



BROMSGROVE DISTRICT COUNCIL

MEETING OF THE STANDARDS COMMITTEE

WEDNESDAY 28TH NOVEMBER 2012 AT 6.00 P.M.

COMMITTEE ROOM, THE COUNCIL HOUSE, BURCOT LANE, BROMSGROVE

MEMBERS: Councillors: Mrs. M. A. Sherrey JP (Chairman), M. A. Bullivant (Vice-Chairman), Dr. D. W. P. Booth JP, Dr. B. T. Cooper, S. J. Dudley, L. C. R. Mallett, Mrs. C. M. McDonald, Mrs. C. J. Spencer and L. J. Turner

Parish Councils' Representatives (non-voting co-opted):
Mr. J. Cypher and Mr. I. A. Hodgetts

Observer: Deputy Parish Councils' Representative (non-voting co-opted): Mrs. K. May

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 meeting of the Standards Committee held on 25th July 2012 (Pages 1 - 4)
4. Monitoring Officer's Report (Pages 5 - 8)

[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. Localism Act 2011 - New Standards Regime - Dispensations and Complaints Processes (Pages 9 - 20)

[To consider the granting of general dispensations under s33 of the Localism Act 2011, the processes for the investigation, reporting and recording of complaints made against Members and the process for local hearings.]

7. Work Programme (Pages 21 - 26)

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

8. 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

9. 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

22nd November 2012



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BROMSGROVE DISTRICT COUNCIL

MEETING OF THE STANDARDS COMMITTEE

WEDNESDAY, 25TH JULY 2012 AT 6.00 P.M.

PRESENT: Councillors M. A. Bullivant, Dr. B. T. Cooper, S. J. Dudley,
Mrs. C. M. McDonald, Mrs. M. A. Sherrey JP, Mrs. C. J. Spencer and
L. J. Turner

Parish Councils' Representatives (non-voting co-opted): Mr. J. Cypher
and Mr. I. A. Hodgetts

Observer: Mrs. K. May (Deputy Parish Councils' Representative)

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

1/12 **ELECTION OF CHAIRMAN**

RESOLVED that Councillor Mrs. M. A. Sherrey JP be elected Chairman of the Committee for the ensuing Municipal Year.

2/12 **ELECTION OF VICE-CHAIRMAN**

RESOLVED that Councillor M. A. Bullivant be elected Vice-Chairman of the Committee for the ensuing municipal year.

3/12 **APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors Dr. D. W. P. Booth JP and L. C. R. Mallett.

4/12 **DECLARATIONS OF INTEREST**

No declarations of interest were received.

5/12 **MINUTES**

The minutes of the meetings of the former Standards Committee held on 24th May 2012 and 13th June 2012 were submitted.

The Democratic Services Officer advised that Noel Burke, Independent Chairman of the former Standards Committee, had previously approved the Full Written Decision appended to the 24th May 2012 Final Determination Hearing minutes and that the Decision was therefore appended for completeness. She further added that whilst the covering minutes confirmed Councillor L. C. R. Mallet as having been present on 24th May, the separate

Decision did not. The Decision was incorrect and it was noted that Councillor Mallet had been present at the Hearing.

Regarding the 13th June 2012 minutes, Mr. Cypher stated that the fourth paragraph of Minute No. 7/12 (iii) (Localism Act 2011) should read that he had attended a meeting of the West Midlands County Association of Local Councils, and not of the West Midlands Local Government Association.

RESOLVED that, subject to the amendments detailed in the preamble above, the minutes be approved as correct records.

6/12 **MONITORING OFFICER'S REPORT**

The Deputy Monitoring Officer (DMO) introduced the Monitoring Officer's (MO) report and, in doing so, updated Members on the position with the Register of Members' Disclosable Pecuniary Interests forms (DPI forms) which had so far been received from district and parish councillors. A number of drop-in sessions had taken place for Members who wished to seek assistance on completing their forms and numerous enquiries had been received from Members and Parish Council Clerks on the new interests' regime. Further guidance was awaited from the Department for Communities and Local Government on how the forms should be completed and it was confirmed that none of the DPI forms would be published on the Council's website until such guidance had been issued.

