



## **BROMSGROVE DISTRICT COUNCIL**

### **MEETING OF THE STANDARDS COMMITTEE**

**THURSDAY 11TH JULY 2013 AT 6.00 P.M.**

**COMMITTEE ROOM, THE COUNCIL HOUSE, BURCOT LANE, BROMSGROVE**

**MEMBERS:** Councillors: Dr. D. W. P. Booth JP, M. A. Bullivant,  
Dr. B. T. Cooper, S. J. Dudley, Mrs. C. M. McDonald,  
R. J. Shannon, Mrs. M. A. Sherrey JP, Mrs. C. J. Spencer,  
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. Election of Chairman for the ensuing municipal year
2. Election of Vice-Chairman for the ensuing municipal year
3. To receive apologies for absence and notification of substitutes
4. Declarations of Interest
5. To confirm the accuracy of the minutes of the meeting of the Standards Committee held on 20th March 2013 (Pages 1 - 6)

6. Monitoring Officer's Report (Pages 7 - 10)

[To receive a report from the Monitoring Officer on any matters of relevance to the Committee.]

7. Parish Councils' Representatives' Report

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

8. Localism Act 2011 - Updated Arrangements for Handling Standards Complaints Against Members (Pages 11 - 24)

[To consider issues identified by Officers as part of a 12 month review of the new Standards regime introduced in July 2012.]

9. Work Programme (Pages 25 - 30)

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

10. 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

11. To consider, and if considered appropriate, to pass the following resolution to exclude the public from the meeting during the consideration of item(s) of business containing exempt information:-

[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



**Bromsgrove**  
District Council  
[www.bromsgrove.gov.uk](http://www.bromsgrove.gov.uk)

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# Agenda Item 5

## BROMSGROVE DISTRICT COUNCIL

### MEETING OF THE STANDARDS COMMITTEE

WEDNESDAY, 20TH MARCH 2013 AT 6.00 P.M.

PRESENT: Councillors Mrs. M. A. Sherrey JP (Chairman), M. A. Bullivant (Vice-Chairman), Dr. D. W. P. Booth JP, L. C. R. Mallett (during Minute No's 21/12 to 24/12), Mrs. C. M. McDonald and L. J. Turner

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

Observers: Mrs. K. May (Deputy Parish Councils' Representative - non-voting co-opted) and Mr. E. M. Nock OBE (Independent Person)

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

#### 16/12 WELCOME - MR. E. M. NOCK OBE

The Chairman welcomed Mr. E. M. Nock OBE and introduced him to the members of the Committee.

Mr. Nock was one of the two Independent Persons appointed by the authority under the new standards regime and was present to observe the Committee.

#### 17/12 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Dr. B. T. Cooper, S. J. Dudley and Mrs. C. J. Spencer.

#### 18/12 DECLARATIONS OF INTEREST

No declarations of interest were received.

#### 19/12 MINUTES

The minutes of the meeting of the Standards Committee held on 28th November 2012 were submitted.

RESOLVED that the minutes be approved as a correct record.

#### 20/12 MONITORING OFFICER'S REPORT

The Monitoring Officer (MO) introduced her report and in doing so highlighted the successful local resolution of the 12 Member to Member complaints which had been received during the first six months of the new standards regime.

The MO stated that the event which she and Mr. Nock had attended at County Hall in January had proven to be very useful, particularly in the sharing of experiences with other Monitoring Officers and Independent Persons. It was hoped that the event would be repeated annually. Ms. Jinks, the authority's second Independent Person, had been unable to attend the event however arrangements had now been made for her induction.

Mr. Nock advised that he broadly shared the same view as the MO. He commented that whilst he was still finding his feet in his new role, what had struck him were the widely differing views of the county's Monitoring Officers as to how they saw their roles. He saw the role of Independent Person as that of an 'advisory' role.

It was queried whether all of the Member complaints received related to district councillors, which the MO advised she recalled was the case. A Parish Representative queried whether it was possible for more detail to be provided in relation to complaints received. Concern was also expressed as to how onerous the new system of complaint handling was on the MO's time in view of her enhanced role under the new regime.

The MO responded that the Committee had previously determined that it only wished to receive information on the number of complaints received, and that over a period of time any trends emerging from complaints might also be reported to Members. She added that, at present, there were no trends arising to report on and that the new regime had so far proved to be quite onerous, particularly in the early stages as the local resolution of complaints was a new process which had taken up quite a lot of her time. However, local resolution had also provided a good opportunity for early dialogue on all sides, which had proven to be very helpful in resolving complaints.

