



## **BROMSGROVE DISTRICT COUNCIL**

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

**THURSDAY 10TH OCTOBER 2013 AT 6.00 P.M.**

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

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

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 11th July 2013 (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 - Standards Regime - Budget Setting Dispensation (Pages 9 - 12)

[To consider the granting of a general dispensation under s33 of the Localism Act 2011 to enable Members to participate and vote in the Budget setting process.]

7. Review of the new Standards Regime under the Localism Act 2011 (Pages 13 - 22)

[To receive an oral report from the Monitoring Officer on the review of the new Standards Regime and Arrangements for Managing Standards Complaints under the Localism Act 2011. Copy Arrangements attached for information.]

8. Work Programme (Pages 23 - 28)

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

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

10. 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

The Council House  
Burcot Lane  
BROMSGROVE  
Worcestershire  
B60 1AA

2nd October 2013



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

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- Meeting Minutes
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# Agenda Item 3

## BROMSGROVE DISTRICT COUNCIL

### MEETING OF THE STANDARDS COMMITTEE

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

PRESENT: Councillors D. W. P. Booth, M. A. Bullivant, B. T. Cooper, C. M. McDonald, R. J. Shannon, M. A. Sherrey, L. J. Turner, Mr. I. A. Hodgetts (Parish Councils' Representative) and Mrs. K. May (Deputy Parish Councils' Representative - substituting for Mr. J. Cypher)

Officers: Mrs. C. Felton, Mrs. S. Sellers and Ms. A. Scarce

#### 1/13 ELECTION OF CHAIRMAN

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

#### 2/13 ELECTION OF VICE-CHAIRMAN

**RESOLVED** that Councillor M. A. Bullivant be elected Vice-Chairman of the Committee for the ensuing Municipal Year.

#### 3/13 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor Mrs. C. J. Spencer and Mr. J. Cypher (Parish Councils' Representative).

#### 4/13 DECLARATIONS OF INTEREST

No declarations of interest were received.

#### 5/13 MINUTES

The minutes of the meeting of the Standards Committee held on 20th March 2013 were submitted.

**RESOLVED** that the minutes be approved as a correct record.

#### 6/13 MONITORING OFFICER'S REPORT

The Monitoring Officer (MO) introduced her report, and in doing so, informed Members that during the period January to March 2013 two complaints had been received (one against two Parish Councillors and a second against a District Councillor). Both complaints had been resolved locally by the MO.

Ms. D. Jinks, Independent Person had completed her induction training and had been able to assist the MO in the two complaint matters.

**RESOLVED** that the contents of the report be noted.

7/13 **PARISH COUNCILS' REPRESENTATIVES' REPORT**

Mr. Hodgetts reported that following the recent meeting of the Bromsgrove Area Committee of the Worcestershire County Association of Local Councils (CALC), it had been agreed that both he and Mr. Cypher would continue as the Parish Councils' Representatives on the Standards Committee, with Mrs. May continuing as the Deputy Parish Councils' Representative.

**RESOLVED** that the position be noted.

8/13 **LOCALISM ACT 2011 - UPDATED ARRANGEMENTS FOR HANDLING STANDARDS COMPLAINTS AGAINST MEMBERS**

The Monitoring Officer (MO) introduced a report on the Localism Act 2011 - Updated Arrangements for Handling Standards Complaints Against Members, which had been adopted by the Council on 19th June 2012.

At the Standards Committee meeting on 20th March 2013 Members had agreed to undertake a review of the process after one year of its operation. The MO explained that in advance of the review, which was scheduled to take place in October 2013, the report incorporated a small change to the working of the adopted Arrangements, which had come about as a result of their application over the last year.

The MO highlighted that the small change followed a complaint during the year which had been referred by the MO to the Police, as detailed in paragraph 3.10 of the report. The proposed amendments to the Arrangements addressed these issues in order that where a matter was referred to the Police it would be clear that the Monitoring Officer would not take any further action in relation to the matter until the Police process had been concluded.