The DMO added that a meeting had taken place with the Parish Council Clerks and Richard Levett of the Worcestershire County Association of Local Councils the previous week to discuss how DPI forms would be dealt with in accordance with the requirements set out in the Localism Act, and a process had been agreed with them in that regard.

Regarding the non-appointment of Independent Persons under the new standards regime, Officers would be running a further recruitment exercise and discussions had taken place with Members who had been in attendance at the initial round of interviews to consider how to best target any future advertisement to encourage more people to apply. It was hoped to reconvene the Appointments Committee for further interviews some time in September.

The DMO reported that the three Code of Conduct training sessions which had taken place in June had been well attended, particularly by the parishes. It was noted that there might be a need to undertake further similar sessions in the autumn. No dates had yet been established in this regard and the matter would be reviewed in due course.

An update was given by the DMO in relation to investigations which had been ongoing under the former standards regime and the transitional provisions in relation to these. The DMO stated that the transitional arrangements did not allow Officers to continue with the investigations and that letters had that day been sent to the Members concerned detailing the position. It was also noted that Councillor Dr. Booth had attended the required Code of Conduct training in June.

Finally, having missed the mandatory 'Introduction to the Standards Committee' training earlier that evening, it was noted that Councillors Booth and Mallett would be required to complete equivalent training with either the MO or DMO prior to their sitting on the Committee.

RESOLVED

- (a) that the contents of the report be noted; and
- (b) that any required actions arising from the points detailed in the report and the preamble above be acted upon, as appropriate.

7/12 **PARISH COUNCILS' REPRESENTATIVE REPORT**

Mr. Cypher reported that there had been no meeting of the Bromsgrove Area Committee of the Worcestershire County Association of Local Councils since June, and that the next meeting would be taking place in September.

He stated that he was unsure as to whether all of the Parish Councils within the District had yet met to adopt the Code of Conduct and queried whether that was known to the Monitoring Officer. The MO stated that she thought it was inevitable that this might be the case. Whilst there was a risk associated with any Parish Council not having adopted their Code at this stage, she believed there was nationally an understanding that it would take a short amount of time for that to happen. The advice that the MO was giving was that Parish Councils should, at their earliest opportunity, adopt a Code and advise Officers of both the Code which they had adopted and the date of adoption (enclosing a copy of the relevant minute confirming adoption). Whilst being in a position of not having done this however the Parish Councils would be in breach of the requirements.

Mr. Cypher added that Parish Councils were not particularly happy with the current position whereby Parish Council Representatives no longer had voting rights on standards committees. He stated that the National Association of Local Councils were currently in discussions with Department for Communities and Local Government Ministers regarding a possible amendment on the restoration of voting rights.

RESOLVED that the position be noted.

8/12 **WORK PROGRAMME**

Members considered the future Work Programme of the Committee.

It was felt that the number of meetings should be reduced from the former Standards Committee's six meetings per municipal year to four meetings, as it was anticipated that the new arrangements for dealing with Member complaints would see less Committee activity. Meetings could however still be added and/or cancelled as necessary, depending on business to be conducted. This would accommodate any ad-hoc meetings required for considering dispensations or conducting Member hearings. As such, it was agreed that the meetings detailed in the proposed Work Programme for 19th

September 2012, 23rd January 2013, June 2013 (date to be determined) and September 2013 (date to be determined) would be deleted from the calendar of meetings, with meetings taking place on a quarterly basis.

Officers advised that a report on the process for managing hearings would be referred to the 28th November 2012 meeting. It was further agreed that the Member-Member and Member-Officer Protocols would be reviewed at the July 2013 meeting and would include input from the Leaders of the two largest Political Groups.

RESOLVED that, subject to the updates detailed in the preamble above, the Work Programme be approved.

The meeting closed at 6.40 p.m.

Chairman

BROMSGROVE DISTRICT COUNCIL

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MONITORING OFFICER'S REPORT

Relevant Portfolio Holder	Councillor Mark Bullivant
Portfolio Holder consulted	
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 This report sets out the position in relation to key matters which are of relevance to the Standards Committee.
- 1.2 It is proposed that a report of this nature be presented to each meeting of the Committee to ensure that Members are kept updated as to any relevant developments.
- 1.3 Any further updates arising after publication of this report 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 arising out of this report.