Relationships between Officers and Group Leaders as part of the process were good, which the MO stated was critical to the success of the new regime. It was hoped that relations between Group Leaders would also remain positive in the future. The MO advised that she had expressed a view to the Group Leaders that it would hopefully be possible to resolve complaints locally in future without the need for their involvement. She added that Mr. Nock's involvement had been very helpful and that in time he might wish to speak with Group Leaders himself on issues arising from complaints.

Members agreed that there were clearly some positive outcomes under the new regime and it was hoped that the number of Member to Member complaints would reduce over time. The MO suggested, and it was agreed, that Group Leader involvement in complaints should remain for the time being and that the position be looked at after the first 12 months of operation of the new regime, at which point any possible trends could also hopefully be reported on.

Regarding Member training, the MO stated that Member input was needed in order to know what training was required and/or desired and the three Group Leaders had met with the MO to discuss this. Officers were currently working

on the programme of Member training for 2013/14 and it was hoped that a calendar of events would be ready for issue before the end of the current municipal year. There was support from all Group Leaders on training for the authority's regulatory committees in particular, with a Mock Licensing Committee and more formal Planning training also being proposed.

A Member queried the position in relation to a Data Protection/Freedom of Information issue, which the MO clarified the position on.

Under Parish Council matters it was queried whether the Democratic Services Officer (DSO) would report back to the Committee on issues arising from the Bromsgrove Area Meetings of the Worcestershire County Association of Local Councils (CALC). The DSO advised that her role on this was to act as a liaison between the Area Committee and District Council Officers, and that it was the role of the Parish Councils' Representatives on the Standards Committee to feed back on any relevant parish council issues.

**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.

21/12 **PARISH COUNCILS' REPRESENTATIVES' REPORT**

Mr. Cypher advised that following the November 2012 meeting of the Standards Committee the parish councils had dealt with the necessary arrangements required for the granting of dispensations, meaning their Members had been able to participate in the consideration of financial matters, and that he was not aware of any problems in this regard.

**RESOLVED** that the position be noted.

22/12 **REVIEW OF OPERATION OF THE COMMITTEE**

Members reviewed the general operation of the Committee since the establishment of the new Standards Committee in July 2012.

It was felt that it was still early days for both the Committee and the new standards regime, as implemented under the Localism Act 2011. Officers were not aware of any particular issues at this stage and it was noted that a report on a 12 month review of the new regime was due to be considered by the Committee at its meeting on 11th July 2013.

The MO advised that she might suggest some tweaks to the current process and that any Member input in advance of the report being drafted for the July meeting would be helpful. She sought the Committee's views as to whether it would be appropriate for a working group, comprising some of the members of the Committee, to be established to meet with Officers to discuss issues relating to the review, prior to the full Committee's consideration of the review report in July.

The Committee felt that it would be helpful for such a working group to be established and it was agreed that Councillors Bullivant, Mallett and Mrs. Sherrey be appointed to this.

One of the Parish Representatives highlighted the ongoing issue of the lack of voting rights which were afforded to Parish Representatives on standards committees under the new regime. The Parish Representative added that if there was an issue with a parish councillor at any stage, arising from a complaint, she hoped the parish councillor would be well represented. The ongoing training of the Parish Councils was also raised.

The MO responded that if there were any issues of concern, such as the issue highlighted by the Parish Representative, these should be fed into the process and would be considered. She added that it had been agreed with the Group Leaders that there would be further standards training taking place in 2013, to which the parishes would be invited.

Another Parish Representative commented that it would be helpful, as part of the 12 month review of standards, for the MO to look at further publicity of the complaints procedure, and that as the parish dimension was now less to the fore (in relation to voting rights on the Committee), the Committee might need to work harder to ensure that the parishes were aware of the new arrangements and process for Member complaints.

### **RESOLVED**

- (a) that the position be noted; and
- (b) that a Standards Working Group, comprising Councillors Bullivant, Mallett and Mrs. Sherry, be established to assist Officers in the preparatory work for the 12 month review of the standards regime, in advance of the full Standards Committee's consideration of the review at its 11th July 2013 meeting.

### 23/12 **CALENDAR OF MEETINGS 2013/14**

Members were asked to note the provisional meeting dates for the Committee for the 2013/14 Municipal Year. Officers advised that the proposed dates were unlikely to change and that all of the meetings would be taking place on Thursdays and not Wednesdays as noted in the agenda.

