

**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 20th 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 1st 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" [DPs] 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.

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