

## **STANDARDS COMMITTEE**

### **Minutes of a meeting of the Standards Committee held on Thursday, 8 December, 2011 at 6.05 p.m. at Civic Offices, Telford**

**PRESENT:** Councillors S. Davies, C.B.A. Elliott, A.D. McClements and R.J. Sloan;  
Mr A. Selvaratnam (Chair) (Independent Member);  
Councillors D. Edwards, P. Fairclough, R. Wickson and R. Williams (Parish Council representatives)

#### **ST-13        MINUTES**

**RESOLVED** – that the minutes of the meeting of the Standards Committee held on 21 September 2011 be confirmed and signed by the Chairman.

#### **ST-14        APOLOGIES FOR ABSENCE**

Councillors T.J. Hope and A.J. Stanton  
Mr F Beasland (Independent member)

#### **ST-15        DECLARATIONS OF INTEREST**

None

#### **ST-16        LOCALISM ACT 2011 UPDATE**

The Head of Governance & Monitoring Officer presented a report which provided the Committee with details of the Localism Act 2011 so far as they related to standards. Views were also sought on the future ethical framework for councillors at Telford & Wrekin, and an additional paper setting out a suggested approach was circulated at the meeting.

The Localism Act, which received Royal Assent on 15 November 2011, made numerous changes to the Councillor Code of Conduct regime. Standards Board for England would be abolished as would model codes and the undertaking to comply with the codes. The requirement for a Standards Committee would also be removed. In their place, Councils were required to adopt a code of conduct which must be consistent with 7 named principles, but it was up to each authority to adopt its own code. The Council had to have arrangements for investigations and consideration of investigation reports for complaints against Borough and Town/Parish Councillors. The Council would have to appoint an Independent Person who would be consulted during an investigation. However, this person could not be a member of the Standards Committee. New rules concerning Members' interests would be brought in, including a new criminal offence for failure to disclose defined pecuniary interests and taking part in decisions relating to the matter.

Regulations and guidance from Government, not yet published, would provide more detail, but in the meantime the Committee needed to look at the new legislation and make suggestions to full Council on a new regime. It was proposed that the next programmed meeting of the Committee on 8 March 2012 be brought forward to mid February to allow any recommendations to be considered at the full Council meeting on 1 March 2012.

Members then discussed the paper that had been tabled by the Monitoring Officer. In response to questions, the Monitoring Officer advised that there was no longer a requirement for a Standards Committee to have Independent members, nor Parish/Town Council representatives. The Borough Council would have to have arrangements for the investigation of complaints against Parish members, but any findings or recommended sanctions would not be binding on Parish Councils. A number of the Parish representatives felt that it was important for Parish and Town Councils to continue to be involved in some way in the new standards regime, particularly as some of these authorities would be taking on extra powers. The Monitoring Officer advised that some options might be available, and these could be explored during the consultation process. It was proposed to hold a Member workshop (for Borough and Town/Parish members) to explain the implications of the Localism Act, and views could also be sought at the next Parish Forum meeting. It was also suggested that a draft terms of reference for a new Standards Committee could be sent to the current Parish representatives in order to generate further discussion.

#### **RESOLVED –**

- (a) **that the Monitoring Officer be instructed to develop a new ethical framework for the Council to accommodate the provisions of the Localism Act 2011, such a framework to be based on the following principles/approaches:**
- **the appointment of a Standards Committee consisting of 7 elected members, politically balanced and including at least one member of the Executive;**
  - **the appointment of a Hearings Sub-Committee of 3 members;**
  - **consultation with town and parish councils on the appointment of parish councillors as co-opted, non-voting members of the Committee and Sub-Committee;**
  - **paragraphs 3, 4, 5, 6 and 7 of the existing Code of Conduct be used as a template in drafting the new Code of Conduct for Telford & Wrekin Council;**
  - **the proposed arrangements for dealing with complaints of a breach of the Code of Conduct set out at paragraph 8 of the tabled report;**
  - **the proposed terms of reference set out at paragraph 10 of the tabled report.**
- (b) **that the Monitoring Officer be authorised to undertake a recruitment process for an Independent Person (and 2 reserves),**

**and that a sub-committee of three members (including at least one independent member) be established to interview candidates;**

- (c) that authority be delegated to the Monitoring Officer, in consultation with the Chair, to determine the appropriate allowances/expenses payable to the Independent Person (and reserves);**
- (d) that the Monitoring Officer bring a report containing final proposals for a new ethics framework and a new version of the Code of Conduct to a meeting of the Standards Committee in February 2012 (date to be confirmed).**

The meeting ended at 7.02 pm

**Chairman: .....**

**Date: .....**

**TELFORD & WREKIN COUNCIL**

**STANDARDS COMMITTEE – 8<sup>TH</sup> FEBRUARY 2012**

**THE WAY FORWARD FOR STANDARDS**

**REPORT OF THE HEAD OF LAW, DEMOCRACY AND PUBLIC PROTECTION AND MONITORING OFFICER**

**1. PURPOSE**

- 1.1 To consider proposals for the future of the ethical standards regime at Telford & Wrekin Council, with a view to reporting final proposals to Council for approval.

