

**TELFORD & WREKIN COUNCIL**

**STANDARDS COMMITTEE – 5<sup>th</sup> July 2016**

**STANDARDS UPDATE FROM THE MONITORING OFFICER AND REVIEW OF THE TERMS OF REFERENCE**

**REPORT OF THE ASSISTANT DIRECTOR: GOVERNANCE, PROCUREMENT AND COMMISSIONING**

**1. PURPOSE**

To update the Committee on matters relating to the ethical framework since the last Standards Committee meeting and to undertake the annual review of the terms of reference for the Committee

**2 RECOMMENDATIONS**

That the Committee :-

- 2.1 Note the contents of the report
- 2.2 Provides guidance to the Monitoring Officer in relation to any further work that the Committee considers appropriate to promote good governance and the ethical framework in relation to the matters highlighted in the report.
- 2.3 Review the terms of reference for the Standards Committee as drafted for the proposed new Constitution and provides comments as appropriate.

**3. SUMMARY**

- 3.1 The Monitoring Officer provides an update to the Committee on work undertaken in relation to the ethical framework and particularly issues relating to; complaints received and training.

**4. PREVIOUS MINUTES**

- 4.1 Standards Committee – 20<sup>th</sup> January 2015, 7<sup>th</sup> July 2015, 9<sup>th</sup> February 2016

**5. INFORMATION**

- 5.1 The Monitoring Officer provides updates on the following matters since the last meeting of this Committee on 9<sup>th</sup> February 2016.

## Complaints

There have been no formal complaints received since the last meeting on 9<sup>th</sup> February 2016.

As previously reported the Monitoring Officer and Deputy Monitoring Officer have again continued to give advice and information to elected members, members of the public and officers from both the Borough and Parish Councils on Code of Conduct matters.

## Training

At the request of SALC, the Deputy Monitoring Officer provided Code of Conduct training to Parish Councillors and Clerks on 10<sup>th</sup> May at the Sambrook Centre in Stirchley. Twelve people were in attendance, of whom 8 were Parish and Town Councillors and 4 were Parish/Town Clerks or other Council staff. Further training has been requested by SALC over the summer. Officers will keep the Committee up to date with progress on this matter.

As referred to in the last report to this Committee, the Deputy Monitoring Officer provided a briefing to disseminate the training materials from the training event, "The Role of the Independent Person", held at Sandwell Council offices on 11<sup>th</sup> December 2015 to Chris Humphries (one of the Independent Persons). This briefing took place on 9<sup>th</sup> February 2016.

## Review of the Terms of Reference

This committee reviews its terms of reference on an annual basis. On this occasion the committee is asked to review the terms of reference, functions, powers and duties as they are drafted for a new constitution which is due to be placed for consideration by the full Council on 14<sup>th</sup> July.

The draft is attached at Appendix 1 of this report. The draft contains no material changes to the previous terms of reference but appears in a slightly different format. The Committee are asked to consider the draft as set out at Appendix 1 and provide any comments as appropriate. The Monitoring Officer does not make any recommendation to change the draft as it appears at Appendix 1.

### **5.2 Equal Opportunities**

No implications

### **5.3 Environmental Impact**

None

### **5.4 Legal Comment**

The statutory requirements for a Code of Conduct and ethical framework for Councillors is set out at part 1, chapter 7 of the Localism Act 2011.

The information relating to complaints set out above relate to formal written complaints received by the Monitoring Officer on behalf of this Committee. Complaints are dealt with by the Monitoring Officer in accordance with his delegated powers.

Training for Councillors (including Parish Councillors) and the Independent Person(s) on the ethical framework is not compulsory but is recommended.

#### **5.5 Links with Corporate Priorities**

The work of the Committee contributes to the Council's co-operative values of openness and honesty, fairness and respect and ownership.

#### **5.6 Opportunities and Risks**

Risks relating to this particular report are low provided statutory provisions are followed.

