

Town Hall
Worthing

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Dear Councillor

Standards Committee

A meeting of the Standards Committee will be held in the Committee Suite, **at 6 pm on Monday 9 June 2008**, to consider the business set out in the following Agenda.

Yours sincerely



Chief Executive

STANDARDS COMMITTEE

Independent Members – having full voting rights

Jane Stirzaker-Evans (Chairman), Dr. David Wiggins and John Evans

Councillors

Michael Donin, Mary Harding, Heather Mercer, Keith Sunderland, Steve Waight and Tom Wye

Substitute Members

Councillors Ann Barlow, James Doyle, Elizabeth Sparkes and Hazel Thorpe

AGENDA

1. **Minutes**

To confirm the minutes of the meeting of the Standards Committee held on 7 February 2008.

(Copy attached. These minutes were approved by Council at its meeting on 19 February 2008)

2. **Public Question Time**

To receive any questions from members of the public.

(Note: Public Question Time will operate for up to 15 minutes).

3. **Declarations of Interest**

Members and Officers are invited to make any declarations of personal and/or prejudicial interest they may have in relation to items on this agenda. The declaration should refer to the nature of the interest as well as its existence.

Members and officers may seek advice upon any relevant interest from a legal officer prior to the meeting.

4. **Local Assessment of Complaints**

The Committee is invited to note the requirements of the Standards Committee (England) Regulations 2008 and to agree the formal procedure for dealing with complaints.

(Report attached.)

5. **Complaints Assessment Process**

The Committee is invited to agree the process for the assessment and review of complaints relating to breaches of the Code of Conduct for Members, and to approve the form of publicity to be given to the complaints process.

(Report attached.)

(Report attached.)

STANDING ITEMS

6. **Action Plan**

To note progress being made with the Standards Committee's Action Plan.

(Updated Action Plan attached.)

7. **Dispensations in respect of Members' Interests**

To consider any requests for dispensation received.

8. **Independent Members' Forum**

To note any reports from members.

STANDARDS COMMITTEE

**7 February 2008
at 6.00 p.m.**

Present: Jane Stirzaker-Evans (Chairman);
John Evans and Dr. David Wiggins

Councillors Noel Atkins, Ann Barlow, Mary Harding and Hazel Thorpe

Apologies for
Absence: Councillors Michael Donin and Steven Waight

Substitutes: Councillor John Lovell for Councillor Michael Donin
Councillor Ann Sayers for Councillor Steven Waight

Also present: Assistant Director (Legal and Democratic Services) and Democratic Services Manager

1. **JEREMY COOK - EXECUTIVE HEAD OF SERVICE (LEGAL AND DEMOCRATIC SERVICES) DESIGNATE**

The Chairman welcomed Jeremy Cook who would be taking up the role of Executive Head of Service (Legal and Democratic Services) and Monitoring Officer from 1 April 2008, as an observer at the meeting.

2. **MINUTES**

The minutes of the meeting of the Committee held on 22 November 2007 were confirmed as a correct record subject to minor typographical corrections.

3. **PUBLIC QUESTIONS**

None.

4. **DECLARATIONS OF INTEREST**

None.

5. **GUIDANCE FOR MEMBERS UPON THE DISCLOSURE OF CONFIDENTIAL INFORMATION**

The Committee considered a report of the Assistant Director (Legal and Democratic Services) proposing the adoption of guidance for Members upon

the circumstances where the disclosure of confidential information by a Member may be appropriate.

A detailed guidance note was attached as Appendix 1 to the report.

The Assistant Director (Legal and Democratic Services) referred specifically to paragraph 4 of the Code of Conduct for Members which set out the requirement that Members must respect the confidentiality of information disclosed to them pursuant to their official role within the Council.

There were rare circumstances where disclosure may be appropriate and these were detailed in paragraph 2.1 of the report.

The Committee discussed the type of information that might be considered confidential, outside of the confidential/exempt information provided with Committee/Cabinet papers, and agreed that Members should always check with the provider of the information as to its status. It was also agreed that Officers should be given clear guidance by the Monitoring Officer concerning the application of confidential status (as appropriate) to information provided to Members.

RESOLVED,

- (1) that the "Guidance for Members on the Disclosure of Confidential Information", attached at Appendix 1 to the Committee report, be approved and adopted;
- (2) that the Monitoring Officer be requested to issue clear guidance to Officers concerning the application of confidential status (as appropriate) to information provided to Members.

6. **ANNUAL REPORT OF THE STANDARDS COMMITTEE**

The Committee was requested to consider and comment upon the first Annual Report which reviewed the actions and achievements of the Committee during the current year and looked forward to the 2008/09 Municipal Year.

In future years the Committee would be required to submit an Annual Report to the Standards Board.

RESOLVED, that the Annual Report be approved for submission to Council with the recommendation that it be adopted, subject to:-

- (i) minor typographical corrections;
- (ii) the deletion of the penultimate sentence in paragraph 3.1;
- (iii) the addition of "*and is contained within the base budget for future years*" to the final sentence in paragraph 3.1;

- (iv) the addition of a further sentence to paragraph 3.1:-
"It must be borne in mind that there must be no financial constraints upon the work of the Committee in investigating complaints."

7. **GOVERNMENT CONSULTATION PAPER UPON ORDERS AND REGULATIONS REQUIRED TO IMPLEMENT LOCAL DETERMINATIONS**

The Assistant Director (Legal and Democratic Services) submitted a report on this consultation paper which set out the Government's proposed principles for the devolution of the assessment, investigation and hearing of complaints to local Standards Committees.

The deadline for comments was 15 February 2008 and the Committee was requested to consider the suggested response prepared by the Assistant Director (Legal and Democratic Services) and set out in Appendix B to the report.

RESOLVED, that the suggested response to the Government's Consultation Paper, as set out in Appendix B to the Committee report, be agreed subject to the following amendments/additions:-

- Q7 - delete "*ordinary non-independent*" in final sentence and replace with "elected"
- Q8 - strengthen response to request that the Standards Board issue strong advice to complainants at the earliest stage that they should not comment on a matter under investigation until it has been determined (to ensure a fair hearing and protect Members from malicious complaints)
- Q11 - amend final sentence to support proposal for parish council representation as appropriate

8. **ACTION PLAN**

The Assistant Director (Legal and Democratic Services) updated the Committee on progress with its Action Plan and confirmed that the majority of the actions had already been initiated and/or completed.

