

STANDARDS COMMITTEE

Minutes of a meeting of the Standards Committee held on Thursday, 25 March, 2010 at 6.00 p.m. at Civic Offices, Telford

PRESENT: Councillors D.G. Allen, R. Aveley, R.E. Groom, C.R.P. Mollett, H. Rhodes and A.J. Stanton
A. Simpson (Chairman), B. Bayley, F. Beasland and A. Selvaratnam (Independent Members)
Councillor D. Edwards (Parish Council representative)

ST-25 MINUTES

In relation to Minute ST-24(b) – Update to Local Investigations and Hearings Procedures, the Legal Services Manager reported that Cllr V.A. Fletcher, while being unable to attend the meeting due to illness, had sent an e-mail to express her view that Members had intended for any amendments or departures from the procedures to be reported to the Committee (and subsequently Council). The Head of Governance advised that the Committee would be notified informally of any changes made under delegated powers, and Members were satisfied that the minute accurately reflected the decision that was made.

RESOLVED – that the minutes of the meeting of the Standards Committee held on 10 December 2009 be confirmed and signed by the Chairman.

ST-26 APOLOGIES FOR ABSENCE

Councillors V.A. Fletcher and K.S. Sahota (TWC); Councillors R. Wickson and R. Williams (Parish Council representatives)

ST-27 DECLARATIONS OF INTEREST

None

ST-28 STANDARDS FOR ENGLAND – MONITORING OFFICER'S ANNUAL REPORT

The Legal Services Manager presented the report of the Head of Governance & Monitoring Officer which provided Members with details of the information to be included in the annual return which the Monitoring Officer had to provide to Standards for England.

This year, Standards for England had provided advance notice of the information they were seeking. This was in the form of a series of questions, which were attached to the report along with some brief guidance notes. The questions were divided into five sections – communication, influence, training & support, investigations, and relationships with town and parish councils.

Members had also been sent copies of the Committee's 2009 Annual Report in order to provide some context to this exercise.

Bearing in mind the amount of information requested, the Head of Governance & Monitoring Officer proposed that a draft Return be prepared by officers (as far as they were able) and then sent to Members for comments, before being submitted to Standards for England. It was expected that the submission window would be late March or early April 2010. In relation to training and support, it was suggested that some narrative should be added to the more "tick box" responses in order to reflect concerns at the numbers of members in the Borough who had not attended some form of code of conduct training. During discussion on this issue, the Monitoring Officer added that the primary responsibility to provide training for town and parish councillors rested with himself, but that maybe existing local council networks (eg Shropshire Association of Local Councils) could be used more to promote and provide training.

RESOLVED – that the Monitoring Officer prepare a draft Annual Return for circulation to the Committee for comments, prior to submission to Standards for England.

ST-29 JOINT STANDARDS COMMITTEE - UPDATE

The Legal Services Manager presented the report of the Head of Governance & Monitoring Officer, which provided an update on discussions regarding a Joint Standards Committee with the Shropshire & Wrekin Fire Authority, along with proposals to recruit a new independent member.

Following the decision of the Committee to look into the possibility of establishing a Joint Standards Committee, the Fire Authority's Standards Committee had endorsed the suggestion to explore the matter further. Some initial work had been undertaken, including speaking to Shropshire Council, who were unable to provide a commitment at this stage. However, it was now considered that it would take a significant amount of resources to set up a Joint Committee, and that it would be difficult to allocate such resources to this project at this time. It was therefore proposed to put any further work on hold, and set the matter for review later on in the next Municipal year.

Due to the potential for a combined Joint Standards Committee, work had not been undertaken to recruit a vacancy which was due to be created as a result of the Chairman standing down following completion of his two terms of office. If the work on a Joint Committee was to be put on hold, it would be necessary to commence a recruitment process in order to ensure that the full complement of independent members was maintained.

In response to a question about the vacancy for a parish council representative on the Committee, the Legal Services Manager advised that a recruitment process was currently being organised.

RESOLVED –

- (a) that the work to develop a Joint Standards Committee with the Shropshire & Wrekin Fire Authority be put on hold;**
- (b) that the Monitoring Officer be instructed to commence a recruitment process for a new independent member of the Standards Committee.**

ST-30 CODE OF CONDUCT TRAINING 2009/10

The Legal Services Manager presented the report of the Head of Governance & Monitoring Officer which updated Members with regard to the recent Code of Conduct training seminars, and sought views on arrangements for further training.

