

**Minutes of the Meeting of
Sandwell Metropolitan Borough Council**

17th January, 2017 at 6.00pm
at the Sandwell Council House, Oldbury

Present: The Mayor (Councillor Webb);
The Deputy Mayor (Councillor Downing);

Councillors Ahmed, Allcock, Allen, Ashman, Bawa, Carmichael, Cherrington, Costigan, Crompton, S Crompton, Dr T Crompton, K Davies, P Davies, S Davies, Y Davies, Dhallu, Eaves, Edis, Edwards, Eling, Gavan, E A Giles, E M Giles, Gill, Goult, Hackett, Hadley, Haque, Hartwell, Hevican, R Horton, D Hosell, S Hosell, P M Hughes, P Hughes, Hussain, Dr Jaron, Jarvis, I Jones, O Jones, Khatun, Lewis, Meehan, Melia, Millard, Moore, Phillips, Piper, B Price, R Price, Sandars, Shackleton, Shaeen, Sidhu, Taylor, Tranter, Trow, Underhill and White.

Apologies: Councillors Frear, Garrett, Hickey, L Horton, S Jones, Lloyd, Marshall, Preece, Rouf, Tagger and Worsey.

1/17 **Declaration of Interest**

Agenda Item	Subject	Member	Interest
9	Cabinet Minute Nos. 170/16 (19 th October, 2016) and 206/16 (7 th December, 2016) – Fast Response Service	Councillor Webb	Other interest – relative works in Fast Response department.

Meeting of Sandwell Metropolitan Borough Council –
17th January, 2017

2/17

Minutes

The Mayor wished to place on record her thanks to the Deputy Mayor for chairing the previous meeting during her period of illness.

Resolved that the minutes of the extraordinary meeting held on 6th December, 2016 be confirmed as a correct record.

3/17

Mayor's Announcements

Details of Mayoral engagements since the last meeting of the Council had been circulated to members.

In particular, the Mayor made reference to the excellent work by pupils at Devonshire Primary School, Smethwick, in making their beautiful poppy. The Mayor also referred to the launch of the safety awareness course at St Margarets Church of England School, Great Barr.

The Mayor announced that she would be attending the Sandwell Holocaust Memorial on 29th January, 2017 at Highfields Memorial Gardens.

The Mayor also challenged members of Smethwick, Wednesbury and Tipton wards to organise a curry night for the Mayor's charity.

4/17

Petitions Under Standing Order No. 5

No petitions were received under Standing Order No. 5.

5/17

Questions Under Standing Order No. 6

No questions were received under Standing Order No. 6.

Meeting of Sandwell Metropolitan Borough Council –
17th January, 2017

6/17

Budget 2017/18 to 2019/20

The Leader of the Council presented details of the 2017/18 provisional Local Government finance settlement announced by the Secretary of State for Communities and Local Government on 15th December, 2016. Some details of the settlement were still to be announced and additional information, and its impact on target budgets, would be incorporated into the report to Cabinet in February 2017.

The Council would be taking part in the 100% business rates retention pilot. The figures issued as part of the provisional settlement were based on the 50% business rates retention model, however, it was anticipated that the final settlement figures would be based on the 100% business rates retention pilot.

The provisional settlement was in line with Sandwell's prudent planning assumptions contained in the medium term financial strategy and would not require any changes to the 2017/18 budget plan. The provisional settlement was based on acceptance of the Government's multi-year funding offer for 2017/18 to 2019/20 that was accepted by the Section 151 Officer on behalf of the Council in October 2016.

Despite earlier indications, there had been no easing of the Central Government austerity programme.

The key headlines within the provisional Local Government finance settlement included:-

- the creation of a new adult social care grant (from reduced New Homes Bonus funding as a result of revised calculation method);
- relaxing of referendum rules so that authorities could increase the adult social care precept by 3% per year in 2017/18 and 2018/19 instead of three 2% increases from 2017/18 to 2019/20 (the total increase over the three years could not exceed 6%).

Meeting of Sandwell Metropolitan Borough Council –
17th January, 2017

The Government had announced national figures for core spending power for the next three years. Nationally, total funding across the spending review period would increase by 0.4%, with an assumption that all councils would agree to implement the full Council Tax increase to fund cost pressures in adult social care.

Sandwell's total funding across the spending review period from 2015/16 would reduce by 1.2%, assuming the Council agreed to implement the full Council Tax increase to fund cost pressures in adult social care. If the additional funding for social care was excluded, Sandwell's funding would reduce by 11.06% (£28.8m).

A revaluation of all commercial property would come into place from 1st April, 2017. The Government was also reducing the small business rates multiplier which was estimated would reduce the gross collectable rates for the authority by £5.02m.

The Government had indicated that the changes resulting from the revaluation would be adjusted by using the tariff and top-up system and would be fiscally neutral, as far as practicable. The provisional settlement included an increase in the top up grant of £5.765m.

On 7th December 2016, Cabinet considered officers' estimates of the non-domestic rates baseline for 2017/18 (based on 100% business rates retention). The latest position showed an estimated non-domestic rates baseline for the Council of £45.5m, £2.1m above the national funding assumptions. However, the total business rates baseline plus top-up were approximately £2.6m less than anticipated in the 2016/17 medium term financial strategy, a combination of a failure to deliver the planned growth in the business rates baseline and the impact of the extension of small business rate relief. The figures assumed that the loss of funding arising from the extension of small business rate relief would be compensated for by an additional Section 31 grant.

In the 2016/17 settlement, the Government had responded to rising costs in adult social care by giving local authorities the option to increase Council Tax by an additional 2% and by introducing a different version of the Better Care Fund from 2017/18. The Better Care Fund had been calculated on an assessment of need, less the amount assumed to be raised through the additional 2% Council Tax threshold.

Meeting of Sandwell Metropolitan Borough Council –
17th January, 2017

The clear implication of this was that local authorities who did not implement the additional 2% increase would have insufficient funds to deliver their adult social care responsibilities. It also represented a clear shift towards local Council Tax payers being responsible for funding adult social care services.

The medium term financial strategy approved by Council in March 2016 contained an assumption that Council Tax would increase by 3.99% per annum, which was within the referendum threshold and included the 2% flexibility announced for those local authorities that delivered adult social care services.

The 2017/18 provisional settlement included more flexibility for local authorities to bring forward the increase in Council Tax, to cover adult social care costs, by implementing a 3% increase in 2017/18 and/or 2018/19 instead. However, the total increase across 2017/18 to 2019/20 must not exceed 6%.

The following conditions were attached to the increase:-

- Section 151 officers would be asked to write to the Secretary of State to indicate whether they intended to use the additional flexibility;
- councils were required to provide information demonstrating that an amount equivalent to the additional Council Tax had been allocated to adult social care, within seven days of the authority setting its budget and council tax for the year. In subsequent years of the Parliament, Section 151 officers would be required to confirm that this additional Council Tax continued to be allocated to adult social care;
- councils must confirm the level of their average Band D Council Tax increase for the year, and the proportion of it attributable to funding for adult social care;
- the amounts allocated to adult social care must be reflected in statistical returns;
- the above information would be required each year that the scheme was in operation. From 2017/18 onwards, the requirement would also encompass the cumulative year-on-year revenue being allocated to adult social care.

Meeting of Sandwell Metropolitan Borough Council –
17th January, 2017

The education services grant would cease from September 2017. Transitional funding of £1.051m had been allocated to Sandwell to cover the period April 2017 to August 2017.

The retained duties element of the education services grant (£0.830m) had been rolled into the schools block dedicated schools grant and the local authority was currently in the process of consulting schools about retaining this funding centrally.

The school funding settlement was announced on 20th December, 2016 and confirmed that Sandwell's total dedicated schools grant allocation for 2017/18 was £305.57m before academies recoupment.

The Government was currently consulting on proposals for a National Funding Formula which would be implemented from 2018/19.

Provisional 2017/18 allocations of New Homes Bonus were announced on 15th December, 2016; a total of £1.227bn for English local authorities funded primarily through the top slicing of overall funding totals. Sandwell would receive £5.3m of New Homes Bonus in 2017/18, a reduction of £1.57m compared to the amount expected per the medium term financial strategy for 2016/17. However, the national reduction in the New Homes Bonus funding had been used to create an adult social care grant for 2017/18. Sandwell would receive £1.86m through this grant, therefore, the overall impact of this and the reduced New Homes Bonus was additional funding of approximately £0.3m.

The Council continued to face an extremely challenging financial position with funding cuts to Local Government set to continue for the remainder of this Parliament. The preliminary budget allocations for the next three financial years would be presented to Cabinet in February 2017.

Integral to the authority's medium term financial strategy had been the production of multi-year business plans. The business plans described the vision and shape of the service and linked to the Council scorecard and priorities over the next three years.

