



BROMSGROVE DISTRICT COUNCIL

MEETING OF THE STANDARDS COMMITTEE

WEDNESDAY 21ST SEPTEMBER 2011 AT 6.00 P.M.

CONFERENCE ROOM, THE COUNCIL HOUSE, BURCOT LANE, BROMSGROVE

MEMBERS: Independent Members: Mr. N. A. Burke (Chairman),
Ms. K. J. Sharpe (Vice-Chairman) and Mrs. G. Bell
District Councillors: Mrs. S. J. Baxter, S. R. Colella, L. C. R. Mallett
and Mrs. M. A. Sherrey JP
Parish Councils' Representatives: Mr. J. Cypher (Alvechurch Parish
Council) and Mr. I. A. Hodgetts (Romsley Parish Council)
Observer: Mrs. K. May (Non-voting Deputy Parish Councils'
Representative - Bournheath Parish Council)

AGENDA

1. To receive apologies for absence and notification of substitutes
2. Declarations of Interest
3. To confirm the accuracy of the minutes of the meetings of the Standards Committee held on 8th June 2011, 8th July 2011 and 19th July 2011
4. Monitoring Officer's Report

[To receive a report from the Monitoring Officer on any matters of relevance to the Committee.]
5. Parish Councils' Representatives' Report

[To receive an oral report from the Parish Councils' Representatives on any matters of relevance to the Committee.]

6. Ombudsman Review

[To provide Members with information regarding the Local Government Ombudsman's Annual Review of Bromsgrove District Council for the period ending 31st March 2011.]

7. Publications

[To note any publications which the Committee may find of interest.]

8. Work Programme

[To consider the future Work Programme of the Committee.]

9. To consider any other business, details of which have been notified to the Head of Legal, Equalities and Democratic Services prior to the commencement of the meeting and which the Chairman, by reason of special circumstances, considers to be of so urgent a nature that it cannot wait until the next meeting

10. Exclusion of the Public

[Should it prove necessary, in the opinion of the Chief Executive, to exclude the public from the meeting at any point during the proceedings in relation to any item(s) of business on the grounds that either exempt and/or confidential information is likely to be divulged, the following resolution(s) will be moved:

"That under Section 100 I of the Local Government Act 1972, as amended, it/they involve the likely disclosure of exempt information as defined in Part I of Schedule 12A to the Act, as amended, the relevant paragraphs of that part being (*...to be specified by the Chairman at the meeting*), and that it is in the public interest to do so.", and/or

"That under Section 100 A of the Local Government Act 1972, as amended, it/they involve the likely disclosure of confidential information which would be in breach of an obligation of confidence."]

K. DICKS
Chief Executive

The Council House
Burcot Lane
BROMSGROVE
Worcestershire
B60 1AA

12th September 2011



INFORMATION FOR THE PUBLIC

Access to Information

The Local Government (Access to Information) Act 1985 widened the rights of press and public to attend Local Authority meetings and to see certain documents. Recently the Freedom of Information Act 2000 has further broadened these rights, and limited exemptions under the 1985 Act.

- You can attend all Council, Cabinet and Committee/Board meetings, except for any part of the meeting when the business would disclose confidential or “exempt” information.
- You can inspect agenda and public reports at least five days before the date of the meeting.
- You can inspect minutes of the Council, Cabinet and its Committees/Boards for up to six years following a meeting.
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- An electronic register stating the names and addresses and electoral areas of all Councillors with details of the membership of all Committees etc. is available on our website.
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- Meeting Agendas
- Meeting Minutes
- The Council’s Constitution

at www.bromsgrove.gov.uk

Declaration of Interests - Explained

Definition of Interests

A Member has a **PERSONAL INTEREST** if the issue being discussed at a meeting affects the well-being or finances of the Member, the Member's family or a close associate more than most other people who live in the ward affected by the issue.

Personal interests are also things relating to an interest the Member must register, such as any outside bodies to which the Member has been appointed by the Council or membership of certain public bodies.

A personal interest is also a **PREJUDICIAL INTEREST** if it affects:

- The finances, or
- A regulatory function (such as licensing or planning)

Of the Member, the Member's family or a close associate **AND** which a reasonable member of the public with knowledge of the facts would believe likely to harm or impair the Member's ability to judge the public interest.

Declaring Interests

If a Member has an interest they must normally declare it at the start of the meeting or as soon as they realise they have the interest.

EXCEPTION:

If a Member has a **PERSONAL INTEREST** which arises because of membership of another public body the Member only needs to declare it if and when they speak on the matter.

If a Member has both a **PERSONAL AND PREJUDICIAL INTEREST** they must not debate or vote on the matter and must leave the room.

EXCEPTION:

If a Member has a prejudicial interest in a matter being discussed at a meeting at which members of the public are allowed to make representations, give evidence or answer questions about the matter, the Member has the same rights as the public and can also attend the meeting to make representations, give evidence or answer questions **BUT THE MEMBER MUST LEAVE THE ROOM ONCE THEY HAVE FINISHED AND CANNOT DEBATE OR VOTE.**

However, the Member must not use these rights to seek to improperly influence a decision in which they have a prejudicial interest.

For further information please contact Committee Services, Legal, Equalities and Democratic Services, Bromsgrove District Council, The Council House, Burcot Lane, Bromsgrove, B60 1AA

Tel: 01527 873232 Fax: 01527 881414

Web: www.bromsgrove.gov.uk email: committee@bromsgrove.gov.uk

Agenda Item 3

BROMSGROVE DISTRICT COUNCIL

MEETING OF THE STANDARDS COMMITTEE

WEDNESDAY, 8TH JUNE 2011 AT 6.00 P.M.

PRESENT: Independent Members: Mr. N. A. Burke (Chairman), Ms. K. J. Sharpe (Vice-Chairman) and Mrs. G. Bell

Councillors: Mrs. S. J. Baxter, B. Lewis F.CMI, L. Mallett and Mrs. M. A. Sherrey

Parish Councils' Representatives: Mr. J. Cypher and Mr. I. A. Hodgetts

Observers: Mrs. K. May (proposed Deputy Parish Councils' Representative) and Councillor J. S. Brogan

Officer: Mrs. C. Felton, Mrs. S. Sellers and Ms. D. Parker-Jones

1/11 CHANGES IN COMMITTEE MEMBERSHIP

The Ethical Standards Officer welcomed all present to the first meeting of the new municipal year, in particular the four new district councillor members on the Committee. She advised that Mr. S. Malek, the former Deputy Parish Councils' Representative on the Committee, had not been re-elected to office at the parish elections in May and that Ms. K. May, Chairman of Bournheath Parish Council and the proposed replacement for Mr. Malek, was in attendance to observe the meeting. The current terms of office of Mr. Cypher and Mr. Hodgetts, the Parish Representatives on the Committee, ran to July 2011 meaning they were eligible to participate in the proceedings that evening. It was noted that the parish appointments on the Committee for the 2011/12 Municipal Year were to be considered by full Council at its meeting on 22nd June 2011.

2/11 ELECTION OF CHAIRMAN

RESOLVED that Mr. N. A. Burke be elected Chairman of the Committee for the ensuing municipal year or until the cessation of the Committee in its current form under proposals contained within the Localism Bill, whichever is the sooner.

3/11 ELECTION OF VICE-CHAIRMAN

RESOLVED that Ms. K. J. Sharpe be elected Vice-Chairman of the Committee for the ensuing municipal year or until the cessation of the Committee in its current form under proposals contained within the Localism Bill, whichever is the sooner.

4/11 **APOLOGIES FOR ABSENCE**

No apologies for absence were received.

5/11 **DECLARATIONS OF INTEREST**

No declarations of interest were received.

6/11 **MINUTES**

The minutes of the meeting of the Standards Committee held on 23rd March 2011 were submitted.

RESOLVED that the minutes be approved as a correct record.

7/11 **MONITORING OFFICER'S REPORT**

The Committee noted the contents of the Monitoring Officer's (MO's) report and the issues detailed below were raised during the consideration of this.

- (i) **Member Investigations and Associated Matters**
In relation to Complaint Reference 94/09 the Deputy Monitoring Officer (DMO) informed the Committee that notwithstanding the fact that the Subject Member was no longer a serving district councillor, it had previously been established with Standards for England that the process for dealing with a complaint against a former Member had still to be completed in the normal manner. The key difference being any sanction that the Committee could impose should the subject Member be found to have failed to follow the Code of Conduct. A date for the Final Determination Hearing was currently being looked into, which it was hoped would take place in early July.

The DMO advised that the Investigating Officer's report into Complaint References 03/10 and 04/10 (linked complaints against an Alvechurch Parish Councillor) had now been issued to the relevant parties for comment. Again, it was hoped that this matter would be heard in early July, with it being noted that Mr. Cypher would not participate in the consideration of this as parish representatives were not permitted to consider complaints against Members of their own council.

Regarding the complaints arising from the meetings of full Council in July 2009 and January 2010, it was noted that the date scheduled for the Final Determination Hearing in May had had to be rescheduled owing to the changes in district councillor membership of the Committee as a consequence of the May elections. The new date for the Hearing had been set at Tuesday 19th July 2011, continuing if necessary to the morning of Wednesday 20th July.

A query was raised later in the meeting as to whether there was any statutory timeframe within which final determination hearings had to take place. Officers advised that the governing regulations normally

required hearings to take place within 3 months of the Investigating Officer's final report. However, the regulations also provided that should it not be possible to meet that timeframe then a hearing should take place as soon as reasonably practicable thereafter. The Chairman stated that the Committee aimed to conduct hearings in both a timely and orderly manner, whilst remaining conscious of the fact that there were various elements to be satisfied before proceeding to final hearing stage.

(ii) Parish Council Matters

Further to the information detailed by the Ethical Standards Officer (ESO) at the beginning of the meeting regarding changes to the Committee membership, the ESO confirmed that at the meeting of the Bromsgrove Area Committee of the Worcestershire County Association of Local Councils (CALC) on 1st June 2011 both Mr. Cypher and Mr. Hodgetts had been nominated to continue as the Parish Representatives on the Committee for 2011/12, with Mrs. K. May of Bournheath Parish Council being the proposed Deputy Parish Representative. It was noted that all nominations would be considered by full Council on 22nd June.

(iii) Extension to Term of Office of Independent Member on the Committee

The ESO detailed the background to and reasons for the proposal detailed in the report to extend the current term of office of Mr. N. Burke, Independent Member Chairman on the Committee. Members fully supported the proposal to full Council given that this would both retain Mr. Burke's expertise on the Committee and would avoid the costs, both in terms of the required finance for the advertisement of the vacancy and officer and Member support time, involved in carrying out a full recruitment process. It was noted that the term of office in question related to Mr. Burke's membership of the existing Standards Committee only, and not to any successor committee which might be introduced following the cessation of the current Committee some time in 2012 under proposals contained within the Localism Bill.

RESOLVED:

- (a) that the contents of the report be noted; and
- (b) that any required actions arising from the points detailed in the report be acted upon and reported back to the Committee as appropriate; and

RECOMMENDED that the current term of office of Mr. N. Burke, Independent Members Chairman of the Standards Committee, be extended until the Standards Committee, in its present format, is abolished in accordance with the proposals contained within the Localism Bill.

8/11

PARISH COUNCILS' REPRESENTATIVES' REPORT

Mr. Cypher noted the updates already provided by officers in relation to the Parish Representative nominees for membership of the Committee in 2011/12. He stated that an explanation of the proposals contained in the Localism Bill to abolish the current standards regime in 2012 had been given

at the meeting of the Bromsgrove Area Committee of the Worcestershire Area Committee of Local Councils which had looked at the nominees. A reminder had also been given at the meeting, to newly elected councillors in particular, of the need to submit a Register of Members' Interest form within 28 days of their election to office.

RESOLVED that the position be noted.

9/11

MEMBERSHIP OF ASSESSMENT AND REVIEW SUB-COMMITTEES

The Committee received a report which sought to appoint the membership of the Standards Assessment and Review Sub-Committees for the forthcoming municipal year. It was noted that the proposed memberships detailed in the appendix to the report followed the same format as in previous years and also included provision for the fourth district councillor member of the Committee. The Monitoring Officer explained the reasoning behind, and benefits of, the fixed membership system.

Mr. Cypher questioned whether it had previously been agreed that the Deputy Parish Councils' Representative also be factored into Sub-Committee memberships. The Ethical Standards Officer (ESO) confirmed that this had not been agreed and that whilst officers always aimed to include the Deputy in as much Committee activity as possible, the Deputy could only sit on either the Standards Committee or a Sub-Committee when formally substituting for a Parish Representative. The ESO added that the Deputy was welcome to attend any general policy meetings of the Standards Committee and to participate in debates, but that they would only be eligible to vote on matters when acting as a substitute.

RESOLVED that the memberships of Standards Assessment and Review Sub-Committees for the forthcoming municipal year be as follows:

Assessment (District Councillor Complaints) Sub-Committee A <ul style="list-style-type: none">• (IM1)• (DC1)• (PR1)	Review (District Councillor Complaints) Sub-Committee A <ul style="list-style-type: none">• (IM2)• (DC2)• (PR2)
Assessment (District Councillor Complaints) Sub-Committee B <ul style="list-style-type: none">• (IM3) (Chairman)• (DC3)• (IM1)	Review (District Councillor Complaints) Sub-Committee B <ul style="list-style-type: none">• (IM2)• (DC4)• (PR1)

Assessment (Parish Councillor Complaints) Sub-Committee A <ul style="list-style-type: none">• (IM3)• (DC2)• (PR1)	Review (Parish Councillor Complaints) Sub-Committee A <ul style="list-style-type: none">• (IM1)• (DC1)• (PR2)
Assessment (Parish Councillor Complaints) Sub-Committee B <ul style="list-style-type: none">• (IM2)• (DC4)• (PR2)	Review (Parish Councillor Complaints) Sub-Committee B <ul style="list-style-type: none">• (IM3)• (DC3)• (PR1)
IM1 – Mrs G Bell IM2 – Mr N Burke IM3 – Ms K Sharpe PR1 – Cllr J Cypher PR2 – Cllr Hodgetts	DC1 – Cllr Mrs S Baxter DC2 – Cllr B Lewis DC3 – Cllr L Mallett DC4 – Cllr Mrs M Sherrey

10/11 **DOCUMENTATION ACCOMPANYING REPORTS TO ASSESSMENT AND REVIEW SUB-COMMITTEES**

Members were asked to review the Committee's current policy on the documentation made available to the Standards Assessment and Review Sub-Committees, and to determine whether any changes should be made to this.

It was noted that existing policy allowed for the provision of publicly available information/documentation only to the Sub-Committees, with an added provision that a Sub-Committee could make a request to the Monitoring Officer (MO) for any other piece of information to be made available to it, which the MO would then consider.

