



WOKINGHAM BOROUGH COUNCIL

A Meeting of the **STANDARDS COMMITTEE** will be held at
Civic Offices, Shute End, Wokingham RG40 1BN on
TUESDAY 14 MARCH 2017 AT 7.00 PM

A handwritten signature in black ink, appearing to read 'Andy Couldrick'.

Andy Couldrick
Chief Executive
Published on 6 March 2017

This meeting may be filmed for inclusion on the Council's website.

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WOKINGHAM BOROUGH COUNCIL

Our Vision

A great place to live, an even better place to do business

Our Priorities

Improve educational attainment and focus on every child achieving their potential

Invest in regenerating towns and villages, support social and economic prosperity, whilst encouraging business growth

Ensure strong sustainable communities that are vibrant and supported by well designed development

Tackle traffic congestion in specific areas of the Borough

Improve the customer experience when accessing Council services

The Underpinning Principles

Offer excellent value for your Council Tax

Provide affordable homes

Look after the vulnerable

Improve health, wellbeing and quality of life

Maintain and improve the waste collection, recycling and fuel efficiency

Deliver quality in all that we do

MEMBERSHIP OF THE STANDARDS COMMITTEE

Councillors

Ken Miall (Chairman)	Pauline Helliard-Symons (Vice-Chairman)	Chris Bowring
UllaKarin Clark	Beth Rowland	Paul Swaddle

Parish/Town Council Representatives

Sally Gurney	Roger Loader	Roy Mantel
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ITEM NO.	WARD	SUBJECT	PAGE NO.
18.		APOLOGIES To receive any apologies for absence.	
19.		MINUTES OF PREVIOUS MEETING To confirm the Minutes of the Meeting held on 10 January 2017.	5 - 8
20.		DECLARATIONS OF INTEREST To receive any declarations of interest.	
21.		PUBLIC QUESTION TIME To answer any public questions. A period of 30 minutes will be allowed for members of the public to ask questions submitted under notice. The Council welcomes questions from members of the public about the work of this committee. Subject to meeting certain timescales, questions can relate to general issues concerned with the work of the Committee or an item which is on the Agenda for this meeting. For full details of the procedure for submitting questions please contact the Democratic Services Section on the numbers given below or go to www.wokingham.gov.uk/publicquestions	
22.		MEMBER QUESTION TIME To answer any Member questions.	
23.		PARISH / TOWN COUNCIL QUESTION TIME To answer any questions from Parish / Town Councillors.	
24.	None Specific	UPDATE ON COMPLAINTS AND FEEDBACK To consider an update on new Code of Conduct complaints received and complaints previously under investigation.	9 - 12

25.	None Specific	MEMBER CODE OF CONDUCT PROCEDURES To consider a report relating to Member Code of Conduct procedures.	13 - 16
26.	None Specific	ANNUAL REPORT To consider the Standards Committee Annual Report for 2016/17.	17 - 22

Neil Carr

Tel

Email

Postal Address

CONTACT OFFICER

Principal Democratic Services Officer

0118 974 6058

neil.carr@wokingham.gov.uk

Civic Offices, Shute End, Wokingham, RG40 1BN

**MINUTES OF A MEETING OF THE
STANDARDS COMMITTEE
HELD ON 10 JANUARY 2017 FROM 7.00 PM TO 8.10 PM**

Committee Members Present

Councillors: Ken Miall (Chairman), Pauline Helliard-Symons (Vice-Chairman),
Ulla Karin Clark, Beth Rowland and Paul Swaddle

Other Councillors Present

Councillors: Sally Gurney and Roy Mantel

Officers Present

Neil Carr, Principal Democratic Services Officer

Andrew Moulton, Head of Governance and Improvement Services and Monitoring Officer

Mary Severin, Borough Solicitor

10. APOLOGIES

Apologies for absence were submitted by Chris Bowring and Roger Loader.

11. MINUTES OF PREVIOUS MEETING

The Minutes of the meeting of the Committee held on 6 July 2016 were confirmed as a correct record and signed by the Chairman.

12. DECLARATION OF INTEREST

There were no declarations of interest.

13. PUBLIC QUESTION TIME

There were no public questions.

14. MEMBER QUESTION TIME

There were no Member questions.

15. PARISH / TOWN COUNCIL QUESTION TIME

There were no Parish or Town Council questions.