Meeting of Sandwell Metropolitan Borough Council –
17th January, 2017

Management Board and Cabinet Members now collectively developed and challenged new cross cutting projects to be delivered through the Facing the Future programme. The savings targets to be met by Facing the Future were initially held as a central item; once projects had been sufficiently developed the associated savings were allocated out against the relevant directorate(s).

Specific pressures identified in the directorate business plans would be reflected in budgets where appropriate. As in previous years, both general and specific reserves would be prudently earmarked to fund these liabilities. Service areas would also report on gross expenditure and gross income budgets to ensure the totality of each service area was encapsulated within each individual business plan.

Indicative funding for 2017/18 to 2019/20 was announced as part of the provisional settlement. Detailed plans were already in place to deliver a balanced budget in 2017/18 and it would now be necessary to devise projects to deliver the remaining £16.661m of savings required by 2019/20.

Throughout the development of the directorate business plans and savings proposals, an assessment had been undertaken of the equalities impact of each of the budgetary proposals and whether one particular group was disadvantaged as a result of the proposals. The emphasis had been to highlight the impact of all the proposals to ensure a full understanding was achieved by both officers and elected members. The detailed assessment would be presented to Cabinet in February 2017, together with detailed budget proposals prior to recommendations to Council in March 2017.

It was proposed that shops and garages were appropriated from the Housing Revenue Account to the General Fund. The business plan and financial envelope for the Housing Revenue Account would be presented alongside the directorate business plans to Cabinet in February 2017.

Meeting of Sandwell Metropolitan Borough Council –
17th January, 2017

The Council's free balances at 31st March 2016, after taking account of service related carry forwards, earmarked items and contributions to capital expenditure, amounted to £12.141m. Revenue monitoring as at period 6 forecasted a surplus outturn position as at 31st March 2016; however, there were a number of volatile budgets which would remain potential risk areas.

As part of the budget strategy process for determining the annual budget for the forthcoming year, a comprehensive risk assessment would be undertaken. It was a requirement of the Local Government Act 2003 that the Chief Finance Officer provided a statement regarding the appropriate level of general balances and reserves, which would enable any identified risks to be managed with recommendations for any remedial action if required.

In presenting the report, the Leader stated that services would remain in place and that Sandwell had given a commitment to protect public services in Sandwell.

Resolved:-

- (1) that the impact of the provisional Local Government settlement for 2017/18 to 2019/20 be noted;
- (2) that the preliminary budget allocations for the next three financial years are based on the following roll forward budget assumptions:-
 - provision for expenditure and fuel inflation, pay awards, fees and charges income to all services;
 - Passenger Transport Executive/environmental agency levies are based on up to date soundings;
 - provision for the anticipated supported borrowing requirements over the three years and resultant revenue debt charges;
 - prudent provisions for general reserves;
- (3) that shops and garages be appropriated from the Housing Revenue Account to the General Fund;

Meeting of Sandwell Metropolitan Borough Council –
17th January, 2017

- (4) that the Facing the Future programme continues to develop projects to address projected shortfall of £16.661m across 2018/19 to 2019/20;
- (5) that the proposed Directorate net revenue target budgets for 2017/18 to 2019/20 detailed in Appendix 1 be approved;
- (6) that Chief Officers submit service business plans to Cabinet in February 2017 outlining service delivery and providing details of gross expenditure and gross income, including specific grants.

7/17

Appointment of External Auditors

Following the closure of the Audit Commission, the Council would be responsible for appointing its own external auditors by 31st December, 2017 for 2018/19 onwards.

The Local Audit and Accountability Act 2014 brought to a close the Audit Commission and established transitional arrangements for the appointment of external auditors and the setting of audit fees for all local government and NHS bodies in England. On 5th October 2015, the Secretary of State Communities and Local Government determined that the transitional arrangements for local government bodies would be extended by one year to also include the audit of the accounts for 2017/18.

The Council's current external auditor was KPMG, this appointment having been made under a contract let by the Audit Commission. Following closure of the Audit Commission, the contract was currently managed by Public Sector Audit Appointments Limited, the transitional body set up by the Local Government Association with delegated authority from the Secretary of State Communities and Local Government. Over recent years, the Council had benefited from a reduction in fees in the order of 50% compared with historic levels. This has been the result of a combination of factors, including new contracts negotiated nationally with the firms of accountants and savings from the closure of the Audit Commission.

Meeting of Sandwell Metropolitan Borough Council –
17th January, 2017

When the current transitional arrangements came to an end on 31st March 2018, the Council would be required to appoint an external auditor. Current fees were based on discounted rates offered by the firms in return for substantial market share. When the contracts were last negotiated nationally by the Audit Commission, they covered NHS and local government bodies and offered maximum economies of scale.

The scope of the audit would still be specified nationally, the National Audit Office was responsible for writing the Code of Audit Practice which all firms appointed to carry out the Council's audit must follow. Not all accounting firms would be eligible to compete for the work, they would need to demonstrate that they had the required skills and experience and be registered with a Registered Supervising Body approved by the Financial Reporting Council.

The registration process had not yet commenced and so the number of firms was not known but it was reasonable to expect that the list of eligible firms may include the top ten or twelve firms in the country, including our current auditor. It was unlikely that small local independent firms would meet the eligibility criteria.

Having considered the advantages and disadvantages of the options available (a stand-alone appointment, setting up a joint auditor panel/local joint procurement arrangements or opting-in to a sector led body for a Council appointment), the preferred arrangements fell with the option which required the Council to opt-in to a sector led body for a Council appointment. A sector led body would have the ability to negotiate contracts with the firms nationally, maximising the opportunities for the most economic and efficient approach to procurement of external audit on behalf of the whole sector.

Resolved:-

- (1) that the Council, having considered the options set out, approve the option to opt-in to a sector led body on the basis that the Council requests Public Sector Audit Appointments Limited to take into account the Council's initial wish to extend the current external audit contract over the short to medium term, which is likely to be a two year extension;

**Meeting of Sandwell Metropolitan Borough Council –
17th January, 2017**

- (2) in the event that opting-in to a sector led body, as set out in (1) above is not feasible, the Council will opt-in jointly with the seven West Midlands Combined Authority councils;
- (3) in connection with (2) above, in the event that a joint agreement cannot be reached regarding the seven West Midlands Combined Authority councils, then a sole appointment of external auditors for 2018/19 onwards for a maximum of five years be approved.

8/17 **Minutes and Policy/Strategic Recommendations of the Cabinet**

The Council received the minutes of the meetings of the Cabinet held on 19th October, 16th November and 7th December, 2016.

The Council considered the recommendations of the Cabinet on the following matters of strategic significance:-

8/17(a) **Council Tax Base 2017/18 (Key Decision Ref. No. LR15)**

Resolved that:-

- (1) the Council continues to apply 0% Council Tax discounts on empty properties and continues to apply an empty home premium of 150% on properties empty longer than two years, throughout 2017/18;
- (2) the Council Tax Base for 2017/18 be set at 71,217.34.

8/17(b) **Local Council Tax Reduction Scheme 2017/18 (Key Decision Ref. No. LR21)**

Resolved that the Local Council Tax Reduction Scheme 2017/18 be approved.

**Meeting of Sandwell Metropolitan Borough Council –
17th January, 2017**

In response to a statement regarding the formation of a Children's Trust, the Leader confirmed that the Council was not in favour of the formation of the Children's Trust, however, it was accepted that the Children's Social Care Service needed considerable improvement and the Council had no control over the Government's decision. The Leader confirmed that the Memorandum of Understanding would shape the creation of the Trust and the Council sought to give maximum protection to staff by way of TUPE transfer, continuity of service and the jobs guarantee that applied to Council staff. The Council had set out its objections and alternatives and would continue to make its views heard whilst taking forward an agenda that would deliver an improvement to Children's Social Care Services in Sandwell.

In response to a question regarding the introduction of charges for household pest control treatments and the provision of concessions for residents who suffered with anaphylaxis, the Cabinet Member for Public Health and Protection undertook to take the issue forward. The Leader of the Council stated that, whilst there was a need to generate income and pay for services, there was discretion in being able to provide exemptions and the matter would be investigated.

9/17

Summary of Matters Considered at the Budget and Corporate Scrutiny Board

The Chair of the Budget and Corporate Scrutiny Board, Councillor P Hughes, presented the summary of matters considered at the meeting of the Board held on 9th November, 2016.

No questions were asked of the Chair of the Board.

10/17

Summary of Matters Considered at the Children's Services and Education Scrutiny Board

The Chair of the Children's Services and Education Scrutiny Board, Councillor Underhill, presented the summary of matters considered at the meetings of the Board held on 10th and 12th December, 2016.

No questions were asked of the Chair of the Board.

**Meeting of Sandwell Metropolitan Borough Council –
17th January, 2017**

11/17 **Summary of Matters Considered at the Community Safety,
Highways and Environment Scrutiny Board**

The Chair of the Community Safety, Highways and Environment Scrutiny Board, Councillor Crompton, presented the summary of matters considered at the meetings of the Board held on 26th October and 14th December, 2016.

