

# **BRAINTREE DISTRICT COUNCIL**

## **STANDARDS COMMITTEE**

### **Annual Report**

**2007/8**

## 1. Introduction

This is the third Annual Report of Braintree District Council's Standards Committee and covers the period from 1 April 2007 to 31 March 2008. In reviewing the activities and looking back at issues highlighted in 2007/8, it also looks forward to next year.

## 2. Terms of Reference

Article 9 and Part 3 of the Council's Constitution sets out the requirements for and composition of the Standards Committee. Its roles and functions are as follows:

- (a) promoting and maintaining high standards of conduct by Councillors and co-opted members;
- (b) assisting the Councillors and co-opted Members to observe the Members' Code of Conduct;
- (c) advising the Council on the adoption or revision of the Members' Code of Conduct;
- (d) monitoring the operation of the Members' Code of Conduct;
- (e) advising, training or arranging to train Councillors and co-opted Members on matters relating to the Members' Code of Conduct;
- (f) granting dispensations to Councillors and co-opted Members from requirements relating to interests set out in the Members' Code of Conduct;
- (g) dealing with any reports from a case tribunal or interim case tribunal, and any report from the Monitoring Officer on any matter which is referred by an ethical standards officer appointed by the Standards Board for England to the Monitoring Officer;
- (h) the exercise of (a) to (g) above in relation to Parish and Town Councils wholly or mainly in its area and the Members of those Parish and Town Councils;
- (i) to act as consultee (if required) in the appointment of members of the Independent Remuneration Panel;
- (j) the Chairman of the Standards Committee shall be consulted on any proposal to terminate the membership of any member of the Independent Remuneration Panel.

The Standards Committee exercises its statutory functions in relation to Braintree District Council and the 52 Parish and Town Councils in the district.

Part 5 of the Constitution contains various Codes and protocols relevant to the functions of the Committee and in respect of which the Committee has previously given advice and made recommendations. These are:

- Members Code of Conduct

- Code of Practice for Councillors and Officers Engaged in the Determination of Planning Applications
- Gifts and Hospitality – A Code of Conduct for Members.

### 3. **Composition**

Throughout 2007/08, the Committee has comprised:

<u>Independent Representatives</u>	<u>Parish Representatives</u>	<u>District Councillors</u>
Mr T French (to 31.5.2007)	Councillor W Fossick	Councillor P Barlow (to 3.5.2007)
Mr T Jones	Councillor S Goodfellow	Councillor Mrs J C Beavis
Mr P Schwier (Chairman)	Vacancy (18.2.2008	(to 3.5.2007)
Mr C Webb (Vice-Chairman)	onwards)	Councillor J Finbow
Ms H Paton (8.10.2007 onwards)		Councillor J Gyford (21.5.2007
Ms K Harman (18.2.2008 onwards)		onwards)
		Councillor J O'Reilly-Cicconi
		(21.5.2007 onwards)
		Councillor Lady Newton
		(18.2.2008 onwards)

Hazel Paton was appointed to the Committee with effect from 8 October 2007 for a four year term expiring on 7 October 2011 following the resignation of Tony French as an independent member and Chairman of the Committee.

Karen Harman and District Councillor Lady Newton were appointed to the Committee on 18 February 2008 as a result of a recommendation from the Standards Committee that its membership be increased from 9 to 12 members in order to deal with new duties and responsibilities that will pass to it once the legislation referred to in paragraph 4.9 of this report is brought into force.

All members of the Standards Committee and the Monitoring Officer wish to pay tribute to Tony French for the sterling work he undertook over his period on the Committee since October 2003. This proved to be no easy task, especially in the early stages when it was clear, even on a national basis that the concepts of Standards Committees and the Ethical Framework were not always well received. We feel that the way in which he conducted his duties as, initially, an ordinary member of the Committee and, more recently, its Chairman has done much to enhance the profile and further the status of the Committee. We record our thanks to him for those efforts.

The main officer support for the Committee is provided by the Monitoring Officer (Patrick Dempsey), the Deputy Monitoring Officers (Sharon Lowe and Emma Wisbey) and officers from Law & Governance.