16. UPDATE ON COMPLAINTS AND FEEDBACK

The Committee considered a report, set out at Agenda pages 9 to 13, which provided feedback on the operation of the Member complaints process since the previous meeting.

The report stated that two new complaints had been received since the previous meeting of the Committee. Andrew Moulton, Head of Governance and Improvement Services and Monitoring Officer, provided an update to the Committee on the investigation of each complaint.

The first complaint related to the conduct of two Members with regard to an alleged breach of confidentiality. An investigation had been carried out and the matter would be considered by a Standards Committee Hearings Panel. The second complaint related to the conduct of a Member and was subject to an ongoing investigation.

Andrew Moulton commented that one learning point arising out of the handling of recent Code of Conduct complaints was the importance of maintaining strict confidentiality as a complaint progressed through the process.

RESOLVED: That the update report relating to ongoing complaints and investigations be noted.

17. CODE OF CONDUCT - PROPOSED AMENDMENT

The Committee considered a report, set out at Agenda pages 15 to 16, on a proposed amendment to the Borough Council's Constitution in relation to the Member Code of Conduct.

The report gave details of a request relating to section 9.1.14.2 of the Council's Constitution: "Breach of Code of Conduct". At the moment, section 9.1.14.2 stated that, where a Member was found to be in breach of the Code of Conduct but the breach was resolved "informally", the Member's name was not disclosed. In contrast, where a Member was found to be in breach following a Standards Committee Hearings Panel, the decision notice was available for public inspection and was published on the Borough Council's website. In addition the matter would be reported to the next appropriate meeting of the Borough, Town or Parish Council.

The request to amend the Constitution was made on the basis of consistency and public accountability, as both the "informal" and Hearings Panel routes dealt with Member breaches of the code.

Members considered the issues raised by the report and made the following points:

- The current description of an "informal" option for the resolution of complaints was unhelpful as this route included a formal investigation.
- In relation to openness and transparency, if Members breached the Code of Conduct should the public not be made aware in all cases?
- Was there potential within the current "informal" route for some outcomes to be made public whilst other outcomes were not, dependent on the merits of each individual case?
- Could the process be improved by the provision of guidance for the Monitoring Officer on best practice and the way to handle different types of complaint?

Following the discussion, Members concluded that further information and guidance should be provided on the issues raised before a final decision was reached on this matter.

RESOLVED That:

- 1) a further report be submitted to the meeting of the Committee on 14 March 2017;
- 2) the report address the following issues:
 - the potential for amending the current "informal" complaints resolution process to include two options – one option with publication of the Member's name and one without publication;
 - potential guidelines to support the Monitoring Officer in handling Code of Conduct complaints;

- examples of good practice on Code of Conduct issues from other local authorities.

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TITLE	Update on Complaints and Feedback
FOR CONSIDERATION BY	Standards Committee on 14 March 2017
WARD	None Specific
DIRECTOR	Andrew Moulton, Head of Governance and Improvement Services and Monitoring Officer

OUTCOME/BENEFIT TO THE COMMUNITY

To inform and provide feedback on the outcomes of the Member Complaints process. Providing reassurance to the public that elected Borough, Parish and Town Members are maintaining high standards of conduct in carrying out their duties.

RECOMMENDATION

To note the report and consider any issues arising.

SUMMARY OF REPORT

At each meeting of the Committee the Monitoring Officer submits an update report on Code of Conduct complaints.

Since the last meeting of the Committee, on 10 January 2017, there have been two new complaints received. Details are provided at Appendix A2.

An update on the other cases that were previously reported as outstanding is shown at Appendix A1.

A verbal update will be given at the meeting on any specific patterns/trends or other matters that the Committee may need to consider. Also the Committee is asked to consider any broader training issues that arise from these and previous complaints.

Background

Under the terms of Section 9.1.13.5 of the Council's Constitution, the Monitoring Officer provides a report to the Standards Committee, on a quarterly basis, which contains the following:

- the number and nature of complaints received;
- progress on any investigations and associated costs;
- areas where training or other action might avoid further complaints.

The name(s) of the Member(s) involved are not disclosed in the report.

Since the last meeting of the Committee on 10 January 2017, there have been two new Code of Conduct complaints received. In addition two complaints were ongoing. Details of the complaints and progress made are set out at Appendix A.