No questions were asked of the Chair of the Board.

12/17 **Summary of Matters Considered at the Health and Adult Social
Care Scrutiny Board**

The Chair of the Health and Adult Social Care Scrutiny Board, Councillor Y Davies, presented the summary of matters considered at the meetings of the Board held on 20th October and 8th December, 2016.

No questions were asked of the Chair of the Board.

13/17 **Summary of Matters Considered at the Housing Scrutiny Board**

The Chair of the Housing Scrutiny Board, Councillor P Hughes, presented the summary of matters considered at the meetings of the Board held on 16th November and 13th December, 2016.

No questions were asked of the Chair of the Board.

14/17 **Summary of Matters Considered at the Jobs, Economy and
Enterprise Scrutiny Board**

On behalf of the Chair of the Jobs, Economy and Enterprise Scrutiny Board, Councillor P Hughes presented the summary of matters considered at the meetings of the Board held on 2nd November and 14th December, 2016.

No questions were asked of Councillor P Hughes.

**Meeting of Sandwell Metropolitan Borough Council –
17th January, 2017**

15/17 **Summary of Matters Considered at the Leisure, Culture and the
Third Sector Scrutiny Board**

The Chair of the Leisure, Culture and the Third Sector Scrutiny Board, Councillor Ahmed, presented the summary of matters considered at the meeting of the Board held on 5th December, 2016.

No questions were asked of the Chair of the Board.

16/17 **Minutes of the Audit Committee**

The Chair of the Audit Committee, Councillor Sidhu, presented the minutes of the meeting of the Audit Committee held on 15th December, 2016.

In response to a question regarding issues arising from the Gowling WLG report and whether the investigation by Audit Committee was a good use of public resources, at the request of the Leader, the Chief Executive advised that the matters considered were within the remit of Audit Committee and were matters arising in relation to the Council's finances and the management of its money; and that it was a decision for the Audit Committee to consider what matters to pursue and in what manner.

17/17 **Minutes of the General Purposes and Arbitration Committee**

The Chair of the General Purposes and Arbitration Committee, Councillor Dhallu, presented the minutes of the meeting of the General Purposes and Arbitration Committee held on 12th December, 2016.

No questions were asked of the Chair.

18/17 **Minutes of the Standards Committee**

The Chair of the Standards Committee, Councillor Lewis, presented the minutes of the meeting of the Standards Committee held on 9th December, 2016.

Meeting of Sandwell Metropolitan Borough Council –
17th January, 2017

In response to a question regarding the case summary considered by the Standards Committee which afforded confidentiality to members under investigation and the content of the minutes of the Audit Committee, at the request of the Leader, the Chief Executive stated that, as with Audit Committee, the Standards Committee determined how it conducted itself and there was a significant difference in the roles of the Audit and Standards Committees.

The Council considered the recommendation of the Committee on the following matters:-

18/17(a) **Review of Arrangements for Dealing with Standards under the Localism Act 2011 and Accompanying Complaint Form**

Resolved that:-

- (1) the revised arrangements for dealing with standards allegations under the Localism Act 2011, as set out in Appendix 2, be approved;
- (2) the Terms of Reference for the Standards Committee and Standards Sub Committee be revised to allow for complex matters to be heard by the full Standards Committee, rather than the Standards Sub Committee.

18/17(b) **Committee on Standards in Public Life – Striking the Balance – Upholding the Seven Principles in Regulation**

Resolved that the best practice identified within the Committee on Standards in Public Life report 'Striking the Balance – Upholding the Seven Principles of Public Life in Regulation', as set out in Appendix 3, be noted.

19/17 **Appointment to Other Bodies**

From time to time, the Council was approached to nominate representatives to serve on various other bodies, not directly associated with the Council.

Meeting of Sandwell Metropolitan Borough Council –
17th January, 2017

At the meeting of Council on 19th July 2016, the Leader was authorised to nominate two members to Sandwell Leisure Trust, following resignation of members nominated to the body.

A request had also been received for the membership of the Corporate Parenting Board to be increased from five members to six. The Terms of Reference for the Board would be revised to reflect the increase in membership.

Resolved:-

- (1) that Councillors B Gavan and P Hughes be nominated to the Sandwell Leisure Trust for the period ending 2017;
- (2) that Councillor Phillips be nominated to the Corporate Parenting Board for the period ending 2017 and that the Terms of Reference for the Board be increased to six elected members.

20/17

Notice of Motion received under Standing Order No. 7

The Mayor welcomed representatives of WASPI (Women Against State Pension Inequality) who were present at the meeting.

The following motion was moved by Councillor Khatun, and seconded by Councillor B Price:-

“This matter to be considered without reference to a Committee, to the Cabinet or to a Cabinet Member:

This Council calls upon the Government to make fair transitional state pension arrangements for all women born on or after 6th April 1951, who have unfairly borne the burden of the increase to the State Pension Age with lack of appropriate notification.

Whilst accepting that retirement ages for women and men should be the same, this Council believes that the rise in the women's state pension age has been too rapid and has happened without sufficient notice being given to the women affected, leaving women with no time to make alternative arrangements.

Meeting of Sandwell Metropolitan Borough Council –
17th January, 2017

The Council notes that up to 18,000 women in Sandwell have had significant pension changes imposed on them by the Pensions Acts of 1995 and 2011 with little or no personal notification of the changes. Some women had only two years notice of a six-year increase to their state pension age.

Many Sandwell women born in the 1950s are living in hardship. Retirement plans have been shattered with devastating consequences. Many of these women are already out of the labour market, caring for elderly relatives, providing childcare for grandchildren, or suffer discrimination in the workplace and so struggle to find employment.

Women born in this decade are suffering financially and now face the loss of up to £40,000 in pension income. These women have worked hard, raised families and paid their tax and national insurance with the expectation that they would be financially secure when reaching 60.

The Council calls upon the Government to reconsider transitional arrangements for women born on or after 6th April 1951, so that women do not live in hardship due to pension changes they were not told about until it was too late to make alternative arrangements.”

The motion was unanimously agreed.

(The meeting ended at 6.56pm)

Contact Officer: Trisha Newton Democratic Services Unit 0121 569 3193

This meeting was webcast live and is available to view on the Council's website (<http://sandwell.public-i.tv/core/portal/home>).

SANDWELL METROPOLITAN BOROUGH COUNCIL**General Fund Summary****Provsional Service Target Budgets 2016/17 to 2019/20**

Service Target Budgets	Target Budget 2016/17	Target Budget 2017/18	Target Budget 2018/19	Target Budget 2019/20	Target Budget 2020/21
	£	£	£	£	£
<u>Performance</u>					
Corporate Management	95,000	-497,000	-504,000	-512,000	-520,000
Assistant Chief Executive	28,136,000	24,853,000	24,450,000	24,051,000	23,656,000
<u>People</u>					
Adult Social Care	81,471,000	79,976,000	84,787,000	85,132,000	85,106,000
Childrens	60,660,000	58,792,000	59,019,000	59,247,000	59,478,000
Public Health	3,250,000	3,709,000	3,715,000	3,720,000	3,726,000
<u>Place</u>					
Regeneration & the Economy	17,439,000	16,400,000	16,046,000	15,950,000	15,876,000
Neighbourhoods	20,192,000	18,046,000	18,169,000	18,003,000	17,948,000
Total Service Target Budgets	211,243,000	201,279,000	205,682,000	205,591,000	205,270,000

Arrangements for dealing with standards allegations under the Localism Act 2011

1 Context

These “Arrangements” set out how you may make a complaint that an elected or co-opted member of this authority has failed to comply with the authority’s Code of Conduct, and sets out how the authority will deal with allegations of a failure to comply with the authority’s Code of Conduct. There is a separate procedure for dealing with Whistleblowing complaints

Under the Localism Act 2011, the Council must have in place “arrangements” under which allegations that a member or co-opted member of the authority, or of a Committee or Sub-Committee of the authority, has failed to comply with that authority’s member Code of Conduct can be investigated and decisions made on such allegations.

Such arrangements must provide for the authority to appoint at least one Independent Person, whose views must be sought by the authority before it takes a decision on an allegation which it has decided shall be investigated, and whose views can be sought by the authority at any other stage, or by a member against whom an allegation has been made.

2 The Code of Conduct

The Council has adopted a Code of Conduct for members, which is available for inspection on the authority’s website and on request from the Sandwell Council House, Oldbury.

3 Making a complaint

If you wish to make a complaint, please write or email to –

The Monitoring Officer
Sandwell Council House
Oldbury
B69 3DE

Or –

Meic.SullivanGould@sandwell.gov.uk

The Monitoring Officer is a senior officer of the authority who has statutory responsibility for maintaining the register of members' interests and who is responsible for administering the system in respect of complaints of member misconduct.