The Deputy Monitoring Officer (DMO) stated that the current policy assisted officers as it made clear the boundaries relating to which documentation could be made available to the Sub-Committees. The MO added that she was comfortable with this approach and that to include any additional information over and above that which had submitted by a complainant and which was publicly available could put officers in a difficult position. She added that officers had to ensure that they could not be accused of effectively commencing an investigation by gathering any additional information, particularly given the limited role of the Sub-Committees.

It was noted that only one request had previously been made by a member of a Sub-Committee for additional information which, albeit that the information was in the MO's possession, was not publicly available information and had therefore been refused. The MO stated that there would be a point during any

resulting investigation when relevant additional information could be gathered, which was a separate process.

The Committee agreed that it was important for there to be an easily definable way of deciding what information should be placed before a Sub-Committee, and that if such guidance was not in place there could be the potential for officer bias entering into the process. The present system appeared to work well and still gave some scope for the Committee to make a request to the MO for additional information; a process which the MO confirmed she was happy to continue with. It was further agreed that there might be scope to review the position under any new local standards regime which might be introduced following the demise of the current standards framework under the Localism Bill.

RESOLVED that the Committee's policy on the documentation that could be made available to the Standards Assessment and Review Sub-Committees remain unaltered.

11/11 **PUBLICATIONS**

It was noted that there were no publications to be brought to the Committee's attention.

12/11 **WORK PROGRAMME**

Consideration was given to the Committee's Work Programme.

The Ethical Standards Officer (ESO) noted that the only item currently for consideration at the 27th July 2011 meeting was the Annual Report of the Committee for the 2009/10 and 2010/11 Municipal Years. In view of the various ongoing complaint matters which it was anticipated would be concluded during July it was noted that the Annual Report might not be available in time, meaning there was a possibility that the July meeting could be cancelled. The ESO added that she would circulate a draft of the Annual Report to the members of the Committee for comment as soon as this was available.

RESOLVED that the Work Programme be approved.

The meeting closed at 6.57 p.m.

Chairman

BROMSGROVE DISTRICT COUNCIL

MEETING OF THE STANDARDS COMMITTEE

FRIDAY, 8TH JULY 2011 AT 2.00 P.M.

PRESENT: Independent Members: Mr. N. A. Burke (Chairman)

District Councillors: L. C. R. Mallett and Mrs. M. A. Sherrey JP

Parish Councils' Representatives: Mr. J. Cypher (during Minute No's. 13/11 to 15/11) and Mr. I. A. Hodgetts

Investigating Officer: Mrs. V. Brown

Officers: Mrs. S. Sellers and Ms. D. Parker-Jones

Observers: Complainant and her husband for Agenda Item No. 15/11

13/11 **APOLOGIES FOR ABSENCE**

Apologies for absence were received from Ms. K. J. Sharpe (Vice-Chairman, Independent Member), Mrs. G. Bell (Independent Member) and District Councillors Mrs. S. J. Baxter and S. R. Colella.

Apologies were also received from Mrs. K. May, Deputy Parish Councils' Representative, who was unable to substitute for Mr. J. Cypher for agenda item 5 (Consideration of Investigating Officer's Final Report into Complaint References 03/10 and 04/10).

14/11 **DECLARATIONS OF INTEREST**

No declarations of interest were received.

Mr. Cypher stated that he would be standing down for Agenda Item No. 5 (Consideration of Investigating Officer's Final Report into Complaint References 03/10 and 04/10) as the Parish Representatives on the Committee were not permitted to participate in the consideration of complaints against Members of their own parish council.

15/11 **FINAL DETERMINATION OF COMPLAINT REFERENCE 94/09**

Further to Minute No. 53/10 of the meeting of the Standards Committee held on 23rd March 2011, the Committee considered a report of the Investigating Officer on an alleged failure by former District Councillor Mrs Jean Luck to follow the Code of Conduct.

The complaint concerned an allegation that Mrs. Luck had failed to treat others with respect and had used her position to confer a disadvantage.

A report of the Investigating Officer dated 24th February 2011, which had found that Mrs. Luck had failed to follow the Code of Conduct in relation to the allegation, was considered. The Committee was asked to determine whether, based on the facts set out in the report and the representations made at the hearing, it agreed with the Investigating Officer's findings.

Further to the Investigating Officer's report having been made public at the consideration meeting in March, a request was received from the complainant for her identity to remain confidential. The Committee considered the request and agreed that, in the circumstances detailed, the complainant's identity could remain confidential. Any public copies of the report would therefore be redacted to remove the personal details of the complainant, together with any additional personal information.

It was noted that Mrs Luck had opted not to attend the hearing, or to be represented or to provide any written representations in support of her case. Mrs Luck had further advised the Council's Ethical Standards Officer that she was happy for the hearing to proceed in her absence.

RESOLVED:

- (a) that Mrs. Luck had failed to follow the Code of Conduct by being in breach of Part 1 paragraph 3 (1) in that she failed to treat others with respect, and paragraph 6 (a) in that she had used her position to confer a disadvantage; and
- (b) that Mrs. Luck be censured for breaching the Code of Conduct.

RECOMMENDATIONS TO THE AUTHORITY

The Committee made the following recommendation to the authority:

- (a) that in light of the outcome of the case that the Members of the Council should be reminded of the importance of treating all their ward members with respect when dealing with casework, and of the need to ensure that they always respond to requests for help in a balanced and fair way.

For information the Committee was advised of a forthcoming training session for Members on the Role of the Ward Councillor and it was confirmed that a further reminder for the training session would be sent to all Members of the Council.

(A copy of the Committee's full decision, together with the reasons for it, is appended.)

16/11 **EXCLUSION OF THE PUBLIC**

The Committee considered whether or not to exclude the public from the meeting for the consideration of Agenda Item No. 5; Consideration of Investigating Officer's Final Report into Complaint References 03/10 and

04/10. In doing so, the Chairman announced that the meeting be adjourned to take legal advice.

Accordingly, the meeting was adjourned from 4.08pm to 4.18pm.

Having reconvened, the Deputy Monitoring Officer summarised the legal advice given to the Committee and confirmed that the Committee had agreed to lift the exemption as it was not felt that the public interest in maintaining the exemption outweighed the public interest in disclosing the information. It was noted however that the Investigating Officer's report contained certain personal information, some of which also fell within the category of sensitive material, meaning suitably redacted copies only of the report could be made available to the public.

RESOLVED that the public not be excluded from the meeting during the consideration of Agenda Item No. 5 and that the relevant reports therefore be placed in the public domain.

17/11 **CONSIDERATION OF INVESTIGATING OFFICER'S FINAL REPORT INTO COMPLAINT REFERENCES 03/10 AND 04/10**

Further to a referral from the Standards Assessment Sub-Committee on 15th June 2010, the Committee was asked to give consideration, under regulation 17 of the Standards Committee (England) Regulations 2008, to two complaints made against Alvechurch Parish Councillor David Matthews. The complaints were that Councillor Matthews had allegedly failed to declare an interest at three Alvechurch Parish Council meetings.

The Investigating Officer had produced a single report which dealt with both complaints. Members were asked to consider the Investigating Officer's report and finding as to whether there had been a failure on the part of Councillor Matthews to comply with the Alvechurch Parish Council Code of Conduct.

RESOLVED that the Investigating Officer's finding of a failure by Councillor Matthews to comply with the Alvechurch Parish Council Code of Conduct be considered at a hearing of the Standards Committee conducted under regulation 18 of the Standards Committee (England) Regulations 2008.

The meeting closed at 4.25 p.m.

Chairman

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BROMSGROVE DISTRICT COUNCIL

STANDARDS COMMITTEE HEARING

FULL WRITTEN DECISION

Reference number 94/09

Member subject to allegation	Mrs. J. D. Luck
Investigating Officer	Mrs. V. Brown
Date of report:	24 February 2011
Name of Member's representative:	N/A
Relevant authority concerned:	Bromsgrove District Council
Date of the hearing:	08 July 2011
Names of Standards Committee members:	
	Chairman: Mr. N. A. Burke Mr. J. Cypher Mr. I. A. Hodgetts Councillor Luke Mallett Councillor Mrs. M. Sherrey
Standards Committee Legal Adviser:	Mrs. S. Sellers
Committee Services Officer:	Ms. D. Parker-Jones

Referral for investigation and subject matter of complaint

In September 2009 a complaint was made to the Standards Committee that Mrs. Jean Luck (who was a District Councillor at the relevant time) had given information to EON that electricity was being illegally abstracted at the

complainant's address. The complaint was considered by the Standards Assessment Sub-Committee on 09 December 2009 and referred for local investigation. The Monitoring Officer appointed Mrs. V. Brown as the Investigating Officer.

In the course of her investigation the Investigating Officer found out that the Subject Member had spoken to planning officers about planning applications made by the complainant. At the time those conversations took place the Subject Member would have been aware of the Standards investigation. The matter was considered again by the Standards Sub-Assessment Committee on 31 March 2010. The Standards Assessment Sub-Committee directed that the investigation be expanded to include the involvement of the Subject Member in the planning applications.

The Investigating Officer's report into the complaints was issued on 24 February 2011. The Investigating Officer's report was considered by the Standards Committee on 23 March 2011. The Committee accepted the Investigating Officer's findings of "no breach" in relation to the allegation that the Subject Member had brought the authority into disrepute by speaking to EON, and by involving herself in the complainant's planning application. The Committee also accepted the finding of "no breach" in relation to the issue of the Subject Member having used her position improperly to confer an advantage by involving herself in the complainant's planning application.

The remaining two allegations where the Investigating Officer recommended that there had been a failure to follow the Code were referred to the Standards Committee for hearing.

The Subject Member did not stand for re-election in the District Elections in May 2011 and accordingly she ceased to be a member of the authority on 09 May 2011.

Summary of the Allegation

That Mrs. Luck failed to comply with the Code of Conduct for Bromsgrove District Council as follows:-

- By failing to treat others with respect by reporting the complainant to EON contrary to para 3 of the Code of Conduct.
- By using her position to confer a disadvantage by reporting the complainant to EON contrary to para 6 of the Code of Conduct.

Preliminary Issues

The Standards Committee had decided at the hearing on 31 March 2011 to lift the exemption on the complaint being considered in private session. Accordingly the committee reports and the Investigating Officers reports were released into the public domain with the papers being redacted to remove any personal information.

The Standards Committee considered a request made by the complainant that her name be excluded from the papers and that they should not be identified during the hearing. Having retired to take legal advice the Committee agreed to the request by the complainant. Legal advice was given that the normal test is for there to be a presumption in favour of hearings taking place in public to promote transparency. However, there can be exceptions to this and in this case the complainant was not asking for the hearing to be held in private but that their name be kept confidential.

The Standards Committee was advised that Mrs. Luck had been informed of the hearing date but contacted the Ethical Standards Officer to say that she would not be attending. The Committee did not identify any need to adjourn the hearing and decided to proceed in the absence of the Subject Member.

Findings of fact

The facts set out in paragraphs 4.1 to 4.58 of the Investigating Officer's Report were undisputed and were therefore adopted by the Committee as the facts of the matter. The Committee further noted that although Mrs. Luck was no longer an elected member as she had not stood for re-election in May 2011, at the time of the events in question she had been a Councillor with many years of experience.

Summary of submissions by the Investigating Officer

Mrs. Brown confirmed that the contents of her report were correct and accurate. She explained the reasoning she had applied in reaching her conclusions that based on the facts Mrs. Luck has breached the Code of Conduct.

Summary of submissions by the Subject Member

Mrs. Luck was not present and had not submitted any representations in writing.

Finding as to whether the Subject Member had failed to follow the Code including reasons

The Standard Committee found that Mrs. Jean Luck had failed to follow the Code of Conduct as regards treating others with respect (para 3) and using her position to confer a disadvantage (para 6).

The reasons for the Committee's decision were as follows:-

- At the time Mrs. Luck made the phone call to Eon to report the activities at the complainant's address she was clearly acting in her capacity as a Councillor. This is evidenced by the records disclosed by Eon.
- Mrs. Luck failed to treat the complainant with respect. The Committee noted that there was an imbalance of relationships as between Mrs. Luck and neighbour "A" and Mrs. Luck and the complainant. Mrs. Luck placed undue weight on the information she had been told about the complainant by neighbour "A". She assumed that the complainant was acting wrongfully without making any further enquiries or speaking to the complainant directly. Mrs. Luck carried out her ward member role in this matter in a way that was not balanced or fair to the complainant. Her actions resulted in the complainant being investigated by Eon for unlawful abstraction of electricity when in reality the complainant had not done anything wrong.
- As an experienced Councillor Mrs. Luck should have realised that reporting a safety hazard to Eon would have been acceptable but passing on information about an individual that she had taken as hearsay from a neighbour was not appropriate and in doing so she overstepped what was acceptable in her role as ward councillor.
- Based on the way in which Mrs. Luck chose to act in relation to the information from neighbour "A" the Committee finds that Mrs. Luck did not treat the complainant with respect and that Mrs. Luck used her position to confer a disadvantage.

The Sanctions imposed and reasons for them

The Committee was advised by the Legal Officer that due to Mrs. Luck no longer being a Councillor the options as to sanction were either to take no action or to censure Mrs. Luck. The Committee was also referred to the Standards for England guidance in deciding what penalty to impose.

Having taken into account the facts of the case and the Standards for England guidance the Committee decided that Mrs Luck be censured for breaching the Code of Conduct.

In considering the penalty the Committee had regard to the following:

- The fact that Mrs. Luck has been a Councillor for many years and has contributed to the community.
- The fact that on this occasion as an experienced Councillor Mrs. Luck should have realised that reporting hearsay to the Eon was not acceptable.

Recommendations to the authority

The Committee recommended to the authority as follows:-

That in light of the outcome of the case that the Members of the Council should be reminded of the importance of treating all their ward members with respect when dealing with case work and of the need to ensure that they always respond to requests for help in a balanced and fair way.

The Committee was also advised of a forthcoming training session for Members on the Role of the Ward Councillor and it was confirmed that a further reminder for the training session would be sent to all Members of the Council.

Right of Appeal

A Member subject to a Standards Committee finding has the right to apply in writing to the First-tier Tribunal of the General Regulatory Chamber (Local Government Standards in England) for permission to appeal the Standards Committee's finding.

A request for permission to appeal has to be made to the First-tier Tribunal within 28 days of the Member's receipt of the Standards Committee's full written decision.

.....
Chairman of the Standards Committee

Dated:

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BROMSGROVE DISTRICT COUNCIL

MEETING OF THE STANDARDS COMMITTEE

TUESDAY, 19TH JULY 2011 AT 10.00 A.M.