Under the Council's adopted policy for the consideration of Code of Conduct Complaints, the Monitoring has delegated authority to decide whether the complaint:

- a) can be resolved informally i.e. by mediation with the two parties before making a decision on whether the complaint merits formal investigation;
- b) requires investigation;
- c) should be referred to the Standards Committee;
- d) requires that no further action should be taken.

Reasons for considering the report in Part 2
If the Committee decides to discuss the specifics of individual cases it may be necessary to consider excluding the public if that would involve the disclosure of exempt information.

List of Background Papers
None.

Contact Andrew Moulton	Service Governance & Improvement Services
Telephone No 07747 777298	Email andrew.moulton@wokingham.gov.uk
Date 2 March 2017	Version No. 1

Appendix A - Code of Conduct Complaints – Outcome of Complaints

A1 – Complaints Previously Reported

Date Received	Council	Summary of Complaint	Conclusion	Date Concluded
13/10/16	WBC	The complaint relates to the conduct of two Borough Council Members with regard to an alleged breach of confidentiality. An investigation has been conducted and a Hearings Panel was held on 20 February 2017, at which both Members were found to be in breach of the Code of Conduct. The decision notice was published on the Council's website on 25 February 2017 and a report will be made to the Council meeting on 23 March 2017.	Breach (both Members). Sanctions applied – censure for both Members and additional training to be provided.	20/2/17
25/11/16	WBC	The complaint relates to the alleged conduct of a Member. An investigation has been commissioned and a Hearings Panel is scheduled for later in the month.	Ongoing	N/A

A2 - New Complaints Received Since 10 January 2017

Date Received	Council	Summary of Complaint	Conclusion	Date Concluded
24/01/17	WBC	This complaint related to the alleged conduct of a Member in a Council meeting. Following consultation with the Chairman of the Standards Committee and an Independent Person it was decided to take no further action.	No breach	9/02/17

22/02/17	WBC	The complaint relates to the alleged conduct of a Member with regard to a planning matter. Following consultation with the Chairman of the Standards Committee and an Independent Person it was decided to take no further action.	No breach	2/3/17
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TITLE	Member Code of Conduct Procedures
FOR CONSIDERATION BY	Standards Committee on 14 March 2017
WARD	None Specific
LEAD OFFICER	Andrew Moulton, Head of Governance and Improvement Services and Monitoring Officer

OUTCOME / BENEFITS TO THE COMMUNITY

The Code of Conduct and the associated training for Members help to promote the highest standards of conduct by elected Members on the Borough, Town and Parish Councils. This provides reassurance for residents that elected Members are acting in the public interest and are accountable for their actions.

RECOMMENDATION

The Committee is requested to:

- 1) Consider and approve the three recommendations set out in the report;
- 2) Refer the proposed Constitutional changes to the Constitution Review Working Group for consideration.

SUMMARY OF REPORT

At its meeting on 10 January 2017 the Committee considered a report which set out a request for a change to the Constitution in relation to the “informal” resolution of Code of Conduct complaints. The report referred to the current situation when a Member was found to be in breach of the Code of Conduct but the Monitoring Officer decided to handle the matter informally. In such instances the name of the Member concerned was not currently made public.

Members asked for a further report on this matter together with potential guidelines to assist the Monitoring Officer, in consultation with the Chairman of the Standards Committee and an Independent Person, in making an initial decision on Code of Conduct complaints.

The report also considers issues relating to the recent increase in complaints by Members against other Members and provides evidence relating to the handling of such complaints by other Councils.

Background

At the last Committee meeting, on 10 January 2017, Members asked for a report to address the following issues:

1. The potential for amending the current 'informal' complaints resolution process to include two options – one option with publication of the Member's name and one without publication.(para. 9.1.14.2(a);
2. Potential guidelines to support the Monitoring Officer in handling Code of Conduct complaints;
3. Examples of good practice on Code of Conduct issues from other local authorities - whether other councils have arrangements which prevent a Councillor making a Code of conduct complaint against another Councillor.

Each of the issues is considered in detail below.

1. Publishing the Member's name after a formal investigation finds a breach has occurred

The Committee was requested to consider whether there was a potential anomaly in the complaints process, in that if an investigation finds a Subject Member in breach of the Code of Conduct, and the Monitoring Officer makes a decision to deal with it informally, rather than organise a hearing, that Subject Member's name is not published.