**RESOLVED** that the meeting dates be noted.

### 24/12 **WORK PROGRAMME**

Members considered the future Work Programme of the Committee.

Following the establishment earlier in the meeting of the Standards Working Group to assist with the 12 month review of the new standards regime, the MO requested that the review of the operation of the Protocols on Member-

Officer and Member-Member relations also be looked at by the Working Group.

As there would be quite a lot of work involved with reviewing the Protocols it was further requested that the Protocols element be referred to the 10th October 2013 Committee meeting for consideration.

**RESOLVED**

- (a) that the Work Programme be approved; and
- (b) that the Standards Working Group also look at the review of the operation of the Protocols on Member-Officer and Member-Member relations in advance of the full Committee's consideration of these at its meeting in on 10th October 2013.

The meeting closed at 6.31 p.m.

Chairman

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## BROMSGROVE DISTRICT COUNCIL

### **STANDARDS COMMITTEE**

11th July 2013

#### **MONITORING OFFICER'S REPORT**

Relevant Portfolio Holder	Councillor Mark Bullivant
Portfolio Holder consulted	Yes
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)

## **STANDARDS COMMITTEE**

11th July 2013

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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**

#### **Member Complaints**

- 3.3 During the period January to March 2013 two complaints were received (one against two Parish Councillors and a second against a District Councillor). Both complaints were resolved locally by the Monitoring Officer.
- 3.4 For the period April to June 2013 no complaints were received.

#### **Independent Persons**

- 3.5 Ms. Debbie Jinks, Independent Person, has completed her induction training and has assisted the Monitoring Officer in two complaint matters.

#### **Parish Councils' Representatives on the Standards Committee**

- 3.6 At the meeting of the Bromsgrove Area Committee of the Worcestershire County Association of Local Councils (CALC) on 12th June 2013, John Cypher and Ivan Hodgetts were re-appointed as the Parish Councils' Representatives on the Standards Committee for a further 12 month term of office commencing 1st July 2013. Karen May was also re-appointed as the Deputy Parish Councils' Representative for the same period. It was noted that these appointments were subject to the 12 month review of the new standards regime, a report for which appears separately later in this evening's agenda.

#### **Customer / Equalities and Diversity Implications**

- 3.7 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.
- 3.8 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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11th July 2013

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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.

**AUTHOR OF REPORT**

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## STANDARDS COMMITTEE

11 July 2013

### LOCALISM ACT 2011 – UPDATED ARRANGEMENTS FOR HANDLING STANDARDS COMPLAINTS AGAINST MEMBERS

Relevant Portfolio Holder	Councillor Mark Bullivant
Portfolio Holder Consulted	Yes
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 On 19 June 2012, the Council adopted Arrangements for Handling Complaints against Members under the new Standards regime introduced by the Localism Act 2011, to be reviewed after a year.
- 1.2 At the Standards Committee meeting on 20<sup>th</sup> March 2013 members agreed to undertake a review of the process after one year of its operation. Members have been nominated to a small review group who will now look at the process and report to the meeting of the Standards Committee in October.
- 1.3 In advance of this review this Report incorporates a small change to the working of the adopted Arrangements which has come about as a result of their application over the last year.

#### 2. RECOMMENDATIONS

**The Committee is asked to note the review working party arrangements in readiness for a report to the next meeting of the Standards Committee and to RECOMMEND to Council:**

- 2.1.1 **That the Arrangements for Managing Standards Complaints under the Localism Act (version 2) as attached be adopted.**

#### 3. KEY ISSUES

##### Financial Implications

- 3.1 None.

**Legal Implications**

- 3.2 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.
- 3.3 Such Arrangements were adopted and it was agreed that they would be reviewed after the first year in operation.

**Service / Operational Implications**

- 3.4 In the first year of the operation of the new Standards regime introduced by the Localism Act 2011 and the Arrangements for handling complaints against Members, the Monitoring Officer has dealt with a number of complaints. The general thrust of the Arrangements is that, in consultation with the Independent Person, a "local resolution" should be explored in the first instance and generally this approach has been successful.
- 3.5 At Bromsgrove there have been a total 14 complaints since 1<sup>st</sup> July 2012, of which 14 have been resolved by local resolution. One complaint was referred to investigation and subsequently resolved without the need for a hearing of the Standards Committee. All complaints have related to District Councillors save for one complaint regarding two Parish Councillors which was resolved locally.
- 3.6 At its meeting on 20th March 2013, the Standards Committee agreed to set up a small working group to assist officers in carrying out the 12 month review of the Standards regime. Unfortunately it was not possible to establish that group in time to feed into this report. The report therefore concentrates on issues identified by officers, including in particular the points regarding police referrals which officers did not believe could be delayed. Members are therefore asked to consider this report as it stands and on the basis that when the working group meets if any other issues regarding the arrangements for the new Standards regime are identified these will be reported back to Members at the October meeting of the Standards Committee.