**2. RECOMMENDATIONS**

- 2.1 That this committee recommend the creation of a politically balanced Standards Committee comprising of 7 members of the Council including at least one member of the Executive;
- 2.2 That this committee recommend the creation of a politically balanced Hearings Sub Committee comprising of 3 members of the Council;
- 2.3 Subject to 2.4 below that Council approve the draft Code of Conduct for adoption as the Council's Code of Conduct with effect from the 1 July 2012 or the first date that the ethical standards regime must be implemented by;
- 2.4 That Council delegate to the Monitoring Officer authority to make the necessary amendments to the draft Code of Conduct in consultation with the Deputy Leader to accommodate the provisions of regulations made pursuant to the Localism Act 2011

**3. SUMMARY**

- 3.1 The Localism Act 2011 and regulations made under it will change the existing arrangements for the ethical standards regime. This report carries forward the development of this new regime in the light of recommendations of the Standards Committee when it met and considered this matter on the 8<sup>th</sup> December 2011.

**4. PREVIOUS MINUTES**

- 4.1 Standards Committee – 8<sup>th</sup> December 2011

**5. INFORMATION**

- 5.1 For ease of reference the recommendations from the last meeting of this committee are set out below and include an update on the current position as a convenient way of updating members on progress:-

**(a) that the Monitoring Officer be**

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| <p><b>instructed to develop a new ethical framework for the Council to accommodate the provisions of the Localism Act 2011, such a framework to be based on the following principles/approaches:</b></p>   |  |
| <p><b>- the appointment of a Standards Committee consisting of 7 elected members, politically balanced and including at least one member of the Executive;</b></p>   | <p>See recommendations in paragraph 2</p>  |
| <p><b>- the appointment of a Hearings Sub-Committee of 3 members;</b></p>  | <p>See recommendations in paragraph 2</p>  |
| <p><b>- consultation with town and parish councils on the appointment of parish councillors as co-opted, non-voting members of the Committee and Sub-Committee;</b></p>  | <p>An e-mail was sent out to all Clerks before Christmas providing a further update on progress and asking for views about, amongst other things continued Town/Parish involvement in the Borough Council Standards Committee. Members should note that the regime materially lessens the roles and responsibility of the Council for Town and parish Council conduct matters.</p> |
| <p><b>- paragraphs 3, 4, 5, 6 and 7 of the existing Code of Conduct be used as a template in drafting the new Code of Conduct for Telford &amp; Wrekin Council;</b></p>  | <p>A copy of a draft code is included in Appendix 1A for consideration – Note that the regulations regarding interests have yet to be published – delegated authority is sought for the Monitoring Officer to make the necessary amendments to this element of the Code once they are published.</p>   |
| <p><b>- the proposed arrangements for dealing with complaints of a breach of the Code of Conduct set out at paragraph 8 of the tabled report;</b></p>  | <p>A copy of the proposed arrangements are included in Appendix 1B for consideration.</p>  |
| <p><b>- the proposed terms of reference set out at paragraph 10 of the tabled report.</b></p>  | <p>A copy of the proposed terms of reference of this committee are included in Appendix 1C for recommendation to Council.</p>  |
| <p><b>(b) that the Monitoring Officer be authorised to undertake a recruitment process for an Independent Person (and 2 reserves), and that a sub-committee of three members (including at least one independent member) be established to interview candidates;</b></p> | <p>See paragraph 6.2 of the main report.</p>   |
| <p><b>(c) that authority be delegated to the Monitoring Officer, in consultation</b></p>   | <p>See paragraph 6.2 of the main report.</p>   |

|  |                                     |
|--|-------------------------------------|
| with the Chair, to determine the appropriate allowances/expenses payable to the Independent Person (and reserves);   |                                     |
| (d) that the Monitoring Officer bring a report containing final proposals for a new ethics framework and a new version of the Code of Conduct to a meeting of the Standards Committee in February 2012 (date to be confirmed). | This is the subject of this report. |