Some Members were concerned that if the Subject Member was found in breach of the Code after a formal investigation, the Subject Member's name should be published, in exactly the same way as if a Hearings Panel had made the same decision. It was felt that there should be the same level of openness for any Subject Member found in breach of the Code of Conduct.

At the previous meeting some Members also favoured a half-way process, so that a decision could or could not be published depending upon the circumstances. However, it is felt that this would create uncertainty and, possibly, confusion, as all decisions should follow a consistent pattern and it could be difficult to pinpoint circumstances when a breach should be published or not. In addition, it should be noted that there is an opportunity for the matter to be dealt with informally when the Monitoring Officer makes his initial decision in accordance with para. 9.1.13.4. at the very beginning of the complaints process. He is likely to have done that if the complaint was considered minor, and for minor breaches it would appear to be appropriate to deal with the matter informally. If the matter is more serious, he will ask for an investigation. It would follow, therefore, that there is an argument for a simple rule that if a Subject Member is found to be in breach of the Code for a relatively serious matter, his or her name should be published as if the matter had gone through a formal Hearings Panel process.

Recommendation: That the sentence at para. 9.1.14.2, which states that a Subject Member's name will not be disclosed, be amended as follows:

Where there has been a determination by the Monitoring Officer to resolve the matter informally, the Subject Member's name will be disclosed in accordance with Para. 9.1.16.3, except that a formal decision notice will be prepared in consultation with the Chairman of the Standards Committee.

2. Potential guidelines to support the Monitoring Officer's initial decision

At the last meeting, Members discussed whether there should be guidelines to help the Monitoring Officer, in consultation with the Independent Person and Chairman of the Standards Committee, to make an initial decision (Para. 9.1.13.4). The following guidelines are the same as used by the Royal Borough of Windsor and Maidenhead, and Members are asked to consider whether they would like this added to the complaints process section of the Constitution. The wording is as follows:

The purpose of the initial assessment by the Monitoring Officer, in consultation with an Independent Person and Chairman of the Standards Committee, is to determine whether the complaint should be accepted for further consideration or rejected. In determining whether a complaint should proceed the Monitoring Officer may apply the following criteria:

- ☐ *Sufficiency of information – Is there sufficient information or evidence provided with the allegation? If it appears that substantiating evidence may be available, but has not been provided, the Monitoring Officer may ask for additional evidence, but the onus is on the complainant to ensure that all relevant information is provided.*
- ☐ *Seriousness of the complaint – is the complaint trivial, vexatious, malicious, politically motivated, or 'tit for tat'? Would the resources/cost involved in investigating and determining the complaint be disproportionate to the allegation if proven?*
- ☐ *Duplication – Is the complaint substantially similar to a previous allegation or subject of an investigation by another relevant authority?*
- ☐ *Length of time – Did the events or behaviour to which the complaint relates take place more than six months prior to receipt of the complaint. Does the time lapse mean that those involved are unlikely to remember matters clearly, or does the lapse of time mean that there would be little benefit in taking action.*
- ☐ *Public Interest – Is the public interest served in referring the complaint further. Has the Subject Member offered an apology or other remedial action?*

It can be seen that the guidance provides a more open system for everyone to see, to back up the Monitoring Officer's decision at the initial stage of the complaint. This is particularly useful when the Monitoring Officer makes a decision that a particular complaint is minor, or where the system is being used on a politically motivated basis, or 'tit for tat'.

Recommendation: That the guidance for the Monitoring Officer's initial decision, as worded above, be added to Para. 9.1.13.4 of the Constitution

3. Preventing a Member complaining about another Member

At the last meeting there was some discussion about cutting down the number of complaints by adding a rule that Members could not complain about other Members. Some complaints may be politically motivated and lack substance. After researching the issue with regard to similar rules used by other Councils, it was found that as far as we are aware, no other Council has this rule. Further, after some discussion with other

legal staff, there was concern that the rule may not be good practice in terms of ensuring the good governance of the authority, since not all complaints are politically motivated, and indeed just because a Member complains about another Member, it does not follow that there isn't an element of seriousness in the complaint. Accordingly, it was felt that the guidance above would ensure that any politically motivated complaint could be dealt with by the Monitoring Officer at the initial decision stage.

Recommendation: That the Code of Conduct complaints process should be open to everyone, including Members.