Legal Implications

- 3.2 The Localism Act became law on 15th November 2011. Chapter 7 of Part 1 of the Localism Act 2011 introduced a new standards regime effective from 1st July 2012. The Act places a requirement on authorities to promote and maintain high standards of conduct by Members and co-opted (with voting rights) Members of an authority. The Act also requires the authority to have in place arrangements under which allegations that either a district or parish councillor has breached his or her Code of Conduct can be investigated, together with arrangements under which decisions on such allegations can be made. The Relevant Authorities (Disclosable Pecuniary Interests)

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Regulations 2012 were laid before Parliament on 8th June 2012 and also came into force on 1st July.

Service / Operational Implications

New Standards Regime & Disclosable Pecuniary Interests forms

- 3.3 A new standards regime which introduced fundamental changes to the system of regulation of the standards of conduct for elected Members and co-opted Members (with voting rights) came into force on 1st July 2012.
- 3.4 Under the new regime Members are still required to comply with a Code of Conduct and the authority has established arrangements under which complaints that a Member (at either parish or district level) has failed to comply with his or her authority's Code of Conduct can be dealt with.
- 3.5 Members are required to complete a Register of Members' Disclosable Pecuniary Interests (DPI) form. Section 29 of the Localism Act requires that all parish and district DPI forms be published on the District Council's website. If a parish council has a website it too much ensure that its Members forms are published on its own website. Officers have been liaising with Members and the Parish Council Clerks/Executive Officers in recent months on the submission and completion of DPI forms. Hard copies of the master Register of Interests are also available for inspection at the Council House.

Appointment of Independent Persons

- 3.6 The Localism Act requires that the arrangements put in place to deal with complaints against Members must include provision for the appointment by the authority of at least one Independent Person whose views are to be sought, and taken into account, by the authority before it makes its decision on a complaint allegation that it has decided to investigate, and whose views may be sought by the authority or subject Member in certain circumstances.
- 3.7 Following an unsuccessful recruitment and selection process for an Independent Person(s) in the summer, which did not see any suitable candidate(s) for recommendation to Full Council for appointment, a further recruitment exercise took place and a second Appointments Committee met on 18th September 2012. Two candidates, namely Ms. D. Jinks and Mr. M. Nock, were unanimously recommended by the Committee for appointment. Full Council on 26th September 2012 approved both appointments, which it

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was agreed would be reviewed annually by the Monitoring Officer in consultation with Group Leaders.

Member Dispensations and Complaints

- 3.8 Members' attention is drawn to the separate report which appears later in this agenda in relation to the granting of general dispensations under s33 of the Localism Act, together with the processes for the investigation and reporting of complaints and for local hearings.

Member Training

- 3.9 The majority of the training detailed in the 2012/13 programme of Member training has now been completed, with 'mop-up'/1:1 sessions being arranged as necessary for those Members who have been unable to attend certain of the sessions.
- 3.10 Remaining planned training sessions for the current municipal year include:
- Data Protection and Freedom of Information;
 - Equalities and Diversity; and
 - Outside Bodies.
- 3.11 Further training sessions/workshops on the new standards regime will be arranged as and when these are deemed necessary.
- 3.12 The Member Development Steering Group will be meeting in due course to evaluate the training which has taken place as part of the 2012/13 programme.

Customer / Equalities and Diversity Implications

- 3.13 Any process for managing standards of behaviour for elected and co-opted Councillors must be accessible to the public. It is therefore proposed that an impact assessment will be carried out on the complaints process when established, to ensure accessibility.
- 3.14 In addition, it is proposed that the new arrangements will be publicised on the Council's website and that Officers will work to ensure that members of the public are made aware of the process for making a complaint through all existing community engagement events.

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4. RISK MANAGEMENT

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.

5. APPENDICES

None

6. BACKGROUND PAPERS

Chapter 7 of the Localism Act 2011.

Standards reports to Full Council on 16th May and 19th June 2012.

AUTHOR OF REPORT

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STANDARDS COMMITTEE

28th November 2012

LOCALISM ACT 2011 - NEW STANDARDS REGIME - DISPENSATIONS AND COMPLAINTS PROCESSES

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

1. SUMMARY OF PROPOSALS

- 1.1 To consider the granting of general dispensations under s33 of the Localism Act 2011 and under the Code of Conduct, to enable Members to participate and vote on matters under consideration at meetings in the particular circumstances set out in this report.
- 1.2 To consider the investigation and hearings processes as outlined in the report.
- 1.3 To consider the means of recording complaints made against Members under the new regime and how these should be reported.