## 6. FURTHER PROVISIONS

- 6.1 Since the last meeting of this committee the Monitoring Officer has had discussions about the standards regime with the Fire Authority (as Monitoring Officer for the Fire Authority) and with the Monitoring Officer for Shropshire Council. There is agreement that there should be a consistency of approach in respect to this new regime for the sake of transparency and good administration. Accordingly the same code (and arrangements) are at different stages of being recommended for approval at each authority.
- 6.2 Included in these discussions has been the role of and appointment of an Independent Person. There is some recognition of the advantages (economic, efficiency and effectiveness) of having a joint or shared Independent Person resource. Accordingly it is proposed that the existing delegation to the Monitoring Officer be amended to enable him to pursue a shared option with Shropshire Council and/or the Combined Fire Authority (and other public authorities if appropriate) and agree a slightly different recruitment process whereby at least one member of the Council's Standards Committee is involved in the recruitment of an Independent Person(s) and, as part of that process delegate the Monitoring Officer to agree that expenses be paid to that person.
- 6.3 Members should note that there is now clear advice from Counsel that Independent Person cannot previously have been an independent member of the Standards Committee although further representations to CLG are being made about this by ACSeS, (the Association of Council Secretaries and Solicitors).

## 7. EQUALITY AND DIVERSITY

- 7.1 The draft code and arrangements need to be Equality Impact Assessed and will be prior to consideration by full Council.

## 8. ENVIRONMENTAL IMPACT

- 8.1 No implications.

## 9. LEGAL COMMENT

- 9.1 At present the regime for the assessment and determination of Code of Conduct complaints (as set out in the Local government Act 2000 (as amended) and associated legislation) remains in force. Upon any change in the legislative provisions the Council will need to change its procedures to comply with the new

requirements as contained in this report.

## **10. FINANCIAL IMPLICATIONS**

10.1 The cost of standards investigations together with the management and administration of the Standards Committee are currently met from within the Legal Services revenue budget. The Chair of Standards Committee receives a Special Responsibility Allowance (SRA) of £3,935 p.a. There are also 4 co-opted members who each receive £260 p.a. in accordance with the Members' Remuneration Scheme and as set out in the Constitution.

10.2 If an elected chair is appointed under the proposals there is the potential for a Special Responsibility Allowance (the value of which would have to be determined and if it is greater than the current SRA would be an additional cost to the Council). It is also proposed that the Independent Person would be entitled to receive expenses but not allowances and it is anticipated that these costs will be minimal. It is difficult to assess any further financial implications of the changes to the Standards Regime set out in the Localism Act at present as the detailed regulations are not yet available.

## **11. WARD IMPLICATIONS**

11.1 District wide

## **12. BACKGROUND PAPERS**

12.1 The Localism Act 2011

**End of Report**

***Report prepared by Jonathan Eatough, Head of Law, Democracy and Public Protection, Tel: 01952 383200***

**Members’ Code of Conduct**

**Standards of Conduct**

Members (including all voting co-opted members) of Telford & Wrekin Council will at all times promote and maintain high standards of conduct when they are acting in that capacity. To do this they will:-

|  |                       |
|--|-----------------------|
| <ul style="list-style-type: none"> <li>✓ Members should serve only the public interest and should treat everyone that they deal with equally and with respect.</li> </ul>  | <b>Selflessness</b>   |
| <ul style="list-style-type: none"> <li>✓ Members should not place themselves in a position where they either are or give the appearance that they are under any financial or other obligation to anyone that might seek to influence them in the performance of their duties as a Member.</li> <li>✓ Members should only use the resources of the Authority in accordance with reasonable requirements set out for their use from time to time</li> <li>✓ Members should declare their interests in accordance with the law and with the provisions of this Code of Conduct</li> <li>✓ Members should declare gifts and hospitality that they receive in accordance with the Council’s Rules on Gifts and Hospitality</li> </ul> | <b>Integrity</b>      |
| <ul style="list-style-type: none"> <li>✓ Members should make decisions on merit and in the public interest, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.</li> </ul>  | <b>Objectivity</b>    |
| <ul style="list-style-type: none"> <li>✓ Members should be accountable to the public for their decisions and actions and should co-operate fully with any scrutiny appropriate to their particular role or office.</li> <li>✓ Members</li> </ul>   | <b>Accountability</b> |
| <ul style="list-style-type: none"> <li>✓ Members should be as open as possible about their decisions and actions and should give reasons for their decisions and actions. They should not disclose information given to them which they can reasonably be expected to know was either exempt or confidential and is not to be disclosed to protect the wider public interest.</li> </ul>   | <b>Openness</b>       |
| <ul style="list-style-type: none"> <li>✓ Members have a duty to declare any private interests that relate to their duties as a Member and do whatever is necessary to resolve any such conflict in a way that protects the public interest</li> </ul>  | <b>Honesty</b>        |
| <ul style="list-style-type: none"> <li>✓ Members should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence</li> </ul>   | <b>Leadership</b>     |

