

## **STANDARDS COMMITTEE**

### **Minutes of a meeting of the Standards Committee held on Thursday, 17 September, 2009 at 6.00 p.m. at Civic Offices, Telford**

**PRESENT:** Councillors R. Aveley, R.E. Groom, C.R.P. Mollett, H. Rhodes and K.S. Sahota  
A. Simpson (Chairman) and B. Bayley (Independent Members)  
Councillors D. Edwards, P. Picken, R. Wickson and R. Williams (Parish Council representatives)

#### **ST-9 MINUTES**

**RESOLVED** – that the minutes of the meeting of the Standards Committee held on 18 June 2009 be confirmed and signed by the Chairman.

#### **ST-10 APOLOGIES FOR ABSENCE**

Councillors V.A. Fletcher and A.J. Stanton (TWC); F. Beasland and A. Selvaratnam (Independent Members)

#### **ST-11 DECLARATIONS OF INTEREST**

Councillor K.S. Sahota declared a personal and prejudicial interest in agenda item 8 – Code of Conduct Complaints made to the Standards Committee – Quarterly Update 1 April to 30 June 2009, and stated that he would leave the meeting during consideration of that item.

#### **ST-12 UPDATE OF THE COUNCIL'S GIFTS & HOSPITALITY GUIDANCE**

The Audit & Risk Manager presented the report of the Interim Corporate Director: Resources which outlined proposed changes to the Gifts and Hospitality Guidance for Members and employees. The draft revised Guidance was attached to the report.

The Gifts and Hospitality Guidance was last updated in March 2006, and had recently been reviewed again in the light of revised requirements for Members in respect of registering gifts and hospitality and some minor queries from employees. The key change being proposed was the introduction of a form for employees to complete when registering gifts and hospitality. This would ensure there was a consistent and full record of what had been offered and the action taken. The forms (a copy of which was appended to the report) would be retained on a register within each Portfolio for three years.

Members would be required to provide information to the Monitoring Officer but only to the level required by their statutory Code of Conduct and this guidance. Appended to the report was a checklist for Members to identify

relevant information that would be required if they needed to declare a gift or hospitality offered, accepted or rejected.

Other minor changes to the Guidance were highlighted in the revised draft document.

Members enquired as to whether the Guidance also applied to Independent Members of this Committee and to other external Co-optees (eg: Scrutiny). The Head of Legal Services & Monitoring Officer advised that this was the case, and that this could be clarified within the Guidance document.

**RESOLVED – to RECOMMEND to COUNCIL that the updated Gifts & Hospitality Guidance, as set out at Annex 1 of the report, be adopted, subject to the inclusion of wording to clarify that the guidance also applies to co-opted and independent members.**

### **ST-13            JOINT STANDARDS COMMITTEES**

The Head of Legal Services & Monitoring Officer presented a report which provided further information relating to Joint Standards Committees, along with issues and proposals for Members to consider.

At the last meeting on 18 June 2009, the Committee had asked the Monitoring Officer to investigate the possible provision of a joint standards committee (minute ST-8(c)). Standards for England had now issued guidance with regards to joint standards committees, and this was appended to the report. The guidance set out the benefits of a joint committee, including the avoidance of conflict of interests through using a wider pool of members for assessing and determining complaints, as well as potential problems/issues. The most likely partner would be the Shropshire & Wrekin Fire Authority, although the Fire Authority had not yet been formally approached. It was therefore suggested that recommendation 2.1 in the report be amended, so that rather than making a recommendation to full Council, the Committee be asked to agree in principle to discussions taking place with potential partners, including Shropshire Council as well, about the establishment of a Joint Standards Committee.

The Standards for England guidance also contained three possible models for a joint committee, and these were detailed in the report. In deciding which option to choose, Standards for England had provided a checklist of issues to consider, and this was appended to the report. Subject to further discussions with the Fire Authority, Members were minded to adopt Model C – a joint committee to carry out all the functions of a standards committee – but did not feel able to consider all the issues in the checklist until the principle of a joint committee had been more fully explored with the Fire Authority and Shropshire Council. The Head of Legal Services & Monitoring Officer advised that he could take a similar report to the Fire Authority seeking outline agreement to participating in a joint committee, and that the Chairs of interested Authorities' Standards Committees could be involved in developing a joint committee model.

## **RESOLVED –**

- (a) that agreement in principle be given to discussions taking place with potential partners on the establishment of a Joint Standards Committee;**
- (b) that Model C – a joint standards committee to carry out all the functions of a standards committee – be the preferred model to be adopted for a Joint Standards Committee;**
- (c) that following discussions with potential partners, a further report be brought back to the Committee with a framework setting out the proposed structures and procedures for a Joint Committee.**

## **ST-14        DISPENSATIONS**

The Head of Legal Services & Monitoring Officer presented a report which informed the Committee of new rules for dispensations, and to update the process for making dispensation applications.

Following the changes introduced by the Standards Committee (Further Provisions) (England) Regulations 2009 (as reported at the last meeting), Standards for England had released guidance on granting dispensations under the new Regulations. The guidance document was appended to the report. The new provisions clarified the grounds on which standards committees may grant dispensations to local authority members. Consequently, there was a need to revise and update the dispensations application form and the guidance to applicants and the Standards Committee.

Members were also asked to consider establishing a dispensations sub-committee. The benefits of using a sub-committee would be the ability to quickly consider applications which are sometimes made at relatively short notice. It would also fit in with the structure already established to assess Code of Conduct complaints. Proposals for making a change to the Committee's terms of reference to allow for the establishment of a dispensations sub-committee were appended to the report. If agreed, the amended terms of reference would need to be considered by the Council Constitution Committee.

In response to a question, the Head of Legal Services & Monitoring Officer advised that the application form was mainly intended for use by individual members, but in certain circumstances it could apply to a group of members if the reason(s) for seeking the dispensation was the exactly the same for all of them. However, each case would have to be considered on its own merits.

**RESOLVED –**

- (a) that the new dispensations application form and guidance, as shown at Appendix 2 of the report, be approved;
- (b) to approve the establishment of a Dispensations Sub-Committee to consider dispensations applications, and to RECOMMEND to the Council Constitution Committee the consequent changes to Article 9 of the Constitution, as shown at Appendix 3 of the report.

**ST-15            UPDATE ON ACTION TAKEN BY THE MONITORING OFFICER FOLLOWING A CODE OF CONDUCT COMPLAINT**

The Head of Legal Services & Monitoring Officer presented a report which updated Members concerning action undertaken at the direction of the Referrals Sub-Committee following a complaint alleging a breach of the Code of Conduct.

The complaint concerned a Councillor of Waters Upton Parish Council, and the Sub-Committee decided to direct the Monitoring Officer to invite the Councillor to undertake Code of Conduct training. They also decided that it would be appropriate to offer training to all Members of Waters Upton Parish Council. The Head of Legal Services & Monitoring Officer reported back to Members on actions taken to implement their decision.

**RESOLVED** – that the Committee are satisfied with the action undertaken by the Monitoring Officer following the decision of the Referrals Sub-Committee on 23 February 2009.

**ST-16            CODE OF CONDUCT COMPLAINTS MADE TO THE STANDARDS COMMITTEE – QUARTERLY UPDATE 1 APRIL TO 30 JUNE 2009**

Councillor Sahota withdrew.

The Head of Legal Services & Monitoring Officer presented a report which provided details of the Code of Conduct complaints received by the Committee during the period April to June 2009.

During the period, complaints about three elected members proceeded to local assessment. The complaints were all submitted by members of the public, and generally related to aspects of the Code about failing to treat others with respect and disrepute. In one case, the Referrals Sub-Committee decided that a local investigation was required, with no further action taken in the other two cases. During the period the Review Sub-Committee considered one review application from a member of the public concerning a Borough Councillor (also when acting as a Parish Councillor). The Sub-Committee decided to uphold the original decision that no further action was required.

The quarterly return had been forwarded to Standards for England in accordance with Section 186 of the Local Government and Public Involvement in Health Act 2008.

**RESOLVED – that the report be noted.**

The meeting ended at 6.45 pm

**Chairman:** .....

**Date:** .....

**STANDARDS COMMITTEE WORK PROGRAMME**

**MAY 2009 – APRIL 2010**

	<b>Action</b>	<b>Who is responsible</b>	<b>Completion Date</b>	<b>Current Progress</b>
1.	Undertaking local assessment of Code of Conduct complaints received by the Standards Committee	Monitoring Officer and Deputy Monitoring Officer	On-going responsibility	This action is currently being undertaken – ongoing responsibility
2.	Review of Member Officer protocol	Standards Committee and Monitoring Officer	July 2009	The protocol is yet to be completed. It is suggested that the protocol is completed alongside the Council re-organisation in order to ensure that it remains fit for purpose and relevant. Accordingly new suggested timescale for completion is May 2010.
3.	Attendance at Standards Board Assembly	Chair of Standards Committee, Monitoring Officer, Deputy	The eighth annual Assembly of Standards	Chairman of Standards Committee,

		Monitoring Officers	Committees is currently scheduled to take place on 12 and 13 October 2009	Monitoring Officer and Deputy Monitoring Officer attended the Standards Assembly. Chairman of Standards Committee and Monitoring Officer both participated as speakers at the Assembly.
4.	Ensuring provision of Code of Conduct training for all Telford & Wrekin Members and all Parish/Town Council Members	Standards Committee assisted by Monitoring Officer and Deputy Monitoring Officer	This could vary depending upon when forthcoming changes to the Code are introduced. Current completion date is 31 <sup>st</sup> October 2009	An external trainer and general format for the training has been agreed. The completion date should be changed to February 2010. There has been some delay in organising the training and some difficulties with obtaining appropriate venues.
5.	Review/update of Members Register of Interest forms for both Telford & Wrekin Council and all Parish/Town Councils in the Borough	Standards Committee, Monitoring Officer, Deputy Monitoring Officer, Democratic Services	30 November 2009	Letters are currently being prepared to Councillors and Parish Clerks to ensure this is undertaken. It is anticipated this process will be concluded by the end

				of February 2010.
6.	Training for Independent Members of Standards Committee in relation to chairing Standards Sub-Committees	Monitoring Officer and Deputy Monitoring Officer	November 2009	Completed. Training provided by Monitoring Officer and Deputy Monitoring Officer on 7 October 2009. Independent members from the Fire Authority were also invited.
7.	Review of local code of conduct complaints documentation and publicity	Standards Committee, Monitoring Officer, Deputy Monitoring Officer	30 November 2009	Report to go to Standards Committee on 10th December 2009.
8.	Review of the Terms of Reference of the Standards Committee	Standards Committee assisted by Monitoring Officer and Deputy Monitoring Officer	31 December 2009	Report to go to Standards Committee on 10th December 2009.
9.	Review of local investigation and local hearing procedures	Standards Committee, Monitoring Officer and Deputy Monitoring Officer	31 December 2009	Report to go to Standards Committee on 10th December 2009.
10.	Review of Plans Board protocol – guidance for Members of Plans Board	Standards Committee assisted by Monitoring Officer and Deputy Monitoring Officer in consultation with Plans Board	31 December 2009	Ongoing, draft documents are being considered – new anticipated completion date is end of February 2010.
11.	Annual report on the work of the Standards Committee for submission to full Council	Chair of Standards Committee, Monitoring Officer, Deputy Monitoring Officer	31 December 2009	Previous annual report covered the entire municipal year.

				Suggested report is prepared at end of current municipal year and presented for consideration by Standards Committee as soon as possible thereafter.
12.	Review dispensation application procedures	Standards Committee, Monitoring Officer and Deputy Monitoring Officer	31 December 2009 depending upon introduction of legislation	Completed – considered by Standards Committee on 17 September 2009 and due to be considered by Council Constitution Committee in December 2009.
13.	Review the role descriptions for Members of the Standards Committee	Standards Committee assisted by Monitoring Officer, Deputy Monitoring Officer and Member Services	March 2010	Not yet completed. No anticipated delays at present.
14.	Evaluate the options and implications of joint working with other Standards Committees	Standards Committee, Monitoring Officer and Deputy Monitoring Officer	March 2010	Matter considered in principle by Standards Committee on 18 <sup>th</sup> June 2009. Considerable further work to be undertaken. Current completion date to be retained for present

				time.
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**TELFORD & WREKIN COUNCIL**

**STANDARDS COMMITTEE – 10<sup>th</sup> DECEMBER 2009**

**UPDATE ON STANDARDS COMMITTEE WORK PROGRAMME**

**REPORT OF HEAD OF LEGAL SERVICES AND MONITORING OFFICER**

**1. PURPOSE**

To update the Standards Committee with regard to progress in relation to the work programme which has been agreed for the current municipal year.

**2. RECOMMENDATION**

**2.1 That the contents of the report are noted.**

**3. SUMMARY**

The Standards Committee has agreed a work programme for the current municipal year. Some of the work undertaken has been in accordance with the agreed completion date. Other work is currently in progress and has yet to be completed.

**4. PREVIOUS MINUTES**

Standards Committee – 21 April 2009 (ST-38)

**5. INFORMATION**

**5.1 Background**

5.1.1 On 21 April 2010 this Committee approved a work programme for the municipal year 2009/10. A number of the matters set out in the work plan have been addressed. Attached at Appendix 1 is a copy of the work programme together with details of current progress. In some cases the work set out has been completed. However, in other cases, completion of the work has been delayed and is therefore due to be completed during the next calendar year. This is due to some of the work set out in the programme requiring significant resources. In some cases those resources have been diverted away from this work by other ethical standards matters such as dealing with referral and review sub committees and co-ordinating local investigations.

5.1.2A further report will be provided to this Committee on the conclusion of the current municipal year to confirm the work that has been undertaken and to determine the work that needs to be undertaken for the following municipal year.

## **5.2 Equality and Diversity**

All processes and procedures undertaken by the Standards Committee that are included in the work programme need to comply with the appropriate Equality and Diversity legislation, regulations and guidance.

## **5.3 Environmental Impact**

No implications

## **5.4 Legal Comment**

There is no legal requirement for the Standards Committee to have a work programme in place but it does represent good practice to do so.

## **5.5 Links with Corporate Priorities**

Setting out a work programme for the Committee in relation to its role concerning ethical governance for the Authority assist the Council in ensuring that it is an efficient effective and customer focussed Council that delivers value for money for the community.

## **5.6 Opportunities and Risks**

The risks associated with producing the annual work programme for the Standards Committee have been assessed. The opportunities provided by having a work programme setting out key areas to be addressed will be maximised.

## **5.7 Financial Implications**

It is anticipated that the costs of the activities set out in the work programme will be met from within existing resources. Any variances that arise will be highlighted through regular financial monitoring during the year.

## **6. WARD IMPLICATIONS**

District wide

**Report prepared by Matthew Cumberbatch, Group Solicitor  
Tel: 01952 383255**

**TELFORD & WREKIN COUNCIL**

**STANDARDS COMMITTEE – 10<sup>th</sup> DECEMBER 2009**

**ANNUAL REVIEW OF STANDARDS COMMITTEE TERMS OF REFERENCE**

**REPORT OF THE HEAD OF LEGAL SERVICES AND MONITORING OFFICER**

**1. PURPOSE**

To provide details of the Terms of Reference and role and function of the Standards Committee as it appears in the Council's Constitution for review by this Committee

**2. RECOMMENDATIONS**

That the Standards Committee review its Terms of Reference and make any recommendations for changes as appropriate.

**3. SUMMARY**

The Standards Committee reviews its Terms of Reference annually. The Committee are asked to consider whether any amendments are required and make any recommendations for further changes as appropriate.

**4. PREVIOUS MINUTES**

19/09/05 – ST-12  
24/01/07 – ST-32  
18/12/08 – ST-

**5. INFORMATION**

**5.1 Background**

Within the Terms of Reference of the Standards Committee there is a provision that the Committee should annually review its Terms of Reference. The Terms of Reference for the Committee (together with confirmation of the Committee's functions, powers and duties) appear in the Council's Constitution. Comments are welcome from the Committee regarding any points in either the Terms of Reference or role and function which they consider are in need of amendment. The terms of reference are attached at appendix 1.