In order to ensure that we have all the information which we need to be able to process your complaint, please complete and send us the complaint form, which can be downloaded from the authority's website, next to the Code of Conduct, and is available on request from the Sandwell Council House, Oldbury.

Please do provide us with your name and a contact address or email address, so that we can acknowledge receipt of your complaint and keep you informed of its progress. If you want to keep your name and address confidential, please indicate this in the space provided on the complaint form, in which case we will not disclose your name and address to the member against whom you make the complaint, without your prior consent. The authority does not normally investigate anonymous complaints, unless there is a clear public interest in doing so. The process for deciding how to deal with anonymous complaints is set out in the attached charts.

The Monitoring Officer will acknowledge receipt of your complaint within 5 working days of receiving it, and will keep you informed of the progress of your complaint.

4 Confidential Informant Process

Any member of staff (including schools staff) within Sandwell Metropolitan Borough Council can report information anonymously to the Monitoring Officer who may authorise an investigation. The Informant may be interviewed as part of the investigation process, but will not need to reveal that they are the complainant. It will then be for the Investigator to confirm or otherwise the facts of the matter and come to a conclusion.

This process is only available to employees of Sandwell Metropolitan Borough Council. If the employee came under duress or other pressure from Councillors or Senior Officers to undertake improper behaviour the Monitoring Officer will expect them to be candid about that and it is unlikely any action will be taken against them. If the employee has colluded with the wrongdoing and benefitted from it then they cannot expect any sympathetic treatment.

5 Will your complaint be investigated?

The Monitoring Officer will review every complaint received and take a decision as to whether it merits formal investigation. This decision will normally be taken within 14 days of receipt of your complaint.

Where the Monitoring Officer has taken a decision, he/she will inform you of his/her decision and the reasons for that decision. The Monitoring Officer must consult with the Independent Person before deciding whether or not a formal investigation should be undertaken.

Where he/she requires additional information in order to come to a decision, he/she may come back to you for such information, and may request information from the member against whom your complaint is directed.

The member against whom your complaint is directed, may seek the views of the Independent Person at any stage in the process. This could be to provide a view on the complaint itself, the process under which the complaint will be dealt with or to provide a view on any other query the member may have relating to the complaint. An Independent Person's role is not to act as an 'advisor' to the subject member.

In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally, without the need for a formal investigation. Such informal resolution may involve the member accepting that his/her conduct was unacceptable and offering an apology, or other remedial action by the authority. Where the member or the authority make a reasonable offer of local resolution, but you do not agree with that offer, the Monitoring Officer will take account of your views in deciding whether the complaint merits formal investigation.

The Monitoring Officer will complete a decision notice, whether or not a matter is to be investigated, which will outline the reasons for the decision.

If your complaint identifies criminal conduct or breach of other regulation by any person, the Monitoring Officer has the power to call in the Police and other regulatory agencies.

The Monitoring Officer will normally only decide to investigate a complaint about alleged conduct that happened within six months of the date of receipt of the complaint. If the Monitoring Officer is of the view that exceptional circumstances apply, then this time limit may be waived.

The Monitoring Officer will not progress complaints which are repetitious or vexatious. If such a complaint is made by a fellow member, the Monitoring Officer will consider whether that member has acted otherwise than in accordance with the Code of Conduct for members in making the complaint and whether such action may amount to a breach of the same.

It should be noted that the recording of formal or informal meetings involving any Council issues is strictly prohibited. Covert recording without an individual's consent may be deemed a breach of data protection, a breach of the individual's human rights, a breach of the contract of employment with the Council and a breach of the Members' Code of Conduct.

6 How is the investigation conducted?

If the Monitoring Officer decides that a complaint merits formal investigation, he/she will appoint an Investigating Officer/Officers, who may be another senior officer of the authority, an officer of another authority or an external investigator. The Investigating Officer will decide whether he/she needs to meet or speak to you to understand the nature of your complaint and so that you can explain your understanding of events and suggest what documents the Investigating Officer needs to see, and who the Investigating Officer needs to interview.

The investigation will be completed in accordance with the Protocol for Dealing with Investigations into Standards Allegations under the Localism Act 2011, which is a separate document.

The Investigating Officer would normally write to the member against whom you have complained and provide him/her with a copy of your complaint, and ask the member to provide his/her explanation of events, and to identify what documents he/she needs to see and who he/she needs to interview. In exceptional cases, where it is appropriate to keep your identity confidential or disclosure of details of the complaint to the member might prejudice the investigation, the Monitoring Officer can delete your name and address from the papers given to the member, or delay notifying the member until the investigation has progressed sufficiently.

The Investigating Officer may ask the subject member to attend an interview about your complaint. The interview will normally be tape recorded, unless the member objects to this. This ensures that there is no ambiguity as to the matters discussed in interview.

If at any point during the investigation, the Investigating Officer forms the opinion that the investigation should cease, he/she will consult with the Monitoring Officer, who may consult the Independent Person and take a decision to stop the investigation at any stage.

At the end of his/her investigation, the Investigating Officer will produce a draft report and will send a copy of that draft report, in confidence, to the Monitoring Officer. The Monitoring Officer will then send the report to you and to the member concerned. At this stage you and the subject member as well as the Monitoring Officer can identify any matter in that draft report which you disagree with or which you consider requires more consideration. You and the subject member will be given a period of 14 days to comment on the draft report.

Having received and taken account of any comments made on the draft report and undertaking any further investigation he/she considers relevant and appropriate, the Investigating Officer will send his/her final report to the Monitoring Officer.

7 What happens if the Investigating Officer concludes that there is no evidence of a failure to comply with the Member Code of Conduct?

The Monitoring Officer will review the Investigating Officer's report and, if he/she is satisfied that the Investigating Officer's report is sufficient, the Monitoring Officer will write to you and to the member concerned, notifying you that he/she is satisfied that no further action is required, and give you both a copy of the Investigating Officer's final report. If the Monitoring Officer is not satisfied that the investigation has been conducted properly or has other concerns relating to the complaint or the investigation report, he may ask the Investigating Officer to reconsider his/her report. The Monitoring Officer may consult the Independent Person about this.

8 What happens if the Investigating Officer concludes that there is evidence of a failure to comply with the Member Code of Conduct?

The Monitoring Officer will review the Investigating Officer's report and will then either send the matter for local hearing before a Sub-Committee of the Standards Committee or, after consulting the Independent Person, seek local resolution.

8.1 Local Resolution

The Monitoring Officer may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, he/she will consult with the Independent Person and with you as complainant. If you as the complainant do not agree with the suggested resolution, the Monitoring Officer will take account of your views in deciding whether to proceed with the local resolution or refer it for a local hearing. It is however, the Monitoring Officer's decision. The purpose of the local resolution is to ensure higher standards of conduct for the future. Such resolution may include the member accepting that his/her conduct was unacceptable and offering an apology, and/or other remedial action by the authority.

The range of resolutions that can be imposed is wide and each resolution will be tailored to fit the particular behaviour that has resulted in a breach of the Member Code of Conduct, for example, training on a specific issue. The Monitoring Officer will set a reasonable timescale for compliance with the local resolution.

If the member complies with the suggested resolution, within the timescale set by the Monitoring Officer, the Monitoring Officer will report the matter to the Standards Committee for information, but will take no further action. If the member fails to comply with the resolution within the timescale set, the matter will be referred to the Standards Committee and Full Council for information.

The breach of the Member Code of Conduct and the resolution imposed will be publicised on the member's profile on the Council's website for a period to be determined by the Monitoring Officer, which is to be no less than the time required for compliance with any sanction. If a member fails to comply with a sanction in the timescale set, the information will remain on the profile until compliance is achieved.

8.2 Local Hearing

If the Monitoring Officer considers that local resolution is not appropriate, or the member concerned is not prepared to undertake the suggested resolution, then the Monitoring Officer will report the Investigating Officer's report to a Sub-Committee of the Standards Committee which will conduct a local hearing before deciding whether the member has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the member. The local hearing will normally take place within six weeks of the decision to proceed to a local hearing being made.

The Monitoring Officer will conduct a "pre-hearing process", requiring the member to give his/her response to the Investigating Officer's report, in order to identify what is likely to be agreed and what is likely to be in contention at the hearing, and the Chair of the Sub-Committee of the Standards Committee may issue directions as to the manner in which the hearing will be conducted. If the matter to be heard is particularly complex, consideration may be given, by the Monitoring Officer and the Chair of the Committee, to have the hearing in front of the full Standards Committee rather than a sub-committee.

At the hearing, the Investigating Officer will present his/her report, call such witnesses as he/she considers necessary and make representations to substantiate his/her conclusion that the member has failed to comply with the Member Code of Conduct. For this purpose, the Investigating Officer may ask you as the complainant to attend and give evidence to the Sub Committee. The member will then have an opportunity to give his/her evidence, to call witnesses and to make representations to the Sub Committee as to why he/she considers that he/she did not fail to comply with the Member Code of Conduct.