**Members’ Code of Conduct**

**Pecuniary and Non- Pecuniary interests.**

The Monitoring Officer of Telford & Wrekin Council will maintain a Register of Interests which can be found at [*insert link to Council web-site*] or viewed by appointment with the Monitoring Officer [*insert contact details*]

*to be completed once we have seen the regulations but perhaps ...*

| <b>What</b>  | <b>When</b>   | <b>How</b>  | <b>Impact on Meetings</b>  |
|--|---|---|--|
| Disclosable Pecuniary Interests  | Within 28 days of election  | In writing to the Monitoring Officer detailing the existence and nature of the interest | Member cannot participate in or vote on the matter                                 |
| Previously undeclared Disclosable Pecuniary Interest   |   |   |  |
| Before a meeting   | Within 28 days of the date of disclosure (hopefully defined in the regulations) | In writing to the Monitoring Officer detailing the existence and nature of the interest | Member cannot participate in or vote on the matter                                 |
| During a meeting   | As soon as the Member is aware that they have a Disclosable Pecuniary Interest  | Verbally to the meeting detailing the existence and nature of the interest              | Member cannot participate, participate further, vote or further vote on the matter |
| Sensitive Interests – ie those where the Monitoring Officer agrees with the Member that the disclosure of the interest could lead the Member being subject to violence of intimidation | As above  | As above but detailing the existence but not the nature of the interest                 | As above   |

Dispensations can be granted by the Monitoring Officer (for 1 & 2) / Hearings Sub Committee (for 3 & 4), if, after considering the relevant circumstances :-

1. The number of Members precluded from transacting the business is so great that it would impede the business of the Council, committee or Executive
2. The political balance is affected to the extent that it could affect the outcome of a vote relating to the business
3. The dispensation is in the interests of persons living in the Borough of Telford & Wrekin area
4. It is otherwise appropriate to grant a dispensation

## **COMPLAINING ABOUT A COUNCILLOR**

All Councillors, whether a Borough, Town or Parish Councillor have to comply with a code of conduct that details what is expected of them when they carry out their role as a Councillor.

This document explains how to make a complaint about a Councillor if you think that they might have breached a code of conduct that applies to them.

### **The Code of Conduct**

Telford & Wrekin Council has adopted a code of conduct that applies to all members and co-opted members of the Council. You can get a copy by following this link [*insert link*] or by contacting the Monitoring Officer whose contact details are provided below.

All Town and Parish Councils have their own code of conduct which you can obtain from their individual web-sites or, if there isn't one, by contacting the Clerk directly. [*insert link to Town and Parish Clerks*].

If you are not sure which Council a Councillor belongs to then you can obtain help and support from the Monitoring Officer.

### **Can I be confident that my complaint will be properly dealt with**

The law requires the Council to appoint an Independent Person: a person who has nothing to do with the Council other than in this role who must to be consulted at various stages during the complaints process and whose role is to ensure that all complaints are dealt with fairly, a role that can also include giving views to the Councillor who is the subject of the complaint.

### **Making a Complaint**

Write to the Monitoring Officer, Civic Offices, PO Box 215, Telford, TF3 4LF or alternatively by e-mail at [monitoring.officer@telford.gov.uk](mailto:monitoring.officer@telford.gov.uk)

The Monitoring Officer is the person responsible for administering this complaints system. There is a form for you to use [*insert link*] but you do not need to use it as long as you include all the information that is included on the form.

### **What happens next?**

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

The Monitoring Officer will review your complaint, discuss it with the Independent Person and write to you to inform you whether or not he/she has decided to refer it for investigation. Normally this will be within 14 working days of receiving your complaint.

The Monitoring Officer might ask for more information, he/ she might also ask for information from the Councillor who you are complaining about or the Council that the Councillor is a member of.

The Monitoring Officer might seek to resolve the complaint informally, ie before deciding to refer your complaint for investigation. Obviously your views are important here but if the Monitoring Officer believes that the proposed solution is reasonable, for example acceptance that behaviour was unacceptable and an offered apology, this might affect the decision of the Monitoring Officer about whether or not the complaint merits formal investigation.

### **Investigations**

If referring for formal investigation the Monitoring Officer will appoint an Investigating Officer who will contact you and the Councillor that you have complained about and undertake any other such investigations as he/she considers appropriate for the purposes of the investigation. In exceptional cases your identity will be protected for some or all of the investigation. If you consider that it would be appropriate to do this in your case you must let the Monitoring Officer know when you make your complaint. (This would generally only be done where providing your details might prejudice the investigation).

