw the retirement in August 2008 of Michael Blamire-Brown, Solicitor to the Council and Monitoring Officer, who was responsible for setting up the Standards Committee and for its development since its establishment in 1999. The Committee is grateful to Donna Ohdedar for stepping in to the role of Monitoring Officer until the appointment of Philip Lloyd-Williams, Director of Corporate Governance, Solicitor to the Council and Monitoring Officer, who took up his post in February 2009.
- 1.3 Dr Bob Moore, Chairman of the Committee also retired from service to the Committee at the end of the 2008-09 municipal year, after almost 10 years as a member of the Committee and 5 years as Chairman. The Committee expresses its gratitude to Dr Moore for his leadership and his significant contribution to the work of the Committee over the years.
- 1.4 The 2008-09 municipal year also saw the introduction of the new regime of local assessment of complaints about Borough and town/parish councillors, a departure from the previous requirement that all complaints should be made direct to the Standards Board for England.

2 Role of the Standards Committee

- 2.1 The primary purpose of the Standards Committee is to promote high standards of conduct amongst members of the Borough Council and parish councils in Solihull. It seeks to do this by ensuring that members receive a proper level of training in their responsibilities of the Code of Conduct, by raising awareness of the importance of high standards of conduct and helping to guide member conduct by the application of protocols.
- 2.2 The Committee also has an important role in the initial assessment of complaints about Borough and Parish Council Members and reviewing decisions to take "no action". It may also conduct hearings in respect of alleged breaches of the Code of Conduct and decide appropriate penalties.
- 2.3 In respect of the Borough Council only the Committee's functions include receiving reports on matters arising from the Council's Whistleblowing Policy, considering breaches of protocol including officer/member relations, good practice in planning, and use of resources; and advising the Council on the adoption and revision of protocols and monitoring the operation of the protocols.

3 Membership

- 3.1 The Committee is made up of 5 Borough Councillors, 4 independent members and 3 parish councillors.
- 3.2 The Committee continued to follow good practice in appointing an independent member, Dr. Bob Moore as its Chairman for 2008-09.

- 3.3 Three new independent members joined the Committee early in the year – Mr David Mattocks, Mr Richard Steer and Mr Ray Tomkinson.
- 3.4 Councillor members were Gary Allport, Len Cresswell, Alan Nash (Joint Vice Chairman), Ted Richards and Joe Tildesley.
- 3.5 The parish council representatives were Councillor Brian Brown (Hockley Heath Parish Council), Councillor Keith Evans (Kingshurst Parish Council) and Councillor Rosie Weaver (Meriden Parish Council).
- 3.6 The Committee is not required to be politically balanced but all political groups on the Council are represented as well as the Cabinet.

4 Meetings in 2008 - 09

- 4.1 Meetings of the full Committee were held on the following dates:-

22nd May 2008
3rd July 2008
3rd September 2008
3rd December 2008
3rd March 2009

5 Summary of Matters Considered

- 5.1 **Standards Board for England revised Guidance on the role and make up of Standards Committees**

The Committee considered the revised guidance issued by the Standards Board for England and was able to give assurance to Council that much of the guidance was reflected in the structure and terms of reference of the Council's Standards Committee.

- 5.2 **Local Assessment of Complaints**

The Committee considered the requirements of the new local assessment process and agreed a Local Assessment Procedure and criteria for assessment of complaints.

- 5.3 **Advice to Members – Airport Planning Application**

The Committee agreed advice to Borough Council Members who may be involved in the determination of the planning application for a runway extension for Birmingham International Airport on the main considerations relating to the code of conduct.

- 5.4 **Independent Safeguarding Authority**

The Acting Head of Human Resources and Equalities gave a presentation to the Committee on the Independent Safeguarding Authority (ISA). At a subsequent meeting the Committee considered the issues relating the new regime introduced by the Safeguarding Vulnerable Groups Act 2006

- 5.5 **Register of Members' Interests**

A working group comprised of the Committee Chairman and the two joint Vice-Chairmen carried out a review of the Council's Register of Members' Interests and made recommendations to Council to support the continuing good practice.

- 5.6 **Casino Advice**

The Committee agreed advice to Borough Council Members who may participate in decisions relating to applications for a casino licence.

5.7 DCLG Consultation – Revised Members Code of Conduct

The Committee considered proposals by the government to revise the code of conduct and to introduce a national code relating to officers and agreed a response to the consultation document.

