


2 October 2015

Committee	Standards Committee
Date	Monday, 12 October 2015
Time of Meeting	10:00 am
Venue	Committee Room 1

ALL MEMBERS OF THE COMMITTEE ARE REQUESTED TO ATTEND



**for Sara J Freckleton
Borough Solicitor**

Agenda

1. ANNOUNCEMENTS

When the continuous alarm sounds you must evacuate the building by the nearest available fire exit. Members and visitors should proceed to the visitors' car park at the front of the building and await further instructions (staff should proceed to their usual assembly point). Please do not re-enter the building unless instructed to do so.

In the event of a fire any person with a disability should be assisted in leaving the building.

2. APOLOGIES FOR ABSENCE

To receive apologies for absence.



	Item	Page(s)
3.	DECLARATIONS OF INTEREST	
	<p>Pursuant to the adoption by the Council on 26 June 2012 of the Tewkesbury Borough Council Code of Conduct, effective from 1 July 2012, as set out in Minute No. CL.34, Members are invited to declare any interest they may have in the business set out on the Agenda to which the approved Code applies.</p>	
4.	MINUTES	1 - 5
	<p>To approve the Minutes of the meetings held on 23 March and 26 May 2015.</p>	
5.	WORK PROGRAMME 2015/16	6 - 8
	<p>To consider the report setting out suggestions for work to be undertaken by the Committee in 2015/16.</p>	
6.	LOCALISM ACT 2011 - CODE OF CONDUCT REGIME	
	<p>To receive a verbal report on the current position including training delivered to Borough Councillors and Parish and Town Councillors following the elections in May 2015.</p>	
7.	HEARINGS SUB-COMMITTEE	9 - 11
	<p>In accordance with the requirements of the Committee's Constitution, to establish a Hearings Sub-Committee consisting of three Members of the Committee and two reserves to undertake the functions set out in the Terms of Reference attached.</p>	
8.	SEPARATE BUSINESS	
	<p>The Chairman will move the adoption of the following resolution: That under Section 100(A)(4) Local Government Act 1972, the public be excluded for the following items on the grounds that they involve the likely disclosure of exempt information as defined in Part 1 of Schedule 12A of the Act.</p>	
9.	SEPARATE MINUTES	12 - 13
	<p>To approve the separate Minutes of the meeting of the Committee held on 23 March 2015.</p>	
10.	CODE OF CONDUCT COMPLAINTS	14 - 17
	<p><i>(Exempt –Paragraph 1 of Part 1 of Schedule 12A of the Local Government Act 1972 – Information relating to any individual)</i></p>	
	<p>To consider an update report on complaints received.</p>	

DATE OF NEXT MEETING	
MONDAY, 21 MARCH 2016	
MEMBERSHIP OF COMMITTEE	
Tewkesbury Borough Council Members	Councillor M Dean Councillor Mrs S E Hillier-Richardson Councillor T A Spencer Councillor P D Surman (Chairman) Councillor M G Sztymiak Councillor H A E Turbyfield and Councillor M J Williams (Vice-Chairman)
Non-Voting Independent Persons	Mr M Jauch and Mr P J Kimber
Non-Voting Parish Representatives	Mr D J Horsfall and Vacancy

Recording of Meetings

Please be aware that the proceedings of this meeting may be recorded and this may include recording of persons seated in the public gallery or speaking at the meeting. Please notify the Democratic Services Officer if you have any objections to this practice and the Chairman will take reasonable steps to ensure that any request not to be recorded is complied with.

Any recording must take place in such a way as to ensure that the view of Councillors, Officers, the public and press is not obstructed. The use of flash photography and/or additional lighting will not be allowed unless this has been discussed and agreed in advance of the meeting.