Three Code of Conduct training sessions took place during February and March 2010, following a new format previously agreed by the Committee. The training was in a workshop style, and included case studies and more feedback from participants than in previous years. The report contained details of the number of participants at each session, along with a summary of the feedback received. Overall, the feedback was very favourable.

Members were agreed that the training sessions had been excellent, and perhaps this blueprint could be used for future training events. It was felt that Members were particularly engaged if the content focussed on practical issues and relevant case studies. It was also suggested that Standards Committee members could benefit from further training on the assessment and determination of Code of Conduct complaints, based on the experiences gained over the first 12 months of the new framework. Members again raised the issue of attendance at the training events, and a number of suggestions were made to try and increase participation, particularly those who had never attended such training. These included the possibility of making a video of a training session, and making it available online; using peer pressure through the political Groups; emphasising to Councillors that, if they were subject to a complaint about an alleged breach of the Code, they would not be able to use the excuse that they had never been provided with training; and writing to Parish Clerks to make them aware of those Members (if any) from their Council who had attended for training.

The Head of Governance & Monitoring Officer added that he would take account of the comments made by Members, and bring a training plan/programme to the next meeting.

RESOLVED –

- (a) that the report be noted;**

- (b) that the Head of Governance & Monitoring Officer draw up a programme/plan for future Code of Conduct training, taking account of the comments/feedback from Members, for consideration at the next meeting of the Committee;
- (c) that Parish Clerks be notified of the names (if any) of their Council's Members who had attended for Code of Conduct training.

ST-31 CODE OF CONDUCT COMPLAINTS MADE TO THE STANDARDS COMMITTEE – QUARTERLY UPDATE 1 OCTOBER – 31 DECEMBER 2009

The Legal Services Manager presented the report of the Head of Governance & Monitoring Officer which detailed the complaints about elected Members which had proceeded to the referrals sub-committee during the period 1 October to 31 December 2009.

During that period, two complaints were received and proceeded to local assessment. The complaints were made by the Monitoring Officer. The Review Sub-Committee considered one review application made by a Borough Councillor concerning three Borough Councillors. The Sub-Committee decided to uphold the original decision that no further action was required. A quarterly return had been sent to Standards for England.

Members considered whether the information contained in the report could be provided in some other, more timely, way, but on balance it was agreed that the current reporting process should be retained.

RESOLVED – that the report be noted.

The meeting ended at 6.48 pm

Chairman:

Date:

TELFORD & WREKIN COUNCIL

STANDARDS COMMITTEE – 17th JUNE 2010

ANNUAL REPORT OF THE STANDARDS COMMITTEE

REPORT OF HEAD OF GOVERNANCE AND MONITORING OFFICER

1. PURPOSE

To present the draft version of the annual report of Telford & Wrekin Council Standards Committee.

2. RECOMMENDATIONS

2.1 That the Committee approve the draft version of the annual report of the Standards Committee, subject to any amendments/comments that they wish to make.

3. SUMMARY

The annual report of the Standards Committee has been prepared for approval.

4. PREVIOUS MINUTES

Standards Committee 21st April 2009 (ST-39)
Standards Committee 18th June 2009

5. INFORMATION

5.1 Background

5.1.1 Officers have prepared a draft version of the annual report of the Standards Committee for the Municipal Year 2009/10. The draft version of the report is attached as an appendix for consideration by the Committee including the work plan for this municipal year.

5.2 Equality and Diversity

All processes and procedures undertaken by the Standards Committee need to comply with the appropriate equality and diversity legislation, regulations and guidance.

5.3 Environmental Impact

No implications.

5.4 Legal Comment

It is not a legal requirement to produce an annual report with regard to the work undertaken by the Standards Committee. However, Standards for England, in accordance with powers acquired under the Local Government and Public Involvement in Health Act 2007 request information in the annual return about whether such a report is prepared.

5.5 Links with Corporate Priorities

Providing an annual report which is made available to Standards for England and to the public assists the Council in ensuring it meets the corporate priority of being an effective efficient and customer focussed Council.

5.6 Opportunities and Risks

The risks associated with producing an annual report for the Standards Committee have been assessed. Every effort will be made to ensure that the risks are managed effectively and the opportunities arising from producing the annual report are maximised.

5.7 Financial Implications

The management and administration of the Standards Committee is met from within existing resources which includes the production of the Annual Report.