#### 4.1 **Procedures – Cases Referred by Ethical Standards Officers**

Section 66 of the Local Government Act 2000 provides for the local investigation and/or determination of cases referred to Standards Committees by Ethical Standards Officers appointed by the Standards Board for England (SBE).

One investigation of a complaint was referred to the Monitoring Officer during 2006/7. The case was significant in terms of the work of the Committee in that the investigation resulted in the first hearing arising from a complaint that was also investigated locally.

In this case the investigation was carried out by the Monitoring Officer of Uttlesford District Council who acted as investigating officer.

#### 4.2 Individual Cases – Local Statistics

The following table sets out the position in respect of those cases referred to the Standards Board for England or determined between 1<sup>st</sup> April 2007 and 31<sup>st</sup> March 2008. The figures shown are for District Councillors. The figures in brackets are for Town and Parish Councillors.

<b>Outcome/Current Position</b>	<b>Cases referred to SBE during 2007/08</b>	<b>Cases referred to SBE in previous years but determined in 2007/08</b>
Not referred for investigation	4(14)	0(0)
No evidence of breach of Code of Conduct	0(4)	1(0)
No action need be taken	1(1)	0(0)
Referred to Standards Committee for determination	0(0)	1(0)
Still under investigation	0(0)	0(0)

In the case referred to in paragraph 4.1, the Standards Committee, at its meeting on 13 June 2007, determined that a District and Parish Councillor had not breached the Codes of Conduct of Braintree District Council and the Parish Council.

#### 4.3 Revised Code of Conduct

A revised statutory Code of Conduct for Members was laid before Parliament on 4 April 2007 and came into effect on 3 May 2007. The revised Code was considered by the Committee on 30 April 2007 when we recommended its adoption by the District Council and all Town and Parish Councils at their respective Annual General Meetings following the District and Town/Parish Council elections in May 2007. The revised Code of Conduct was adopted by the District Council at the Annual General Meeting on 21 May 2007.

The Committee liaised with Town and Parish Councils who were offered the opportunity to participate in a single advertisement as required by the Local Government Act 2000 to publish a notice that revised Codes of Conduct had been adopted. All fifty-two Town and Parish Councils within the District joined with the District Council in publishing the statutory notice.

#### **4.4 Guidance for Members Setting Out Their Responsibilities when Appointed as Council Representatives on External Bodies**

Following recommendations from the Committee on 13 June 2007, Council adopted the above guidance prepared by the Deputy Monitoring Officer as a result of the Ethical Governance Audit undertaken during 2006.

#### **4.5 Town and Parish Councils**

Each year, the Committee conducts a checking process with Town and Parish Councils for compliance with the ethical framework. This year's process asked each Town and Parish Council to place an item on the agenda for its Annual Meeting and confirm that all Councillors were:

- reminded of their obligations to observe the Code of Conduct;
- advised of their duty to register any interests required to be registered under the Code of Conduct;
- asked to review their respective Registers of Interests; and
- advised of their duty to provide written notification of any changes.

The Committee recognises that the Parish/Town Council elections in May 2007 and the revised Code of Conduct, which itself required a new form of Register to be completed, caused difficulty for some of the Councils. The Monitoring Officer provided a great deal of advice to Town and Parish Councils starting in April and continuing throughout the weeks and months following the elections. Although the previous and revised Codes of Conduct require Registers of Interests to be completed within 28 days of election or appointment to office, a significant number of Parish Councillors failed to comply. When the position was considered at our meeting on 13 September 2007 we took the unusual step of naming those Councils in the minutes of the meeting and instructed the Monitoring Officer to make formal complaints to the Standards Board for England if the outstanding Registers were not received within a reasonable period. The Councils which, as at the date of our September meeting, had not provided completed Registers of Interests for all or some of their Members are:-

- Coggeshall
- Colne Engaine
- Great Saling
- Pentlow
- Rayne
- Ridgewell
- Shalford
- Silver End.

These Parish Councils subsequently provided the outstanding Registers of Interests and no complaint to the Standards Board for England was made.

The Committee has previously expressed concern about adequate training on the Code of Conduct being provided to 439 Town and Parish Councillors who make up the 52 Town and Parish Councils in the District. To address this, training was offered to all Town and Parish Councils at 3 separate events in Halstead (7 June 2007),

Witham (21 June) and Braintree (2 July). Seventeen Town and Parish Councils were represented at the training sessions with a total attendance of approximately 60 people.