TEWKESBURY BOROUGH COUNCIL

**Minutes of a Meeting of the Standards Committee held at the Council Offices,
Gloucester Road, Tewkesbury on Monday, 23 March 2015 commencing at
2:00 pm**

Present:

Tewkesbury Borough Council
Members:

Councillor B C Calway (Chairman)
Councillor M Dean
Councillor A L Mackinnon
Councillor Ms A E Ricks
Councillor G K Shurmer
Councillor P D Surman (Vice-Chairman)
and
Councillor M J Williams

Non-Voting Independent Persons: Mr P J Kimber

Non-Voting Parish Representatives: Mr D J Horsfall

ST.11 ANNOUNCEMENTS

11.1 The evacuation procedure, as noted on the Agenda, was taken as read.

ST.12 APOLOGIES FOR ABSENCE

12.1 An apology for absence had been received from Independent Person Mr Martin Jauch.

ST.13 DECLARATIONS OF INTEREST

13.1 The Committee's attention was drawn to the Tewkesbury Borough Council Code of Conduct which was adopted by the Council on 26 June 2012 and took effect from 1 July 2012.

13.2 The following declaration was made:

Councillor	Application No./Item	Nature of Interest (where disclosed)	Declared Action in respect of Disclosure
A L Mackinnon	Item 8 – Code of Conduct Complaints.	The Councillor was a Member of the Parish/Town Council concerned.	Would speak and vote.

13.3 There were no further declarations made on this occasion.

ST.14 MINUTES

- 14.1 The Minutes of the meeting held on 3 December 2014, copies of which had been circulated, were approved as a correct record and signed by the Chairman.

ST.15 PROTOCOL FOR MEMBERS AND OFFICERS INVOLVED IN THE PLANNING PROCESS

- 15.1 The report of the Monitoring Officer, circulated at Pages No. 7-61, asked the Committee to consider the changes made to the draft revised Protocol for Councillors and Officers involved in the Planning Process following a further meeting of the Standards/Planning Working Group. The Working Group had met to consider the resolution from the Standards Committee meeting which had been held on 3 December 2014 and had made some further changes to the Protocol which the Standards Committee was now asked to recommend to Council for adoption.
- 15.2 The Monitoring Officer explained that she had brought a report to the Standards Committee in December asking it to consider amendments to the Protocol for Councillors and Officers involved in the Planning Process and, at that meeting, Members had resolved that the revised draft Protocol be referred back to the Working Group to look at examples of best practice in relation to site visits, and to consider the implications in terms of the time resource required for Members and Officers; and that, in addition, the Working Group look at Section 106 Agreements in respect of engagement and clarity in relation to the Member role. The Working Group had considered that resolution and had felt that the changes to site visits as proposed in the draft revised Protocol would make the process more transparent and streamlined as well as more efficient, not just for the Council but for stakeholders and customers alike. For this reason, the Working Group had felt that the procedure identified should not be amended. However, it had been agreed that an amendment be made to state that an item would be included on the Agenda for each Planning Committee entitled 'Advance Site Visits Briefing' which would set out those applications which had been submitted to the Authority and would require a site visit; either on the basis of Officer opinion or at the request of Members. In terms of Section 106 Agreements, an amendment had been made at Section 5 of the revised draft Protocol to include an additional Paragraph which set out how Members could become involved. Members were advised that the typographical errors which had also been identified at the last meeting had been corrected and identified as track changes.
- 15.3 The additional material considered by the Working Group was attached to the current report at Pages No. 51-61 for Members information and the Standards Committee was advised that, following the amendments proposed by the Working Group, the report had come back to the Committee for recommendation to Council.
- 15.4 A Member indicated that he had raised some of the concerns that had been discussed at the last meeting and he had found the additional information attached to the report extremely helpful as it offered a feel for what the other Authorities in Gloucestershire did in terms of site visits. He was of the view that to have no updates on the outcome of a site visit within the Planning Schedule would be a loss but he was otherwise happy that the procedure could be looked at again if it was not working. Referring to Page No. 31, he expressed the view that the Localism Act and the National Planning Policy Framework encouraged Members and developers to get involved in pre-application discussions and he felt that Paragraph 3.4.4 would not be a transparent and open way to conduct business. In terms of Page No. 40, he welcomed the clarification which was offered in respect of Section 106 Agreements but he questioned whether the proposed amendment

went far enough. He was concerned that Parish Councils tended to look towards their Borough Members for guidance on the Community Infrastructure Levy and Section 106 Agreements and he felt that this Paragraph was not really helpful in that regard.