- 5.2 There has been only one recent change to the Standards Committee terms of reference and that relates to the introduction of a sub-committee to consider dispensations. This change has still to be approved by full Council.
- 5.3 The system for local assessment of Code of Conduct complaints has now been in place for about 18 months. The Committee may wish, as part of the review, to focus particularly on the terms that relate to the local assessment process to address any areas which they believe may be causing concern and accordingly may require amendment.
- 5.4 The review of the terms of reference is an area of work identified in the Standards Committee's current work plan.

### **5.5 Equal Opportunities**

No implications identified

### **5.6 Environmental Impact**

No implications identified

### **5.7 Legal Comment**

The Standards Committee undertakes functions in accordance with legislative requirements set out in the Local Government Act 2000, the Local Government and Public Involvement in Health Act 2007 and other associated legislation. Any changes to the Terms of Reference must not only be compliant with legislative requirements but should also take into account guidance from Standards for England.

### **5.8 Links with Corporate Priorities**

Ensuring that the terms of reference for the Committee are up to date and compliant with legislative requirements assists the Council in meeting its objective of being "an Efficient, Effective and Customer-Focused Council".

### **5.9 Opportunities and Risk**

The opportunities and risk associated with this review have been identified and assessed. Arrangements will be put in place to manage the risks and maximise the opportunities that have been identified.

## **5.10 Financial Implications**

There are no financial implications arising from this report; the administration and operation of Standards Committee and the sub-committee are met from within existing revenue budgets.

## **6. WARD IMPLICATIONS**

District wide implications

## **7. BACKGROUND PAPERS**

Local Government Act 2000

Local Government and Public Involvement in Health Act 2007.

Standards Committee (England) Regulations 2008.

Standards Board for England Guidance - "The Role and Make-Up of Standards Committees", "Local Assessment of Complaints".

***Report prepared by Matthew Cumberbatch, Group Solicitor, Legal Services***

***Tel: 01952 383255***

## APPENDIX 1

### Article 1– The Standards Committee The Audit Committee

#### Explanatory Comment

The Standards Committee has an important role in ensuring and promoting good ethical conduct of Councillors and officers. The Audit Committee has an important role in overseeing financial processes, audit and risk management. They both support good governance in the public sector, with particular reference to local government.

**(Section 53-55 and Sections 81(5), Local Government Act 2000)**  
(CIPFA Position Statement –“Audit Committee Principles in Local Government”)

#### 9.01 Standards Committee

The full Council will establish a Standards Committee.

#### 9.02 Composition

##### Political Balance

The Standards Committee will be politically balanced as per the political balance rules in **section 15 of the Local Government & Housing Act 1989.**

- (a) **Membership:** The Standards Committee will be composed of:-
- eight Councillors, excluding the Leader and only one of whom may be a member of the Cabinet;
  - four persons who are not Councillors or Officers of the Council or any other body having a Standards Committee (independent members);
  - at least three parish council representatives (who are not members of the Council)
- (b) **Independent Members** – Independent members will be appointed in accordance with guidance issued. Independent members will be entitled to vote at meetings;
- (c) **Chairing the Committee** – The Chairman must be an Independent Member of the Committee and should either have previous knowledge or have received training on standards, regulation and ethical issues.
- (d) **Quorum** – The quorum for a meeting of the Standards Committee shall be three which must include one of the independent members.
- (e) **Training** – In addition to the Chairman’s training outlined above, all members of the Committee should be properly trained to fulfil their role, including awareness of standards, ethics and governance.
- (f) **Sub-committees** –

#### Terms of Reference of the Referrals Sub-Committee

##### As approved by the Standards Committee

1. Terms of Reference

- a. The Referrals Sub-Committee is established to receive allegations that a member of the Authority has failed, or may have failed, to comply with the Authority's Code of Conduct.
- b. Upon receipt of each allegation and any accompanying report by the Monitoring Officer, the Sub-Committee shall make an initial assessment of the allegation and shall then do one of the following:
  - i. refer the allegation to the Monitoring Officer, with an instruction that he/she arrange a formal investigation of the allegation, or directing that he/she arrange training, conciliation or such appropriate alternative steps as permitted by Regulations;
  - ii. refer the allegation to the Standards Board for England;
  - iii. decide that no action should be taken in respect of the allegation; or
  - iv. where the allegation is in respect of a person who is no longer a member of the Authority, but is a member of another relevant authority (as defined in Section 49 of the Local Government Act 2000), refer the allegation to the Monitoring Officer of that other relevant authority;

and shall instruct the Monitoring Officer to take reasonable steps to notify the person making the allegation and the member concerned of that decision.

- c. Upon completion of an investigation by the Monitoring Officer, the Sub-Committee shall be responsible for determining whether:
  - i. it accepts the Monitoring Officer's finding of no failure to observe the Code of Conduct;
  - ii. the matter should be referred for consideration at a hearing before the Hearings Sub-Committee of the Standards Committee; or
  - iii. the matter should be referred to the Adjudication Panel for determination.
- d. Where the Sub-Committee resolves to do any of the actions set out in Paragraph 1(b) or 2(c) above, the Sub-Committee shall state its reasons for that decision.
- e. The Sub-Committee shall consider any application received from any officer of the Authority for exemption from political restriction under Sections 1 and 2 of the Local Government and Housing Act 1989 in respect of the post held by that officer and may direct the Authority that the post shall not be considered to be a politically restricted post and that the post be removed from the list maintained by the Authority under Section 2(2) of that Act.
- f. The Sub-Committee shall, upon the application of any person or otherwise, consider whether a post should be included in the list maintained by the Authority under Section 2(2) of the 1989 Act, and may direct the Authority to include a post in that list.

## 2. Composition of the Referrals Sub-Committee

The Referrals Sub-Committee shall comprise 4 members, of whom at least 1 shall be an independent member of the Standards Committee (and one of whom shall chair the Sub-Committee), and at least 2 elected members of the Authority. When the Referrals Sub-Committee considers a matter relating to the conduct of a person in

his/her capacity as a Parish or Town Councillor, the Sub-Committee shall also include a Parish or Town Council representative.

3. Quorum

The quorum for a meeting of the Sub-Committee shall be 3 members, with an Independent member as Chairman, and at least one elected member of the Council and at least one Parish or Town Council representative when considering a matter relating to the conduct of a member as Parish or Town Councillor.

## **Terms of Reference of the Review Sub-Committee**

### **As approved by the Standards Committee**

1. Terms of Reference

- a. The Review Sub-Committee is established to review, upon the request of a person who has made an allegation that a member of the Authority has failed, or may have failed, to comply with the Authority's Code of Conduct, a decision of the Referrals Sub-Committee that no action be taken in respect of that allegation.
- b. Upon receipt of each such request and any accompanying report by the Monitoring Officer, the Sub-Committee shall review the decision of the Referrals Sub-Committee and shall then do one of the following:
  - i. refer the allegation to the Monitoring Officer, with an instruction that he/she arrange a formal investigation of the allegation, or specifying that he/she take an alternative action as permitted by Regulations;
  - ii. refer the allegation to the Standards Board for England;
  - iii. decide that no action should be taken in respect of the allegation; or
  - iv. where the allegation is in respect of a person who is no longer a member of the Authority, but is a member of another relevant authority (as defined in Section 49 of the Local Government Act 2000), refer the allegation to the Monitoring Officer of that other relevant authority;

and shall instruct the Monitoring Officer to take reasonable steps to notify the person making the allegation and the member concerned of that decision.

- c. Where the Sub-Committee resolves to do any of the actions set out in Paragraph 1(b) above, the Sub-Committee shall state its reasons for that decision.

2. Composition of the Review Sub-Committee

The Review Sub-Committee shall comprise 4 members, of whom at least 1 shall be an independent member of the Standards Committee (and one of whom shall chair the sub-committee), and at least two 2 shall be elected members of the Authority. When the Referrals Sub-Committee considers a matter relating to the conduct of a person in his/her capacity as a Parish or Town Councillor, the Sub-Committee shall also include a Parish or Town Council representative.

3. Quorum

The quorum for a meeting of the Sub-Committee shall be 3 members, with an Independent member as Chairman, and at least one elected member of the Council and at least one Parish or Town Council representative when considering a matter relating to the conduct of a member as Parish or Town Councillor.

#### 4. Frequency of Meetings

The Review Sub-Committee shall meet as and when required to enable it to undertake the review of any decision of the Referrals Sub-Committee within 3 months of the receipt of the request for such a review from the person who made the allegation.

### 9.03 **Role and Function**

The Standards Committee will have the following roles and functions:

- (a) promoting and maintaining high standards of conduct by Councillors, parish councillors and co-opted members, (including church and parent governor representatives);
- (b) assisting the Councillors, parish councillors and co-opted members (including church and parent governor representatives) to observe the Members' Code of Conduct;
- (c) advising the Council on the adoption or revision of the Members' Code of Conduct;
- (d) monitoring the operation of the Members' Code of Conduct;
- (e) advising, training or arranging training in relation to the Code of Conduct;
- (f) granting dispensations to Councillors, co-opted members (including church and parent governor representatives) from requirements relating to interests set out in the Members' Code of Conduct;
- (g) receiving allegations that a member of the Authority has failed, or may have failed, to comply with the Authority's Code of Conduct
- (h) establish sub-committees of the standards committee to make initial assessments of complaints received by the Standards Committee alleging a breach of the Members' Code of Conduct;
- (i) establish sub-committees to consider requests received by the Standards Committee to review decisions to take no action in relation to a complaint made to its sub-committee set out at paragraph (g) above
- (i) dealing with any reports from a case tribunal or interim case tribunal, and any report from the Monitoring Officer on any matter which is referred by a sub-committee of the Standards Committee or an ethical standards officer to the Monitoring Officer and setting up hearings sub-committees to deal with those reports as and when required
- (k) in conjunction with the operation of the Standards Board for England, the Standards Committee will work within the existing policy and procedures for handling of issues relating to probity and matters of an ethical nature.
- (l) consider any application received from any officer of the Authority for exemption from political restriction under Sections 1 and 2 of the Local Government and Housing Act

1989 in respect of the post held by that officer and may direct the Authority that the post shall not be considered to be a politically restricted post and that the post be removed from the list maintained by the Authority under Section 2(2) of that Act

- (m) advising the Council on the appointment of independent members taking account of guidance issued by the Standards Board for England
- (n) selecting and recruiting Parish Council representatives to serve on the Standards Committee taking account of guidance issued by the Standards Board for England

# LOCAL CODE OF CONDUCT COMPLAINTS PROCESS

## Changes to the complaints procedure

From 8 May 2008 the responsibility for considering complaints that a member may have breached the Code of Conduct is moving to the standards committees of local authorities.

## What this means to you

After 8 May 2008 if you want to complain about the conduct of a member of Telford & Wrekin Council or a member of one of the parish or town councils in the Borough, you must submit your complaint to:

Chair of the Standards Committee  
C/o The Head of Legal Services and Monitoring Officer  
Telford & Wrekin Council  
PO Box 215  
Civic Offices  
Telford  
TF3 4LF

The Standards Committee can only deal with complaints about the behaviour of a member. It will not deal with complaints about things that are not covered by the members' Code of Conduct. If you make a complaint to the Standards Committee it must be about why you think a member has not followed the Code of Conduct.

Until 8 May 2008, the Standards Board for England remains responsible for carrying out this function. Please visit the Standards Board's website at [www.standardsboard.gov.uk](http://www.standardsboard.gov.uk) for further information.

# **PROCESS FOR MAKING COMPLAINTS ABOUT COUNCILLORS**

The responsibility for considering complaints that local Councillors may have breached their Code of Conduct rests with Telford & Wrekin Council's Standards Committee.

If you want to complain about the conduct of a Telford & Wrekin Councillor or one of the parish or town councillors in the Borough, you must submit your complaint in writing to:

Chair of the Standards Committee  
C/o The Head of Legal Services and Monitoring Officer  
Telford & Wrekin Council  
PO Box 215  
Civic Offices  
Telford  
TF3 4LF

The Standards Committee can only deal with complaints about the behaviour of a councillor. It will not deal with complaints about things that are not covered by the councillors' Code of Conduct. If you make a complaint to the Standards Committee it must be about why you think a member has not followed the Code of Conduct.

If you want to discuss the matter informally or require a copy of the code of conduct and complaint form please contact Jonathan Eatough, Head of Legal Services and Monitoring Officer, at [jonathan.eatough@telford.gov.uk](mailto:jonathan.eatough@telford.gov.uk) or on 01952 383200. Alternatively a copy of the complaint form and guidance can be found at [www.telford.gov.uk](http://www.telford.gov.uk).

Further information about the ethical framework for Councillors can be obtained from Standards for England at [www.standardsforengland.gov.uk](http://www.standardsforengland.gov.uk)

# COMPLAINT FORM

## Your details

1. Please provide us with your name and contact details

<b>Title:</b>	
<b>First name:</b>	
<b>Last name:</b>	
<b>Address:</b>	
<b>Daytime telephone:</b>	
<b>Evening telephone:</b>	
<b>Mobile telephone:</b>	
<b>Email address:</b>	

Your address and contact details will not usually be released unless necessary or to deal with your complaint.

However, we may tell the following people that you have made this complaint:

- the member(s) you are complaining about
- the monitoring officer of the authority
- the parish or town clerk (if applicable)

We may tell them your name and give them a summary of your complaint. We will give them full details of your complaint where necessary or appropriate to be able to deal with it. If you have serious concerns about your name and a summary, or details of your complaint being released, please complete section 6 of this form.

2. Please tell us which complainant type best describes you:

- Member of the public
- An elected or co-opted member of an authority
- An independent member of the standards committee
- Member of Parliament
- Local authority monitoring officer
- Other council officer or authority employee
- Other ( )

3. Equality monitoring questions

**About you:**

To help us meet our duties under equality legislation and in line with the Council’s policy on equality and diversity please provide us with the following details.

You do not have to complete this section if you don’t want to, but it may help us to monitor and improve our services if you do. Please answer any questions you feel comfortable with.

This information will not be passed to the person dealing with your report.

(please tick your response)

**Are you?** Male Female

**What age group are you?** 0-11 12-17 18-24 25-39 40-64 65+

**What is your ethnicity?**

White		Mixed		Asian or Asian British		Black or Black British		Chinese or Other Ethnic Group	
White British		White and Black Caribbean		Indian		Caribbean		Chinese	
White Irish		White and Black African		Pakistani		African		Gypsy	
		White and Asian		Bangladeshi					
Any Other White background		Any other Mixed background		Any other Asian Background		Any other Black Background		Any other Ethnic Background	

**Do you consider yourself to have a disability?**

Yes No Rather not say

**Do you belong to any particular religion or hold particular beliefs?**

Christian Muslim Sikh Hindu No Religion Rather not say  
Other Religion (please state)

## Making your complaint

- We aim to deal with your complaint as quickly as possible. From the date that we receive your complaint, our aim is for the Sub-Committee of the Standards Committee to have considered it within 20 working days.
- The Sub-Committee will consider your complaint in private. You will not be required to attend and the Councillor(s) who is subject to the complaint will not be present.
- The Sub-Committee, upon considering your complaint, could make the following decisions:-
  - To refer the Councillor who is subject to the complaint for training
  - To recommend that you as the complainant and the Councillor who is subject to the complaint take part in conciliation
  - That it is appropriate for the matter to be referred to the Standards Board for England
  - To refer the matter to the Monitoring Officer with any other direction they consider appropriate
  - That no further action is required
- We aim, within 5 working days of the decision being made by the Sub-Committee of the Standards Committee, to provide written notification of any decision to you, the Councillor(s) who is subject to your complaint, the Parish or Town Clerk (if applicable), any other party as appropriate (for example, the Standards Board for England)
- If you have any queries during the process then please direct them to the Head of Legal Services and Monitoring Officer on (01952) 383200 (email [roger.woliter@telford.gov.uk](mailto:roger.woliter@telford.gov.uk))

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

Title	First name	Last name	Council or authority name

5. Please explain in this section (or on separate sheets) what the member has done that you believe breaches the Code of Conduct. If you are complaining about more than one member you should clearly explain what each individual person has done that you believe breaches the Code of Conduct.