2. RECOMMENDATIONS

The Committee is asked to **RESOLVE** that

- 1) **the Standards Committee grants a dispensation under Section 33 (2) (a) of the Localism Act 2011 and under the Council's Code of Conduct, to allow all Members to participate in and vote at Council and committee meetings when considering the setting of:**
 - a) **Council Tax; and**
 - b) **Members' Allowances,**

on receipt of a written request from Members for a dispensation and where Members may have a Disclosable Pecuniary Interest in the matter under consideration, which would otherwise preclude such participation and voting;
- 2) **the Standards Committee grants a dispensation under Section 33 (2) (c) and (e) of the Localism Act 2011 and under the Council's Code of Conduct to allow Members, who would otherwise be prevented from doing so, due to having a Disclosable Pecuniary Interest in the matter under consideration, to address Council and committees in**

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circumstances where a Member of the public may elect to speak;

- 3) the dispensations referred to at 1) and 2) above to be valid until the first Standards Committee meeting after the municipal elections in 2015.
- 4) the guidelines for the conduct of Investigations into allegations of breach of the Code of Conduct as attached at Appendix 1 be considered and approved;
- 5) the guidelines on the conduct of a Hearing following an investigation into an allegation of breach of the Code of Conduct as attached at Appendix 2 be considered and approved, and that consideration be given as to whether Hearings should take place in private or public and that Hearings Sub-Committees be established to conduct local hearings; and
- 6) that the process of the management and investigation of complaints should not be public information until the process has been completed, when information on the parties, the complaint and the outcome should be publicly reported to the Committee (unless the complainant is a private individual, and in exceptional circumstances the Monitoring Officer considers it appropriate for their name to be withheld from such public report).

3. KEY ISSUES

Financial Implications

- 3.1 None.

Legal Implications

Dispensations

- 3.2 Section 33 of the Localism Act 2011 provides that Dispensations can be granted in respect of Disclosable Pecuniary Interests ("DPI").
- 3.3 Section 33 (1) requires that a Member must make a written request for a dispensation.
- 3.4 Section 33 (3) provides that a dispensation must specify the period for which it has effect and that period may not exceed 4 years.

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Investigations and Hearings

- 3.5 Under sections 28(6) and (7) of the Localism Act 2011, the Council must have in place arrangements under which allegations that a Member or co-opted Member of the authority (or Parish Council within the authority's area) has failed to comply with that authority's Code of Conduct can be investigated and decisions made on such allegations.
- 3.6 The general arrangements for handling standards complaints were submitted to the Extraordinary Meeting of the Council on 19th June 2012 and Council delegated to this Committee and the Monitoring Officer authority to administer the Standards procedures and processes relating to Code of Conduct, and Arrangements for managing standards complaints, as adopted.

3.7 **Reporting Complaints**

- 3.8 The final matter for consideration sits within the general Arrangements and also engages the statutory duty to promote and maintain high standards of conduct by members under s27 of the Localism Act. It concerns the means of dealing with and reporting on complaints, the parties and outcomes and whether and when this information would be in public.

Service / Operational Implications

Dispensations

(i) Particular Issues for Consideration

- 3.9 Under s31 (4) of the Localism Act 2011 a Member who has a Disclosable Pecuniary Interest ("DPI") in a matter under consideration is not permitted to participate in the discussion or vote on the matter unless s/he has first obtained a dispensation under s33.
- 3.10 The consideration of whether to grant a dispensation under s33 has been delegated to this Committee.
- 3.11 Section 33 includes a number of situations where a dispensation can be considered but should be granted "only if, after having regard to all relevant circumstances" the Committee considers that one of those situations applies.
- 3.12 Section 33 (2) (a) provides that a dispensation may be granted where the authority "considers that without the dispensation the number of persons prohibited from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business".

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3.13 The Monitoring Officer considers that this exemption might be required where the business of a meeting is the setting of Council Tax and Members' Allowances so that it might be appropriate for the Committee to grant a dispensation to Members with a DPI when these items of business are under consideration, provided that Members comply with the requirement of applying for a dispensation in writing.