Work was in hand to produce a report on actions relating to the Council's Equalities and Diversity Policy. Training for Members upon the investigation and hearing of complaints is due to be arranged.

RESOLVED,

- (1) that progress on the Action Plan be noted;
- (2) that the following be added to the Action Plan:-

- publication of Annual Report to coincide with publication of the new procedures for making complaints
- report to the Committee on the wider governance issues covered in the Local Government and Public Involvement in Health Act 2007 and their implications for the work of the Committee
- review Codes of Good Practice on Licensing and Planning

9. **DISPENSATIONS IN RESPECT OF MEMBERS' INTERESTS**

None.

10. **INDEPENDENT MEMBERS' FORUM**

RESOLVED, that the Chairman, Mr. Evans and Dr. Wiggins attend the Independent Members' Forum to be held on 11 March 2008 at the East Sussex Fire and Rescue Headquarters.

11. **BILL JOHNSON - ASSISTANT DIRECTOR (LEGAL AND DEMOCRATIC SERVICES)**

The Chairman, on behalf of the Committee, thanked Bill Johnson (who was leaving the Council on 1st April 2008) for his support and valuable contribution to the work of the Committee and wished him every success for the future.

The meeting ended at 7.40 p.m.

Ward: N/a

Local Assessment of Complaints

Report by the Executive Head of Legal & Democratic Services and Monitoring Officer

1.0 Summary

- 1.1 To note the requirements of The Standards Committee (England) Regulations 2008.
- 1.2 To consider the number of Independent Members on the Standards Committee
- 1.3 To recommend the establishment of relevant sub-committees for the assessment, review and determination of complaints about the conduct of Members.
- 1.4 To recommend the process for the selection of Members and independent members to sit on the necessary sub-committees

2.0 Background

- 2.1 The Local Government & Public Involvement in Health Act, 2007 amended the Local Government Act, 2000 so as to provide that complaints against councillors are to be made in writing to the Standards Committee of the Local Authority rather than to the Standards Board for England.
- 2.2 In addition to the Local Government Act, 2000 (as amended) there are The Standards Committee (England) Regulations 2008. The effect of the Act and Regulations are set out below.
- 2.3 Membership (Regulations 4 and 5)
 - a) At least 25% of the members of the Standards Committee must be independent members and no more than one member of the Committee may be a Member of the Council's Executive.
 - b) An independent member of one Authority's Standards Committee may be appointed to another Authority's Standards Committee. The appointment may

be for a specified period of time, or in relation to a specific allegation or set of allegations.

- 2.4 Section 53. The Standards Committee must be chaired by an independent member.
- 2.5 Section 57A. The Standards Committee must consider the complaint and must:
 - (a) refer the allegation to the monitoring officer of the relevant authority concerned
 - (b) refer the allegation to the Standards Board for England or
 - (c) decide that no action should be taken in respect of the allegation.
- 2.6 Sub Committee (Sections 54 & 55 and Regulations 6 & 7)

The Standards Committee is required to establish two sub-committees, each of which is to be chaired by an independent member of the committee. The sub-committees are to be for the following purposes:

 - a) the initial consideration of complaints, an Assessment Sub-Committee; and
 - b) the review of a decision by the Assessment Sub-Committee to take no action on a complaint, a Review Sub-Committee.
- 2.7 The Standards Committee may establish a sub-committee to consider reports or hold hearings. If the committee establishes such a sub-committee, a Local Determinations Sub-Committee, then that also must be chaired by an independent member of the committee.
- 2.8 The members on the Assessment Sub-Committee must not also be members of the Review Sub-Committee for the same complaint.
- 2.9 The members of the Assessment Sub-Committee or the Review Sub-Committee can be members of the Local Determination Sub-Committee for the same complaint on the basis that the first two sub-committees are determining, on basic information, whether or not a complaint should be investigated. The Local Determination Sub-Committee will be hearing all of the evidence and determining whether or not, on the evidence, there has been a breach of the code of conduct and, if there has, what action should be taken.
- 2.10 At least three members must be present at any committee or sub-committee for its duration. One of whom must be an independent member and one of whom must be a member of the Council.
- 2.11 Publicity and Confidentiality (Regulations 8, 10 and 11)
 - a) Where a sub-committee is considering an allegation against a member or a request to review a decision to take no action, there is no public right of access to the meetings or documents. The sub-committee is required to produce a written summary of its consideration, which is to be made available to the public. Otherwise the proceedings of the Standards Committee and Sub-

Committees are to be open to the public (subject to the usual rules about excluding the press and public as apply to other local authority meetings).

b) Standards Committees must publicise the address to which written allegations of misconduct should be sent and to keep published details up to date.

c) Monitoring Officers cannot disclose information obtained through their investigations or supplied to them by an Ethical Standards Officer, otherwise than for the purpose of the process enabling a standards committee, sub-committee or an appeals tribunal of the Adjudications Panel for England, to perform any of their functions.

2.12 Informing the subject of the complaint (Regulation 11)

a) A standards committee must give a written summary of a complaint to the subject of the allegation but need not do so at the outset where it would be contrary to the public interest or would prejudice an investigation. In such a case the subject may be told merely that a complaint has been made. The committee must give a full written summary in all cases before an hearing is convened to consider any report on the allegation.

2.13 Options short of an investigation (Regulation 13)

a) The Standards Committee (or relevant Sub-Committee) or an Ethical Standards Officer may refer an allegation to the Monitoring Officer with a direction that no investigation is to be undertaken, but that the Monitoring Officer:

- i) arranges for the Member, the subject of the complaint, to attend a training course; or
- ii) arranges for the Member and the complainant to engage in a process of conciliation; or
- iii) takes such other steps as appear appropriate.

b) The Monitoring Officer must report back within 3 months and the regulations describe the steps that must be undertaken upon receipt of the report, dependent upon whether or not they are satisfied with the outcome.