**Referral of Complaints to Police**

- 3.7 The Code of Conduct regarding Member interests includes two types of interests: those which are classed in the Localism Act 2011 as "Disclosable Pecuniary Interests" [DPIs] and defined in "The Relevant Authorities (Disclosable

Pecuniary Interests) Regulations 2012, and those which are classed as "Other Disclosable Interests" [ODIs] as described in the Code.

- 3.8 A breach of the provisions in the Localism Act relating to DPI is potentially a criminal offence, to be investigated by the Police and prosecuted by (or on behalf of) the Director of Public Prosecutions. A complaint regarding breach of a DPI could be made to the Monitoring Officer but could equally be referred directly by a complainant to the Police.
- 3.9 The existing Arrangements were formally adopted by the Council on 19 June 2012.

*Paragraph 4.3 provides: "If a complaint identifies possible criminal conduct or breach of other regulation by any person, the Monitoring Officer has the power to refer the matter to the Police or other regulatory agency. The Monitoring Officer will, at the same time and in consultation with the Independent Person, continue to undertake any separate course of action which might be deemed necessary on behalf of the authority in relation to the complaint, with a view to maintaining high standards of member conduct".*

- 3.10 During the year a complaint was referred by the Monitoring Officer to the Police and it became apparent that this provision conflicts with how the Police require such complaints to be dealt with by the Monitoring Officer. The Arrangements have also proved inadequate in describing the role of the Monitoring officer after a referral has been made to the Police. There is no provision as to what the Monitoring Officer can do or what the Complainant, Subject Member or Standards Committee could expect from the Monitoring Officer in that situation.
- 3.11 The proposed amendments to the Arrangements address these issues so that where a matter is referred to the Police it will be clear that the Monitoring Officer will **not** take any further action in relation to the matter until the Police process has been concluded and that during that time the **only** information the Monitoring Officer will be able to give to the interested parties will be the fact that a complaint has been received and referred to the Police. The Monitoring Officer will be unable to take any other action or provide any further information on matter in the interim, however long that process may take.

Role of Parish Representatives

- 3.12 Members will recall that when the Council voted to establish the current Standards system, it was decided to continue to include Parish Representatives on the Standards Committee. Under the new arrangements these appointments would be on the basis that the Parish Representatives be co-opted onto the Committee as non voting co-optees.
- 3.13 In the last 12 months therefore the Parish Representatives have continued to participate in the Standards Committee on a non-voting basis. This has had the

benefit of maintaining the link between the District and the Parish Councils for whom the Monitoring Officer retains certain responsibilities under the Localism Act. It has not been possible to assess the usefulness of having Parish Representative available to deal with any Standards Hearings affecting Parish Councillors as during the period in question only one Parish complaint has been received which was resolved locally without the need for a hearing.

**Customer / Equalities and Diversity Implications**

3. The new arrangements will be publicised on the Council's website and 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 Version 2 Arrangements for Managing Standards Complaints under the Localism Act 2011

**6. BACKGROUND PAPERS**

Relevant sections of the Localism Act 2011.

**AUTHOR OF REPORT**

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## **Bromsgrove District Council**

### **Arrangements for managing standards complaints under the Localism Act 2011**

#### **1. Introduction**

- 1.1 Sections 28(6) and (7) of the Localism Act 2011 require the District Council to have in place “arrangements” under which allegations that an elected Member or voting co-opted Member of the authority or of a parish council within the authority’s area, or of a committee or sub-committee of the authority or parish council, has failed to comply with the relevant authority’s Code of Conduct can be investigated and decisions made on such allegations.
- 1.2 Such arrangements must provide for the authority to appoint at least one Independent Person, whose views must be sought by the District Council before it takes a decision on an allegation which it has decided shall be investigated, and whose views may be sought by the authority at any other stage, or by the Member or co-opted Member against whom an allegation has been made.
- 1.3 These arrangements set out how a complaint that an elected or voting co-opted Member of the authority or of a parish council within the authority's area has failed to comply with his/her authority’s Code of Conduct can be made, and how such allegations will be dealt with by the District Council.