It is important that you provide all the information you wish to have taken into account by the sub-committee when it decides whether to take any action on your complaint. For example:

- You should be specific, wherever possible, 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.
- You should provide the dates of the alleged incidents wherever possible. If you cannot provide exact dates it is important to give a general timeframe.
- You should confirm whether there are any witnesses to the alleged conduct and provide their names and contact details if possible.
- You should provide any relevant background information.

Please provide us with the details of your complaint. Continue on a separate sheet if there is not enough space on this form.

**Only complete this next section if you are requesting that your identity is kept confidential**

6. In the interests of fairness and natural justice, we believe members who are complained about have a right to know who has made the complaint. We also believe they have a right to be provided with a summary of the complaint. We are unlikely to withhold your identity or the details of your complaint unless you have good reason to believe that providing this information would:
- put your personal safety at risk
  - be contrary to the public interest
  - in some way prejudice any investigation

Please note that requests for confidentiality or requests for suppression of complaint details will not automatically be granted. The sub-committee will consider the request alongside the substance of your complaint. We will then contact you with the decision. If your request for confidentiality is not granted, we will usually allow you the option of withdrawing your complaint.

However, it is important to understand that in certain exceptional circumstances where the matter complained about is very serious, we can proceed with an investigation or other action and disclose your name even if you have expressly asked us not to.

Please provide us with details of why you believe we should withhold your name and/or the details of your complaint:

### **Additional Help**

7. Complaints must be submitted in writing. This includes fax and electronic submissions. However, in line with the requirements of the Disability Discrimination Act 2000, we can make reasonable adjustments to assist you if you have a disability that prevents you from making your complaint in writing. We can also help if English is not your first language. If you need any support in completing this form, please let us know as soon as possible.

If you need any of this information in large print or on tape, please contact us on (01952) 382121.

Minicom number (01952) 382500

### **Difficulty in speaking English?**

Please contact us about our Translation and Interpretation Services on (01952)383255

**WHEN YOU HAVE COMPLETED THIS FORM PLEASE SEND IT  
TOGETHER WITH ANY ADDITIONAL EVIDENCE AND DOCUMENTATION  
TO THE ADDRESS BELOW**

**The Chair of the Standards Committee  
c/o The Head of Legal Services and Monitoring Officer  
Legal Services  
Telford & Wrekin Council  
PO Box 215  
Civic Offices  
Telford TF3 4LF**



**Telford & Wrekin**

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C O U N C I L

**GUIDANCE ON COMPLAINTS**

**ABOUT COUNCILLORS**

## **1. Introduction**

This guidance provides information about the system for making complaints about Telford & Wrekin Borough Councillors and Councillors from the Parish and Town Councils within the Borough of Telford & Wrekin. It is particularly intended for those people who wish to make a complaint about a Councillor and require further information as to how to do so. This guidance relates specifically to the system followed by Telford & Wrekin Council's Standards Committee. Systems for processing Councillor's complaints outside the Borough of Telford & Wrekin may be different.

## **2. How to make a complaint**

If you wish to make a complaint about the behaviour or actions undertaken by a Councillor you can make a formal complaint to Telford & Wrekin Council's Standards Committee. The Standards Committee have been designated in legislation to consider the complaints which relate to both Borough Councillors and also the Parish and Town Councillors from Parish and Town Councils within the Borough of Telford & Wrekin.

After being elected, all Councillors sign a declaration undertaking to abide by the terms of the Elected Members ("Members") Code of Conduct. The Code of Conduct adopted by Telford & Wrekin Council is attached to this guidance at Appendix 1. Each Parish and Town Council within the Borough of Telford & Wrekin will have adopted their own Code of Conduct which will be similar to the one set out in Appendix 1 but may have a few variations. If you wish to complain about a Councillor you may wish to review the terms of the Code of Conduct to see which particular element of the Code you believe has been breached. If you have a complaint with regards to a Parish or Town Councillor it is suggested that you contact the Clerk of the relevant Parish or Town Council concerned to obtain a copy of the Code of Conduct which they have adopted. Contact details for the Parish and Town Councils in the Borough are attached to this guidance at Appendix 2.

## **3. Preparing and submitting your complaint**

Your complaint should be set out in writing and the Standards Committee has also agreed that they would wish all complaints to be signed and dated by the person who is making the complaint. In order to assist with the information which you are required to provide, a complaint form has been prepared for you to use if you wish. A copy of the complaint form is attached at Appendix 3. You do not have to use the complaint form but it may assist the Standards Committee when considering your complaint if you have provided all of the details which are requested in the form. When submitting your complaint it is recommended that you include as much information as possible and attach any evidence upon which you want to rely. This could include letters, emails, statements, copies of Council meeting minutes etc.

You will need to send your complaint to the address set out below.

The Chairman of the Standards Committee,

c/o The Head of Legal Services and Monitoring Officer,  
Telford & Wrekin Council,  
Legal Services,  
PO Box 215,  
Civic Offices,  
Telford  
TF3 4LF

#### **4. What happens when my complaint has been received?**

The Monitoring Officer for Telford & Wrekin Council will receive your complaint on behalf of the Chairman of the Standards Committee. At that point arrangements will be made for a group of Members from the Standards Committee (known as the Referrals Sub-Committee) to meet and make an initial assessment of your complaint. This should happen within twenty working days of us receiving your complaint. You will normally be contacted after receipt of your complaint confirming that the Referral Sub-Committee meeting will go ahead and confirming the date by which it is expected that your complaint will have been assessed. The Standards Committee have prepared a protocol for dealing with the receipt of complaints which is attached to this guidance at Appendix 4. The protocol includes information as to work which may be undertaken by the Monitoring Officer before the complaint is assessed. This could include contacting you for further information. It is also expected that the Councillor who is the subject of the complaint will be notified that you have made the complaint and some brief details provided to them. In cases where you do not want your name to be supplied to the Councillor who you have complained about you can put this in the complaint form attached at Appendix 3. However, it will ultimately be a decision for the Referral Sub-Committee to decide whether or not this information is released to the Councillor concerned.

#### **5. How will my complaint be assessed?**

When the Referrals Sub-Committee meets they will not be deciding whether or not your complaint amounts to a breach of the Councillors Code. Instead they will be making an initial decision as to what further work will be needed to decide whether or not your complaint will be upheld. This meeting will be in private and both the person complaining and the Member who is subject to the complaint will not be able to attend.

The Referrals Sub-Committee have a criteria to use as a guide as to what decision they should make. A copy of this criterion is attached at Appendix 5. If the Sub-Committee decides that the complaint relates to an aspect of the Code of Conduct and that it is sufficiently serious to be investigated they can ask that an investigation is undertaken locally under the direction of the Monitoring Officer. Alternatively they could refer the matter to the Standards for England in order for them to undertake an investigation. This will depend upon how serious they consider the potential breach to be. However, if the Sub-Committee decide that the matter should not be investigated they can either decide that no further action should be taken or they may decide to ask the Monitoring Officer to undertake some other action such as asking the Councillor concerned to attend some training or asking the Monitoring

Officer to set up some mediation between the person who has made the complaint and the Councillor who has been complained about.

You will be informed about the Referral Sub-Committee's decision normally within five working days of the meeting taking place.

**6. What happens if I disagree with the decision that the Referral Sub-Committee have made?**

If the Sub-Committee has decided that your complaint does not require any further action then you can ask for that decision to be reviewed by writing to the Monitoring Officer within thirty days of the Referral Sub-Committee taking place. When you write in you will be asked to set out why you want a review and also whether or not there is any information which you do not think has been considered. A Review Sub-Committee of the Standards Committee will then be set up and this will be made up of a different group of Members from the Standards Committee that considered the complaint initially. The Review Sub-Committee will meet within three months of the review being requested and have the same powers available to them at the Referrals Sub-Committee. If the Review Sub-Committee decides that no further action is to be taken then you have no further right of review by the Standards Committee.

**7. What happens if the matter is investigated?**

An investigation may be undertaken locally either by an officer of Telford & Wrekin Council or by an external investigator employed by Telford & Wrekin Council. If your complaint is more serious then it will be investigated by an Ethical Standards Officer who is instructed by Standards for England. You should expect to be contacted as part of that investigation and asked to answer questions in order to obtain further information. Normally, within three months of the complaint being referred for investigation a report will be prepared and submitted back to the Standards Committee. If the investigation indicates that there has been a breach of the Code of Conduct then the matter will proceed to a Standards Committee hearing. As part of that hearing process you may be asked to attend and give evidence. If the matter is more serious then the complaint will be dealt with by the Adjudication Panel for England who are a body that are independent of Telford & Wrekin Council and similarly you may be asked to give evidence there (the Adjudication Panel for England can also be used by any Councillor who wishes to appeal against a decision of the Standards Committee after an investigation and hearing which has found them to be in breach of the Code of Conduct).

**8. Further Information**

A list of frequently asked questions is contained at Appendix 6 of this report. Further information can also be obtained by visiting the Standards for England website at [www.standardsforengland.gov.uk](http://www.standardsforengland.gov.uk) or the website for the Adjudication Panel for England at [www.adjudicationpanel.co.uk](http://www.adjudicationpanel.co.uk) . Contact details for the Monitoring Officer and Deputy Monitoring Officers are set out below.

Jonathan Eatough  
01952 383200

[jonathan.eatough@telford.gov.uk](mailto:jonathan.eatough@telford.gov.uk)

Matthew Cumberbatch

01952 383255

[matthew.cumberbatch@telford.gov.uk](mailto:matthew.cumberbatch@telford.gov.uk)

Ian Ross

01952 383255

[ian.ross@telford.gov.uk](mailto:ian.ross@telford.gov.uk)

### Members Code of Conduct

#### Preamble – General Principles

**Selflessness** –Members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.

**Honesty and Integrity** – Members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.

**Objectivity** – Members should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

**Accountability** – Members should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to their particular office.

**Openness** – Members should be as open as possible about their actions and those of their Authority, and should be prepared to give reasons for those actions.

**Personal Judgement** – Members may take account of the view of others, including their political groups, but should reach their own conclusions on the issues before them and act in accordance with those conclusions.

**Respect for Others** – Members should promote equality by not discriminating unlawfully against any person and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the authority’s statutory officers, and its other employees.

**Duty to Uphold the Law** – Members should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them.

**Stewardship** – Members should do whatever they are able to do to ensure that their authorities use their resources prudently and in accordance with the law

**Leadership** – Members should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence.

#### **Part 1 – General provisions**

##### **Introduction and interpretation**

1. (1) This Code applies to **you** as a member of an authority.
- (2) You should read this Code together with the general principles prescribed by the Secretary of State which are set out in the preamble.
- (3) It is your responsibility to comply with the provisions of this Code.
- (4) In this Code—

“meeting” means any meeting of—

- (a) the authority;
- (b) the executive of the authority
- (c) any of the authority’s or its executive’s committees, sub-committees, joint committees, or joint sub-committees, or area committees;

“member” includes a co-opted member and an appointed member;

## **Scope**

2. (1) Subject to sub-paragraphs (2) to (5), you must comply with this Code whenever you—

- (a) conduct the business of your authority (which, in this Code, includes the business of the office to which you are elected or appointed); or
- (b) act, claim to act or give the impression you are acting as a representative of your authority,

and references to your official capacity are construed accordingly.

(2) Subject to sub-paragraphs (3) and (4), this Code does not have effect in relation to your conduct other than where it is in your official capacity.

(3) In addition to having effect in relation to conduct in your official capacity, paragraphs 3(2), 5 and 6(a) also have effect, at any other time, where that conduct constitutes a criminal offence for which you have been convicted.

(4) Conduct to which this Code applies (whether that is conduct in your official capacity or conduct mentioned in sub-paragraph (3)) includes a criminal offence for which you are convicted (including an offence you committed before the date you took office, but for which you are convicted after that date).

(5) Where you act as a representative of your authority—

- (a) on another relevant authority, you must, when acting for that other authority, comply with that other authority’s code of conduct; or
- (b) on any other body, you must, when acting for that other body, comply with your authority’s code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

## **General obligations**

3. (1) You must treat others with respect.

(2) You must not—

- (a) do anything which may cause your Authority to breach any of the equality enactments (as defined in section 33 of the Equality Act 2006);

- (b) bully any person;
- to confer on or secure for yourself or any other person, an advantage or disadvantage; and
- (b) must, when using or authorising the use by others of the resources of your authority:
    - (i) act in accordance with your authority's reasonable requirements;
    - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and
    - (iii) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.
4. You must not—
- (a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where—
    - (i) you have the consent of a person authorised to give it;
    - (ii) you are required by law to do so;
    - (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
    - (iv) the disclosure is—
      - (aa) reasonable and in the public interest; and
      - (bb) made in good faith and in compliance with the reasonable requirements of the authority; or
  - (b) prevent another person from gaining access to information to which that person is entitled by law.
5. You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or the Authority into disrepute.
6. You—
- (a) must not use or attempt to use your position as a member improperly
  - (2) You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by the your authority.
7. (1) When reaching decisions on any matter you must have regard to any relevant advice provided to you by
- (a) your authority's chief finance officer; or
  - (b) your authority's monitoring officer,

where that officer is acting pursuant to his or her statutory duties.

(c) intimidate or attempt to intimidate any person who is or is likely to be—

- (i) a complainant,
- (ii) a witness, or
- (iii) involved in the administration of any investigation or proceedings,

in relation to an allegation that a member (including yourself) has failed to comply with his or her authority's code of conduct; or

(d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your authority.

## **Part 2 – Interests**

### **Personal interests**

8. (1) You have a personal interest in any business of your authority where either—

(a) it relates to or is likely to affect—

(i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;

(ii) any body—

(aa) exercising functions of a public nature;

(bb) directed to charitable purposes; or

(cc) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union),

of which you are a member or in a position of general control or management;

(iii) any employment or business carried on by you;

(iv) any person or body who employs or has appointed you;

(v) any person or body, other than a relevant authority, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties;

(vi) any person or body who has a place of business or land in your authority's area, and in whom you have a beneficial interest in a class of securities of that person or body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital (whichever is the lower);

(vii) any contract for goods, services or works made between your authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi);

- (viii) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25;
  - (ix) any land in your authority's area in which you have a beneficial interest;
  - (x) any land where the landlord is your authority and you are, or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi) is, the tenant;
  - (xi) any land in the authority's area for which you have a licence (alone or jointly with others) to occupy for 28 days or longer; or
- (b) a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision.
- (2) In sub-paragraph (1)(b), a relevant person is—
- (a) a member of your family or any person with whom you have a close association;
- or
- (b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
  - (c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
  - (d) any body of a type described in sub-paragraph (1)(a)(i) or (ii).

## **9. Disclosure of personal interests**

- (1) Subject to sub-paragraphs (2) to (7), where you have a personal interest in any business of the Authority and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.
- (2) Where you have a personal interest in any business of your authority which relates to or is likely to affect a person described in paragraph 8(1)(a)(i) or 8(1)(a)(ii)(aa), you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.
- (3) Where you have a personal interest in any business of the authority of the type mentioned in paragraph 8(1)(a)(viii), you need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.

- (4) Sub-paragraph (1) only applies where you are aware or ought reasonably to be aware of the existence of the personal interest.
- (5) Where you have a personal interest but, by virtue of paragraph 14, sensitive information relating to it is not registered in your authority's register of members' interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.
- (6) Subject to paragraph 12(1) (b), where you have a personal interest in any business of your authority and you have made an executive decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.
- (7) In this paragraph, "executive decision" is to be construed in accordance with any regulations made by the Secretary of State under section 22 of the Local Government Act 2000.

## **10. Prejudicial interest generally**

- (1) Subject to sub-paragraph (2), where you have a personal interest in any business of your authority you also have a prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.
- (2) You do not have a prejudicial interest in any business of the authority where that business—
  - (a) does not affect your financial position or the financial position of a person or body described in paragraph 8;
  - (b) does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 8; or
  - (c) relates to the functions of your authority in respect of—
    - (i) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease
    - (ii) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends:
    - (iii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
    - (iv) an allowance, payment or indemnity given to members;
    - (v) any ceremonial honour given to members; and

- (vi) setting council tax or a precept under the Local Government Finance Act 1992.