5.8 Revised Hearings Procedure

The Committee approved a revised Hearings Procedure following updated guidance issued by the Standards Board in August 2008.

5.9 Assistance for Members Subject to Complaints

The Committee considered the issues relating to providing Members with assistance when responding to complaints, and requested a further report on details of the indemnity cover available for Members.

5.10 Role of Standards Committee – Politically Restricted Posts

The Committee received background information on the Committee's new statutory function, introduced by the Local Government and Public Involvement in Health Act 2007, in relation to the grant of exemption in respect of politically restricted posts.

6 Training

6.1 The Monitoring Officer organised formal training events in July and October 2008 on the Code of Conduct for Borough and Town and Parish Council Members. 11 Members attended on each date. The majority of Borough and Town and Parish Members have now received a detailed briefing on their obligations under the Code, however 4 Borough Council Members have attended no training on the Code of Conduct and a further 4 have not received training on the latest version of the Code.

6.2 The Chairman and the Monitoring Officer attended the Standards Board for England's seventh Annual Assembly in October 2008. The focus of the 2008 conference was on the new local system for dealing with complaints about councillors. Expert speakers at the conference included Sir Christopher Kelly, Chair of the Committee on Standards in Public Life, Dr Richard Cowell, from the University of Cardiff and Ben Page from Ipsos Mori Public Affairs.

7 Local Assessment of Complaints

7.1 Until May 2008 all complaints that a Member had breached the Code of Conduct had to be submitted to the Standards Board for England. With effect from 8 May 2008 the Local Government and Public Involvement in Health Act 2007 introduced changes to the ethical standards regime, which placed responsibility on the Monitoring Officer and Standards Committees for dealing with complaints of breach of the Code of Conduct.

7.2 The Committee established procedures for the initial assessment and review of complaints and also for the investigation of complaints and hearings. For each complaint a Sub-Committee of 3 members of the Committee (including and independent member, a borough councillor and a parish councillor) is established

to deal with the initial assessment. In each case the options available to the Sub-Committee are to:

- a) Refer the complaint to the Monitoring Officer for investigation
- b) Refer the complaint to the Standards Board
- c) Take no action, or
- d) Refer the complaint for other action.

- 7.3 The complainants have a right to a review of a decision to take no action. A review would be undertaken by a separate sub-committee of Members of the Standards Committee who have not been involved in the local assessment decision.
- 7.4 The Monitoring Officer has provided training for Members on local assessment and review of complaints.
- 7.5 During the period from 8th May 2008 to the end of March 2009 two complaints concerning parish councillors and one complaint concerning a Borough Councillor were referred by the Monitoring Officer to the Local Assessment Sub-Committee.
- 7.6 The complaints about parish Councillors related to alleged breaches of the Code of Conduct including failure to declare a prejudicial interest, failure to treat others with respect and bullying.
- 7.7 The complaint about a Borough Councillor related to alleged breaches of the Code of Conduct including failure to treat others with respect and using the position of Councillor to secure advantage.
- 7.8 In each of these cases the Local Assessment Sub-Committee found insufficient evidence that there might have been a breach of the Code of Conduct and agreed to take no further action.
- 7.9 Two cases were subsequently referred to the Review Sub-Committee. No further action was taken in either of these cases.
- 7.10 The above figures are reported based on the 2008-09 financial year (1st April to 31st March), which is the reporting period for data to be sent to the Standards Board for England. However the number of complaints received since 1st April 2009 is considerably higher, with 22 cases to date, many of which contain complaints about several members and are reiterated by numerous complainants. An analysis of these cases will be reported to the Standards Committee separately to facilitate a review of the Local Assessment procedure.

8 Registration of Interests

- 8.1 The Register of Interests for all Borough and Parish Council Members is held by the Monitoring Officer and is open to public inspection. In addition the Monitoring Officer keeps the register of interests and gifts.
- 8.2 The Standards Committee carried out a review of the Council's Register of Members' Interests during 2008-09 and made recommendations to Council to support the continuing good practice.
- 8.3 During 2008-09 Members have regularly reviewed and updated their entries on the Register.

9 CRB Checks for Members

- 9.1 The Committee has asked for an annual statement of the position relating to Criminal Record Bureau disclosures for Members.
- 9.2 The position as at May 2009 is that disclosures have been received in respect of 50 of the 51 Members. The final outstanding disclosure is being followed up with the Member concerned.