#### **2. The Code of Conduct**

- 2.1 The District Council has adopted a Code of Conduct for Members. The Code is available on the authority’s website or on request from Reception at the Council House or the Customer Service Centre.
- 2.2 Each parish council within the authority’s area is also required to adopt a Code of Conduct. A copy of any parish council Code of Conduct can be obtained from the Clerk/Executive Officer to the relevant Parish Council.

#### **3. Making a complaint and complaint acknowledgement**

- 3.1 Complaints must be made in writing to:

Mrs C Felton  
Monitoring Officer  
Bromsgrove District Council  
The Council House  
Burcot Lane  
Bromsgrove  
B60 1AA  
Email: [c.felton@bromsgroveandredditch.gov.uk](mailto:c.felton@bromsgroveandredditch.gov.uk)

- 3.2 The Monitoring Officer is a senior Officer of the authority who has statutory responsibility for maintaining the Register of Members' Interests and who is responsible for administering the system in respect of complaints of Member misconduct.
- 3.3 In order to ensure that the authority has all the information it needs to be able to process a complaint, the model Complaint Form should ideally be completed. The form is available on the authority's website or is available on request from Reception at the Council House or the Customer Service Centre.
- 3.4 Complainants are asked to provide their name and contact details in order that the Monitoring Officer can acknowledge receipt of the complaint and keep the complainant informed of progress with the complaint. If a complainant wishes to keep his/her details confidential this should be indicated on the form, in which case the authority will not disclose the complainant's details to the Member against whom a complaint has been made (the 'subject Member') without the complainant's prior consent. The authority would not normally investigate anonymous complaints unless there is a clear public interest in doing so.
- 3.5 The Monitoring Officer will issue a written acknowledgement to the complainant. At the same time the Monitoring Officer will write to the Member against whom the complaint has been made to notify them of the complaint (subject to point 5.4 below). Both the complainant and the subject Member will be kept informed of progress with the complaint. If the subject Member is a parish councillor the Parish Council Clerk/Executive Officer will (subject to 5.4 below) also be notified of the complaint.
- 3.6 If, at any stage during the process, a complainant wishes to withdraw his/her complaint, the Monitoring Officer will consider, in consultation with the Independent Person, whether it is appropriate for the complaint to be terminated, or whether it is in the public interest for the complaint to proceed to conclusion.

#### **4. Review of Complaint by the Monitoring Officer and options available to the Monitoring Officer following review**

- 4.1 The Monitoring Officer will review every complaint received and, following consultation with the Independent Person, will make a decision as to what action, if any, should be taken with the complaint. Where the Monitoring Officer has taken a decision, she will inform the subject Member, complainant, and if the subject Member is a parish councillor the Parish Council Clerk/Executive Officer, in writing of her decision and the reason(s) for the decision.

- 4.2 Where the Monitoring Officer requires additional information in order to come to a decision she may request information from the complainant, subject Member or any other relevant party. Examples of a relevant party include:
- a Leader of a Political Group;
  - a Chairman, Vice-Chairman or Clerk/Executive Officer of a Parish Council;
  - a representative of the Worcestershire County Association of Local Councils;
  - a representative of the Police or other relevant regulatory body;
  - the District Council's Chief Executive; or
  - any other party who the Monitoring Officer is of the opinion might be in a position to assist in providing relevant information in relation to a complaint.
- 4.3 If a complaint identifies possible criminal conduct or breach of other regulation by any person the Monitoring Officer has the power to refer the matter to the Police or other regulatory agency. A complaint identifying possible criminal conduct shall be referred to the Police by the Monitoring Officer.
- 4.4 In accordance with Police requirements, the Monitoring Officer shall take no action whatsoever in relation to the complaint until such time as the Police have concluded their investigation into the complaint and notified the Monitoring Officer of its outcome. Further, the Monitoring Officer will not notify the subject Member of the existence of the complaint or of the referral of the complaint to the police until the matter has been investigated by the police and the Monitoring Officer has been authorised by the police to consider any action at local level ( as set out in para 4.6 below)
- 4.5 As regards notification of the Complainant, the Monitoring Officer shall notify the Complainant only that the complaint has been referred to the Police. It will not be possible for any further information to be provided by the Monitoring Officer regarding the complaint for however long the Police may take in concluding their investigations.
- 4.6 If at the conclusion of their investigation, the Police decide either to take action against the subject Member, or not to take any action, the Monitoring Officer will, in consultation with the Independent Person, consider whether any further action at local level may be deemed necessary on behalf of the Authority to maintain high standards of Member conduct.
- 4.7 The Monitoring Officer will establish a process for referring relevant complaints to the Police and the Form attached at Appendix A shall be used to make the referral.
- 4.8 Subject to 4.3 above, the Monitoring Officer may decide:
- that no further action be taken with respect to the complaint (which would apply where, for example, a complaint is found to

be factually incorrect and therefore has no basis, or where a complaint is unsubstantiated or does not relate to a breach of the Code of Conduct);

- to seek to resolve the complaint informally, via local resolution; or
- that a formal investigation into the complaint is required.