6. WARD IMPLICATIONS

District wide

7. BACKGROUND PAPERS

None

End of Report

Report prepared by Matthew Cumberbatch, Legal Services Manager, Tel: 01952 383255



***ANNUAL REPORT OF THE STANDARDS
COMMITTEE OF TELFORD & WREKIN COUNCIL
2009-10***

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INTRODUCTION FROM THE CHAIRMAN OF THE STANDARDS COMMITTEE

In my first year as Chairman of the Standards Committee I want to start by paying tribute to Andy Simpson, the outgoing Chairman, who has now vacated his position both as Chairman and an Independent Member of the Standards Committee. Andy was an integral part of the Committee since its inception and he will be missed. I take the opportunity to thank him for the many years of service that he provided.

I also wanted to mention the sad loss of Councillors Ute Sambrook and Pauline Picken. Ute was a previous chair of the Standards Committee and served on the Committee for a number of years. She was particularly encouraging when it came to trying to increase the profile of the committee and attendance at Code of Conduct training. Pauline Picken held a position as one of our Parish Council Representatives. Her knowledge and experience was a valuable asset to the committee.

It has been a busy year with a number of assessments, reviews and some local investigations. We have also tried a new format for our code of conduct training by making it more interactive and going out to venues in the Parishes. The training was well received and we hope to do something similar again in the forthcoming year. In addition we have reviewed a number of our processes and procedures.

Our attached work plan sets out the matters that the Committee want to address in the next twelve months. It promises to be an interesting year. Proposals to review the Code of conduct look to have stalled and the future of the Standards regime is in doubt following the change in government. We will watch with interest to see what develops and look forward to meeting the challenges ahead.

Chairman of the Standards Committee.

SUMMARY OF WORK UNDERTAKEN

The following areas of work have been addressed :-

- We have continued to accept code of conduct complaints for assessment. The details are set out below. We have also had review sub-committee meetings and our first consideration hearings. Details have been provided to Standards for England
- Training has taken place for members of the Borough and Parish Councils, independent members and new members of the Standards Committee.
- Procedures for applying for dispensations and local investigations and hearings have been reviewed
- The Committee have looked at the possibility of a Joint Standards Committee with the Shropshire and Wrekin Fire Authority and will continue to keep that option under review

The Standards Committee have agreed a work plan for the forthcoming year which is attached to this report.

COMPLAINTS, INVESTIGATIONS AND DETERMINATIONS

From 1st April 2010 to 31st March 2011 the following complaints have been processed:-

Assessments – 11

Matters referred for local investigation – 5

Matters referred to Standards For England for investigation – 0

Matters referred for other action – 0

Matters where no further action was required - 6

Reviews – 4 (all upheld the original assessment decision of 'no further action')

OUTCOMES

Of the five matters referred for investigation; one matter was referred back to the Assessment sub-committee and no further action was taken, one matter is awaiting a full hearing, two matters have concluded following acceptance by the sub-committee of the investigators finding of 'no breach' and one further matter is still in the process of being investigated.

TRAINING

Code of Conduct training for borough councillors and councillors from the Town & Parish Councils took place on the 22 February and 2 March respectively. There were three training sessions following a new format. Training was in a workshop style which included case studies and involved more feedback from the participants than in previous years. The training also took place in different locations in order to encourage more parish and town councillors to attend.

Attendance was as follows:-

Total attendance – 84

Borough Councillors – 31

Parish Councillors – 45

Others (Officers and Fire Authority members and officers) – 8

Overall the feedback from the training sessions was as follows:-

AFTERNOON SESSION

RATING	1	2	3	4	5
JOINING INSTRUCTIONS	5	1	7	27	21
CONTENT OF TRAINING	1	0	5	28	27
QUALITY OF PRESENTATION / WORKSHOPS	0	0	8	32	21
SUPPORTING MATERIAL / HANDOUTS	0	1	7	32	21
VENUE	1	5	7	18	30
OVERALL, HOW USEFUL WAS THE TRAINING	1	1	6	27	26

1 = Poor, 2 = Unsatisfactory, 3 = Satisfactory, 4 = Good, 5 = Excellent

THE YEAR AHEAD

On 17th June 2010 the Standards Committee approved a work plan for the forthcoming year. Details of the plan are set out at Appendix 2.

