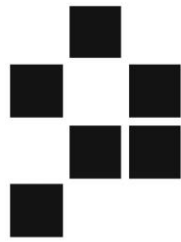


Chairs Announcement

Please note that members of the public and the press are now allowed by law to film, audio record, take photographs, blog or tweet at this meeting. I would ask at this point if anyone is intending to film the meeting? I would ask anyone who is recording to avoid any disruption of the meeting and to avoid filming members of the public. If you do film members of the public there is the potential for civil action against you by anyone who has not given their permission to be filmed.

We are not expecting a fire drill, so in the event of the fire alarm sounding, please leave the building as quickly as possible. The Governance Services Officer will direct you to the appropriate exit and assembly point.



Sandwell
Metropolitan Borough Council

**Ethical Standards and Member
Development Committee**

**Friday, 9 March, 2018 at 2.30 pm
in Committee Room 1 at the Sandwell Council House, Oldbury**

Agenda

(Open to Public and Press)

1. Apologies for absence.
2. Members to declare any interest in matters to be discussed at the meeting.
3. To confirm the minutes of the meeting held on 8 December, 2017, as a correct record.
4. Appointment of Independent Person.
5. Member Development Programme.
6. Annual Report:-
 - Ethical Framework
 - Member Development
 - Standards matters update
 - Consultation on Local Government Ethical Standards by the Committee on Standards in Public Life.
7. National Cases.

J Britton
Chief Executive

Sandwell Council House
Freeth Street
Oldbury
West Midlands

[ILO: UNCLASSIFIED]

Distribution:

Councillor Lewis (Chair)

Councillor S Crumpton (Vice-Chair);

Councillors E M Giles, P Hughes, Sandars, Shackleton, Trow and Underhill.

Mr Tew, Mr Tomkinson and Ms Williams [Independent Persons].

Agenda prepared by Trisha Newton

Democratic Services Unit

Tel No: 0121 569 3193

E-mail: trisha_newton@sandwell.gov.uk

This document is available in large print on request to the above telephone number. The document is also available electronically on the Committee Management Information System which can be accessed from the Council's web site on www.sandwell.gov.uk

Please note that this meeting may be filmed by members of the public and press, and may be filmed by the Council for live or subsequent broadcast on the Council's web site.

Apologies

To receive any apologies from members

Declarations of Interest

Members to declare any interests in matters to be discussed at the meeting.

Minutes of the Ethical Standards and Member Development Committee

**8th December, 2017 at 2.30 pm
at the Sandwell Council House, Oldbury**

Present: Councillor Lewis (Chair);
Councillor S Crumpton (Vice-Chair);
Councillors E M Giles, Shackleton, Trow and
Underhill.

Observer: Ms J Williams (Independent Person).

Apologies: Councillors P Hughes and Sandars;
Mr R Tomkinson (Independent Person).

18/17 Minutes

Resolved that the minutes of the meeting of the Ethical Standards and Member Development Committee, held on 3rd November 2017, be confirmed as a correct record.

19/17 Allegations Update

The Committee received details of complaints received in relation to member conduct and the progress on the complaints as follows:-

Case MC/06/0616 – Councillor Mahboob Hussain

The Councillor had been unable to attend a standards hearing due to medical reasons. A hearing had been arranged for three days, commencing on 8th January 2018.

Case MC/03/0517 – Councillor Ian Jones

This matter was reported to a standards hearing on 1st December 2017. The hearing had been adjourned to enable Councillor I Jones to appoint a legal representative to prepare his case.

Ethical Standards and Member Development Committee
8th December, 2017

Case MC/02/0517 – Hill Top Park

Allegations concerning community events at Hill Top Park and Radcliffe Park and the indication that the Councillor may have included names of Council officers on official documents as organiser of an event without their knowledge and alleged failure of councillor to register interests as Vice Chair of Hill Top Community Development Association and failure to follow appropriate Council procedures in arrangement the event.

The subject Councillors had been unable to attend interviews with the investigator due to medical reasons. Investigation into the allegations was ongoing.

Case MC/05/0717 – Land Sales

Allegations concerning land sales to Councillors when displaced from their homes by a Compulsory Purchase Order. It was also alleged that housing was allocated to family members.

An investigator had been appointed and the investigation was ongoing.

Case MC/07/1017, MC/08/1017 and MC/09/1117

Three complaints, including a self-referral from one Councillor, concerning alleged “Whats App” texts published on a local blog site entitled “In the Public Domain”. These allegations included disclosure of confidential information and inappropriate and disparaging references to individuals.

In accordance with the arrangements for dealing with Code of Conduct Complaints, the Council’s independent person had been consulted and a formal decision on whether to proceed to investigate would be made within the seven to ten days.

Case MC/03/0517 – Sale of Plot of Land

Allegation relating to removal of the sale of a plot of land from an already arranged auction and subsequent sale to a family member.

The matter had not proceeded beyond investigation stage due to insufficient evidence to identify a breach of the Code of Conduct.

The Committee was also advised that two additional complaints had been received and an update would be provided to a future meeting of the Committee.

Ethical Standards and Member Development Committee
8th December, 2017


The Director – Monitoring Officer advised that there would be an annual review of the Code of Conduct and a report would be submitted to the next meeting of the Committee. It was proposed that a working group would be set up to progress the matter.

(Meeting ended at 3.10 pm)

Contact Officer: Trisha Newton Democratic Services Unit 0121 569 3193

Ethical Standards and Member Development Committee

9 March 2018

Subject:	Appointment of Independent Person
Director:	Director - Monitoring Officer - Surjit Tour
Contribution towards Vision 2030:	
Contact Officer(s):	Trisha Newton Principal Democratic Services Officer Trisha_newton@sandwell.gov.uk

DECISION RECOMMENDATIONS

That the Ethical Standards and Member Development Committee:

1. Note the appointment of Mr John Tew to the position of Independent Person for Standards matters for a four year period ending 31 January 2022.

1 PURPOSE OF THE REPORT

- 1.1 In accordance with the Localism Act 2011, arrangements must be put in place for the appointment by the Council of at least one Independent Person whose views must be sought and taken into account by the Council before it makes its decision on an allegation against an elected member that it has decided to investigate.
- 1.2 The Independent Person's views may be sought by a member or co-opted member of the Council if that person's behaviour is the subject of an allegation, and may also be sought by the Council in relation to an allegation it has not yet decided to investigate.

1.3 The Council has decided to have three Independent Persons. Following a resignation, there was a vacancy. The position was advertised and four candidates were interviewed in December 2017 by the Leader of the Council and the Chair and Vice Chair of the Ethical Standards and Member Development Committee.

1.4 Mr John Tew has been offered the position and the appointment was approved by full Council at its meeting on 16 January 2018.

2 IMPLICATIONS FOR SANDWELL'S VISION

2.1 The role of the Independent Person for Standards is advisory and is important in providing assurance to the Council and the public that standards matters are being dealt with effectively, fairly and proportionately.

3 STRATEGIC RESOURCE IMPLICATIONS

3.1 The role of Independent Person/Independent Member is a voluntary position and no annual allowance is paid in respect of this appointment. However, travelling and subsistence expenses are paid at the appropriate rate.

4 LEGAL AND GOVERNANCE CONSIDERATIONS


4.1 Section 27 of the Localism Act 2011 requires authorities to promote and maintain high standards of conduct by their members and co-opted members. The Act requires local authorities to have in place mechanisms to investigate allegations that a member has not complied with their Code of Conduct, and arrangements under which decisions on allegations may be made.

4.2 Section 28(7) requires local authorities to appoint at least one Independent Person to advise the Council before it makes a decision on an allegation that is to be the subject of an investigation. 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, mainly, that the Independent Person cannot be a councillor, officer or their relative or close friend. Public notice has to be given of recruitment for the role.

Surjit Tour
Director – Monitoring Officer

Ethical Standards and Member Development Committee

9 March 2018

Subject:	Member Development Programme - Update
Director:	Director – Monitoring Officer – Surjit Tour
Contribution towards Vision 2030:	
Contact Officer(s):	Suky Suthi-Nagra Suky_suthinagra@sandwell.gov.uk

DECISION RECOMMENDATIONS

That the Committee: -

1. Note the update on the Member Development Programme.
2. Note the planned next steps as set out in this report..

1 PURPOSE OF THE REPORT

- 1.1 This report provides an update on the recent workshops for elected members in order for Members to identify their development and training needs to succeed in their various Councillor roles and achieving the strategic priorities of the Council. The Elected Member Development Programme will be clearly aligned to those needs.

2 IMPLICATIONS FOR SANDWELL'S VISION

- 2.1 Elected Member development is considered essential to ensure the council and its members continue to build upon their strengths and maximise all opportunities to ensure the council's Vision 2030 Ambitions are achieved.
- 2.2 The 2030 Vision does not just focus on the council, its services, functions and finances but seeks to include and involve other public-sector partners and the third sector.
- 2.3 It is recognised that delivery of the 2030 Vision requires the combined efforts by the council, all Elected Members, all public sector partners, the third sector and the public.
- 2.4 The Elected Member Development Programme is designed to support all Elected Members help successfully achieve the 2030 Vision.
- 2.5 A separate development programme has been developed for Cabinet Members and will be overseen and co-ordinated through the Leader of the Council. The Committee will not therefore need to consider development, training or support needs for Cabinet Members.

3 BACKGROUND AND MAIN CONSIDERATIONS

- 3.1 The council in the past few years has invested in Member development and successfully achieved the Member Development Charter accreditation from West Midlands Employers.
- 3.2 However, over recent years the subjective development model underpinning member development has shifted to a more objective one. Furthermore, West Midlands Employers do not provide their Member Development Charter accreditation anymore.
- 3.3 The revised Member Development Programme ('MDP') has been designed to assist Members lead their own development and ensure that they develop/acquire the requisite knowledge, experience and skills, as well as have the necessary support mechanisms, to succeed in their various Councillor roles.
- 3.4 The council seeks to build upon its successes as a "member-led" council and recognises that to do so all Elected Members have an important role to play in ensuring the Member Development Programme is "member-led" through their input in workshops and prioritisation of learning topics to attendance and contribution at the learning interventions as requested.

- 3.5 It is recognised that Elected Members can during their period of office (whether one or over several terms) be appointed to various roles. The MDP is purposely designed to facilitate discussions and debate with all Elected Members and will specifically consider the following roles an Elected Member can undertake, namely:
- Chairperson
 - Deputy Chairperson
 - Committee Member
 - Representative on an Outside Body (i.e. Director, Non-Executive Director, Trustee, Treasurer)
 - Local Elected Member ('the Community Leader')
- 3.6 A similar but separate development programme has been developed for the Executive and is led and overseen by the Leader of the Council.