In all cases the Monitoring Officer will write to the relevant parties detailing her decision and the reason(s) for the decision.

- 4.9 Where the Monitoring Officer attempts to deal with a complaint informally via local resolution she will liaise with the relevant parties to seek to agree a way forward. If the subject Member accepts that his/her conduct was inappropriate and offers an apology, and/or any other remedial action is offered or undertaken by either the subject Member or the authority, the Monitoring Officer will notify the complainant of any reasonable terms offered.
- 4.10 If the complainant accepts the terms offered the Monitoring Officer will write to all relevant parties detailing the outcome and the matter will be closed.
- 4.11 If the complainant does not accept the terms offered the Monitoring Officer will, in consultation with the Independent Person and any other relevant parties, determine whether the complaint merits formal investigation.

## **5. Formal Investigation**

- 5.1 The Council had adopted a procedure for the investigation of misconduct complaints.
- 5.2 If the Monitoring Officer decides that a complaint merits formal investigation she will appoint an Investigating Officer, who may be another Officer of the authority, an Officer of another authority or an external investigator.
- 5.3 The Investigating Officer will conduct the investigation and in doing so will liaise with any relevant parties, as appropriate. The Investigating Officer will decide whether he/she needs to meet or speak with the complainant, the subject Member or any other parties to understand the nature of the complaint and so any parties can explain their understanding of events and suggest what documents the Investigating Officer might need to see, and who the Investigating Officer may need to interview.
- 5.4 In exceptional cases, where it is appropriate to keep a complainant's identity confidential or disclosure of details of the complaint to the subject Member might prejudice the investigation, the Monitoring Officer can delete the complainant's name and address from the papers given to the subject Member, or delay notifying the subject Member until the investigation has progressed sufficiently.

- 5.5 At the end of his/her investigation, the Investigating Officer will produce a draft report and will send copies of that draft report, in confidence, to the complainant and the subject Member, to give both parties an opportunity to comment on the report and identify any matters which are not agreed or which require further attention.
- 5.6 Having received and taken account of any comments which either the complainant or the subject Member might make on the draft report, the Investigating Officer will send his/her final report to the Monitoring Officer.
- 5.7 The Monitoring Officer will review the Investigating Officer's final report and, in consultation with the Independent Person, will determine the next course of action to be taken with this. If the Monitoring Officer is not satisfied that the investigation has been conducted fully and feels that any aspect of the Investigating Officer's final report is incomplete, or requires further attention, she may ask the Investigating Officer to reconsider his/her report.

**6. No evidence of a failure by the subject Member to comply with the Code of Conduct**

If the Investigating Officer finds that there is no evidence of a failure by the subject Member to comply with the Code of Conduct and the Monitoring Officer is satisfied with the Investigating Officer's findings, the Monitoring Officer will, following consultation with the Independent Person, write to the complainant, the subject Member, and if the complaint relates to a Parish Councillor the Parish Council Clerk, confirming that she is satisfied that no further action is required. A copy of the final report will be sent to the complainant and subject Member and the matter will be closed.

**7. Evidence of a failure by the subject Member to comply with the Code of Conduct**

- 7.1 If the Investigating Officer finds that there is evidence of a failure by the subject Member to comply with the Code of Conduct and the Monitoring Officer is satisfied with the Investigating Officer's findings, the Monitoring Officer will, following consultation with the Independent Person and depending on the nature and seriousness of the failure in question, determine whether to send the matter for a local hearing of the Standards Committee or to seek to resolve the matter via local resolution.

**Local Resolution**

- 7.2 If the Monitoring Officer attempts to conclude the matter via local resolution she will, in consultation with the Independent Person, liaise with the relevant parties to seek to agree a fair resolution, with a view to ensuring higher standards of conduct by the subject Member in the

future. If a fair resolution is agreed and the subject Member complies with the suggested resolution the Monitoring Officer will write to the relevant parties to confirm the position and will report the matter to the Standards Committee for information. The matter will then be closed.