In respect of the wider review of the Arrangements, Members were reminded that a small review group had previously been established by the Committee which included Councillor Mallett. As Councillor Mallett was no longer a member of the Standards Committee he had suggested that either Councillor Mrs. C. M. McDonald or Councillor R. J. Shannon take his place, and that Councillor Turner also be invited to form part of the review group. Following discussions and in view of the Committee's limited work programme, Members were of the view that the review should be undertaken by the Committee as a whole and that the review group was therefore no longer necessary. The MO agreed to provide Members with a presentation in respect of the review at the next meeting of the Committee in October 2013.

**RESOLVED**

- (a) that subject to the minor change recommended to the Arrangements in relation to complaints referred to the Police, the entire of the Standards

- Committee carry out a wider review of the Arrangements in October 2013; and
- (b) that the Monitoring Officer be tasked with providing the Committee with a presentation in respect of the review at the next meeting of the Committee; and

**RECOMMENDED** that the Arrangements for managing standards complaints under the Localism Act 2011 (version 2) as attached to the report be adopted.

9/13 **WORK PROGRAMME**

The Monitoring Officer (MO) introduced the Work Programme and in light of the decision at Minute No. 8/13 it was agreed that the Review of the operation of the Protocols on Member-Officer relations and Member-Member relations would be considered at the Standards Committee meeting to be held on 9th January 2014.

**RESOLVED** that the Work Programme be updated to include the amendments as detailed in the preamble above.

The meeting closed at 6.17 p.m.

Chairman

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## BROMSGROVE DISTRICT COUNCIL

### **STANDARDS COMMITTEE**

10th October 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 A report of this nature is 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 by Officers 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**

**10th October 2013**

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

### **Service / Operational Implications**

#### **Member Complaints**

- 3.3 During the period July to September 2013 no Member complaints were received.

#### **Member Training**

- 3.4 The Member Development Steering Group has been meeting regularly to review and plan training and development for Members.
- 3.5 Over the last 6 months training sessions have been held on safeguarding children and vulnerable adults. 17 Councillors attended this and a further session has been arranged as a number of Councillors who wished to attend were unable to go to the original event.
- 3.6 Refresher sessions have been held for members of the Licensing and Standards Committees and the Audit Board. The external auditors, Grant Thornton, have also delivered training on the importance of the Audit function in governance, which was well received.
- 3.7 Future plans include training on Overview and Scrutiny, outside bodies and a review of planning pre-application training.

#### **Council approval of Standards Committee recommendation – updated Arrangements for Handling Standards Complaints against Members**

- 3.8 At its meeting on 25th September 2013 full Council agreed the recommendation of the 11th July 2013 Standards Committee for the Arrangements for Managing Standards Complaints against Members to be updated to include a small change in relation to complaints referred to the Police by the Monitoring Officer. This amendment was agreed in advance of a separate review by the Standards Committee of the new standards regime and complaint Arrangements at this evening's meeting (Agenda Item 7 refers).

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

- 3.9 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

## **STANDARDS COMMITTEE**

**10th October 2013**

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impact assessment will be carried out on the complaints process when established, to ensure accessibility.

- 3.10 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**

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

10th October 2013

### LOCALISM ACT 2011 – STANDARDS REGIME – BUDGET SETTING DISPENSATION

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

To consider the granting of a general dispensation under s33 of the Localism Act 2011 to enable Members to participate and vote in the Budget setting process.

#### 2. RECOMMENDATIONS

The Committee is asked to RESOLVE that

- 1) **subject to the caveat set out in paragraph 3.11 of this report, the Standards Committee grants a dispensation under Section 33 (2) of the Localism Act 2011 to allow all Members to participate in and vote at Council and committee meetings when considering setting the Budget;**
- 2) **the dispensation referred to at 1) above take effect 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; and**
- 3) **the dispensation referred to at 1) above be valid until the first Standards Committee meeting after the municipal elections in 2015.**

#### 3. KEY ISSUES

##### Financial Implications

3.1 None.

##### Legal Implications

3.2 Section 33 of the Localism Act 2011 provides that Dispensations can be granted in respect of Disclosable Pecuniary Interests (“DPI”).

**STANDARDS  
COMMITTEE**

**10th October 2013**

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- 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.

