

Article 9 – The Standards Committee

9.1 Standards Committee

The Council has established a Standards Committee and Sub-Committees to promote high ethical standards and to deal with allegations into complaints that councillors have breached the code of conduct.

9.2 Composition

(a) **Political Balance** – Standards Committees do not have to comply with the political balance rules contained in Section 15 of the Local Government and Housing Act 1989.

(b) **Membership** – The Standards Committee will be composed of:

- (i) a maximum of six Borough Councillors one of whom may be a member of the Executive, but not the Leader of the Council;
- (ii) three people who are not Councillors or an Officer of any other relevant body having a Standards Committee (i.e an Independent Member)
- (iii) two members of a Parish Council wholly or mainly in the Council's area. Parish Members – appointed by the Swale Branch of the Kent Association of Local Councils).

(c) **Independent Members** –

(i) Independent Members are entitled to vote at meetings of the Standards Committee.

(ii) They will be appointed at full Council by vote of a majority of the members present and voting.

(iii) The task of short listing and interviewing persons applying to be Independent Members of the Standards Committee, and of making appropriate recommendations to Council, is delegated to an appointment panel consisting of the Monitoring Officer and Head of Human Resources or the Deputy Monitoring Officer.

(iv) Independent Members are appointed for a period of four years. The initial appointments are four years. If a vacancy occurs a new independent member shall be appointed to complete the term of office of the vacating member.

(d) **Parish Members** - A Parish Member must be present when matters relating to a Parish Council or Parish Members are being considered. When carrying out functions under the Local Government Act 2000, as amended, (i.e. assessment, consideration of an investigator's report and hearings).

(e) **Chairing the Committee** - Independent Members will chair the Committee. A Member of the Executive may not chair the Committee.

(f) **Quorum** – The quorum of the Standards Committee and each sub-committee shall be three Councillors, with one of the independent co-opted Members as chairman and when matters relating to parish council are being discussed, at least one Parish Member.

(g) **Frequency of Meetings** –
EITHER

(i) The Standards Committee shall meet according to the programme of meetings agreed at Annual Council. The Standards Committee shall agree

a programme of meetings for the Referral Sub-Committee including one meeting per calendar month, but the Referral Sub-Committee shall only meet where one or more allegation of member misconduct has been received in the preceding month

OR

(ii) The Assessment Sub-Committee will meet where one or more allegation has been received which requires assessment at that meeting and in order to consider written reports from the Monitoring Officer on matters within its Terms of Reference as set out in Part 3 of the Constitution.

9.3 Role and Function

The Standards Committee will have the following roles and functions:

- (a) To promote and maintain high standards of conduct by Councillors and Co-opted Members;
- (b) To assist Councillors and Co-opted Members to observe the Members' Code of Conduct;
- (c) To advise the Borough and Parish Councils on the adoption and amendment of Local Codes of Conduct;
- (d) To monitor the operation of the Members' Code of Conduct;
- (e) Advising training, or arranging to train Councillors and co-opted Members on matters relating to the Members' Code of Conduct;
- (f) To grant dispensations to Councillors and Co-opted Members from requirements relating to interests as set out in the Members' Code of Conduct;
- (g) To act as the Council's interface with Standards for England and to deal with any reports from a case tribunal or interim case tribunal and any report from the Monitoring Officer on any matter which is referred by an Ethical Standards Officer to the Monitoring Officer.
- (h) To assess; review and determine written complaints about Member behaviour where it is alleged that a breach of the Code of Conduct has occurred and the taking of any necessary action available under the Local Government Act 2000 (as amended by the 2007 Act) and the Standards Committee (England) Regulations 2008
- (i) (a) to (h) apply to in relation to Parish Councils in the Borough and the members of those Parish Councils'
- (j) To monitor and keep under review the corporate complaints procedures and complaints related to Councillors, Co-opted Members or to Officers' conduct;
- (k) To monitor and promote protocols and standards of behaviour for Councillors, Co-opted Members and Officers of the Borough Council;
- (l) To monitor and review procedures for Councillors' Co-opted Members and Officers relating to working arrangements with outside organisations;