If the Sub-Committee, with the benefit of any advice from the Independent Person, conclude that the member did not fail to comply with the Member Code of Conduct, they may dismiss the complaint. If the Sub-Committee concludes that the member did fail to comply with the Code of Conduct, the Chair will inform the member of this finding and the Sub-Committee will then consider what action, if any, the Sub-Committee should take as a result of the member's failure to comply with the Code of Conduct.

In doing this, the Sub-Committee will give the member an opportunity to make representations to the Sub-Committee and will consult the Independent Person.

9 What action can the Sub Committee of the Standards Committee take where a member has failed to comply with the Member Code of Conduct?

The Council has delegated to the Standards Committee such of its powers to take action in respect of individual members as may be necessary to promote and maintain high standards of conduct. Accordingly a Sub-Committee, on behalf of the Standards Committee, will publish the breach of the code of conduct and the sanction imposed on the member's profile on the Council's website for a period of time to be determined by the Sub Committee, which is to be no less than the time required for compliance with any sanction. If a member fails to comply with a sanction in the timescale set, the information will remain on the profile until compliance is achieved. The Sub Committee will also report its findings to Council for information.

The Standards Committee may –

- 9.1 Recommend to the member's Group Leader (or in the case of ungrouped members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
- 9.2 Recommend to the Leader of the Council that the member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
- 9.3 Instruct the Monitoring Officer to arrange training for the member;
- 9.4 Recommend to Council to remove from all outside appointments to which he/she has been appointed or nominated by the authority;
- 9.5 Withdraw facilities provided to the member by the Council, such as a computer, website and/or email and Internet access;
- 9.6 Exclude the member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.

Take such steps as appropriate, reasonable and proportionate to the particular conduct that amounted to the breach of the code of conduct.

The Standards Committee has no power to suspend or disqualify the member or to withdraw members' or special responsibility allowances.

10 What happens at the end of the hearing?

At the end of the hearing, the Chair will state the decision of the Sub-Committee as to whether the member failed to comply with the Member Code of Conduct and as to any actions which the Sub-Committee resolves to take.

As soon as reasonably practicable thereafter, the Monitoring Officer shall prepare a formal decision notice in consultation with the Chair of the Sub-Committee, and send a copy to you, to the member and make that decision notice available for public inspection and report the decision to the next convenient meeting of the Council.

If the member complies with the sanction imposed by the Standards Committee, within the timescale set, the Monitoring Officer will report the matter to the Standards Committee for information. If the member fails to comply with the sanction within the timescale set, the matter will be referred to the Standards Committee and Full Council for information.

11 Who are the Standards Committee?

The Standards Committee is appointed each year by the Council. Details of the current membership of the Committee can be found on the Council's web site on the Committee Management Information System.

The Independent Person(s) is/are invited to attend all meetings of the Standards Committee and his/her/their views are sought and taken into consideration before a Sub Committee of the Standards Committee takes any decision on consideration of an investigation report on whether the member's conduct constitutes a failure to comply with the Member Code of Conduct and as to any action to be taken following a finding of failure to comply with the Member Code of Conduct.

12 Who is the Independent Person?

The Independent Person is a person who has applied for the post following advertisement of a vacancy for the post, and is appointed by a positive vote from a majority of all the members of Council.

A person cannot be “independent” if he/she –

- 12.1 Is, or has been within the past 5 years, a member, co-opted member or officer of the authority;
- 12.2 Is a relative, or close friend, of a person within paragraph 11.1 above. For this purpose, “relative” means –
 - 12.2.1 Spouse or civil partner;
 - 12.2.2 Living with the other person as husband and wife or as if they were civil partners;
 - 12.2.3 Grandparent of the other person;
 - 12.2.4 A lineal descendent of a grandparent of the other person;
 - 12.2.5 A parent, sibling or child of a person within paragraphs 11.2.1 or 11.2.2;
 - 12.2.6 A spouse or civil partner of a person within paragraphs 11.2.3, 11.2.4 or 11.2.5; or
 - 12.2.7 Living with a person within paragraphs 11.2.3, 11.2.4 or 11.2.5 as husband and wife or as if they were civil partners.

13 Publication of Standards Investigations

The Council acknowledges that there is a need to balance the public interest in transparency of these types of matters with the requirement of fairness to a member who is subject to an allegation.

The contents of the initial assessment of a complaint and the investigation will remain confidential.

When a matter progresses to a local hearing before a Sub Committee of the Standards Committee, the hearing will be in public, unless there is a particular reason for the information that will be disclosed during it, to be exempt. The Monitoring Officer will make this decision prior to the hearing in consultation with the Independent Persons and the Chair of the Committee. Each case will be determined on its own merits.

In making this decision, particular consideration will be given to the necessity of transparency, the requirements of witnesses, any Data Protection issues that may become relevant and schedule 12A of the Local Government Act 1972 which outlines what exempt information is.

Consideration will also be given to the disclosure of the papers prior to and or after the hearing and whether any redactions of the papers need to be made.

14 Access to Information during an Investigation

During an investigation and any subsequent hearing, it is important to ensure that information and evidence that has been gathered, is kept confidential in order to protect the integrity of the process. With that in mind, the access to certain information will be restricted.

13.1 Subject Access Requests

The Data Protection Act 1998 entitles individuals (both members of the public and employees) to access personal data held about them by Sandwell Metropolitan Borough Council. These requests are referred to as Subject Access Requests.

There are certain circumstances where the Council can legitimately withhold personal information, if one of the exemptions within the Data Protection Act applies. Information which has been obtained during an investigation under these arrangements is likely to be exempt, under the Act, as it is likely that disclosure would prejudice the prevention and detection of crime and/or prejudice certain regulatory functions. Therefore, if a Subject Access Request is made during an investigation, relating to information relevant to the investigation, it is unlikely that it will be granted. The final decision will be made by the Monitoring Officer in consultation with the Information Management Unit of the Council.

13.2 Freedom of Information Requests

The Freedom of Information Act 2000 places a statutory requirement on Sandwell Metropolitan Borough Council to provide information to the public. Any individual has a right to request information held by the Council, regardless of where they reside. This right also extends to employees, pressure groups, businesses, politicians and members of the press.

There are certain circumstances where information is exempt from disclosure. Information which has been obtained during an investigation under these arrangements is likely to be exempt as it is likely that the information is being held for the purposes of a criminal investigation; is or has been held for criminal proceedings conducted by a public authority; or was obtained or recorded for various investigative functions and relates to the obtaining of information from confidential sources.

The information described is exempt only where the public authority has a duty, or the power, to carry out investigations. The Council does have a duty and/or power to carry out an investigation in accordance with the Localism Act 2011, therefore, if a Freedom of Information Request is made during an investigation, relating to information relevant to the investigation, it is unlikely that it will be granted. The final decision will be made by the Monitoring Officer in consultation with the Information Management Unit of the Council.

15 Revision of these arrangements

The Council may by resolution agree to amend these arrangements, and has delegated to the Chair of the Standards Committee in consultation with the Monitoring Officer and/or Independent Person as appropriate the right to depart from these arrangements (as far as they relate to the business of a Sub Committee of the Standards Committee) where he/she considers that it is expedient to do so in order to secure the effective and fair consideration of any matter.

16 Appeals

There is no right of appeal for you as complainant against a decision of a Sub Committee of the Standards Committee.

If you feel that the authority has failed to deal with your complaint properly, you may seek independent legal advice or contact the Local Government Ombudsman.

COMPLAINT FORM

Allegation of Breach(es) of Code of Conduct for Members

(Please read the 'INFORMATION FOR POTENTIAL COMPLAINANTS' before completing this Form).

Your details

1. Please provide us with your name and contact details. Anonymous complaints may be investigated if they indicate a potentially exceptionally serious or significant matter and the complaint is accompanied by sufficient documentary or other supportive evidence. The Council's policy on anonymous member complaints is set out in the Initial Assessment of Standards Complaints Assessment and Review Criteria which is available from the Monitoring Officer

Title:	
First name:	
Last name:	
Address:	
Contact telephone:	
Email address:	
Signature:	
Date of complaint:	

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

The following people will see this Form:

- Members of the Assessment Sub-Committee
- The Monitoring Officer of the authority and appropriate officers supporting the Monitoring Officer.

A summary of your complaint may also be shared, by the relevant Assessment Sub-Committee or the Monitoring Officer, on the Sub-Committee's behalf, with the Member(s) you are complaining against. If you have serious concerns about your name and a summary, or details of your complaint being released, please complete **Section 6** of this Form and you may also discuss your reasons or concerns with the Council's Monitoring Officer.

