

Sandwell Metropolitan Borough Council

4 April 2017

Annual Report of the Standards Committee 2016/17

1. Summary Statement

- 1.1 The Council has established a Standards Committee to promote and maintain high standards of conduct and ethical governance by members and co-opted members of the Council.
- 1.2 The Committee is required to submit an annual report to Council detailing the work undertaken throughout the year.

2. Recommendation

- 2.1 That the Standards Committee Annual Report for 2016/17 be received.

Darren Carter
Interim Director - Resources

Contact Officer
Trisha Newton
Principal Democratic Services Officer
0121 569 3193

3. Strategic Resource Implications

- 3.1 There are no strategic resource implications arising from this report.

4. Legal and Statutory Implications

- 4.1 The Localism Act 2011 removed the requirement for a national code of conduct and statutory standards committees. The Act places a general obligation on the Council to promote and maintain high standards of member conduct.

5. Implications for Council's Scorecard Priorities

- 5.1 Through its work in promoting high standards of conduct, the Committee makes a positive contribution to the quality of governance of the authority, which supports the Council's scorecard priority of Great Performance.

6. Background Details

- 6.1 The Standards Committee Annual Report 2016/17 is attached.



Sandwell
Metropolitan Borough Council

Annual Report of the Standards Committee 2016-17

Foreword – Chair of the Standards Committee

I am pleased to present the Annual Report of the Standards Committee.

This year the Committee has strengthened the Arrangements for dealing with Standards under the Localism Act 2011 and reviewed the Social Media Policy, the Protocol for Independent Persons and the Member Code of Conduct.

I would take this opportunity to emphasise to all members the importance of attending the standards training that is offered every year. These sessions are essential to your understanding of the Code of Conduct and are also a useful discussion forum for members about ethical issues. This training is mandatory for all members every two years. In particular, members must pay attention to their disclosable pecuniary interests.

I am pleased to say that we have continued the general trend of high standards of member conduct in Sandwell which means that we have not had the need to impose sanctions on any member. We have, however, noted throughout the year serious cases in other authorities where the sanctions available to the Standards Committee under the legislation are not, in our view, sufficient to match the seriousness of the misconduct.

I would like to thank members of the Standards Committee for their attendance and contributions during the past year. I would also like to thank our Independent Persons who have been continued to be supportive and challenging in their role in advising the Monitoring Officer and the Committee. The Monitoring Officer and his officers have provided good support throughout the year.



Councillor Geoff Lewis
Chair of the Standards Committee

1 The Standards Committee

- 1.1 The Localism Act 2011 removed the requirement for a national code of conduct and statutory standards committees, and set out a light touch framework for a new ethical regime. The Act places a general obligation on the Council to promote and maintain high standards of member conduct.
- 1.2 Whilst there is no requirement to have a Standards Committee, standards issues and casework need to be dealt with due to the statutory obligation for a council to promote high ethical standards. The Council decided to retain a Standards Committee in 2016/17.
- 1.3 The main functions of the Standards Committee are to: -
 - (a) promote and maintain high standards of conduct and ethical governance by members and co-opted members of the Council;
 - (b) assist members and co-opted members of the Council to observe the Council's Code of Conduct;
 - (c) advise the Council on the adoption or revision of a Code of Conduct for members and co-opted members;
 - (d) monitor the operation of the Council's Code of Conduct for members and co-opted members;
 - (e) advise, train or arrange for training for members and co-opted members of the Council on matters relating to the Council's Code of Conduct.
- 1.4 The Committee also has a number of sub-committees which form part of the arrangements for dealing with complaints about breaches of the Member Code of Conduct. These sub-committees may consider investigation reports referred to them by the Monitoring Officer; conduct hearings; at the request of the complainant, review decisions of the Monitoring Officer to take no action on a complaint; and at the request of a member who is the subject of a complaint, review findings of failure to comply with the Code of Conduct and action taken in respect thereof.

Annual Report of the Standards Committee 2016-17

These sub-committees operate according to the principles of natural justice and human rights legislation and ensure that both the complainant and the subject member receive a fair hearing.

2. Members

2.1 The membership of the Standards Committee in 2016/17 was as follows:-

Chair

Councillor Lewis

Vice Chair

Councillor S Crumpton

Elected Members

Councillor Edwards

Councillor E M Giles

Councillor Sandars

Councillor Shackleton

Councillor Trow

Councillor Worsey

2.2 The inclusion of experience from all areas of the decision making process gives the Committee a broad base of experience from which to make rounded decisions on ethical matters.

2.3 The Council's Constitution also includes role descriptions for the Chair of the Standards Committee and for its members, which are attached to this report as Appendix 1. The role descriptions emphasise the impartial and non-political nature of the conduct of the Standards Committee.