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- (m) To monitor and review procedures for Councillors, Co-opted Members and Officers relating to the acceptance of gifts and hospitality and the declaration of interests.
- (n) To receive a report on a quarterly or six monthly basis on the meeting attendance levels of each Councillor.
- (o) To keep under review local protocols/operating framework for the consideration of complaints and assessment criteria.
- (p) to be responsible for the Council's whistle blowing policy
- (q) To consider any application received from any officer of the Authority for an exemption in relation to a post held by them from political restriction under Sections 1 and 2 of the Local Government and Housing Act 1989. The Committee may direct the Authority that the post should not be considered to be a politically restricted post and should be removed from the list maintained by the Authority under section 2(2) of the Act
- (r) To consider whether a post should be included in the list of politically restricted posts maintained by the Authority under Section 2(2) of the Local Government and Housing Act 1989

9.4 Substitute Members – FOR CONSIDERATION – IF ADOPTED, AMENDMENTS TO PARTS 3 AND 4 WILL BE NEEDED

The Council has agreed to the appointment of ??? elected Borough Council Member substitutes; and two Parish/Town Council Member substitutes to the Committee. Each of these Members will be appointed by the Standards Committee and will be able to vote at meetings when substituting for another Committee Member on the condition that the member substituting has received training.

9.5 Sub-Committees

Four Sub-Committees have been established with specific duties and responsibilities in connection with the local assessment of misconduct allegations. The Sub-Committees are:

- (i) the Referral Sub-Committee;
- (ii) the Appeal Sub-Committee;
- (iii) the Consideration and Pre-hearing Sub-Committee and
- (iv) the Hearings Sub-Committee.

The terms of reference for the Standards Committee and each sub-committee are set out in Part 3 of the Constitution.

Paragraphs 9.4 and 9.5 are based on Stockton-on Tees's Constitution.

PART 3 – RESPONSIBILITIES FOR FUNCTIONS

Council/ Committee	Membership	Functions	Delegation of function
Standards Committee	<p>Eleven Members comprising of:</p> <ul style="list-style-type: none"> - 3 independent members (people who are not councillors or officers), - 2 parish councillors and - 6 borough councillors. <p>The chairman and vice chairman are to be independent members.</p>	<p>(a) To promote and maintain high standards of conduct by Councillors and Co-opted Members;</p> <p>(b) To assist Councillors and Co-opted Members to observe the Members' Code of Conduct;</p> <p>(c) To advise the Borough and Parish Councils on the adoption, and amendment of Local Codes of Conduct;</p> <p>(d) To monitor the operation of the Members' Code of Conduct;</p> <p>(e) To advise on training, or to arrange train Councillors and co-opted Members on matters relating to the Members' Code of Conduct;</p> <p>(f) To grant dispensations to Councillors and Co-opted Members from requirements relating to interests as set out in the Members' Code of Conduct;</p> <p>(g) To act as the Council's interface with Standards for England;</p> <p>(h) To assess; review and determine written complaints about Member behaviour where it is alleged that a breach of the Local Code of Conduct has occurred and the taking of any necessary action available under the Local Government Act 2000 (as amended by the 2007 Act) and the Standards Committee Regulations 2008;</p> <p>(i) (a) to (h) apply to Parish Councils in the Borough and the members of those Parish Councils;</p>	See Standards Procedure Rules