CONTACT DETAILS

Further information about the work of the Standards Committee and details of how to make a complaint regarding the conduct of a Councillor can be obtained from the following council officers:-

- Jonathan Eatough – Head of Governance and Monitoring Officer.
Telephone 01952 383200
email: Jonathan.Eatough@telford.gov.uk
- Matthew Cumberbatch – Legal Services Manager and Deputy Monitoring Officer.
Telephone 01952 383255
email: Matthew.Cumberbatch@telford.gov.uk
- Ian Ross – Group Solicitor and Deputy Monitoring Officer.
Telephone 01952 383255
email Ian.Ross@telford.gov.uk
- Kirsty Fisher – Group Solicitor and Deputy Monitoring Officer
Telephone 01952 383255
Email Kirsty.Fisher@telford.gov.uk
- Phil Griffiths – Head of Democratic Services.
Telephone 01952 383210
email: Phil.Griffiths@telford.gov.uk

Or alternatively by writing to the officers referred to above at:

Telford & Wrekin Council,
Legal Services,
Civic Offices,
PO Box 215,
Telford
TF3 4LF

DRAFT

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.
- d. 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.
- e. 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.

Terms of Reference of the Dispensations Sub-Committee

As approved by the Standards Committee

1. Terms of Reference

The Dispensations Sub-Committee is established to determine applications from members of the authority for a dispensation in accordance with the provisions of the Local Government Act 2000 (as amended) and the Standards Committee (Further Provisions) (England) Regulations 2009.

2 Composition of the Dispensations Sub-Committee

The Dispensations Sub-Committee shall comprise 4 members, of whom at least 1 shall be an independent member of the Standards Committee and at least two 2 shall be elected members of the Authority. When the Dispensations Sub-Committee considers an application from a Parish or Town Councillor, the Sub-Committee shall also include a Parish or Town Council representative. The Chairman of the Dispensations Sub-Committee must be an independent member of the Standards Committee.

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 an application from a Parish or Town Councillor.

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) establish sub-committees of the standards committee to determine applications for dispensations from 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

STANDARDS COMMITTEE WORK PROGRAMME**MAY 2010 – APRIL 2011**

	Action	Who is responsible	Completion Date
1.	Undertaking local assessment of Code of Conduct complaints received by the Standards Committee	Monitoring Officer and Deputy Monitoring Officer	On-going responsibility
2.	Review of Member Officer protocol	Standards Committee and Monitoring Officer	April 2011
3.	Attendance at Standards Board Assembly	Chair of Standards Committee, Monitoring Officer, Deputy Monitoring Officers	The next annual Assembly of Standards Committees is currently scheduled to take place in October 2010
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 depends on the outcome of the government review of the Standards regime. Officers will report back to the committee when appropriate
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 2010

6.	Training for Independent Members of Standards Committee in relation to chairing Standards Sub-Committees	Monitoring Officer and Deputy Monitoring Officer	November 2010
7.	Review of MO Protocol and Assessment and Review Criteria	Standards Committee, Monitoring Officer, Deputy Monitoring Officer	October 2010
8.	Review of the Terms of Reference of the Standards Committee	Standards Committee assisted by Monitoring Officer and Deputy Monitoring Officer	June 2010
9.	Review of local investigation and local hearing procedures	Standards Committee, Monitoring Officer and Deputy Monitoring Officer	October 2010
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 st December 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	June 2010

**TELFORD & WREKIN COUNCIL STANDARDS COMMITTEE MEETINGS
FOR MUNICIPAL YEAR 2010/11**

Thursday 17 June 2010

Thursday 16 September 2010

Thursday 9 December 2010

Thursday 10 March 2011

Start time for all meetings is 6.00pm and will take place at the Civic Offices.

TELFORD & WREKIN COUNCIL

STANDARDS COMMITTEE – 17th JUNE 2010

REVIEW OF STANDARDS COMMITTEE PROCEDURES

REPORT OF HEAD OF GOVERNANCE AND MONITORING OFFICER

1. PURPOSE

- 1.1 To provide the committee with proposed amendments to a number of procedures in relation to the processing and investigation of complaints.

2. RECOMMENDATIONS

2.1 That the Committee approve the amendments to the following subject to any further amendments that they consider appropriate:

- **Monitoring Officer Protocol**
- **Assessment and Review Criteria**
- **Local investigation Procedure**
- **Local Hearing Procedure**

2.2 The Head of Governance and Monitoring Officer has delegated authority to amend the procedures when he considers it necessary to do so.