4 THE CURRENT POSITION

- 4.1 A joined-up Member and Executive Development Programmes have been developed that is designed to engage all Members and Cabinet Members so that their respective development, training and support needs can be properly examined and met. The programme will challenge and inform Members so that they are equipped to meet the requirements of the 2030 Vision.
- 4.2 On week commencing 12 February 2018, facilitated sessions were held with all elected members for them to consider their specific role(s), consider and explore the challenges ahead, including the Vision 2030 and the West Midlands Combined Authority and to convey the strategic skills, knowledge and awareness that they needed to make a significant impact both individually and collectively. At these sessions, Members were also asked to consider who they can convey the Council values of 'Trust, Unity and Progress' through their various roles.
- 4.3 The sessions enabled members to:-
- consider the skills, knowledge, awareness and support mechanisms needed for them to fulfil their role;
 - understand and identify the knowledge and skills gaps to determine the level of positive impact they could make;
 - take personal ownership of their development needs and owning the outcomes which would emerge from personal development plans.

- 4.4 38 Members had attended the MDP Thinking Hats and Market Place sessions (this represents 53% of the total number of Elected Members). 86% of those members who attended found the sessions good and 14% had stated that it was satisfactory. A number of positive comments were received from Members which included “first class”, “made me think of how I can do things better”, “good way of giving members opportunity to shape their own MDP”.
- 4.5 For those members who were unable to attend any session, their views on an engaging MDP would be sought via an online survey.

Next Steps

- 4.6 Analysis: Officers are currently analysing the comments received by members from each of these sessions in order to identify the support requirements that Members were requesting to help deliver Sandwell’s Vision 2030 as well as other strategic priorities facing the Council as Borough. The feedback/findings will be categorised thematically taking into account the various roles Elected Members undertake and will be reviewed by the Member Development Working Group regarding the list of topics as identified by Members.
- 4.7 Paired Comparison Exercise: Following agreement on the list of topics to be covered, Members will also be asked to complete a paired comparison exercise which will ask them to rank what learning support sessions they would like most based on the topics drawn from the workshops. Upon completing these forms, officers will collate all the findings and produce a final list in ranked order of the interventions sought by Members.
- 4.8 Further consultation: The Member Development Working Group will be consulted on the final list of interventions and their agreement will be sought based on the results.
- 4.9 Development Programme: A development programme will subsequently be produced and training sessions will be arranged through training providers, both internal and external, who are capable of delivering the support sessions as identified by Members, throughout the next municipal year as detailed within the Programme.
- 4.10 Follow-up Review: A review of Member Development Programmes will also include a refresh of the Elected Member Induction arrangements and the implementation of Personal Development Plan Interviews arranged with Elected Members to discuss and agree development, training and specific support needs.

- 4.11 Feedback on the Executive Development sessions and progression of the above stages in relation to the Executive Development Programme will be progressed with the Leader and Cabinet Members.
5. **CONSULTATION (CUSTOMERS AND OTHER STAKEHOLDERS)**
- 5.1 No formal consultation has been undertaken. The Committee provides the opportunity for Members to consider the proposed development programme and refine, amend or otherwise change it as they see fit.
6. **ALTERNATIVE OPTIONS**
- 6.1 The alternative is for a development programme to be developed that is more objective and makes assumptions about the needs of Members rather than the proposed approach that is insightful and shaped and designed by Members themselves based on what it is they need to carry out their various roles.
7. **STRATEGIC RESOURCE IMPLICATIONS**
- 7.1 Every effort will be made to use existing available resources, whether internal or external, to deliver the programme. If external support is engaged to help facilitate the session with Members, there may be a cost associated with such support. Without undertaking a procurement exercise, it will not be possible to provide a definitive cost estimate. However, before any costs are incurred, they will be discussed and agreed with the working group.
8. **LEGAL AND GOVERNANCE CONSIDERATIONS**
- 8.1 An effective Member Development Programme will help ensure the council make informed decisions and empower Members in undertaking their various roles.
- 8.2 Members in relation to regulatory matters/functions are required to undertake specific kinds of training such as planning, licensing, standards, safeguarding.
- 8.3 Supporting Members in their development, training and support needs strengthens the council's governance arrangements.
9. **EQUALITY IMPACT ASSESSMENT**
- 9.1 The Members Development Programme will address any Equality Act implications and issues arising.

10. DATA PROTECTION IMPACT ASSESSMENT

- 10.1 Personal Development Plans remain confidential and any discussion concerning the same would be held in confidence.

11. CRIME AND DISORDER AND RISK ASSESSMENT

- 11.1 There are no such issues arising.

12. SUSTAINABILITY OF PROPOSALS

- 12.1 The Member Development Programme will be reviewed and revised annually to ensure it remains relevant, fit for purpose and addresses any legislative and good practice considerations which may evolve over the course of the programme.

13. HEALTH AND WELLBEING IMPLICATIONS (INCLUDING SOCIAL VALUE)

- 13.1 The development programme will specifically address the support needs of Members.

14. IMPACT ON ANY COUNCIL MANAGED PROPERTY OR LAND

- 14.1 There are no such implications arising.

15. CONCLUSIONS AND SUMMARY OF REASONS FOR THE RECOMMENDATIONS

- 15.1 The revised Member Development Programme has been designed to assist Members to lead their own development and ensure that they develop/acquire the requisite knowledge and skills to succeed in their various roles as a Councillor as well as any support mechanisms they may need to carry out their roles.
- 15.2 The council wishes to build upon its successes as a “member-led” council and recognises that to do so all Elected Members have an important role to play in achieving this objective.

16. BACKGROUND PAPERS

- 16.1 None

17. APPENDICES:


None

Surjit Tour
Director – Monitoring Officer



Ethical Standards and Member Development Committee

9 March 2018

Subject:	Annual Report of the Ethical Standards and associated matters
Director:	Director - Monitoring Officer - Surjit Tour
Contribution towards Vision 2030:	
Contact Officer(s):	Surjit Tour Director – Monitoring Officer surjit_tour@sandwell.gov.uk

DECISION RECOMMENDATIONS

That Ethical Standards and Member Development Committee:

1. Considers the draft Annual Report of the Ethical Standards and Member Development Committee 2017/18 at Appendix 1.
2. Authorises the Chair of the Ethical Standards and Member Development Committee to agree the content and final version of the Annual Report for submission to Full Council at its meeting on 17 April 2018.
3. Notes the update provided in respect of complaints received in relation to member conduct detailed at Appendix 2.
4. Considers the Register of Members' Interests and declaration of interests made by Members.
5. Considers the Local Authority Ethical Framework: Stakeholder Consultation launched by the Committee in Standards in Public Life (set out at Appendix 4) and agrees that the Committee Chair responds to the consultation on behalf of the Council.

- | |
|---|
| <p>6. As part of the Council's review of governance, agrees to establishing a Standards Working Group to review the Council Ethical Framework in accordance with the Terms of Reference set out at Appendix 3 to this report.</p> |
|---|

PURPOSE OF THE REPORT

1.1 Annual Report

The Ethical Standards and Member Development Committee's terms of reference requires the committee to produce an annual report detailing the activities undertaken throughout the municipal year. The annual report will be referred to Full Council for consideration at its next meeting on 17 April 2018.

The draft Annual Report is set out Appendix 1 to this report.

1.2 Allegations Update

Details of ongoing standards matters are set out at Appendix 2 to this report.

1.3 Register of Interests

The statutory requirements relating to the Register of Members' Interests are set out in Section 29 of the Localism Act 2011. It requires the Monitoring Officer to establish and maintain a Register of Members' Interests which also includes the interests of co-opted members of the Council.

The Council's present arrangements comply with the statutory provisions.

The statutory requirements also provide that the Council must ensure that copies of the Register are available at an office of the authority for inspection by members of the public at all reasonable hours.

The Register is available for inspection at the Sandwell Council House upon a request being made to the Monitoring Officer.

The Members' Register of Interests is available for the public to view on the Council's website.

The Council's arrangements enable the public to view details of each individual Member's interests [including co-opted members] on the Council's website via the Committee Management Information System (CMIS).

One to one meetings with the Monitoring Officer and senior legal staff have been offered to all members and the majority of members have been assisted or received guidance in filling in their declaration of interest forms.

The Registers are periodically reviewed by the Monitoring Officer.

The work programme provides for an annual review of the Register. The paper Register will therefore be available at the meeting for members to peruse.

The Monitoring Officer will be providing training to Elected and Co-opted Members on Declarations of Interests at the beginning of the next municipal year.

1.4 Member Code of Conduct

The Localism Act 2011 introduced a revised standards regime. The Council on 18 October 2016 adopted a new Code of Conduct. The principles of good governance require the regular review of policies and processes that contribute to the ethical framework of the authority.

The Committee is asked to give consideration to the establishment of a Standards Working Group to undertake a review of the Members' Code of Conduct and the Council's Arrangements for Dealing with Standards Allegations under the Localism Act 2011. Proposed Terms of Reference for the Working Group are attached at Appendix 3 to this report.

Any proposed changes will be reported to the Committee for consideration and onward approval to Full Council.

It is anticipated that the review of the Code and arrangements will be completed and referred to the Committee in June, with any changes proposed being referred to Full Council In July 2018.

Training on the refreshed Code of Conduct and Arrangements for dealing with complaints will be provided to all Elected and Co-opted Members.

1.5 Local Authority Ethical Standards: Stakeholder Consultation

The Committee on Standards in Public Life ('CoSPL') has invited responses to its consultation to inform its review of local government ethical standards.

The CoSPL's website states that "robust standards arrangements are needed to safeguard local democracy, maintain high standards of conduct, and to protect ethical practice in local government.

The terms of reference for the review are to:

- examine the structures, processes and practices in local government in England for:
 - maintaining codes of conduct for local councillors
 - investigating alleged breaches fairly and with due process
 - enforcing codes and imposing sanctions for misconduct
 - declaring interests and managing conflicts of interest
 - whistleblowing
- assess whether the existing structures, processes and practices are conducive to high standards of conduct in local government
- make any recommendations for how they can be improved
- note any evidence of intimidation of councillors, and make recommendations for any measures that could be put in place to prevent and address such intimidation."

The consultations closes at 5pm on 18 May 2018.

It is proposed that the Committee considers the consultation and agrees that the Chairperson of the Committee (with assistance through the Standards Work Group) formally responds to the consultation on behalf of the Council.