Independent Person(s)

2.4 Section 28(7) of the Localism Act 2011 requires local authorities to appoint at least one Independent Person to advise the Council before it makes a decision on an allegation. The Independent Person also advises a Member facing an allegation who has sought the views of that person. There are restrictions on who can be appointed as the Independent Person, in general the Independent Person cannot be a councillor, officer or their relative or close friend.

2.5 The Act gives discretion to appoint one or more Independent Persons, but provides that each Independent Person must be consulted before any decision is taken on a complaint which has been investigated.

- 2.6 The Council, at its meeting on 19 July 2016, approved the appointment of Mr F Bell and Mr R Tomkinson to act as Independent Persons in pursuance of Section 28(7) of the Localism Act 2011 for a two-year term of office expiring on 31 July, 2018. At that meeting, the Council also delegated authority to the Standards Committee to appoint independent members to serve on the Committee as and when a vacancy occurred between annual meetings of the Council. In July, 2016 Julie Williams was appointed to act as Independent Person in pursuance of Section 28(7) of the Localism Act 2011 for a two-year term of office expiring 31 July, 2018 with the appointment being confirmed by Standards Committee at its meeting on 29 July, 2016 and endorsed by full Council at its meeting on 18 October, 2016.
- 2.7 The remit of independent persons has been extended by The Local Authorities (Standing Orders)(England)(Amendment) Regulations 2015 in relation to changes to statutory dismissal procedures for heads of paid service, monitoring officers and chief finance officers. In the case of a proposed disciplinary action against one of the statutory officers, the council is required to invite independent persons who have been appointed for the purposes of the members' conduct regime under section 28(7) of the Localism Act 2011 to form an independent panel.
- 2.9 The Independent Persons are invited to attend all meetings of the Standards Committee as observers.

Officer Support to the Committee

- 2.10 The Monitoring Officer is one of the Council's statutory officers, appointed under Section 5(1) of the Local Government and Housing Act, 1989. The Monitoring Officer is responsible for ensuring that the Council and its members act lawfully; do not cause maladministration; and comply with the Code of Conduct for Members. He is the primary source of advice for members on the requirements of the Code of Conduct and also has specific statutory duties such as securing the investigation of complaints of member misconduct.

The Monitoring Officer is also the principal adviser to the Standards Committee and its sub-committees and is assisted by the Deputy Monitoring Officer. More information about the role of the Monitoring Officer can be found in Article 12 of the Council's Constitution.

3. Business

3.1 During 2016/17, the Standards Committee met on five occasions and considered the following matters:

- Allegations Updates;
- Case summaries;
- Publication of Information;
- Appointment of Standards Sub-Committees for 2016/17;
- Appointment of Independent Persons;
- Annual review of Members' Gift and Hospitality;
- Social Media Policy Review;
- Committee on Standards in Public Life Annual Report 2015/16;
- Annual Review – Members' Register of Interests;
- Review of Arrangements for Dealing with Standards under the Localism Act 2011 and accompanying complaint form;
- Review of Protocol for Independent Members;
- Committee on Standards in Public Life – Striking the Balance – Upholding the Seven Principles in Regulation;
- Review of Member Code of Conduct.

4. Commentary on the Work of the Committee

Social Media Policy

- 4.1 The increase in the use of social media by the public and members has created a new medium of communication. Although this is advantageous as it allows members to communicate efficiently and cost effectively to a wider range of audiences care has to be taken to ensure that members do not breach the Code of Conduct through statements posted on social media.
- 4.2 Following a previous complaint, the Standards Committee requested that a Social Media Policy for members should be prepared to safeguard against potential breaches by outlining conduct through statements which could potentially give rise to the breach. A Policy was prepared and considered by Standards Committee in September 2014.
- 4.3 To ensure that care was taken to ensure that members did not breach the Code of Conduct, the Social Media Policy was reviewed and amended to outline clearly some of the risks of using social media. This is important to ensure that members are aware of the pitfalls of using social media and to ensure that they remain vigilant.

Annual Report of the Standards Committee 2016-17

- 4.4 The Policy has also been amended to include awareness of safeguarding as a responsibility; this is of particular significance given current issues surrounding child sexual exploitation and would bring to members' attention the importance of being aware of this issue when using social media.
- 4.5 In addition, the policy has been amended to include more detail on the issue of what acting in an official capacity means.
- 4.6 The revised Policy was approved by Council on 18 October, 2016.

Committee on Standards in Public Life

- 4.7 The Standards Committee has a duty to promote high ethical standards amongst Members. As well as complying with legislation and guidance, the Standards Committee needs to demonstrate learning from issues arising from local investigations and case law. The Standards Committee is kept informed of any issues arising out of the Annual Report from the Committee on Standards in Public Life as they may also add to learning at the local level.
- 4.8 In September 2016, the Committee on Standards in Public Life published a report entitled 'Striking the Balance Upholding the Seven Principles of Public Life in Regulation'. The report reviews how regulatory bodies in the United Kingdom uphold the Seven Principles of Public Life, also known as the Nolan Principles.