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		<p>(j) To monitor and keep under review the corporate complaints procedures and complaints related to Councillors, Co-opted Members or to Officers' conduct;</p> <p>(k) To monitor and promote protocols and standards of behaviour for Councillors, Co-opted Members and Officers of the Borough Council;</p> <p>(l) To monitor and review procedures for Councillors' Co-opted Members and Officers relating to working arrangements with outside organisations;</p> <p>(m) To monitor and review procedures for Councillors, Co-opted Members and Officers relating to the acceptance of gifts and hospitality and the declaration of interests;</p> <p>(n) To receive a report on a quarterly or six monthly basis on the meeting attendance levels of each Councillor;</p> <p>(o) To keep under review local protocols/operating framework for the consideration of complaints and assessment criteria;</p> <p>(p) to be responsible for the Council's whistle blowing policy;</p> <p>(q) To consider any application received from any officer of the Authority for an exemption in relation to a post held by them from political restriction under Sections 1 and 2 of the Local Government and Housing Act 1989. The Committee may direct the Authority that the post should not be considered to be a politically restricted post and should be removed from the list maintained by the Authority under section 2(2) of the Act;</p> <p>(r) To consider whether a post should be included in the list of politically restricted posts maintained by the Authority under Section 2(2) of the Local Government and Housing Act 1989</p>	
Standards Referrals Sub Committee	Three Members, to include an independent member and	1 To receive and consider allegations of failure to observe the relevant Code of Conduct for Members by any member(s) of Swale Borough	See Standards Committee Procedure

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	<p>a parish/town council representative if a parish matter.</p> <p>The Chairman is to be an independent member.</p>	<p>Council and of town and parish councils within Swale Borough</p> <p>2. Upon receipt of each allegation of breach of the Code of Conduct and any accompanying report by the Monitoring Officer, the Sub-Committee will make an initial assessment of the allegation and will then do one of the following: -</p> <ul style="list-style-type: none"> a) Refer the allegation to the Monitoring Officer for investigation; b) Refer the allegation to the Standards Committee of another relevant authority; c) Refer the matter to Standards for England; d) Refer the allegation to the Monitoring Officer for other action or e) Decide that no action should be taken in respect of the allegation. <p>2. To consider allegations of failure to observe any local protocol adopted by Swale Borough Council by any member(s) or members of Swale Borough Council with delegated powers to: -</p> <ul style="list-style-type: none"> a) Refer the allegation to the Monitoring Officer for investigation; b) Refer the allegation to the Monitoring Officer for action short of formal investigation and adjourn consideration of the allegation until completion of such action; or c) Decide that no action should be taken in respect of the allegation. <p>3. Where the Sub-Committee has directed the Monitoring Officer to arrange training, conciliation or such other appropriate alternative steps as are permitted by the Standards Committee (England) Regulations 2008, the Monitoring Officer must within 3 months, beginning with the day on which the direction was received, or as soon as practicable thereafter, submit a</p>	<p>Rules.</p>
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		<p>written report to the Sub-Committee, giving details of the action taken or proposed to comply with the direction. If the Sub-Committee is not satisfied with the action specified in the report, it must give a further direction to the Monitoring Officer. If the Sub-Committee is satisfied with the action specified in the report, it must give written notice to that effect to the:-</p> <ul style="list-style-type: none"> • subject member • complainant • parish council concerned (if any) <p>4. To make recommendations to the Standards Committee to secure improved standards of conduct and to secure the effective handling of allegations of misconduct by members of Swale Borough Council and of town and parish council within Swale Borough.</p>	
<p>Standards Appeals Sub Committee</p>	<p>Three Members to include an independent member and a parish/town council representative if a parish matter. The Chairman is to be an independent member.</p> <p>Members should not have sat on the Referral Sub-Committee that made the original assessment decision</p>	<p>1 To consider any request from the complainant received within the 30 days from date of the Decision Notice to review the Standards Referrals Sub Committee's decision that no action should be taken in respect of the allegation, with delegated powers to</p> <ul style="list-style-type: none"> a) Refer the allegation to the Monitoring Officer for investigation; b) Refer the allegation to the Standards Committee of another relevant authority; c) Refer the matter to Standards for England; d) Refer the allegation to the Monitoring Officer for other action or e) Decide that no action should be taken in respect of the allegation 	<p>See Standards Committee Procedure Rules.</p>
<p>Standards Consideration and Pre-Hearing Sub-Committee</p>	<p>Three Members, to include an independent member and a parish/town council representative if a parish matter. The</p>	<p>1. To receive investigating officer reports pursuant to Section 57A(2)(a), 57A(3), 60(2) or (3), 64(2) of the Local Government Act 2000 and Regulations 14 and 15 of the Standards Committee (England) Regulations 2008.</p>	<p>See Standards Committee Procedure Rules.</p>