2 IMPLICATIONS FOR SANDWELL'S VISION

Through its work in promoting high standards of conduct, the Committee makes a positive contribution to the council's governance and decision-making arrangements of the authority.

3 STRATEGIC RESOURCE IMPLICATIONS

There are no resource implications arising from this report.

4 LEGAL AND GOVERNANCE CONSIDERATIONS

The Authority has a statutory duty under the Localism Act 2011 to promote and maintain high standards of conduct by Members. The Authority is also obliged to have in place a Code of Conduct, a procedure for investigating complaints against Members and ensure that any complaints made are investigated in accordance with that procedure.

The new standards arrangements are set out in chapter 7 of the Localism Act 2011, and in secondary legislation made under the Act, particularly in The Relevant Authorities (Disclosure of Pecuniary Interests) Regulations 2012.

The Localism Act 2011 strengthens requirements on members to register and disclose interests.

5 APPENDICES:

- Appendix 1 - Draft Annual Report of the Ethical Standards and Member Development Committee 2017/18.
- Appendix 2 - Standards Matters Update
- Appendix 3 – Draft Terms of Reference – Standards Working Group
- Appendix 4 - Committee on Standards in Public Life - Local Authority Ethical Framework: Stakeholder Consultation

Surjit Tour
Director – Monitoring Officer



Sandwell
Metropolitan Borough Council

Annual Report of the Ethical Standards and Member Development Committee 2017-18

Foreword – Chair of the Ethical Standards and Member Development Committee

I am pleased to present the Annual Report of the Ethical Standards and Member Development Committee.

This year the Committee has reviewed the approach to member development and the revised Member Development Programme has been designed to assist members to lead their own development and ensure that they develop/acquire the requisite knowledge, experience and skills to succeed in their various councillor roles.

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 would like to thank members of the Ethical Standards and Member Development 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 also provided good support throughout the year.



Councillor Geoff Lewis
Chair of the Ethical Standards and Member Development 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 2017/18 and broadened its remit to include member development.
- 1.3 The main functions of the Ethical Standards and Member Development 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;
 - (f) develop and offer to all members an annual programme of development activities which provides members with development opportunities that support the Council's corporate priorities, identifying sufficient resources to deliver an effective Member Development Programme.

Annual Report of the Ethical Standards and Member Development Committee 2017-18

- 1.4 The Committee also has two 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 and conduct hearings (including the imposition of sanctions).

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 2017/18 was as follows:-

Chair

Councillor Lewis

Vice Chair

Councillor S Crumpton

Elected Members

Councillor E M Giles

Councillor P Hughes

Councillor Sandars

Councillor Shackleton

Councillor Trow

Councillor Underhill

- 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 Ethical Standards and Member Development 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 currently has three Independent Persons; Mr R Tomkinson and Ms J Williams whose term of office expires on 31 July, 2018 and newly appointed Mr J Tew whose term of office expires on 31 January, 2022.
- 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.
- 2.8 The Independent Persons are invited to attend all meetings of the Ethical Standards and Member Development Committee as observers.

Officer Support to the Committee

- 2.9 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.

Annual Report of the Ethical Standards and Member Development Committee 2017-18

The Monitoring Officer is also the principal adviser to the Ethical Standards and Member Development 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 2017/18, the Ethical Standards and Member Development Committee met on five occasions and considered the following matters:

- Allegations Updates;
- Appointment of Ethical Standards Sub-Committees for 2017/18;
- Appointment of Independent Persons;
- Annual review of Members' Gift and Hospitality;
- Committee on Standards in Public Life Annual Report 2016/17;
- Annual Review – Members' Register of Interests;
- Member Development Programme;
- National Cases.

4. Commentary on the Work of the Committee

Member Development Programme

- 4.1 The revised Member Development Programme has been designed to assist members to lead their own development and will ensure that they develop/acquire the requisite knowledge, experience and skills to succeed in their various councillor roles.
- 4.2 The Council seeks to build upon its successes as a member-led Council and recognises that to do so all elected members have an important role to play. It is recognised that elected members could be appointed to various roles during their period of office (whether one or over several terms). The Member Development Programme is purposely designed to facilitate discussions and debate with all elected members and will specifically consider the roles of Chair, Vice Chair, committee member and representatives on an outside body.
- 4.3 Elected members have undertaken annual personal development plans and many undertake a wide range of training and other forms of development courses. However, there is a need to ensure the needs of members are better understood so the development programme is clearly

aligned to those needs and delivered in a manner that members find engaging, thought-provoking and informative.

- 4.4 A joined-up Member Development Programme has therefore been developed to engage all members so that their needs can be properly examined and met. The programme will challenge and inform members so they are equipped to meet the requirements of the 2030 Vision. The programme will be supported by facilitators, member peers (as far as possible) and use of member networks locally, regionally and nationally. Importantly, it encourages elected members to share their expertise, local knowledge and experience to inform the whole development programme.

Committee on Standards in Public Life

- 4.5 The Ethical Standards and Member Development Committee has a duty to promote high ethical standards amongst members. As well as complying with legislation and guidance, the Committee needs to demonstrate learning from issues arising from local investigations and case law. The Ethical Standards and Member Development 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.
- 4.6 The Committee on Standards in Public Life has recently launched a stakeholder consultation on the Local Authority Ethical Framework which closes at 5pm on 18 May 2018. The Standards and Member Development Committee will be responding to the consultation on behalf of the council, however each elected and co-opted member is entitled to respond to consultation in their own right.
- 4.7 The Council's Monitoring Officer will also be responding to the consultation in his statutory role.

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 website.

Annual Report of the Ethical Standards and Member Development Committee
2017-18

- 5.2 All candidates for election are issued with a copy of the Code of Conduct and on appointment and are required to sign an undertaking to comply with the Code. 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 website 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 Ethical Standards and Member Development Committee on a regular basis.
- 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 Ethical Standards and Member Development Committee on a regular basis.

Arrangements for Dealing with Standards Allegations

- 5.7 The Localism Act 2011 requires 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 and to conduct hearings (including imposition of sanctions).
- 5.8 The arrangements for dealing with standards allegations were revised by the Council on 17 January, 2017.
- 5.9 The section below gives information on individual complaints dealt with in 2017/18.
- 5.10 A Working Group has been established by the Committee to review the council's Ethical Framework. It is anticipated that any proposed amendments to the Ethical Framework will be referred to Full Council for approval on or before July 2018.

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.

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.

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.
- 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:-
- suspension of a member for three months and following an inappropriate gesture at a budget meeting, and barring of that member from six committees;
 - action against a member who had taken to Twitter to lash out at colleagues;
 - suspension of a member from his cabinet position following an offensive tweet.
- 5.14 The Ethical Standards and Member Development 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 revised Member Development Programme has been designed to assist members to lead their own development and will ensure that they develop/acquire the requisite knowledge, experience and skills to succeed in their various councillor roles.
- 6.3 Various standards matters have and are being addressed.

7. Contribution to the Vision

- 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.

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.

Appendix 1

Role Description - Chairman of Ethical Standards and Member Development 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 Ethical Standards and Member Development 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 Ethical Standards and Member Development 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 Ethical Standards and Member Development 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.

Summary Schedule of Complaints

Please note that the details below from 3. onwards are allegations which have yet to be determined.

Complaints determined by the Ethical Standards Sub-Committee

1. Case reference MC/06/0616 Subject Member: Cllr Mahboob Hussain

Allegations relating to sale of toilets blocks and waiver of parking tickets.

Standards Hearing 8th-10th January 2018

The Ethical Standards Sub-Committee determined that Councillor Hussain had breached the Code of Conduct by his actions in connection with the sale of toilet blocks and the reduction or cancellation of parking tickets.

Decision Notice to be issued shortly.

Sanctions Hearing listed for 20th March 2018.

2. Case reference MC/03/0517 Subject Member: Cllr Ian Jones

Allegations relating to the removal of the sale of a plot of land from an already arranged and publicised auction when a Cabinet Member.

Standards Hearing 24th January 2018.

The Ethical Standards Sub-Committee determined that Councillor Jones had breached the Code of Conduct by his actions in connection with the removal of a plot of land from an already arranged and publicised auction when a Cabinet Member.

The Sub-Committee imposed the following sanctions in relation to Councillor Jones:

- (i) The Decision Notice should be published on Councillor Jones' Member Profile on the Council's website for the remainder of his term of office (or, if later, until he complies with the sanctions set out below).
- (ii) Recommendation that Councillor Jones be suspended from membership of the Economy, Skills, Transport and Environment Scrutiny Board and not be appointed to any further Committee of the Council until he has carried out training to the satisfaction of the Monitoring Officer as set out below.
- (iii) The training is to be bespoke training to ensure that Councillor Jones understands appropriate competencies, responsibilities, and

behaviours in carrying out his responsibilities as a member of committees. Such training to be at Councillor Jones' own expense.

The Decision Notice in relation to this matter is attached for information.

Allegations currently under investigation

3. Case reference MC/02/0517

Allegations concerning community events at Hill Top Park and Radcliffe Park and the indication that the Councillor may have included the names of council officers on official documents as organiser of an event without their knowledge; Alleged failure of Councillor to register interests as Vice Chair of Hill Top Community Development Association, and failure to follow appropriate council procedures in arranging the event.

The subject Councillors have been unable to attend interviews with the Investigator due to medical reasons.

The Investigation into the allegations has been completed and the report of the Investigating Officer is being prepared.

4. Case reference MC/05/0717

Allegations concerning land sales to two Councillors when displaced from their homes by a Compulsory Purchase Order (CPO). In addition it is further alleged that housing was allocated to family members of one of the Councillors.

An Investigator has been appointed and the Investigation is proceeding, notwithstanding a lack of response to date from the subject Councillors.

5. Case references MC/07/1017, MC/08/1017, MC/09/1117

Three complaints including a self-referral from one Councillor concerning alleged "Whats app" texts published on a local blog site entitled "In the Public Domain".

These allegations include disclosure of confidential information and inappropriate and disparaging references to individuals.

In accordance with the arrangements for dealing with Code of Conduct Complaints, the council's independent person has been consulted and a formal decision to proceed to investigate has been made by the Monitoring Officer.

An independent Investigator has been appointed and the matter is proceeding to witness interviews.

There are connected police enquiries ongoing and the Standards Investigation was initially delayed at the request of the police. The Investigation is however currently proceeding as it is in the public interest to deal with these allegations as soon as reasonable practicable.

Other Matters

6. There are a number of other matters that have not yet reached the investigation stage and are the subject of preliminary enquiries by the Monitoring Officer in accordance with the arrangements for dealing with standards allegations.