- 15.5 In response, the Monitoring Officer explained that she realised the suggestion was that there would no longer be a formal view provided from the site visit to the Committee. However; the new procedure meant that all Planning Committee Members had the opportunity to attend the site visit which was quite a significant change and would enable all Members to relay their experiences on site back to the Committee if they so wished. The procedure would, of course, be reviewed if it was not working but the Monitoring Officer suggested that Members would need to allow it to operate for approximately 12 months to be able to properly assess it. In terms of pre-application discussions, she indicated that the Paragraph identified related to formal meetings when the Authority was providing a view on an application. There were lots of local informal meetings which Members could participate in, subject to any issues of pre-determination. In terms of Parish Council meetings, the Monitoring Officer referred to Paragraph 3.3.4. She explained that this advice had not really changed from the original Protocol. It had been included to address concerns that Members had felt it was difficult to participate at both a Parish and Borough level and still demonstrate that they had not pre-determined an application. The Protocol had been drafted on the side of caution but it did allow Members to provide a view at Parish level as long as they made it clear that the decision had been made on the basis of what had been presented at that time and that a further decision would be made at Borough level having considered the Officer's report and debate on the item at the Committee meeting. Therefore Members were not precluded from participating at both levels but they must be very careful to consider any and all information that was presented.
- 15.6 A Member suggested that it would be helpful for the Protocol to clarify what was meant by a 'formal' meeting. That Member also indicated that he did not feel Paragraphs 3.3.4 or 3.3.5 were written with Section 106 Agreements in mind as they did not contain particularly helpful guidance in that regard. In response, the Monitoring Officer indicated that the Protocol did not cater for every eventuality. She would not want to preclude Members from having discussions about Section 106 Agreements but any discussions had to be undertaken without prejudice to the outcome of any planning application that was submitted. Pages No. 39 and 40 focussed on discussions about planning obligations and the Monitoring Officer felt that this offered helpful advice to Councillors. Referring to Paragraph 5.2.4, the Member questioned whether it was really necessary for a Councillor to make a written statement to the Development Manager, and relevant Case Officer, which summarised the exchange of views/information when a Councillor had become involved in discussions with developers or individuals. In response, the Planning Solicitor indicated that this was similar to the record that should be taken when discussions were held with neighbours etc. in respect of an application. There was a judgement to be made as to whether or not the conversation that had been held warranted a written statement. In terms of the Officer view, the Development Manager indicated that it was helpful for Officers to understand what had happened and what had been said at a meeting as it often helped with the application on a practical level.

15.7 Having considered the information provided, it was

RESOLVED

1. That, subject to an amendment to clarify what was meant by a 'formal' meeting, the revised Protocol for Councillors and Officers involved in the Planning Process, as attached at Appendix 1 to the report, be **RECOMMENDED TO COUNCIL** for adoption
2. That the revised draft Protocol for Councillors and Officers involved in the Planning Process be distributed to all Members (including Planning Committee Members) prior to the publication of the next Council Agenda.

ST.16 SEPARATE BUSINESS

16.1 The Chairman proposed, and it was

RESOLVED

That, under Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting for the following items on the grounds that they involve the likely discussion of exempt information as defined in Part 1 of Schedule 12A of the Act.

ST.17 SEPARATE MINUTES

17.1 The separate Minutes of the meeting held on 3 December 2014, copies of which had been circulated, were approved as a correct record and signed by the Chairman.