2.14 Investigations (Regulations 14 – 16)

a) A monitoring officer shall carry out an investigation into an allegation of a failure to comply with the authority's code of conduct. The complainant and the subject shall be informed. The Monitoring Officer may request information or an explanation of matters from any person and can require the authority to provide advice and assistance. The Monitoring Officer may ask (only once) to refer a matter back to the ethical Standards officer (if the matter came from an ethical standards officer) who can decide whether to accept it.

b) Following an investigation, the Monitoring Officer must submit a report to the Standards Committee as to whether the person who is the subject of the report has failed to comply with the code of conduct.

c) The Monitoring Officer shall send a copy of a report received from an ethical standards officer following an investigation referred back there, to the person who is the subject of the report and shall refer the report to the Standards Committee for consideration.

d) The Monitoring Officer may refer a matter back to the Standards Committee for reconsideration of how the allegation should be dealt with in the following circumstances:

- i) new evidence suggesting that the matter is materially more, or less, serious than may have seemed apparent when the original decision was made; or
- ii) the death or serious illness of the person against whom the allegation is made; or
- iii) the resignation from the authority of the person against whom the allegation was made.

2.15 Options on receiving an investigation report (Regulation 17)

a) On receiving a report from the Monitoring Officer the Committee (or Sub-Committee) must make one of the following findings:

- i) it accepts the findings or no failure to comply with the code of conduct; or
- ii) the matter should be considered at a hearing under regulation 18; or
- iii) the matter should be referred to the Adjudication Panel for England for determination. This can only happen where it is felt that the sanctions available to the Standards Committee are inadequate and the Adjudication Panel has agreed to take it.

b) There are also requirements relating to the notification and publication of its findings.

2.16 The hearing (Regulations 18-20)

a) Hearings should take place within 3 months of the report from an ethical standards officer being received by the Monitoring Officer or the completion of the Monitoring Officers report.

b) Hearings are to be conducted as the committee (sub-committee) see fit, subject to it having regard to the relevant guidance issued by the Standards Board.

c) The subject of the investigation must have had the report at least fourteen days before the hearing and must have the opportunity to attend to give or call evidence and to be represented.

d) The Committee (Sub-Committee) may limit the number of witnesses if appropriate.

e) The Committee (Sub-Committee) may adjourn, on one occasion, for the Monitoring Officer to seek further information.

f) At any time before the conclusion of the hearing the Committee (Sub-Committee) may, where the case under consideration was investigated by an ethical standards officer, ask that officer to take it back for further investigation. If the ethical standards officer does not agree the Committee (Sub-Committee) must continue with the hearing.

2.17 Findings and sanctions (Regulations 19 & 20)

a) The Committee (Sub-Committee) can find that the subject:

- i) has not breached the code of conduct, or,
- ii) has breached the code.

b) If the Committee (Sub-Committee) decide that the subject has breached the code of conduct the Committee (Sub-Committee) can, in the case of a subject who is no longer a Member, only censure the person.

c) If the Committee (Sub-Committee) decide that the subject has breached the code of conduct the Committee (Sub-Committee) may make any combination of the following:

- i) Censure;
- ii) Restrict access to the premises or resources for up to 6 months;
- iii) Partially suspend for up to 6 months, or until training or conciliation is complete;
- iv) Suspend for up to 6 months, or until training or conciliation is complete;
- v) Require an apology;
- vi) Require training;
- vii) Submission to a process of conciliation.

d) The findings are to be notified to various bodies and publicised in the press.

2.18 Appeals (Regulations 21 - 25)

a) A person against whom a failure to comply with the Council's code of conduct has been found may, within 21 day, seek permission from the President or Deputy President of the Adjudication Panel for England to appeal and, where appropriate, for the suspension of any sanction pending an appeal.

b) Regulations 22 to 25 deal with the conduct of appeals, composition and procedure of appeal tribunals, failure of a Member to attend an appeal and the outcomes of appeal.

2.19 The establishment of sub-committees for the different stages of the assessment, review and determination of complaints relating to the conduct of Members is a two stage. The first stage is the formal establishment of the sub-committees. The second is the selection of Members and independent members to sit on the sub-committees when they are required.

2.20 Due to the timing and possible conflicts of interest / prejudicial interests it is not appropriate to allocate Members and independent members to sub-committees. It will be necessary to allocate them when the need for the sub-committee, and the subject matter of the complaint are known, so that appropriate Members and independent members are allocated who can sit

within the timescales specified by law. Initial assessment must be within 20 working days of receipt and the

- 2.21 To allow the necessary flexibility the authority to allocate Members and independent members to sub-committees should be delegated to the Monitoring Officer in consultation with the Chair or, in their absence, the Vice Chair of the Standards Committee.

3.0 Proposals

- 3.1 In the light of the new legislation it is proposed that the Standards Committee establish three Sub-Committees.
- 3.2 That the Sub-Committees shall consist of four persons of whom two shall be independent members, so that if one becomes unavailable the other may continue as chairperson, and two Councillors.
- 3.3 That it be proposed to Council, through the General Purposes Committee, that the membership of the Standards Committee be increased by a further independent member to allow for times when one or more of the independent members are unavailable or have a prejudicial interest in a matter.
- 3.4 That the authority to allocate Members and independent members to sub-committees for assessment, review and determination of complaints should be delegated to the Monitoring Officer in consultation with the Chair or, in their absence, Vice Chair of the Standards Committee.

4.0 Legal

- 4.1 Sections 183 to 195 of The Local Government & Public Involvement in Health Act, 2007, amend the Local Government Act 2000, providing for local assessment, review and determination
- 4.2 The Standards Committee (England) Regulations 2008 provide the framework for the constitution of Standards Committees, Sub-Committees and the method of determining complaints against Members.

5.0 Financial implications

- 5.1 There are no directly identifiable additional costs arising from this report. If the Council agrees to increase the number of independent members then there may be some, presently unquantifiable, additional cost.

6.0 Recommendation

- 6.1 That the Standards Committee establish three Sub-Committees to consider complaints against Members. That the Sub-Committees are named:
a) The Assessment Sub-Committee;
b) The Review Sub-Committee; and

c) The Local Determinations Sub-Committee

- 6.2 That the membership of the Sub-Committees shall consist of two elected Members and two independent members
- 6.3 That the General Purposes Committee be recommended to recommend to Council that the membership of the Standards Committee be increased to include a fourth independent member.
- 6.4 That the authority to allocate Members and independent members to sub-committees for assessment, review and determination of complaints should be delegated to the Monitoring Officer in consultation with the Chair or, in their absence, Vice Chair of the Standards Committee.