**IN THE MATTER OF AN INVESTIGATION INTO STANDARDS OF
CONDUCT UNDER THE LOCALISM ACT 2011**

**BEFORE THE SANDWELL METROPOLITAN BOROUGH COUNCIL
ETHICAL STANDARDS SUB-COMMITTEE OF THE ETHICAL STANDARDS AND
MEMBER DEVELOPMENT COMMITTEE**

Reference: MC/03/0517

COUNCILLOR IAN JONES

DECISION NOTICE

Local Hearing: 24 January 2018

**Ethical Standards
Sub-Committee Members:**

Councillor Geoff Lewis (Chair)
Councillor Susan Crumpton
Councillor Ann Shackleton
Councillor Steve Trow

Independent Person: Mr Ray Tomkinson

**Independent Legal
Advisor:** Mr James Cornwell, Barrister

The Local Hearing

1. A local hearing was held on 24 January 2018 before the Ethical Standards Sub-Committee of the Council's Ethical Standards and Member Development Committee ("**the Sub-Committee**") to consider a complaint that Cllr Ian Jones had breached the Council's Members' Code of Conduct (2007) ("**the Code**"). The local hearing had previously been convened on 1 December 2017, but it was adjourned by the Sub-Committee on Cllr Jones' application.
2. The local hearing was held in public, save for periods of deliberation by the Sub-Committee in private session.

3. The Investigating Officer, Ms Maria Price, was represented by Mr Ronnie Dennis, Barrister. The subject Member, Cllr Jones, was represented by Mr Brian Rickers, full-time Regional Officer of Unite the Union, and together with Cllr Barbara Price.
4. A live video recording of the local hearing was made and can be accessed on the internet at:

https://sandwell.public-i.tv/core/portal/webcast_interactive/330637

For that reason, this Decision Notice does not seek to set out in full the evidence and submissions advanced at the local hearing.

A. Applications by Councillor Jones

5. At the start of the hearing, Cllr Jones applied, essentially, for: (1) an adjournment of the local hearing for 14 days; and (2) all, or some, of the Members of the Sub-Committee to recuse themselves on the grounds that they had conflicts of interest.
6. In support of his applications, Cllr Jones read from an 8-page written submission, which the Sub-Committee understood was prepared by his representative (copies of which were provided to the Sub-Committee – annexed to this Decision Notice as **Annex A**).
7. Mr Dennis responded on behalf of the Investigating Officer, opposing the applications.
8. In view of certain submissions made by Cllr Jones in relation to Cllrs Lewis, Shackleton and Trow, the Sub-Committee's Legal Advisor asked them each to put on the public record their understanding of the relevant factual position, which each of them did at the hearing (see further below). The Legal Advisor then asked Cllr Jones if he had any observations in response. Cllr Jones stated that he noted the replies from the panel and said that there were matters that required clarification, but that he would not make any further comment now.

9. Cllr Jones was then asked questions by the Independent Person in relation to his applications. During the course of this questioning, Cllr Jones and those assisting him left the hearing. As they were leaving the Sub-Committee's Legal Advisor warned Cllr Jones that the Sub-Committee could decide to reject his application to adjourn and proceed with the local hearing in his absence. Cllr Jones acknowledged that possibility.
10. Following a short adjournment, the Independent Person then provided the Sub-Committee with his views on the applications. The Legal Advisor then provided legal advice to the Sub-Committee on the applications. Summaries of the advice provided by the Independent Person and the Legal Advisor are annexed to this Decision Notice (as **Annexes B and C**).
11. The Sub-Committee then retired to deliberate on the applications in private, before returning to announce its decision in public.

Decision on Councillor Jones' applications

12. The Sub-Committee decided to refuse both the application to adjourn the hearing and the application for all, or some, of the Sub-Committee Members to recuse themselves on the basis of alleged conflicts of interest.

Reasons for the decision on Cllr Jones' applications

13. Cllr Jones put forward various arguments as to why the local hearing should be adjourned. Those arguments were, essentially, in two categories: (1) arguments that some, or all, of the Members of the Sub-Committee were affected by alleged conflicts of interest and should recuse themselves, with the consequence that the local hearing would need to be adjourned; and (2) other arguments as to why the local hearing should be adjourned.
14. The Sub-Committee addressed these arguments in turn.
15. In considering Cllr Jones' applications, the Sub-Committee took into account the written and oral representations of Cllr Jones, the oral submissions and case law

referred to by Mr Dennis,¹ the views of the Independent Person and the advice of its Legal Advisor. The Sub-Committee also took account of the material in the Hearing Bundle and the Correspondence Bundle. The Sub-Committee does not below refer specifically to every document, piece of evidence or submission that it considered.

(1) Arguments based on alleged conflicts of interest

16. The Sub-Committee noted that at its hearing on 1 December 2017 Cllr Jones stated that he had concerns about the Members of the Sub-Committee. When asked by the Sub-Committee's Legal Advisor on that occasion to set out what his concerns were, he declined to do so.

17. As a preliminary issue, the Sub-Committee did not accept Cllr Jones' submission that the Sub-Committee should not itself decide the question of whether there were conflicts of interests or whether it should recuse itself. The Sub-Committee accepted the advice of its Legal Advisor that it was for the Sub-Committee to decide whether it could proceed to hear the complaint.

18. The Sub-Committee accepted the advice of its Legal Advisor that it would need to ask itself whether any of its Members had actual bias against Cllr Jones or whether there was apparent bias, in the sense that all the circumstances would lead the fair-minded and informed observer to conclude there was a real possibility that the Sub-Committee was biased.

19. The Sub-Committee Members recognised that they were themselves bound by the Code (as currently in force) and were required to consider the complaint in an objective and impartial manner.

20. The Sub-Committee's findings on what it understood to be the principal arguments advanced by Cllr Jones under this heading are set out below.

(a) The Ethical Standards and Member Development Committee were appointed by the Labour Group, who were unduly influenced by the Leader and Executive of the

¹ ***R (Condon) v National Assembly for Wales*** [2006] EWCA Civ 1573, [2007] 2 P & CR 4; ***Gillies v Secretary of State for Work and Pensions*** [2006] UKHL 2, [2006] 1 WLR 781; and ***Hussain v Sandwell Metropolitan Borough Council*** [2017] EWHC 1641 (Admin).

Council

21. Cllr Jones argued that the Ethical Standards and Member Development Committee members were appointed by the Labour Group on the Council and that what should be an independent appointment process was, Cllr Jones argued, thereby manipulated by the Leader and Executive of the Council resulting in the members of that Committee (including members of this Sub-Committee) having a conflict of interest.

22. The Sub-Committee considered that this argument was based on a misconception. The members of Council committees, including the members of the Ethical Standards and Member Development Committee, are appointed by the full Council. Nominations to full Council for membership of committees are proposed by recognised political Groups, including the Labour Group. Committee nominations to full Council are not proposed by the Council's Leader or Executive.

23. The Sub-Committee also noted that at the time when the membership of the Ethical Standards and Member Development Committee was decided by the full Council, all but one member of the Council were members of the Labour Group. If nomination by the Labour Group was a basis for alleged conflict of interest, that would apply to all but one member of the Council at the time.

24. The Sub-Committee unanimously considered that a fair-minded and informed observer would be aware of all the relevant circumstances, including the correct position in relation to appointment of members to the Ethical Standards and Member Development Committee, and would not consider that there was a real possibility of the Sub-Committee being biased on the basis alleged.

(b) The members of the Sub-Committee had sat on the hearing of the standards complaint in relation to Cllr Mahboob Hussain

25. Cllr Jones argued that the members of the Sub-Committee had also heard the standards complaint against Cllr Hussain and were therefore “*tainted*” as there had been reference to Cllr Jones in the evidence at that hearing.

26. The Sub-Committee recognised that Cllr Jones' case was a different case from Cllr Hussain's, relating to a different incident, and had to be dealt with as a separate case. The case against Cllr Jones would have to be decided only on the basis of the evidence and submissions made at this hearing. The Sub-Committee recognised that they themselves were under a duty to comply with the Code and to determine the complaint against Cllr Jones fairly, impartially and objectively, based on the evidence and submissions.

27. The Sub-Committee noted that in Cllr Hussain's hearing it had not been invited to make, and had not made, any findings in relation to misconduct by Cllr Jones.

28. Cllr Jones had not referred to any particular parts of the evidence that had been considered at Cllr Hussain's hearing to support his contention that the Sub-Committee were subject to a conflict of interest or predetermination.

29. It was also noted that there had been much public discussion of the events underpinning the conduct allegations relating to Cllr Hussain, including in the High Court judgment in Cllr Hussain's judicial review claim against the Council. If there were difficulties arising from the mention of Cllr Jones in that context, such difficulties would be likely to affect all members of the Council.

30. Each member of the Sub-Committee was confident that they could put out of their minds anything relating to Cllr Jones that had been referred to at Cllr Hussain's hearing and could decide Cllr Jones' case on the evidence and submissions presented in the context of this case only.

31. The Sub-Committee considered that a fair-minded and informed observer who was aware of all the relevant circumstances would not conclude that there was a real possibility that the Sub-Committee was biased on these grounds.

(c) The members of the Sub-Committee were involved in collusion to bring the standards complaint against Cllr Jones

32. At one point it appeared from Cllr Jones' submissions that it was being suggested that the members of the Sub-Committee who were also members of the Cabinet

(i.e. Cllrs Shackleton and Trow) were involved in a conspiracy or collusion to pursue standards allegations against Cllr Jones.

33. When the Sub-Committee's Legal Advisor asked Cllr Jones to clarify this, Cllr Jones suggested that this was a misunderstanding of his submission. However, the Sub-Committee considers that it was not entirely clear, even after further questioning, what Cllr Jones was or was not actually alleging in this respect.

34. So far as it is in issue, the Sub-Committee Members confirm that none of the Sub-Committee have been involved in any collusion or conspiracy to bring a standards complaint against Cllr Jones. Their only involvement with the standards complaint has been as members of the Sub-Committee formally considering the complaint at this hearing and the hearing on 1 December 2017.

35. In those circumstances, the Sub-Committee did not consider that there was any likelihood that a fair-minded and informed observer would conclude that there was a real possibility of bias.

(d) Councillors Lewis and Trow's positions as Labour Group officers

36. Cllr Jones argued that Cllr Lewis, as chair of the Council's Labour Group, and Cllr Trow as secretary of the Labour Group, had been involved in the referral and conduct of a disciplinary case against Cllr Jones within the Labour Group.