The Investigation Officer will publish a draft report for consideration by you and the Councillor that you have complained. Once any comments have been considered by the Investigating Officer a Final Report will be

produced and sent to the Monitoring Officer. The Final Report will then be considered by the Monitoring Officer who may either accept the report or ask the investigating Officer to re-consider his/ her report.

**Investigation finding of No Breach**

The Monitoring Officer will write to you and the Councillor who you have complained about enclosing a copy of the Final Report and confirming that no further action is required. If it is a complaint about a Town or Parish Councillor then a copy will also be sent to the Clerk of the relevant Town or Parish Council.

**Investigation finding of Breach**

The Monitoring Officer will write to you and the Councillor who you have complained about enclosing a copy of the Final Report and will either seek local resolution or will convene a hearing of the Council’s Hearings Committee.

**Local Resolution**

If the Monitoring Officer, the Independent Person and you all agree a fair resolution of the complaint in a way that promotes high standards of conduct and the Councillor complies with the suggested resolution then the Monitoring Officer will report the matter to the Standards Committee for information but will take no further action.

**Hearing**

If local resolution is not possible then the Monitoring Officer will convene a meeting of the Council’s Hearings Committee for it to consider the Investigating Officer’s Report and the views of the Independent Person on the allegation and determine whether or not there has been a breach of the Council’s Code of Conduct and if so what action, if any, to take in respect of the Councillor.

You can get a copy of the Hearings Procedure by following this link [*insert link*] or by contacting the Monitoring Officer whose contact details are provided above but note you might be asked by the Investigating Officer to attend and give evidence to the Hearings Committee.

**Decision – no breach**

The complaint is dismissed.

**Decision - breach**

After offering the Councillor complained about an opportunity to speak

Pre Hearing

1. Notification of hearing date (Investigation Report already provided to the Councillor)
2. Invitation to Councillor to submit list of further documents/ witnesses that he/she wishes to call
3. Circulation of papers

Hearing

4. Introductions
5. Chair explains the process to be followed
6. Investigating Officer present his/ her report (and may ask witnesses to attend if necessary)
7. Panel may ask questions
8. Councillor or his/ her representative may ask questions
9. Councillor or his/ her representative presents his/ her case (and may ask witnesses to attend if necessary)

**FUNCTIONS, POWERS AND DUTIES OF****STANDARDS COMMITTEE**

1. To promote and maintain high standards of conduct by members and co-opted members of the Council.
2. To support Town and Parish Councils within the Borough to promote and maintain high standards of conduct by members and co-opted members of the Council.
3. To recommend to Council the adoption of a code dealing with the conduct that is expected of members and co-opted members of the Authority.
4. To keep the code of conduct under review and recommend changes/ replacement to Council as appropriate.
5. To publicise the adoption, revision or replacement of the Council's Code of Conduct.
6. To oversee the process for the recruitment of an Independent Person (and 2 reserves) and make recommendations to Council for their appointment.
7. To receive quarterly reports from the Monitoring Officer about:-
  - 7.1 complaints;
  - 7.2 the progress and outcome of investigations; and
  - 7.3 the establishment and maintenance of the register of interests of members and co-opted members of the Borough and Town and Parish Councils within the Borough boundaries;
  - 7.4 dispensations granted to members and co-opted members of the Council

**HEARINGS SUB COMMITTEE**

1. To consider investigation reports in respect of Code of Conduct complaints that are referred to them by the Monitoring Officer.
2. To report its findings to the Borough Council, Town or Parish Council, as appropriate for information.
3. Where a breach is found. to make decisions about sanctions including:-
  - 3.1. To make recommendations to the relevant Group Leader regarding future membership of committees and sub committees;
  - 3.2. To make recommendation to Council regarding the removal of a non aligned member from membership of committee and sub-committees;
  - 3.3. To make recommendations to the Leader of the Council regarding the removal of a member from Cabinet, or the removal of portfolio responsibilities;
  - 3.4. To instruct the Monitoring Officer to arrange training for a Borough Council member;
  - 3.5. To remove a member from all outside appointments to which he/ she has been appointed or nominated by the Council; and
  - 3.6. To withdraw facilities provided to the member or exclude the member from defined premises (except as necessary for the member to attend formally

constituted council meetings).

4. To consider applications for dispensations where:-
  - 4.1. The dispensation is in the interests of persons living in the Borough of Telford & Wrekin area; or
  - 4.2. It is otherwise appropriate to grant a dispensation.