

TELFORD & WREKIN COUNCIL

STANDARDS COMMITTEE – 5 FEBRUARY 2019

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 review and agree the terms of reference of the committee, to receive an update on complaints received by the Monitoring Officer since the last Standards Committee meeting and .

2. RECOMMENDATION

- 2.1 That the Committee review and agree the existing terms of reference as suitable and appropriate;
- 2.2 That the Committee agrees the revised Protocol on Social Media and its circulation to all members and Town and Parish Clerks.
- 2.3 That the Committee notes the publication of the report from the Committee on Standards in Public Life on local government ethical standards and asks the Monitoring Officer to provide more detailed analysis of the implications on ethical standards in Telford & Wrekin at its next meeting

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.
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.

Terms of Reference

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

Training Update

- 4.2 With elections due in May this year officers' planning is concentrating on Induction Training. Plans previously reported to and agreed by this committee in respect of on-line and video training will be in place for Councillors, at Town and Parish level and at Borough level post-election in time for the induction of new Councillors.
- 4.3 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.

Committee on Standards in Public Life

- 4.4 Members will recall receiving the Consultation Paper from the Committee on Standards in Public Life at their meeting on 13 February 2018. A report from the Committee on Standards in Public Life on local government ethical standards is due to be published on 30 January 2019. Officers will provide a verbal update on its contents to the meeting and will prepare a more detailed analysis of the implications for the ethical framework locally for the next meeting of the Standards Committee.

Complaints

- 4.5 Since the last update report to this meeting in February 2018 the Monitoring Officer has received 16 complaints, 3 relating to Parish Councillors and 13 relating to Borough Councillors, summarised details are as follows:

Ref.	Date	Council	Referral	Details	Current status
17	Oct 17	T&W	No	Allegations relating to actions outside role as a Councillor	Closed December 2017
18	Feb 18	T&W	No	Allegations in respect of social media "like"	Closed February 2018

19	Mar 18	Parish Council	No	Allegations relating to comments on social media	Closed November 2018
20	Mar 18	T&W	No	Allegations relating to declarations of pecuniary interest	Closed November 2018
21	Mar 18	T&W	No	Allegations in respect of ward matters	Closed November 2018.
22	Sept 18	T&W	No	Allegations in respect ward matters	On-going - potential resolution - 18/09/18
23	Sept 18	T&W	No	Allegations made in respect of ward matters	Closed October 2018
24	Nov 18	T&W	Pending	Allegations in respect of actions of the Councillor in the community	More information requested - pending
25	Nov 18	Parish Council	Pending	Allegations in respect of inappropriate comments alleged to have been made by Councillor	Closed January 2019
26	Nov 18	T&W	No	Allegations of failure to respond to request for information	Closed November 2018
27	Nov 18	T&W	No	Allegations of failure to respond to request information	Closed November 2018
28	Nov 18	T & W	No	Complaint about comments by Councillor made at Council Committee	Closed – November 2018
29	Dec 18	T & W	No	Confidentiality/ safe-guarding	Closed – December 2018
30	Dec 18	T & W	No	Allegations relating to comments on social media	Closed – December 2018
31	Dec 18	Parish Council	No	Allegations regarding comments on social media	Closed – December 2018
32	Jan 19	T & W	No	Allegations in respect of social media "like"	Closed – January 2019

4.6 Whilst there have been more complaints in the last year it remains noteworthy that none have been deemed serious enough for referral by the Monitoring Officer in consultation with the Independent Person. Please note there are 2 outstanding complaints.

4.7 The inappropriate use of social media remains at the root of many complaints, about

a third of complaints. 43% of complaints emanate from Councillors role in the community, for example communications and ward inquiries/ requests with the remaining 24% either complaints that were outside the jurisdiction of the Code, ie in respect of a Councillor's private life or governance related complaints around roles in committee or in relation to declaration of interests.

Social Media Protocol

- 4.8 Considering the social media complaints, although none have been referred for investigation there continue to be practical tips that arise from the complaints that would be useful for members to bear in mind. Accordingly, attached at Appendix 2 is the current version of the Protocol on Social Media. A specific element of guidance on "likes" is proposed for inclusion, as underlined. Members are asked to review the Protocol and approve this proposed amendment and agree that all members/ clerks are reminded of the existence of the Protocol and the additional guidance.

Terms of reference

- 4.9 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, 31 October 2017, 13 February 2018.

6. BACKGROUND PAPERS

- 6.1 None

Report prepared by Jonathan Eatough, Monitoring Officer and Assistant Director, 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.