**Service / Operational Implications**

- 3.5 Under s31 (4) of the Localism Act 2011 a Member who has a 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.
- 3.6 The consideration of whether to grant a dispensation under s33 has been delegated to the Standards Committee.
- 3.7 At its meeting on 28th November 2012 the Committee resolved to grant, subject to receipt of the required written request from Members, general dispensations for the setting of the Council Tax and Members' Allowances, and also for Members' speaking rights. In light of experience of the new regime and to be consistent with other authorities, an additional general dispensation is now being sought for Members for when they consider setting the Budget.
- 3.8 Section 33 (2) 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.
- 3.9 The statutory grounds under s33 (2) for the granting of a dispensation are where the authority –
- “(a) considers that without the dispensation the number of persons prohibited by section 31(4) 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,
  - (b) considers that without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business,
  - (c) considers that granting the dispensation is in the interests of persons living in the authority's area,
  - (d) if it is an authority to which Part 1A of the Local Government Act 2000 applies and is operating executive arrangements, considers that without them dispensation each member of the authority's executive would be prohibited by section 31(4) from participating in any particular business to be transacted by the authority's executive, or

**STANDARDS  
COMMITTEE**

**10th October 2013**

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- (e) considers that it is otherwise appropriate to grant a dispensation.”
- 3.10 The Monitoring Officer considers that this exemption might be required where the business of a meeting relates to the Budget setting process and Members present may have DPs. Members must comply with the additional requirement of applying for a dispensation in writing.
- 3.11 The only caveat to the above is that under Section 106 of the Local Government Finance Act 1992 any Member who is 2 months (or more) in arrears with their Council Tax payments cannot participate in any Council meeting concerning the budget. In the event that any Members were affected by the provisions of section 106, the statutory rule that they be barred from taking part in the budget decisions would prevail and any dispensation granted under this report would not apply.
- 3.12 In accordance with the general dispensations previously granted by the Committee, and to satisfy the requirement for Members to apply for a dispensation in writing, the Monitoring Officer will circulate to all Members a request form seeking a dispensation for Members to sign prior to any budget setting considerations. The dispensation will then take effect upon receipt of the signed written request.

**Customer / Equalities and Diversity Implications**

- 3.13 None.

**4. RISK MANAGEMENT**

The granting of general dispensations by the Committee will, subject to receipt of a written request from Members for such a dispensation, clarify, for the avoidance of any doubt, Members' ability to participate in and vote at Council and committee meetings on certain matters as part of the Council's decision-making process.

**5. APPENDICES**

None.

**6. BACKGROUND PAPERS**

Section 33 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

10th October 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**

**10th October 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, where necessary 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.

**STANDARDS  
COMMITTEE**

**10th October 2013**

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7. **KEY**

Not applicable.

**AUTHOR OF REPORT**

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**STANDARDS  
COMMITTEE**

10th October 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.]

<b>Meeting date</b>	<b>Item(s) for consideration</b>
9th January 2014	<ul style="list-style-type: none"><li>• Review of the operation of the Protocol on Member-Officer relations (Minute No's 24/12 of 20th March 2013 and 8/13 of 11th July 2013 Standards Committee meetings refer).</li><li>• Review of the operation of the Protocol on Member-Member relations (Minute No's 24/12 of 20th March 2013 and 8/13 of 11th July 2013 Standards Committee meetings refer).</li><li>• <b><i>Dispensations report – for outside bodies (provisional).</i></b></li></ul>
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 meeting dates to be set)	<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>
October 2014 (2014/15 Municipal Year meeting dates to be set)	
First meeting of the Committee after District Council Elections in 2015	<ul style="list-style-type: none"><li>• <b><i>Dispensations report – for Council Tax Setting, Budget Setting, Members' Allowances, Members' Speaking Rights etc.</i></b></li></ul>
Items for future meetings - dates to be determined	

**STANDARDS  
COMMITTEE**

**10th October 2013**

Note: All meetings of the Committee will include regular items such as:

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

**STANDARDS  
COMMITTEE**

**10th October 2013**

**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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