PRESENT: Independent Members: Mr. N. A. Burke (Chairman) and Mrs. G. Bell

District Councillors: Mrs. S. J. Baxter, L. C. R. Mallett and Mrs. M. A. Sherrey JP

Parish Councils' Representatives: Mr. J. Cypher and Mr. I. A. Hodgetts

Subject Members: District Councillors Mrs. C. M. McDonald, P. M. McDonald, E. J. Murray, S. P. Shannon and C. J. K. Wilson

Subject Members' Representative: Ms. F. Randle

Investigating Officer: Mr. J. Goolden

Legal Advisor to the Committee: Ms. B. Evans

Officers: Ms. D. Parker-Jones and Mr. A. Stephens

Observers: Ms. L. Miskelly (accompanying Ms. B. Evans) and District Councillors C. J. Bloore and C. R. Scurrall

18/11 **CHAIRMAN'S OPENING REMARKS**

The Chairman welcomed all present and explained that there would be two hearings taking place. The first hearing would deal with the complaints relating to the conduct of an individual Member at the meeting of Full Council on 29th July 2009, followed by a second hearing for the complaints arising from the conduct of certain Members at the Full Council meeting on 20th January 2010.

19/11 **APOLOGIES FOR ABSENCE**

An apology for absence was received from Ms. K. J. Sharpe (Vice-Chairman, Independent Member).

District Councillor S. R. Colella who formed part of the normal membership of the Committee was affected by some of the issues under consideration and therefore did not participate in the proceedings.

20/11 **DECLARATIONS OF INTEREST**

No declarations of interest were received.

21/11 **EXCLUSION OF THE PUBLIC - 2009 COMPLAINTS**

The Committee considered whether or not to exclude the public from the meeting for the consideration of the first part of Agenda Item No. 4; the final determination of the complaints relating to the meeting of Full Council held on 29th July 2009. In doing so, the Committee considered whether the public interest in maintaining the exemption outweighed the public interest in disclosing the information, which the Committee agreed it did not.

RESOLVED that the public not be excluded from the meeting for the final determination of the complaints relating to the meeting of Full Council held on 29th July 2009 and that the relevant reports be placed in the public domain.

22/11 **FINAL DETERMINATION OF COMPLAINTS RELATING TO THE MEETING OF FULL COUNCIL HELD ON 29TH JULY 2009**

Further to Minute No. 26/10 of the meeting of the Standards Committee held on 17th December 2010, the Committee considered a report of the Investigating Officer on alleged failures by District Councillor Mrs. Christine McDonald to follow the Bromsgrove District Council Code of Conduct.

The complaints concerned Councillor Mrs. McDonald's conduct at the Full Council meeting on 29th July 2009. At the meeting there was a problem regarding the seating arrangements. The Chairman of the meeting made a number of rulings which concluded in the resolution that the Labour Group Members be excluded from the meeting. There followed a number of adjournments of the meeting and attendance by the police at the request of the Council. During the final part of the meeting Councillor Mrs. McDonald occupied the seat next to the Leader of the Council, Councillor Hollingworth. Councillor Mrs McDonald interrupted him and switched his microphone off whilst he was presenting the recommendations to the Council on an item under consideration.

The allegations were that Councillor Mrs. McDonald had breached paragraph 3(1) of the Code in that she failed to treat others with respect, and that Councillor Mrs. McDonald breached paragraph 5 of the Code in that she had conducted herself in a manner which could reasonably be regarded as bringing her office or authority into disrepute.

A report of the Investigating Officer dated 10th January 2011 (revised report for the hearing), which had found that Councillor Mrs. McDonald had failed to follow the Code of Conduct in relation to the complaints, was considered. The Committee was asked to determine whether, based on the agreed Statement of Facts, The Investigating Officer's report and supporting documents and the representations made at the hearing, Councillor Mrs. McDonald had breached the Code of Conduct and if so what sanction, if any, should be imposed.

An update report of the Monitoring Officer detailing changes designed to improve the constitution and procedures relating to Council meetings agreed at Full Council on 22nd June 2011 and recent cross-party discussions that had taken place into improving the public perception of the decision making process at the Council was circulated.

A written apology volunteered by Councillor Mrs. McDonald apologising unreservedly for her behaviour on the evening in question was also presented to the Committee at the outset of the proceedings.

RESOLVED:

- (a) that Councillor Mrs. McDonald had failed to follow the Code of Conduct by being in breach of Part 1 paragraph 3 (1) in that she failed to treat others with respect, and paragraph 5 in that she had conducted herself in a manner which could reasonably be regarded as bringing her office or authority into disrepute; and
- (b) that in light of the apology offered voluntarily by Councillor Mrs. McDonald and in light of the positive developments at the Council since the date of the events in question, the Standards Committee accepted the apology offered (subject to it being resubmitted to the Committee in formal letter format) and imposed a sanction on Councillor Mrs. McDonald of undertaking training regarding the appropriate standards of conduct for elected Members.

(A copy of the Committee's full decision, together with the reasons for it, and the subsequent formal apology submitted by Councillor Mrs. McDonald dated 28th July 2011 is appended.)

23/11 **EXCLUSION OF THE PUBLIC - 2010 COMPLAINTS**

The Committee considered whether or not to exclude the public from the meeting for the consideration of the second part of Agenda Item No. 4; the final determination of the complaints relating to the meeting of Full Council held on 20th January 2010. In doing so, the Committee considered whether the public interest in maintaining the exemption outweighed the public interest in disclosing the information, which the Committee agreed it did not.

RESOLVED that the public not be excluded from the meeting for the final determination of the complaints relating to the meeting of Full Council held on 20th January 2010 and that the relevant reports be placed in the public domain.

24/11 **FINAL DETERMINATION OF COMPLAINTS RELATING TO THE MEETING OF FULL COUNCIL HELD ON 20TH JANUARY 2010**

Further to Minute No. 26/10 of the meeting of the Standards Committee held on 17th December 2010, the Committee considered reports of the Investigating Officer on alleged failures by Former District Councillor Ms. Judy Marshall and District Councillors Mrs. Christine McDonald, Peter McDonald, Edward Murray, Sean Shannon and Colin Wilson to follow the Bromsgrove District Council Code of Conduct.

The complaints concerned the Full Council meeting on 20th January 2010. The six Subject Councillors attended the meeting and did not declare an interest in an item of business relating to a transfer of funds from the Council's balances to cover the cost of retaining an external investigator to carry out investigations into complaints involving the six Subject Councillors' conduct.

The allegations were that the Subject Members had breached paragraph 9(1) of the Code in they failed to declare a personal and prejudicial interest, and had breached paragraph 12(1) of the Code in that they had failed to withdraw from the debate in question.

Individual Subject Member reports of the Investigating Officer dated 10th January 2011 (revised reports for the hearing), which had found that all of the Subject Members had failed to follow the Code of Conduct in relation to the complaints, were considered. The Committee was asked to determine whether, based on the agreed Statement of Facts, the Investigating Officer's report and supporting documents and representations made at the hearing, the six Subject Councillors had breached the Code of Conduct and if so what sanction, if any, should be imposed.

An update report from the Monitoring Officer detailing changes designed to improve the constitution and procedures relating to Council meetings agreed at Full Council on 22nd June 2011 and recent cross-party discussions that had taken place into improving the public perception of the decision making process at the Council was circulated.

RESOLVED:

- (a) that Former District Councillor Ms. Judy Marshall and District Councillors Mrs. Christine McDonald, Peter McDonald, Edward Murray, Sean Shannon and Colin Wilson had failed to follow the Code of Conduct by being in breach of Part 2 paragraph 9 (1) in that they had failed to declare a personal and prejudicial interest, and paragraph 12 (1) in that they had failed to withdraw from the debate in question; and
- (b) that in light of the nature of the breach of the Code no sanction be imposed.
- (c) The Committee also acknowledged that the only sanction which would have been available as regards Former Councillor Ms. J. A. Marshall would have been censure because former Councillor Ms. J. A. Marshall was no longer a member of the Council at the time of the hearing.

(Copies of the Committee's full decisions, together with the reasons for the decisions, are appended.)

The meeting closed at 3.20 p.m.

Chairman

BROMSGROVE DISTRICT COUNCIL

STANDARDS COMMITTEE HEARING

FULL WRITTEN DECISION

Complaints relating to the meeting of Full Council held on 29th July 2009

Member subject to allegations:	Councillor Mrs. C. M. McDonald
Investigating Officer:	Mr. J. Goolden
Date of report:	10 January 2011 (Revised Report for Hearing)
Name of Member's representative:	Ms. F. Randle
Relevant authority concerned:	Bromsgrove District Council
Date of the hearing:	19th July 2011
Standards Committee members:	Mr. N. A. Burke (Chairman) Mrs. G. Bell Mr. J. Cypher Mr. I. A. Hodgetts Councillor Mrs. S. J. Baxter Councillor L. Mallett Councillor Mrs. M. A. Sherrey JP
Standards Committee Legal Advisor:	Ms. B. Evans
Committee Services Officer:	Ms. D. Parker-Jones

Referral for investigation

A number of complaints were made relating to the conduct of certain Members at the meeting of Full Council on 29th July 2009. These matters were considered by the Standards Assessment Sub-Committee on 30th September 2009 and a number of allegations relating to (the now) former Councillor Judy Marshall and Councillors Mrs. Christine McDonald, Peter McDonald, Edward Murray, Sean Shannon and Colin Wilson were referred for local investigation.

The Monitoring Officer appointed Mr. J. Goolden to investigate the allegations.

The Investigating Officer's reports into the complaints were issued on 30th November 2010. The reports were considered by the Standards Committee on 17th December 2010.

The Committee accepted the Investigating Officer's findings of no failure to comply with the Code of Conduct in respect of five of the Subject Members.

The remaining complaints in relation to Councillor Mrs. Christine McDonald were referred to the Standards Committee for final hearing.

Summary of the Allegation

At the meeting on 29th July 2009 there was a problem regarding the seating arrangements. The Chairman of the meeting made a number of rulings which concluded in the resolution that the Labour Group Members be excluded from the meeting. There followed a number of adjournments of the meeting and attendance by the police at the request of the Council. During the final part of the meeting Councillor Mrs. McDonald occupied the seat next to the Leader of the Council, Councillor Hollingworth. Councillor Mrs. McDonald interrupted him and switched his microphone off whilst he was presenting the recommendations to the Council on an item under consideration.

The complaints alleged that Councillor Mrs. McDonald, in behaving in this manner, failed to comply with the Code of Conduct for Bromsgrove District Council in that she:

- (1) failed to treat others with respect (in breach of Part 1 paragraph 3 (1) of the Code of Conduct); and
- (2) conducted herself in a manner which could reasonably be regarded as bringing her office or authority into disrepute (in breach of Part 1 paragraph 5 of the Code of Conduct).

Preliminary Issues

The Standards Committee had decided at the initial consideration meeting on 17th December 2010 that the written papers and oral evidence should, at that

stage, remain exempt. The Standards Committee considered whether the exemption should be lifted for the purpose of the final hearing. It was agreed (following legal advice) that the exemption should be lifted and the Monitoring Officer's reports and Investigating Officer's report were released into the public domain.

Both parties confirmed that the agreed Statement of Facts was acceptable and that, on this basis, it was not their intention to call any witnesses.

The Legal Advisor introduced the Monitoring Officer's report and also the update report to the Standards Committee which set out the measures taken by the Council in the months since the date of the alleged misconduct. The report detailed the constitutional changes agreed by the Full Council on 22nd June 2011, which were designed to facilitate improvements in the way Council meetings are managed. The report also described recent cross political party discussions which focused on improving public perception of the decision making process at the Council.

Councillor Christine McDonald submitted a written apology at the outset of the hearing which acknowledged that her behaviour at the meeting of Full Council on 29th July 2009 was unacceptable. The Standards Committee thanked Councillor Mrs. McDonald for her apology and took copies of the apology for consideration.

Summary of submissions by the Investigating Officer

Mr. Goolden confirmed that he had nothing to add to his written report. Mr. Goolden stated that he considered Councillor Mrs. McDonald's apology was a full and unreserved apology. He also stated that should the Standards Committee ask his opinion regarding whether any sanctions are necessary, he would make a statement to the Committee to the effect that he considered that the full and frank nature of Councillor Mrs. McDonald's apology was a sufficient response to the actions complained of. Mr Goolden stated that the basis for his opinion was that the apology effectively demonstrated that Councillor Mrs. McDonald fully grasped the gravity of the allegations and that she had shown an appropriate level of contrition concerning her conduct at the Council meeting on 29th July 2009.

Summary of submissions by the Subject Member

Ms. Randle, on behalf of Councillor Mrs. McDonald, confirmed that Councillor Mrs. McDonald had issued the apology wholeheartedly and that, in light of this, she asked the Standards Committee to make a finding that no sanctions be applied to Councillor Mrs. McDonald. She expressed the view that the Council had moved on considerably in the last few years. She had no further representations to make at this stage.

At this stage, the Standards Committee withdrew to take legal advice. On its return, the Committee indicated that the giving of the apology at an early stage in the proceedings was unexpected but was nonetheless welcomed and

had changed the nature of the early discussions. The Committee thanked Councillor Mrs. McDonald for making the apology and this would be fully taken into account, but that the Committee now needed to go on to deal with the findings of fact, whether there was a breach of the code and the sanctions applicable.

The Committee confirmed that it had taken legal advice on its responsibilities and functions as a Standards Committee, which included the importance of ensuring public confidence in the democratic process and the standards of conduct at the Council.

Findings of fact

The Investigating Officer and Ms. Randle of behalf of Councillor Mrs. McDonald had nothing further to add to the agreed Statement of Facts and the documents which were already before the Standards Committee.

The Standards Committee withdrew to consider the findings of fact and whether there had been a breach of the Code.

The facts set out in paragraphs 14 to 20 of the Statement of Facts dated 21st April 2011 as agreed by the Investigating Officer and Steel & Shamash Solicitors, Solicitors for Councillor Mrs. McDonald, were adopted by the Committee as the facts of the matter. These facts related to the third part of the Full Council meeting on 29th July 2009, which was when the alleged breaches of the Code took place.

Finding as to whether the Subject Member had failed to follow the Code including reasons

The Standards Committee found as follows:

That Councillor Mrs. McDonald had failed to follow the Code of Conduct by being in breach of Part 1 paragraph 3(1) in that she failed to treat others with respect; and Part 1 paragraph 5 in that she had conducted herself in a manner which could reasonably be regarded as bringing her office or authority into disrepute.

The Standards Committee's reasons for this decision were:

- The agreed Statement of Facts, the Investigating Officer's report and supporting documents contained sufficient evidence to conclude that Councillor Mrs. McDonald's conduct at the meeting of Full Council on 29th July 2009 fell below the appropriate level of behaviour expected of a councillor as prescribed by paragraphs 3(1) and 5 of the Code.
- In her apology issued at the outset of proceedings, Councillor Mrs. McDonald clearly acknowledged that her behaviour at the meeting of Full Council on 29th July 2009 was "totally unacceptable".