37. Cllr Trow explained at the hearing that under Labour Party arrangements the Labour Group Officers are precluded from having any role in confirming or referring a disciplinary matter. A disciplinary meeting can be convened solely by a decision of the Chief Whip and the sole item of business is to receive the Chief Whip's report and determine its recommendations by secret ballot. Cllr Lewis also confirmed at the hearing that the relevant meeting was overseen and supervised by officers of the Regional Labour Party. As noted above, Cllr Jones was afforded the opportunity to provide observations in response to these comments, but he did not substantively do so.

38. The Sub-Committee considered that this ground for seeking recusal was based on a factual misunderstanding as to Cllr Lewis and Trow's role. The fair-minded

and informed observer would be aware of the correct position and would not conclude that there was any real possibility of bias on this ground.

(e) Councillor Shackleton's school was closed by Cllr Jones

39. Cllr Jones submitted that Cllr Shackleton may harbour animosity towards him as he had been involved in a decision to close a school of which she was head teacher.

40. At the hearing Cllr Shackleton explained that she had been head teacher of a school that was closed in around 2002-2003. The closure was as a result of a Council policy of amalgamating schools. The policy had been recommended by Cllr Jones, but approved by the full Council. Cllr Shackleton had moved on to take a post at the university. She stated that since joining the Council she had been a member of the Cabinet with Cllr Jones and there had never been any animosity between them in their roles on the Council. Again, as noted above Cllr Jones made no substantive response to these observations.

41. The Sub-Committee did not consider that the circumstances would lead the fair-minded and informed observer to conclude that there was a real possibility of bias. Given that Cllr Jones and Cllr Shackleton had worked together for years without any animosity, it was not plausible to suggest that her alleged resentment would emerge now.

(f) The Sub-Committee members were at full council in November 2011

42. Cllr Jones suggested that the members of the Sub-Committee were subject to a conflict of interest because they had attended a meeting of the full Council in November 2011 at which minutes of the Asset Management and Land Disposal ("**AML**D") Committee had been received, but they had not objected to that Committee's decision to sell the Florence Road plot of land.

43. The Sub-Committee considered that the informed observer would be aware that: the AMLD Committee had delegated responsibility in relation to this disposal; the full Council was not making a decision or being asked to endorse a decision, but merely receiving the minutes of that Committee; and even if the disposal had

required the approval of the full Council, the disposal was by way of a sealed bid process (as opposed to by private treaty) and there was no suggestion that it was other than lawful.

44. The Sub-Committee did not consider that the fair-minded and informed observer would conclude that there was a real possibility of the Sub-Committee being biased on those grounds.

(g) The Sub-Committee members were involved in a pre-meeting on 23 January 2018 attended by the Council's Chief Executive

45. Cllr Jones drew attention to an email exchange the previous afternoon (23 January 2018) between his representative, Mr Rickers, and the Monitoring Officer, in which Mr Rickers referred to a pre-meeting of the Sub-Committee that morning at which Mr Rickers understood the Council's Chief Executive to have been present. Cllr Jones suggested that this indicated prejudicial collusion between officers and Sub-Committee members to the detriment of him now receiving a fair hearing.

46. The four members of the Sub-Committee had attended a pre-meeting with the Monitoring Officer and the Deputy Monitoring Officer. Those were the only officers present at the meeting; the Chief Executive was *not* present. The meeting had been solely: to inform members that Cllr Jones had confirmed his intention to present a request for a further adjournment; to explain the procedural requirements for considering that request; and to provide each member of the Sub-Committee with a copy of the full Correspondence Bundle, which included all the correspondence relating to the matters the Sub-Committee would now need to consider when determining the adjournment request the following morning.

47. The Sub-Committee considered that Mr Rickers had clearly either been misinformed, or had misinterpreted the information he had received regarding the attendance at, and purpose of, the pre-meeting. The Sub-Committee noted the Monitoring Officer's email reply to Mr Rickers on 23 January 2018 including his detailed responses to each of Mr Ricker's questions and considered them to be a fully accurate representation of the entirely legitimate purpose and content of the pre-meeting (see **[Correspondence Bundle, pp.31g-31j]**).

48. The Sub-Committee considered that a fair-minded and informed observer, who would be aware of correct position in relation to the persons in attendance and the contents of the pre-meeting, would not conclude that there was any real possibility of bias.

(h) Conclusion

49. The Sub-Committee did not consider that Cllr Jones has advanced grounds that either individually, or collectively, demonstrated real bias, apparent bias, conflicts of interest or predetermination on the part of any of the members of the Sub-Committee that would require their recusal.

(2) Other arguments for an adjournment

50. The Sub-Committee notes that when the local hearing was originally convened on 1 December 2017, Cllr Jones sought, and was granted by the Sub-Committee, an adjournment. At that point he stated that he needed a “*short*” adjournment of 3-4 weeks. In the event, the local hearing was reconvened nearly 8 weeks later. The Sub-Committee refers to the reasons that it gave for granting the adjournment on 1 December 2017 [**Hearing Bundle, pp.U-W**]. At that time the Sub-Committee was, on balance, just persuaded to grant an adjournment.

51. The Sub-Committee addresses below what it understood to be Cllr Jones’ further principal arguments for another adjournment.

52. *Cllr Jones’ desire to call further witnesses* – Cllr Jones argued that an adjournment was necessary because he wished to call a large number of witnesses to be cross-examined as to the reasons why the conduct complaint had been pursued against him.

53. The Sub-Committee considered that Cllr Jones had had ample opportunity since the hearing on 1 December 2017 to identify and call any witnesses that he wishes. It was now over 10 weeks since the case was referred by the Monitoring Officer for a local hearing, and nearly 8 weeks since the hearing on 1 December 2017 was adjourned. The Sub-Committee noted that the “*Arrangements for dealing with standards allegations under the Localism Act 2011*” (**“the**

Arrangements") provided that a local hearing "*will normally take place within six weeks*" of a referral (paragraph 8.2).

54. The correspondence (in the Correspondence Bundle) between the Monitoring Officer and Cllr Jones' new representative, Mr Rickers, showed that the Monitoring Officer had repeatedly requested the identification of such witnesses and the provision of witness statements from any such witnesses. The names of Cllr Jones' proposed witnesses were not provided to the Monitoring Officer until 22 January 2018 and a witness statement was only provided in relation to one of them (Mr Julian Saunders) on 22 January 2018, but no other witness statements were provided (including from Cllr Jones himself). The Sub-Committee noted that various deadlines were set by the Monitoring Officer for provision of the names of witnesses and their witness statements, but these were not met by Cllr Jones.
55. Cllr Jones and his representative appeared to have been under the misconception (which the Monitoring Officer had clearly sought to correct on more than one occasion) that it was for the Monitoring Officer, rather than Cllr Jones, to arrange for the attendance of witnesses at the hearing on Cllr Jones' behalf.
56. Further, the Sub-Committee was not persuaded that the witnesses that Cllr Jones had referred to as wishing to call were relevant to the narrow issues that the Sub-Committee had to determine. Those issues were, essentially: (1) what did Cllr Jones do or not do in February/March 2011; and (2) did that amount to a failure to comply with the Code of Conduct in force at the time. The Sub-Committee had this concern at the 1 December 2017 local hearing and specifically ventilated, in its reasons for granting an adjournment then, its concern that Cllr Jones wished to call witnesses of no obvious relevance to the issues that needed to be decided by the Sub-Committee. When, at the present local hearing, the Independent Person sought clarification from Cllr Jones as to how witnesses who might give evidence as to the reasons why the conduct complaint was pursued in 2016/2017 were relevant to the Sub-Committee's consideration of events in February/March 2011, Cllr Jones declined to answer the question and left the hearing.

57. For similar reasons, the Sub-Committee was not persuaded that Cllr Jones' requests to be provided with a large number of further documents justified an adjournment. The documentation that had been requested had no obvious relevance to the issues for the Sub-Committee to decide.

58. The Sub-Committee did not consider, that, in the circumstances, these factors justified a further delay.

59. *Further documentation* – Cllr Jones also argued that an adjournment was necessary because he had been served with the Correspondence Bundle at, what he considered to be, short notice. As Cllr Jones recognised in the course of his submissions, around one third of that bundle consisted of correspondence between the Monitoring Officer and either his former solicitors (Jonas Roy Bloom) or Mr Rickers, his new representative. This material was necessary for the Sub-Committee to understand the context of Cllr Jones' own application to adjourn the hearing. Further, the Sub-Committee considered that this was material that Cllr Jones would, or should have, been aware of (in many cases for some time) as it was sent to, or by, his representatives and, presumably, he gave instructions on it to his representatives.

60. The remainder of the Correspondence Bundle consisted of the relevant Scheme of Delegation in force in 2011. The Sub-Committee agreed with Mr Dennis' submission that only a couple of pages of that are actually relevant.

61. The Sub-Committee did not consider that the manner in which this further material was provided necessitated an adjournment.

(3) Conclusion

62. For the reasons given, the Sub-Committee did not consider that there were conflicts of interest that would require any, or all, of its Members to recuse themselves. The Sub-Committee weighed up the reasons that Cllr Jones had advanced for the local hearing to be adjourned against the public interest in the timely resolution of standards complaints and the Council's interest in having an expeditious resolution of this complaint. Particularly given that a previous adjournment had been granted, the Sub-Committee unanimously considered that

the balance of fairness was in favour of refusing the adjournment and proceeding with the local hearing.

B. Hearing of the standards complaint

63. Following its decision on Cllr Jones' applications the Sub-Committee proceeded with the substantive part of the local hearing, first addressing the issue of whether Cllr Jones had failed to comply with the Code.

64. Mr Dennis presented the case for the Investigating Officer. He spoke to an "*opening summary*" that he had provided to the Sub-Committee and Cllr Jones at the previous hearing on 1 December 2017 and further copies of which he provided to the Sub-Committee (annexed to this Decision Notice at **Annex D**).

65. Mr Dennis did not call any witnesses.

66. Neither Cllr Jones nor his representative were present during this part of the local hearing. As noted above, they had previously left the hearing.

67. The Independent Person, Members of the Sub-Committee (Cllrs Lewis, Shackleton and Trow), and the Sub-Committee's Legal Advisor asked Mr Dennis various questions on the Investigating Officer's case.

68. There was a brief adjournment for the Investigating Officer to locate and provide copies of some documents as a result of questions by the Independent Person and Cllr Trow, namely:

- Minutes of the Annual Meeting of the Council – 18th May 2010;
- Agenda Item 9 – Job descriptions of various Cabinet Members;
- Minutes of the meeting of the Council – 30th November 2010;
- Article 7 of the Council's Constitution (revised March 2010);
- Appendix 8 to the Council's Constitution – Members' Allowance Scheme; and

- Sections 101 and 123 of the Local Government Act 1972.

