

Minutes of Ethical Standards and Member Development Committee

**Friday 11 June at 2.30pm
Council Chamber, Sandwell Council House**

- Present:** Councillor Carmichael (Chair)
Councillor Kausar (Vice-Chair)
Councillors Akhter, Chambers, Dhallu, Z Hussain,
O Jones and C S Padda.
- Observers:** Mr John Tew and Mr Richard Phillips (Independent Persons).
- In attendance:** Councillor Fisher.
- Officers:** Surjit Tour – Director of Law and Governance and Monitoring
Officer and Suky Suthi-Nagra – Democratic Services
Manager.

11/21 **Apologies for Absence**

No apologies for absence were received.

12/21 **Declarations of Interest**

No declarations of interest were made.

13/21 **Minutes**

The minutes of the meeting held on 12 March 2021 were agreed as a correct record and signed by the Chair.



14/21 **Urgent Items of Business**

There were no additional items of business to consider.

15/21 **Appointments to Ethical Standards Sub-Committees and Working Group**

The Localism Act 2011 required authorities to adopt arrangements for dealing with complaints about breaches of the Member Code of Conduct. The Council's arrangements for dealing with complaints provided for a Sub-Committee of the Ethical Standards and Member Development Committee to consider investigation reports referred to it by the Monitoring Officer and to conduct hearings (including the imposition of sanctions).

It was proposed to merge the two Working Groups previously established by the Committee (Standards Working Group and Member Development Working Group) and combine them into one Ethical Standards Working Group.

It was noted that there were several outstanding issues that awaited consideration by the Working Group including whether DBS checks were to be required for members, consideration of the social media policy and the appointment of independent member exercise.

The Committee considered members to be appointed to the Ethical Standards Working Group, alongside the Chair and Vice Chair, for the municipal year 2021/22 and it was proposed to appoint Councillors Akhter and Z Hussain as new members of the working group.



Agreed:-

- 1) that the Ethical Standards and Member Development Committee appoints to two Ethical Standards Sub-Committees for the 2021/22 municipal year, with flexibility between membership to cater for availability and workload, with delegated powers to carry out the functions set out in the following terms of reference, and with the membership set out below:

Terms of reference of the Ethical Standards Sub Committee

- | |
|--|
| <ul style="list-style-type: none"> • To consider investigation reports referred to it by the Monitoring Officer |
| <ul style="list-style-type: none"> • To conduct hearings (including the imposition of sanctions) |

Membership

SUB-COMMITTEE 1		SUB-COMMITTEE 2	
Member	Substitute	Member	Substitute
Carmichael	Substitute members taken from remainder of committee	Carmichael	Substitute members taken from remainder of committee
Dhallu		Kausar	
Akhter		O Jones	
Z Hussain		C S Padda	
Chambers		Chambers	
+ Independent Person		+ Independent Person	

- 2) that the Terms of Reference for the Ethical Standards Working Group, as detailed in the appendix to the report on agenda item 5, be approved;
- 3) that Councillors Akhter and Z Hussain be appointed to the Ethical Standards Working Group for the municipal year 2021/22.



16/21 **Work Programme 2021/22**

The Committee considered the draft work programme for 2021/22.

The programme covered the areas within the remit of the Ethical Standards and Member Development Committee under its current terms of reference.

Sub-Committees of the Standards Committee would deal with any case work.

The Committee noted that the following matters were outstanding from 2020/21 and had been built into the programme for 2021/22 municipal year:

- Duty to Promote
- Review of the recruitment process for Independent Persons for Dealing with Standards Matters
- DBS Checks for Elected Members
- Review of the Composition of the Committee
- Annual Review of Code of Conduct/Arrangements for Dealing with Complaints under the Code.

Agreed that the work programme for 2021/22 be approved and kept under review during the year.



17/21

Ministry of Housing, Communities and Local Government – Response to Local Authority remote meetings: call for evidence

The Committee noted that on 25 March 2021, the Ministry of Housing, Communities and Local Government opened a call for evidence to seek views on the use of the arrangements which had provided express provision for local authorities to hold meetings remotely or in a hybrid format during the coronavirus pandemic.

The call for evidence sought to understand the experience of local authorities in the whole of the UK regarding remote meetings.

The consultation opened on 25 March 2021 for a 12-week period. The deadline for local authorities to respond was 17 June 2021.

It was noted that feedback from parents on remote school appeal hearings had been positive as more people could attend the hearings remotely during working hours.

The Committee commented that for smaller committees, virtual meetings had led to improved attendance and engagement as many people felt comfortable when the meetings were conducted remotely. It was felt that online meetings provided extra convenience to members of the public who could watch the livestream or an online recording of the meeting.

The Committee also noted the wider benefits associated with remote meetings such as reduced travel costs and CO₂ emissions and greater participation by members and public alike. Members had also improved their IT literacy by having to participate in remote meetings.

The Committee recognised that physical meetings were still necessary, especially for larger committees and full council meetings.

The Director – Law and Governance and Monitoring Officer sought the views of the Committee so that he could prepare a response on behalf of Sandwell.



Agreed:-

- 1) that the Committee provide comments in relation to the Council's response to the Ministry of Housing, Communities and Local Government – Response to Local Authority remote meetings: call for evidence to the Director of Law and Governance and Monitoring Officer;
- 2) that the Director of Law and Governance and Monitoring Officer, in consultation with the Chair of the Ethical Standards and Member Development Committee, be authorised to submit the response to Ministry of Housing, Communities and Local Government – Response to Local Authority remote meetings: call for evidence by 17 June 2021.

18/21

Gifts and Hospitality

The Committee considered the Gifts and Hospitality Register and declaration of interests made by Members.

