

BROMSGROVE DISTRICT COUNCIL

STANDARDS COMMITTEE

21st March 2012

MONITORING OFFICER'S REPORT

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

1. SUMMARY OF PROPOSALS

- 1.1 The Standards Committee has requested the Monitoring Officer to report to each meeting of the Standards Committee on a number of items, and this report sets out the latest position in relation to key items since the last (policy) meeting of the Committee on 21st September 2011.
- 1.2 Any further updates will be reported orally at the meeting.

2. RECOMMENDATIONS

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

3. KEY ISSUES

Financial Implications

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

Legal Implications

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

Service / Operational Implications

Complaints for Local Assessment

- 3.3 Since 21st September 2011 three Standards Assessment Sub-Committee meetings have taken place, namely:
- 23rd November 2011 - assessed District Councillor Complaint References 01/11 to 05/11;
 - 6th January 2012 - assessed Parish Councillor Complaint Reference 06/11; and
 - 2nd March 2012 - assessed District Councillor Complaint References 07/11 to 09/11.
- 3.4 Details of the complaints considered at the 2nd March Sub-Committee meeting will be reported on separately at the 21st March meeting as, at the time of preparing this report, the parties involved had not been notified of the existence/outcomes of those complaints.
- 3.5 In relation to the 23rd November and 6th January meetings, a total of six new complaints were assessed, the outcomes of which were as follows:

Complaint Ref	Against	Outcome	Comments
01/11	District Councillor	Referred to MO for local investigation	
02/11	District Councillor	Referred to MO for local investigation	
03/11*	District Councillor	No further action	* Linked complaints
04/11*	District Councillor	No further action	* Linked complaints
05/11*	District Councillor	No further action	* Linked complaints
06/11	Parish Councillor	No further action	

(MO = Monitoring Officer)

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

already been considered by the appropriate Review Sub-Committee and for which the parties involved have been notified of the outcome are included in this report.

Member Investigations and Associated Matters

3.7 Complaint References 03/10 & 04/10

The Final Determination Hearing into linked complaints 03/10 and 04/10 against Alvechurch Parish Councillor David Matthews took place on 18th October 2011. The Committee resolved that Councillor Matthews had failed to follow the Code of Conduct by failing to declare a personal interest at two Alvechurch Parish Council meetings. Sanctions were imposed on Councillor Matthews requiring him to attend training on the Code of Conduct and suspending him from two Alvechurch Parish Council meetings. A copy of the minutes of the hearing, together with the Committee's full decision and the reasons for the decision appear at agenda item 3.

3.8 Councillor Matthews subsequently sought leave to appeal the Committee's decision to the First-tier Tribunal - General Regulatory Chamber (Local Government Standards in England). The Tribunal granted permission for Councillor Matthews's appeal to proceed and in doing so directed that the sanction imposed on him be suspended pending the outcome of the appeal. The appeal was dealt with on the basis of each party (Councillor Matthews and the Standards Committee) submitting written representations. The appeal was considered by a panel consisting of a judge and two lay members on 3rd February 2012. A copy of the Tribunal's decision is attached at Appendix 1.

3.9 The Tribunal allowed Councillor Matthews's appeal. The main reason for this is that the Tribunal disagreed that a first cousin once removed should be treated as falling under the definition of family member for the purposes of the Code of Conduct. In paragraphs 5 to 7 of the decision notice the panel have set out their reasoning as to why they believe that the Standards for England guidance on the definition of family is too wide. The effect of the decision is that the original decision of the Standards Committee is quashed. That includes the sanction imposed of missing two meetings and having to attend training. The panel agreed with the view of the Standards Committee that Councillor Matthews would benefit from receiving training on the Code of Conduct and as noted this could still be undertaken by Councillor Matthews on a voluntary basis.

**STANDARDS
COMMITTEE**

21st March 2012

3.10 Complaint References 01/11 and 02/11

The investigations into Complaint References 01/11 and 02/11 (as referred to in point 3.5 above) have been concluded and will shortly be moving to the next appropriate stage of the process.

Member Training

3.11 Councillor Mrs. McDonald completed the training imposed upon her by the Standards Committee following the Final Determination Hearing which took place in July 2011. The training, relating to the appropriate behaviour expected of an elected Councillor, was conducted by Redditch Borough Council's Deputy Monitoring Officer.

3.12 The 2012/13 programme of Member training is currently being established. It is intended that this will include training on the Code of Conduct under the new standards regime which it is anticipated will come into force on 1st July 2012. Whilst non-mandatory, it will be highly desirable for all Members to attend the Code of Conduct training. Three separate sessions will be run for this: one for Redditch Borough Councillors; a second for Bromsgrove District Councillors; and a third for Parish Councillors and Parish Clerks/Executive Officers. However, none of the sessions will be exclusive meaning Members can attend any session they wish. Any Independent Persons appointed under the new regime should also attend one of the sessions.

3.13 The Bromsgrove District Councillor session will take place at 6.30pm on Wednesday 13th June. This will necessitate a slight adjustment to the start time of the final meeting of the current Standards Committee which is scheduled to take place at 6.00pm the same evening - should that meeting need to go ahead. The session will be conducted by Simon Mallinson, Head of Legal and Democratic Services and Monitoring Officer at Worcestershire County Council. Dates for the remaining two sessions, which will be conducted by a separate external provider, will be established shortly.

3.14 Separate mandatory training for all members of the Standards Committee will take place from 5.00pm to 6.00pm on Wednesday 25th July - immediately prior to the first meeting of the new successor Standards Committee which will commence at 6.00pm the same evening. Further Standards Committee mandatory training sessions will then be arranged as necessary.

Parish Council Matters

3.15 A Monitoring Officer Liaison Meeting for Parish Clerks and Executive Officers (EOs) took place on 11th October 2011, with a further meeting planned for the end of March. These meetings provide an opportunity

for the Parish Clerks/EOs (from both Bromsgrove and Redditch) to meet with Officers to discuss issues of mutual interest and/or concern that fall within the Monitoring Officer's remit. The meeting in March will focus on the requirements under the new standards regime.

Localism Act 2011

- 3.16 The Localism Act became law on 15th November 2011. A separate report on the implications of the Act for the standards regime and standards committees appears at item 7 of this agenda.

Standards for England

- 3.17 As outlined in the standards provisions of the Localism Act, the regulatory role of Standards for England (SfE) ceased to exist on 31st January 2012. From that date, SfE no longer had powers to accept new referrals from local standards committees or conduct investigations into complaints against Members. Its role in providing guidance on the existing standards framework has also ceased and any guidance previously issued by SfE now takes on a different status to reflect the cessation of its regulatory role. It is anticipated that the organisation will formally close on 31st March 2012.

Customer / Equalities and Diversity Implications

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

4. RISK MANAGEMENT

- 4.1 The main risks associated with the details included in this report are:
- Risk of challenge to Council decisions; and
 - Risk of complaints about elected Members.

- 4.2 These risks are being managed as follows:
- Risk Register: Legal, Equalities and Democratic Services
Key Objective Ref No: 3
Key Objective: Effective ethical governance

5. APPENDICES

Appendix 1: Decision of the First-tier Tribunal - General Regulatory Chamber (Local Government Standards in England)

6. BACKGROUND PAPERS

Member complaint files.

BROMSGROVE DISTRICT COUNCIL

**STANDARDS
COMMITTEE**

21st March 2012

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

7. KEY

Not applicable.

AUTHOR OF REPORT

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