3.14 To satisfy this requirement, the Monitoring Officer will circulate to all members of the Council a request form for the dispensations described in this report for the period set out at Recommendation 3) above and, upon receipt of the written request, a dispensation will take effect.

(ii) Member ability to speak

3.15 Section 33 (2) (c) of the Localism Act provides that a dispensation may be granted where the authority "considers that granting the dispensation is in the interests of persons living in the authority's area".

3.16 Under the previous standards regime, an exemption allowed Members with the then equivalent of what are now "Disclosable Pecuniary interests" to speak at a meeting in the same way that a member of the public could exercise a right to speak, even where the Member had what was then known as a "personal and prejudicial" interest in a matter and would otherwise not have been able to be present at the meeting in any capacity. This exemption only extended to allowing the Member to address the meeting in the same way as the member of the public is able to do, and as soon as the Member had exercised the right to speak they had to then leave the meeting (unlike the member of the public, who could remain in the meeting after speaking).

3.17 This exemption did not transfer into the new regime under the Localism Act 2011 so that where a Member has a DPI affecting their ability to participate in a meeting, they are unable to exercise a right to speak to the meeting in the same way that a member of the public can, without a dispensation.

3.18 An example of where a Member with a DPI would currently be unable to participate in a meeting and exercise a right to speak would be at Licensing Sub-Committee, on a particular licensing matter under consideration.

3.19 The Monitoring Officer considers that it would be expedient for the Committee to consider granting a dispensation under the exemption in section 33(2)(c) to enable Members to exercise a right to speak as set out above.

3.20 There is still a requirement for a request for a dispensation to be made in writing so the Monitoring Officer will include this exemption in the request form to be circulated to Members referred to at 3.12 above.

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(iii) Investigations and hearings.

- 3.21 Since the adoption of the general Arrangements for handling standards complaints, two more detailed processes have been drafted and these are appended to this report as follows:

Appendix 1 contains the proposed process for the conduct of investigations into allegations of breach of the Code of Conduct in circumstances where local resolution of a complaint is not possible and it has been referred for investigation by the Monitoring Officer.

- 3.22 The Committee is asked to consider the proposed procedure and if satisfied with it, to agree to its adoption or as amended to the Committee's satisfaction.
- 3.23 **Appendix 2** contains the proposed process for the conduct of a Hearing at the outcome of an investigation, again for the Committee's consideration and if satisfied with it, to agree to its adoption or as amended to the committee's satisfaction.
- 3.24 In addition to considering the Hearing Procedure the Committee is also asked to consider whether Hearings should be held in public or private, and to establish Hearings Sub-Committees (of the Standards Committee) to carry out such Hearings.

(iv) Reporting on Complaints

- 3.25 Section 28 (4) of the Localism Act 2011 provides that a failure to comply with the authority's Code of Conduct is not to be dealt with otherwise than in accordance with the arrangements made and adopted by the authority under the Act.
- 3.26 The general thrust of the arrangements for dealing with complaints against Members for a breach of the Code of Conduct is for local resolution options to be used as far as possible, with the leaders of the political groups to be included along with the Independent Person and to encourage mediation and support measures to be used when the circumstances allow and that investigations are reserved for those cases where there would appear to be no other practical or effective means of resolution.
- 3.27 The arrangements as adopted do not address the issue of whether and when information on complaints is to be made public and the Monitoring Officer requests that the Committee considers and decides how the reporting of the number, nature and outcome of complaints can contribute towards discharging the Council's duty to promote and maintain high standards of conduct by Members under s27 of the Localism Act 2011.

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- 3.28 The Monitoring Officer would ask the Committee to consider whether an investigation should remain confidential until concluded formally and that all determinations, including informal determinations and whether Code related or otherwise should be reported to the Standards Committee in a public Report (with the caveat that a complainant may remain anonymous if they are a member of the public and can justify why they should remain anonymous).

Customer / Equalities and Diversity Implications

- 3.29 In addition, it is proposed that the new arrangements will be publicised on the Council's website and that Officers will work to ensure that members of the public are made aware of the process for making a complaint through all existing community engagement events.