Protocol for Independent Members

- 4.9 The Authority has a statutory duty under the Localism Act 2011 to promote and maintain high standards of conduct by Members. To comply with this duty the Council has to appoint Independent Persons. Recent complaints which have and have not resulted in investigations, and discussions with the current Independent Persons highlighted improvements that could be made to the Protocol for Independent Persons.
- 4.10 The Protocol makes clear the role of the independent persons and their relationship with the authority and others. The protocol should be read in conjunction with the Council's Arrangements for dealing with standards allegations under the Localism Act 2011.

- 4.11 The Protocol sets out the methods by which different parties may consult with the independent persons and the way in which the independent persons are advised to respond. This will ensure a consistent approach. It also sets out the relationship the independent persons will have with the Standards Committee.

5. The Ethical Framework

Members' Code of Conduct

- 5.1 The Council's current Code of Conduct was adopted with effect from 18 October, 2016. It will assist Members and Co-opted Members to meet the provisions of the Localism Act 2011 and is available on the Council's web site.
- 5.2 All candidates for election are issued with a copy of the Code of Conduct on appointment and are required to sign an undertaking to comply with the Code. A similar process takes place when the Code of Conduct is revised. Members also receive induction training and subsequent refresher training on the provisions of the Code and how to carry out their duties in line with the Code. This training is delivered by the Monitoring Officer/Deputy Monitoring Officer. The Monitoring Officer also issues guidance to councillors appointed to outside bodies by the Council to assist them in understanding the impact of the Members' Code of Conduct.
- 5.3 Part 2 of the Members' Code of Conduct requires elected and co-opted members to give written notification to the Monitoring Officer of any disclosable pecuniary interests and other registerable interests to be included in the Council's statutory Register of Interests within 28 days of election or appointment, and to update their declarations as appropriate by notifying any amendments or new interests within 28 days of becoming aware of them.
- 5.4 This register of interest is available for public inspection, and individual members' declarations of interest can be inspected at any time on the Council's web site by accessing the Committee Management Information System. The Register of Interests and Declarations of Interest are periodically reviewed by the Monitoring Officer and are made available for inspection by the Standards Committee on a regular basis.

Annual Report of the Standards Committee 2016-17

- 5.5 Members are also obliged to disclose any interests at meetings where those matters are to be discussed. These declarations are recorded in a register open for public inspection and are also noted on the Committee Management Information System.
- 5.6 The Council has a protocol for members on gifts and hospitality giving additional guidance on the requirement of the Members' Code of Conduct for members to declare gifts and hospitality received with an estimated value of at least £100. These declarations are recorded in a register which is open for public inspection and are also recorded in their individual entries on the Committee Management Information System. The Register of Gifts and Hospitality is periodically reviewed by the Monitoring Officer and is made available for inspection to the Standards Committee on a regular basis.

Arrangements for Dealing with Standards Allegations

- 5.7 The Localism Act 2011 required authorities to adopt arrangements for dealing with complaints about breaches of the Member Code of Conduct. The Council on 3 July, 2012, approved arrangements for Sandwell Council, which include provision for sub-committees of the Standards Committee to consider investigation reports referred to it by the Monitoring Officer; to conduct hearings; at the request of the complainant, to review decisions of the Monitoring Officer to take no action on a complaint; and at the request of the subject member, to review findings of failure to comply with the Code of Conduct and the action taken.
- 5.8 The arrangements for dealing with standards allegations were revised by the Council on 17 January, 2017, as set out in Appendix 2.
- 5.9 The section below gives information on individual complaints dealt with in 2016/17.

Allegations of Misconduct by Members

- 5.10 Under the new ethical framework, all complaints of misconduct come direct to the Monitoring Officer. The Monitoring Officer will review every complaint received and take a decision as to whether it merits formal investigation. Where the Monitoring Officer is unable to resolve the complaint informally and feels it merits formal investigation after consultation with the Independent Person(s), he will appoint an Investigating Officer who will prepare a report concluding whether or not there is evidence of a failure to comply with the Code of Conduct.

Annual Report of the Standards Committee 2016-17

If the Monitoring Officer concludes that there is evidence of a failure to comply with the Code of Conduct, he will either send the matter for local hearing before a sub-committee or, after consulting the Independent Person, seek local resolution. No matters were referred by the Monitoring Officer for investigation after consultation with the Independent Persons.

- 5.11 Seven complaints were received in 2016/17 compared with four complaints in the previous year. The outcomes of these complaints are set out in Appendix 3.