ST.18 CODE OF CONDUCT COMPLAINTS

(Exempt –Paragraph 1 of Part 1 of Schedule 12A of the Local Government Act 1972 – Information relating to any individual)

18.1 The Committee considered an update report on complaints received.

The meeting closed at 2:30 pm

TEWKESBURY BOROUGH COUNCIL

**Minutes of a Meeting of the Standards Committee held at the Council Offices,
Gloucester Road, Tewkesbury on Tuesday, 26 May 2015 commencing at 6:15 pm**

Present:

Tewkesbury Borough Council
Members:

Councillor M Dean
Councillor Mrs S E Hillier-Richardson
Councillor T A Spencer
Councillor P D Surman (Chairman)
Councillor M G Sztymiak
Councillor H A E Turbyfield and
Councillor M J Williams (Vice-
Chairman)

ST.1 ELECTION OF CHAIRMAN

1.1 The Mayor opened the meeting by seeking nominations for the Chairmanship of the Committee.

1.2 It was proposed and seconded that Councillor P D Surman be nominated as Chairman of the Committee. Upon being put to the vote it was

RESOLVED That Councillor P D Surman be elected as Chairman of the Standards Committee for the ensuing Municipal Year.

ST.2 APPOINTMENT OF VICE-CHAIRMAN

2.1 Councillor P D Surman took the chair and invited nominations for Vice-Chairman of the Committee.

2.2 It was proposed and seconded that Councillor M J Williams be nominated as Vice-Chairman of the Committee. Upon being put to the vote it was

RESOLVED That Councillor M J Williams be appointed as Vice-Chairman of the Standards Committee for the ensuing Municipal Year.

The meeting closed at 6:20 pm

Report to:	Standards Committee
Date of Meeting:	12 October 2015
Subject:	Work Programme 2015/16
Report of:	Lin O'Brien, Democratic Services Group Manager
Corporate Lead:	Sara Freckleton, Borough Solicitor
Lead Member:	Councillor R J E Vines
Number of Appendices:	None

Executive Summary:

This report sets out a suggested Work Programme for the Committee.

Recommendation:

To adopt a Work Programme for the Standards Committee for 2015/16 and put in place a methodology and timetable to achieve the Work Programme as set out in Paragraph 2.0 of this report.

Reasons for Recommendation:

To assist the Committee in meeting its aim of ensuring high standards of ethics and probity.

Resource Implications:

Officer and Member resources will be required to undertake the Work Programme.

Legal Implications:

None specifically in relation to this report.

Risk Management Implications:

High standards of ethics and probity reduce the risk of complaints.

Performance Management Follow-up:

The Committee will regularly review progress towards achievement of the Work Programme.

Environmental Implications:

None.

1.0 INTRODUCTION/BACKGROUND

1.1 The following Protocols have been adopted by the Council for inclusion within the Council's Constitution:

- The Licensing System, Protocol and Procedures;
- Gifts and Hospitality Protocol for Councillors;
- Protocol for Councillors and Officers Involved in the Planning Process; and
- Protocol for Member/Officer Relations.

1.2 In 2013 the Standards Committee adopted a risk based review programme of the above Protocols.

1.3 Following the introduction of the Localism Act 2011, the Committee considered and recommended to Council a revised Code of Conduct including the Register of Interests which was adopted on 26 June 2012. One of the key changes of the Act was the withdrawal of a mandatory model Code allowing discretion within the provisions of the legislation for each Authority to adopt its own Code aimed at ensuring the promotion and maintenance of high standards of Councillor conduct.

1.4 The Committee also prepared a model Code for the Council's 41 Parish and Town Councils to consider adopting in order to assist these bodies in discharging their statutory responsibilities under the Localism Act 2011. Accordingly, all but five of the Parish/Town Councils adopted the recommended Code with the remaining choosing to adopt the model prepared by the National Association of Town and Parish Councils.