## **11. Prejudicial interests arising in relation to overview and scrutiny**

You also have a prejudicial interest in any business before an overview and scrutiny committee of your authority (or a sub-committee of such a committee) where –

- (a) that business relates to a decision made (whether implemented or not) or action taken by your authority's executive or another of your authority's committees, sub-committees, joint committees or joint sub-committees; and
- (b) at the time the decision was made or action was taken, you were a member of the executive, committee, sub-committee, joint committee or joint sub-committee mentioned in paragraph (a) and you were present when that decision was made or action was taken.

## **12. Effect of prejudicial interests on participation**

- (1) Subject to sub-paragraph (2), where you have a prejudicial interest in any business of your authority—
    - (a) you must withdraw from the room or chamber where a meeting considering the business is being held—
      - (i) in a case where sub-paragraph (2) applies, immediately after making representations, answering questions or giving evidence;
      - (ii) in any other case, whenever it becomes apparent that the business is being considered at that meeting;unless you have obtained a dispensation from your authority's standards committee; and
  - (b) you must not exercise executive functions in relation to that business; and
  - (c) you must not seek improperly to influence a decision about that business.
- (2) Where you have a prejudicial interest in any business of your authority, you may attend a meeting (including a meeting of the overview and scrutiny committee of your authority or of a sub-committee of such a committee) but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

## **Part 3 – Registration of Members' Interests**

### **13. Registration of members' interests**

- (1) Subject to paragraph 14, you must, within 28 days of—

- (a) this Code being adopted by or applied to your authority; or
- (b) your election or appointment to office (where that is later),

register in your authority's register of members' interests (maintained under section 81(1) of the Local Government Act 2000) details of your personal interests where they fall within a category mentioned in paragraph 8(1)(a), by providing written notification to your authority's monitoring officer.

- (2) Subject to paragraph 14, you must, within 28 days of becoming aware of any new personal interest or change to any personal interest registered under paragraph (1), register details of that new personal interest or change by providing written notification to your authority's monitoring officer.

#### **14. Sensitive information**

- (1) Where you consider that the information relating to any of your personal interests is sensitive information, and your authority's monitoring officer agrees, you need not include that information when registering that interest, or, as the case may be, a change to that interest under paragraph 13.
- (2) You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph (1) is no longer sensitive information, notify your authority's monitoring officer asking that the information be included in your authority's register of members' interests.
- (3) In this Code, "sensitive information" means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subjected to violence or intimidation.



**Contact Details for Parish and Town Councils within the  
Borough of Telford & Wrekin**

**Chetwynd Parish Council**Parish Clerk

Mrs J Burrell  
Chetwynd Parish Clerk  
Manderley  
Howle  
Near Newport  
Shropshire TF10 8AY

Tel: 01952 551092

Email: [jenbstevieb@btopenworld.com](mailto:jenbstevieb@btopenworld.com)

**Chetwynd Aston & Woodcote Parish Council**Parish Clerk

Mrs J F Lea  
Chetwynd Aston Parish Clerk  
Dodecote Lodge  
Childs Ercall  
Market Drayton  
Shropshire

Tel: 01952 840331

Email: [judithfaylea@tiscali.co.uk](mailto:judithfaylea@tiscali.co.uk)

**Church Aston Parish Council**Parish Clerk

Mrs M Wilson  
Church Aston Parish Clerk  
Bramley  
17 School Road  
Edgmond  
Nr Newport  
Shropshire TF10 8LB

Tel: 01952 825258

Email: [michellewilson577@btinternet.com](mailto:michellewilson577@btinternet.com)

**Dawley Hamlets Parish Council**Parish Clerk

Mr M Goldstraw  
Dawley Hamlets Parish Clerk  
Regent Villa  
London Road  
St Georges  
Telford  
Shropshire

Tel: 01952 320141

Email: [clerk@dawley-hamlets.org](mailto:clerk@dawley-hamlets.org)

**Edgmond Parish Council**Parish Clerk

Ms K Baker  
Edgmond Parish Clerk  
8 Pinfold Croft,  
Waters Upton  
Telford  
Shropshire TF6 6NW

Tel: 01952 541939

Email: [edgmondpc@btinternet.com](mailto:edgmondpc@btinternet.com)

**Ercall Magna Parish Council**Parish Clerk

Mr E Davies  
Ercall Magna Parish Clerk  
9 Burnham Avenue  
Belvidere Paddocks  
Shrewsbury  
Shropshire SY2 5LL

Tel: 01743 366420

Email: [eg.davies@virgin.net](mailto:eg.davies@virgin.net)

### **Great Dawley Parish Council**

Parish Clerk

Mr D Griffiths  
Great Dawley Parish Clerk  
Dawley House  
22 Burton Street  
Dawley  
Telford  
Shropshire TF4 2ES

Tel: 01952 501272

Email: [david.gdpc@btconnect.com](mailto:david.gdpc@btconnect.com)

### **Hollinswood & Randlay Parish Council**

Parish Clerk

Ms K Baker  
Hollinswood & Randlay Parish Clerk  
Hollinswood Neighbourhood Centre  
7 Downmead  
Hollinswood  
Telford  
Shropshire

Tel: 01952 201690

Email: [katrinabaker@btinternet.com](mailto:katrinabaker@btinternet.com)

### **Kynnersley Parish Council**

Parish Clerk

Mr T Park  
Kynnersley Parish Clerk  
The Buttery Lodge  
Kynnersley  
Telford  
TF6 6EG

Tel: 01952 606601

Email: [tam@buttery43.freemove.co.uk](mailto:tam@buttery43.freemove.co.uk)

### **Hadley & Leegomery Parish Council**

Parish Clerk

Mr C Potts  
Hadley & Leegomery Parish Clerk  
Castle Farm Community Centre  
Hadley  
Telford  
Shropshire

Tel: 01952 245501

Email: [clerk.hlpc@btconnect.com](mailto:clerk.hlpc@btconnect.com)

### **Ketley Parish Council**

Parish Clerk

Mr J Roberts  
Ketley Parish Clerk  
Ketley Community Centre  
Holyhead Road  
Ketley  
Telford  
Shropshire  
TF1 5AN

Tel: 01952 612035

Email: [parishclerk@ketley-pc.com](mailto:parishclerk@ketley-pc.com)

### **Lawley and Overdale Parish Council**

Parish Clerk

Mrs S Clayton  
Lawley & Overdale Parish Clerk  
64 Cherrybrook Drive  
Broseley  
Shropshire  
TF12 5SH

Tel: 01952 884372

Email: [sharonclayton@lawleyoverdalepc.org](mailto:sharonclayton@lawleyoverdalepc.org)

### **Little Wenlock Parish Council**

Parish Clerk

Mr J Marcham  
Little Wenlock Parish Clerk  
Atalya  
The Alley  
Little Wenlock  
Telford  
Shropshire TF6 5BG

Tel: 01952 505734

Email: [jfmarcham@aol.com](mailto:jfmarcham@aol.com)

### **Madeley Parish Council**

Parish Clerk

Mrs K Petty  
Madeley Parish Council  
Jubilee House  
74 High Street  
Madeley  
Telford  
Shropshire TF7 5AH

Tel: 01952 567280

Email: [kath@madeleyparishcouncil.gov.uk](mailto:kath@madeleyparishcouncil.gov.uk)

### **Oakengates Town Council**

Town Clerk

Mr D Moore  
Oakengates Town Clerk  
22 Limes Walk  
Oakengates  
Telford  
Shropshire TF2 6EP

Tel: 01952 618844

Email: [oaktc@tiscali.co.uk](mailto:oaktc@tiscali.co.uk)

### **Lilleshall & Donnington Parish Council**

Parish Clerk

Mr R Morgan  
Lilleshall & Donnington Parish Clerk  
Turreff Hall  
Turreff Avenue  
Donnington  
Telford  
Shropshire TF2 8HG

Tel: 01952 608001

Email: [lill.donn.pc@btconnect.com](mailto:lill.donn.pc@btconnect.com)

### **Newport Town Council**

Town Clerk

Mr L Jakeman  
Newport Town Clerk  
The Guildhall  
High Street  
Newport  
Shropshire TF10 7TX

Tel: 01952 814338

Email: [townclerk@newportsaloptowncouncil.co.uk](mailto:townclerk@newportsaloptowncouncil.co.uk)

### **Rodington Parish Council**

Parish Clerk

Mrs A Hinks  
Rodington Parish Clerk  
7 Roseway  
Wellington  
Telford  
TF1 1JA

Tel: 01952 272365

Email: [the-clerk@rodingtonpc.org.uk](mailto:the-clerk@rodingtonpc.org.uk)

### **St Georges & Priorslee Parish Council**

Parish Clerk

Mrs K James  
St Georges & Priorslee Parish Clerk  
56 Broadway  
Shifnal  
Shropshire TF11 8AZ

Tel: 01952 461421

Email: [stgp-pc@co-net.com](mailto:stgp-pc@co-net.com)

### **Tibberton & Cherrington Parish Council**

Parish Clerk

Mr S Jaggs  
Long Meadow  
52 Cherrington Road  
Tibberton  
Newport  
Shropshire TF10 8NY

Tel: 01952 550862

Email: [steve@tibberton.freeseerve.co.uk](mailto:steve@tibberton.freeseerve.co.uk)

### **Waters Upton Parish Council**

Parish Clerk

Mrs K Baker  
Waters Upton Parish Clerk  
8 Pinfold Croft  
Waters Upton  
Telford  
Shropshire TF6 6NW

Tel: 01952 541939

Email: [katrinabaker@btinternet.com](mailto:katrinabaker@btinternet.com)

### **Stirchley & Brookside Parish Council**

Parish Clerk

Mrs J Smith  
Stirchley & Brookside Parish Council  
Progress House Grange Avenue  
Stirchley  
Telford  
Shropshire TF3 1FA

Tel: 01952 528200

Email: [stirchley.brookside@virgin.net](mailto:stirchley.brookside@virgin.net)

### **The Gorge Parish Council**

Parish Clerk

Mrs J Madeley  
The Gorge Parish Clerk  
Unit C22  
Maws Craft Centre  
Jackfield  
Telford TF8 7LS

Tel: 01952 883192

Email: [thegorgepc@btinternet.com](mailto:thegorgepc@btinternet.com)

### **Wellington Town Council**

Town Clerk

Mr H Perkins  
Wellington Town Clerk  
Wellington Town Council  
Civic Offices  
Larkin Way Tan Bank  
Wellington Telford  
Shropshire TF1 1LX

Tel: 01952 567697

Email: [WellTownCl@aol.com](mailto:WellTownCl@aol.com)

**Wrockwardine Parish Council**

Parish Clerk

Mr M Goldstraw

Wrockwardine Parish Clerk

Regent Villa

London Road

St Georges

Telford Shropshire

Tel: 01952 320141

Email: [clerk@wrockwardine.org.uk](mailto:clerk@wrockwardine.org.uk)

**Wrockwardine Wood & Trench Parish Council**

Parish Clerk

Mrs Y Taylor

The Parish Council Centre

Church Road

Wrockwardine Wood

Telford

Shropshire

Tel: 01952 616363

Email: [parishcouncil@btconnect.com](mailto:parishcouncil@btconnect.com)

# COMPLAINT FORM

This form is to be used for making a complaint to the Standards Committee about a Telford & Wrekin Councillor and/or a Parish/Town Councillor within the Borough of Telford & Wrekin.

**PLEASE SEND YOUR COMPLETED FORM AND ANY ADDITIONAL DOCUMENTATION IN SUPPORT OF YOUR COMPLAINT TO THE FOLLOWING ADDRESS:-**

**The Chair of the Standards Committee  
C/o The Head of Legal Services and Monitoring Officer  
Legal Services  
Telford & Wrekin Council  
PO Box 215  
Civic Offices  
Telford TF3 4LF**

## **SECTION 1 - Your details**

**1 (a).**Please provide us with your name and contact details

<b>Title:</b>	
<b>First name:</b>	
<b>Last name:</b>	
<b>Address:</b>	
<b>Daytime telephone:</b>	
<b>Evening telephone:</b>	
<b>Mobile telephone:</b>	
<b>Email address:</b>	

Your address and contact details will not usually be released unless necessary or to deal with your complaint.

However, we may tell the following people that you have made this complaint:

- the member(s) you are complaining about
- the monitoring officer of the authority
- the parish or town clerk (if applicable)

We may tell them your name and give them a summary of your complaint. We will give them full details of your complaint where necessary or appropriate to be able to deal with it. We may also use your name in documentation that will be available to the public. If you have serious concerns about your name and a summary, or details of your complaint being released, please complete section 6 of this form.

**1 (b).** Please tell us which complainant type best describes you:

- Member of the public
- An elected or co-opted member of an authority
- An independent member of the standards committee
- Member of Parliament
- Local authority monitoring officer
- Other council officer or authority employee
- Other ( )

## **SECTION 2 – Your Complaint**

**2 (a).** We have produced a guide to making a complaint that accompanies this complaint form. If the guide is not attached to this form you can obtain a copy by visiting [www.telford.gov.uk](http://www.telford.gov.uk) or by contacting the Head of Legal Services and Monitoring Officer on (01952) 383200 (email [jonathan.eatough@telford.gov.uk](mailto:jonathan.eatough@telford.gov.uk))

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

Title	First name	Last name	Council or authority name

**2 (c).** Please explain in this section (or on separate sheets) what the member has done that you believe breaches the Code of Conduct. If you are complaining about more than one member you should clearly explain what each individual person has done that you believe breaches the Code of Conduct.

It is important that you provide all the information you wish to have taken into account by the sub-committee when it decides whether to take any action on your complaint.

**IMPORTANT NOTE -** It is often possible to resolve complaints without recourse to formal investigation and hearing. In such cases it is important that appropriate action to seek to achieve resolution of the matter is undertaken without delay.

When setting out your complaint please advise if you are **NOT** willing for attempts to be made to seek early informal resolution of your complaint. If you do not so indicate, we **may** seek resolution of your complaint prior to it being submitted to the Referral Sub-Committee of the Standards Committee. To assist us in doing this it would be helpful if you could outline what particular action or remedy you are seeking by making this complaint.

Please provide us with the details of your complaint and complete all of the following sections if possible. Continue on a separate sheet if there is not enough space on this form. We suggest that you include the following –

- The date(s) when the incident(s) took place (if you can't provide an exact date then please give a general timeframe),
- The section(s) of the Code of conduct which you think has been breached,
- All of the details including the names and contact details of any witnesses (you will need to be specific about what exactly was said or done),
- Any relevant background information,
- Details of any documentation that you are including to support your complaint,
- What outcome you are seeking by making this complaint

Continued...

**6. Please note that by completing this complaint form you are providing your consent for your name to be provided to the Councillor(s) who is subject to the complaint and for your name to be included in documentation that will be available to the public.**

**Only complete this next section if you are requesting that your identity is kept confidential**

In the interests of fairness and natural justice, we believe members who are complained about have a right to know who has made the complaint. We also believe they have a right to be provided with a summary of the complaint. We are unlikely to withhold your identity or the details of your complaint unless you have good reason to believe that providing this information would:

- put your personal safety at risk
- be contrary to the public interest
- in some way prejudice any investigation

Please note that requests for confidentiality or requests for suppression of complaint details will not automatically be granted. The sub-committee will consider the request alongside the substance of your complaint. We will then contact you with the

decision. If your request for confidentiality is not granted, we will usually allow you the option of withdrawing your complaint.

However, it is important to understand that in certain exceptional circumstances where the matter complained about is very serious, we can proceed with an investigation or other action and disclose your name even if you have expressly asked us not to.

Please provide us with details of why you believe we should withhold your name and/or the details of your complaint:

**7. Additional Help**

- 7. Complaints must be submitted in writing. This includes fax and electronic submissions. However, in line with the requirements of the Disability Discrimination Act 2000, we can make reasonable adjustments to assist you if you have a disability that prevents you from making your complaint in writing. We can also help if English is not your first language. If you need any support in completing this form, please let us know as soon as possible.

If you need any of this information in large print or on tape, please contact us on (01952) 382121.