4. RISK MANAGEMENT

Recommending the inclusion of the proposals made in this report in the overall arrangements for the processing of complaints against Members/co-opted Members appended to the report will enable the Council to discharge its duty to consider and determine standards complaints and to discharge the duty to promote high standards in public life.

5. APPENDICES

Appendix 1 - Guidelines for the conduct of investigations into allegations of breach of the Code of Conduct.

Appendix 2 - Process for the conduct of a Hearing after an investigation into allegations of breach of the Code of Conduct.

6. BACKGROUND PAPERS

Relevant sections of the Localism Act 2011.

AUTHOR OF REPORT

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Bromsgrove District Council Standards Committee

Guidelines for the conduct of Investigations into allegations of breach of the Code of Conduct

General

1. MO (Monitoring Officer) appoints the IO (Investigating Officer) and provides the IO with all relevant background information.
2. MO notifies the Complainant, Subject Members and Independent Person (IP) of the appointment.
3. IO contacts the Complainant and Subject Member to advise of his/her contact details and approximate timescale for investigation.
4. Purpose of Investigation is for the IO to establish the facts of the case and form a view on whether there has been any breach of the Code of Conduct.
5. IO starts investigation – for him/her to decide exactly what is needed but as a guideline would be expected to include:-
 - Information gathering from public documents, council minutes etc.
 - Interviews of key persons involved to include subject members, complainant, IP, Council officers, Parish clerk etc. Interviews to take place either by phone or in person at the Council House.
 - Analysis based on the facts of whether there has been a breach of the Code.
 - If the view is reached that there has been a breach, report to cover any mitigating/ aggravating circumstances that the IO has established in the course of the investigation.
6. Once IO has completed enquiries draft report to be sent to the MO, Subject member and Complainant. IO to allow a reasonable opportunity for the Subject Member or complainant to feed back any comments they wish to make. IO will include a note of the feed back comments in the report.
7. IO to submit final signed report to the MO and to send a copy to the Subject Member and the Complainant.

Referrals from the IO to the MO for further guidance

8. If in the course of the investigation the IO establishes that in addition to the breaches under investigation there appear to have been further breaches of the Code he/ she will contact the MO as soon as reasonably practical to discuss the implications of this for the investigation. The MO, after consulting with the IP, will decide whether or not to increase the scope of the investigation to cover the new matters.
9. If early on in the investigation the IO establishes facts that lead to the conclusion that the Code of Conduct did not apply, or that there has not been a breach, he/she will refer the matter back to the MO for further instructions. The MO will consider the information from the IO and if appropriate, and after consultation with the IP, indicate that a short report outlining the information established and evidencing the view reached by the IO be submitted instead of a full report.

Referrals to the IO by the MO

10. If after receiving the IO's final report the MO is of the view that any part of the report is incomplete or requires further consideration, she may ask the IO to carry out further specified enquiries on the basis that the IO will then submit a revised final report.

Attendance at Local Hearing

11. In the event that the complaint cannot be resolved by the MO upon receipt of the IO's final report and the matter proceeds to a local hearing, then the IO will be required to attend the hearing. His/her role at the hearing will be to present the report to the Members of the Standards Committee and to answer questions as to the findings reached and the reasoning for that decision.

Confidentiality

12. The IO may disclose that he/she is conducting an investigation, but the information gathered as part of the investigation is to be treated as confidential. Maintaining confidentiality reduces the risk of evidence being viewed as biased and preserves the integrity of the investigation. It is also advisable for those who participate in the investigation as witnesses to be asked by the IO to maintain confidentiality.

Bromsgrove District Council Standards Committee

Local Hearing Procedure - Hearings Sub-Committee

Representation

1. The Member who is the subject of the allegation (“the Subject Member”) may be represented or accompanied during the hearing by a solicitor, counsel or another person; the permission of the Hearings Sub-Committee is required to allow the Subject Member to be represented or accompanied by a non-legal representative. The Sub-Committee may choose to withdraw its permission to allow a representative if that representative disrupts the hearing.

Legal advice

2. The Sub-Committee may take legal advice from its legal advisor at any time during the hearing or while it is considering the outcome. The substance of any legal advice given to the Sub-Committee should be announced to the meeting.