3. SUMMARY

Recent experience of using procedures adopted by the standard committee has given officers the opportunity to review the processes in place and make suggestions to improve them. Proposed amendments to the way in which complaints are received, assessed, investigated and heard are attached to the report for the Committee to consider.

4. PREVIOUS MINUTES

Standards Committee – 17th June 2008 (ST-05), 10th December 2010 (ST-24)

5. INFORMATION

- 5.1 The local system for the assessment of complaints has now been operating since May 2008. The Standards Committee have previously approved procedures to ensure a fair, transparent and consistent way of dealing with complaints.

5.2 Having now used the system for two years and more recently having experienced more investigations, officers have reviewed the current processes and procedures. Some parts of the processes were found to be either repetitive or in need of simplification. Accordingly, the following procedures are attached to this report at Appendix 1 with suggestions for amendment;

- Monitoring Officer Protocol

The document has been updated to make reference to 'Standards for England', has had any repetitive sections removed and some language has been replaced for more plain English.

- Assessment and Review Criteria

The document has been updated to make reference to 'Standards for England' and also includes a new process to ensure that members who are subject to a complaint that is withdrawn are informed as soon as possible.

- Local Investigation Procedure

This was only recently updated but the Monitoring Officer confirmed that he would keep members up to date with any amendments. There is a removal of the need for a 21 day response regarding the allegation from the member who was subject to the complaint. This could slow down the investigation process, particularly in the smaller cases. There is more reference to the consideration meetings which are elaborated upon in the hearing procedure. There will be no need for any separate determination procedure between the investigation and hearing stage. There is also an update to include a reference to 'Standards for England'.

- Local Hearing Procedure

There is a removal of the requirement for a five day letter from the Democratic Services Manager, instead there is reference to the consideration hearing and acting promptly after that. There is an update regarding reference to 'Standard for England'.

5.3 Occasionally it may be necessary to depart from the set procedure and as previously agreed by the Committee there is a recommendation to allow the Head of Governance and Monitoring Officer to continue to be able to amend the procedures when it is necessary to do so. This is envisaged to be mainly due to changes in legislation or guidance which require and amendment to the procedures.

5.4 Equality and Diversity

The Head of Governance will ensure that the complaints process is accessible to all of the community

5.5 Environmental Impact

None

5.6 Legal Comments

It is a legal requirement for the Standards Committee to administer a system for the processing of code of conduct complaints. The procedures attached to this report must be compliant with the Local Government Act 2000 (as amended) and all associated legislation. Standards for England guidance must also be considered when prepared the procedures.

5.7 Links with Corporate Priorities

Ensuring that the Standards Committee procedures are efficient and up to date will assist the Council in ensuring that it is operating in an effective and efficient manner.

5.8 Opportunities and Risks

The potential opportunities and risks associated with the issues raised in the report will be addressed. The opportunities identified will be maximised and the potential risks will be dealt with appropriately.

5.9 Financial Implications

The administration and operation of the Standards Committee is met from within existing budgets and the proposed changes are not anticipated to have a significant financial implication.

5.10 Ward Implications

District wide implications

6. BACKGROUND PAPERS

None

Report prepared by Matthew Cumberbatch, Legal Services Manager Tel: 01952 383255

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. Upon receipt of a complaint the monitoring Officer may also contact the complainant if the complaint is unclear or ambiguous to discuss with the complainant whether the complaint should proceed.
- 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 normally within 20 working days of receipt 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 normally within 20 working days of receipt 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 may withhold the identity of the complainant until such time that the Referrals Sub-Committee can consider the complainants request for

~~their identity to be withheld, 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,~~allegation and such readily available ~~information and his/her recommendation as to whether the allegation discloses an apparent failure to observe the Code of Conduct,~~information 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 The Monitoring Officer is authorised to determine who will undertake a local ~~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,~~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 ~~Referrals~~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~~The Referrals ~~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 Referrals 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 ReferralsAssessment 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 ReferralsAssessment 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 ReferralsAssessment Sub-Committee may wish to request medical evidence.

7 Withdrawing complaints

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

In deciding whether to accept the withdrawal of the complaint the Referrals Sub-Committee may consider the following points -

- (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.

In the event that the complaint is withdrawn and that the withdrawal is accepted, the member who is subject to the complaint together with the clerk to the Parish Council concerned (if applicable) will be informed about the withdrawal of the complaint as soon as possible thereafter.

