

Open

Ethics and Standards Committee

Agenda

5.30 pm
Monday, 5th December 2011
The Earl Baldwin Suite
Duke House, Clensmore Street, Kidderminster



Ethics and Standards

Members of Committee:

Chairman: Reverend J Cox, Independent Member
Vice-Chairman: C A Noons, Independent Member

Councillor G W Ballinger	Councillor M J Hart
Councillor R Bishop	Councillor M B Kelly
Councillor H E Dyke	Councillor C D Nicholls
Councillor D Godwin	Councillor N J Thomas

T J Hipkiss - Independent Member, R Reynolds - Independent Member, R Hobson - Parish Council representative, J Swift - Parish Council representative, Vacancy - Town Council representative

Information for Members of the Public:

Part I of the Agenda includes items for discussion in public. You have the right to request to inspect copies of Minutes and reports on this Agenda as well as the background documents used in the preparation of these reports.

Part II of the Agenda (if applicable) deals with items of "Exempt Information" for which it is anticipated that the public may be excluded from the meeting and neither reports nor background papers are open to public inspection.

There are particular circumstances when the Ethics and Standards Committee may exclude the public, which are in addition to those available at meetings of the Council, its Cabinet and Committees etc. These apply when the Ethics and Standards Committee considers the following:

Information relating to a particular chief officer, former chief officer or applicant to become a chief officer of a local probation board within the meaning of the Criminal Justice and Court Services Act 2000.

Information which is subject to any obligation of confidentiality.

Information which relates in any way to matters concerning national security.

Declarations of Interest - Guidance Note

Code of Conduct

Members are reminded that under the Code of Conduct it is the responsibility of individual Members to declare any personal or personal and prejudicial interest in any item on this agenda. A Member who declares a personal interest may take part in the meeting and vote, unless the interest is also prejudicial. If the interest is prejudicial, as defined in the Code, the Member must leave the room. However, Members with a prejudicial interest can still participate if a prescribed exception applies or a dispensation has been granted.

Section 106 of the Local Government Finance Act 1992

If any Member is two months or more in arrears with a Council Tax payment, they may not vote on any matter which might affect the calculation of the Council Tax, any limitation of it, its administration or related penalties or enforcement.

For further information:

If you have any queries about this Agenda or require any details of background papers, further documents or information you should contact Penny Williams at the Civic Centre, Stourport-on-Severn. Telephone: 01562 732728 or email penelope.williams@wyreforestdc.gov.uk

Wyre Forest District Council

Ethics and Standards

Monday, 5th December 2011

The Earl Baldwin Suite, Duke House, Clensmore Street, Kidderminster

Part 1

Open to the press and public

Agenda item	Subject	Page Number
1.	Apologies for Absence	
2.	Appointment of Substitute Members To receive the name of any Councillor who is to act as a substitute, notice of which has been given to the Director of Legal & Corporate Services, together with the name of the Councillor for whom he/she is acting.	
3.	Declarations of Interest In accordance with the Code of Conduct, to invite Members to declare the existence and nature of any personal or personal and prejudicial interests in the following agenda items. Members should indicate the action they will be taking when the item is considered. Members are also invited to make any declaration in relation to Section 106 of the Local Government Finance Act 1992. (See guidance note on cover.)	
4.	Minutes To confirm as a correct record the Minutes of the meeting held on 6 th April 2011.	5
5.	Code of Conduct and Abolition of the Standards Board To receive a report from the Monitoring advising Members of the Government's planned abolition of the Standards Board and to update Members on the draft Code of Conduct which Councillors in Worcestershire have agreed to progress to ensure consistent standards across the District.	8
6.	Complaints to the Local Government Ombudsman 2010/2011 To receive a report from the Director of Community and Partnership Services on the outcome of complaints to the Local Government Ombudsman for the period of April 2010 to March 2011 in accordance with Council Policy.	15
7.	Outcome of Assessment Sub-Committee Meeting To receive a report from the Monitoring Officer informing Members of the Ethics and Standards Committee of the outcome of the recent Assessment Sub-Committee meeting.	20

8.	To consider any other business, details of which have been communicated to the Director of Legal and Corporate Services before the commencement of the meeting, which the Chairman by reason of special circumstances considers to be of so urgent a nature that it cannot wait until the next meeting.	
9.	<p>Exclusion of the Press and Public</p> <p>To consider passing the following resolution:</p> <p>“That under Section 100A(4) of the Local Government Act 1972 the press and public be excluded from the meeting during the consideration of the following item of business on the grounds that it involves the likely disclosure of “exempt information” as defined in the paragraph 1 of Part 1 of Schedule 12A to the Act”.</p>	

WYRE FOREST DISTRICT COUNCIL

ETHICS AND STANDARDS COMMITTEE

THE EARL BALDWIN SUITE, DUKE HOUSE, CLENSMORE STREET,
KIDDERMINSTER

6TH APRIL 2011 (5.30 PM)

Present:

Independent Members: Rev J A Cox (Chairman) and Mr J T Hipkiss.