Introduction

3. The Chairman will introduce the members of the Sub-Committee, the Investigating Officer, the Independent Person and the Officers present. The Subject Member will introduce any person who is acting as his or her representative and any witnesses to be called on his or her behalf. The Investigating Officer will introduce any witnesses that he or she is calling and the complainant (if the Investigating Officer has asked the complainant to attend to give evidence).
4. The Chairman will outline the procedure to be followed.

Preliminary issues

5. The Sub-Committee will consider and decide on any preliminary issues which have not been resolved as part of the pre-hearing process.
6. The Sub-Committee may adjourn the meeting and move to another room to consider those issues. On returning the Chairman will announce the Sub-Committee’s decision and the reason(s) for the decision.

Findings of fact, failure to follow the Code of Conduct and recommendations to the relevant authority

Findings of fact

7. The Sub-Committee will, with the benefit of any advice from the Independent Person (which will be given during the hearing and in the presence of all parties), determine the facts of the matter and whether or not, based on the facts they have found, the Subject Member has failed to follow the Code of Conduct. The Sub-Committee will also consider whether it wishes to make any recommendations to the relevant authority with a view to promoting high standards of conduct among Members.

8. If there is a disagreement on the facts the Investigating Officer will be invited to make representations to support the relevant findings of fact in his or her report. The Investigating Officer may call witnesses or the complainant to give evidence. The Sub-Committee will give the Subject Member an opportunity to question any evidence put forward by the Investigating Officer or any party called by the Investigating Officer. If the Subject Member disagrees with most of the facts, the Investigating Officer may make representations on all the relevant facts, instead of discussing each fact individually.
9. The Subject Member may then make representations to support his or her version of the facts and call any necessary witnesses to give evidence.
10. At any time, the Sub-Committee may question any of the parties involved or any of the witnesses, and may allow the Investigating Officer to question any evidence put forward by the Subject Member or any witnesses called by the Subject Member.
11. If the Subject Member disagrees with any relevant fact in the Investigating Officer's report without having given prior notice of the disagreement as part of the pre-hearing process, he or she must give good reasons for not mentioning it before the hearing. After considering the Subject Member's explanation for not raising any disputed facts at an earlier stage the Sub-Committee may:
 - a) continue with the hearing, relying on the information contained in the Investigating Officer's report;
 - b) allow the Subject Member to make representations about any newly disputed facts and invite the Investigating Officer to respond and call any witnesses, as necessary; or
 - c) postpone the hearing to arrange for appropriate witnesses to be present.
12. Failure to follow the Code of Conduct
The Subject Member will be invited to give relevant reasons why the Sub-Committee should not decide that he or she has failed to follow the Code.
13. The Sub-Committee will then consider any oral or written representations from the Investigating Officer.
14. The Subject Member will be invited to make any final relevant points.
15. The Sub-Committee may, at any time, question anyone involved on any point they raise in their representations.

Decisions and recommendations to the relevant authority

16. The Sub-Committee will adjourn the meeting and move to another room to consider the findings of fact, whether the Subject Member has failed to follow the Code and whether it wishes to make any recommendations to the relevant authority with a view to promoting high standards of conduct among Members (note: If there is a finding of failure to follow the Code a decision on any recommendations to the relevant authority may be made at the point the Sub-Committee determines whether a sanction should be imposed on the Subject Member).
17. On returning the Chairman will announce the Sub-Committee's decisions on the findings of fact, the Subject Member's failure to follow the Code and whether there are any recommendations to be made to the relevant authority.

Sanctions

18. If the Sub-Committee decides that the Subject Member has failed to follow the Code it will consider any representations from the Subject Member as to whether or not the Sub-Committee should impose a sanction and what form any sanction should take. In view of the finding of failure to follow the Code the Sub-Committee may also give further consideration as to whether it wishes to make any recommendations to the relevant authority with a view to promoting high standards of conduct among Members.
19. The Sub-Committee may question the Subject Member and take legal advice to ensure it has all of the information it needs to make a decision.
20. The Sub-Committee will adjourn the meeting and move to another room to consider whether or not to impose a sanction on the Subject Member and, if so, what the sanction should be, and whether it wishes to make any recommendations to the relevant authority.
21. On returning the Chairman will announce the Sub-Committee's decision on any sanction and recommendations.

