

TELFORD & WREKIN COUNCIL

STANDARDS COMMITTEE – 31 OCTOBER 2017

REVIEW OF TERMS OF REFERENCE/ UPDATE REPORT

REPORT OF THE ASSISTANT DIRECTOR: GOVERNANCE, PROCUREMENT & COMMISSIONING

PART A) – SUMMARY REPORT

1. SUMMARY OF MAIN PROPOSALS

- 1.1 To update the Standards Committee on matters relating to the ethical framework since the last Standards Committee meeting, and to review and agree the terms of reference of the committee.

2. RECOMMENDATION

2.1 That the Committee review and agree the existing terms of reference as suitable and appropriate;

2.2 That the committee note the contents of the report and provide further direction to the Monitoring Officer in relation to any further work that the Committee considers appropriate to promote good governance and the ethical framework.

3. SUMMARY IMPACT ASSESSMENT

COMMUNITY IMPACT	Do these proposals contribute to specific Priority Plan objective(s)?	
	Yes	The Committee is part of the Council's decision making framework and therefore contributes to all of the Council's priorities.
	Will the proposals impact on specific groups of people?	
	No	
TARGET COMPLETION/DELIVERY DATE	None	
FINANCIAL/VALUE FOR MONEY IMPACT	No	The recommendations of this report will not have any financial implications
LEGAL ISSUES	Yes	This report meets the statutory requirements relating to the Code of Conduct and ethical framework. The record of complaints reflects the formal written record of complaints received by the Monitoring Officer and, in accordance with the process are not closed unless and until they are discussed with the Council's Independent Person. It is a criminal offence for a member to fail to complete the register of disclosable pecuniary interests within

		the defined time-frame.
OTHER IMPACTS, RISKS & OPPORTUNITIES	No	There are no other specific impacts arising from this report.
IMPACT ON SPECIFIC WARDS	No	

PART B) – ADDITIONAL INFORMATION

4. INFORMATION

4.1 To provide an update to the Committee on work undertaken in relation to the ethical framework and particularly issues relating to complaints received and training.

Training

4.2 As a result of on-going concerns officers organised and procured the services of Paul Hoey, from Hoey-Ainscough Associates to provide training on the positive use and benefits of social media and also to discuss what happens when the use of social media goes wrong.

4.3 At the training on the 11 September 2017 Mr Hoey outlined the opportunities for positive use of social media as a local representative but also gave real examples of where the poor use of social media has resulted in complaints and action by the local Standards Committee. The session was attended by 11 Councillors.

4.4 The Monitoring Officer has also been invited to attend and give refresher/ update training on Standards to Wellington Town Council, this is planned to take place on the 12 December 2017 and will cover the code of conduct, social media and the management of meetings.

4.5 The development of an “Ollie” training programme on Standards remains is still to be developed. Officers will report on progress to the next meeting of this committee.

The Register of Interests

4.6 As agreed at the last meeting of this committee continuing efforts have been made to ensure that all register of interests are completed/ up to date. As usual there has been some coming and going of Parish and Town Councillors so it is a task that is never complete. However, a reminder will be circulated to all members of the Borough Council and to Clerks of Town and parish Councils in December to consider and determine whether or not they need to up-date their register entries.

Complaints

4.7 Since the last update report to this meeting in April 2017 the Monitoring Officer has received 5 complaints, 2 relating to Parish Councillors and 3 relating to Borough Councillors, summarised details are as follows:

Ref.	Date	Council	Referral	Details	Current status
12	Mar 17	T&W	No	Allegations made against Councillor in course of Council duties	Closed May 2017

13	May 17	T&W	No	Allegations against Councillor in personal life	Closed June 2017
14	Jun 17	Parish Council	No	Allegations about behaviour	Closed September 2017
15	Jun 17	T&W	No	Comments on social media	Closed July 2017
16	Sept 17	Parish Council	Not yet determined	Allegations made against Councillor in course of Council duties	On-going

- 4.8 Picking themes out of the complaints remains challenging with the exception, previously of complaints around the specific use of social media. However, one area that has resulted in some feedback to the Monitoring Officer is how the Code regulates how members treat each other: It is the nature of local issues and politics that Councillors can have different, often polarised views. The vast majority of these views are debated and aired in professional and respectful atmosphere. Sometimes passions/ personalities can lead to more extreme language and/ or attacks that are perceived as being, or are, personal attacks.
- 4.9 The Monitoring Officer has locally taken the view that in all but the most extreme cases member/ member relations is a matter for the self-regulation of that particular Council to reflect the culture that members of that Council want to see when fulfilling their democratic mandate. There is a balance between the acceptance that Councillors often have different views on important issues affecting their community and their responsibility to represent those views as forcefully as they believe is appropriate and the importance of mutual respect and separating debating issues from debating individuals.
- 4.10 Other issues that are also material include the proportionality of referrals for relatively minor incidents that might or might not be seen to breach the code where effective informal solutions have been reached and avoid the cost of investigations, be it officer time or the cost of professional investigators as may be required from time to time.
- 4.11 It is also important to balance the impact upon the effectiveness of the Council during such formal procedures and the often, very long lasting damage that it can do to the Council's reputation, member: member and member: officer relations which are not either be in the public interest or conducive to the effective delivery of services.
- 4.12 Whilst this remains a Monitoring Officer discretion members' views are sought on the current approach.

Social Media Protocol

- 4.13 As members can see the number of complaints regarding the use of social media have gone down since complaints were last reported in April 2017.

Terms of reference

- 4.14 The existing terms of reference are attached at Appendix 1 to this report. There are no suggested amendments from officers

5. PREVIOUS MINUTES

5.1 Standards Committee – 20 January 2015, 7 July 2015, 9 February 2016, 5 July 2016, 25 April 2017.

6. **BACKGROUND PAPERS**

6.1 None

Report prepared by Jonathan Eatough, Monitoring Officer – Governance, Procurement & Commissioning 01952 383 200

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 of 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 nonaligned 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.

Note – The Standards Committee have delegated the following powers and functions to the [Monitoring Officer](#)

- 1 The power to receive and make an initial assessment of formal Code of Conduct complaints made to the Standards Committee and decide whether further action or investigation is required.
- 2 The power to make arrangements for local settlement of complaints where the Monitoring Officer considers it appropriate including arranging mediation if required.
- 3 The power to consider and grant dispensations to Members where:
 - i. The number of Members precluded from transacting the business is so great that it would impede the business of the Council, committee or Executive
 - ii. The political balance is affected to the extent that it could affect the outcome of a vote relating to the business

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 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

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 as 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.