Training and Development

- 5.12 The Standards Committee is responsible for advising, training or arranging for training for members and co-opted members of the Council on matters relating to the Council's Code of Conduct. The Monitoring Officer, his deputy and a senior legal officer deliver relevant training to all members and co-opted members on behalf of the Committee. Training on the Code of Conduct is offered each year to members. Three sessions were offered in 2016/17, in addition to new member induction. Every member either attended these sessions or received one to one guidance from the Monitoring Officer.

- 5.13 The Committee considers summaries of cases of national interest to ensure that it is up to date with how complaints about member misconduct are being dealt with in other authorities around the country, so that members can bring this knowledge to any cases in Sandwell. These national cases have covered the judgements made against one member:-

- where the member had passed on sensitive council information to his son over dinner, breaking a confidentiality agreement;

The Committee considered a case about the importance of the Code of Conduct complaints process remaining confidential.

The Committee also heard a case about two men who had been given prison sentences for offering a bribe to a council worker.

- 5.14 The Standards Committee continues to develop its own skills and expertise, for instance, by looking at case summaries and appropriate refresher training.

6. The Committee's Main Achievements

- 6.1 The Committee ensured that all members have updated their interests in accordance with the revised Code of Conduct and register of interests and received a one to one session with the Monitoring Officer/legal officers.
- 6.2 The Committee reviewed the Arrangements for dealing with Standards under the Localism Act 2011 in response to complaints that had highlighted improvements that could be made to the Arrangements and Complaint Form.

7. Contribution to Scorecard Priorities

- 7.1 Through its work in promoting high standards of conduct, the Committee makes a positive contribution to the quality of governance of the authority, which supports the Council's scorecard priority of 'Great Performance'.

8. Conclusion

- 8.1 The Localism Act 2011 has significantly changed the role of the Standards Committee, which is no longer statutory. However, the Council's decision to continue with a Standards Committee has meant there is a clear focus for the responsibility to promote and maintain high standards of conduct to good practice standards. Its work has helped to shape the new ethical framework and assist the Council in meeting the statutory requirements under the Act.

Role Description - Chair of the Standards Committee

1. To lead the relevant standards function of the Council, ensuring the overall co-ordination and management of the process.
2. To chair meetings of the Standards Committee.
3. To ensure the efficient carrying out of the standards process and keep under review the standards process.
4. To promote high standards of conduct by all elected members.
5. To assist elected members observe the Council's Code of Conduct.
6. To monitor and review the Code of Conduct and arrangement of appropriate training for all elected members to ensure its proper application.
7. To keep yourself and the Committee fully up to date with all relevant legislation and good practice relating to the Standards Committee.
8. To comply with the Council's Code of Conduct or such other code of conduct as the Council may from time to time adopt.
9. To comply with the Member/Officer protocol as set out in the Constitution.
10. To ensure members of the committee abide by the Member/Officer protocol.
11. To ensure that the principles of equality and fairness are integral to all actions and policies of the Council.
12. To take part in training and development programmes to ensure that this role is undertaken as effectively as possible.

Role Description - Member of the Standards Committee

1. To assist the Chairman of the Committee in the discharge of the key duties of that position as set out above.
2. To participate actively and effectively as a member of the Committee and its Sub-Committees.
3. To comply with the Council's Code of Conduct or such other code of conduct as the Council may from time to time adopt.
4. To comply with the Member/Officer protocol as set out in the Constitution.
5. To ensure that the principles of equality and fairness are integral to all actions and policies of the Council.
6. To take part in training and development programmes to ensure that this role is undertaken as effectively as possible.
7. Members need to be mindful that decisions made by the Committee and its Sub Committees should be impartial and without regard to party loyalty. Elected members should not be subject to the party whip.

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.

Annual Report of the Standards Committee 2016-17

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.

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.

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.

2016/17					
Ref	Date	Complainant	Assessment Decision	Review Decision	Sanction following hearing
MC/01/0416	April 16	Member	Complaint Form received. Decision to investigate.		
MC/02/0516	May 16	Member	Complaint Form received. Referral withdrawn.	N/A	N/A
MC/03/05/16	May 2016	Member	Complaint Form received. Decision to take no action.	Complainant does not seek a review.	N/A
MC/04/0516	May 2016	Member	Complaint Form received. Decision to take no action. Review requested.	Review Hearing 19 July 2016. Decision of the Monitoring Officer upheld.	N/A
MC/05/0516	May 2016	Member	Complaint Form received. Decision to take no action. Review requested.	Review Hearing 19 July 2016. Decision of the Monitoring Officer upheld.	N/A
MC/06/0616	June 2016	Member of staff	Complaint Form received. Decision to investigate.		
MC/07/1016	October 2016	Member of the Public	Decision to take no action.	Complainant does not seek a review.	N/A