- 7.3 If the complainant tells the Monitoring Officer that any proposed resolution is not, in their view, adequate, or if the subject Member is not prepared to undertake any proposed action, such as giving an apology, the Monitoring Officer will, in consultation with the Independent Person, determine whether to close the matter without further action or to refer it for a local hearing. The Monitoring Officer will write to the relevant parties to confirm her decision and the reasons(s) for the decision.

#### Local Hearing

- 7.4 The Council has adopted a procedure for local hearings.
- 7.5 The Standards Committee will decide whether the subject Member has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the Member.
- 7.6 Where a local hearing is to take place, the Monitoring Officer will conduct a 'pre-hearing process' which is aimed at facilitating the smooth running of the hearing. As part of this process the subject Member will be asked to give his/her response to the Investigating Officer's report in order to identify what is agreed and what is likely to be in contention at the hearing. The Chairman of the Committee may also issue directions as to the manner in which the hearing will be conducted.
- 7.7 At the hearing, the Investigating Officer will present his/her report, call such witnesses as he/she considers necessary and make representations to substantiate his/her conclusion that the subject Member has failed to comply with the Code of Conduct. For this purpose the Investigating Officer may ask the complainant to attend and give evidence to the Committee. The subject Member will then have an opportunity to give his/her evidence, to call witnesses and to make representations to the Committee as to why he/she considers that he/she did not fail to comply with the Code of Conduct.
- 7.8 The Committee may, with the benefit of any advice from the Independent Person, conclude that the subject Member did not fail to comply with the Code of Conduct, and dismiss the complaint. If the Committee concludes that the subject Member did fail to comply with the Code of Conduct, the Chairman will inform the subject Member of this finding and the Committee will then consider what action, if any, should be taken as a result of the Member's failure to comply with the Code of Conduct. In doing this, the Committee will give the subject Member an opportunity to make representations in relation to the failure and will consult the Independent Person, and will then decide what action, if any, to take on the matter.

## **8. Action that can be taken where a Member has failed to comply with the Code of Conduct**

- 8.1 The Council has delegated to the Standards Committee and the Monitoring Officer authority to administer complaints in accordance with the agreed process. The following actions may be taken after a hearing:
- 8.1.1 Publish findings in respect of the Member's conduct;
  - 8.1.2 Report findings to Council, or to the Parish Council, for information;
  - 8.1.3 Recommend to the Member's Group Leader (or in the case of un-grouped Members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
  - 8.1.4 Recommend to the Leader of the Council that the Member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
  - 8.1.5 Instruct the Monitoring Officer to, or recommend that the Parish Council, arrange training for the Member;
  - 8.1.6 Remove the Member, or recommend to the Parish Council that the Member be removed, from all outside appointments to which he/she has been appointed or nominated by the authority or by the Parish Council;
  - 8.1.7 Withdraw, or recommend to the Parish Council that it withdraws, facilities provided to the Member by the Council, such as a computer, website and/or email and internet access; or
  - 8.1.8 Exclude, or recommend that the Parish Council exclude, the Member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.
- 8.2 There is no power to suspend or disqualify the Member or to withdraw Members' or special responsibility allowances.

## **9. Decision of the Standards Committee**

- 9.1 At the end of the hearing, the Chairman will state the decision of the Committee as to whether the Member failed to comply with the Code of Conduct and any actions which the Committee resolves to take.
- 9.2 As soon as reasonably practicable after the hearing, the Legal Advisor to the Committee will prepare a formal decision notice in consultation with the Chairman of the Committee. A copy of the decision notice will be sent to the complainant, the subject Member, and if the complaint

relates to a Parish Councillor to the Parish Council Clerk. The decision notice will be made available for public inspection and the decision will be reported to the next convenient meeting of the Council.

## **10. Standards Committee Hearings**

The Independent Person will be invited to attend all meetings of the Committee where a hearing is being conducted. His/her views will be sought and taken into consideration before the Sub-Committee takes any decision on whether the subject Member's conduct constitutes a failure to comply with the Code of Conduct, and as to any action to be taken following a finding of failure to comply with the Code of Conduct.

## **11. The Independent Person**

The Independent Person is a person who has applied for the post following advertisement of a vacancy for the post, and is appointed by a positive vote from a majority of all the members of Council.