Local Government Act 1972

Background Papers:

Local Government Act, 2000

Local Government & Public Involvement in Health Act, 2007

Local Assessment of Complaints – Standards Boards Guidance, 2008

Contact Officer:

Jeremy Cook, Executive Head of Legal & Democratic Services and Monitoring Officer

Town Hall, Worthing

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e-mail Jeremy.cook@worthing.gov.uk

Schedule of other matters

(To be completed on all reports. If no issues are identified under a heading then it should read "Matter considered and no issues identified.")

1.0 Council Priority

1.1 This report does not seek to meet any particular council priorities

2.0 Specific Action Plans

2.1 (A) Matter considered and no issues identified

(B) Matter considered and no issues identified

3.0 Sustainability Issues

3.1 Matter considered and no issues identified [Details of any sustainability issues, checklist to be completed and submitted to Community Wellbeing]

4.0 Equality Issues

4.1 Matter considered and no issues identified

5.0 Community Safety issues (Section 17)

5.1 Maintaining the good conduct of Members assists in promoting community safety.

6.0 Human Rights Issues

6.1 The provisions of the new regulations and the local determination of complaints will have to comply with Article 6 of the Convention

7.0 Reputation

7.1 The Council is required to be in a position to deal with complaints about Member's conduct. An open and efficient process will improve the reputation of the Council. An inefficient system will be detrimental to the Council's reputation.

8.0 Consultations

8.1 (A) None

8.2 (B) Matter considered and no issues identified

9.0 Risk assessment

9.1 The Council will be in breach of its statutory duty if it fails to establish a sub-committee for the local assessment of complaints and a sub-committee for the review of decisions not to take any action on a complaint.

9.2 The Council will be in breach of its statutory duty if it is not able to have an independent member chairing the sub-committees and committee.

10.0 Health & Safety Issues

10.1 Matter considered and no issues identified

11.0 Procurement Strategy

11.1 Matter considered and no issues identified

12.0 Partnership working

12.1 Matter considered and no issues identified at present, but opportunities may arise for joint working in future.

Ward: All

Complaints Assessment Process

Report by the Executive Head of Legal & Democratic Services

1.0 Summary

- 1.1 To agree the process for the assessment and review of complaints about Members breaching the Code of Conduct.
- 1.2 To agree the publicity for the Complaints process.

2.0 Background

- 2.1 The Local Government & Public Involvement in Health Act, 2007 amended the Local Government Act, 2000 so as to provide that complaints against councillors are to be made in writing to the Standards Committee of the Local Authority rather than to the Standards Board for England.
- 2.2 In addition to the Local Government Act, 2000 (as amended) there are The Standards Committee (England) Regulations 2008. The effect of the Act and Regulations are set out below.
- 2.3 The Standards Board has issued guidance, "Local Assessment of Complaints" which the Council must have regard to.
- 2.4 The Standards Committee is required to publicise the complaints process and the address to which complaints should be sent.
- 2.5 Set out in Annex 1 is a proposed notice advising the public of the move to local assessment and determination of complaints.
- 2.6 It is necessary to identify the address to which complaints, in writing, which includes e-mail, are to be sent. It is proposed that complaints are addressed to Mr J Cook, Monitoring Officer and sent to Worthing Town Hall, Chapel Road, Worthing. BN11 1HD or e-mail to a designated e-mail address such as monitoringofficer@worthing.gov.uk. This will reduce the possibility of complaints being missed among the many e-mails received daily on other matters.

2.7 Set out in Annex 2 is the proposed process for the Assessment and Review of Complaints.

3.0 Proposals

3.1 That the Committee agree the contact point for complaints is the Monitoring Officer and the address and e-mail address is as set out in paragraph 2.6

3.2 That the committee agree to publicise the new complaints procedure using the document in Annex 1, together with the Committee's report from 2007/8, as agreed in February, 2008.

3.3 That the committee adopt the procedure set out in Annex 2.

3.4 That the committee receive the Chairman's report for 2007/8 as per the minutes of the meeting of 7th February and corrections as noted in Full Council minutes of 19th February, 2008.

4.0 Legal

4.1 Sections 183 to 195 of The Local Government & Public Involvement in Health Act, 2007, amend the Local Government Act 2000, providing for local assessment, review and determination

4.2 The Standards Committee (England) Regulations 2008 provide the framework for the constitution of Standards Committees, Sub-Committees and the method of determining complaints against Members

5.0 Financial implications

5.1 There are no directly identifiable additional costs arising from this report.

6.0 Recommendation

6.1 That the Committee agree that the contact for complaints is the Monitoring Officer

6.2 That the Committee agree that the address for complaints is Worthing Town Hall, Chapel Road, Worthing. BN11 1HD or e-mail to a designated e-mail address such as monitoringofficer@worthing.gov.uk.

6.3 That the committee agree to publicise the new complaints procedure using the document in Annex 1

6.4 That the Committee agree that the procedure for the receipt, assessment and review of complaints is as set out in Annex 2.

6.5 That the Committee receive the Chairman's report for the year 2007/8.

Local Government Act 1972

Background Papers:

[Local Government Act, 2000

Local Government & Public Involvement in Health Act, 2007

Local Assessment of Complaints – Standards Boards Guidance, 2008

Contact Officer:

Jeremy Cook, Executive Head of Legal & Democratic Services and Monitoring Officer

Town Hall, Worthing

Tel: 01903 – 221028

e-mail Jeremy.cook@worthing.gov.uk

Schedule of other matters

(To be completed on all reports. If no issues are identified under a heading then it should read "Matter considered and no issues identified.")

1.0 Council Priority

1.1 This report does not seek to meet any particular council priorities

3.0 Specific Action Plans

2.1 (A) Matter considered and no issues identified
(B) Matter considered and no issues identified

3.0 Sustainability Issues

3.1 Matter considered and no issues identified [Details of any sustainability issues, checklist to be completed and submitted to Community Wellbeing]

4.0 Equality Issues

4.1 Matter considered and no issues identified

5.0 Community Safety issues (Section 17)

5.1 Maintaining the good conduct of Members assists in promoting community safety.

6.0 Human Rights Issues

6.1 The provisions of the new regulations and the local determination of complaints will have to comply with Article 6 of the Convention

7.0 Reputation

7.1 The Council is required to be in a position to deal with complaints about Member's conduct. An open and efficient process will improve the reputation of the Council. An inefficient system will be detrimental to the Council's reputation.