8 Review

Where the Referrals-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 ReferralsAssessment 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 ReferralsAssessment Sub-Committee was unreasonable on the basis of the information available to the ReferralsAssessment 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 ReferralsAssessment Sub-Committee, the decision-notice of the ReferralsAssessment 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 considering the matter afresh, 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.

| Version 2 (last amended - June 2010)

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 [for England 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 [any](#) 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. The Monitoring Officer may instruct one of the Council's Deputy Monitoring Officer to act on his/her behalf in appointing an investigator.
- (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 may identify 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 if appointed at that stage.
- (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 for England ~~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.

NOTE - Regulation 16 of The Standards Committee (England) Regulations 2008 covers 'References back from monitoring officer', and sets out circumstances when a complaint referred to a monitoring officer under section 57(2)(a) of the Local Government Act 2000 (as amended) for investigation can be referred back to the Standards Committee to provide a further assessment of the complaint in respect of new evidence or information that is available.

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 for England~~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 be considered by ~~proceed to a hearing before~~ the Standards Committee ~~to decide if the matter should proceed to a local hearing undertaken by the Standards Committee or whether it should be referred to the First Tier Tribunal.~~

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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.

The Monitoring Officer has delegated authority to amend this procedure if required.

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~~ for England 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 and includes a Deputy Monitoring Officer acting in the absence of or on behalf of the Monitoring Officer
- 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~~

2.1~~4~~⁵ '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 Consideration of the Final Report

3.1 After the investigator has provided the final copy of their report (as referred to in the local investigation procedure) the Democratic Services Manager will arrange a meeting of the Standards Committee to consider the final report.

3.2 The consideration hearing can be by way of a sub-committee meeting and does not have to be the same sub-committee that may subsequently conduct a hearing of the matter for consideration. The sub-committee may be made up of members of the sub-committee that initially assessed the complaint.

3.3 The consideration hearing may take place in public session but this will be a decision for the Standards Committee to make at the meeting before the report is considered. Prior to the meeting the report will not be made public. Regulation 8(6) of the Standards Committee (England) Regulations 2008 allows the consideration of any information presented at the meeting as exempt information considered in private session.

3.4 If the final report found no breach of the code of conduct then the Standards Committee will decide whether or not to accept the finding in the report. The investigator does not need to attend this meeting. If the Standards Committee decides not to accept the finding consideration will be made as to how to proceed in accordance with paragraphs 3.6 and 3.7 of this procedure.

3.5 If a finding of acceptance is made the Standards Committee will confirm that finding to the complainant, the member(s) concerned and the Parish/Town clerk (if applicable). A notice of the decision will be drafted and sent to the member in order to obtain permission for the notice to be published (in accordance with Regulation 17 of the Standards Committee (England) Regulations 2008). If the notice is to be published this will be done by way of publishing in at least one newspaper circulating in the area and by placing it on the Council's website.

3.6 If the Standards Committee consider the investigation report and decide that the matter should be heard by the Standards Committee the procedure as set out below from paragraph 4 will be followed

3.7 If the Standards Committee consider the investigation report and decide to refer the matter to the First Tier Tribunal for determination the Monitoring Officer will proceed to refer the matter accordingly.

43. Pre-hearing process

43.1 Following a referral for local hearing from the Standards Committee as set out at section 3 of this procedure ~~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 inform the member of the decision in writing and will 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 Chairman elect 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 Chairman elect 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 Chairman elect of the Panel from requesting the attendance of any additional witnesses whose evidence he/she considers would assist the Panel to reach it 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 for England 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. If the panel contains more than one independent member the Democratic Services Manager will consult one of those members as Chairman elect for the purpose of undertaking the procedures set out in 3.5, 3.6 and 3.7 above.
- 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. Another member of the Standards Committee does not need to be added to the Panel if there is a conflict of interest or availability problems that may prevent them from taking part (provided the quorum of three is still maintained).

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 Chairman 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 for England 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 Chairman.
- 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 Chairman having the casting vote.
- 6.8 The Panel can adjourn the hearing at any time.

7. Preliminary Procedural Issues

- 7.1 The Chairman 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~~man~~ 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~~man~~ 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~~man~~ 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 ~~for England~~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 Chairman 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 for England Board, to

- the Member,
- the Complainant,
- the Standards for England 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.

