



Telford & Wrekin
C O U N C I L

Addenbrooke House Ironmasters Way Telford TF3 4NT

STANDARDS COMMITTEE

Date **Tuesday 7th July 2015** Time **6.00pm**
Venue **Meeting Room G3 & G4, Ground Floor, Addenbrooke House,
Ironmasters Way, Telford, TF3 4NT**

Enquiries Regarding this Agenda:

Democratic Services	Phil Smith	01952 383211
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Lead Officer	Jonathan Eatough - Assistant Director: Law, Democracy & People Services	01952 383200

Committee Membership: Councillors **M J Smith (Chair)**, **R J Sloan (Vice-Chair)**, S Barnes, A J Burford, N A M England, R T Kiernan, C P R Mollett and P J Scott

AGENDA

1. **Apologies for Absence**
2. **Declarations of Interest**
3. **Minutes** Appendix **A**
To confirm the minutes of the meeting of the Standards Committee held on 20th January 2015.
4. **Standards Update from the Monitoring Officer** Appendix **B**
The report of the Assistant Director: Law, Democracy & People Services & Monitoring Officer

STANDARDS COMMITTEE

Minutes of a meeting of the Standards Committee held on Tuesday, 20 January, 2015 at 6.00 pm at Addenbrooke House, Telford

PRESENT: Councillors N A M England (Chair), S. Davies, M.B. Hosken and A.D. McClements

ST-05 MINUTES

RESOLVED – that the minutes of the meeting held on 08 July 2014 be confirmed and signed by the Chair. I

ST-06 APOLOGIES FOR ABSENCE

Councillors K.R. Guy, R.T. Kiernan

ST-07 DECLARATIONS OF INTEREST

None.

ST-08 STANDARDS UPDATE

The Legal Services Manager & Deputy Monitoring Officer presented a report which provided the Committee with an update on matters relating to the ethical framework since the last meeting in July 2014.

Highlighted first were the 7 “Nolan” principles that formed the basis of the Councillors Code of Conduct, which had recently been reviewed by the Committee for Standards in Public Life. The Code of Conduct had been updated and amended to reflect the reviewed “Nolan” principles, and this was appended to the report. Members considered that these changes should be made to the Code of Conduct, and referred to full Council for adoption.

The second portion of the report discussed was around Code of Conduct complaints made since the last report. It was explained by the Legal Services Manager that one on-going complaint had been withdrawn and had been dealt with in an informal manner, but had been counted in the report

This meant that only one new formal Code of Conduct complaint had been made against Parish/Town Councillors since the last report.

A discussion then took place where the Legal Services Manager set out the current procedure which was followed upon the LA receiving Code of Conduct Complaints or queries from potential complainants.

Members of the Committee raised the following issues:

- Concerns were raised by Councillor Davies that under the current procedure Councillors are not made aware of complaints until they reach investigation and that it was felt that it was not right for councillors not to know when a formal complaint is made about them.
- There were differing opinions about this suggestion.

- It was suggested that the procedure be reviewed for reporting complaints information to the Committee to find a way to provide more information regarding complaints without publishing personal data for example; types of complaints and whether there are multiple complainers making single complaints or a single complainant making multiple complaints.

The Legal Services Manager then offered to provide information in the future regarding vexatious complainants and offered members of the committee an invitation to contact Legal Services if they wanted any further information about complaints or the complaints procedure.

A further discussion then took place about the suggestion raised by Councillor Davies concerning whether Councillors should be made aware of the complaints raised against them when complaints were first received:

- Concerns around councillors not being informed were reiterated suggesting that it meant councillors could not put safeguards in place and take action not to worsen the situation. It was also suggested that councillors might feel threatened by complainants and may place themselves in dangerous situations without this knowledge if not informed.
- A point was made that informing them of complaints too early may leave some Councillors suffering from stress or cause other health issues. However this was countered by the highlighting that all Councillors are required to follow the Code of Conduct at all times.
- Cllr M.B Hosken expressed his grave concerns regarding this course of action and the use of personal information.
- The Legal Services Manager offered to create a revised draft procedure for the committee to look at in the next meeting with examples.

The next item discussed was training, and it was reported that Code of Conduct training had been provisionally arranged to take place on 18th May combined together with IG and Data protection training which fell within the 28 days for newly elected Councillors to complete the necessary DPI forms. Cllr S. Davies recommended adding a second day at the end of June and the inclusion of Parish and Town councillors.

The final item of the report was the appointment of the Independent Persons. There were currently 2 independent persons in place - Michael Tebbutt and Chris Humphries - both of whom had confirmed that they were happy to continue their appointments after the expiry of their current term.

It was recommended that both Independent Persons' contracts be extended for with a review after a further four years, subject to approval by full Council. Members were reminded that this was a completely voluntary position and unpaid.

RESOLVED -

- (a) **To RECOMMEND to COUNCIL that the changes to the Members Code of Conduct be adopted;**

- (b) that the Code of Conduct complaints received be noted, and that the Monitoring Officer provide a revised draft procedure for the handling of Code of Conduct Complaints for consideration at the next meeting
- (c) that the proposals for the Code of Conduct training for the new municipal year be approved, subject to the inclusion of a second day at the end of June if possible and that the training should be opened up to Parish and Town Councillors
- (d) To RECOMMEND to COUNCIL that the term of appointment for the Independent Persons, namely Michael Tebbutt and Chris Humphries, be continued, and will be subject to further review in four years' time.