Submissions on sanctions made by Mr. Goolden and Ms. Randle

Mr. Goolden referred to his earlier comments regarding sanctions. Ms. Randle reiterated that she would wish to call witnesses and adjourn the hearing if the Committee was minded to apply any sanctions not already discussed.

The Standards Committee withdrew to consider the sanctions available for the breaches in question.

The Sanctions imposed and reasons for them

After considering the representations made by Ms. Randle and Mr. Goolden, the Investigating Officer's report and the guidance issued by Standards for England, and having accepted the apology submitted by Councillor Mrs. McDonald and noting the measures put in place by the Council to address previous deficiencies in the constitution and procedures relating to Council meetings, the Committee decided to require Councillor Mrs. McDonald to undertake training relating to the appropriate behaviour expected of an elected councillor.

In considering the sanction the Committee had regard to the following:

- Whether the sanction was proportionate and reasonable given the nature of the allegations against Councillor Mrs. McDonald.
- The appropriate level of behaviour expected of a councillor of which Councillor Mrs. McDonald fell short.
- The offering of a full apology by Councillor Mrs. McDonald for her behaviour, which she recognised as totally unacceptable, made at the outset of the hearing and addressed to Council Members, Council Officers and the public of Bromsgrove District, a copy of which is appended to this decision.
- The positive steps taken by the Council in the 2 years since the events complained of, designed to facilitate improved management of Council meetings and to minimise similar breaches of the Code in the future.

Recommendations to the authority

No formal recommendations were made to the Council. However, the Standards Committee would be examining the improvements already made by the Council and would consider recommending further measures to build on the progress already made.

Right of Appeal

A Member subject to a Standards Committee finding has the right to apply in writing to the First-tier Tribunal of the General Regulatory Chamber (Local

Government Standards in England) for permission to appeal the Standards Committee's finding.

A request for permission to appeal has to be made to the First-tier Tribunal within 28 days of the Member's receipt of the Standards Committee's full written decision.

.....
Chairman of the Standards Committee

Dated:



Bromsgrove
District Council

www.bromsgrove.gov.uk

Councillor Christine McDonald

10 Waseley Road,
Rubery,
Birmingham B45 9TP

Tel/Fax: 0121 453 9267

E-mail: c.mcdonald@bromsgrove.gov.uk

The Council House, Burcot Lane, Bromsgrove
Worcestershire B60 1AA
Main Switchboard: (01527) 873232
Textphone: (01527) 881291
Fax: (01527) 881212

28/07/11

Dear N.A. Burke – Chairman of the Standards Committee

I would be very grateful if you would present my apology to the Standards Committee.

“Not withstanding any provocation that I think that there may have been, I realise that my behaviour at the Council Meeting held on 29th July 2009 was totally unacceptable.

I, therefore, apologise unreservedly to the Council Members, The Council Officers and the public of Bromsgrove District.”

Yours sincerely

Councillor Christine McDonald

[Note: Original letter of apology contains Councillor Mrs. McDonald's signature.
Signature removed from this version for website publication.]

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BROMSGROVE DISTRICT COUNCIL
STANDARDS COMMITTEE HEARING
FULL WRITTEN DECISION

Complaints relating to the meeting of Full Council held on 20th January 2010

Member subject to allegations:	Former Councillor Ms. J. A. Marshall
Investigating Officer:	Mr. J. Goolden
Date of report:	10 January 2011 (Revised Report for Hearing)
Name of Members' representative:	Ms. F. Randle
Relevant authority concerned:	Bromsgrove District Council
Date of the hearing:	19th July 2011
Standards Committee members:	Mr. N. A. Burke (Chairman) Mrs. G. Bell Mr. J. Cypher Mr. I. A. Hodgetts Councillor Mrs. S. J. Baxter Councillor L. Mallett Councillor Mrs. M. A. Sherrey JP
Standards Committee Legal Advisor:	Ms. B. Evans
Committee Services Officer:	Ms. D. Parker-Jones

Referral for investigation

A number of complaints were made relating to the conduct of certain Members at the meeting of Full Council on 29th July 2009. These matters were considered by the Standards Assessment Sub-Committee on 30th September 2009. A number of allegations relating to (the now) Former Councillor Judy Marshall and Councillors Mrs. Christine McDonald, Peter McDonald, Edward Murray, Sean Shannon and Colin Wilson were referred for local investigation.

The Monitoring Officer appointed Mr. J. Goolden to investigate the allegations.

Subsequently, further complaints were made in relation to the same Councillors arising out of a meeting on 19th January 2010, Full Council on 20th January 2010 and other associated matters. These matters were considered by the Standards Assessment Sub-Committee on 3rd March 2010 and were referred to Standards for England for investigation. Standards for England subsequently directed that the complaints be referred to the Investigating Officer to be included in the ongoing local investigation, under regulation 14 of the Standards Committee (England) Regulations 2008, into the complaints arising from the meeting of Full Council on 29th July 2009.

The Investigating Officer's reports into both the 2009 and 2010 complaints were issued on 30th November 2010. All of the reports were considered by the Standards Committee on 17th December 2010.

In relation to the 2010 complaints, the Committee accepted the Investigating Officer's findings of no failure to comply with the Code of Conduct in relation to certain parts of the complaint. The Investigating Officer also made findings of failure to follow the Code of Conduct by the six Members in relation to the non-disclosure of interests at Full Council on 20th January 2010.

These matters were referred to the Standards Committee for final hearing.

Summary of the Allegation

The complaints alleged that at the Full Council meeting on 20th January 2010 Former Councillor Ms. J. A. Marshall attended the meeting and did not declare an interest in an item of business relating to a transfer of funds from the Council's balances to cover the cost of retaining an external investigator to carry out investigations into complaints involving Former Councillor Ms. J. A. Marshall's conduct.

The complaints alleged that Former Councillor Ms. J. A. Marshall failed to comply with the Code of Conduct for Bromsgrove District Council in that she:

- (1) failed to declare a personal and prejudicial interest (in breach of Part 2 paragraph 9 (1) of the Code of Conduct); and

- (2) failed to withdraw from the debate in question (in breach of Part 2 paragraph 12 (1) of the Code of Conduct).

Preliminary Issues

The Standards Committee had decided at the initial consideration meeting on 17th December 2010 that the written papers and oral evidence should, at that stage, remain exempt. The Standards Committee considered whether the exemption should be lifted for the purpose of the final hearing. It was agreed (following legal advice) that the exemption should be lifted and the Monitoring Officer's reports and Investigating Officer's report were released into the public domain.

The Legal Advisor introduced the Monitoring Officer's report and also the update report to the Standards Committee which set out the measures taken by the Council in the months since the date of the alleged misconduct. The report detailed the constitutional changes agreed by the Full Council on 22nd June 2011, which were designed to facilitate improvements in the way Council meetings are managed. The report also described recent cross political party discussions which focused on improving public perception of the decision making process at the Council.

Both parties confirmed that the agreed Statement of Facts was acceptable and that, on this basis, it was not their intention to call any witnesses.

The Committee confirmed that it had taken legal advice on its responsibilities and functions as a Standards Committee, which included the importance of ensuring public confidence in the democratic process and the standards of conduct at the Council.

Summary of submissions by the Investigating Officer

Mr. Goolden stated that it was accepted that the context for the advice being given on interests on that occasion was not ideal and he considered the breaches by Former Councillor Ms. J. A. Marshall to be "technical" breaches, rather than serious breaches.

Summary of submissions by the Subject Member

Ms. Randle, on behalf of Former Councillor Ms. J. A. Marshall, stated that Former Councillor Ms. J. A. Marshall did not intentionally breach the Code; the context for the advice she received was not clear and that the breaches were procedural breaches which were not pre-meditated and were not, in any way, motivated by personal gain. Ms. Randle asked the Committee to take these points into consideration when making their decision.

Findings of fact

The Investigating Officer and Ms. Randle on behalf of Former Councillor Ms. J. A. Marshall had nothing further to add to the agreed Statement of Facts and the documents which were already before the Standards Committee.

The Standards Committee withdrew to consider the findings of fact and whether there had been a breach of the Code.

The Statement of Facts dated 21st April 2011 as agreed by the Investigating Officer and Steel & Shamash Solicitors, Solicitors for Former Councillor Ms. J. A. Marshall, was adopted by the Committee as the facts of the matter.

Finding as to whether the Subject Member had failed to follow the Code including reasons

The Standards Committee was satisfied that paragraph 10 of the Code applied in that:

- Former Councillor Ms. J. A. Marshall's interest in the matter was a personal interest because an "informed outsider" might reasonably conclude that the outcome of the investigation would affect her wellbeing; and
- Former Councillor Ms. J. A. Marshall's interest in the matter was a prejudicial interest because the interest was one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it was likely to prejudice the Councillor's judgement of the matter; and
- The business being considered at the meeting would have affected Former Councillor Ms. J. A. Marshall's financial position.

The Standards Committee found as follows:

That Former Councillor Ms. J. A. Marshall had failed to follow the Code of Conduct by being in breach of Part 2 paragraphs 9 (1) and 12 (1) in that she failed to declare a personal and prejudicial interest and failed to withdraw from the debate in question.

The Standards Committee's reasons for this decision were that the agreed Statement of Facts, the Investigating officer's report and supporting documents contained sufficient evidence to determine that Former Councillor Ms. J. A. Marshall failed to declare a personal and prejudicial interest in the issue being debated and failed to withdraw from the debate at the Full Council meeting on 20th January 2010.

Submissions on sanctions made by Mr. Goolden and Ms. Randle

Mr. Goolden referred to his earlier comments regarding sanctions. Ms. Randle reiterated that she would wish to call witnesses and adjourn the hearing if the Committee was not minded to treat the breaches as “technical” breaches.

The Standards Committee withdrew to consider the sanctions available for the breaches in question.

The Sanctions imposed and reasons for them

After considering the representations made by Ms. Randle and Mr. Goolden, the Investigating Officer’s reports and the guidance issued by Standards for England, the Committee decided that in light of the nature of the breach of the Code to impose no sanction.

The Standards Committee acknowledged that, although there were “technical” breaches of the Code (although any kind of breach was still a breach) the nature of the breaches was not malicious or calculated, nor were the breaches motivated by personal gain and there was a level of confusion around the advice given about Former Councillor Ms. J. A. Marshall’s interests. Therefore, the Committee decided that imposing a sanction would be unnecessary. The Committee also acknowledged that the only sanction which would have been available to the Committee would have been censure because Former Councillor Ms. J. A. Marshall was no longer a member of the Council at the time of the hearing.

In considering the sanction the Committee had regard to the following:

- Whether the sanction was proportionate and reasonable given the nature of the allegations against Former Councillor Ms. J. A. Marshall.
- The nature of the breaches of the Code at the Council meeting dated 20th January 2010 and the context within which the breaches occurred.
- The positive steps taken by the Council in the 2 years since the events complained of, designed to facilitate improved management of Council meetings and to minimise similar breaches of the Code in the future.

Recommendations to the authority

No formal recommendations were made to the Council. However, the Standards Committee would be examining the improvements already made by the Council and would consider recommending further measures to build on the progress already made.

Right of Appeal

A Member subject to a Standards Committee finding has the right to apply in writing to the First-tier Tribunal of the General Regulatory Chamber (Local Government Standards in England) for permission to appeal the Standards Committee's finding.

A request for permission to appeal has to be made to the First-tier Tribunal within 28 days of the Member's receipt of the Standards Committee's full written decision.

.....
Chairman of the Standards Committee

Dated:

BROMSGROVE DISTRICT COUNCIL

STANDARDS COMMITTEE HEARING

FULL WRITTEN DECISION

Complaints relating to the meeting of Full Council held on 20th January 2010

Member subject to allegations:	Councillor Mrs. C. M. McDonald
Investigating Officer:	Mr. J. Goolden
Date of report:	10 January 2011 (Revised Report for Hearing)
Name of Members' representative:	Ms. F. Randle
Relevant authority concerned:	Bromsgrove District Council
Date of the hearing:	19th July 2011
Standards Committee members:	Mr. N. A. Burke (Chairman) Mrs. G. Bell Mr. J. Cypher Mr. I. A. Hodgetts Councillor Mrs. S. J. Baxter Councillor L. Mallett Councillor Mrs. M. A. Sherrey JP
Standards Committee Legal Advisor:	Ms. B. Evans
Committee Services Officer:	Ms. D. Parker-Jones

Referral for investigation

A number of complaints were made relating to the conduct of certain Members at the meeting of Full Council on 29th July 2009. These matters were considered by the Standards Assessment Sub-Committee on 30th September 2009. A number of allegations relating to (the now) former Councillor Judy Marshall and Councillors Mrs. Christine McDonald, Peter McDonald, Edward Murray, Sean Shannon and Colin Wilson were referred for local investigation.

The Monitoring Officer appointed Mr. J. Goolden to investigate the allegations.

Subsequently, further complaints were made in relation to the same Councillors arising out of a meeting on 19th January 2010, Full Council on 20th January 2010 and other associated matters. These matters were considered by the Standards Assessment Sub-Committee on 3rd March 2010 and were referred to Standards for England for investigation. Standards for England subsequently directed that the complaints be referred to the Investigating Officer to be included in the ongoing local investigation, under regulation 14 of the Standards Committee (England) Regulations 2008, into the complaints arising from the meeting of Full Council on 29th July 2009.

The Investigating Officer's reports into both the 2009 and 2010 complaints were issued on 30th November 2010. All of the reports were considered by the Standards Committee on 17th December 2010.

In relation to the 2010 complaints, the Committee accepted the Investigating Officer's findings of no failure to comply with the Code of Conduct in relation to certain parts of the complaint. The Investigating Officer also made findings of failure to follow the Code of Conduct by the six Members in relation to the non-disclosure of interests at Full Council on 20th January 2010.

These matters were referred to the Standards Committee for final hearing.

Summary of the Allegation

The complaints alleged that at the Full Council meeting on 20th January 2010 Councillor Mrs. McDonald attended the meeting and did not declare an interest in an item of business relating to a transfer of funds from the Council's balances to cover the cost of retaining an external investigator to carry out investigations into complaints involving Councillor Mrs. McDonald's conduct.

The complaints alleged that Councillor Mrs. McDonald failed to comply with the Code of Conduct for Bromsgrove District Council in that she:

- (1) failed to declare a personal and prejudicial interest (in breach of Part 2 paragraph 9 (1) of the Code of Conduct); and
- (2) failed to withdraw from the debate in question (in breach of Part 2 paragraph 12 (1) of the Code of Conduct).