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	<p>Chairman is to be an independent member.</p>	<p>2. On receipt of an investigation officers report, the Sub-Committee is to consider the report and accompanying information and make one of the following findings:</p> <ul style="list-style-type: none">(i) that it accepts the findings in the report of no failure(ii) that the matter should be considered at a hearing by the Hearings Sub-Committee of the Standards Committee(iii) that the matter should be referred to The First-tier Tribunal (Local Government Standards in England) for determination <p>3. Where the Sub-Committee resolves to do any of the actions set out in paragraph 2 above, it must state its reasons in writing within 5 working days.</p> <p>4. The Consideration and Pre-hearing Sub-Committee may only make a finding under paragraph 2(iii) [i.e. a referral to The First-tier Tribunal (Local Government Standards in England)] above if: -</p> <ul style="list-style-type: none">(a) It has determined that the action it could take against the Member would be insufficient were a finding of failure to be made; and(b) the president or deputy president of the Adjudication Panel for England has agreed to accept the referral. <p>5. After making a finding of acceptance, the Consideration and, Pre-Hearing Sub-Committee shall give written notice to the Subject Member and Complainant as required by Regulations.</p> <p>6. At the request of the Monitoring Officer and Chair of the Standards Committee to hold a pre hearing to: -</p> <ul style="list-style-type: none">(a) Identify whether the Subject Member disagrees with any of the findings of fact in the investigation report;	
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		<p>(b) Identify whether those disagreements are likely to be relevant to any matter the hearing needs to decide;</p> <p>(c) Identify whether evidence about those disagreements will need to be heard during the hearing;</p> <p>(e) Decide whether there are any parts of the hearing that are likely to be held in private;</p> <p>(e) Decide whether any parts of the investigation report or other documents should be withheld from the public prior to the Hearing, on the grounds that they contain "exempt" material</p>	
<p>Standards Hearing Sub Committee</p>	<p>Three Members, to include an independent member and a parish/town council representative if a parish matter.</p> <p>The Chairman is to be an independent member.</p>	<p>1. To conduct the Hearing of an allegation that a Subject Member or Co-opted Member is in breach of the Code of Conduct in accordance with the law and Standards for England Guidance.</p> <p>2. Following a Hearing, make one of the following findings: -</p> <p>(a) That the Subject Member has not failed to comply with the Code of Conduct</p> <p>(b) That the Subject Member has failed to comply with the Code of Conduct but that no action needs to be taken in respect of the matters considered at the Hearing</p> <p>(c) That the Subject Member has failed to comply with the Code of Conduct and that a sanction should be imposed</p> <p>3. If the Sub-Committee makes a finding under paragraph 3.5(c) it shall impose any one of or any combination of sanctions that are available to a Standards Committee by law and outlined in the Procedure for a Hearing.</p> <p>4 As soon as reasonably practicable, after making a finding under paragraph 2 above, it shall provide written notice of the finding and the reasons for it to the Subject Member / Complainant, the Standards for England and the Standards Committee of any other authority concerned.</p>	<p>See Standards Committee Procedure Rules.</p>

Part 4 – Procedure Rules

Local Assessment and Determination Procedure Rules – to be re-drafted and submitted to the Standards Committee on 3 August 2010

Part 5 – Code and Protocols

Monitoring Officer Protocol – to be re-drafted and submitted to the Standards Committee on 3 August to include:

- steps to be taken on receipt of a complaint
- Notification of decisions
- Referral of investigation and “other action”
- Other statutory duties imposed by Section 5 of the Local Government and Housing Act 1989

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