69. The Independent Person then provided his views on the complaint to the Sub-Committee. The Legal Advisor provided his legal advice to the Sub-Committee. Summaries of the advice provided by both the Independent Person and the Legal Advisor are annexed to this Decision Notice (**Annexes E and C**).

70. The Sub-Committee then retired to deliberate in private on whether Cllr Jones had failed to comply with the Code.

71. The Sub-Committee then announced its decision in public session.

Decision on whether Cllr Jones failed to comply with the Code

72. The unanimous decision of the Sub-Committee was that Cllr Jones failed to comply with both paragraph 3(2)(d) and paragraph 5 of the Code.

Reasons for decision on failure to comply with the Code

73. In considering whether Cllr Jones failed to comply with the Code the Sub-Committee took account of the written and oral submissions of Mr Dennis, on behalf of the Investigating Officer, the views of the Independent Person and the advice of its Legal Advisor. The Sub-Committee had also read the Hearing Bundle and the Correspondence Bundle and took account of that material. The Sub-Committee does not below specifically refer to every document, piece of evidence or submission that it considered.

74. As Cllr Jones was not present for the substantive part of the local hearing, the Sub-Committee was particularly keen to ensure that the evidence was carefully considered and the Investigating Officer's case tested.

75. The Sub-Committee also particularly had regard to the notes of the Investigating Officer's interview with Cllr Jones on 29 September 2017 [**Hearing Bundle, pp.331-333**] and his then solicitors' response dated 8 November 2017 to the draft report from the Investigating Officer [**Hearing Bundle, pp.334-335**], as these

were the available documents in which Cllr Jones provided his substantive response to the allegations of breach of the Code.

76. The Sub-Committee noted that it was provided with a witness statement from a Mr Julian Saunders dated 21 January 2018. However, as Cllr Jones did not stay for the substantive part of the local hearing, he did not formally put this witness statement in evidence and did not call Mr Saunders as a witness at the local hearing. The Sub-Committee also noted that, in any event, even had the witness statement formally been put in evidence, it appeared to consist largely of Mr Saunders' personal opinions, was very largely directed to matters unrelated to events in February/March 2011 and to the extent that it did refer to events in February/March 2011 appeared to express Mr Saunders' opinion and was not based on his direct knowledge.

77. The alleged failure by Cllr Jones to comply with the Code took place in February/March 2011, so the relevant version of the Code was the 2007 version. The relevant provisions of that Code that Cllr Jones was alleged to have failed to comply with were:

- 1) Paragraph 3(2)(d) – *“You must not... do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your authority”*; and
- 2) Paragraph 5 – *“You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute”*.

(1) Findings of fact

78. The Sub-Committee did not understand there to be any significant factual dispute as to what happened in February/March 2011. To the extent that matters were in dispute the Sub-Committee decided such disputes on the balance of probabilities.

79. The documentary evidence revealed the following:

- 1) Cllr Jones was appointed as Cabinet Member for Jobs and Economy at the Council's Annual Meeting on 18 May 2010. The responsibilities for the role were set out in a 6-page job description attached to the Minutes of the Annual Meeting. These included: *"To take responsibility within the Council for ... land and property management including acquisition and disposal in consultation with other Cabinet Members where necessary and where the disposal is at "less than best value" or has implications for the Council's capital programme, in consultation with the Cabinet Member for Strategic Resources..."*.
- 2) Cllr Jones as a Cabinet Member would have received a Special Responsibility Allowance (under paragraph 3.2 of the Members' Allowance Scheme in force at the time).
- 3) Cllr Jones had signed a declaration that he would abide by the Code on 2nd May 2008 [**Hearing Bundle, p.338**].
- 4) The disposal of land was a function of the Council under section 123(1) of the Local Government Act 1972.² The Council could delegate the discharge of its functions to an officer under section 101(1) of the Local Government Act 1972.
- 5) The Director of Strategic Resources had delegated responsibility, amongst other things, for: ***"Disposal of Land and Property - To negotiate for and agree the terms for the disposal of land and property in accordance with such policy as may be determined by the Council"***; and ***"Disposal of Land and Premises up to £100,000 – In consultation with the appropriate Director, to negotiate and agree terms for the disposal of areas of land and premises up to a value of £100,000"***. This is confirmed by the relevant provisions of the Delegations to Officers 2011 (Appendix 4 to the Constitution) [**Correspondence Bundle, p.97**] and the Scheme of Delegation approved by full Council on 20 November 2010. The relevant

² Section 123(1) and (2) state, as relevant, that: *"(1) Subject to the following provisions of this section, ... a principal council may dispose of land held by them in any manner they wish. (2) Except with the consent of the Secretary of State, a council shall not dispose of land under this section, otherwise than by way of a short tenancy, for a consideration less than the best that can reasonably be obtained"*.

resolution provided that the Council “... *approve the delegation of those functions that are non-executive functions and have not otherwise been delegated by the Leader of the Council*”.

6) On 4 February 2011, pursuant to the Director of Strategic Resources’ delegated authority, a Property Review Officer provided instructions for the sale of the freehold interest in a plot of land off Florence Road, Smethwick (“**the Plot**”) [**Hearing Bundle, pp.256-257**]. The Plot was to be sold at a public auction on 10 March 2011. The instruction was accompanied by a report signed by the Director of Strategic Resources [**Hearing Bundle, pp.258-261**].

7) The Plot was publicly advertised with a guide price of £34,000-£38,000 [**Hearing Bundle, p.264**].

8) On 24 February 2011 the Council’s Senior Development Surveyor, ML, emailed Cllr Jones stating [**Hearing Bundle, p.264**]:

“As per our conversation earlier, please you [sic] confirm the Leader has requested the removal of Florence Road, Smethwick from the auction on 10 March.

I would be grateful if you could confirm the individual party involved to enable Property Services to progress this matter.

The guide price published was £34,000-£38,000 however the reserve was to be set at £45,000 on the basis of its suitability for the erection of 2 semi-detached houses.

As discussed I should point out that we have already had other enquiries on the site since the auction catalogue was published. Those parties have been informed that the site will go to the auction where they can submit bids, in this respect there may be questions as to why it was removed and sold by way of private treaty. In addition while I confirm the reserve price was to be £45,000 my hope was that the competitive nature of the auction would increase the receipt for the Council as has happened in the past.

I look forward to hearing from you.
...

9) Cllr Jones respond to ML the same day stating simply: “*I will get the enquirers [sic] name and contact details and ask them to contact you directly so that you can discuss the sale details*”. On 25 February 2011 (i.e. the next day) Cllr Jones emailed ML stating: “... *the name of the*

interested party is [name and address] mobile number [number]" [Hearing Bundle, pp. 263, 265].

10) On 1 March 2011 ML wrote to the proposed purchaser referred to in Cllr Jones' email, AA [Hearing Bundle, p.266]. The letter stated:

"Further to your conversation with and at the request of Councillor Darren Cooper, The Leader of the Council, I confirm that the Council are prepared to dispose of the above site subject to the following terms:

Consideration: £45,000 (Forty Five Thousand Pounds).

User: That the land be used in connection with residential use only.

... You will note that the consideration is higher than that of the quoted guide price. The guide price is designed to attract interest in the site at auction. The consideration is the reserve price and represents the lowest at which the Council is willing to sell. This price would have been set as the reserve had the site progressed to auction.

..."

11) On 5 March 2011 AA responded to ML confirming acceptance of the offer of £45,000 [Hearing Bundle, p.267].

12) For reasons that were not apparent from the evidence, the sale of the Plot to AA ultimately did not proceed.

13) Subsequently, a report to the Asset Management and Land Disposals ("AMLD") Committee recommended that various plots of land (including the Plot) be sold on a sealed bid basis [Hearing Bundle, pp.269-273]. At its meeting on 27 October 2011 the AMLD Committee (of which Cllr Jones was a member) approved the disposal of these plots [Hearing Bundle, pp.275-284, especially at pp.280-282]. The Plot was subsequently sold in January 2012 under the sealed bid process to MS for £65,000 (the other two bids being for £52,500 and £41,000) [Hearing Bundle, pp.286-288].

80. The Sub-Committee was satisfied that Cllr Jones was acting in his capacity as a member of the authority and was therefore subject to the Code when he communicated with ML on around 24 to 25 February 2011.

81. The Sub-Committee was satisfied that as an experienced councillor who had signed a declaration that he would abide by the Code Cllr Jones was, or should have been, well aware of his obligations under the Code.
82. The Sub-Committee was also satisfied that, given his seniority and specifically his role as holder of the Jobs and Economy Cabinet portfolio, Cllr Jones would have been, or at least should have been, well aware of the Council's statutory obligation to achieve "*best consideration*" when disposing of land.
83. The Sub-Committee was satisfied that the power to dispose of land under £100,000 in value was, at the material time, a function of the full Council (not the Executive) which had been delegated to the Director of Strategic Resources under the Scheme of Delegation. The Sub-Committee had seen no evidence that such a power was that of the Leader or of the Cabinet Member for Jobs & Economy. Indeed, the Sub-Committee noted that Cllr Jones' former solicitors had sought to argue in his defence that he did *not* have such authority.
84. The Director of Strategic Resources had made a decision, pursuant to his delegated functions, to dispose of the Plot by way of auction. Sale by auction is a classic means by which a local authority can seek to discharge its obligation to achieve best consideration – it is a means of market testing the value of a property. In contrast, sale by private treaty is not a reliable means of achieving best consideration in the absence of any market testing.
85. It was said that the former Leader of the Council, the late Cllr Cooper, requested the removal of the Plot from the proposed auction. It appeared from ML's email that Cllr Jones conveyed this alleged request to ML, and that would accord with what Cllr Jones said in his interview with the Investigating Officer. However, the Sub-Committee noted that there was no direct or independent evidence that the late Cllr Cooper *did* make such a request. Cllr Cooper is obviously no longer able to answer as to his involvement or otherwise in the request to ML.
86. The Sub-Committee made no positive finding as to whether Cllr Cooper did or did not make the alleged request. It proceeded on the assumption (in Cllr Jones' favour) that he did make the request.

87. Whether or not the request ultimately came from Cllr Cooper, it was clear from ML's email (and the Sub-Committee did not understand Cllr Jones to dispute this) that Cllr Jones orally requested ML to remove the Plot from the auction. It also appeared that Cllr Jones had said that he would provide ML with the details of the proposed purchaser, which he then, indeed, did.