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

- A member of the public
- An elected or co-opted Member of the Council
- An independent member of the Standards Committee
- A Member of Parliament
- Chief Executive or other Council employee, contractor or agent of the Council.
- A Monitoring Officer
- Other ()

3. Equality Monitoring Form - Please complete the Form attached at the back.

4. Please provide us with the name of the Member(s) you believe have breached the Code of Conduct for Members of the Council:

Title	First name	Last name

5. Please explain in this section (or on separate sheets) what the Member is alleged to have done that you believe breaches the Code of Conduct. If you are complaining about more than one Member you should clearly explain what each individual person has done that you believe breaches the Code of Conduct. You should also supply dates, documentary evidence and details of any witnesses that you believe would substantiate the alleged breach(es).

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

- You should be specific, wherever possible, about exactly what you are alleging the Member said or did. For instance, instead of writing that the member insulted you, you should state what it was they said or did to insult you.
- You should provide the dates of the alleged incidents wherever possible. If you cannot provide exact dates it is important to give a general timeframe.
- You should confirm whether there are any witnesses to the alleged conduct and provide their names and contact details if possible.

- You should provide any relevant background information or other relevant documentary evidence to support your allegation(s).
- If your allegation(s) relate to behaviour or conduct that occurred some time ago clearly explain why your complaint was not made earlier.

Please provide us with the details of your complaint. Please identify, if possible, which part of the Members Code of Conduct you consider has not been complied with.

(Complete on separate sheet(s), as necessary)

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

6. In the interests of fairness and natural justice, we believe Members who are complained about have a right to know who has made the complaint. We also believe they have a right to be provided with a summary of the complaint. We are unlikely to withhold your identity or the details of your complaint unless there are exceptional circumstances that indicate that this should be done (please see Information for Potential Complainants).

Please note that requests for confidentiality or requests for suppression of complaint details will not automatically be granted. The Assessment Sub-Committee will have regard to issues referred to in the flowchart attached as Appendix 2 to the Initial Assessment of Standards Complaints Assessment and Review Criteria. The Monitoring Officer will then contact you with the decision. If your request for confidentiality is not granted, we will usually allow you the option of withdrawing your complaint.

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

Please be aware that there is a Confidential Informant Process for Sandwell Metropolitan Borough Council employees; any member of staff within Sandwell Metropolitan Borough Council can report information anonymously to the Monitoring Officer who may authorise an investigation. The Informant may be interviewed as part of the investigation process, but will not need to reveal that they are the complainant. It will then be for the Investigator to confirm or otherwise the facts of the matter and come to a conclusion. Please see a copy of the Council's 'arrangements for dealing with standards allegations under the Localism Act 2011' or speak to the Monitoring Officer for full details.

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

7. Please indicate the remedy or remedies you are looking for or hoping to achieve by submitting this complaint.

(Continue on separate sheet(s), as necessary)

7. Please indicate whether you have raised your complaint directly with the member concerned and if so what response you received.

(Continue on separate sheet(s), as necessary)

Additional Information

8. Complaints must be submitted in writing. This includes fax and electronic submissions. Please use this Form to submit your complaint.
9. In line with the requirements of the Disability Discrimination Act 2000, we can make reasonable adjustments to assist you if you have a disability that prevents you from making your complaint in writing. We can also help if English is not your first language.
10. If you need any support in completing this form, please contact the Monitoring Officer as soon as possible.

Once a valid complaint relating to an alleged breach of the Code of Conduct for Members has been received by the Monitoring Officer, it will be presented to a meeting of the Assessment Sub-Committee for consideration and decision. You and the Member against whom the complaint has been made will not be allowed to attend the deliberations of the Sub-Committee as the matter will be considered in private. You will be notified of the decision and any further stages in the process.

**Sandwell Metropolitan Borough Council
Equality Monitoring Form
Information for Monitoring Purposes Only**

Ethnic Classification Categories to be used by Sandwell Metropolitan Borough:-

1. White

- British
- Irish
- Any other White background (please write in)

2. Mixed

- White and Black Caribbean
- White and Black African
- White and Asian
- Any other mixed background (please write in)

3. Asian or Asian British

- Indian
- Sikh
- Pakistani
- Bangladeshi
- Any other Asian background (please write in)

4. Black or Black British

- Caribbean
- African
- Any other Black background (please write in)

5. Other ethnic group

- Chinese
- Yemeni
- Any other (please write in)

Protocol for Dealing with Investigations into Standards Allegations under the Localism Act 2011

1 Context

This protocol is to be used when conducting investigations into standards allegations under the Localism Act 2011. It should be read in conjunction with the 'arrangements' made under the Localism Act 2011.

2 Steps of the investigation

Initial Decision

The Monitoring Officer will review every complaint received and take a decision as to whether it merits formal investigation. This decision will normally be taken within 14 days of receipt of the complaint. The Monitoring Officer must consult with the Independent Person before deciding whether a formal investigation should be undertaken.

The Monitoring Officer will complete a decision notice, which can be found at appendix 1, whether or not a matter is to be investigated, which will outline the reasons for the decision. This will be sent to:

- Complainant
- Member against whom the complaint was made
- Investigator

If the Monitoring Officer decides that the complaint merits investigation, investigators will be appointed.

Investigation Procedure

At the beginning of the investigation an investigation plan will be completed by the investigators overseen by the Monitoring Officer, which can be found at appendix 2. The plan will identify key dates, behavior alleged, the relevant parts of the code of conduct, issues for determination, evidence required/obtained and the witnesses to be interviewed.

When witnesses are interviewed, a statement will be taken from them which they will be able to check and sign. The format for such a statement can be found at appendix 3.

It is likely that the subject member will be interviewed at the end of the investigation; however this will be decided on a case by case basis. The interview will normally be tape recorded, unless the member objects to this. This ensures that there is no ambiguity as to the matters discussed in interview. A template interview plan can be found at appendix 4

The investigation will be reviewed on a weekly basis by the investigators, in consultation with the monitoring officer. The investigation review sheet will be completed on each occasion, which can be found at appendix 5.

If at any point during the investigation, the Investigating Officer forms the opinion that the investigation should cease, he/she will consult with the Monitoring Officer, who may consult the Independent Person and take a decision to stop the investigation at any stage. The Monitoring Officer will complete a Decision Notice to Cease an Investigation, which can be found at appendix 6.

Completion of Investigation

At the end of his/her investigation, the Investigating Officer will produce a draft report and will send copies of that draft report, in confidence, to the Monitoring Officer, the complainant and to the member concerned. At this stage the complainant and the subject member can identify any matter in that draft report which they disagree with or which they consider requires more consideration and will be given a period of 14 days to comment on the draft report.

Having received any comments, the Investigating Officer will assess them and complete a Comments Assessment Form which can be found at appendix 7. Once the Investigating Officer has completed this analysis and made any necessary amendments to the report, the Investigating Officer will send his/her final report to the Monitoring Officer.

Decision Notice of The Monitoring Officer for Dealing with Standards Allegations Under the Localism Act 2011

Reference:

Complainants:

Subject Member:

Person Conducting the Assessment :

Date of Assessment:

Complaint

On [insert date], the Monitoring Officer considered a complaint from [insert name of complainant] concerning the alleged conduct of [insert name of councillor], a member of [insert authority name]. A general summary of the complaint is set out below.

Complaint summary

[Summarise complaint in numbered paragraphs]

Consultation with Independent Person

[Summarise the Independent Person's views in numbered paragraphs]

Official Capacity

The Monitoring Officer has considered whether the conduct alleged occurred when the subject member was acting in his/her official capacity and has at this stage determined that he/she [was] [was not].

Decision

Having consulted and taken into account the views of the Independent Person, the Monitoring Officer decided to [refer the complaint for investigation] [take no further action].

At this stage, the Monitoring Officer is not required to decide if the Code of Conduct has been breached. They are only considering if there is enough information which shows a potential breach of the Code of Conduct that warrants referral for investigation.

The Monitoring Officer considers that the alleged conduct, if proven, may amount to a breach of the following paragraphs of the Code of Conduct. The Monitoring Officer has appointed [insert name] as the Investigating Officer.

Please note that it will be for the Investigating Officer to determine which paragraphs are relevant, during the course of the investigation.

Parameters of Investigation

[Include brief instruction to investigators on the scope of the investigation; possible witnesses, relevant documents, issues to focus on and timescales]

Notification of decision

This decision notice is sent to the:

- Complainant
- Member against whom the complaint was made
- Investigator

What happens now?

The complaint will now be investigated under the Borough Council's Arrangements for Dealing with Code of Conduct Complaints under the Localism Act 2011.

Appeal

There is no right of appeal against the Monitoring Officer's decision.

Signed:

Date:

Print name:

Monitoring Officer of Sandwell Metropolitan Borough Council.