ST-09 HEARINGS SUB-COMMITTEE

The minutes of the meeting of the Hearings Sub-Committee held on 15 December 2014 regarding an application for a dispensation were attached to the agenda for information.

RESOLVED - that the minutes of the Sub-Committee be noted.

The meeting ended at 6.35pm

Chairman:

Date:

TELFORD & WREKIN COUNCIL

STANDARDS COMMITTEE – 7th JULY 2015

STANDARDS UPDATE FROM THE MONITORING OFFICER

REPORT OF ASSISTANT DIRECTOR: LAW, DEMOCRACY AND PEOPLE SERVICES

1. PURPOSE

To update the Committee on matters relating to the ethical framework since the last Standards Committee meeting and to address issues relating to the Code of Conduct complaint process, Disclosable Pecuniary Interest forms, training and to review the Terms of Reference of the Committee.

2 RECOMMENDATIONS

That the Committee :-

- 2.1 Note the contents of the report**
- 2.2 Consider the issues relating to the Code of Conduct complaints process**
- 2.3 Review the Terms of Reference of the Standards Committee and decide if any amendments are required.**

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, training, DPI forms and the Code of Conduct complaints procedure. A review of the Terms of Reference of the Committee is also required.

4. PREVIOUS MINUTES

- 4.1 Standards Committee – 20th January 2015

5. INFORMATION

- 5.1 The Monitoring Officer provides updates on the following matters since the last meeting of this Committee on 20th January 2015.

Complaints

There have been no formal complaints received since the last meeting on 20th January 2015.

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

As requested by this Committee, Code of Conduct training for Borough Councillors took place on 18th May 2015. The training formed part of the Councillor's induction training and was accompanied by other training which concentrated on information governance issues.

The training covered the Code of Conduct, DPI's, the complaints process and issues relating to pre-determination and bias. The Monitoring Officer and Deputy Monitoring Officer delivered the training and 14 Borough Councillors attended, 9 of which were new appointments to the Council this time. There are no plans for any further training at this time. It is noted that in the past the Committee had asked if further training sessions could be made available but the Councillor induction process did contain a number of other sessions and it has not been possible to diarise further sessions. The Monitoring Officer seeks views from the Committee on the issue of training and whether any further work needs to be done.

DPI forms

Following the election officers issued new DPI forms to all Borough Councillors and to Parish and Town Clerks. At the time of preparing this report 50 forms have been returned by Borough Councillors with 4 outstanding. It is the personal responsibility of elected members to complete and return their DPI forms.

Code of Conduct Complaint Procedure

At the last meeting of this Committee a discussion took place about the procedure that is followed when a formal written Code of Conduct complaint is received by the Monitoring Officer.

At present, when a formal complaint is received, the Monitoring Officer has the discretion to make an initial assessment of the complaint and decide whether the matter needs to be referred to this Committee for

further consideration. Options available before the matter reaches the Committee include being able to reject the complaint or to seek an informal resolution.

The current practice is that Councillors who are the subject of the complaint will be informed about it if the matter proceeds to the Standards Committee or if the informal resolution requires their participation.

At the last Committee the issue of disclosure to the Councillor complained about was discussed. There were differing views about whether or not to maintain the current procedure or whether there should be a presumption to disclose to the Councillor that the complaint had been made. It was agreed that this would be considered further at this Committee meeting. Whilst the Monitoring Officer is not recommending a change to the current practice, attached to this report at Appendix 1 is the current guidance note as it relates to the complaints process with a track change that shows how it might look if the mandatory disclosure point was introduced. At Appendix 2 is a copy of the current complaint form. Whilst there is no requirement to use this form it should be noted that the form does already allow the Monitoring Officer the option to contact the Councillor concerned at any point following the receipt of the complaint but that is discretionary.

The Committee are asked to consider this issue and decide on what procedure is most appropriate.

Review of the Terms of Reference of the Standards Committee

At the first meeting of the new municipal year the Standards Committee undertakes a review of its terms of reference. This is not a legal requirement but is good practice. The terms of reference are attached at Appendix 3 for consideration by this Committee. The Monitoring Officer is not recommending any changes to the terms of reference on this occasion, there have been no changes in relevant legislation or guidance which would require any changes to be made. The Monitoring Officer seeks views from the Committee about the current terms of reference.

The Committee should note that if any changes to legislation or guidance take place during the year then the Monitoring Officer will report back to the Committee with any amendments that need to be made.

5.5 Equal Opportunities

No implications

5.6 Environmental Impact

None

5.7 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 record of 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 on the ethical framework is not compulsory but is recommended.

Whilst advice will be provided to Councillors when completing their DPI forms it should be noted that the responsibility for completing the forms and for their accuracy is solely the responsibility of the Councillor concerned. Failure to do so constitutes a criminal offence.