Preliminary Issues

The Standards Committee had decided at the initial consideration meeting on 17th December 2010 that the written papers and oral evidence should, at that stage, remain exempt. The Standards Committee considered whether the exemption should be lifted for the purpose of the final hearing. It was agreed (following legal advice) that the exemption should be lifted and the Monitoring Officer's reports and Investigating Officer's report were released into the public domain.

The Legal Advisor introduced the Monitoring Officer's report and also the update report to the Standards Committee which set out the measures taken by the Council in the months since the date of the alleged misconduct. The report detailed the constitutional changes agreed by the Full Council on 22nd June 2011, which were designed to facilitate improvements in the way Council meetings are managed. The report also described recent cross political party discussions which focused on improving public perception of the decision making process at the Council.

Both parties confirmed that the agreed Statement of Facts was acceptable and that, on this basis, it was not their intention to call any witnesses.

The Committee confirmed that it had taken legal advice on its responsibilities and functions as a Standards Committee, which included the importance of ensuring public confidence in the democratic process and the standards of conduct at the Council.

Summary of submissions by the Investigating Officer

Mr. Goolden stated that it was accepted that the context for the advice being given on interests on that occasion was not ideal and he considered the breaches by Councillor Mrs. McDonald to be "technical" breaches, rather than serious breaches.

Summary of submissions by the Subject Member

Ms. Randle, on behalf of Councillor Mrs. McDonald, stated that Councillor Mrs. McDonald did not intentionally breach the Code; the context for the advice she received was not clear and that the breaches were procedural breaches which were not pre-meditated and were not, in any way, motivated by personal gain. Ms. Randle asked the Committee to take these points into consideration when making their decision.

Findings of fact

The Investigating Officer and Ms. Randle on behalf of Councillor Mrs. McDonald had nothing further to add to the agreed Statement of Facts and the documents which were already before the Standards Committee.

The Standards Committee withdrew to consider the findings of fact and whether there had been a breach of the Code.

The Statement of Facts dated 21st April 2011 as agreed by the Investigating Officer and Steel & Shamash Solicitors, Solicitors for the Subject Members, was adopted by the Committee as the facts of the matter.

Finding as to whether the Subject Member had failed to follow the Code including reasons

The Standards Committee was satisfied that paragraph 10 of the Code applied in that:

- Councillor Mrs. McDonald's interest in the matter was a personal interest because an "informed outsider" might reasonably conclude that the outcome of the investigation would affect her wellbeing; and
- Councillor Mrs. McDonald's interest in the matter was a prejudicial interest because the interest was one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it was likely to prejudice the Councillor's judgement of the matter; and
- The business being considered at the meeting would have affected Councillor Mrs. McDonald's financial position.

The Standards Committee found as follows:

That Councillor Mrs. McDonald had failed to follow the Code of Conduct by being in breach of Part 2 paragraphs 9 (1) and 12 (1) in that she failed to declare a personal and prejudicial interest and failed to withdraw from the debate in question.

The Standards Committee's reasons for this decision were that the agreed Statement of Facts, the Investigating officer's report and supporting documents contained sufficient evidence to determine that Councillor Mrs. McDonald failed to declare a personal and prejudicial interest in the issue being debated and failed to withdraw from the debate at the Full Council meeting on 20th January 2010.

Submissions on sanctions made by Mr. Goolden and Ms. Randle

Mr. Goolden referred to his earlier comments regarding sanctions. Ms. Randle reiterated that she would wish to call witnesses and adjourn the hearing if the Committee was not minded to treat the breaches as "technical" breaches.

The Standards Committee withdrew to consider the sanctions available for the breaches in question.

The Sanctions imposed and reasons for them

After considering the representations made by Ms. Randle and Mr. Goolden, the Investigating Officer's reports and the guidance issued by Standards for England, the Committee decided that in light of the nature of the breach of the Code to impose no sanction.

The Standards Committee acknowledged that, although there were “technical” breaches of the Code (although any kind of breach was still a breach) the nature of the breaches was not malicious or calculated, nor were the breaches motivated by personal gain and there was a level of confusion around the advice given about Councillor Mrs. McDonald’s interests. Therefore, the Committee decided that imposing a sanction would be unnecessary.

In considering the sanction the Committee had regard to the following:

- Whether the sanction was proportionate and reasonable given the nature of the allegations against Councillor Mrs. McDonald.
- The nature of the breaches of the Code at the Council meeting dated 20th January 2010 and the context within which the breaches occurred.
- The positive steps taken by the Council in the 2 years since the events complained of, designed to facilitate improved management of Council meetings and to minimise similar breaches of the Code in the future.

Recommendations to the authority

No formal recommendations were made to the Council. However, the Standards Committee would be examining the improvements already made by the Council and would consider recommending further measures to build on the progress already made.

Right of Appeal

A Member subject to a Standards Committee finding has the right to apply in writing to the First-tier Tribunal of the General Regulatory Chamber (Local Government Standards in England) for permission to appeal the Standards Committee’s finding.

A request for permission to appeal has to be made to the First-tier Tribunal within 28 days of the Member’s receipt of the Standards Committee’s full written decision.

.....
Chairman of the Standards Committee

Dated:

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BROMSGROVE DISTRICT COUNCIL

STANDARDS COMMITTEE HEARING

FULL WRITTEN DECISION

Complaints relating to the meeting of Full Council held on 20th January 2010

Member subject to allegations:	Councillor Mr. P. M. McDonald
Investigating Officer:	Mr. J. Goolden
Date of report:	10 January 2011 (Revised Report for Hearing)
Name of Members' representative:	Ms. F. Randle
Relevant authority concerned:	Bromsgrove District Council
Date of the hearing:	19th July 2011
Standards Committee members:	Mr. N. A. Burke (Chairman) Mrs. G. Bell Mr. J. Cypher Mr. I. A. Hodgetts Councillor Mrs. S. J. Baxter Councillor L. Mallett Councillor Mrs. M. A. Sherrey JP
Standards Committee Legal Advisor:	Ms. B. Evans
Committee Services Officer:	Ms. D. Parker-Jones

Referral for investigation

A number of complaints were made relating to the conduct of certain Members at the meeting of Full Council on 29th July 2009. These matters were considered by the Standards Assessment Sub-Committee on 30th September 2009. A number of allegations relating to (the now) former Councillor Judy Marshall and Councillors Mrs. Christine McDonald, Peter McDonald, Edward Murray, Sean Shannon and Colin Wilson were referred for local investigation.

The Monitoring Officer appointed Mr. J. Goolden to investigate the allegations.

Subsequently, further complaints were made in relation to the same Councillors arising out of a meeting on 19th January 2010, Full Council on 20th January 2010 and other associated matters. These matters were considered by the Standards Assessment Sub-Committee on 3rd March 2010 and were referred to Standards for England for investigation. Standards for England subsequently directed that the complaints be referred to the Investigating Officer to be included in the ongoing local investigation, under regulation 14 of the Standards Committee (England) Regulations 2008, into the complaints arising from the meeting of Full Council on 29th July 2009.

The Investigating Officer's reports into both the 2009 and 2010 complaints were issued on 30th November 2010. All of the reports were considered by the Standards Committee on 17th December 2010.

In relation to the 2010 complaints, the Committee accepted the Investigating Officer's findings of no failure to comply with the Code of Conduct in relation to certain parts of the complaint. The Investigating Officer also made findings of failure to follow the Code of Conduct by the six Members in relation to the non-disclosure of interests at Full Council on 20th January 2010.

These matters were referred to the Standards Committee for final hearing.

Summary of the Allegation

The complaints alleged that at the Full Council meeting on 20th January 2010 Councillor Mr. McDonald attended the meeting and did not declare an interest in an item of business relating to a transfer of funds from the Council's balances to cover the cost of retaining an external investigator to carry out investigations into complaints involving Councillor Mr. McDonald's conduct.

The complaints alleged that Councillor Mr. McDonald failed to comply with the Code of Conduct for Bromsgrove District Council in that he:

- (1) failed to declare a personal and prejudicial interest (in breach of Part 2 paragraph 9 (1) of the Code of Conduct); and
- (2) failed to withdraw from the debate in question (in breach of Part 2 paragraph 12 (1) of the Code of Conduct).

Preliminary Issues

The Standards Committee had decided at the initial consideration meeting on 17th December 2010 that the written papers and oral evidence should, at that stage, remain exempt. The Standards Committee considered whether the exemption should be lifted for the purpose of the final hearing. It was agreed (following legal advice) that the exemption should be lifted and the Monitoring Officer's reports and Investigating Officer's report were released into the public domain.

The Legal Advisor introduced the Monitoring Officer's report and also the update report to the Standards Committee which set out the measures taken by the Council in the months since the date of the alleged misconduct. The report detailed the constitutional changes agreed by the Full Council on 22nd June 2011, which were designed to facilitate improvements in the way Council meetings are managed. The report also described recent cross political party discussions which focused on improving public perception of the decision making process at the Council.

Both parties confirmed that the agreed Statement of Facts was acceptable and that, on this basis, it was not their intention to call any witnesses.

The Committee confirmed that it had taken legal advice on its responsibilities and functions as a Standards Committee, which included the importance of ensuring public confidence in the democratic process and the standards of conduct at the Council.

Summary of submissions by the Investigating Officer

Mr. Goolden stated that it was accepted that the context for the advice being given on interests on that occasion was not ideal and he considered the breaches by Councillor Mr. McDonald to be "technical" breaches, rather than serious breaches.

Summary of submissions by the Subject Member

Ms. Randle, on behalf of Councillor Mr. McDonald, stated that Councillor Mr. McDonald did not intentionally breach the Code; the context for the advice he received was not clear and that the breaches were procedural breaches which were not pre-meditated and were not, in any way, motivated by personal gain. Ms. Randle asked the Committee to take these points into consideration when making their decision.

Findings of fact

The Investigating Officer and Ms. Randle on behalf of Councillor Mr. McDonald had nothing further to add to the agreed Statement of Facts and the documents which were already before the Standards Committee.

The Standards Committee withdrew to consider the findings of fact and whether there had been a breach of the Code.

The Statement of Facts dated 21st April 2011 as agreed by the Investigating Officer and Steel & Shamash Solicitors, Solicitors for the Subject Members, was adopted by the Committee as the facts of the matter.

Finding as to whether the Subject Member had failed to follow the Code including reasons

The Standards Committee was satisfied that paragraph 10 of the Code applied in that:

- Councillor Mr. McDonald's interest in the matter was a personal interest because an "informed outsider" might reasonably conclude that the outcome of the investigation would affect her wellbeing; and
- Councillor Mr. McDonald's interest in the matter was a prejudicial interest because the interest was one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it was likely to prejudice the Councillor's judgement of the matter; and
- The business being considered at the meeting would have affected Councillor Mr. McDonald's financial position.

The Standards Committee found as follows:

That Councillor Mr. McDonald had failed to follow the Code of Conduct by being in breach of Part 2 paragraphs 9 (1) and 12 (1) in that he failed to declare a personal and prejudicial interest and failed to withdraw from the debate in question.

The Standards Committee's reasons for this decision were that the agreed Statement of Facts, the Investigating officer's report and supporting documents contained sufficient evidence to determine that Councillor Mr. McDonald failed to declare a personal and prejudicial interest in the issue being debated and failed to withdraw from the debate at the Full Council meeting on 20th January 2010.

Submissions on sanctions made by Mr. Goolden and Ms. Randle

Mr. Goolden referred to his earlier comments regarding sanctions. Ms. Randle reiterated that she would wish to call witnesses and adjourn the hearing if the Committee was not minded to treat the breaches as "technical" breaches.

The Standards Committee withdrew to consider the sanctions available for the breaches in question.

The Sanctions imposed and reasons for them

After considering the representations made by Ms. Randle and Mr. Goolden, the Investigating Officer's reports and the guidance issued by Standards for England, the Committee decided that in light of the nature of the breach of the Code to impose no sanction.

The Standards Committee acknowledged that, although there were “technical” breaches of the Code (although any kind of breach was still a breach) the nature of the breaches was not malicious or calculated, nor were the breaches motivated by personal gain and there was a level of confusion around the advice given about Councillor Mr. McDonald’s interests. Therefore, the Committee decided that imposing a sanction would be unnecessary.

In considering the sanction the Committee had regard to the following:

- Whether the sanction was proportionate and reasonable given the nature of the allegations against Councillor Mr. McDonald.
- The nature of the breaches of the Code at the Council meeting dated 20th January 2010 and the context within which the breaches occurred.
- The positive steps taken by the Council in the 2 years since the events complained of, designed to facilitate improved management of Council meetings and to minimise similar breaches of the Code in the future.

Recommendations to the authority

No formal recommendations were made to the Council. However, the Standards Committee would be examining the improvements already made by the Council and would consider recommending further measures to build on the progress already made.

Right of Appeal

A Member subject to a Standards Committee finding has the right to apply in writing to the First-tier Tribunal of the General Regulatory Chamber (Local Government Standards in England) for permission to appeal the Standards Committee’s finding.

A request for permission to appeal has to be made to the First-tier Tribunal within 28 days of the Member’s receipt of the Standards Committee’s full written decision.

.....
Chairman of the Standards Committee

Dated:

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BROMSGROVE DISTRICT COUNCIL

STANDARDS COMMITTEE HEARING

FULL WRITTEN DECISION

Complaints relating to the meeting of Full Council held on 20th January 2010

Member subject to allegations:	Councillor Mr. E. J. Murray
Investigating Officer:	Mr. J. Goolden
Date of report:	10 January 2011 (Revised Report for Hearing)
Name of Members' representative:	Ms. F. Randle
Relevant authority concerned:	Bromsgrove District Council
Date of the hearing:	19th July 2011
Standards Committee members:	Mr. N. A. Burke (Chairman) Mrs. G. Bell Mr. J. Cypher Mr. I. A. Hodgetts Councillor Mrs. S. J. Baxter Councillor L. Mallett Councillor Mrs. M. A. Sherrey JP
Standards Committee Legal Advisor:	Ms. B. Evans
Committee Services Officer:	Ms. D. Parker-Jones

Referral for investigation

A number of complaints were made relating to the conduct of certain Members at the meeting of Full Council on 29th July 2009. These matters were considered by the Standards Assessment Sub-Committee on 30th September 2009. A number of allegations relating to (the now) former Councillor Judy Marshall and Councillors Mrs. Christine McDonald, Peter McDonald, Edward Murray, Sean Shannon and Colin Wilson were referred for local investigation.

The Monitoring Officer appointed Mr. J. Goolden to investigate the allegations.