Minicom number (01952) 382500

**Difficulty in speaking English?**

Please contact us about our Translation and Interpretation Services on (01952)383255

.....  
**SIGNED**

.....  
**DATE**



## Monitoring Officer Protocol

### Instructions to the Monitoring Officer on the discharge of functions in relation to the initial assessment and review of allegation that a member of the Authority has failed to comply with the Code of Conduct

#### 1 Receipt of Allegations

- 1.1 The Monitoring Officer shall set up arrangements within the Authority to secure that any allegation made in writing that a member of the Authority has or may have failed to comply with the Authority's Code of Conduct is referred to him/her immediately upon receipt by the Authority.
- 1.2 The Monitoring Officer shall maintain a register of such allegations to ensure that the Authority can comply with its obligations under the relevant legislation.
- 1.3 Complaints shall only be entertained where they are signed by the complainant, but the Monitoring Officer is authorised to maintain the confidentiality of the identity of the complainant where and for so long as in his/her opinion that would be in the public interest.

#### 2 Notification of Receipt of Allegations

- 2.1 All relevant allegations must be assessed by the Referrals Sub-Committee, so the Monitoring Officer has no authority to deal with an allegation which appears to be an allegation of failure by a relevant member to observe the Code of Conduct other than by reporting it to the Referrals Sub-Committee. The Monitoring Officer shall therefore determine whether the allegation appears to be a substantive allegation of misconduct. Where it appears not to be, he/she shall ensure that the matter is dealt with under a more appropriate procedure, for example where it is really a request for service from the Authority, a statement of policy disagreement, a legal claim against the Authority or a complaint against an officer of the Authority.
- 2.2 Following receipt of the allegation, and where the allegation does appear to be a complaint of misconduct against a relevant member, the Monitoring Officer will promptly, and in any case in advance of the relevant meeting:
  - 2.2.1 acknowledge to the complainant receipt of the allegation and confirm that the allegation will be assessed by the Referrals Sub-Committee at its next convenient meeting;
  - 2.2.2 notify the member against whom the allegation is made of receipt of the complaint, together with a written summary of the allegation, and state that the allegation will be assessed at the next convenient meeting of the Referrals Sub-Committee. However, where the Monitoring Officer is of the opinion that such notification would be contrary to the public interest or would prejudice any person's ability to investigate the allegation, he/she shall consult the Chairman of the Referrals Sub-Committee, or in his/her absence the Chairman of the Standards Committee, and may then decide that no such advance notification shall be given;
  - 2.2.3 collect such information as is readily available and would assist the Referrals Sub-Committee in its function of assessing the allegation;

- 2.2.4 seek local resolution of the matter where practicable, in accordance with Paragraph 3 below;
- 2.2.5 place a report, including a copy of the allegation, such readily available information and his/her recommendation as to whether the allegation discloses an apparent failure to observe the Code of Conduct, on the agenda for the next convenient meeting of the Referrals Sub-Committee.

### **3 Local Resolution**

- 3.1 Local resolution is not an alternative to reporting the allegation to the Referrals Sub-Committee, but can avoid the necessity of a formal local investigation.
- 3.2 Where the Monitoring Officer is of the opinion that there is the potential for local resolution, he/she shall approach the member against whom the allegation has been made and ask whether he/she is prepared to acknowledge that his/her conduct was inappropriate, and whether he/she would be prepared to offer an apology or undertake other appropriate remedial action. With the consent of the member concerned, the Monitoring Officer may then approach the complainant and ask whether the complainant is satisfied by such apology or other remedial action. The Monitoring Officer should then report to the Referrals Sub-Committee as required, and at the same time report the response of the member concerned and of the complainant. The idea is that, where the member has acknowledged that his/her conduct was inappropriate, and particularly where the complainant is satisfied with the proffered apology or remedial action, the Referrals Sub-Committee might take that into account when considering whether the matter merits investigation.

### **4 Review of Decisions not to Investigate**

- 4.1 Where the Referrals Sub-Committee has decided that no action be taken on a particular matter, the Monitoring Officer shall promptly advise the complainant of the decision, and the complainant may then within 30 days of receipt of such notification request that the Review Sub-Committee review that decision.
- 4.2 Whilst the review shall normally be a review of the reasonableness of the original decision rather than a reconsideration, the Monitoring Officer shall report to the Review Sub-Committee the information which was provided to the Referrals Sub-Committee in respect of the matter, the summary of the Referrals Sub-Committee and any additional relevant information which has become available prior to the meeting of the Review Sub-Committee.

### **5 Local Investigation**

- 5.1 It is recognised that the Monitoring Officer will not personally conduct a formal local investigation.
- 5.2 It will be for the Monitoring Officer, where appropriate after consultation with the Chairman of the Referrals Sub-Committee, to determine who to instruct to conduct a formal local investigation, and this may include another senior officer of the Authority, a senior officer of another authority or an appropriately experienced consultant.

## **Initial Assessment of Standards Complaints**

### **Assessment and Review Criteria**

#### **1 Introduction**

This paper sets out the criteria which the Assessment Sub-Committee will apply in conducting the initial assessment of allegations of failure by members to observe the Code of Conduct.

The authority takes all allegations of member misconduct extremely seriously and seeks to secure the highest standards of conduct at all times. The initial assessment process determines whether the complaint appears to show that there has been a breach of the Code of Conduct, and then whether the complaint should be subject to a formal investigation (either by the Standards Board for England or locally under the direction of the authority's Monitoring Officer), whether the authority's Monitoring Officer should be directed to take other appropriate actions in respect of the complaint, or whether no action should be taken in respect of the complaint.

#### **2 Local resolution of complaints**

The Standards Committee is acutely aware that the formal investigation of complaints is costly and time consuming. Whilst formal investigation may be necessary in some cases, many complaints can often be dealt with more rapidly and effectively if an early, informal resolution of the matter can be achieved.

The Standards Committee has instructed the Monitoring Officer, where a complaint has been received, to explore the potential for local resolution to the satisfaction of the complainant, to avoid the need for a formal investigation. But any attempts at local resolution do not take away from the right of a complainant to have their complaint of member misconduct considered by the Sub-Committee.

#### **3 Which complaints can be considered?**

The Assessment Sub-Committee must consider every complaint that a member of the authority (or of any Parish or Town Council within its area) has failed to comply with the Code of Conduct which that authority has adopted. Accordingly, it has no jurisdiction in respect of any complaint which relates to:

- (a) persons who are not members of the authority (or a Parish or Town Council in its area)
- (b) conduct which occurred at a time when the person against whom the complaint was made was not a member of the authority (or of a Parish or Town Council in its area)
- (c) conduct which occurred before the relevant authority adopted a Code of Conduct. All local authorities were required to adopt a Code of Conduct in 2001. In practice, the Sub-Committee will expect complaints to be made promptly after the events to which they relate (see below)

- (d) conduct which occurred in the member's private life, as the Code of Conduct only applies to a member's conduct as a member of a local authority
- (e) conduct which occurred when the member was acting as member of another authority. Where a member is also a member of another authority (other than a Parish or Town Council within its area) which has its own Code of Conduct, then the complaint should be addressed directly to that authority.
- (f) complaints which do not relate to the apparent misconduct of a relevant member but are, for example, about the policies and priorities of the authority, or are a request for the provision of a service by the authority, or are a complaint about the conduct of an officer of the authority

Such complaints will not be referred to the Assessment Sub-Committee but will instead be dealt with by the Monitoring Officer who will advise the complainant as to the most appropriate avenue for proper consideration of their complaint or request.

#### **4 Does the complaint appear to show a breach of the Code of Conduct?**

The first assessment which will be undertaken by the Sub-Committee will be to determine whether the complaint appears to show that a breach of the Code of Conduct may have occurred.

For this purpose, the Sub-Committee will take into account the complaint letter and any other information which is readily available to them. Accordingly, it is the responsibility of a complainant to set out clearly –

- (a) who the complaint is against
- (b) what they understand that the relevant member did
- (c) why they consider that the member's conduct amounted to a breach of the Code of Conduct,

And to provide copies of any documents which they want the Sub-Committee to consider.

Following receipt of your complaint, the Monitoring Officer will collect any other information which is readily available and which may assist the Sub-Committee in its consideration of the complaint. This will not include conducting interviews with witnesses, but may include providing the Sub-Committee with copies of the agenda, reports and minutes of a meeting of the authority at which the alleged misconduct occurred, or providing copies of the member's entry in the register of members' interests.

The Sub-Committee will then consider whether, on the basis of the complaint and that additional information, there appears to have been a breach of the Code of Conduct.

If the Sub-Committee concludes that the evidence does not disclose an apparent breach of the Code of Conduct, it has no further jurisdiction in respect of the matter.

#### **5 Possible actions where an apparent breach of the Code of Conduct has occurred**

Where the Sub-Committee has concluded that there appears to have been a breach of the Code of Conduct, it has four options available to it. These are as follows:

(a) **direct the Monitoring Officer to secure that the complaint is investigated locally**

A local investigation will normally be appropriate where the alleged conduct is sufficiently serious to merit the imposition of a sanction against the member, but not so serious that it would merit a greater sanction than the authority's Standards Committee could impose following a formal hearing. In practice, this means that a local investigation would not be appropriate where the appropriate sanction is likely to be a suspension as a member of the relevant authority for a period of more than 6 months, or disqualification as a member of any local authority. See paragraph 5(b) below for more detailed grounds for referring a complaint to the Standards Board for England.

However, recognising that a formal investigation is an expensive and time-consuming process, and can only address the immediate subject matter of the complaint, the Sub-Committee can direct the Monitoring Officer to take other appropriate action short of a formal investigation – see paragraph 5(c) below.

In addition, particularly where the conduct complained of is not sufficiently serious to merit any action or occurred a considerable time ago, the Sub-Committee may determine that no action should be taken in respect of it. For more detail, see paragraph 5(d) below.

(b) **refer the matter to the Standards Board for England with a request that the Board undertakes a national investigation into the complaint;**

The following factors will be considered by the Sub-Committee to be factors which support referring the complaint to the Standards Board for England for a national investigation:

- (i) that the complaint is so serious that, if proven, the conduct complained of merits a sanction in excess of that which could be imposed by the Standards Committee. In practice this means that the appropriate sanction would be either a suspension from the relevant authority for a period of more than 6 months, or a disqualification from any local authority
- (ii) that the investigation required is so extensive that it would impose an unreasonable burden on the authority and/or that any hearing conducted on the basis of that investigation would be unreasonably complex for the Standards Committee
- (iii) that the status of the member against whom the complaint has been made or of the person by whom the complaint has been made is such that either the authority could not conduct a full and impartial investigation and hearing, or that there is likely to be a public perception that the authority could not conduct a full and impartial investigation and hearing

- (iv) that so many members of the Standards Committee have a conflict of interest in respect of the matter that the authority is going to be in difficulty in organising an impartial Hearings panel for the matter
- (v) that the complaint raises significant or unresolved legal issues where a national ruling would be helpful
- (vi) that the authority itself has an interest in the outcome of the investigation and/or hearing, for example where the report may lead to a judicial review of a decision of the authority
- (vii) that there are other exceptional circumstances which would prevent the authority from securing a timely, full and impartial investigation and/or hearing of the matter, or which are likely to give rise to the perception that the authority cannot secure a timely, full and impartial investigation and/or hearing of the matter.

(c) **direct the Monitoring Officer to take other appropriate action short of a formal investigation;**

The Assessment Sub-Committee cannot impose a sanction on the member against whom the complaint has been made without a formal investigation and hearing. But it can direct the Monitoring Officer to take a range of other actions, including providing training for members, securing conciliation or mediation between competing interests, or reviewing procedures to minimise conflict.

In some instances, the conduct complained of may be a symptom of wider conflicts within the authority. A formal investigation and hearing would only deal with the particular complaint and may not resolve such underlying conflicts.

Such alternative action is therefore most suitable where –

- (i) the conduct complained of is a symptom of wider underlying conflicts which, if unresolved, are likely to lead to further misconduct or allegations of misconduct
- (ii) the conduct complained of is apparently common to a number of members of that authority, demonstrating a lack of awareness or recognition of the particular provisions of the Code of Conduct
- (iii) the conduct complained of is not so serious that it requires a substantive formal sanction such as suspension or disqualification
- (iv) the complaint reveals a lack of guidance, protocols and procedures within the authority, for example on the use of resources or the process of decision-making
- (v) the member complained of and the person making the complaint are amenable to engaging in such alternative action, as there is no power to require them to participate.

(d) **decide to take no action in respect of the complaint.**

The following factors are likely to lead the Sub-Committee to decide to take no action in respect of the matter:

- (i) the complaint appears to be trivial, vexatious, malicious, politically motivated or tit for tat.
- (ii) the complaint is anonymous. The Sub-Committee can protect the confidentiality of the identity of the complainant where that is justified by a real fear of intimidation or victimisation. However, where this is not an obvious risk, the fact that the complainant has not disclosed his/her identity can indicate that the complaint is less serious, is malicious or is politically motivated
- (iii) a significant period of time has elapsed since the events which are the subject of the complaint. This is both because, where a matter is serious, it would be reasonable to expect the complainant to make a complaint promptly, and because the passage of time may make it more difficult to obtain documentary evidence and reliable witness evidence
- (iv) the complaint is such that it is unlikely that an investigation will be able to come to a firm conclusion on the matter. This could be where the matter is such that there is unlikely to be any firm evidence on the matter.

## **6 Confidentiality**

As a matter of fairness and natural justice, a member should usually be told who has complained about them and what the complaint is about. There may be occasions where the complainant requests that their identity is withheld. Such a request should only be granted in circumstances which the Assessment Sub-Committee consider to be exceptional, for example: -

- (a) the complainant has reasonable grounds for believing that he/she will be at risk of physical harm if his/her identity is disclosed
- (b) the complainant is an officer who works closely with the member and they have a reasonable fear of intimidation or victimisation if their identity is disclosed
- (c) the complainant suffers from a serious health condition which might be adversely affected if his/her identity is disclosed. The Assessment Sub-Committee may wish to request medical evidence.

## **7 Withdrawing complaints**

Where the complainant purports to withdraw the complaint before the Assessment Sub-Committee has had the opportunity to take a decision on it, the Sub-Committee will consider whether to accept such withdrawal.

- (a) Where the complainant submits further evidence demonstrating that the complaint was ill-founded, it may be appropriate for the Sub-Committee formally to resolve that the complaint as amended shows no evidence of a breach of the Code of Conduct, so that the matter is formally concluded.
- (b) Where the alleged misconduct is simply a matter of alleged failure on the part of the respondent to treat the complainant with respect, and raises no wider issues of public interest, the Sub-Committee will normally accept such withdrawal.
- (c) However, where the complaint raises issues of wider public interest, it may be appropriate for the Sub-Committee to ensure that such wider issues are formally investigated and resolved.

## **8 Review**

Where the Assessment Sub-Committee has resolved to take no action in respect of a matter (that is, not to refer the matter to the Standards Board for England for investigation, and not to refer the matter to the Monitoring Officer either for investigation or for other appropriate action), the complainant may request the Review Sub-Committee to review the decision of the Assessment Sub-Committee.

Such a review shall be conducted in two stages:

- (a) First, the Review Sub-Committee will determine whether the original decision of the Assessment Sub-Committee was unreasonable on the basis of the information available to the Assessment Sub-Committee at the time of its decision and in accordance with these approved criteria for assessment. This review shall be conducted on the basis of the original complaint, the Monitoring Officer's report to the Assessment Sub-Committee, the decision-notice of the Assessment Sub-Committee and any information contained within the complainant's request for a review. Note that this is a review of the initial decision, rather than a reconsideration of the matter de novo.
- (b) Second, the Review Sub-Committee shall consider whether there is any new evidence which demonstrates that the initial assessment decision is no longer the correct decision. This consideration shall take into account any new information provided by the complainant and/or the Monitoring Officer.

If the Review Sub-Committee determines that the initial decision was unreasonable, or that new information now available to the Sub-Committee demonstrates that the original decision is no longer the correct decision, it shall take a new decision in relation to the matter in accordance with these approved criteria.