8.0 Consultations

8.1 (A) None

8.2 (B) Matter considered and no issues identified

9.0 Risk assessment

9.1 The Council will be in breach of its statutory duty if it fails to establish a sub-committee for the local assessment of complaints and a sub-committee for the review of decisions not to take any action on a complaint.

9.2 The Council will be in breach of its statutory duty if it is not able to have an independent member chairing the sub-committees and committee.

10.0 Health & Safety Issues

10.1 Matter considered and no issues identified

11.0 Procurement Strategy

11.1 Matter considered and no issues identified

13.0 Partnership working

12.1 Matter considered and no issues identified at present, but opportunities may arise for joint working in future.

New role for Worthing Borough Council

Members of the public concerned about councillors' conduct can now make complaints directly to Worthing Borough Council.

Previously, anyone wishing to complain about the conduct of elected members had to report their allegations to the Standards Board for England, who would decide whether or not to investigate. This responsibility has now been taken over by authorities, with the Standards Board's role moving towards one of advice and support.

All councillors have to keep to a Code of Conduct to ensure that they maintain the high ethical standards the public expect from them. If a complainant reveals that a potential breach of this Code has taken place, Worthing Borough Council may refer the allegations for investigation or decide to take other action.

Investigations themselves will also be managed by Worthing Borough Council, except in cases where a conflict of interest or other unusual circumstances mean that it would be more appropriate for the Standards Board to handle.

Once cases have been investigated, the authority's independently-chaired standards committee will decide what action, if any, should be taken against the member. On rare occasions this responsibility will be given to the Adjudication Panel for England, an independent judicial tribunal.

The Standards Board will continue to provide guidance to authority standards committees and will monitor their effectiveness to ensure that results are consistent.

"Handling and investigating complaints at a local level will give Worthing Borough Council the opportunity to take control of its ethical standards and should streamline the process for both the complainant and the member under investigation," said *[name]*. "Naturally, we expect high standards of behaviour among our elected members, and we shall continue to make every effort to ensure that such standards are maintained. The majority of members will never find themselves subject to an investigation, but for the small number of cases where there is cause for concern, we will aim to deal with the allegations quickly and efficiently."

[Insert brief details on how to make a complaint to your authority]

Complaints, should be submitted, in writing, to the Monitoring Officer, Worthing Town Hall, Chapel Road, Worthing BN11 1HD or e-mailed to

The complaint should be set out in the complaint form (copies of which can be obtained from [www.](#) or from the Worthing Town Hall),

Assessment process:

1. Written complaint received by Monitoring Officer (form Annex 3)
2. Monitoring Officer
 - a. to acknowledge receipt of complaint.
 - b. notify subject member that a complaint has been received with name of complainant, unless there is a request for this to be withheld.
 - c. notify Chairman of the Standards Committee
 - d. arrange a meeting of the Assessments Sub-Committee within 20 working days
3. Monitoring Officer to prepare a summary of the complaint, to include:
 - a. is the complaint within the jurisdiction of the sub-committee?
 - b. the relevant paragraphs of the Code of Conduct
 - c. a summary of the key aspects of the complaint if it is lengthy or complex
 - d. any further relevant information:
 - i. declaration of acceptance of office and undertaking to observe the code of conduct
 - ii. minutes of meetings
 - iii. copy of register of interests
 - iv. other relevant documents
4. Assessment Sub-Committee to meet.

Stage 1

Sub Committee to consider the following questions:

 - a. is the complaint against one or more named Members of the Council or a Council covered by the Standards Committee?
 - if yes proceed to b
 - if no, no further action
 - b. was the named Member in office at the time of the alleged conduct and was the code of conduct in force at the time?
 - if yes proceed to c
 - if no, no further action.
 - c. if the complaint was proved would it be a breach of the Code of Conduct under which the Member was operating at the time?
 - if yes, proceed to stage 2
 - if no, no further action

Stage 2

Sub Committee to consider the following questions:

 - a. Has the complainant submitted enough information to satisfy the sub-committee that the complaint should be referred for investigation or other action?
 - if yes, go to b
 - if no respond to complainant "The information provided was insufficient for the Sub—Committee to make a decision as to whether the complaint should be referred for investigation or other action. So, unless, or until, further

information is received, the assessment sub-committee is taking no further action on this complaint." May include details of information required such as date of committee.

b. Is the complaint about someone who is no longer a Member of the authority, but is a Member of another authority?

if yes, go to d

if no, go to c

c. Does the sub-committee wish to refer the complaint to the Monitoring Officer of the other authority?

- if yes, respond to the complainant "The Member is no longer a Member of our authority, but is a Member of (name of authority) and the complaint will be referred to the standards committee of that authority.

- if no, respond to the complainant "The Member is no longer a Member of this Council and the sub-committee does not propose to take any further action."

d. Has the complaint already been the subject of an investigation or other action relating to the code of conduct?

- if yes, response to complainant "The matter has already been subject to an investigation in relation to the Code of Conduct and there is nothing to be gained by further action being taken."

- if no, go to e.

e. Has the complaint been subject to investigation by any other regulatory authority?

- if yes, response to complainant "The matter has already been subject to an investigation and there is nothing to be gained by further action being taken."

- if no, go to f.

f. Is the complaint about something that happened so long ago that there would be little benefit in taking action?

- if yes, response to complainant "The period of time that has passed since the alleged conduct occurred was taken into account when deciding whether this matter should be referred for investigation or further action. It was decided that under the circumstances that due to the time involved no further action was warranted."

- if no, go to g

g. Is the complaint too trivial to warrant further action?

- if yes, response to complainant "The matter is not considered to be sufficiently serious to warrant further action."

- if no, go to h

h. Does the complaint appear to be simply malicious, politically motivated or tit-for-tat?

- if yes, response to complainant "The matter appears to be simply malicious, politically motivated or tit-for-tat, and not sufficiently serious, and it was decided that further action was not warranted."

- if no go to i

- i. The complaint appears:
 - a. to be against one or more current named Member; and
 - b. it appears to contain an allegation that, if proved, could amount to a breach of the code of conduct; and
 - c. it has not been refused for any of the reasons set out aboveTherefore it should be referred for investigation of further action.