The Monitoring Officer

Governance Services
Sandwell Metropolitan Borough Council
Oldbury Council House
Freeth Street
Oldbury
B69 3DE

**Investigation Plan
For Dealing with Standards Allegations Under the Localism Act 2011**

Case No:

Date received by monitoring officer:	
Date referred to investigator:	

Subject member:		Complainant:	
Authority:		Investigator:	

Target for monitoring officer's receipt of draft report

Date due:	
Explanation:	

Target for issue of draft report

Date due:	
Explanation:	

Target for issue of final report

Date due:	
Explanation:	

Case analysis

Behaviour alleged	
Relevant Code paragraphs	
Issues for determination	
Evidence required	
Evidence obtained	

Possible witnesses

Name of Witness	
Issue they may address	
Date of interview	

Possible witnesses

Name of Witness	
Issue they may address	
Date of interview	

Possible witnesses

Name of Witness	
Issue they may address	
Date of interview	

Other Matters

Identify any thoughts/lines of inquiry not outlined in the table and also highlight any problems in the referral process.

Completed by:

Date:

APPENDIX 3

Statement of

Interview Date:		Place of Interview:	
People Present:			

This statement consisting of ... page is true to the best of my knowledge and belief.

I understand that I may be required to give evidence should a hearing be held. I also understand that this statement may be used in all procedures related to this matter and other connected matters. I am aware that a copy of this statement may be disclosed to others as part of these and related proceedings.

I am the above named person and understand that I have been asked to provide this statement in relation to allegations made against

I have been asked about the allegation that

Signed.....

Dated

Interview Plan
For Dealing with Standards Allegations Under the Localism Act 2011

Case No:

Interviewee:	
---------------------	--

Subject member:		Interviewer:	
Authority:		Date:	

Nature of complaint

Purpose of interview

Facts already established (which relate to purpose of interview)

[Empty green box for recording facts already established]

Facts to be established (which relate to purpose of interview)

[Empty green box for recording facts to be established]

Record of disclosure to witness before interview

[Empty green box for recording record of disclosure to witness before interview]

Planned disclosure to witness during interview

[Empty green box for recording planned disclosure to witness during interview]

Areas to be covered in interview	Key questions

**Investigation Plan Review Sheet
For Dealing with Standards Allegations Under the Localism Act 2011**

Case No:

Date:	
Investigator:	

Subject member:		Complainant:	
------------------------	--	---------------------	--

Reason for Review

<input type="checkbox"/>	New allegation
<input type="checkbox"/>	Additional witnesses / evidence required
<input type="checkbox"/>	Periodic Review

Details relating to above

Review of Targets

Revised draft report target:	
Revised date of final report target:	

Reasons for revisions



Completed by:

Date:

Decision Notice of The Monitoring Officer for Dealing with Standards Allegations Under the Localism Act 2011 to Cease an Investigation

Reference:

Complainants:

Subject Member:

Person Conducting the Assessment:

Date of Assessment:

Complaint

On [insert date], the Monitoring Officer considered a complaint from [insert name of complainant] concerning the alleged conduct of [insert name of councillor], a member of [insert authority name]. A general summary of the complaint is set out below.

Complaint summary

[Summarise complaint in numbered paragraphs]

Original Decision

Having consulted and taken into account the views of the Independent Person, the Monitoring Officer decided to refer the complaint for investigation on the [insert date].

Investigation Summary

The investigation began on the [insert date]. To date, the investigation has revealed that [insert brief description of what has happened in the investigation so far].

Decision to Cease Investigation

Having consulted and taken into account the views of the Independent Person, the Monitoring Officer decided to cease the investigation. The reasons for this decision are as follows [insert reasons].

Consultation with Independent Person

[Summarise the Independent Person's views in numbered paragraphs]

Notification of decision

This decision notice is sent to the:

- Complainant
- Member against whom the complaint was made
- Investigator

Appeal

There is no right of appeal against the Monitoring Officer's decision.

Signed:

Date:

Print name:

Monitoring Officer of Sandwell Metropolitan Borough Council.

The Monitoring Officer

Governance Services

Sandwell Metropolitan Borough Council

Oldbury Council House

Freeth Street

Oldbury

B69 3DE

**Comments Assessment Matrix
For Dealing with Standards Allegations Under the Localism Act 2011**

Case No:

Date:	
Investigator:	

Subject member:		Complainant:	
------------------------	--	---------------------	--

Comments Made by:	
Date Received:	

Comment Received	Response	Amendment Necessary?

Executive Summary

1. Almost all products, services and activities in the United Kingdom are regulated in one way or another. From the environment to finance, education to healthcare, and transport to energy, regulation plays a key role in public life and impacts significantly on markets, services and professional careers. Regulation contributes to a thriving, safe and fair society.
2. Given the distinctive and powerful role which bodies performing a regulatory function play in public life, the Committee undertook a review of the extent to which they uphold the Seven Principles. This Review is not intended as a commentary on the need or otherwise for regulation, or its effectiveness in particular situations. These are important issues which receive substantial, and sometimes controversial, attention elsewhere. The review does, however, reflect our fundamental belief that a regulatory body should conduct itself in ways which are – and are seen to be – ethically acceptable. This is an important aspect of its overall effectiveness.
3. We undertook the review by surveying a range of regulators, conducting interviews with selected bodies, holding roundtables with academics, regulators and stakeholders, and commissioning four pieces of academic research. We owe our thanks to all those who gave their time so generously.
4. The Committee has been struck by the complexity and disparity of the regulatory landscape, driven by historical and political contexts. Regulators comprise a patchwork of large and small bodies across sectors. They also have a variety of statutory powers, functions, governance and staffing arrangements, as well as standards of practice. Although we do not directly consider self-regulatory regimes as part of this review, much of the best practice identified here will be applicable to those regulators.
5. The commonality they share though is the need to maintain their integrity through independence – both from government and those they regulate – avoiding undue influence and ensuring the decisions they make are fair, well-reasoned and evidence-based. It is a complex space to negotiate and a difficult path to tread.
6. In light of the result of the June 2016 referendum in which the British people voted to leave the European Union (EU), the UK's regulatory landscape is likely to be substantially restructured in the coming years. Given the importance of supranational legislation for the UK's regulatory environment, domestic regulatory bodies are likely to become all the more important as the UK withdraws from the EU's legal framework. In this context, the Committee believes that maintaining the highest ethical standards within regulatory bodies continues to be of the utmost importance.
7. This review was intended as a 'health check' of an important and distinctive slice of public life which the Committee has not previously examined in detail. It was not prompted by any particular trigger event. During the course of the review, however, we came across variances in ethical standards which cause us some concern. Recognising the breadth and range of regulatory bodies, we do not envisage a 'one size fits all' approach. But across all regulators, we believe strongly that the adoption of good practice identified by the Committee would enhance ethical standards of regulators which, in turn, would have a significant impact on regulatory effectiveness.
8. The Committee has grouped this best practice into six key areas, so that all regulatory bodies can check the approach of their own organisation to the ethical standards they should be upholding. We believe that, as far as possible, these can be achieved without the need for statutory changes.

Our Recommendations for Best Practice

Governance

9. Leadership in ethical standards is determined, in part, by the governance arrangements of the regulatory body. These governance arrangements are critical in helping to set an ethical tone. Regulators' governance should promote collective decision making to help the organisation exercise fair and balanced judgement. The Committee's review has shown that the upholding of the Seven Principles of Public Life in regulatory bodies is dependent on the organisation's leadership, and their efforts to prioritise and promote these standards.
10. Regulatory boards need to recognise the importance of maintaining the highest behavioural standards and to encourage the same behaviour by their staff, so as to promote trust from the public, those they regulate and the government. Boards should therefore have processes in place to ensure that high standards of ethical behaviour run throughout the body.

Best Practice: The board is responsible for providing leadership and setting standards on ethical behaviour within the organisation. The board should seek regular evidence-based assurance that the highest ethical standards are being upheld.

11. Governance structures should ensure that power is not overly concentrated in one individual. This can help mitigate the risks that individuals might act for private gain or pursue their own agenda in regulation.
12. Non-executive or lay board members provide an important external perspective, bringing independent judgement and a challenge function, which is vital when the organisation experiences inappropriate pressure from the government or from those being regulated.

Best Practice: Non-executive and lay members of boards – whether statutory or advisory – have an important role to play in ensuring that the regulatory body is beyond reproach in following the Principles of Public Life. All board members have a responsibility to ensure that adequate discussion of issues occurs before decisions are made.

Best Practice: Corporate governance arrangements should minimise the risk of conflicts of interest and individuals acting for private gain.

13. On-going scrutiny of standards of behaviour in organisations – including openness and transparency – is key to ensuring that regulatory bodies are able to manage ethical challenges. Yet, the Committee has found that publicly-accessible registers of meetings, conflicts of interest and gifts and hospitality are not always maintained by regulatory bodies. In some instances these records are published in formats which prevent the public from easily holding the regulator to account. It is the responsibility of accounting officers or their equivalent to ensure that ethical practices are upheld throughout the organisation.

Best Practice: Compliance with ethical standards of conduct should be confirmed in the published annual certification by accounting officers. Regular, published information should include up-to-date registers of meetings, conflicts of interest and gifts and hospitality. These should be publicly accessible.