Subsequently, further complaints were made in relation to the same Councillors arising out of a meeting on 19th January 2010, Full Council on 20th January 2010 and other associated matters. These matters were considered by the Standards Assessment Sub-Committee on 3rd March 2010 and were referred to Standards for England for investigation. Standards for England subsequently directed that the complaints be referred to the Investigating Officer to be included in the ongoing local investigation, under regulation 14 of the Standards Committee (England) Regulations 2008, into the complaints arising from the meeting of Full Council on 29th July 2009.

The Investigating Officer's reports into both the 2009 and 2010 complaints were issued on 30th November 2010. All of the reports were considered by the Standards Committee on 17th December 2010.

In relation to the 2010 complaints, the Committee accepted the Investigating Officer's findings of no failure to comply with the Code of Conduct in relation to certain parts of the complaint. The Investigating Officer also made findings of failure to follow the Code of Conduct by the six Members in relation to the non-disclosure of interests at Full Council on 20th January 2010.

These matters were referred to the Standards Committee for final hearing.

Summary of the Allegation

The complaints alleged that at the Full Council meeting on 20th January 2010 Councillor Murray attended the meeting and did not declare an interest in an item of business relating to a transfer of funds from the Council's balances to cover the cost of retaining an external investigator to carry out investigations into complaints involving Councillor Murray's conduct.

The complaints alleged that Councillor Murray failed to comply with the Code of Conduct for Bromsgrove District Council in that he:

- (1) failed to declare a personal and prejudicial interest (in breach of Part 2 paragraph 9 (1) of the Code of Conduct); and
- (2) failed to withdraw from the debate in question (in breach of Part 2 paragraph 12 (1) of the Code of Conduct).

Preliminary Issues

The Standards Committee had decided at the initial consideration meeting on 17th December 2010 that the written papers and oral evidence should, at that stage, remain exempt. The Standards Committee considered whether the exemption should be lifted for the purpose of the final hearing. It was agreed (following legal advice) that the exemption should be lifted and the Monitoring Officer's reports and Investigating Officer's report were released into the public domain.

The Legal Advisor introduced the Monitoring Officer's report and also the update report to the Standards Committee which set out the measures taken by the Council in the months since the date of the alleged misconduct. The report detailed the constitutional changes agreed by the Full Council on 22nd June 2011, which were designed to facilitate improvements in the way Council meetings are managed. The report also described recent cross political party discussions which focused on improving public perception of the decision making process at the Council.

Both parties confirmed that the agreed Statement of Facts was acceptable and that, on this basis, it was not their intention to call any witnesses.

The Committee confirmed that it had taken legal advice on its responsibilities and functions as a Standards Committee, which included the importance of ensuring public confidence in the democratic process and the standards of conduct at the Council.

Summary of submissions by the Investigating Officer

Mr. Goolden stated that it was accepted that the context for the advice being given on interests on that occasion was no ideal and he considered the breaches by Councillor Murray to be "technical" breaches, rather than serious breaches.

Summary of submissions by the Subject Member

Ms. Randle, on behalf of Councillor Murray, stated that Councillor Murray did not intentionally breach the Code; the context for the advice he received was not clear and that the breaches were procedural breaches which were not pre-meditated and were not, in any way, motivated by personal gain. Ms. Randle asked the Committee to take these points into consideration when making their decision.

Findings of fact

The Investigating Officer and Ms. Randle on behalf of Councillor Murray had nothing further to add to the agreed Statement of Facts and the documents which were already before the Standards Committee.

The Standards Committee withdrew to consider the findings of fact and whether there had been a breach of the Code.

The Statement of Facts dated 21st April 2011 as agreed by the Investigating Officer and Steel & Shamash Solicitors, Solicitors for the Subject Members, was adopted by the Committee as the facts of the matter.

Finding as to whether the Subject Member had failed to follow the Code including reasons

The Standards Committee was satisfied that paragraph 10 of the Code applied in that:

- Councillor Murray's interest in the matter was a personal interest because an "informed outsider" might reasonably conclude that the outcome of the investigation would affect her wellbeing; and
- Councillor Murray's interest in the matter was a prejudicial interest because the interest was one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it was likely to prejudice the Councillor's judgement of the matter; and
- The business being considered at the meeting would have affected Councillor Murray's financial position.

The Standards Committee found as follows:

That Councillor Murray had failed to follow the Code of Conduct by being in breach of Part 2 paragraphs 9 (1) and 12 (1) in that he failed to declare a personal and prejudicial interest and failed to withdraw from the debate in question.

The Standards Committee's reasons for this decision were that the agreed Statement of facts, the Investigating officer's report and supporting documents contained sufficient evidence to determine that Councillor Murray failed to declare a personal and prejudicial interest in the issue being debated and failed to withdraw from the debate at the Full Council meeting on 20th January 2010.

Submissions on sanctions made by Mr. Goolden and Ms. Randle

Mr. Goolden referred to his earlier comments regarding sanctions. Ms. Randle reiterated that she would wish to call witnesses and adjourn the hearing if the Committee was not minded to treat the breaches as "technical" breaches.

The Standards Committee withdrew to consider the sanctions available for the breaches in question.

The Sanctions imposed and reasons for them

After considering the representations made by Ms. Randle and Mr. Goolden, the Investigating Officer's reports and the guidance issued by Standards for England, the Committee decided that in light of the nature of the breach of the Code to impose no sanction.

The Standards Committee acknowledged that, although there were “technical” breaches of the Code (although that any kind of breach was still a breach) the nature of the breaches was not malicious or calculated, nor were the breaches motivated by personal gain and there was a level of confusion around the advice given about Councillor Murray’s interests. Therefore, the Committee decided that imposing a sanction would be unnecessary.

In considering the sanction the Committee had regard to the following:

- Whether the sanction was proportionate and reasonable given the nature of the allegations against Councillor Murray.
- The nature of the breaches of the Code at the Council meeting dated 20th January 2010 and the context within which the breaches occurred.
- The positive steps taken by the Council in the 2 years since the events complained of, designed to facilitate improved management of Council meetings and to minimise similar breaches of the Code in the future.

Recommendations to the authority

No formal recommendations were made to the Council. However, the Standards Committee would be examining the improvements already made by the Council and would consider recommending further measures to build on the progress already made.

Right of Appeal

A Member subject to a Standards Committee finding has the right to apply in writing to the First-tier Tribunal of the General Regulatory Chamber (Local Government Standards in England) for permission to appeal the Standards Committee’s finding.

A request for permission to appeal has to be made to the First-tier Tribunal within 28 days of the Member’s receipt of the Standards Committee’s full written decision.

.....
Chairman of the Standards Committee

Dated:

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BROMSGROVE DISTRICT COUNCIL

STANDARDS COMMITTEE HEARING

FULL WRITTEN DECISION

Complaints relating to the meeting of Full Council held on 20th January 2010

Member subject to allegations:	Councillor Mr. S. P. Shannon
Investigating Officer:	Mr. J. Goolden
Date of report:	10 January 2011 (Revised Report for Hearing)
Name of Members' representative:	Ms. F. Randle
Relevant authority concerned:	Bromsgrove District Council
Date of the hearing:	19th July 2011
Standards Committee members:	Mr. N. A. Burke (Chairman) Mrs. G. Bell Mr. J. Cypher Mr. I. A. Hodgetts Councillor Mrs. S. J. Baxter Councillor L. Mallett Councillor Mrs. M. A. Sherrey JP
Standards Committee Legal Advisor:	Ms. B. Evans
Committee Services Officer:	Ms. D. Parker-Jones

Referral for investigation

A number of complaints were made relating to the conduct of certain Members at the meeting of Full Council on 29th July 2009. These matters were considered by the Standards Assessment Sub-Committee on 30th September 2009. A number of allegations relating to (the now) former Councillor Judy Marshall and Councillors Mrs. Christine McDonald, Peter McDonald, Edward Murray, Sean Shannon and Colin Wilson were referred for local investigation.

The Monitoring Officer appointed Mr. J. Goolden to investigate the allegations.

Subsequently, further complaints were made in relation to the same Councillors arising out of a meeting on 19th January 2010, Full Council on 20th January 2010 and other associated matters. These matters were considered by the Standards Assessment Sub-Committee on 3rd March 2010 and were referred to Standards for England for investigation. Standards for England subsequently directed that the complaints be referred to the Investigating Officer to be included in the ongoing local investigation, under regulation 14 of the Standards Committee (England) Regulations 2008, into the complaints arising from the meeting of Full Council on 29th July 2009.

The Investigating Officer's reports into both the 2009 and 2010 complaints were issued on 30th November 2010. All of the reports were considered by the Standards Committee on 17th December 2010.

In relation to the 2010 complaints, the Committee accepted the Investigating Officer's findings of no failure to comply with the Code of Conduct in relation to certain parts of the complaint. The Investigating Officer also made findings of failure to follow the Code of Conduct by the six Members in relation to the non-disclosure of interests at Full Council on 20th January 2010.

These matters were referred to the Standards Committee for final hearing.

Summary of the Allegation

The complaints alleged that at the Full Council meeting on 20th January 2010 Councillor Shannon attended the meeting and did not declare an interest in an item of business relating to a transfer of funds from the Council's balances to cover the cost of retaining an external investigator to carry out investigations into complaints involving Councillor Shannon's conduct.

The complaints alleged that Councillor Shannon failed to comply with the Code of Conduct for Bromsgrove District Council in that he:

- (1) failed to declare a personal and prejudicial interest (in breach of Part 2 paragraph 9 (1) of the Code of Conduct); and
- (2) failed to withdraw from the debate in question (in breach of Part 2 paragraph 12 (1) of the Code of Conduct).

Preliminary Issues

The Standards Committee had decided at the initial consideration meeting on 17th December 2010 that the written papers and oral evidence should, at that stage, remain exempt. The Standards Committee considered whether the exemption should be lifted for the purpose of the final hearing. It was agreed (following legal advice) that the exemption should be lifted and the Monitoring Officer's reports and Investigating Officer's report were released into the public domain.

The Legal Advisor introduced the Monitoring Officer's report and also the update report to the Standards Committee which set out the measures taken by the Council in the months since the date of the alleged misconduct. The report detailed the constitutional changes agreed by the Full Council on 22nd June 2011, which were designed to facilitate improvements in the way Council meetings are managed. The report also described recent cross political party discussions which focused on improving public perception of the decision making process at the Council.

Both parties confirmed that the agreed Statement of Facts was acceptable and that, on this basis, it was not their intention to call any witnesses.

The Committee confirmed that it had taken legal advice on its responsibilities and functions as a Standards Committee, which included the importance of ensuring public confidence in the democratic process and the standards of conduct at the Council.

Summary of submissions by the Investigating Officer

Mr. Goolden stated that it was accepted that the context for the advice being given on interests on that occasion was not ideal and he considered the breaches by Councillor Shannon to be "technical" breaches, rather than serious breaches.

Summary of submissions by the Subject Member

Ms. Randle, on behalf of Councillor Shannon, stated that Councillor Shannon did not intentionally breach the Code; the context for the advice he received was not clear and that the breaches were procedural breaches which were not pre-meditated and were not, in any way, motivated by personal gain. Ms. Randle asked the Committee to take these points into consideration when making their decision.

Findings of fact

The Investigating Officer and Ms. Randle on behalf of Councillor Shannon had nothing further to add to the agreed Statement of Facts and the documents which were already before the Standards Committee.

The Standards Committee withdrew to consider the findings of fact and whether there had been a breach of the Code.

The Statement of Facts dated 21st April 2011 as agreed by the Investigating Officer and Steel & Shamash Solicitors, Solicitors for the Subject Members, was adopted by the Committee as the facts of the matter.

Finding as to whether the Subject Member had failed to follow the Code including reasons

The Standards Committee was satisfied that paragraph 10 of the Code applied in that:

- Councillor Shannon's interest in the matter was a personal interest because an "informed outsider" might reasonably conclude that the outcome of the investigation would affect her wellbeing; and
- Councillor Shannon's interest in the matter was a prejudicial interest because the interest was one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it was likely to prejudice the Councillor's judgement of the matter; and
- The business being considered at the meeting would have affected Councillor Shannon's financial position.

The Standards Committee found as follows:

That Councillor Shannon had failed to follow the Code of Conduct by being in breach of Part 2 paragraphs 9 (1) and 12 (1) in that he failed to declare a personal and prejudicial interest and failed to withdraw from the debate in question.

The Standards Committee's reasons for this decision were that the agreed Statement of Facts, the Investigating officer's report and supporting documents contained sufficient evidence to determine that Councillor Shannon failed to declare a personal and prejudicial interest in the issue being debated and failed to withdraw from the debate at the Full Council meeting on 20th January 2010.

Submissions on sanctions made by Mr. Goolden and Ms. Randle

Mr. Goolden referred to his earlier comments regarding sanctions. Ms. Randle reiterated that she would wish to call witnesses and adjourn the hearing if the Committee was not minded to treat the breaches as "technical" breaches.

The Standards Committee withdrew to consider the sanctions available for the breaches in question.

The Sanctions imposed and reasons for them

After considering the representations made by Ms. Randle and Mr. Goolden, the Investigating Officer's reports and the guidance issued by Standards for England, the Committee decided that in light of the nature of the breach of the Code to impose no sanction.

The Standards Committee acknowledged that, although there were “technical” breaches of the Code (although any kind of breach was still a breach) the nature of the breaches was not malicious or calculated, nor were the breaches motivated by personal gain and there was a level of confusion around the advice given about Councillor Shannon’s interests. Therefore, the Committee decided that imposing a sanction would be unnecessary.

In considering the sanction the Committee had regard to the following:

- Whether the sanction was proportionate and reasonable given the nature of the allegations against Councillor Shannon.
- The nature of the breaches of the Code at the Council meeting dated 20th January 2010 and the context within which the breaches occurred.
- The positive steps taken by the Council in the 2 years since the events complained of, designed to facilitate improved management of Council meetings and to minimise similar breaches of the Code in the future.

Recommendations to the authority

No formal recommendations were made to the Council. However, the Standards Committee would be examining the improvements already made by the Council and would consider recommending further measures to build on the progress already made.

Right of Appeal

A Member subject to a Standards Committee finding has the right to apply in writing to the First-tier Tribunal of the General Regulatory Chamber (Local Government Standards in England) for permission to appeal the Standards Committee’s finding.

A request for permission to appeal has to be made to the First-tier Tribunal within 28 days of the Member’s receipt of the Standards Committee’s full written decision.