## APPENDIX 6

### FREQUENTLY ASKED QUESTIONS

#### **I want to complain about the actions of a Councillor but I do not want to do this formally. Is there an informal way in which I can raise issues or concerns or do I have to provide a written complaint?**

If you do not want to follow the route of a formal complaint then you can raise issues you have with regard to an individual Councillor without having to do so. In respect of a Parish or Town Councillor you can contact the Parish or Town Clerk (contact details set out in Appendix 2 attached) and ask them to speak to the Councillor concerned. For a Borough Councillor you can raise your concerns by contacting the Monitoring Officer at Telford & Wrekin Council (the contact details are set out in the main guidance note). When you do raise the matter informally you should make clear in any correspondence including email and any telephone calls that you are raising about a Councillor but you do not wish to do so formally. If you do not indicate that in your correspondence the matter may result in it being considered as a formal complaint and going through the formal process. However, if your complaint is informal then it may not always be possible for any action to be taken with regard to the Councillor concerned and the Councillor may not even be contacted to inform them of the issue. If your informal complaint relates to any serious misconduct which amounts to a criminal offence then the matter may be referred to the appropriate enforcement body such as the police.

#### **What if my complaint involves the Council itself but there were some councillors involved in the decision making?**

The Standards Committee deals solely with complaints about councillors. If you have a complaint with regard to any actions undertaken by the Council itself then you should pursue the matter via the Corporate Complaints System which you can access by visiting the Telford & Wrekin Council website [www.telford.gov.uk](http://www.telford.gov.uk) or by contacting the Customer Quality Team on 01952 382006 or [customer.quality@telford.gov.uk](mailto:customer.quality@telford.gov.uk). If your complaint relates to the actions of a parish or town council then you should pursue the matter with the parish or town clerk (contact details set out in Appendix 2 attached).

#### **My complaint relates to a councillor who does not represent a ward or parish within Telford & Wrekin Council. What should I do?**

Telford & Wrekin Council's Standards Committee can only deal with complaints in relation to councillors elected within the Borough of Telford & Wrekin. If you have a complaint with regard to a councillor from another area then you will need to contact the Standards Committee for the Council concerned and make your complaint there.

#### **Can I make an anonymous complaint?**

There is nothing to prevent you from making a complaint without providing your own personal details. However, it is more likely that your complaint will not be proceeded with if you do not provide your name and address. How anonymous complaints may be dealt with is set out in the criteria adopted by the Standards Committee set out in Appendix 4. If you do wish your name to be withheld during the complaint investigation process you can make

a request to do this when you send in your complaint (please see the section on the complaint form at Appendix 3). However, it will ultimately be up to the Committee as to whether or not your name will be revealed to the councillor whom you have made the complaint against. Your name may also be used when a summary of the complaint is made available to the public.

**I do not want my complaint to go through a full investigation process. I think that a simple apology would resolve the matter. Can I set this out in my complaint?**

Yes. The complaint form allows you the opportunity to set out how you would like the matter to be resolved. There is no guarantee that it will be undertaken in this way but it may be that if you express a preference the Monitoring Officer can speak to the Councillor concerned and see whether or not there is an amicable way of resolving any issues. However, if the matter is more serious the Referral Sub-Committee may still decide that an investigation is appropriate.

**I wish to make a complaint about something that happened some time ago and the councillor concerned has since resigned. Can I make a complaint to the Standards Committee about that ex councillor?**

There is nothing to prevent you from making a complaint but the Standards Committee will not have the jurisdiction to order an investigation into a former councillor. If the behaviour concerned amounts to a criminal offence or there are serious corporate governance issues with regard to the behaviour which is set out then the Standards Committee may ask the appropriate enforcement body or the Council's Auditors to look at the complaint but the matter will not be considered by the Standards Committee.

**I have made a complaint but now wish to withdraw it. Can I do this?**

You can withdraw your complaint at any point during the process. However, if your complaint relates to a serious allegation and the Standards Committee consider that it would be in the public interest to continue to look into it then the investigation may continue. If you do wish to withdraw a complaint you should write to the Monitoring Officer confirming that you wish to do so setting out the reason why as soon as you have decided that you want to do this.

**The incident I want to complain about relates to a criminal investigation against the councillor concerned. Can I still make the complaint?**

Yes. However, it is likely that the Standards Committee would delay an investigation until any criminal investigation and proceedings have been concluded. This is to ensure that the Standards Committee would not be prejudging any criminal proceedings but also to make sure that any Standards Committee investigation did not prejudice any criminal investigational proceedings which were ongoing.

**I want to complain about a councillor but I am not sure that the incident concerned was when they were acting as a borough councillor or as a parish councillor. Do I need to know this when I make my complaint?**

No. If you put as much information as possible into your written complaint then the Standards Committee will consider it and decide whether an investigation is required. The

Referrals Sub-Committee will be able to view the Code of Conduct for both the Borough Council and the Parish Council concerned when they make a decision.

### **What is a Standards Committee?**

Telford & Wrekin Council is required by law to have a Standards Committee. The Committee is responsible for promoting high standards of behaviour and conduct particularly for elected members of the borough council and the parish and town councils within the borough. Their responsibilities include ensuring that there is appropriate Code of Conduct training for elected members and making recommendations to the Council in relation to the Code of Conduct and appointments within the Standards Committee. The Standards Committee is currently made up of 16 members as follows –

- (i) There are four independent members who are not elected but are appointed by the Council. They are not representatives of any political group of the Council and it is their responsibility to act as the chairman of the Standards Committee and any sub-committees. Their impartiality is to ensure the integrity of the processes undertaken by the Standards Committee and ensure fairness.
- (ii) There are currently 8 elected members from Telford & Wrekin Council, only one of these can be from the Council's Cabinet.
- (iii) Parish Council representatives. There are currently 4 parish council representatives who were appointed by the Committee after undergoing an interview process. The parish representatives are there to provide their knowledge and expertise on parish matters both for the overall business of the Committee and specifically in relation to complaints received relating to parish councillors.

### **What are the referral and review sub-committees?**

The law states that any complaint has to be considered initially by sub-committees of the Standards Committee. This means that some of the members of the Standards Committee will meet together as a sub-committee to make decisions regarding the complaints that are received. Currently the sub-committees are made up of any 4 of the members of the Standards Committee but must be chaired by one of the independent members. There must also be at least 1 elected member present during the sub-committee meetings and there should be 1 parish council representatives present if the complaint relates to a parish councillor. The review sub-committee is made up in the same way but must contain a different group of members from those who made the initial assessment. If the matter goes to an investigation and a full hearing then the Standards Committee will set up a hearing panel which will contain a number of members but again will be chaired by an independent member with parish representatives present if the matter relates to a parish councillor.

### **What sanctions can councillors receive if they are found to have breached the Code of Conduct?**

Councillors can receive one of any number of sanctions which can be anything from a reprimand up to disqualification. The Telford & Wrekin Standards Committee can impose a maximum sanction of six months suspension from office. If the matter is more serious then it will be referred for consideration by the Adjudication Panel for England which has the power to disqualify councillors. There are a number of sanctions in-between a reprimand and a disqualification such as ordering a councillor to undertake training, ordering that the

councillor should make a written apology, or partial suspensions from office for shorter periods.

**TELFORD & WREKIN COUNCIL**

**STANDARDS COMMITTEE – 10 DECEMBER 2009**

**REVIEW OF PUBLICITY AND GUIDANCE DOCUMENTS FOR CODE OF CONDUCT COMPLAINTS**

**REPORT OF HEAD OF LEGAL SERVICES AND MONITORING OFFICER**

**1. PURPOSE**

- 1.1 To provide details of the proposed changes to documentation used to publicise the local code of conduct complaints system and to confirm the publicity which will be undertaken to inform the local community of these changes.

**2. RECOMMENDATIONS**

**2.1 That the Committee approves the new documentation attached to this report, subject to any comments/amendments that they consider appropriate.**

**3. SUMMARY**

The new local filtering system for considering code of conduct complaints has now been in place for about 18 months. It is appropriate to review the documentation and the publicity that informs the public about their right to make a complaint to the Standards Committee. Updated documents have been produced to assist the public with regard to the complaint process.

**4. PREVIOUS MINUTES**

Standards Committee – 21 April 2009 (ST-38)

**5. INFORMATION**

**5.1 Background**

- 5.1.1 The local system for filtering code of conduct complaints came into force on the 8 May 2008. Documentation was initially prepared to be based on the guidance set out by Standards for England and this has been made available by placing the documents on the council's website, providing hard copies of the documentation to members of the public who have requested them and by sending the documentation to the parish councils within the borough.

5.1.2 These documents have now been reviewed and updated for consideration by this committee. The documents which have been updated are set out below:-

**(i) Public notice providing basic details of the complaints system** – attached to appendix 1a is the document produced in accordance with Standards for England guidelines in May 2008. At appendix 1b an updated version of that document has been prepared which is aimed at setting out basic information in a straight forward way. This document will be placed on the notice boards in reception at the Civic Offices and Darby House and copies will be sent to all parish clerks to be displayed on notice boards at the parish and town councils within the borough. In addition the document will be made available on the council's website. The committee may wish to consider whether or not there should be further distribution of this notice.

**(ii) Complaint form and guidance** - At appendix 2a the original complaint form is attached. This committee commented upon the form earlier in the year and a new form has been prepared which incorporates those comments at appendix 2b. Also at appendix 2b there is a guidance document which includes the new complaint form. Officers appreciate that there are a number of documents which make a lengthy amount of documentation for members of the public requesting information about the complaints process. However, officers have ensured that the documentation is straightforward and easy to understand. Unfortunately there is a significant amount of information to be provided to members of the public given the complexity of the system and the details which need to be provided to them. Officers consider that the documentation translates those complex systems into a straightforward process which is easy to understand. It also anticipates the many questions which members of the public in particular will have with regard to the system. The length of the documents is also dictated by the need to include the various amounts of contact information including details of the 26 parish councils within the borough of Telford & Wrekin. The intention is for this documentation to be available in hard copy from reception at the Civic Offices, to be provided to those members of the public who contact the council using the contact details set out in the notice attached at Appendix 1b of this report, for electronic and hardcopies to be sent to all of the parish councils and parish and town councils in the borough and for the documentation to be made available on the council's website (and to be more easily available than the complaint form is currently).

## **5.2 Equality and Diversity**

The documentation and the process should be compliant with all equality and diversity requirements and ensure that the complaints system is available for use by the whole of the community.

### **5.3 Environmental Impact**

No implications.

### **5.4 Legal Implications**

The Standards for England Guidance states that the standards committee should take responsibility for publicising the local complaints system. The standards committee are required by statute to give consideration to that guidance. However, the guidance is not prescriptive as to what specifically needs to be done. The decision on how the local system is to be publicised is a matter for the standards committee.

There is no legal requirement to produce guidance which supports the code of conduct complaints procedure but it is recommended as such guidance will assist in ensuring that the public are kept fully informed as to the complaints system and that it would also assist the standards committee in receiving complaints which hopefully include all of the relevant information required for an assessment to be made.

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

Ensuring that the council gives due regard to Standards for England Guidance and makes the complaints system accessible to all of the community will assist the council in achieving its priority being an efficient, effective and customer focussed council.

### **5.6 Opportunities and Risks**

The risks and opportunities associated with introducing this new documentation have been assessed. The opportunities that will arise from improving our documentation and communication with the public with regard to the local ethical framework will be improved as a result.

### **5.7 Financial Implications**

The cost of producing and circulating the new documents will be met within existing resources. Maximum use of electronic distribution will minimise costs. Any variances will be highlighted as part of the regular financial monitoring process.

## **6. BACKGROUND PAPERS**

The Local Government and Public Involvement in Health Act 2007

The Standards Committee (England) Regulations 2008

The Standards for England Guidance – The Role of Makeup of  
Standards Committees

**Report prepared by Matthew Cumberbatch, Group Solicitor, Legal  
Services  
Tel: 01952 383255**

# TELFORD & WREKIN COUNCIL

## LOCAL INVESTIGATIONS PROCEDURE

### 1. Introduction

This procedure applies in relation to alleged breaches of the relevant Code of Conduct where the matter has been referred to the Monitoring Officer of the Council for investigation.

### 2. Interpretation

- 2.1 'Code of Conduct' means the relevant Code of Conduct for Members of the Council and any Parish Council within the Council's administrative area including co-opted Members with voting rights.
- 2.2 'The Council' means Telford & Wrekin Council.
- 2.3 'Member' means the member of the Council or a Parish Council, who is the subject of the allegation being investigated. It also includes, where appropriate, the Member's nominated representative.
- 2.4 'Standards Board' means Standards for England.
- 2.5 'ESO' means an Ethical Standards Officer employed by the Standards Board.
- 2.6 'Monitoring Officer' means the Monitoring Officer of the Council.
- 2.7 'Investigating Officer' means the Monitoring Officer or his/her deputy or other person instructed by the Monitoring Officer to conduct the local investigation including an independent external investigator.
- 2.8 'The Standards Committee' means the Council's Standards and Audit Committee, or the Committee which has terms of reference of a Standards Committee included within it. It can also refer to a sub-committee set up by the Standards Committee.
- 2.9 'Complainant' means the person who made the allegation being investigated.
- 2.10 'Democratic Services Manager' means the Council officer appointed to this post or his/her representative.

2.11 'Local Protocol' means the following Protocol, Code and Policy adopted by the Council:-

- the Member/Officer Relations Protocol
- the Members' Planning Code of Good Practice
- the Use of Council resources by Councillors Acceptable Use Policy

### **3. Notification of Referral**

3.1 Whenever an allegation is referred to the Monitoring Officer for investigation, the Monitoring Officer shall (unless otherwise directed by the Standards Committee or by an ESO)--

- (i) Appoint an Investigating Officer, instructing him/her to conduct the investigation of the allegation. The Investigating Officer may be an officer of the authority, an officer of another local authority or an external consultant.
- (ii) Notify the Member in writing, confirming that the allegation has been referred for investigation, outlining the conduct which is the subject of the allegation and identifying the section(s) of the Code of Conduct which appear to be relevant. The notification will also outline the procedure which will be followed and confirm the identity of the Investigating Officer.
- (iii) Write to the Complainant confirming that the allegation has been referred for investigation and outlining the procedure to be followed.
- (iv) Where the complaint concerns a member of a Parish Council, the Monitoring Officer will also write to the Clerk of the Parish Council concerned informing him/her that the allegation has been referred for investigation, outlining the procedure to be followed and asking him/her to treat the matter as confidential.

3.2 When notifying the Member, the Monitoring Officer (or the investigating Officer) will also request the Member to provide a response in writing to the Investigating Officer within 21 days of notification. Such a response should--

- (i) Indicate whether the Member admits or denies the breach of the Code of Conduct which is the subject of the allegation and in so doing, identifies which (if any) of the facts set out in the notification to the Member are disputed.
- (ii) List any document which the Member would wish the Investigating Officer to take into account in investigating the allegation, and including, where possible, copies of such documents. Alternatively, informing the Investigating Officer where any such documents may be located/inspected.

- (iii) Provide the Investigating Officer with the name, address and telephone number (or other appropriate contact details) of any person(s) or organisation(s) whom the Member would wish the Investigating Officer to interview in the course of the investigation.
- (iv) In the event that the Member wishes to appoint a representative to act on his/her behalf during the investigation, provide the name and address of any such representative and indicate whether or not further contact (including correspondence, telephone calls etc) should be directed to that representative or whether contact should continue to be maintained with the Member. Where such a representative is appointed, this will be at the expense of the Member.