88. The Sub-Committee noted that Cllr Jones was warned by ML, in terms, that questions would be asked about why the Plot was withdrawn from auction and disposed of by private treaty and that ML expected the Plot to achieve a price *higher* than the reserve price if it were to be sold at auction. The Sub-Committee noted that when the Plot was eventually sold by sealed bid (another method of market testing to seek to achieve "*best consideration*") the Plot sold for £65,000 - £20,000 more than the price agreed with AA for sale by private treaty. Whilst the Sub-Committee recognised that the value of the Plot may have increased between February 2011 and January 2012, this appeared to be consistent with ML's expectation that a higher price could be achieved if a competitive sale process was used.

89. The email chain showed that Cllr Jones did not respond to ML's warning, but instead simply said that he would obtain the name and address of the proposed purchaser, which he then did the next day. There was no evidence that Cllr Jones applied his mind at all to the question of how sale by private treaty could be reconciled with the Council's duty to achieve "*best consideration*".

90. The Sub-Committee specifically recognised that there was no complaint in relation to Cllr Jones' involvement in the AMLD Committee's *subsequent* decision to approve the disposal by way of sealed bid.

(2) Findings in relation to failure to comply with the Code

91. The Sub-Committee unanimously found that Cllr Jones failed to comply with paragraph 5 of the Code ("*You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute*"), in that:

- 1) By passing on Cllr Cooper's alleged request (or himself making the request) Cllr Jones subverted the correct procedure. Under the Council's constitutional arrangements neither Cllr Jones, nor the then Leader, had authority to countermand the Director of Strategic Resources' delegated decision to put the Plot out to auction.
- 2) Cllr Jones did not follow his own responsibilities in relation to best consideration.
- 3) Cllr Jones ignored the clear professional advice of an officer, namely ML.
- 4) The way in which Cllr Jones participated in the alteration of the means by which the Plot was to be disposed of also breached the Principles of Public Life in relation to openness and transparency (such breaches being relevant to the question of whether he failed to comply with the Code). He sought to facilitate a sale by private treaty, when sale by public auction had properly been decided upon and publicly advertised.
- 5) The Sub-Committee agreed with the representations on behalf of the Investigating Officer that Cllr Jones also failed to comply with the Principles of Public Life in relation to showing leadership and stewardship of the Council's resources. Even if Cllr Jones had been told by the then Leader to convey the request, he failed to show leadership by not questioning such a request. He facilitated a sale by private treaty having been specifically warned by an officer that this was likely to achieve a lower price than sale by auction.

92. By departing from proper procedure and facilitating a situation where the Council risked not complying with its obligation to achieve "*best consideration*", Cllr Jones also could reasonably be regarded as bringing the Council itself into disrepute.

93. The Sub-Committee also unanimously found that Cllr Jones failed to comply with paragraph 3(2)(d) of the Code ("*You must not... do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your authority*"), in that:

- 1) The officer, ML, had very clearly set out his concerns in relation to sale by private treaty, which were not addressed by Cllr Jones and were ignored by him.
- 2) The officer specifically asked Cllr Jones for confirmation of the instruction from Cllr Cooper, but Cllr Jones did not address that request. The officer had also given very clear advice, which Cllr Jones ignored. This put the officer in a very difficult position.
- 3) The Sub-Committee considered that this was clearly conduct that was likely to undermine the impartiality of a Council officer.

94. As stated above, the Sub-Committee carefully considered Cllr Jones' response to the substantive allegations as set in his interview with the Investigating Officer and as set out by his former solicitors. The Sub-Committee did not consider these representations to be persuasive. In particular:

- 1) Cllr Jones' former solicitors argued that he was a merely acting as a conduit for the late Leader's request – The Sub-Committee considered this to be a wholly inadequate response. Cllr Jones was a Cabinet Member and an experienced councillor. He could, and should, have exercised independent judgment and not acted as a conduit, particularly when warned by an officer about the risks of sale by private treaty.
- 2) Cllr Jones' former solicitors argued that Cllr Jones had no authority to remove the Plot from auction – Again the Sub-Committee considered that this was an inadequate response. Cllr Jones acted in breach of the constitution which specified duties and delegated functions to officers. This was disregarded by Cllr Jones. This was not a point that served to defend Cllr Jones' actions.
- 3) Cllr Jones' former solicitors stated that he was relying on officers and the Leader to achieve "*best consideration*" – Again, the Sub-Committee considered this to be an inadequate response. Cllr Jones was told by an

officer that an auction, rather than sale by private treaty, was likely to achieve “*best consideration*”, but appeared to have taken no notice of this warning. Neither in his former solicitors’ letter nor in his interview did Cllr Jones suggest that he took any steps to ascertain from Cllr Cooper what (if any) thought had been given to achieving “*best consideration*”.

- 4) Cllr Jones’ former solicitors argued that the sale to AA did not go through and so did not cause loss to the Council – The Sub-Committee did not consider that the fact that the sale by private treaty did not, in fact, proceed and an actual loss did not materialise absolved Cllr Jones. The fact that the sale by private treaty did not go through was no thanks to Cllr Jones.

95. The Sub-Committee noted that Cllr Jones had intimated an intention to call witnesses to give evidence as to alleged political motivation for the standards complaint being pursued. Ultimately, no evidence was placed before the Sub-Committee in this respect. In any event, the Sub-Committee decided the case based on the evidence as to what did or did not happen *in February 2011*. The Sub-Committee based its decision on the contemporaneous documentary evidence and Cllr Jones’ responses to the substantive allegations.

C. Hearing in relation to possible sanction

96. Following the announcement of its decision that Cllr Jones had failed to comply with the Code, the hearing then proceeded to address the issue of what action (if any) the Sub-Committee should take in the light of its finding that Cllr Jones had failed to comply with the Code.

97. Mr Dennis made representations to the Sub-Committee in relation to sanction on behalf of the Investigating Officer.

98. The Independent Person gave his views to the Sub-Committee on sanction. The Legal Advisor provided legal advice to the Sub-Committee in relation to sanction. Summaries of both the Independent Person’s and Legal Advisor’s advice on sanction are annexed to this Decision Notice (at **Annexes F and C**).

99. The Sub-Committee then retired to deliberate in private. The Sub-Committee then announced its decision on sanction in public session.

Decision on sanction

100. The Sub-Committee unanimously decided that:

- 1) It is appropriate to take action in relation to Cllr Jones' failure to comply with the Code.
- 2) The Sub-Committee's Decision Notice should be published on Cllr Jones' member profile on the Council's website for the remainder of his term in office (or, if later, until he complies with the sanction set out below).
- 3) The Sub-Committee recommends that Cllr Jones be suspended from membership of the Economy, Skills, Transport and Environment Scrutiny Board and not be appointed to any further Committee of the Council until he has carried out training to the satisfaction of the Monitoring Officer as set out below.
- 4) The training is to be bespoke training to ensure that Cllr Jones understands appropriate competencies, responsibilities and behaviours in carrying out his responsibilities as a member of Committees. Such training is to be at Cllr Jones' own expense.

Reasons for the decision on sanction

101. As Cllr Jones had decided to absent himself from the local hearing, having been warned by the Sub-Committee's Legal Advisor that the Sub-Committee might refuse his adjournment application and proceed with the local hearing, the Sub-Committee considered that it was appropriate to proceed to consider the issue of sanction in Cllr Jones' absence. The Sub-Committee members, the Independent Person, the Legal Advisor and the Investigating Officer and her Counsel were all present at the hearing and were able to deal with the issue of sanction. The Sub-Committee considered that it would not be appropriate to delay the conclusion of the matter further by adjourning consideration of sanction.

102. In deliberating on the appropriate sanction, the Sub-Committee took account of the representations from Mr Dennis, the views of the Independent Person and the advice of its Legal Advisor. As noted above, the Sub-Committee had also read the Hearing Bundle and the Correspondence Bundle and took account of that material. The Sub-Committee does not below specifically refer to every document, piece of evidence or submission that it considered.
103. The Sub-Committee considered that this was not a case in which no further action would be an appropriate response to the failure to comply with the Code. The Sub-Committee considered the failure to comply with the Code to be a reasonably serious one.
104. The Sub-Committee noted that Cllr Jones was no longer a member of the Cabinet and was only a member of one Council Committee, namely the Economy, Skills, Transport and Environment Scrutiny Board.
105. The Sub-Committee was concerned that there was no demonstration by Cllr Jones of any insight into the deficits in knowledge and understanding of his responsibilities that his conduct had demonstrated. The Sub-Committee considered that some form of training for Cllr Jones to address such deficits was essential, and that this training should have a particular focus on Cllr Jones' ongoing responsibilities. The training should be bespoke training and be completed to the satisfaction of the Monitoring Officer.
106. If there was a cost in providing such training, the Sub-Committee considered that it was appropriate, in the circumstances, that Cllr Jones himself, rather than the Council, bear that cost.
107. The Sub-Committee considered that until Cllr Jones had undergone training better to understand his responsibilities he should not have additional responsibilities (now through committees, rather than the Cabinet). The Sub-Committee recommended that Cllr Jones be suspended from his membership of the one Committee that he was currently a member of and not be appointed to any further Committees, pending the satisfactory completion of such training.

108. The Sub-Committee considered that, should Cllr Jones stand for re-election, the voters in his ward were entitled to be aware of the failure to comply with the Code that he has been found guilty of. The Sub-Committee's Decision Notice should, therefore, remain on his member profile on the Council's website for the remainder of his current term as a councillor. To encourage Cllr Jones to comply with the requirement for training, the Decision Notice should remain on his member profile until he has complied with the training requirement (if that was later than the expiry of his current term of office).

109. The Sub-Committee did not consider that any of the other types of potential action identified at paragraphs 9.1 to 9.6 of the Arrangements were relevant or appropriate in the circumstances.

STANDARDS WORKING GROUP**Terms of Reference**

Scope

To review the Council's Ethical Framework, namely:

- Council's Members' Code of Conduct;
- arrangements for Members' Register and declarations of Interest; and
- arrangements for Dealing with Standards Allegations under the Localism Act 2011.

To gather insight, consult and/or gather such data and information from sources as deemed necessary and appropriate to undertake an effective review of the Ethical Framework.

To consider and make recommendations on how the council can discharge its duty to promote high standards of conduct as required under the Localism Act 2011.

To consider and assist the Chairperson of the Committee to formally respond to the Local Authority Ethical Standards: Stakeholder Consultation.

Membership

Chairperson of the Standards and Member Development Committee.