.....
Chairman of the Standards Committee

Dated:

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BROMSGROVE DISTRICT COUNCIL

STANDARDS COMMITTEE HEARING

FULL WRITTEN DECISION

Complaints relating to the meeting of Full Council held on 20th January 2010

Member subject to allegations:	Councillor Mr. C. J. K. Wilson
Investigating Officer:	Mr. J. Goolden
Date of report:	10 January 2011 (Revised Report for Hearing)
Name of Members' representative:	Ms. F. Randle
Relevant authority concerned:	Bromsgrove District Council
Date of the hearing:	19th July 2011
Standards Committee members:	Mr. N. A. Burke (Chairman) Mrs. G. Bell Mr. J. Cypher Mr. I. A. Hodgetts Councillor Mrs. S. J. Baxter Councillor L. Mallett Councillor Mrs. M. A. Sherrey JP
Standards Committee Legal Advisor:	Ms. B. Evans
Committee Services Officer:	Ms. D. Parker-Jones

Referral for investigation

A number of complaints were made relating to the conduct of certain Members at the meeting of Full Council on 29th July 2009. These matters were considered by the Standards Assessment Sub-Committee on 30th September 2009. A number of allegations relating to (the now) former Councillor Judy Marshall and Councillors Mrs. Christine McDonald, Peter McDonald, Edward Murray, Sean Shannon and Colin Wilson were referred for local investigation.

The Monitoring Officer appointed Mr. J. Goolden to investigate the allegations.

Subsequently, further complaints were made in relation to the same Councillors arising out of a meeting on 19th January 2010, Full Council on 20th January 2010 and other associated matters. These matters were considered by the Standards Assessment Sub-Committee on 3rd March 2010 and were referred to Standards for England for investigation. Standards for England subsequently directed that the complaints be referred to the Investigating Officer to be included in the ongoing local investigation, under regulation 14 of the Standards Committee (England) Regulations 2008, into the complaints arising from the meeting of Full Council on 29th July 2009.

The Investigating Officer's reports into both the 2009 and 2010 complaints were issued on 30th November 2010. All of the reports were considered by the Standards Committee on 17th December 2010.

In relation to the 2010 complaints, the Committee accepted the Investigating Officer's findings of no failure to comply with the Code of Conduct in relation to certain parts of the complaint. The Investigating Officer also made findings of failure to follow the Code of Conduct by the six Members in relation to the non-disclosure of interests at Full Council on 20th January 2010.

These matters were referred to the Standards Committee for final hearing.

Summary of the Allegation

The complaints alleged that at the Full Council meeting on 20th January 2010 Councillor Wilson attended the meeting and did not declare an interest in an item of business relating to a transfer of funds from the Council's balances to cover the cost of retaining an external investigator to carry out investigations into complaints involving Councillor Wilson's conduct.

The complaints alleged that Councillor Wilson failed to comply with the Code of Conduct for Bromsgrove District Council in that he:

- (1) failed to declare a personal and prejudicial interest (in breach of Part 2 paragraph 9 (1) of the Code of Conduct); and
- (2) failed to withdraw from the debate in question (in breach of Part 2 paragraph 12 (1) of the Code of Conduct).

Preliminary Issues

The Standards Committee had decided at the initial consideration meeting on 17th December 2010 that the written papers and oral evidence should, at that stage, remain exempt. The Standards Committee considered whether the exemption should be lifted for the purpose of the final hearing. It was agreed (following legal advice) that the exemption should be lifted and the Monitoring Officer's reports and Investigating Officer's report were released into the public domain.

The Legal Advisor introduced the Monitoring Officer's report and also the update report to the Standards Committee which set out the measures taken by the Council in the months since the date of the alleged misconduct. The report detailed the constitutional changes agreed by the Full Council on 22nd June 2011, which were designed to facilitate improvements in the way Council meetings are managed. The report also described recent cross political party discussions which focused on improving public perception of the decision making process at the Council.

Both parties confirmed that the agreed Statement of Facts was acceptable and that, on this basis, it was not their intention to call any witnesses.

The Committee confirmed that it had taken legal advice on its responsibilities and functions as a Standards Committee, which included the importance of ensuring public confidence in the democratic process and the standards of conduct at the Council.

Summary of submissions by the Investigating Officer

Mr. Goolden stated that it was accepted that the context for the advice being given on interests on that occasion was not ideal and he considered the breaches by Councillor Wilson to be "technical" breaches, rather than serious breaches.

Summary of submissions by the Subject Member

Ms. Randle, on behalf of Councillor Wilson, stated that Councillor Wilson did not intentionally breach the Code; the context for the advice he received was not clear and that the breaches were procedural breaches which were not pre-meditated and were not, in any way, motivated by personal gain. Ms. Randle asked the Committee to take these points into consideration when making their decision.

Findings of fact

The Investigating Officer and Ms. Randle on behalf of Councillor Wilson had nothing further to add to the agreed Statement of Facts and the documents which were already before the Standards Committee.

The Standards Committee withdrew to consider the findings of fact and whether there had been a breach of the Code.

The Statement of Facts dated 21st April 2011 as agreed by the Investigating Officer and Steel & Shamash Solicitors, Solicitors for the Subject Members, was adopted by the Committee as the facts of the matter.

Finding as to whether the Subject Member had failed to follow the Code including reasons

The Standards Committee was satisfied that paragraph 10 of the Code applied in that:

- Councillor Wilson's interest in the matter was a personal interest because an "informed outsider" might reasonably conclude that the outcome of the investigation would affect her wellbeing; and
- Councillor Wilson's interest in the matter was a prejudicial interest because the interest was one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it was likely to prejudice the Councillor's judgement of the matter; and
- The business being considered at the meeting would have affected Councillor Wilson's financial position.

The Standards Committee found as follows:

That Councillor Wilson had failed to follow the Code of Conduct by being in breach of Part 2 paragraphs 9 (1) and 12 (1) in that he failed to declare a personal and prejudicial interest and failed to withdraw from the debate in question.

The Standards Committee's reasons for this decision were that the agreed Statement of Facts, the Investigating officer's report and supporting documents contained sufficient evidence to determine that Councillor Wilson failed to declare a personal and prejudicial interest in the issue being debated and failed to withdraw from the debate at the Full Council meeting on 20th January 2010.

Submissions on sanctions made by Mr. Goolden and Ms. Randle

Mr. Goolden referred to his earlier comments regarding sanctions. Ms. Randle reiterated that she would wish to call witnesses and adjourn the hearing if the Committee was not minded to treat the breaches as "technical" breaches.

The Standards Committee withdrew to consider the sanctions available for the breaches in question.

The Sanctions imposed and reasons for them

After considering the representations made by Ms. Randle and Mr. Goolden, the Investigating Officer's reports and the guidance issued by Standards for England, the Committee decided that in light of the nature of the breach of the Code to impose no sanction.

The Standards Committee acknowledged that, although there were “technical” breaches of the Code (although any kind of breach was still a breach) the nature of the breaches was not malicious or calculated, nor were the breaches motivated by personal gain and there was a level of confusion around the advice given about Councillor Wilson’s interests. Therefore, the Committee decided that imposing a sanction would be unnecessary.

In considering the sanction the Committee had regard to the following:

- Whether the sanction was proportionate and reasonable given the nature of the allegations against Councillor Wilson.
- The nature of the breaches of the Code at the Council meeting dated 20th January 2010 and the context within which the breaches occurred.
- The positive steps taken by the Council in the 2 years since the events complained of, designed to facilitate improved management of Council meetings and to minimise similar breaches of the Code in the future.

Recommendations to the authority

No formal recommendations were made to the Council. However, the Standards Committee would be examining the improvements already made by the Council and would consider recommending further measures to build on the progress already made.

Right of Appeal

A Member subject to a Standards Committee finding has the right to apply in writing to the First-tier Tribunal of the General Regulatory Chamber (Local Government Standards in England) for permission to appeal the Standards Committee’s finding.

A request for permission to appeal has to be made to the First-tier Tribunal within 28 days of the Member’s receipt of the Standards Committee’s full written decision.

.....
Chairman of the Standards Committee

Dated:

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STANDARDS COMMITTEE

21st September 2011

MONITORING OFFICER'S REPORT

Relevant Portfolio Holder	Councillor Mark Bullivant
Portfolio Holder Consulted	Councillor Mark Bullivant
Relevant Head of Service	Claire Felton, Head of Legal, Equalities and Democratic Services and Monitoring Officer
Wards Affected	All Wards
Ward Councillor Consulted	N/A
Non-Key Decision	

1. SUMMARY OF PROPOSALS

- 1.1 The Standards Committee has requested the Monitoring Officer to report to each meeting of the Standards Committee on a number of items, and this report sets out the latest position in relation to key items since the last (policy) meeting of the Committee on 8th June 2011.
- 1.2 Any further updates will be reported orally at the meeting.

2. RECOMMENDATIONS

That the Committee note the report and comment on any aspects of this, as appropriate.

3. KEY ISSUES

Financial Implications

- 3.1 There are no financial implications associated with the contents of this report.

Legal Implications

- 3.2 The Local Government Act 2000 introduced primary legislation to enable the implementation of a Members' Code of Conduct, and this was amended by the Local Government and Public Involvement in Health Act 2007 insofar as it related to the application of the Members' Code of Conduct to their private lives. Further details have been provided by the Local Authorities (Model Code of Conduct) Order 2007 and the Relevant Authorities (General Principles) Order 2001. The local assessment regime was introduced by the LGPIHA 2007, and further expanded in the Standards Committee (England) Regulations 2008 which also set out the rules and procedures governing the investigation and determination of complaints.

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Service / Operational Implications

Member Investigations and Associated Matters

3.3 **Complaint Reference 94/09**

This matter (complaint against former District Councillor Mrs. Jean Luck) was considered at a final determination hearing of the Committee on 8th July 2011. The Committee resolved that Mrs. Luck had failed to follow the Code of Conduct by being in breach of Part 1 paragraph 3 (1) of the Code in that she failed to treat others with respect, and paragraph 6 (a) in that she had used her position to confer a disadvantage. It was agreed that Mrs. Luck be censured for breaching the Code of Conduct. A copy of the minutes of the meeting, together with the Committee's full decision and the reasons for the decision appear at item 3 of this agenda.

3.4 **Complaint References 03/10 & 04/10**

The Committee considered the Investigating Officer's final report into these matters (linked complaints against Alvechurch Parish Councillor David Matthews) at the meeting held on 8th July 2011. The Committee resolved that the Investigating Officer's finding of a failure by Councillor Matthews to comply with the Alvechurch Parish Council Code of Conduct be considered at a hearing of the Committee conducted under regulation 18 of the Standards Committee (England) Regulations 2008. The hearing into this matter is scheduled to take place on 18th October 2011.

3.5 **Final Determination Hearing into complaints arising from the meetings of full Council on 29th July 2009 & 20th January 2010**

These matters (complaints against former District Councillor Ms. Judy Marshall and District Councillors Mrs. Christine McDonald, Peter McDonald, Edward Murray, Sean Shannon and Colin Wilson) were considered at a final determination hearing of the Committee on 19th July 2011. The Committee resolved in all cases that the former Member/Members concerned had failed to follow the Code of Conduct. A copy of the minutes of the meeting, together with the Committee's full decisions and the reasons for the decisions appear at item 3 of this agenda.

Complaints for Local Assessment

3.6 Since the last meeting of the Standards Committee there have been no matters for local assessment.

3.7 The Committee is reminded that details of only those complaints which have been assessed by the relevant Sub-Committee appear in this report. Any complaints which have yet to be assessed and/or for which Sub-Committee decision notices have still to be issued are not included as the Subject Members concerned will not be aware of the complaints.

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Equally, only information relating to review requests which have already been considered by the appropriate Review Sub-Committee and for which the parties involved have been notified of the outcome are included.

Member Training

- 3.8 As reported at the last meeting, the timetable of events for the Modern Councillor Programme 2011/12 has been established, with a number of training events having taken place since the start of the 2011/12 Municipal Year. Further sessions are being held in September, including detailed planning training and a session on 'Image and reputation and the use of modern social media'.
- 3.9 Mandatory 'Introduction to the operation of the Standards Committee' training took place for all members of the Standards Committee on 8th June 2011. All members of the Committee, including the Deputy Parish Councils' Representative, have completed the necessary required training in order to sit on the Committee.
- 3.10 'Ethical Standards and Code of Conduct' training for district councillors took place on 15th June 2011, with a similar session also being run for the parish councils on 21st June. A final 'mop-up' session for anybody unable to attend either of the earlier sessions is taking place at 6.00pm on Monday 26th September 2011.

Annual Report of the Committee

- 3.11 A copy of the joint Annual Report for the Committee for the 2009/10 and 2010/11 Municipal Years will be drafted by Officers as soon as practicable. The draft Report will be circulated to all members of the Committee for comment as soon as this is available.

Parish Council Matters

- 3.12 As reported to the Members at the Committee's 8th June meeting, the 2010/11 terms of office of the Parish Councils' Representatives and the Deputy Parish Councils' Representative on the Standards Committee expired in July 2011. On 22nd June 2011 full Council considered the nominations of the Bromsgrove Area Committee of the Worcestershire County Association of Local Councils (CALC) for the 2011/12 nominees to the Committee. Council duly resolved that Mr. J. Cypher and Mr. I. Hodgetts be appointed to serve as the Parish Councils' Representatives on the Committee for a period of one year until July 2012, and that Mrs. K. May be appointed to serve as the Deputy Parish Councils' Representative on the Committee for the same period.

Extension to Term of Office - Mr. N. Burke, Independent Member

- 3.13 Members are advised that the Committee's 8th June 2011 recommendation to full Council to extend the current term of office of

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Mr. N. Burke, Independent Member Chairman of the Committee, until the Standards Committee, in its present format, is abolished in accordance with the proposals contained within the Localism Bill, was approved by full Council on 22nd June 2011.

Localism Bill

- 3.14 The Localism Bill, which proposes the abolition of the Standards Board regime and the model Code of Conduct in favour of local accountability and a criminal offence of deliberate failure to declare a personal interest in a matter, has now gone through the report stage and third reading in the House of Commons. The Bill is currently with the House of Lords for consideration. The first and second readings have taken place in the Lords, with the third day of report stage being scheduled for 12th September 2011. Once the Bill has passed through third reading it will move to the consideration of amendments stage and once the Commons and Lords agree on the final version of the Bill it can receive Royal Assent and become an Act of Parliament.

Customer / Equalities and Diversity Implications

- 3.15 There are no customer / equalities and diversity implications associated with the contents of this report.

4. RISK MANAGEMENT

- 4.1 The main risks associated with the details included in this report are:
- Risk of challenge to Council decisions; and
 - Risk of complaints about elected Members.
- 4.2 These risks are being managed as follows:
- Risk Register: Legal, Equalities and Democratic Services
Key Objective Ref No: 3
Key Objective: Effective ethical governance

5. APPENDICES

Not applicable.

6. BACKGROUND PAPERS

Member complaint files.
Previous Standards Committee reports and minutes, as denoted in the report.

7. KEY

Not applicable.