Codes of Conduct

14. The Committee welcomes the evidence that codes of conduct setting out standards of expected behaviour are widespread across regulatory bodies. However, the extent to which these codes are embedded in the day-to-day practice of the regulators was varied and of uneven quality, sometimes within the same organisation. The Committee saw evidence of cases where staff working alongside each other, with the same access to highly sensitive information, were not covered by the same code of conduct.
15. The Committee is concerned about this inconsistency and the apparent lack of clarity and knowledge within some regulatory bodies about application of their code(s) of conduct to their staff and non-executive members. It is reasonable to expect that a code of conduct should cover all personnel.

Best Practice: At least one code of conduct should cover all personnel. This includes executive and non-executive board members, employees, secondees, consultants, and contractors.

Best Practice: A regulatory body's code of conduct should be at least equivalent to the Civil Service Code, and reflect the ethical risks faced by the regulatory body.

16. For a code of conduct to have an impact on individuals' behaviour, it is essential that the standards established in the code are embedded within the culture and processes of the organisation.

Best Practice: The standards established in the code of conduct should be evident in the recruitment and appraisal processes of the organisation. Staff should be made aware of the importance and significance of upholding these standards at their induction and through regular training processes.

Revolving Door

17. Whilst the 'revolving door' of staff moving between regulatory bodies and the regulated entities or profession can bring benefits in terms of technical knowledge to the regulator and promote compliance within the regulated entities, it brings its own risks. Neither the appointment of individuals from the regulated sector, nor their movement to it, need be problematic. But, if not properly managed with adequate safeguards, the revolving door can be a serious threat to the regulator's essential integrity and independence.
18. This is not only true for board members and senior executives, but also for operational staff at lower levels of the organisation who may have more detailed knowledge about competitors' confidential information or regulatory intentions than those at the top. In order to ensure that these moves are conducted with integrity, and to promote trust in the regulatory body, regulators should be clear to their staff when they join the organisation about the post-employment procedures for all board members and key staff.
19. A mixed picture has emerged in the policies and procedures for managing the propriety issues around movement of personnel. Of the regulators we surveyed, under a third had policies on managing the movement of staff to those they regulate. Even fewer had policies on the recruitment of staff from the organisation or profession they regulate. The Committee is concerned that, where these moves remain unmanaged, regulatory independence is under threat.

Best Practice: Policies and procedures should be in place to manage 'revolving door' situations where individuals come from, or go to, the regulated sector. These should apply to all individuals at any level of the organisation.

Best Practice: Where board members and staff are recruited from the regulated sector, relevant safeguards should be considered, such as isolation from the regulation of recent employers or exclusion from key meetings.

Best Practice: At every board meeting, members should be asked to declare any actual or potential conflict of interest and these should be publicly recorded. Where the board agrees that a conflict is inappropriate, the member should be recused from both the discussion and decision making.

Best Practice: The process for departing board members and senior executives should be in line with arrangements for ministers and senior civil servants as determined by the Advisory Committee on Business Appointments. In order to ensure that such moves are conducted with integrity, and to promote trust in the regulatory body, regulators should be entirely transparent about post-employment destinations and restrictions.

Best Practice: Additional safeguards should be considered for anyone who leaves the regulatory body. These include explicit prohibitions on disclosing confidential information, restrictions on contact with the regulator, and gardening leave requirements.

Best Practice: All individuals taking up positions subject to pre- and post-employment rules should be made aware of them at their appointment.

20. In the regulatory world, non-executive and lay board members are likely to hold a portfolio of positions which may lead to conflicts of interest between the activities of the regulator and those of regulated entities; these portfolios could compromise the independent judgement of non-executive and lay board members.

Best Practice: Particular care should be taken where non-executive board members have a live, concurrent post which could give rise to conflicts of interest. Any conflict of interest for non-executives should be established at the start of the selection process and actively managed to ensure there are no material factors impeding independence of judgement.

Independence

21. The Committee recognises the immense challenges that regulators face in striking the balance between competing pressures from the government and regulated sector.
22. On the one hand, visible independence is vital to ensure that there is neither short-term political interference nor any sort of bias or favouritism towards or against particular players. This freedom of action is needed to reassure investors, competitors, consumers, and employees. A number of regulatory leaders told the Committee that the imperatives of independence are now less well-understood, and given less weight, than during the major privatisation exercises of the 1980s and 1990s.
23. On the other hand, the Committee recognises that there is a spectrum of independence. There cannot be total independence from government, especially where ministers make appointments, provide funding and have made clear their own priorities. Absolute independence can also lead to regulators operating in a vacuum, isolated from the opinions and actions of those they regulate or those they protect.
24. The government has a legitimate, democratic interest in the strategic direction of a regulatory body and in its efficiency and overall effectiveness. However, governments must not be involved in the operational decisions of regulators as this would influence and undermine their judgement and their authority. Clarity and transparency about the interaction between regulatory bodies and the government can go a long way to allay fears of misplaced interference.

Best Practice: The operational independence of regulators must be upheld. Ministerial guidance on operational aspects may be transparently considered, but should not be treated as binding, unless there are statutory provisions for such guidance.

Best Practice: Any ministerial guidance to a regulatory body on its strategic direction should be published online by the regulator.

25. Ministerial appointments may have a material impact on the strategic direction and independence of the regulatory body. It is essential therefore that appointments to regulatory bodies follow proper process.

Recommendation: Ministerial appointments must be made, in a timely and transparent manner, on merit, without patronage and with proper regard to the needs of the organisation.

Recommendation: Unless expressly authorised in the statutory foundation of the regulator, ministers should not have the power to hire or fire the Chief Executive or any other operational staff.

26. While some significant ministerial appointments are subject to pre-appointment scrutiny hearings with relevant select committees, others are not. The Committee views these hearings as an important mechanism to check the suitability of the preferred candidate and ensure that there has been propriety in the appointment process. However, there is lack of clarity over which positions or bodies are subject to scrutiny and which are not.

Recommendation: Each government department should publish a list of the appointments that are subject to pre-appointment scrutiny hearings, and the justification for those decisions.

27. Regulators should actively engage with the regulated sector or profession to build knowledge and expertise about their environment, activities, plans, concerns and to promote compliance. They also need to be alive to the risks of being improperly influenced by partial information or lobbying from the sector as a whole or from particular organisations or individuals.

Best Practice: While constructively engaging with the regulated sector, regulators should guard against the dangers of 'regulatory capture'. Regulators should seek to ensure that staff at all levels are clearly aware of conflicts of interest and are explicitly advised about the risks of bias in decision making.

28. Regulators may seek to diversify their income streams. However, some funding arrangements have the potential to compromise a regulator's independence by enabling undue influence from those who fund regulation and increase the risk of decisions being based on financial, rather than impartial judgement. Risk-based selection can help to ensure that regulators are not 'leant on' by ministers or other political influences, but remain neutral when selecting targets for regulation.

Best Practice: Regulators should regularly publish full and accessible information on their sources of funding and, specifically, any restrictions proposed by those who provide their funding. Regulatory bodies should demonstrate that funding mechanisms do not have an impact on their independence and integrity.

Transparency

29. Regulators should exercise their judgement in balancing the demands of their role and protecting sensitive information whilst also seeking to be as transparent as possible by not withholding information from the public. This can be managed through publishing publicly-accessible transparency data on the functioning of the regulator, and ensuring that any pertinent information on regulated entities is published once it is no longer sensitive.

Best Practice: Regulators should publish and update their corporate governance documents. These should include minutes of meetings, registers of interests, annual reports, their rules and guidance and their decision making processes.

Best Practice: Any body with regulatory functions not designated a 'public authority' under the Freedom of Information Act 2000, should have a publication scheme in line with the best practice established by the Information Commissioner's Office.

External Leadership

30. Although the focus of the Committee's review has been on standards of conduct within regulatory bodies, regulators are well placed to support a wider ethical environment. There has been much comment in recent years about the damage caused by poor ethical standards in some parts of the commercial world. The unique influence possessed by regulatory bodies gives rise to a leadership opportunity, and responsibility, to promote ethical standards, especially in terms of positive approaches to compliance. There is growing evidence that regulatory effectiveness is maximised by a collaborative approach that actively promotes compliance as enlightened self-interest rather than a reliance upon deterrence and punishment.

Best Practice: Regulators should actively engage with those they regulate and take a leadership role by encouraging positive attitudes towards compliance.

Recommendation: Such promotion of an ethical approach to compliance would be supported by a suitable amendment to the Regulators' Code.

Conclusion

31. Overall, the Committee has been reassured by the level of awareness and consideration of ethical issues by the regulators we reviewed. We found that they generally do understand the importance of supporting and maintaining ethical standards and have succeeded in establishing acceptable standards in their organisations. However, practice varies, and we did come across examples of *ad hoc* or retrospective action to deal with issues as they emerged. Whilst welcoming good practice, we would warn against complacency.