#### **5.7 Financial Implications**

Costs associated with the administration and responsibilities of the Standards Committee are met from within the Legal Services revenue budget, which includes the costs of standards investigations and the provision of training. Any variations will be reported, as appropriate, as part of the financial monitoring process.  
PH – 15/6/2016

#### **6. WARD IMPLICATIONS**

No ward specific implications

#### **7. BACKGROUND PAPERS**

The Localism Act 2011

**Report prepared by Jonathan Eatough, Monitoring Officer, telephone 01952 383200 and Matthew Cumberbatch, Legal Services Manager, telephone 01952 383255**

*Standards Committee – Terms of Reference, Functions, Powers and Duties  
(including the Hearings Sub Committee)*

**The Committee has the responsibility and delegated powers to act on behalf of the Council in dealing with the oversight of the Council's ethical governance and decide on the following matters.**

**TERMS OF REFERENCE**

**STANDARDS COMMITTEE**

1. To promote and maintain high standards of conduct by members and co-opted members of the Council.
2. To support Town and Parish Councils within the Borough to promote and maintain high standards of conduct by members and co-opted members of the Council.
3. To recommend to Council the adoption of a code dealing with the conduct that is expected of members and co-opted members of the Authority.
4. To keep the code of conduct under review and recommend changes/ replacement to Council as appropriate.
5. To publicise the adoption, revision or replacement of the Council's Code of Conduct.
6. To oversee the process for the recruitment of an Independent Person (and up to 2 reserves) and make recommendations to Council for their appointment.
7. To receive reports from the Monitoring Officer about:-
  - 7.1 complaints;
  - 7.2 the progress and outcome of investigations; and
  - 7.3 the establishment and maintenance of the register of interests of members and co-opted members of the Borough and Town and Parish Councils within the Borough boundaries;
  - 7.4 dispensations granted to members and co-opted members of the Council

**HEARINGS SUB COMMITTEE**

1. To consider investigation reports in respect of Code of Conduct complaints that are referred to it by the Monitoring Officer.  
To report its findings to the Borough Council, Town or Parish Council, as appropriate for information.
2. Where a breach is found. to make decisions about sanctions including:-
  - 2.1. To make recommendations to the relevant Group Leader regarding future membership of committees and sub committees;
  - 2.2. To make recommendations to Council regarding the removal of a non-aligned member from membership of committee and sub-committees;
  - 2.3. To make recommendations to the Leader of the Council regarding the removal of a member from Cabinet, or the removal of portfolio responsibilities;
  - 2.4. To instruct the Monitoring Officer to arrange training for a Borough Council member;

- 2.5. To remove a member from all outside appointments to which he/ she has been appointed or nominated by the Council; and
- 2.6. To withdraw facilities provided to the member or exclude the member from defined premises (except as necessary for the member to attend formally constituted council meetings).
3. To consider applications for dispensations where:-
  - 3.1 The dispensation is in the interests of persons living in the Borough of Telford & Wrekin area; or
  - 3.2 It is otherwise appropriate to grant a dispensation.

## **PROCEDURE**

The Committee will be conducted in accordance with the Council's Committee Procedure Rules. NOTE. Separate procedures will apply when the committee is undertaking administrative or quasi-judicial functions, as below:-

## **COMPLAINING ABOUT A COUNCILLOR**

All Councillors, whether a Borough, Town or Parish Councillor have to comply with a code of conduct that details what is expected of them when they carry out their role as a Councillor.

This document explains how to make a complaint about a Councillor if you think that they might have breached a code of conduct that applies to them and also how the complaint is dealt with.

### **The Code of Conduct**

Telford & Wrekin Council has adopted a code of conduct that applies to all members and co-opted members of the Council. You can get a copy by following this link

[http://www.telford.gov.uk/info/20242/councillors\\_mps\\_and\\_meps/358/councillor\\_code\\_of\\_conduct](http://www.telford.gov.uk/info/20242/councillors_mps_and_meps/358/councillor_code_of_conduct)

or by contacting the Monitoring Officer whose contact details are provided below.

All Town and Parish Councils have their own code of conduct which you can obtain from their individual web-sites or, if there isn't one, by contacting the Clerk directly. If you are not sure which Council a Councillor belongs to then you can obtain help and support from the Monitoring Officer.