A person cannot be "independent" if he/she:

- 11.1 Is, or has been within the past 5 years, a Member, co-opted Member or Officer of the authority or the County Council, Fire Authority or Police Authority.
- 11.2 Is or has been within the past 5 years, a Member, co-opted Member or Officer of a parish council within the authority's area, or
- 11.3 Is a relative, or close friend, of a person within paragraph 11.1 or 11.2 above. For this purpose, "relative" means –
  - 11.3.1 Spouse or civil partner;
  - 11.3.2 Living with the other person as husband and wife or as if they were civil partners;
  - 11.3.3 Grandparent of the other person;
  - 11.3.4 A lineal descendent of a grandparent of the other person;
  - 11.3.5 A parent, sibling or child of a person within paragraphs 11.3.1 or 11.3.2;
  - 11.3.6 A spouse or civil partner of a person within paragraphs 11.3.3, 11.3.4 or 11.3.5; or
  - 11.3.7 Living with a person within paragraphs 11.3.3, 11.3.4 or 11.3.5 as husband and wife or as if they were civil partners.

11.4 Is actively engaged in local party political activity.

## **12. Revision of these arrangements**

The Council may, by resolution, agree to amend these arrangements. The Chairman of the Hearings Sub-Committee may depart from these arrangements where he/she considers that it is expedient to do so in order to secure the effective and fair consideration of any matter.

## **13. Appeals**

- 13.1 There is no right of appeal for a complainant or the subject Member of a decision of the Monitoring Officer or of the Hearings Sub-Committee. Any decision would however, be open to judicial review by the High Court if it was patently unreasonable, or if it were taken improperly, or if it sought to impose a sanction which the Council had no power to impose.
- 13.2 If a complainant feels that the authority has failed to deal with his/her complaint properly, he/she may make a complaint to the Local Government Ombudsman.

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## STANDARDS COMMITTEE

11th July 2013

### WORK PROGRAMME

Relevant Portfolio Holder	Councillor Mark Bullivant
Portfolio Holder Consulted	Yes
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 was therefore established in July 2012 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**

**11th July 2013**

- (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 The Work Programme 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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**11th July 2013**

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7. **KEY**

Not applicable.

**AUTHOR OF REPORT**

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# STANDARDS COMMITTEE

11th July 2013

## 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
10th October 2013	<ul style="list-style-type: none"><li>• <b><i>Any issues identified by the Standards Working Group following its review of the arrangements in place under the new standards regime (see Updated Arrangements report to 11th July 2013 Standards Committee meeting).</i></b></li><li>• Review of the operation of the Protocol on Member-Officer relations (following consideration by the Standards Working Group – Minute 24/12 of 20th March 2013 Standards Committee meeting refers).</li><li>• Review of the operation of the Protocol on Member-Member relations (following consideration by the Standards Working Group – Minute 24/12 of 20th March 2013 Standards Committee meeting refers).</li></ul>
9th January 2014	
3rd April 2014	<ul style="list-style-type: none"><li>• Annual Review of the Operation of the Standards Committee.</li><li>• Calendar of meetings 2014/15.</li></ul>
July 2014 (2014/15 Municipal Year dates to be confirmed)	<ul style="list-style-type: none"><li>• Election of Chairman for the ensuing municipal year</li><li>• Election of Vice-Chairman for the ensuing municipal year</li></ul>
Date to be agreed	
<p>Note: All meetings of the Committee will include regular items such as:</p> <ul style="list-style-type: none"><li>• Minutes of previous meeting;</li><li>• Monitoring Officer's Report;</li><li>• Parish Councils' Representatives Report;</li><li>• Relevant Member complaint/investigation updates; and</li><li>• Work Programme.</li></ul>	

**STANDARDS  
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**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"><li>a. promoting and maintaining high standards of conduct by Councillors and any co-opted members of Council bodies;</li><li>b. assisting the Councillors and co-opted members to observe the Members' Code of Conduct;</li><li>c. advising the Council on the adoption or revision of the Members' Code of Conduct;</li><li>d. monitoring the operation of the Members' Code of Conduct;</li><li>e. advising, training or arranging to train Councillors and co-opted members on matters relating to the Members' Code of Conduct;</li><li>f. granting dispensations to Councillors and co-opted members from requirements relating to interests set out in the Members' Code of Conduct;</li><li>g. dealing with any report from the Monitoring Officer following an investigation into a complaint concerning the Members' Code of Conduct;</li><li>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.</li><li>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;</li><li>j. monitoring, and reviewing the operation of the Protocol on Member-Officer relations;</li><li>k. monitoring and reviewing the operation of the Protocol on Member-Member Relations.</li></ul>
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