#### **4.6 Essex Independent Members Forum (EIMF) and Association of Independent Members of Standards Committees in England (AIMSce)**

The new Chairman of the Committee has continued the previous Chairman's practice of attending meetings of EIMF. The Forum has expanded and now includes independent members from Basildon, Castle Point, Chelmsford, Maldon and Rochford. Its purpose is to enable independent members from Councils in Essex to come together on a regular basis to share experiences and build up a network.

Having decided in 2006 not to subscribe to AIMSce, the Committee was asked to reconsider its decision following a further approach in July. The Committee, on the advice of its independent members, decided to confirm its previous decision to remain independent of any national organisation.

#### **4.7 Training and Guidance**

4.7.1 This was a busy year for the Committee as the publication of the new Code of Conduct coincided with the District Council elections. Training on the new Code of Conduct was provided at eight different events and included three sessions for Town and Parish Councils. We are pleased to report that training on the revised Code of Conduct was attended by all 60 District Councillors.

The question of pre-determination and bias has taken on greater significance over the last few years and Member training has increasingly focussed on it. In September 2007, the Standards Board for England published specific guidance which we shared with all members of the Council.

4.7.2 During the year, the Committee was represented at the following events:-

12.5.2007	Post-election Member Welcome Conference (Monitoring Officer and Deputy Monitoring Officer)
29.5.2007	Law Society Local Government Group – Code of Conduct and Local Investigations (Monitoring Officer)
7.6.2007 ) 21.6.2007 ) 2.11.2007 )	Training for District Councillors and Town and Parish Councils on revised Code of Conduct (Monitoring Officer, Deputy Monitoring Officer, the Chairman and all members of the Standards Committee)
27.6.2007	Standards Board for England Roadshow (Chairman, Monitoring Officer, Legal Officer)
11.7.2007	Training for District Councillors on revised Code of Conduct (Monitoring Officer)
24.9.2007	Braintree District Parish and Town Clerks Network (Monitoring Officer)

16 & 17.10.2007	Sixth Annual Assembly of Standards Committees (Chairman, Deputy Monitoring Officer, Legal Officer)
31.10.2007	Training for District Councillors on revised Code of Conduct (Monitoring Officer)
1.11.2007	Essex Independent Members Forum (Chairman and Deputy Monitoring Officer)
19.2.2008	Training for members of Finchingfield and Great Bardfield Parish Councils on revised Code of Conduct (Monitoring Officer)
26.2.2008	Monitoring Officers Conference (Deputy Monitoring Officer, Sharon Lowe)

4.7.3 In addition to the above, the Monitoring Officer and Deputy Monitoring Officer provided guidance to Members in relation to conduct issues that arose during the year. These issues generally arise because a particular issue is coming before Council or Committee for a decision and Members seek guidance on personal and prejudicial interests.

#### **4.8 Dispensations**

The Code of Conduct for Members requires that a member who has a personal and prejudicial interest in a matter must disclose the existence and nature of that interest and withdraw from the meeting when the matter is considered. Section 81 of the Local Government Act 2000 and The Relevant Authorities (Standards Committee) (Dispensation) Regulations 2002 (“the 2002 Regulations”) enable members of the District Council and of the Town and Parish Councils within the district to apply in writing to the Standards Committee for dispensation to allow them to take part in the discussion of an issue in respect of which they have an interest. The 2002 Regulations require that dispensations may only be granted where failure to do so would result in the transaction of business being impeded because more than 50 per cent of members entitled to participate in the consideration of the matter would be prohibited from doing so or, in the case of the District Council only, it would not be possible to comply with the political balance requirements under Section 15(4) of the Local Government and Housing Act 1989.

Since the 2002 Regulations came into force, there have been no requests made to the Standards Committee for dispensations.

#### **4.9 Local Assessment of Complaints**

Part 10 of the Local Government and Public Involvement in Health Act 2007 makes provision for written allegations that a Member or co-opted Member of the Council or any parish or town councillor has breached the Code of Conduct to be made to the local Standards Committee rather than the Standards Board for England. In appropriate cases, an investigation will be conducted by the Monitoring Officer and, if it proves necessary, the matter will be determined locally through a Standards Committee Hearing. More serious cases (to be defined by Standards Board for England guidance which is yet to be issued) will be referred by the Standards Committee to the Standards Board for England.