[If the decision has been that no further action should be taken please go to paragraph 10 below]

Stage 3

- a. The matter should be referred for investigation unless the sub-committee considers:
 - i. that the matter should be referred to the Standards Board for England; or
 - ii. that the matter should be referred to the Monitoring Officer for other action.
- b. The matter should be referred to the Standards Board for England if:
 - i. the status of the Member or the number of Members involved make it difficult for the Standards Committee to deal with the matter.
 - ii. the status of the complainant makes it difficult for the Standards committee to deal with the matter
 - iii. there is a potential conflict of interest for so many members of the standards committee that it cannot deal with the matter.
 - iv. there is a potential conflict of interest of the Monitoring Officer and/ or other officers and that suitable alternative arrangements cannot be made
 - v. the case is so serious or complex, or involving so many Members, that it cannot be handled locally
 - vi. the complaint will require substantial amounts of evidence beyond that available from the authority's documents officers or Members.
 - vii. there is substantial governance dysfunction in the authority or standards committee
 - viii. the complaint relates to long-term systemic Member / officer bullying which could be more effectively investigated by someone outside the authority.
 - xi. the complaint raised significant unresolved legal issues on which a national ruling would be useful
- c. The matter could be referred for other action, following consultation with the monitoring officer, where the breach lends itself to being resolved in another way.

Examples would be:

- i. where a complaint or series of complaints shows that there is or could be a misunderstanding of parts of the code by one or more Members.
- ii. where there appears to be a breakdown in relationships within an authority

5. Investigation to be carried out or other action undertaken.
6. Monitoring Officer to notify parties and inform them who is to be carrying out the investigation. To include summary of allegation.
7. Investigator to report to the assessment Sub-Committee following the investigation.
8. Assessment Sub-Committee to determine:
 - a. If the report finds no breach of the code, whether or not it accepts that finding:
 - if yes, no further action.
written notice to:
 - the Member,
 - any ethical standards officer concerned,
 - the complainant,
 - the standards committee of any other authority concerned and
 - any parish council concerned
 - if no, refer to the Determination Sub-Committee for a hearing.
 - b. If report finds a breach of the code, whether to:
 - send for a hearing by the Determination Sub-Committee
 - refer the matter to the Adjudication Panel for determination
9. Hearing.
10. Where the Assessment Sub-Committee determined to take no further action the parties shall be notified and the complainant shall be notified that they have 30 days in which they can appeal against the decision.
11. If no appeal, matter closed.
12. If an appeal is received it will be acknowledged and the subject Member notified that an appeal has been received.
13. Monitoring Officer will request a meeting of the Review Sub-committee within 20 working days of receipt of appeal.
14. Sub-Committee to receive the same information as the original Assessment Sub-Committee plus any additional information provided by the complainant.
15. Sub-Committee to consider the matter against the same criteria as the Assessment Sub-Committee. Go to paragraph 4.

[Worthing Borough Council Logo]

Complaint of a breach of the Member's Code of Conduct

The Code of Conduct can be found at www.worthing.gov.uk.

A copy of the code of conduct can be obtained from the Town Hall, Chapel Road, Worthing BN11 1HD

Please read the Code of Conduct before completing this form as complaints about matters that do not amount to a breach of the code cannot be considered by the Standards Committee

About me:

My name is:

My address is:

I am: (Please delete those that do not apply)

a member of the public

a Worthing Borough Councillor

an officer of Worthing Borough Council

other (please specify)

About the complaint:

I am complaining about:

Name :

Council(s) of which they are a councillor:

I am complaining about the above named because:

(Set out details of what you say the Councillor has done, including when where and how you are aware of it)

The following people also witnessed some or all of these events and have / have not told me that they are willing to provide information.

Other information

Nationality

Gender

I understand that my identity will be disclosed to the Councillor I am complaining about.

I do not want my identity disclosed to the Councillor I am complaining about because:

STANDARDS COMMITTEE OF WORTHING BOROUGH COUNCIL**FIRST ANNUAL REPORT – FEBRUARY 2008****1. Introduction**

An Annual Report is presented to the Council on the work of the Committee. It reviews the actions and achievements during the current year and looks forward to the coming municipal year of 2008/9. In future years the Committee will be required to make an annual report to the Standards Board, and this report prepares the way for this. The annual report will be published when the new conduct regime under the 2007 Act is in place.

2. Achievements during the year.

- 2.1 At its meeting of 11th June 2007, the Committee considered a report upon a revised Code of Conduct for Members. It made recommendations to the Council for the adoption of the Code, with some agreed amendments to add practical strength to it. The Council then adopted the Code and the Monitoring Officer has provided training sessions for Members upon its content. All Members of the Council have been provided with a copy of the Code; it is within the Council's constitution; and supplementary information is set out upon the Council's intranet site in respect of it.
- 2.2 In addition, the Committee has adopted guidance upon (1) offers to Members of gifts and hospitality and (2) Codes of Good Practice upon planning and licensing matters. These documents flesh out important elements of the Code of Conduct and provide guidance to Members in the key areas of planning and licensing decision-making. They provide a footing for training for Members upon dealing with such matters and will be referred to in forthcoming training events.
- 2.3 In addition, the Standards Committee Meeting of 7th February 2008 will be asked to adopt guidance for Members upon the disclosure of confidential information. Again, this provides more information and guidance for Members upon a key element of the Code of Conduct. Generally, confidential information should not be disclosed by a Member but there are four situations in which it may be permissible. These are explained further within the guidance and it deals in particular with the new public interest ground for disclosure. It places emphasis upon taking appropriate advice from the Monitoring Officer. It also reminds Members of the existence of the Council's Whistle-blowing Policy where they have concerns as to fraud, corruption or malpractice.
- 2.4 Three new Independent Members of the Committee were appointed in March 2007. One of these Members, Jane Stirzaker-Evans, is the Chairman of the

Committee. The new Members have received a briefing from the Monitoring Officer, attended introductory training, participated in the forum for Independent Members of Standards Committees, and have been active in the proceedings of the Committee. The Chairman has attended a sample of Council and Committee meetings, and has had further training as part of her induction.