10 Monitoring Officer

10.1 The Monitoring Officer is Philip Lloyd-Williams (Director of Corporate Governance and Solicitor to the Council) who is the lead officer for the Standards Committee.

10.2 The Monitoring Officer's functions are: -

- (i) To report to the Borough Council and to the Cabinet in any case where he is of the opinion that any decision or proposal of the authority in respect of any reportable incident (being any matter which, in his opinion, has given rise to or is likely to or would give rise to any illegality or maladministration under Sections 5 and 5A of the Local Government and Housing Act 1989). This function does not extend to parish councils;
- (ii) To investigate any matter which he has reason to believe may constitute, or where he has received an allegation that a matter may constitute, a reportable incident (This does not extend to parish councils);
- (iii) To maintain the Council's Constitution.
- (iv) To be the lead officer to the Standards Committee and Local Assessment and Review Sub-Committees in respect of all business requiring to be referred for decision or report;
- (v) To maintain the statutory register of members' interests for both Borough and Parish Council Members;
- (vi) Responsibility for the recording of decisions taken by or on behalf of the Council and the Cabinet;
- (vii) To consult regularly with the Chief Executive, the Chief Finance Officer and the Chief Internal Auditor on issues of risk and governance and to assist in identifying areas where the probity and governance of the authority can be improved or better protected, and to take appropriate actions;
- (viii) To provide data to the Standards Board for England and to an Ethical Standards Officer in respect complaints of breach of the Code of Conduct for Borough and Parish Council members;
- (ix) A power to investigate any application for a dispensation and to report and recommend to the Standards Committee;

- (x) To promote and secure that members and officers of the authority are fully aware of their obligations in relation to the ethical framework and to provide training under the direction of the Standards Committee;
- (xi) To consider applications from persons who wish to appeal against their post being designated as politically restricted;
- (xii) To provide advice to members in relation to their position under the Code; and
- (xiii) To report to the Cabinet and to the Council on the resources which he/she requires for the discharge of his functions.

10.3 No statutory reports have been necessary during 2008 - 09 and there have been no findings of maladministration against the Council.

10.4 The Monitoring Officer works in close co-operation with the Council's Chief Executive and the Director of Business Support (the statutory "Section 151 Officer") in ensuring that the Council's decision making processes are undertaken in accordance with legislation, the Constitution and the Council's Local Code of Corporate Governance.

10.5 The Monitoring Officer is the principal adviser to the Standards Committee in the event of local hearings relating to complaints about the conduct of Members.

10.6 The Monitoring Officer is frequently consulted by Members of the Council and Parish Councillors as to their position on the Code of Conduct.

10.7 It is the view of the Monitoring Officer that Members continue to be aware of the importance of the Code and the need to ensure that the public have confidence that decisions are taken without improper influence of personal interest.

10.8 The Monitoring Officer has organised training for all Members and this has demonstrated the interest of Members in ethical conduct.

10.9 The Monitoring Officer is satisfied that during the year the authority has provided sufficient resources to enable him to undertake his statutory duties.

11 Future Work Programme

11.1 The Committee's work priorities for 2009 –10 were considered at the first meeting of the new municipal year and the work programme will be based the following:-

- a) Monitoring Officer to meet with Parish Clerks twice per year;
- b) Monitoring Officer to ask Solihull Area Committee what support they want from the Standards Committee and to report back to the Committee;
- c) Monitoring Officer to report to Group Leaders on Members' attendance at recent Standards Training;
- d) An annual review of the Register of Interests and Register of Gifts and Hospitality be carried out. A Protocol for the Mayor and the acceptance of gifts to be presented to Committee;
- e) The Standards pages on the Council's web site be reviewed;
- f) The Committee to receive the results of the Citizens' Panel survey and

decide if any action needs to be taken and/or further questions asked;

- g) The current governance codes in place for Solihull Metropolitan Borough Council and Partnership working be reviewed, including a review of how conflicts of interest are addressed;
- h) Probity in Planning review;
- i) A feature be published in 'Your Solihull' on good ethics and good conduct;
- j) An annual meeting to be held between Solihull Metropolitan Borough Council leaders and the Standards Committee and a separate meeting between Parish clerks and Chairs and the Standards Committee;
- k) Training to be provided for the Committee on Local Assessment of Complaints, with a review of outcomes from recent cases.