2.0 WORK PROGRAMME 2015/16

2.1 The first Protocol to be reviewed was for the Licensing System. A Working Group comprising Members of the Standards Committee and Members of the Licensing Committee undertook the detailed work and a joint meeting of the Standards and Licensing Committees recommended a revised Licensing System, Protocol and Procedures Guide to Council for adoption in January 2014. This was subsequently adopted without amendment by the Council at its meeting on 28 January 2014.

2.2 The next Protocol for review was that for Councillors and Officers Involved in the Planning Process which commenced in March 2014. Again, a Working Group was established to undertake the review but on this occasion consisting of Members of the Standards Committee and Members of the Planning Committee. The Working Group met on three occasions and, in December 2014, presented a revised Protocol for Councillors and Officers Involved in the Planning Process to the Standards Committee for discussion and approval prior to consultation with the Planning Committee and wider Council Membership. Subsequently, the amended Protocol for Councillors and Officers Involved in the Planning Process was adopted by the Council at its meeting on 14 April 2015.

2.3 The remaining two Protocols of Gifts and Hospitality for Councillors and Member/Officer Relations have yet to be reviewed as the then Standards Committee considered that the Planning and Licensing Protocols were the priority. Both Protocols were last reviewed in 2008 but the Gifts and Hospitality Protocol was briefly reviewed to ensure compatibility with the new Code in 2012. It is therefore suggested that the Committee commence a review of the Member/Officer Relations Protocol. In the first instance it is suggested that the whole Committee meet as a Working Group and talk to Members and senior Officers to ascertain their views on the effectiveness of the Protocol and what, if any, changes would improve it.

- 2.4** Following the review of the Member/Officer Protocol, to be completed by the beginning of 2016, it is suggested that the Committee then consider a review of the Code of Conduct to ensure that it is fit for purpose and meets the duty under the Localism Act to promote and maintain high standards of Councillor Conduct. The new Code will have been in place in excess of three years and it would be useful to gain the views of longstanding and recently elected Members on the effectiveness of it.
- 3.0 OTHER OPTIONS CONSIDERED**
- 3.1** None.
- 4.0 CONSULTATION**
- 4.1** The Work Programme will involve engagement with Members and Officers of the Council.
- 5.0 RELEVANT COUNCIL POLICIES/STRATEGIES**
- 5.1** Protocol for Member/Officer Relations.
Code of Conduct.
- 6.0 RELEVANT GOVERNMENT POLICIES**
- 6.1** The Localism Act 2011.
- 7.0 RESOURCE IMPLICATIONS (Human/Property)**
- 7.1** Not Applicable.
- 8.0 SUSTAINABILITY IMPLICATIONS (Social/Community Safety/Cultural/ Economic/ Environment)**
- 8.1** Not Applicable.
- 9.0 IMPACT UPON (Value For Money/Equalities/E-Government/Human Rights/Health And Safety)**
- 9.1** Not Applicable.
- 10.0 RELATED DECISIONS AND ANY OTHER RELEVANT FACTS**
- 10.1** Contained within the report.

Background Papers: The Licensing System, Protocol and Procedures.
Gifts and Hospitality Protocol for Councillors.
Protocol for Councillors and Officers Involved in the Planning Process.
Protocol for Member/Officer Relations.
Code of Conduct.

Contact Officer: Lin O'Brien, Democratic Services Group Manager Tel: 01684 272020
Email: lin.obrien@teWKesbury.gov.uk

Appendices: None.

STANDARDS COMMITTEE

1. Aims & Objectives

Within the Terms of Reference of, and under the powers and authority delegated to the Committee, to exercise the Council's functions in matters relating to standards of conduct within the Council.

2. Constitution & Powers

- i) The Standards Committee will comprise 7 Members of the Council and the following Co-opted, non-voting Members who will act in an advisory capacity:
 - 2 Independent Persons (as defined by Section 28 of the Localism Act) (or such other number appointed by the Council); and
 - 2 Parish Council representatives.
- ii) Political balance will apply to the Council's Membership.
- iii) A quorum will consist of 3 voting Members.
- iv) Substitution arrangements will not apply.
- v) The Standards Committee will establish a Hearings Sub-Committee, consisting of 3 Members of the Committee, to undertake the functions set out below (political balance will apply). In accordance with Section 7(a) of the Localism Act, the Independent Person(s) must be consulted before a decision is made on an investigated allegation.