3. A case dealt with by the Standards Sub-Committee

- 3.1 The Standards Sub-Committee dealt with a hearing of a complaint concerning Councillor McCarthy. The Sub-Committee initially comprised 3 Members and 2 Independent Members, one of whom acted as its Chairman. One Member identified a conflict of interest and withdrew prior to the hearing. The complaint had been investigated by an Ethical Standards Officer under the auspices of the Standards Board, and it was referred to the Sub-Committee for a hearing which took place on the 29th and 30th May 2007. The Committee found that there had been breaches of paragraphs 2(b) and 4 of the Code of Conduct for Members. It applied a sanction to Councillor McCarthy consisting of suspension for a period of one month and a requirement to give an apology to a person affected by his behaviour. He did give the required apology. The Members of the Sub-Committee had received appropriate training prior to undertaking the hearing. They were advised by an external solicitor, and they gave the case a great deal of detailed consideration. No difficulties or complaints arose from the hearing of the matter and it is the view of the Council's Monitoring Officer that fair processes were fully applied. It is noteworthy that the hearing of the case was at some expense to the Council, both in Officer preparation time and in the costs of the external Lawyer. It must be borne in mind that there must not be financial constraints upon the Committee in dealing with conduct complaints. A bid for funding for dealing with Standards Committee cases was included in the budget preparation round for 2008/9. This has been successful and is contained in the base budget.

4. The Chairman's Meetings with Members

- 4.1 The Chairman of the Committee is due to meet with all Councillors to give emphasis to the role of the Committee and the importance of good standards of conduct. She wishes to support Members in meeting those good standards. The meeting is encouraged and supported by the Group Leaders and Chief Executive.

5. The Local Government and Public Involvement in Health Act 2007

- 5.1 At its meeting of 22nd November 2007, the Committee received a report upon the provisions of this new legislation. Its principal provisions are likely to be implemented in the Spring of 2008. They will bring devolution of most investigatory and hearing functions to the Standards Committee from the National Standards Board. Indeed, the Committee will be responsible for making the initial decision upon whether investigation of a complaint is

appropriate. It will need to devolve such decisions to a Sub-Committee, and discussions are to take place with neighbouring authorities upon possible joint handling of the initial complaint process. The government has published a consultation paper upon the necessary regulations required to implement the new arrangements and this is the subject of a report to the meeting of 7th February 2008.

- 5.2 It will be essential for the Committee to adopt clear procedures for dealing with complaints and for Members to receive training upon the process involved. This work will be undertaken in conjunction with neighbouring authorities.

6. The Committee's Action Plan

- 6.1 The Committee adopted an action plan for the current year. Progress against the action plan is noted at Appendix 1 attached.

7. Forthcoming Actions for 2008/2009

- 7.1 From 1st April 2008 the joint Executive Head of Legal and Democratic Services will be the Monitoring Officer for Worthing Borough Council, responsible for the work programme of the Committee.

- 7.2 Particular emphasis will need to be given to implementation of the new devolved procedures to deal with complaints relating to Member conduct, including any necessary Member training. Other priorities include the following:

- to give further information and guidance to the public upon the Council's ethical governance arrangements and the reporting of complaints
- to give information updates to Members as appropriate upon interpretation of the Code of Conduct
- to train any new Members upon the content of the Code of Conduct, following the elections in May 2008
- to consider whether it is appropriate to conduct an ethical governance audit of the Council's arrangements for compliance with the Member Code of Conduct.

- 7.3 The Committee will be asked to consider its work programme at its first meeting of the 2008/2009 municipal year.

8. Conclusion

- 8.1 The Committee has dealt with much business during the year. Useful guidance has been put in place. For example, upon dealing with planning and licensing matters. The Committee also dealt successfully with its first hearing relating to member conduct.

Jane Stirzaker-Evans

Chairman, on behalf of the Committee

Action Plan for the Standards Committee for 2007/8

Action Agreed	Timescale and Notes
1. To receive further training upon the investigation and hearing of complaints locally.	This training is required for 4 Members. There is a linkage with briefing all Committee Members upon imminent changes to the practical and legislative framework under which the Committee operates. To achieve by: 1 st April 2008
2. To make recommendations as to separate protocols upon (1) planning and (2) licensing matters.	Put to Standards Committee on 22 nd November 2007.
3. To utilise the website for standards/governance information.	For example, making clear the governance arrangements and complaints process for members of the public. Monitoring Officer agreed the content with the Chairman/Vice Chairman in Autumn 2007 for placement on the website.
4. To develop a protocol on the receipt of gifts and hospitality.	Put to Standards Committee on 13 th September 2007.
5. To report to the Committee with guidance upon the exceptional circumstances in which confidential information may be disclosed by Members.	Put to Standards Committee on 7 th February 2008.
6. To report to the Committee upon any ongoing actions concerning the Council's policies relating to Equality and Diversity.	To put to Standards Committee on 7 th February 2008 (may need to be deferred, so that the Qualities and Diversities Officer can complete his report.
7. To review reporting procedures for members' attendance at meetings.	Put to Standards Committee on 22 nd November 2007.
8. To report upon changes to procedures for investigations/hearings; new responsibilities for the Committee; proposed procedural arrangements; and keeping members abreast of the	Put to Standards Committees on 22 nd November 2007 and to be the subject of further reporting during the remainder of 2007/8 and into the next municipal year.

changes.	
9. To prepare an Annual Report for full Council as to progress and developments on ethical governance.	Put to Standards Committee on 7 th February 2008, with a view to the report being presented to the next available Full Council Meeting.
10. To review the protocols upon Planning and Licensing matters.	Standards Committee in November 2008.
11. Consider current audit commission guidance upon ethical conduct reviews.	Consider for inclusion in the Committee's work programme at the first meeting in the 2008 Civic Year (May/June 2008).
12. Publish the annual report of the Standards Committee.	Time this with publication of information concerning revised complaints procedures. Consider use of the VIBE magazine and local press.

STANDARDS COMMITTEE

9 June 2008
at 6 pm

Present: Jane Stirzaker-Evans, Chairman
John Evans and Dr. David Wiggins

Councillors Michael Donin, Mary Harding, Keith Sunderland,
Steve Waight and Tom Wye

Apologies: Councillor Heather Mercer

Officers: Executive Head of Legal and Democratic Services and
Democratic Services Officer

1. **MINUTES**

The minutes of the meeting of the Committee held on 7 February 2008 were confirmed as a correct record.

2. **PUBLIC QUESTIONS**

None.

3. **DECLARATIONS OF INTEREST**

None.

4. **INTRODUCTIONS**

The Chairman welcomed both new and former members to the first meeting of the Committee following the 1 May 2008 elections.

5. **LOCAL ASSESSMENT OF COMPLAINTS**

The Executive Head of Legal and Democratic Services presented the report setting out the new regulations for the investigation of complaints under the Local Government and Public Involvement Health Act 2007 (LGPIH).