Guidance was available to all Members on how to treat offers of gifts and hospitality and the process for declaring such offers. This guidance formed part of the Council's Constitution.

The Monitoring Officer maintained a public register of members' interests and also a record of any gift or hospitality received. The revised Gifts and Hospitality guidance was approved by Full Council on 23 March 2021. The value of gifts and hospitality required to be declared by members was reduced to £50.00 (previously set at £100.00).



The Register of Members' Gifts and Hospitality was available for inspection by the public at all reasonable hours. Declarations of gifts and hospitality by individual members were also recorded on the Committee Management Information System [CMIS] on the Council's web site and could be accessed at any time from the internet.

The Registers were periodically reviewed by the Director of Law and Governance and Monitoring Officer.

No new entries to the Gifts and Hospitality Register were made since the last meeting of the Committee.

In response to questions, the following was noted:

- the policy was that any gift and hospitality at or above the value of £50 had to be declared in the register. Members were encouraged to also report any gift or hospitality below this value that related in any way to their role as councillor;
- it was clarified that the requirement for declaration was triggered once an individual instance of gift or hospitality was at or above £50. The register did not operate on accumulation basis (for example there was no requirement to declare three gifts of £20 received over a long period of time and from different sources);
- an accumulation of small gifts received from the same source over a short period that would add up to £50.00 or over should be registered.

19/21

Complaints Update

The Committee was presented with an update on the activity of the Council's Monitoring Officer in relation to complaints received under the Member Code of Conduct arrangements.

It was explained that the report on the item contained an update position on complaints received under the Member Code of Conduct.



This was the new schedule that was approved by the Committee in the last municipal year. The update position was designed to provide assurance around current status of matters under consideration.

The target was for matters to be dealt with promptly and concluded within three months of the beginning of an investigation.

Two complaint cases were outstanding at the time of this meeting. One was being considered to see if it could be resolved through local resolution and the second was delayed due to health circumstances of the subject member.

In response to questions, the following was noted:

- Paragraph 9.2 of Sandwell MBC Members' Code of Conduct placed positive obligation on members to cooperate with any Code of Conduct investigation;
- There would often be legitimate reasons why an investigation into a complaint might be delayed, such as parties seeking legal advice. There was now a list included in the arrangements of legitimate circumstances which could give rise to delays;
- Sandwell MBC adopted the Committee on Standards in Public recommendation to have in place regular meetings between senior officers and political group leaders and chief whips.
- In 2020, the Monitoring Officer (MO) received 20 complaints. 1 complaint had been made to date in 2021;
- It was noted that complexity and seriousness of a given case determined who undertook the investigation or where capacity issues arose. Investigators are therefore appointed from within the council, another MO from a council or an external investigator;
- There was a cost incurred by the Council when hiring an external investigator;



- The Code of Conduct applied when councillors act in the capacity of a member or hold themselves out as such. Investigations into complaints could be undertaken only when the individual under investigation remained a member or representative of the Council and therefore was legally considered a member/representative of the Council;
- Once the individual ceased to be a councillor there would no longer be a legal basis to continue an investigation.

In response to issues around trust and confidence by residents and members in the complaints process, Councillor Z Hussain sought to move a motion to set up a sub committee, comprising of members of the Committee, to consider the appointment of an independent person to review past and current complaints to ensure that due process was followed by the local authority during the conduct of investigations. It was proposed that the terms of reference and specific remit of the sub committee could be agreed once formed.

However, concern was raised by the Chair that there was insufficient detail on the current motion for e.g. what would be the remit of the sub committee and how far back previous cases, that had now been dealt with, would be looked into.

In addition, the Director of Law and Governance and Monitoring Officer raised concerns on the legality of the proposed motion, in its current wording, as reopening any cases now dealt with would give rise to legal issues and further challenge particularly as:-

- the council would need to provide exceptional reasons, with conclusive evidence, for past matters to be reconsidered without legal challenge, not least because parties involved in old cases had been told that their investigations were concluded;
- the proposed motion had not specified how far back in time the review would start. At this point any retrospective starting date of the review would be arbitrary;



- the proposed motion had not specified any criteria or scope for the review of complaints. For e.g. was the motion proposing to look at specific complaints or a block of complaints;
- members were not provided with all the relevant information to make an informed decision at this meeting, and full implications of the proposed motion were not known or understood at this point;
- the Council was liable to legal challenge and reputational harm if a decision was to be made at this point.

It was advised that the proposal could not be put to the vote at this meeting, in its current wording, because there was no prior consideration of the legal implications and risks to the local authority and Members did not possess enough information to make an informed decision at this point on the scope of what was actually being proposed. The motion would need to specify the timeframe, criteria and scope of the review in order to determine its legality and for it to be valid.

The Independent Person (IP), Mr John Tew, advised the Committee that during the two years as an IP, he had sat in a number of committee meetings where the issue of restoring public confidence had been discussed in great depth by former committee members and a number of measures had since been taken to improve the complaints procedure. He subsequently urged all members on the Committee to read the new code.

Councillor O Jones sought to put the motion to the vote however, the Director of Law and Governance and Monitoring Officer raised concerns over the legality and status of the proposed motion. The Monitoring Officer advised that the working group that had been set up (as referred to in Minute No. 15/21 above) to consider the review of the member code of conduct and arrangements and could consider and define the scope and implications of the proposed review further before submitting its findings to an extraordinary meeting of the Committee for decision. In its current form, the Committee could not make an informed decision based on the proposed motion.



However, Cllr Z Hussain requested that the Committee consider the proposed motion at an extraordinary meeting of the Committee.

Agreed that an extraordinary meeting the Committee be arranged before the next scheduled Committee meeting (on 24 September 2021) to clarify the scope of the proposed motion.

Meeting ended at 3.39pm

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