Written decision

22. The Sub-Committee will announce its decision on the day and a written decision will be issued shortly after the hearing.

Making the findings public

23. *To be determined by the Standards Committee (including website publication, reporting of hearing outcomes to Full Council etc).*

Appeal

24. There is no right of appeal for a complainant or the Subject Member of a decision of the Hearings Sub-Committee. Any decision would however be open to judicial review by the High Court if it was patently unreasonable, if it were taken improperly, or if it sought to impose a sanction which the Council had no power to impose.

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STANDARDS COMMITTEE

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WORK PROGRAMME

Relevant Portfolio Holder	Councillor Mark Bullivant
Portfolio Holder Consulted	
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 Under the Localism Act 2011 the Council has a duty to promote and maintain high standards of conduct by elected Members and co-opted Members (with voting rights), at both district and parish level. A new Standards Committee has therefore been established to enable the Council to discharge its duties in this regard.
- 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 and any prevailing legislation; and

STANDARDS COMMITTEE

28th November 2012

- (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 maintains high standards of conduct of Members, and is an organisation which relates to the community and which continually strives to improve the service it provides.
- 3.5 A copy of the Work Programme, as approved at the first meeting of the new Standards Committee on 25th July 2012 is attached at Appendix 1. The Committee's Terms of Reference, which were approved by Full Council on 19th June 2012, are attached for Members' information at Appendix 2.
- 3.6 The Work Programme will appear as a regular item on all Standards Committee agendas.
- 3.7 Officers will update the Work Programme, as appropriate, in between meetings and in consultation with the Chairman of the Committee. Any changes to this will be reported to the next meeting of the Committee, as appropriate. Members of the Committee are welcome to contact Officers at any time with suggestions for the Work Programme.
- 3.8 The Work Programme is linked to the Council's Improvement Objective.

Customer / Equalities and Diversity Implications

- 3.9 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 well managed and 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
Appendix 2 - Standards Committee Terms of Reference

6. BACKGROUND PAPERS

None

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COMMITTEE**

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7. KEY

Not applicable.

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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
20th March 2013 (final meeting of the municipal year)	<ul style="list-style-type: none">• Annual Review of the Operation of the Standards Committee and any of its Sub-Committees.• Calendar of meetings 2013/14.
June/July 2013 (date to be determined)	<ul style="list-style-type: none">• 12 month review of new standards regime, including Parish Councils' Representative roles on the Committee.• Review of the operation of the Protocol on Member-Officer relations.• Review of the operation of the Protocol on Member-Member relations.
September/October 2013 (date to be determined)	
December 2013 /January 2014 (date to be determined)	
March/April 2014 (date to be determined)	
Date to be agreed	
<p>Note: All meetings of the Committee will include regular items such as:</p> <ul style="list-style-type: none">• Minutes of previous meeting;• Monitoring Officer's Report;• Parish Councils' Representatives Report;• Relevant Member complaint/investigation updates; and• Work Programme.	

**APPENDIX 2
STANDARDS COMMITTEE TERMS OF REFERENCE**

<p>Terms of Reference</p>	<p>The Standards Committee will have the following roles and functions:</p> <ul style="list-style-type: none">a. promoting and maintaining high standards of conduct by Councillors and any co-opted members of Council bodies;b. assisting the Councillors and co-opted members to observe the Members' Code of Conduct;c. advising the Council on the adoption or revision of the Members' Code of Conduct;d. monitoring the operation of the Members' Code of Conduct;e. advising, training or arranging to train Councillors and co-opted members on matters relating to the Members' Code of Conduct;f. granting dispensations to Councillors and co-opted members from requirements relating to interests set out in the Members' Code of Conduct;g. dealing with any report from the Monitoring Officer following an investigation into a complaint concerning the Members' Code of Conduct;h. considering and determining allegations that a Councillor or co-opted Councillor may have failed to follow the Code of Conduct and where a breach of the Code is established impose sanctions as delegated by Full Council or make recommendations as to any sanctions to the appropriate person or body.i. the exercise of g – h above in relation to the Parish Councils in the Council's area and the members of those parish Councils;j. monitoring, and reviewing the operation of the Protocol on Member-Officer relations;k. monitoring and reviewing the operation of the Protocol on Member-Member Relations.
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