FINANCIAL IMPLICATIONS OF THE RECOMMENDATION

The Council faces severe financial challenges over the coming years as a result of the austerity measures implemented by the Government and subsequent reductions to public sector funding. It is estimated that Wokingham Borough Council will be required to make budget reductions in excess of £20m over the next three years and all Executive decisions should be made in this context.

	How much will it Cost/ (Save)	Is there sufficient funding – if not quantify the Shortfall	Revenue or Capital?
Current Financial Year (Year 1)	N/A	N/A	N/A
Next Financial Year (Year 2)	N/A	N/A	N/A
Following Financial Year (Year 3)	N/A	N/A	N/A

Other financial information relevant to the Recommendation/Decision

None

Cross-Council Implications

Promoting high standards of conduct for elected Members across the Borough.

List of Background Papers

None

Contact Andrew Moulton	Service Governance & Improvement Services
Telephone No 07747 777298	Email Andrew.moulton@wokingham.gov.uk
Date 3 March 2017	Version No. 1



WOKINGHAM BOROUGH COUNCIL

Standards Committee

Annual Report

2016/17

Submitted to the Council – March 2017



**Introduction by Ken Miall,
Chairman of the Standards Committee**

I am pleased to present the Annual Report of the Standards Committee for 2016/17.

The Standards Committee met three times during the year and continued to focus on the maintenance of the highest standards of conduct by elected Members on the Borough, Town and Parish Councils.

The main role of the Committee is to ensure that the Borough Council's policies, as set out in the Members' Code of Conduct, are up to date and underpinned by best practice. In order to achieve these aims the Committee considered items on voting rights for Town and Parish Council representatives and a proposed amendment to the Code of Conduct relating to a more consistent approach to the publication of information when Members were found to be in breach of the Code.

Also during the year two Standards Committee Hearings Panel meetings were held to consider alleged breaches of the Code of Conduct relating to the alleged disclosure of confidential information. The two cases considered highlighted the importance of Members understanding their responsibilities under the Code of Conduct and I would take this opportunity to emphasise the importance of Members attending the relevant training sessions and, if in doubt about specific issues, taking advice from the Monitoring Officer.

The level of complaint activity in 2016/17 was similar to previous years. However, I am concerned that the majority of complaints were made by Members complaining about the actions of other Members. The Committee will consider any underlying issues relating to this trend and will provide additional guidance and support as necessary. In so doing the Committee will continue in its efforts to drive continuous improvement and maintain the highest standards across the Borough.

Finally, I would like to record my thanks to the Borough, Town and Parish Members and Officers who contributed to the work of the Committee during the year. I would also like to thank the Independent Persons who were called in on a regular basis and provided robust independent challenge and advice to myself, the Monitoring Officer and Panel Members.

**Ken Miall
March 2017**

1.0 What does the Standards Committee Do?

The role of the Standards Committee is to promote, monitor and enforce probity and ethical standards amongst elected Members within the Wokingham Borough, including Town and Parish Councillors.

The Localism Act 2011 removed the requirement for a national code of conduct and statutory Standards Committees. The Act introduced a locally focussed “light touch” framework for the adoption of a Member Code of Conduct, and processes for the receipt and consideration of complaints. Although not obliged to do so under the terms of the Localism Act, Wokingham Borough Council decided to maintain a dedicated Standards Committee.

In addition to the receipt and consideration of Code of Conduct complaints against Wokingham Borough Council Members, the Committee is also responsible for the receipt and consideration of complaints against Town and Parish Councillors.

The Terms of Reference for the Committee, recorded in Chapter 9 of the Borough Council’s Constitution, are set out below:

Role and Functions

The Standards Committee has the following role and functions:

- a) promoting and maintaining high standards of conduct by Councillors, co-opted members, including church and parent governor representatives;
- b) assisting the Councillors, co-opted members, including church and parent governor representatives, to observe the Members’ Code of Conduct;
- c) advising the Council on the adoption or revision of its Members’ Code of Conduct;
- d) monitoring the operation of the Members’ Code of Conduct, the Officers’ Code of Conduct and the Council’s Whistleblowing policy and any other appropriate codes of conduct and procedures;
- e) advising, training or arranging to train Councillors, co-opted members and church and parent governor representatives on matters relating to the Members’ Code of Conduct;
- f) the exercise of (a) to (e) above in relation to the Parish/Town Councils wholly or mainly in its area and the members of those parish/town councils;
- g) the presentation of an annual report by the Chairman of the Standards Committee to Council.