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21st September 2011

AUTHOR OF REPORT

Name: Debbie Parker-Jones
E Mail: d.parkerjones@bromsgroveandredditchbc.gov.uk
Tel: 01527 881411

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STANDARDS COMMITTEE

21st September 2011

OMBUDSMAN REVIEW

Relevant Portfolio Holder	Cllr Mark Bullivant
Portfolio Holder Consulted	Cllr Mark Bullivant
Relevant Head of Service	Claire Felton
Wards Affected	All
Ward Councillor Consulted	N/A
Non-Key Decision	

1. SUMMARY OF PROPOSALS

- 1.1 The purpose of this report is to provide Members with information regarding the Local Government Ombudsman's Annual Review of Bromsgrove District Council. The Annual Review sets out the statistics for complaints made against this Council during the 12 month period ending 31st March 2011.

2. RECOMMENDATIONS

- 2.1 That Members note the contents of the report.

3. KEY ISSUES

Financial Implications

- 3.1 There are no financial implications associated with the contents of this report.

Legal Implications

- 3.2 The Local Government Ombudsman scheme was set up under the Local Government Act 1974. The main activity of the LGO is the investigation of complaints, which are limited to complaints from members of the public alleging they have suffered injustice as a result of maladministration.

Service / Operational Implications

- 3.3 The Annual Review from the Local Government Ombudsman is attached at Appendix 1. The information includes a breakdown of the number complaints made and the average response times.
- 3.4 The following observations can be made based on the statistics:-

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- The number of first enquiries increased slightly in 2010/2011 to 9, compared with 7 the previous year.
 - With regard to the outcome of decisions following formal investigation, there were no findings of maladministration. Neither were there any outcomes involving agreed payments of compensation to complainants (known as local settlements). There were 6 findings of no maladministration and in 1 case the Ombudsman exercised his/her discretion not to pursue the complaint. There were 5 local settlements. The data also shows that there were 4 cases of customers making premature complaints to the ombudsman, i.e. before the Council had had a chance to investigate the complaints internally.
 - Response times – the Council’s recorded response time to first enquiries has increased slightly from 26 days to 26.6 days. The target response time is 28 days. There is an internal performance indicator in place to monitor response times. Bromsgrove falls into the same category as 65% of District Councils whose average response time is below 28 days.
 - Breakdown of subject matter of complaints – no one particular area stands out based on the statistics. The areas where the most complaints were received related to Environment Services, Planning and Development, Benefits and Tax and Housing.
- 3.5 The Council continues to have a strong focus on providing good customer service which includes having processes in place to respond to complaints from customers. In the last year the customer services strategy has been updated and re-launched under the title of “Every Customer Every Time” and there has been a programme of staff training to accompany the changes that have been made. Inevitably there will always be some cases where customers are not satisfied and refer matters to the ombudsman. In those cases the Council will co-operate to provide the information required by the ombudsman to carry out their investigation. The most recent statistics do not reveal any findings of maladministration in the 12 months to March 2011.

Customer / Equalities and Diversity Implications

- 3.6 In terms of customer implications, providing good customer service is of significant importance to the Council and the statistics in the review will assist officers in the monitoring of complaint handling and resolution.

4. RISK MANAGEMENT

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4.1 The main risks associated with the details included in this report are those linked to poor standards of complaint handling. The effects of not handling complaints efficiently can include poor customer service, increased customer dissatisfaction, increased numbers of complaints and damage to the Council's reputation.

4.2 These risks are being managed as follows:

- Through the Council's Customer services strategy – “ Every Customer Every Time” under which aims to promote good customer service throughout the Council and includes a defined procedure for responding to complaints before they reach the stage of being referred to the Ombudsman.
- Through on-going training for staff and managers in implementing good customer service and managing complaints.

5. APPENDICES

Appendix 1 – Annual Review for Bromsgrove District Council 2011

6. BACKGROUND PAPERS

None

7. KEY

Not applicable

AUTHOR OF REPORT

Name: Sarah Sellers

E Mail: s.sellers@bromsgroveandredditch.gov.uk

Tel: 01527 881397

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24 June 2011

By email

Mr K Dicks
Chief Executive
Bromsgrove District Council

Dear Mr Dicks

Annual Review Letter

I am writing with our annual summary of statistics on the complaints made to me about your authority for the year ending 31 March 2011. I hope the information set out in the enclosed tables will be useful to you.

The statistics include the number of enquiries and complaints received by our Advice Team, the number that the Advice Team forwarded to my office and decisions made on complaints about your council. Not all complaints are decided in the same year that they are received. This means that the number of complaints received and the number decided will be different.

The statistics also show the time taken by your authority to respond to written enquiries and the average response times by type of authority.

Communicating decisions

We want our work to be transparent and our decisions to be clear and comprehensible. During the past year we changed the way we communicate our decisions and reasons. We now provide a stand-alone statement of reasons for every decision we make to both the citizen who has complained and to the council. These statements replace our former practice of communicating decisions by letter to citizens that are copied to councils. We hope this change has been beneficial and welcome comments on this or any other aspect of our work.

In April 2011 we introduced a new IT system for case management and revised the brief descriptions of our decisions. My next annual letter will use the different decision descriptions that are intended to give a more precise representation of complaint outcomes and also add further transparency to our work.

Extended powers

During 2010/11 our powers were extended to deal with complaints in two significant areas.

In October 2010 all complaints about injustice connected to adult social care services came under our jurisdiction. The greater use of direct payments and personalised budgets mean that it is particularly important for us to be able to deal with such complaints irrespective of whether a council has arranged the care. The increasing number of people who arrange and pay for their own social care now have the right to an independent and impartial examination of any complaints and concerns they may have about their care provider.

In the six months to April 2011 we received 75 complaints under our new adult social care powers. Between 2009/10 and 2010/11 complaints about care arranged or funded by councils doubled from 657 to 1,351.

The Apprenticeships, Skills, Children & Learning Act 2009 introduced powers for us to deal with complaints about schools by pupils or their parents. This was to be introduced in phases and currently applies in 14 council areas. By the end of 2010/11 we had received 169 complaints about schools in those areas and 183 about schools in other areas where we had no power to investigate. The Education Bill currently before Parliament proposes to rescind our new jurisdiction from July 2012.

Our new powers coincided with the introduction of Treasury controls on expenditure by government departments and sponsored bodies designed to reduce the public spending deficit. This has constrained our ability to inform care service users, pupils and their parents of their new rights.

Assisting councils to improve

For many years we have made our experience and expertise available to councils by offering training in complaint handling. We regard supporting good complaint handling in councils as an important part of our work. During 2010/11 we surveyed a number of councils that had taken up the training and some that had not. Responses from councils where we had provided training were encouraging:

- 90% said it had helped them to improve their complaint handling
- 68% gave examples of how the knowledge and skills gained from the training had been applied in practice
- 55% said that complaints were resolved at an earlier stage than previously
- almost 50% said that citizens who complained were more satisfied.

These findings will inform how we develop and provide training in the future. For example, the survey identified that councils are interested in short complaint handling modules and e-learning.

Details of training opportunities are on our web site at www.lgo.org.uk/training-councils/

More details of our work over the year will be included in the 2010/11 Annual Report. This will be

published on our website at the same time as the annual review letters for all councils (14 July).

If it would be helpful to your council I should be pleased to arrange for me or a senior manager to meet and explain our work in greater detail.

Yours sincerely

A handwritten signature in black ink, appearing to read 'J Martin', with a horizontal line underneath.

Dr Jane Martin
Local Government Ombudsman

For information on interpretation of statistics click on this link to go to www.lgo.org.uk/CouncilsPerformance

LGO Advice Team

Enquiries and complaints received	Adult Care Services	Benefits & Tax	Corporate & Other Services	Education & Childrens Services	Environmental Services & Public Protection & Regulation	Highways & Transport	Housing	Other	Planning & Development	Total
Formal/informal premature complaints	0	1	0	0	1	0	1	0	1	4
Advice given	1	0	0	0	1	1	0	0	1	4
Forwarded in investigative team (resubmitted)	0	2	0	0	1	0	0	0	1	4
Forwarded to investigative team (new)	0	0	0	0	3	1	2	0	2	8
Total	1	3	0	0	6	2	3	0	5	20

Investigative Team

Decisions	Reports: maladministration and injustice	Local settlements (no report)	Reports: Maladministration no injustice	Reports: no Maladministration	No Maladministration (no report)	Ombudsman's discretion (no report)	Outside jurisdiction	Total
2010 / 2011	0	0	0	0	6	1	0	7

No adult social care decisions were made in the period

Response times	First enquiries	
	No of first Enquiries	Avg no of days to respond
01/04/2010 / 31/03/2011	9	26.6
2009 / 2010	7	26.0
2008 / 2009	11	24.5

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Provisional comparative response times 01/04/2010 to 31/03/2011

Types of authority	<= 28 days %	29 - 35 days %	> = 36 days %
District councils	65	23	12
Unitary authorities	59	28	13
Metropolitan authorities	64	19	17
County councils	66	17	17
London boroughs	64	30	6
National parks authorities	75	25	0

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COMMITTEE****21st September 2011****WORK PROGRAMME**

Relevant Portfolio Holder	Councillor Mark Bullivant
Portfolio Holder Consulted	Councillor Mark Bullivant
Relevant Head of Service	Claire Felton, Head of Legal, Equalities and Democratic Services and Monitoring Officer
Wards Affected	All Wards
Ward Councillor Consulted	N/A
Non-Key Decision	

1. SUMMARY OF PROPOSALS

Members are requested to consider the future Work Programme of the Standards Committee.

2. RECOMMENDATIONS

That, subject to any amendments made to it by the Committee, the Work Programme be approved.

3. KEY ISSUES**Financial Implications**

- 3.1 There are no financial implications associated with the contents of this report.

Legal Implications

- 3.2 There are no legal implications associated with the contents of this report.

Service / Operational Implications

- 3.3 The Standards Committee established a Work Programme at its meeting on 7th February 2008.
- 3.4 A Work Programme is beneficial to the Committee for the following reasons:
- (a) to ensure the Committee is fulfilling its roles and functions in accordance with the Council's Constitution;
 - (b) to enable Officers to be proactive in supporting the Committee and for the Committee to be equally proactive in introducing change to ensure the Council is an ethical organisation, which promotes and

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maintains high standards of conduct of elected Members, and is an organisation which relates to the community and improves the service it provides; and

(c) the rising profile of standards committees and, in particular, the changes brought about by the introduction of the local assessment of complaints of alleged breaches by district and parish councillors of the Members' Code of Conduct, under the Local Government and Public Involvement in Health Act 2007.

- 3.5 The Work Programme will appear as a regular item on Standards Committee agendas.
- 3.6 Officers will update the Work Programme, as appropriate, in between meetings and any amendments to this will be referred to the next meeting of the Committee for approval. Members of the Committee are welcome to contact Officers at any time with suggested changes to the Work Programme.
- 3.7 The Work Programme is linked to the Council's Improvement Objective.

Customer / Equalities and Diversity Implications

- 3.8 In terms of customer implications, a Work Programme will assist in informing Members, Officers and the public of the work being undertaken by the Committee in ensuring that the Council is an ethical organisation, which is proactively working towards improvement.

4. RISK MANAGEMENT

There are no risk implications associated with the contents of this report.

5. APPENDICES

Appendix 1 - Standards Committee Work Programme.

6. BACKGROUND PAPERS

Minutes of previous Standards Committee and full Council meetings as denoted under Item(s) for consideration section of the Work Programme.

7. KEY

Not applicable.

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21st September 2011

AUTHOR OF REPORT

Name: Debbie Parker-Jones
E Mail: d.parkerjones@bromsgroveandredditchbc.gov.uk
Tel: 01527 881411

**STANDARDS
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APPENDIX 1

STANDARDS COMMITTEE WORK PROGRAMME

[Note: Any items that it is proposed should be removed from the Work Programme are denoted by a strikethrough, with any new additions and/or rescheduled items appearing in bold italics.]

Meeting date	Item(s) for consideration
23rd November 2011	
25th January 2012	
21st March 2012	<ul style="list-style-type: none">• Ombudsman Complaint Statistics (Interim update for period ending 31st September 2011.)• Annual Review of the Operation of the Standards Committee and its Sub-Committees• Calendar of meetings 2012/13 (Subject to the outcome of the proposals contained in the Localism Bill for the abolition of mandatory standards committees.)
Note: Meetings for the 2012/13 Municipal Year are subject to the outcome of proposals contained in the Localism Bill for the abolition of mandatory standards committees and any decision made by full Council in relation to successor standards/ethical governance arrangements.	
June/July 2012	<ul style="list-style-type: none">• Appointment of Chairman and Vice-Chairman for 2012/13• Sub-Committee appointments for 2012/13
September 2012	<ul style="list-style-type: none">• Annual Ombudsman Complaint Statistics (Final report for period ending 31st March 2012 and to include comparison with neighbouring authorities.)
Date to be confirmed	<ul style="list-style-type: none">• Standards Committee Annual Report (Joint report for 2009/10 and 2010/11 Municipal Years. Minute 43/10 (iii) of the 23rd March 2011 Standards Committee meeting refers.)• Future of the Standards Regime (Report to Committee once more known on the

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	<p>proposed changes to the standards framework under the Localism Bill and the ongoing/future obligations for local authorities.)</p> <ul style="list-style-type: none">• Monitoring the Operation of the Members' Code of Conduct (Report to go to Committee following the conclusion of the complaints arising from the 29th July 2009 and 20th January 2010 meetings of full Council. Minute 11/10 of the 19th May 2010 Standards Committee meeting refers.)• Review of Planning Services Code of Practice/ Planning Committee Procedure Rules/Public Speaking at Planning Committee Meetings guidance (Minute 125/08 (ii) of 29th April 2009 full Council meeting refers. Date for Annual Review to be added to Work Programme on completion of Review. To be referred to Committee as soon as practicable: Minutes 50/09 (iv) and 57/09 of 24th March 2010 and Minute 33/10 of 26th January 2011 Standards Committee meetings refer.)• 'Planning Ahead' training session (For members of the Standards Committee - as developed by Standards for England in partnership with the Planning Advisory Service. To take place once any issues arising as a result of the Review of Planning Services Code of Practice above identified. Minute 50/09 (iv) of 24th March 2010 Standards Committee meeting refers.)• Draft Procedure for Processing Applications for Dispensations (Minute 21/09 (c) of 22nd July 2009 Standards Committee meeting refers.)• Annual Review of Council Protocols on Member-Officer and Member-Member Relations• Establishment of Parish Councils' Ethical Governance Training Programme (To be revisited once more known about the future of the standards regime under the Localism Bill - Monitoring Officer's Report to 22nd September 2010 Standards Committee meeting refers.)
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Note: All meetings of the Committee will include regular items such as:

- Minutes of previous meeting;
- Monitoring Officer's Report;
- Parish Councils' Representatives' Report;
- Complaint / investigation updates; and
- Work Programme.