The Committee have a wide discretion as to how the Code of Conduct complaint process is administered. When deciding on whether changes should be made to the current procedure the Committee should keep in mind that the rules should not prejudice the chances of a fair investigation and hearing.

5.8 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.

5.9 Opportunities and Risks

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

5.10 Financial Implications

The cost of standards investigations together with the management and administration of the Standards Committee are met from within the Legal Services revenue budget. Any variations will be reported as part of the financial monitoring process.

It should also be noted that Councillors of Telford & Wrekin Council are also required to complete and return a *Related Party Declaration* form each year (which will be requested annually by Corporate Finance).

This is so that any relevant disclosures are included in the Council's published Statement of Accounts which is audited by external auditors.

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

TELFORD & WREKIN COUNCIL – ARRANGEMENTS FOR THE INVESTIGATION AND DETERMINATION OF ALLEGATIONS MADE IN RESPECT OF THE COUNCIL'S MEMBER CODE OF CONDUCT

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 download a copy of the [Standards of Conduct](#) or ask for a copy from 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, Telford & Wrekin Council, Addenbrooke House, Ironmasters Way, Telford, TF3 4NT or alternatively by e-mail at jonathan.eatough@telford.gov.uk

The Monitoring Officer is the person responsible for administering this complaints system. You can download a copy of the [Complaint Form](#) to use, but as long as you put your complaint in writing including all the information that is requested on the form it can be submitted.

What happens next?

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



TELFORD & WREKIN COUNCIL – ARRANGEMENTS FOR THE INVESTIGATION AND DETERMINATION OF ALLEGATIONS MADE IN RESPECT OF THE COUNCIL'S MEMBER CODE OF CONDUCT

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. [Please note that the Councillor\(s\) who is subject to the complaint will be informed at this stage that a complaint has been made and this will include confirmation of your name as the complainant. If you do not want your name to be disclosed then you must make clear why that is the case. Normally your name would only be withheld in rare circumstances such as where there was a danger to your safety or if revealing your name might affect the outcome of the investigation. In any event, if your details are not disclosed at this stage then it is likely that your details will be disclosed to the Councillor\(s\) and made public if the matter proceeds to an investigation \(see the note below regarding investigations\).](#)

The Monitoring Officer might seek to resolve the complaint informally, ie 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. [As mentioned earlier in this guidance, 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.



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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.



TELFORD & WREKIN COUNCIL – ARRANGEMENTS FOR THE INVESTIGATION AND DETERMINATION OF ALLEGATIONS MADE IN RESPECT OF THE COUNCIL'S MEMBER CODE OF CONDUCT

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



COMPLAINT FORM

Appendix 2

... for complaining that a Telford & Wrekin Councillor and/or a Parish/Town Councillor within the Borough of Telford & Wrekin has breached their code of conduct.

Your Complaint

Please provide us with the name of the member(s) you believe have breached the Code of Conduct and the name of their authority:

Name	Name of the Council for which they are a Councillor

Please provide us with the details of your complaint in the space below, of course you may continue on a separate sheet and add copies of additional documents if you need to.

In your complaint you should identify why you think the Councillor has breached his/her Council's code of conduct. You must include all the information that you wish to have taken into account. For example ...

- if you are complaining about a member you should be specific about exactly what you are alleging the member said or did. For instance, instead of writing that the member insulted you, you should state what it was they said.
- where you can you should provide the dates of the alleged incidents
- you should confirm if there were any witnesses to the alleged conduct and provide their names and contact details if possible.
- you should provide any relevant background information.

COMPLAINT FORM

About you:-

Name:	
Address:	
Telephone:	
Email:	

Note

Unless you have a good reason, which you explain in your complaint, your name and details of your complaint will be available to the Councillor(s) that you are complaining about and will be publicly available and used for the purposes of an investigation if it goes that far.

.....
SIGNED

.....
DATE

Please send your completed form and other information that you wish to be considered to the Monitoring Officer at jonathan.eatough@telford.gov.uk or Telford & Wrekin Council, Addenbrooke House, Ironmasters Way, Telford, TF3 4NT

Additional Help

If you need any help in completing this form please contact the Monitoring Officer on 01952 383200 or by e-mail, see above.



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 twice yearly 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 them by the Monitoring Officer.
2. To report its findings to the Borough Council, Town or Parish Council, as appropriate for information.
3. Where a breach is found. to make decisions about sanctions including:-
 - 3.1. To make recommendations to the relevant Group Leader regarding future membership of committees and sub committees;
 - 3.2. To make recommendation to Council regarding the removal of a non-aligned member from membership of committee and sub-committees;
 - 3.3. To make recommendations to the Leader of the Council regarding the removal of a member from Cabinet, or the removal of portfolio responsibilities;
 - 3.4. To instruct the Monitoring Officer to arrange training for a Borough Council member;

3.5. To remove a member from all outside appointments to which he/ she has been appointed or nominated by the Council; and

3.6. 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).

4. To consider applications for dispensations where:-

4.1. The dispensation is in the interests of persons living in the Borough of Telford & Wrekin area; or

4.2. It is otherwise appropriate to grant a dispensation.