2.0 Who Sits on the Standards Committee?

The Committee is made up of six Wokingham Borough Council Members. These Members are voting members of the Committee and are appointed on the basis of political proportionality. An elected Member from Wokingham Borough Council chairs the Committee. The current Chairman is Councillor Ken Miall.

The Committee also includes three, non-voting, Town and Parish Council representatives.

The 2016/2017 membership of the Committee was as follows:

- Ken Miall, (Chairman)
- Pauline Helliard-Symons (Vice-Chairman)
- Chris Bowring
- Ulla Karin Clark
- Beth Rowland
- Paul Swaddle

- Sally Gurney (Wokingham Town Council)
- Roger Loader (Barkham Parish Council)
- Roy Mantel (Twyford Parish Council).

3.0 Independent Persons

Under the terms of the Localism Act 2011, Wokingham Borough Council is required to appoint an Independent Person (a member of the public, not a Council Officer or elected Member) whose views must be sought before the Standards Committee takes a decision on an allegation it has decided to investigate. The Independent Person's views may also be sought on an allegation prior to that stage. In addition, a Member who is subject of an allegation may seek the views of an Independent Person. Two people are currently acting in the Independent Person role:

- David Comben
- Carole Luurtsema

An Independent Person cannot sit as a member of the Standards Committee, but may attend meetings with the same rights as a member of the public.

David Jones withdrew from the role as an Independent Person during the year.

4.0 Who Supports the Standards Committee?

The Committee is supported by:

- Andrew Moulton, Monitoring Officer and Head of Governance and Improvement Services.
- Mary Severin, Deputy Monitoring Officer and Borough Solicitor.
- Neil Carr, Principal Democratic Services Officer.

5.0 Complaint Statistics 2016/17

During the 2016/17 Municipal Year ten Code of Conduct complaints were received. Nine of the complaints were made against Members of Wokingham Borough Council with one complaint against a Parish Councillor. Three complaints were made by members of the public with the other seven made by Borough Council Members against other Borough Council Members. The complaints related to a range of issues including planning applications, Member behaviour at Council meetings, election publications and the handling of confidential information. The Standards Committee considered an update report on the complaints and investigations at each of its meetings.

A Standards Committee Hearings Panel was held in February 2017 following an investigation into a complaint received against two Borough Council Members. The Panel found that the two Members had breached the Code Conduct and, in addition to censuring the Members, instructed the Monitoring Officer to provide additional training. At the time of writing, a second Hearings Panel was due to be held in late March 2017. In the other eight cases it was concluded that there was no breach of the Code of Conduct.

It is worth reiterating the point that the number of complaints received should be seen in the context of there being 54 Borough Council Members and over 200 Members of Town and Parish Councils across the Borough. Whilst recognising that the level of complaint activity is low, the Committee continues to recognise the importance of dealing with every complaint seriously and expeditiously.

6.0 Standards Committee Activity 2016/17

Since the previous Annual Report to the Council, in March 2016, the Committee has met three times and has considered a range of issues including:

- Regular updates on complaints and feedback – to provide Members with feedback on the operation of the Member complaints process, the outcome of individual cases and any learning points arising.
- Voting rights for Town and Parish Council representatives – the Committee were advised that the relevant legislation meant that Town and Parish Councillors could only attend in a non-voting capacity. The Committee noted the legal position and highlighted the positive contribution made by Town and Parish representatives to its work.
- Amendments to the Code of Conduct – the Committee considered a request to amend the Code of Conduct to ensure a consistent approach to the publication of information when Members breached the Code. Under the current provisions, breaches could be resolved “informally” without the relevant Member’s name being publicised. In contrast, where a Member was found to have breached the Code following a Hearings Panel details were published on the Council’s website. The Committee requested further guidance about best practice and suggested the production of guidelines to support the Monitoring Officer in the handling of complaints.

Training and support for Members was provided during the year, particularly with regard to the provision of practical advice around the declaration of interests.

7.0 Standards Committee – Future Action

The Committee will continue to seek improvements to the Code of Conduct and supporting processes to ensure continuous improvement in line with best practice. In so doing it will seek to maintain the credibility and good governance of the Borough, Town and Parish Councils. It will also deliver further training and support, as necessary, to underpin high standards of ethical behaviour by elected Members and Officers across the Borough.

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