### **Can I be confident that my complaint will be properly dealt with?**

The law requires the Council to appoint an Independent Person: a person who has nothing to do with the Council other than in this role who is consulted at various stages during the complaints process and whose role is to ensure that all complaints are dealt with fairly, a role that can also include giving views to the Councillor who is the subject of the complaint.

### **Making a Complaint**

Write to the Monitoring Officer, Addenbrooke House, Ironmasters Way, Telford, TF3 4NT or alternatively by e-mail at [monitoring.officer@telford.gov.uk](mailto:monitoring.officer@telford.gov.uk)

The Monitoring Officer is the person responsible for administering this complaints system. There is a form for you to use <https://webforms.telford.gov.uk/form/189> but you do not need to use it as long as you include all the information that is included on the form.

### **What happens next?**

The Monitoring Officer will acknowledge receipt of your complaint within 5 working days of receiving it.

The Monitoring Officer will review your complaint, discuss it with the Independent Person and write to you to inform you whether or not he/she has decided to refer it for investigation. Normally this will be within 14 working days of receiving your complaint.

The Monitoring Officer might ask for more information, he/ she might also ask for information from the Councillor who you are complaining about or the Council that the Councillor is a member of.

The Monitoring Officer might seek to resolve the complaint informally, i.e. before deciding to refer your complaint for investigation. Obviously your views are important here but if the Monitoring Officer believes that the proposed solution is reasonable, for example acceptance that behaviour was unacceptable and an offered apology, this might affect the decision of the Monitoring Officer about whether or not the complaint merits formal investigation.

### **Investigations**

If referring for formal investigation the Monitoring Officer will appoint an Investigating Officer who will contact you and the Councillor that you have complained about and undertake any other such investigations as he/she considers appropriate for the purposes of the investigation. In exceptional cases your identity will be protected for some or all of the investigation. If you consider that it would be appropriate to do this in your case you must let the Monitoring Officer know when you make your complaint. (This would generally only be done where providing your details might prejudice the investigation).

The Investigation Officer will publish a draft report for consideration by you and the Councillor that you have complained. Once any comments have been considered by the Investigating Officer a Final Report will be produced and sent to the Monitoring Officer. The Final Report will then be considered by the Monitoring Officer who may either accept the report or ask the investigating Officer to re-consider his/ her report.

### **Investigation finding of No Breach**

The Monitoring Officer will write to you and the Councillor who you have complained about enclosing a copy of the Final Report and confirming that no further action is required. If it is a complaint about a Town or Parish Councillor then a copy will also be sent to the Clerk of the relevant Town or Parish Council.

### **Investigation finding of Breach**

The Monitoring Officer will write to you and the Councillor who you have complained about enclosing a copy of the Final Report and will either seek local resolution or will convene a hearing of the Council's Hearings Committee.

### **Local Resolution**

If the Monitoring Officer, the Independent Person and you all agree a fair resolution of the complaint in a way that promotes high standards of conduct and the Councillor complies with the suggested resolution then the Monitoring Officer will report the matter to the Standards Committee for information but will take no further action.

### **Hearing**

If local resolution is not possible then the Monitoring Officer will convene a meeting of the Council's Hearings Sub Committee for it to consider the Investigating Officer's Report and the views of the Independent Person on the allegation and determine whether or not there has been a breach of the Council's Code of Conduct and if so what action, if any, to take in respect of the Councillor.

### **Hearing Procedure**

A copy of the Hearings Procedure is set out below:-

### **Pre Hearing**

1. Notification of hearing date (Investigation Report already provided to the Councillor)
2. Invitation to Councillor to submit list of further documents/ witnesses that he/she wishes to call
3. Circulation of papers

### **Hearing**

4. Introductions
5. Chair explains the process to be followed
6. Investigating Officer present his/ her report (and may ask witnesses to attend if necessary)
7. Panel may ask questions
8. Councillor or his/ her representative may ask questions
9. Councillor or his/ her representative presents his/ her case (and may ask witnesses to attend if necessary)

### **Decision – no breach**

10. The complaint is dismissed.

### **Decision - breach**

11. After offering the Councillor complained about an opportunity to speak