#### **4. Conduct of the Investigation**

- 4.1 In conducting the investigation, the Investigating Officer will at all times pay due regard to the Council's obligations under the Data Protection Act 1998, the Human Rights Act 1998 and other relevant legislation and to any relevant guidance issued by the Standards Board.
- 4.2 If the Investigating Officer uncovers, during the course of the investigation, evidence of a possible breach of the Code which does not directly relate to the particular allegation under investigation, the Investigating Officer shall invite the person from whom the evidence was received to submit a written allegation to the Council. Where evidence of a breach of a Local Protocol (but not a breach of the Code of Conduct) is uncovered, the Investigating Officer shall report it to the Monitoring Officer.
- 4.3 The Investigating Officer may appoint any person to assist him/her in the conduct of his/her investigation and may obtain such professional advice as he/she deems necessary during the investigation process
- 4.4 The Investigating Officer will gather all appropriate information, documentation and other evidence sufficient to be able to present a report to the Standards Committee which will enable the Committee to determine whether the Member has acted in breach of the Code of Conduct. The Investigating Officer may terminate the investigation at any time if satisfied that there is sufficient information to enable such a report to be presented to the Standards Committee.
- 4.5 The Investigating Officer will ask all those who are interviewed or otherwise contacted as part of the investigation not to disclose information that they have received in confidence as part of the investigation in order to preserve the integrity of the investigation. The Investigating Officer will also remind any members involved in the investigation of their obligation under the Code of Conduct--i.e. not to disclose information that they have received in confidence.

**5. Reference back from the Monitoring Officer**

5.1 If, during the course of the investigation, the Investigating Officer or the Monitoring Officer concludes that it would be inappropriate to continue with the investigation, the Monitoring Officer shall then decide (having regard, where relevant, to the provisions of Reg. 16 of The Standards Committee (England) Regulations 2008) whether--

(i) an alternative Investigating Officer should be appointed; or

(ii) the matter should be referred back to the Standards Committee for re-consideration.

**6. Investigation Procedure**

**6.1 List of Witnesses and Documents to be examined**

The Investigating Officer will prepare a list of persons to be interviewed, organisations from which information is to be sought and documents which are to be inspected. This will include witnesses and documents identified by the Member, provided that the Investigating Officer is satisfied that this will assist the investigation

**6.2 Production of documents, information and explanations in the course of an investigation.**

The Investigating Officer and any person authorised on his/her behalf may make such enquiries of any person or organisation, and request any person or organisation to provide any documentation or information which is in their possession or control, or provide any explanation as they think necessary, for the purpose of carrying out the investigation. The Investigating Officer may require any authority concerned, other than a Parish Council, to meet the reasonable cost of providing this documentation or information. Where the authority concerned is a Parish Council, the Council may be required to meet the reasonable costs of providing the documentation or information.

**6.3 Interviews in the course of the investigation.**

The Investigating Officer may request any person to attend and appear before him/her to provide any information or document considered necessary for the investigation.

**6.4 Telephone interviews.**

The Investigating Officer will not conduct any interviews by telephone unless the express permission of the interviewee has been obtained prior to the interview. In addition, in considering the appropriateness of conducting an interview by telephone, the Investigating Officer will have particular regard to the guidance issued by the Standards Board.

## 6.5 **Representation.**

Any person who is called for interview by the Investigating Officer or contacted for information as part of the investigation may be represented or accompanied by, for example, a solicitor, friend or Union representative (at their own expense).

## 6.6 **Interview notes.**

The Investigating Officer will ensure that a note or transcript of every interview is made. Such a note or transcript must be forwarded to the interviewee as soon as practicable after the conclusion of the interview with a request that the interviewee confirms, subject to any amendments which he/she may suggest, that the note or transcript provides a fair and accurate record of the interview.

## **7. Completing the Investigation and Preparing the Draft Report**

7.1 The Investigating Officer shall conclude the investigation when he/she believes that there is sufficient information to meet the requirements set out in 4.4 above or when he/she has obtained such information as is likely to be reasonably capable of being obtained.

7.2 The Investigating Officer shall prepare a Draft Report containing the following--

- (i) A marking of 'Draft'
- (ii) A marking of 'Confidential'.
- (iii) The date of the Report.
- (iv) The details of the allegation(s) originally made
- (v) The relevant section(s) of the Code of Conduct
- (vi) Details of the investigation process, information about the persons/organisations contacted, the way in which enquiries were made, the method and location for any interviews undertaken and confirmation as to whether payments were made in respect of expenses of those subject to the investigation
- (vii) A copy of all supporting information
- (viii) The Member's response to the allegation(s)
- (ix) Details of any person or organisation who has failed to co-operate during the investigation, and any outstanding information or documentation which has not been provided
- (x) The findings of fact (where any facts have been disputed)
- (xi) The conclusion reached by the Investigating Officer as to whether, in his/her view, there has been a breach of the Code of Conduct, with supporting reasons for reaching such conclusion.
- (xii) Confirmation that the Draft Report does not represent the final findings and that these may be subject to change in the light of comments on the Draft

## **8. Procedure following preparation of the Draft Report**

- 8.1 The Investigating Officer shall ensure that copies of the Draft Report are sent to--
- (i) the Monitoring Officer
  - (ii) the Member
  - (iii) the Complainant

for them to submit their comments (if any) on the Draft Report by a date specified by the Investigating Officer.

## **9. The Final Report**

- 9.1 After the expiry of the period allowed for submitting comments on the Draft Report (or any reasonable extension thereof, as allowed by the Investigating Officer), the Investigating Officer may amend the Draft Report as he/she considers appropriate and shall then produce the Final Report.

- 9.2 The Final Report must include the following:-

- (i) All of the contents required for the Draft Report, as detailed in Para. 7.2 above, with the exception of those detailed in (i) and (xii).
- (ii) Confirmation that this is the Final Report.

- 9.3 Within 5 working days of completing the Final Report, the Investigating Officer shall ensure that copies are sent to--

- (i) the Monitoring Officer
- (ii) the Member
- (iii) the Complainant
- (v) the Clerk of any relevant Parish Council

- 9.4 If the Investigating Officer has found that there has been no breach of the Code of Conduct, then his/her covering letter should explain that the Report will now be presented to the Standards Committee for consideration.

- 9.5 If the Investigating Officer has found that there has been a breach of the Code of Conduct, then his/her covering letter should explain that the matter will now proceed to a hearing before the Standards Committee.

# TELFORD & WREKIN COUNCIL

## LOCAL STANDARDS HEARINGS PROCEDURE

### 1. Introduction

This procedure applies to hearings of an alleged breach

- of the Code of Conduct where the investigation has been completed by an Ethical Standards Officer
- of the Code of Conduct where a local investigation has been carried out by or on behalf of the Monitoring Officer
- of a protocol adopted by the Council.

### 2. Interpretation

- 2.1 'Code of Conduct' means the relevant Code of Conduct for Members of the Council and any Parish Council within the Council's administrative area including co-opted members with voting rights
- 2.2 'Complainant' means the person who submitted the complaint of an alleged breach of the Code of Conduct or Protocol
- 2.3 'the Council' means Telford & Wrekin Council
- 2.4 'Democratic Services Manager' means the Council officer appointed to this post or his/her representative
- 2.5 'ESO' means the Ethical Standards Officer employed by the Standards Board or person taking conduct of the matter on his/her behalf
- 2.6 'Investigating Officer' means the Monitoring Officer or his/her deputy or other person instructed by the Monitoring Officer to conduct a local investigation including an independent external investigator
- 2.7 'Legal Adviser' means the person responsible for providing legal advice to the Standards Committee. This will normally be the Monitoring Officer, but may be another officer of the authority who is legally qualified, or someone appointed for the purpose from outside the authority
- 2.8 'Member' means a member of any of the above authorities who is the subject of a report into an allegation being considered by the Standards Committee. It also includes the Member's nominated representative
- 2.9 'Monitoring Officer' means the Monitoring Officer for the Council
- 2.10 'Panel' means the panel of Members from the Standards Committee appointed in accordance with this Procedure
- 2.11 'Protocol' means the following Protocol, Code and Policy adopted by the Council

- Member/Officer Relations Protocol
- the Members' Planning Code of Good Practice
- the use of Council Resources by Councillors Acceptable Use Policy

2.12 'Report' means the report of the ESO or the report of the Investigating Officer

2.13 'Reporting Officer' means the person appointed under paragraph 3.5 below

2.14 'Standards Board' means Standards for England

2.15 'Standards Committee' means the Council's Standards Committee or the Committee exercising the functions of a standards committee. It can also refer to a Sub-committee set-up by the Standards Committee.

### **3. Pre-hearing process**

3.1 Within five working days of the final report being sent out (as set out in the local investigations procedure – section 9.3) the Democratic Services Manager shall ask for a written response from the Member, within fifteen working days, stating whether or not he/she:

- disagrees with any of the findings of fact in the Report, including the reasons for any disagreements
- wants to be represented, at their own expense, at the hearing by a solicitor, barrister or, with the permission of the Panel, any other person
- wants to give evidence to the Panel, either verbally or in writing
- wants to call relevant witnesses to give evidence to the Panel
- wants any part of the hearing to be held in private having regard to all guidance issued
- wants any part of the Report or other relevant documents to be withheld from the public
- can attend the hearing.

3.2 The Democratic Services Manager will also inform the Member that if, at the meeting of the Panel, he/she seeks to dispute any matter contained in the Report, without having previously notified the Democratic Services Manager of their intention to do so, the Panel may either:

- refuse to allow the disputed matter to be considered
- allow the disputed matter to be considered but to invite the Investigating Officer or the ESO to respond and/or call witnesses
- to adjourn the hearing to enable the Investigating Officer or ESO to respond

- 3.3 Upon receipt, the Member's response shall be forwarded to the Investigating Officer or ESO to comment, within fifteen working days, on the Member's response, to say whether or not he/she:
- wants to be represented at the hearing
  - wants to call relevant witnesses to give evidence to the Panel
  - wants any part of the hearing to be held in private, having regard to all guidance issued
  - wants any part of the Report or other relevant documents to be withheld from the public
- 3.4 If the ESO is not attending the hearing or being represented, the Monitoring Officer will appoint a Reporting Officer to take conduct of the matter. In that event references to the ESO in these procedures shall also mean the Reporting Officer.
- 3.5 Upon receipt of the Investigating Officer/ESO's response, the Democratic Services Manager will forward the responses of the Member and the Investigating Officer/ESO to the Chair of the Panel.
- 3.6 The Member and the Investigating Officer/ESO are entitled to request that any witnesses they want should be called. However, the Democratic Services Manager in consultation with the Chair of the Panel may limit the number of witnesses, if he/she believes the number requested is unreasonable and that some witnesses will simply be repeating the evidence of earlier witnesses, or else not providing evidence that will assist the Panel to reach its decision.
- 3.7 Nothing in this procedure shall limit the Democratic Services Manager in consultation with the Chair of the Panel from requesting the attendance of any additional witnesses whose evidence he/she considers would assist the Panel to reach its decision.
- 3.8 At least two weeks before the date of the hearing the Democratic Services Manager, in consultation with the Legal Adviser will send to the Member, the Panel, the Investigating Officer/ESO, the Reporting Officer and the Legal Adviser the Pre-Hearing Process Summary (Appendix 1 Form F of the Standard Board's Guidance) which will include the following information:
- Confirmation of the date, time and place for the hearing, which must be within three months from the date that the Report was received.
  - A summary of the allegations.
  - The main facts of the case that are agreed
  - The main facts that are not agreed

- Which witnesses will give evidence
- Whether the member concerned or the Investigating Officer/ESO will attend or be represented at the hearing
- Outline the proposed procedure for the hearing, specifying which parts, if any, will be considered in private

#### **4. Selection of the Hearing Panel**

- 4.1 The Democratic Services Manager, in consultation with Legal Adviser, shall appoint a sub-committee of five members of the Council's Standards Committee ("the Panel") to consider the Report.
- 4.2 The Panel shall be chaired by an independent member and shall include a parish council representative where the allegation relates to a parish councillor.
- 4.3 Where a member of the Panel is unable to attend a meeting of the Panel, the Democratic Services Manager, in consultation with the Legal Adviser, shall appoint another member of the Standards Committee to attend the hearing.

#### **5. Confidentiality and disclosure of information**

Where the Legal Adviser considers that the Report and/or any of the written statements in response is likely to disclose "exempt information" (as defined in Schedule 12A to the LGA 1972 and regulations), and in consequence that it is likely that the Panel will, during consideration of these papers, not be open to the public, he/she shall instruct the Democratic Services Manager not to provide copies of these papers to the press or public or permit their inspection by the press or public in advance of the meeting.

#### **6. General Procedure at the Hearing**

- 6.1 The Chair may agree to vary the procedure at the hearing where in consultation with the Legal Adviser he/she is of the opinion that such a variation is necessary in the interest of fairness.
- 6.2 The purpose of the hearing is to decide on the balance of probability whether the Member has breached the Code/Protocol. In doing so the Panel will consider the Report and any written or oral representations made by the ESO, the Investigating Officer or the Member.
- 6.3 The Member may be represented or accompanied by a solicitor, counsel or, with the permission of the Panel, another person. The Panel may refuse permission for representation by another person if for example they consider that that person is directly involved in the matter being determined.
- 6.4 The hearing will be open to the public and press unless confidential information provided by a Government Department will be revealed or unless the Panel decide that the hearing or part of it should be held in private having

considered the representations of the parties and the guidance issue by the Standards Board.

- 6.5 The Panel may take legal advice from the Legal Adviser at any time during the hearing. Any legal advice will be given in the presence of all parties
- 6.6 The Panel may ask the Member, the ESO, the Investigating Officer or any witness a question at any time during the hearing. It can also allow witnesses to be questioned by the Member, ESO or Investigating Officer or the Legal Advisor. All such questions must be directed through the Chair.
- 6.7 All matters/issues shall be decided in accordance with the ordinary decision making procedure with each member having one vote and, in the case of equality of votes, the Chair having the casting vote.
- 6.8 The Panel can adjourn the hearing at any time.

## **7. Preliminary Procedural Issues**

- 7.1 The Chair will introduce all the parties and will explain how the hearing will be conducted.
- 7.2 The initial order of business shall be as follows:
  - For any member of the Panel to state whether he/she has an interest in the matter which should be declared.
  - To confirm that the Panel is quorate. A quorum is 3 members including an independent member (and a parish council representative if the matter relates to a member of a parish council).
  - To consider any representations from the ESO, Investigating Officer and/or the Member as to whether the Panel should exclude the press and public from the hearing or parts of it. Where the Panel decide not to exclude the press and public, the Democratic Services Manager shall at this point provide copies of the papers to any members of the press and public who are present.
- 7.3 If the Member has indicated that he/wishes to attend the hearing but is not present on the hearing date, the Panel will consider reasons which have been given for his/her absence. If the Panel are satisfied with those reasons, it will arrange for the hearing to be held on another date. If no reasons are given, or the Panel is not satisfied with those given, it may proceed in the Member's absence.

## **8. Making findings of fact**

- 8.1 After dealing with any preliminary issues, the Panel will consider whether or not there are any significant disagreements about the facts contained in the Report.
- 8.2 If there is no disagreement, the Panel will confirm their findings of fact.

- 8.3 If there is a disagreement, the ESO or Investigating Officer will be invited to make representations to support the relevant findings of fact in the Report. With the Panel's permission, the ESO or Investigating Officer may call any necessary supporting witnesses to give evidence. The Panel may give the Member an opportunity to challenge any evidence put forward by any witness called by the ESO or Investigating Officer.
- 8.4 The Member will then have the opportunity to make representations to support his or her version of the facts and, with the Panel's permission may call any necessary witnesses to give evidence. The Panel may give the ESO or Investigating Officer an opportunity to challenge any evidence put forward by any witness called by the Member.
- 8.5 At the conclusion of various representations the Chair will check with the Panel whether they are satisfied that they have sufficient evidence to come to a conclusion on the matter.
- 8.6 If the Panel consider that they require additional evidence they may at their discretion adjourn and make a request for this. They can only adjourn on one occasion for this purpose.
- 8.7 Where the Member seeks to dispute any matter in the Report which he/she had not given notice of intention to dispute in his/her written statement in response, he/she must give good reasons for not mentioning it before the hearing. After considering the Member's explanation for not raising the issue at an earlier stage, the Panel may then:
- continue with the hearing, relying on the information in the Report; or
  - allow the Member to make representations about the issue, and invite the ESO or Investigating Officer to respond and call any witnesses as necessary; or
  - postpone the hearing to arrange for the appropriate witnesses to be present, or for the ESO or Investigating Officer to be present.
- 8.8 The Panel will withdraw with the Legal Adviser to consider the representations and evidence. On their return, the Chair will announce the Panel's findings of fact.