The thrust of the LGPIH was to reduce the involvement of the Standards Board by passing responsibility for handling the initial investigation process to a local authority's own Standards Committee.

The report set out the main provisions of the Act and the following points were noted:

- The Standards Committee was required to set up sub-committees from within its membership for each stage in processing a complaint –

- Assessment Sub-Committee
 - Review Sub-Committee
 - Determinations Sub-Committee
- Membership of the Assessment Sub-Committee must not be the same as that for the Review Sub-Committee in a specific case.
 - At least three members must sit on each sub-committee, to include at least one independent member and one councillor.

The Committee welcomed the proposals and agreed that it would make the whole process more speedy and efficient, with reference being made to how long it had taken to deal with complaints in the past.

In view of the requirement to have at least three members on a sub-committee present when a decision was taken, the report proposed that sub-committees should be formed of four Committee members – two councillors and two independent persons.

In these circumstances, Officers were recommending that an additional independent member should be appointed to the Committee to ensure that there were sufficient independent members available to sit on the sub-committees at each stage of the process.

The Committee concurred with this proposal and it was agreed that it would be expedient, in the first instance, to contact suitable candidates who had not been selected when the three independent posts were advertised last year, to see whether one of them would be interested in taking up the fourth appointment.

In the case that none of those already interviewed wished to accept the appointment, it was agreed that the Chairman of the Standards Committee should form part of any subsequent interview panel.

The Committee discussed the importance of training in the new procedures and the Chairman requested that this be organised as quickly as possible. The possibility of combining a training session with Adur District Council was proposed by Officers but the Committee's preference was that separate sessions should be arranged for each authority, with those unable to attend at one venue being invited to attend at the other.

RESOLVED,

- (1) that the following sub-committees be established to consider complaints against Members:
 - a. Assessment Sub-Committee
 - b. Review Sub-Committee
 - c. Local Determinations Sub-Committee;
- (2) that the membership of the Sub-Committees consist of two elected Members and two independent members;

- (3) that the General Purposes Committee be recommended to recommend to Council:
- (i) that the membership of the Standards Committee be increased to include a fourth independent member;
 - (ii) that previous applicants who had been deemed to be suitable for the posts should be contacted in the first instance, by the Monitoring Officer, to see if they were minded to accept the appointment and, if so, to appoint as appropriate;
 - (iii) that if the fourth post has to be readvertised, then the independent Chairman of the Standards Committee be co-opted to sit upon the Appointments Committee acting as the interview panel;
- (4) that the authority to allocate Members and independent members to sub-committees for assessment, review and determination of complaints be delegated to the Monitoring Officer in consultation with the Chairman or, in their absence, with the Vice-Chairman of the Standards Committee.

6. **COMPLAINTS ASSESSMENT PROCESS**

The Executive Head of Legal Democratic Services presented a report proposing the processes to be put in place for the investigation of complaints against Members under the new legislation and as discussed under the previous item on the agenda.

The following appendices were annexed to the report:

- a suggested form of Public Notice advising local residents of the changes and of how they should make a complaint [*an amended version of this document was circulated at the meeting*]
- an outline of the assessment process to be followed
- a pro-forma template for completion in the case of a complaint

A copy of the Committee's Annual Report was also appended to the Officer's report and it was noted that a number of minor amendments agreed at the Committee's last meeting had not been fully incorporated in the report, which Officers undertook to do.

The Committee debated the proposals and commented upon the complexity of the assessment procedure, which had been laid down in the guidance issued by the Standards Board.

The importance of publicising the new arrangements was emphasised including the need to ensure that the public was made fully aware that the only complaints that could be addressed by the Standards Committee related to alleged breaches of the Code of Conduct by Members.

A number of minor amendments were proposed and agreed to the assessment procedure and proforma complaint form, including the following:

- Insertion of the name of the Monitoring Officer on the form
- Provision to be made on the form for the complainant to identify which section of the Code had allegedly been breached.
- Remove paragraphs (b) and (c) within Stage 2 of the assessment procedure

The Committee reiterated its concern about the lengthy procedure being recommended by the Standards Board and, in particular, debated the requirement to include personal data such as gender and nationality, the recommendation being that the information requested should be in line with the Council's existing Equality Policy.

In the circumstances, the Committee requested the EHLDS to write to the Standards Board, expressing its concerns and asking for details of how this information would be used. The EHLDS undertook to do so and to report back to the next meeting.

RESOLVED,

- (1) that the contact for complaints should be the Monitoring Officer;
- (2) that completed complaints form should be returned to:

Mr J Cook, Monitoring Officer, Worthing Borough Council, Town Hall, Chapel Road, WORTHING BN11 1HA; or by email to monitoringofficer@worthing.gov.uk (or similar);
- (3) that the new complaints procedure should be publicised by way of a formal Public Notice, as set out in Annex 1 and subject to the amendments agreed at the meeting, and other advertising material including a press release;
- (4) that the procedure for the receipt, assessment and review of complaints should be as set out in Annex 2, amended as agreed at the meeting and outlined above
- (5) that the Committee's report for 2007/8, amended in accordance with the minutes from the meeting of 7 February, be received.

7. ACTION PLAN

The Committee considered its Action Plan for 2007/8 and, in particular, the additional actions set out at paragraphs 10 to 12, which had been agreed at its previous meeting.

The Chairman requested that the detail of the actions be amended in accordance with the minutes of the meeting on 7 February and officers undertook to do so.

The following points were debated and noted for inclusion in the Action Plan to be brought back to the meeting on 8 September 2008:

- current audit commission guidance upon ethical governance reviews
- the options for establishing a Bullying Policy applicable to Councillors

RESOLVED, that the Action Plan be revised accordingly and that the full amendments as detailed in the minutes of the meeting held on 7 February 2008 be incorporated into the Action Plan.

8. **DISPENSATIONS IN RESPECT OF MEMBERS' INTERESTS**

None.

9. **FORUM FOR INDEPENDENT STANDARDS MEMBERS**

The Chairman reported back on her attendance at the Forum's meeting held on 11 March. Items discussed included:

- Local assessment process
- brief training session
- publicity
- maintaining interests of independent members
- joint working arrangements
- survey of allowances for independent members

The next meeting would be at Fareham on 23 October 2008.

The meeting ended at 7.50 pm