TELFORD & WREKIN COUNCIL

STANDARDS COMMITTEE – 17th JUNE 2010

ANNUAL REVIEW OF STANDARDS COMMITTEE TERMS OF REFERENCE

REPORT OF THE HEAD OF GOVERNANCE 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-24
10/12/09 – ST-22

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 The review of the terms of reference is an area of work identified in the Standards Committee's current work plan.

5.3 Equal Opportunities

No implications identified

5.4 Environmental Impact

No implications identified

5.5 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.

5.6 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".

5.7 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.

5.8 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, Legal Services Manager,
Legal Services
Tel: 01952 383255***

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.
- d. 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.
- e. 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.

Terms of Reference of the Dispensations Sub-Committee

As approved by the Standards Committee

1. Terms of Reference

The Dispensations Sub-Committee is established to determine applications from members of the authority for a dispensation in accordance with the provisions of the Local Government Act 2000 (as amended) and the Standards Committee (Further Provisions) (England) Regulations 2009.

2 Composition of the Dispensations Sub-Committee

The Dispensations Sub-Committee shall comprise 4 members, of whom at least 1 shall be an independent member of the Standards Committee and at least two 2 shall be elected members of the Authority. When the Dispensations Sub-Committee considers an application from a Parish or Town Councillor, the Sub-Committee shall also include a Parish or Town Council representative. The Chairman of the Dispensations Sub-Committee must be an independent member of the Standards Committee.

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 an application from a Parish or Town Councillor.

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) establish sub-committees of the standards committee to determine applications for dispensations from 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

TELFORD & WREKIN COUNCIL

STANDARDS COMMITTEE – 17th JUNE 2010

**CODE OF CONDUCT QUARTERLY COMPLAINTS MADE TO THE
STANDARDS COMMITTEE – QUARTERLY UPDATE 1st January 2010 –
31st March 2010**

REPORT OF HEAD OF GOVERNANCE AND MONITORING OFFICER

1. PURPOSE

To provide the Committee with details of the Code of Conduct complaints received by the Standards Committee during the period 1st January 2010– 31st March 2010.

2. RECOMMENDATION

That the contents of this report are noted.

3. SUMMARY

From 1st January 2010 to the 31st March 2010 the Standards Committee received complaints about elected members which proceeded to the referrals sub-committee. A quarterly return has been forwarded to Standards for England.

4. PREVIOUS MINUTES

Standards Committee – 9 December 2008 (ST-16).
Standards Committee -18 December 2008 (ST- 25)
Standards Committee -11 February 2009 (ST- 31)
Standards Committee – 21st April 2009 (ST-37)
Standards Committee – 17th September 2009 (ST-16)
Standards Committee – 25th March 2010 (ST-31)

5. INFORMATION

5.1 Background

Under Section 186 of the Local Government and Public Involvement in Health Act 2007 (amending the Local Government Act 2000) there is a requirement that the Council provide regular

returns to Standards for England confirming the number of Code of Conduct complaints received by the Authority for local assessment.

The return period was 1st January 2010 – 31st March 2010. During that period the Standards Committee received 2 complaints about elected members which proceeded to local assessment. Both complaints related to Parish/Town Councillors. One complaint was made by a member of the public, the other was made by a local town councillor.

The complaints were considered by the Referrals Sub-Committee who referred one complaint for local investigation and decided no further action should be taken in respect of the other complaint.

During the same period there were no review sub-committees. One final hearing scheduled to take place during this period was adjourned after problems were raised relating to witness availability.

The return was sent electronically to Standards for England confirming this information.

5.2 Equal Opportunities

There are no issues to be addressed.

5.3 Environmental Impact

No implications

5.4 Legal Comment

The legal comment is contained within the main body of this report.

5.5 Links with Corporate Priorities

It is important that this Committee is provided with up to date information as to the nature of the complaints received and the elements of the Code it relates to. This can assist the Committee in looking at areas where further work needs to be done, for example in respect of specific topics to be dealt with during Code of Conduct training. All of these actions contribute to assisting the Council in meeting corporate priorities of being an efficient and effective and customer focussed Council.

5.6 Opportunities and Risks

The opportunities and risks associated with providing this information to the Committee have been identified and assessed.

Arrangements have been put in place to manage the risks and maximise the opportunities that have been identified.

5.7 Financial Implications

Code of Conduct Complaints are dealt with within existing resources and any over spends will be reported as part of the routine financial monitoring process.

6. WARD IMPLICATIONS

District wide implications.

7. BACKGROUND PAPERS

None

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