**9. Did the Member fail to follow the Code?**

- 9.1 The Panel will then consider whether or not, based on the findings of fact, the Member has failed to follow the Code of Conduct/Protocol.
- 9.2 The Member should be invited to give relevant reasons why the Panel should not decide that he or she has failed to follow the Code of Conduct/Protocol.
- 9.3 The Panel should then consider any representations from the ESO or Investigating Officer.
- 9.4 The Member should be invited to make any final relevant points.

9.5 The Panel will withdraw with the Legal Adviser to consider the various representations. On their return the Chair will announce their decision.

## **10. If the Member has not failed to follow the Code**

10.1 If the Panel decides that the Member has not failed to follow the Code, it will announce the decision.

10.2 The Panel will ask the Member whether in the light of a finding of no breach of the Code, he/she wishes a summary of the decision to be published.

## **11. If the Member has failed to follow the Code**

11.1 If the Panel decides that the Member has failed to follow the Code, it will consider any verbal or written representations from the ESO or the Investigating Officer and the Member as to:

- whether or not the Panel should set a penalty.
- what form the penalty should take.

11.2 Having heard any representations, the Panel will then consider in private session accompanied by the Legal Adviser whether or not to impose a penalty and if so what the penalty should be.

11.3 In deciding what penalty to set, the Panel will consider all relevant circumstances including those covered in the Guidance produced by the Standards Board. Penalties may start immediately or up to six months after the hearing, if the Panel wishes.

## **12. Penalties which may be imposed**

12.1 The Member may be

- censured (This is the only form of penalty available when dealing with a person who is no longer a member of the council concerned); or
- restricted access to the premises and/or resources of authority for a maximum period of six months; or
- suspended or partially suspended for a maximum period of six months; or
- required to submit a written apology in a form specified by the Panel; or
- required to undertake training as specified by the Panel; or
- required to undertake conciliation as specified by the Panel; or
- suspended or partially suspended for a maximum period of six months or until such time as he/she submits a written apology or undertakes any training or conciliation specified by the Panel

- 12.2 Where access to resources or premises is restricted, the Panel will ensure that the restrictions are proportionate to the nature of the breach and do not unduly restrict the Member's ability to perform his or her duties as a member.

**13. Reference back to the ESO**

At any time prior to the conclusion of the hearing the Panel may adjourn and make a written request to the ESO to take the matter back to undertake an investigation, and if it does so it must set out its reasons for making the request.

**14. Notice of Decision**

- 14.1 At the conclusion of the hearing the Chair will announce the decision and the reasons for it.

- 14.2 The Democratic Services Manager will make a short written decision available on the day of the hearing.

- 14.3 Within two weeks of the conclusion of the hearing the Democratic Services Manager will circulate the full written decision, in the format recommended by the Standards Board, to

- the Member,
- the Complainant,
- the Standards Board,
- the Standards Committee of any other local authority (other than a parish council) of which the Member is also a member, and
- the Clerk to any Parish Council concerned.

**15. Publication of Summary of Decision**

- 15.1 Within two weeks of the hearing, the Democratic Services Manager shall arrange for a summary of the decision to be published in one newspaper circulating in the area of the Member's authority and on the Council's web site.

- 15.2 Where the Panel determines that there has not been a breach of the Code of Conduct, the Notice shall

- (i) state that the Panel found that the Member had not failed to comply with the Code of Conduct and shall give its reasons for reaching that finding; and
- (ii) not be published in a local newspaper or on the Council's website if the Member so requests.

- 15.3 Where the Panel determines that there has been a failure to comply with the Code of Conduct but no action is required, the Notice shall

- (i) state that the Panel found that the Member had failed to comply with Code of Conduct but that no action needs to be taken in respect of that failure;
- (ii) specify the details of the failure;
- (iii) give reasons for the decision reached; and
- (iv) state that Member concerned may apply for permission to appeal against the determination.

15.4 Where the Panel determines that there has been a failure to comply with the Code of Conduct and that a sanction should be imposed, the notice shall

- (i) state that the Panel found that the Member had failed to comply with the Code of Conduct;
- (ii) specify the details of the failure;
- (iii) give reasons for the decision reached;
- (iv) specify the sanction imposed, and
- (v) state that the Member concerned may apply for permission to appeal against the determination.

## **16. Availability of Agenda, Reports etc.**

16.1 Copies of the agenda, reports and minutes of a hearing, as well as any background papers, apart from sections of documents relating to parts of the hearing that were held in private, will be available for public inspection for six years after the hearing.

## **17. Appeal**

17.1 Where the Panel determines that the Member has failed to comply with the Code of Conduct, the Democratic Services Manager shall inform the Member of his or her right to seek permission to appeal against the determination, to an appeal tribunal drawn from the Adjudication Panel within 21 days of the Member receiving Notice of the Panel's decision. Any party to an appeal will bear their own costs in relation to that appeal.

Standards Committee  
Hearings Panel Procedure

1. The various parties are identified.
2. The Legal Adviser to the Panel will ask the Member to confirm that he/she received notice of the hearing and of his/her right to be represented.
3. The Legal Adviser to the Panel will explain the procedure to be followed and advise parties that the written report and all supporting papers have been received and have been placed before Panel Members. Therefore it is expected that oral submissions will be by way of a succinct summary of the key points and will address any points of dispute. All questions to be addressed through the Chair.
4. The Chair will ask the Democratic Services Officer if notice of a representative or witness has been received. If so, Members will decide whether the representative/witness will be allowed.
5. The Chair will set out the nature of the complaint.
6. The Monitoring Officer will present his/her report.
7. The Chair will ask the Investigating Officer/ESO if they dispute any of the facts as set out in the report.
8. The Chair will ask the Member if they dispute any of the facts as set out in the report.
9. If there is a dispute as to the facts, the Chair will invite the Investigating Officer/ESO to make submissions on those facts and call any witnesses.
10. The Member will be given an opportunity to ask questions of the Investigating Officer/ESO and any witnesses called.
11. The Panel Members may ask questions of the Investigating Officer/ESO and any witnesses.
12. The Member will be given an opportunity to make submissions on those facts and call any witnesses.
13. The Investigating Officer/ESO may ask questions of the Member and any witnesses.
14. The Panel Members may ask questions of the Member and any witnesses.
15. The Panel will retire to determine the facts.
16. The Panel will return and announce their findings of fact.
17. The Chair will invite representations from the Investigating Officer/ESO as to whether the findings amount to a breach of the Code.

18. The Member may ask the Investigating Officer/ESO questions on his/her representations.
19. The Panel Members may ask questions of the Investigating Officer/ESO.
20. The Chair will invite representations from the Member as to whether the findings amount to a breach of the Code.
21. The Investigating Officer/ESO may ask the Member questions on his/her representations.
22. The Panel Members may ask questions of the Member.
23. The Panel will retire to determine if a breach of the Code has occurred.
24. The Panel will return and announce their decision.
25. If the Panel determine there has not been a breach of the Code, the Chair will close the hearing.
26. If the Panel determine there has been a breach of the Code, the Chair will invite submissions from the Investigating Officer/ESO in respect of which sanction(s) should be applied.
27. The Chair will invite submissions from the Member in respect of which sanction(s) should be applied.
28. The Panel will retire to determine the appropriate sanction.
29. The Panel will return and announce their decision.
30. The Member will be notified of his/her right to seek permission to appeal.
31. As soon as possible thereafter the decision is confirmed in writing to all parties. The letter advises the Member of his/her right of appeal.

#### Note

*It is an important principle of the rules of natural justice that members who take part in the deliberations and decision-making should only do so if they have been present for the whole of the hearing.*

*A party may seek to introduce new matters at the hearing. Legal advice should be sought on whether to allow the evidence or to proceed or adjourn to allow all parties time to consider the new matters.*

Date:

Member:

:

## **CHAIR'S PROCEDURAL NOTES**

### **Standards Committee** **Hearings Panel Procedure**

#### **Agenda Items:**

The Meeting is opened with **Election of Chair**. As no member is formally appointed at this point, the Democratic Services Officer will ask Members to propose a chair and for this to be seconded. The Chair will then be declared and take charge of the meeting.

The Chair will ask Members for any **declarations of interest**.

The Chair will then need to determine if press and public should be excluded from the hearing or any part of it. The Chair to **invite submissions** from (**NAME**) the Investigating Officer/ESO and (**NAME**) the Member before the Panel make a determination.

The Chair can then move on to item 4 on the agenda and welcome parties to the Hearing if felt appropriate before moving on to the Hearings Procedure which is located behind the agenda in the bundle of papers and modified for ease of use below:

#### **Hearings Procedure:**

1. Ask parties to identify and introduce themselves.
- 2&3. Ask (**insert name**) the Legal Adviser to the Panel to explain the procedure.
4. Ask (**insert name**) the Democratic Services Officer if notice of a representative or witness has been received. If Members are unsure as to whether these witnesses should be accepted, seek Legal Advice from (legal adviser).
5. Read out the following summary of the complaint:-  
  
(**summary of complaint to be inserted**)
6. Ask (**insert name**) [the Monitoring Officer] to present their report.  
  
***If any new matters are raised or new evidence is introduced, seek Legal advice on whether to allow it and proceed or adjourn to allow all parties time to consider the new matters.***
7. Ask (**insert name**) [the Investigating Officer/ESO] if they dispute any of the facts.
8. Ask (**insert name**) [the Member] if they dispute any of the facts.

9. Ask **(insert name)** [the Investigating Officer/ESO] to make his/her submissions on the facts and call any witnesses.

10-11. **Questions to the Investigating Officer/ESO:**

- (a) Ask **NAME** [the Member] if he/she has any questions for the Investigating Officer/ESO or their witnesses
- (b) Ask **MEMBERS** of the Panel if they have any questions for the Investigating Officer/ESO or their witnesses

*If parties stray from questioning towards the giving of statements, remind them that this part of the procedure is for questions on the facts only and they will have an opportunity to make their own submission later in the proceedings.*

12. Ask **NAME** [Member] to make his/her submission and call witnesses

*If any new matters are raised or new evidence is introduced, seek Legal advice on whether to allow it and proceed or adjourn to allow all parties time to consider the new matters.*

13-14. **Questions to the Member:**

- (a) Ask **NAME** [the Investigating Officer/ESO] if he/she has any questions to ask the Member or their witnesses
- (b) Ask **MEMBERS** of the Panel if they have any questions for the Member or their witnesses

*If parties stray from questioning towards the giving of statements, remind them that this part of the procedure is for questions on the facts only and they will have an opportunity to make their own submission later in the proceedings.*

- 15-16. Panel to retire with Democratic Services Officer. **WITHDRAW**

On return **announce** findings of fact.

17. Ask **(insert name)** [the Investigating Officer/ESO] to make his/her submissions as to whether the facts amount to a breach of the Code.

18-19. **Questions to the Investigating Officer/ESO:**

- (a) Ask **NAME** [the Member] if he/she has any questions for the Investigating Officer/ESO
- (b) Ask **MEMBERS** of the Panel if they have any questions for the Investigating Officer/ESO

20. Ask **NAME** [Member] to make his/her submission as to whether the facts amount to a breach of the Code.

21-22. **Questions to the Member:**

- (a) Ask **NAME** [the Investigating Officer/ESO] if he/she has any questions to ask the Member

(b) Ask **MEMBERS** of the Panel if they have any questions for the Member

23-24. Panel to retire with Democratic Services Officer. **WITHDRAW**

On return **announce** determination on breach.

25. If no breach, **close** the meeting.

26. If there is a breach, ask **NAME** (the Investigating Officer/ESO) for his/her submissions in respect of sanctions.

27. Ask **NAME** (Member) for his/her submissions in respect of sanctions.

28-29. Panel to retire with Democratic Services Officer. **WITHDRAW**

On return **announce** sanction(s) to be applied.

30-31. Tell Member he/she has right to seek **appeal**, details will be included in written notification of decision which will be sent to all parties as soon as possible.

Once the decision has been notified, you may thank parties for attending and declare the meeting closed.

**TELFORD & WREKIN COUNCIL**

**STANDARDS COMMITTEE – 10<sup>th</sup> DECEMBER 2009**

**UPDATE TO LOCAL INVESTIGATIONS AND HEARINGS PROCEDURE**

**REPORT OF THE HEAD OF LEGAL SERVICES AND MONITORING OFFICER**

**1. PURPOSE**

To provide the Standards Committee with an updated procedure for local investigation of code of conduct complaints and local hearings following local investigations for their consideration and approval.

**2. RECOMMENDATIONS**

**2.1 That the Standards Committee approve the local investigations and hearings procedure attached at appendix 1 and 2 respectively, subject to any amendments that the Committee may consider to be necessary.**

**2.2 That the Standards Committee give delegated authority to the Monitoring Officer to amend or depart from the procedures when it is necessary to do so.**

**3. SUMMARY**

The Standards Committee has previously approved a process for investigating and hearing code of conduct complaints. Changes in legislation and guidance from Standards for England require the previous procedures to be updated. Officers have prepared new draft procedures for the Standards Committee to consider and approve subject to any amendments which the Committee may consider appropriate.

**4. PREVIOUS MINUTES**

Standards Committee - 4<sup>th</sup> November 2003 (ST-16)  
Standards Committee - 19<sup>th</sup> September 2005 (ST-13)  
Standards Committee - 29<sup>th</sup> March 2007 (ST-51)  
Standards Committee – 19<sup>th</sup> June 2007 (ST-9)

**5. INFORMATION**

## **5.1 Background**

The Standards Committee has the authority to direct the Monitoring Officer to conduct an investigation of a complaint alleging that an elected member may have breached the members' code of conduct. The Standards Committee can also conduct a hearing following the completion of an investigation to decide whether there has been a breach of the code and (in the event that a breach is discovered) to determine a sanction against the member concerned.

**5.2** This is not a new role for the Committee but the introduction of the new provisions contained in the Local Government and Public Involvement in Health Act 2007 coupled with the subsequent guidance from Standards for England meant that the existing procedures are out of date and in need of review.

**5.3** The revised local investigation procedure is attached at appendix 1. It is more concise than the previous version.

**5.4** The revised hearing procedure is set out at Appendix 2 and has also been revised in consideration of the aforementioned legislation and guidance referred to in paragraph 5.2 of this report.

**5.5** Recommendation 2.2 of the report seeks a delegated authority for the Monitoring Officer to amend the procedure or depart from it when considered necessary to do so. This recommendation has been included in consideration of circumstances when there is either a scenario during an investigation or hearing which was not envisaged when the procedures were produced and/or when there has been a change brought about by statute, guidance or case law which requires amendments to the process to be made.

## **5.6 Equal Opportunities**

The Monitoring Officer will ensure that the procedures set out at appendix 1 and 2 of this report comply with equality and diversity legislation and guidance.

## **5.7 Environmental Impact**

No implications identified

## **5.8 Legal Comment**

The Standards Committee undertakes functions in accordance with legislative requirements set out in the Local Government Act 2000, the Local Government and Public Involvement in Health Act 2007 and other associated legislation. In accordance with the new provisions in the 2007 Act the Committee also needs to take account of guidance issued by Standards for England (the operating name for the Standards Board

for England). Any procedures adopted by the Standards Committee must be compliant with the aforementioned (and any related) legislation and associated guidance.

## **5.9 Links with Corporate Priorities**

Ensuring that the investigation and hearing procedures are up to date and compliant with legislative requirements assists the Council in meeting its objective of being “an Efficient, Effective and Customer-Focused Council”.

## **5.10 Opportunities and Risk**

The opportunities and risk associated with updating the investigation and hearing procedures have been identified and assessed. Arrangements will be put in place to manage the risks and maximise the opportunities that have been identified.

## **5.11 Financial Implications**

The updated procedure has no direct financial implications. Costs associated with investigations and hearings are reviewed as part of the regular financial monitoring process and variances highlighted as appropriate.

## **6. WARD IMPLICATIONS**

District wide implications

## **7. BACKGROUND PAPERS**

Local Government Act 2000

Local Government and Public Involvement in Health Act 2007.

Standards Committee (England) Regulations 2008.

Standards Board for England Guidance – “Local Investigations and other action”, “How to conduct an investigation”, Local investigation toolkit, “Standards Committee Determinations”, Standards Committee determinations toolkit

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