Three other Members of the Standards and Member Development Committee

Independent Members shall be entitled to attend meetings of the Working Group in an advisory capacity.

The Working Group may invite other members or third parties to working Group meetings as it considers appropriate and necessary to undertake the review.

Quorate and Meetings

At least three Members of the Working Group.

Meetings shall be held as required.

Chairperson of the Working Group

The Chairperson of the Working Group shall be the Chairperson of the Committee or in his absence the Committee's Deputy Chairperson.

Decision-making

To submit recommendations to the Ethical Standards and Member Development Committee on revisions to the Council's Ethical Framework.

Voting

By majority vote with the Chairperson (or Deputy as applicable) having a casting vote.

Access to Information Rules

The Working Group is not a constitutional meeting of the council or a sub-committee of the Standards and Member Development Committee and as such is not subject to the Access to Information Rules.

Review of Local Government Ethical Standards: Stakeholder Consultation

The Committee on Standards in Public Life is undertaking a review of local government ethical standards.

Robust standards arrangements are needed to safeguard local democracy, maintain high standards of conduct, and to protect ethical practice in local government.

As part of this review, the Committee is holding a public stakeholder consultation. The consultation is open from 12:00 on Monday 29 January 2018 and closes at 17:00 on Friday 18 May 2018.

Terms of reference

The terms of reference for the review are to:

1. Examine the structures, processes and practices in local government in England for:
 - a. Maintaining codes of conduct for local councillors;
 - b. Investigating alleged breaches fairly and with due process;
 - c. Enforcing codes and imposing sanctions for misconduct;
 - d. Declaring interests and managing conflicts of interest; and
 - e. Whistleblowing.
2. Assess whether the existing structures, processes and practices are conducive to high standards of conduct in local government;
3. Make any recommendations for how they can be improved; and
4. Note any evidence of intimidation of councillors, and make recommendations for any measures that could be put in place to prevent and address such intimidation.

The review will consider all levels of local government in England, including town and parish councils, principal authorities, combined authorities (including Metro Mayors) and the Greater London Authority (including the Mayor of London).

Local government ethical standards are a devolved issue. The Committee's remit does not enable it to consider ethical standards issues in devolved nations in the UK except with the agreement of the relevant devolved administrations. However, we welcome any evidence relating to local

government ethical standards in the devolved nations of the UK, particularly examples of best practice, for comparative purposes.

Submissions will be published online alongside our final report, with any contact information (for example, email addresses) removed.

Consultation questions

The Committee invites responses to the following consultation questions.

Please note that not all questions will be relevant to all respondents and that submissions do not need to respond to every question. Respondents may wish to give evidence about only one local authority, several local authorities, or local government in England as a whole. Please do let us know whether your evidence is specific to one particular authority or is a more general comment on local government in England.

Whilst we understand submissions may be grounded in personal experience, please note that the review is not an opportunity to have specific grievances considered.

- a. Are the existing structures, processes and practices in place working to ensure high standards of conduct by local councillors? If not, please say why.
- b. What, if any, are the most significant gaps in the current ethical standards regime for local government?

Codes of conduct

- c. Are local authority adopted codes of conduct for councillors clear and easily understood? Do the codes cover an appropriate range of behaviours? What examples of good practice, including induction processes, exist?
- d. A local authority has a statutory duty to ensure that its adopted code of conduct for councillors is consistent with the Seven Principles of Public Life and that it includes appropriate provision (as decided by the local authority) for registering and declaring councillors' interests. Are these requirements appropriate as they stand? If not, please say why.

Investigations and decisions on allegations

- e. Are allegations of councillor misconduct investigated and decided fairly and with due process?

- i. What processes do local authorities have in place for investigating and deciding upon allegations? Do these processes meet requirements for due process? Should any additional safeguards be put in place to ensure due process?
- ii. Is the current requirement that the views of an Independent Person must be sought and taken into account before deciding on an allegation sufficient to ensure the objectivity and fairness of the decision process? Should this requirement be strengthened? If so, how?
- iii. Monitoring Officers are often involved in the process of investigating and deciding upon code breaches. Could Monitoring Officers be subject to conflicts of interest or undue pressure when doing so? How could Monitoring Officers be protected from this risk?

Sanctions

- f. Are existing sanctions for councillor misconduct sufficient?
 - i. What sanctions do local authorities use when councillors are found to have breached the code of conduct? Are these sanctions sufficient to deter breaches and, where relevant, to enforce compliance?
 - ii. Should local authorities be given the ability to use additional sanctions? If so, what should these be?

Declaring interests and conflicts of interest

- g. Are existing arrangements to declare councillors' interests and manage conflicts of interest satisfactory? If not please say why.
 - i. A local councillor is under a legal duty to register any pecuniary interests (or those of their spouse or partner), and cannot participate in discussion or votes that engage a disclosable pecuniary interest, nor take any further steps in relation to that matter, although local authorities can grant dispensations under certain circumstances. Are these statutory duties appropriate as they stand?
 - ii. What arrangements do local authorities have in place to declare councillors' interests, and manage conflicts of interest that go beyond the statutory requirements? Are these satisfactory? If not, please say why.

Whistleblowing

- h. What arrangements are in place for whistleblowing, by the public, councillors, and officials? Are these satisfactory?

Improving standards

- i. What steps could *local authorities* take to improve local government ethical standards?
- j. What steps could *central government* take to improve local government ethical standards?

Intimidation of local councillors

- k. What is the nature, scale, and extent of intimidation towards local councillors?
- i. What measures could be put in place to prevent and address this intimidation?

Who can respond?

Anyone with an interest may make a submission. The Committee welcomes submissions from members of the public.

However, the consultation is aimed particularly at the following stakeholders, both individually and corporately:

- Local authorities and standards committees;
- Local authority members (for example, Parish Councillors, District Councillors);
- Local authority officials (for example, Monitoring Officers);
- Think tanks with an interest or expertise in local government;
- Academics with interest or expertise in local government; and
- Representative bodies or groups related to local government.

How to make a submission

Submissions can be sent either in electronic format or in hard copy.

Submissions must:

- State clearly who the submission is from, i.e. whether from yourself or sent on behalf of an organisation;

- Include a brief introduction about yourself/your organisation and your reason for submitting evidence;
- Be in doc, docx, rtf, txt, ooxml or odt format, not PDF;
- Be concise – we recommend no more than 2,000 words in length; and
- Contain a contact email address if you are submitting by email.

Submissions should:

- Have numbered paragraphs; and
- Comprise a single document. If there are any annexes or appendices, these should be included in the same document.

It would be helpful if your submission included any factual information you have to offer from which the Committee might be able to draw conclusions, and any recommendations for action which you would like the Committee to consider.

The Committee may choose not to accept a submission as evidence, or not to publish a submission even if it is accepted as evidence. This may occur where a submission is very long or contains material which is inappropriate.

Submissions sent to the Committee after the deadline of 17:00 on Friday 18 May 2018 may not be considered.




Submissions can be sent:

1. Via email to: public@public-standards.gov.uk
2. Via post to:
Review of Local Government Ethical Standards
Committee on Standards in Public Life
GC:07
1 Horse Guards Road
London
SW1A 2HQ

If you have any questions, please contact the Committee's Secretariat by email (public@public-standards.gov.uk) or phone (0207 271 2948).

Ethical Standards and Member Development Committee

9 March 2018

Subject:	National Cases
Director: 	Director - Monitoring Officer - Surjit Tour
Contribution towards Vision 2030: 	
Contact Officer(s):	Trisha Newton Principal Democratic Services Officer Trisha_newton@sandwell.gov.uk

DECISION RECOMMENDATIONS

That the Ethical Standards and Member Development Committee:

1. note the contents of the report and the case at Appendix 1 and consider any issues for the Council.

1 PURPOSE OF THE REPORT

- 1.1 Within its terms of reference, the Ethical Standards and Member Development Committee has a duty to promote high ethical standards amongst Members. As well as complying with legislation and guidance, the Committee will need to demonstrate learning from issues arising from local investigations and case law. Furthermore it is advisable for the Committee to be kept informed of any particularly notable cases which are publicised as they may also add to learning at the local level.

2 IMPLICATIONS FOR SANDWELL'S VISION

- 2.1 High standards of conduct are an essential part of good corporate governance and this in turn has a direct relationship with the delivery of high quality services.

3 STRATEGIC RESOURCE IMPLICATIONS

3.1 There are no resource implications arising from this report.

4 LEGAL AND GOVERNANCE CONSIDERATIONS

4.1 By considering national cases of significance the Ethical Standards and Member Development Committee will be better informed and placed to discharge its duty to promote high ethical standards.

Surjit Tour
Director – Monitoring Officer

Councillor found to be in breach of the Code of Conduct – Oakham Town Council

Complaints submitted against Oakham Town Councillor in respect of incidents that occurred during July and August 2016 were dealt with under Rutland County Council's Arrangements for Dealing with Conduct Allegations. The initial assessment of the complaints concluded that a full investigation was required.

Three complaints were assessed as requiring detailed investigation, one of which was received as a collective complaint from other Members of the Town Council and two members of staff.

The complaints were categorised into four specific areas:

- (i) Showing disrespect for a Town Council employee and behaving in a bullying and intimidatory manner;
- (ii) Disruption at meetings;
- (iii) Publication of confidential information; and
- (iv) Damage to a Town Council noticeboard

The investigation found that during incidents that in July and August 2016 the Councillor failed to treat the Assistant Clerk with respect and therefore breached the Code.

It was alleged that the Councillor had disrupted the Oakham Town Council meetings in July and August 2016. The investigation found that these meetings were temporarily adjourned and relocated, but that the threshold for disruption to constitute disrespect was not reached therefore there was no breach of the Code.

It was also found that on two occasions the Councillor published confidential information on his blog, thereby breaching the Code.

In respect of allegations that the Councillor caused damage to a noticeboard and brought Oakham Town Council into disrepute; this was outside the scope of the Code of Conduct and could not be considered.

In conclusion, it was evident from the investigation that the Councillor had breached two paragraphs of the Council's Code of Conduct and that his behaviour had fallen short of that expected of an elected member.

The sanctions recommended to the Council were:-

1. A formal letter should be issued to the Councillor;
2. the Councillor should be formally censured;

The decision notice stated that all Councillors had an individual and collective responsibility to act in the best interests of the town and ensure that the Council was effectively managed. For these reasons it was recommended to the Town Council that that it took part in a conciliation process involving the Councillor.

Taken from the Decision Notice dated 9th August 2017 prepared by the Monitoring Officer for Rutland County Council