The 2007 Act sets out additional new powers to be given to the Standards Committee with regard to “local assessment”. This will involve

- an initial assessment process by a Sub-Committee consisting of three members from the Standards Committee;
- a review of the initial assessment by a separate Sub-Committee consisting of three other members drawn from the Standards Committee; and
- a hearing by a Sub-Committee consisting of five members of the Standards Committee to determine whether a Member has breached the Code of Conduct.

The Committee considered a consultation paper issued by the Department for Communities and Local Government (DCLG) on 3 January 2008 at its meeting on 7 February 2008 and agreed responses to it which were submitted prior to the close of consultation on 15 February 2008. In the consultation paper, DCLG expressed its intention “to implement the reformed conduct regime on 1<sup>st</sup> April 2008 at the earliest”. In its response, the Committee expressed concern that much detail remained to be resolved by the final Regulations and Standards Board guidance which themselves would require consultation. We advised DCLG of our view that the then proposed implementation date was unrealistic and should be put back to at least 2 months following the laying of the necessary Regulations, the publication of the Standards Board guidance and the making of any further changes to the Code of Conduct. This would give time for adequate training on the new processes. To date, no Order bringing the new regime into force has been laid before Parliament.

At its meeting on 7 February, the Committee agreed changes to its processes to ensure that it is fit for purpose and equipped to deal with the new duties and responsibilities. This included a recommendation to full Council that the membership of the Committee be increased from 9 to 12 by the appointment of one further independent (non-councillor) member, one further parish representative and one further District Councillor. The recommendation was agreed by Council on 18 February when Councillor Lady Newton was appointed as the additional District Councillor and Karen Harman was appointed as the additional independent (non-councillor) member. Appointments of parish representatives are made by the Braintree Association of Local Councils who have advised that they will not be in a position to make the outstanding appointment until late April/early May 2008.

## **5. Work Programme for 2008/9**

The main focus of the Committee in the coming year will be on the changed role for the Committee which will replace the Standards Board for England as the body which will initially receive and consider all complaints of breaches of the Code of Conduct.

## **6. Conclusions**

In a busy year, the Committee has completed its work programme and is well placed to face the challenges of handling the initial assessment of allegations. Braintree District Council continues to have a sound record in ensuring good standards of conduct and it is our intention to promote, maintain and enhance those standards.



District Councillor John Finbow  
Parish Councillor William Fossick  
Town Councillor Steven Goodfellow  
District Councillor John Gyford  
Karen Harman  
Trefor Jones

District Councillor Lady Newton  
District Councillor John O'Reilly-Cicconi  
Hazel Paton  
Peter Schwier (Chairman)  
Christopher Webb (Vice-Chairman)

## Useful Links

If you would like to find out more about standards issues and the work of the Committee, as well as keep up to date with national issues, you may find the following links useful:

- ▶ **The Standards Board for England** (for guidance on standards issues, standards committees and outcomes of recent cases) – [www.standardsboard.gov.uk](http://www.standardsboard.gov.uk)
  
- ▶ **The Adjudication Panel for England** – [www.adjudicationpanel.co.uk](http://www.adjudicationpanel.co.uk)
  
- ▶ **The Audit Commission** – [www.audit-commission.gov.uk](http://www.audit-commission.gov.uk)
  
- ▶ **Department for Communities and Local Government** – [www.dclg.gov.uk](http://www.dclg.gov.uk)
  
- ▶ **Braintree District Council Standards Committee** – [www.braintree.gov.uk/Braintree/councildemocracy/committees/Standards Committee/default.htm](http://www.braintree.gov.uk/Braintree/councildemocracy/committees/Standards%20Committee/default.htm)
  
- ▶ **National Association of Local Councils** – [www.nalc.co.uk](http://www.nalc.co.uk)
  
- ▶ **Essex Association of Local Councils** – [www.essexinfo.net/essex-association-of-local-councils](http://www.essexinfo.net/essex-association-of-local-councils)
  
- ▶ **Association for Independent Members of Standards Committees in England**  
- [www.aimsce.org.uk](http://www.aimsce.org.uk)