3. Standards Committee Terms of Reference

- (1) To promote and maintain high standards of conduct and to assist Members and Co-opted Members to observe the Code of Conduct, and to:
 - advise the Council on the adoption or revision of the Code;
 - monitor the operation of the Code; and
 - provide advice and training.
- (2) To promote and maintain high standards of conduct in Town/Parish Councils and to assist Parish/Town Councils to observe the Code of Conduct, and to:
 - advise Town/Parish Councils on the adoption or revision of Codes of Conduct;
 - monitor the operation of their Codes; and
 - provide advice and training to Town/Parish Councillors.

- (3) To determine applications for dispensations which have been made by Members of the Borough Council on the following grounds:
 - a) where it is considered that the dispensation is in the interests of persons living in the Authority's area;
 - b) where it is considered that it would be otherwise appropriate to grant a dispensation; and
 - c) where the Monitoring Officer has exercised her right, under the powers delegated to her, to refer the matter to Committee for determination.
- (4) To prepare, monitor and review Codes and Protocols to support the Code of Conduct and recommend to Council accordingly.
- (5) To consider reports from the Monitoring Officer on the number of complaints received under the Code of Members' Conduct and the decisions taken by the Monitoring Officer in consultation with the Independent Person(s) on such complaints.
- (6) To consider and determine the appropriate action on matters referred by the Monitoring Officer in relation to the assessment of complaints where the Monitoring Officer has been unable to exercise her delegated powers.
- (7) To receive summary reports from the Monitoring Officer:
 - a) on complaints that have been investigated where 'no breach' of the Code has been found to have occurred; and
 - b) on complaints where a 'breach' of the Code has been found but where it has been possible for a local resolution to be agreed.
- (8) To adopt procedures for the hearing of cases of a 'breach of the Code' finding upon investigation to be undertaken by the Hearings Sub-Committee.

4. Hearings Sub-Committee Terms of Reference

- (1) To hear cases, including that of Town/Parish Council Members and Co-opted Members, of an alleged breach of the Member Code of Conduct following a report of the Investigating Officer.
- (2) In respect of Members of the Borough Council, where it has been determined that a Member has failed to comply with the Authority's Code of Conduct, to impose one or more of the following, if appropriate:
 - Censure.
 - Reporting findings to Council.
 - Recommending to the Member's Group Leader that the Member be removed from a Committee (in respect of non-aligned Members this would need to be recommended to Council).
 - Removing the Member from an Outside Body appointment.
 - Withdrawing facilities provided to the Member by the Council e.g. email/website/internet access.
 - Excluding the Member from all or part of the premises of the Council (with the exception of meeting rooms).
 - Requesting the Member to undertake actions deemed appropriate e.g. training, issue of an apology.

- (3) In respect of the Members of Town/Parish Councils, within the area of Tewkesbury Borough Council, where it has been determined that a Member / Co-opted Member has failed to comply with the Authority's Code of Conduct, to impose one or more of the following, if appropriate:
- Censure.
 - Reporting the findings to the Town/Parish Council.
 - Recommending that the Town/Parish Council:
 - Remove the Member from any Outside Bodies to which they have been appointed.
 - Withdraw facilities provided by the Council to the Member.
 - Exclude the Member from the Council premises (except meeting rooms).
 - Request the Member to undertake actions deemed appropriate e.g. training, issue of an apology.

5. Delegated Powers

Subject to the general Provisions and Scheme of Delegation to Officers to determine all matters within the Terms of Reference of the Committee/Sub-Committee.

Agenda Item 9

Document is Restricted

Agenda Item 10

Document is Restricted