Councillors: A Buckley, C Nicholls, M Price, K Stokes, J Thomas and S Williams.

Parish Members: Councillors: R Hobson and J Swift.

Observers: There were no members present as observers.

ES.13 Apologies for Absence

Apologies for absence were received from Councillors: R Bishop, H Dyke, P Dyke, D Godwin, M J Hart, T Ingham and Mr R Reynolds (Independent Member).

ES.14 Appointment of Substitutes

Councillor A Buckley was appointed as a substitute for Councillor D Godwin. Councillor M Price was appointed as a substitute for Councillor R Bishop. Councillor S Williams was appointed as a substitute for Councillor M Hart.

ES.15 Declaration of Interests

Councillors J Thomas and K J Stokes declared a personal interest in agenda item number 5 – Outcome of Hearings Sub-Committee Meeting as the subject of the report is a member of their political group.

ES.16 Minutes

Decision: The minutes of the meeting held on 23rd February 2011 be confirmed as a correct record and signed by the Chairman subject to the addition of Councillors R Hobson and J Swift being added to the attendance list.

ES.17 Outcome of Hearings Sub-Committee

A report was considered from the Monitoring Officer that informed Members of the Committee of the outcome of the recent Hearings Sub-Committee. The Chairman drew Members' attention to the decision that had been reached namely that the Member had breached the Code of Conduct and was required to attend training on the Code before resuming committee work.

The Monitoring Officer commented that the Members on the Hearings Sub-Committee had been objective in their deliberations and in reaching their final conclusion. Further it was noted that the recommendation that additional training be carried out had occurred and it had been favourably received.

Decision: The report be noted.

ES.18 The Localism Bill and its Implications for Ethics and Standards

A report was considered from the Monitoring Officer that gave Members feedback on the Localism Bill and its implications for Ethics and Standards.

The Monitoring Officer informed Members that since the report had been written she had received further details about what may finally be agreed in the Localism Bill. The Bill would require Members to register and declare personal interests and not use their position improperly for personal gain. If a Member failed to do this it would be a criminal offence and a fine of up to £5,000 could be imposed. There was still a mandatory requirement for local authorities as part of their corporate governance to promote and maintain a high standard of ethical governance. In the Nolan Report which was the precursor to the current standards regime, it recommended that the conduct of Members in public life should be higher than the man in the street. The Nolan principles were still contained within the Localism Bill.

The Monitoring Officer had attended a meeting with other Monitoring officers in Worcestershire and wider and the consensus of opinion on the future of ethics and standards was not to reinvent the wheel but possibly to simplify the Code for all Councils. The current Code was not easy to interpret and it was perceived that it could be made clearer. However she commented that she felt that having a Code to follow had worked for Wyre Forest and the public had responded positively to the Council having a Code and Independent members on its Ethics and Standards Committee.

The Localism Bill provided for the Council to decide to adopt a new voluntary Code of Conduct. If the Council were to adopt a voluntary Code of Conduct this would then become mandatory. A mechanism for investigating complaints would be required but this could be simplified.

It was hoped by November 2011 that the future for ethics and standards would be clearer and the Bill would be in its final format. It was important for the Council to retain its Ethics and Standards Committee so that there was a forum in which recommendations could be made to Council as to how this Council would form its ethical framework.

A debate ensued amongst members about the future of Ethics and Standards in Wyre Forest. The general consensus was that the Council had always demonstrated very high ethical standards and that it should continue to have a standards framework.

Decision: The report be noted.

ES.19 Annual Report 2010/2011

A report was considered from the Monitoring Officer that appraised the Ethics and Standards Committee of the Annual Report to be submitted to Annual Council in May 2011.

Decision: The report be agreed and Included on the agenda for the annual meeting of Council to be held on 18th May 2011.

ES.20 Thank You

The Chairman advised Members that the Principal Committee Officer would be leaving the authority shortly and thanked her for all the support she had given to the Committee.

The meeting ended at 6.05 pm.

WYRE FOREST DISTRICT COUNCIL**ETHICS AND STANDARDS COMMITTEE****5th DECEMBER 2011****Code of Conduct and Abolition of the Standards Board**

OPEN	
DIRECTOR:	Monitoring Officer
CONTACT OFFICER:	Caroline Newlands, Ext. 2715
APPENDICES	Ethical Governance - Draft Code of Conduct and Appendix 1

1. PURPOSE OF REPORT

- 1.1 To apprise Members of the Government's planned abolition of the Standards Board and to update Members on the draft Code of Conduct which Councillors in Worcestershire have agreed to progress to ensure consistent standards across the District.

2. RECOMMENDATION

The Committee is asked to DECIDE:

- 2.1 To note the contents and feedback any comments.
- 2.2 The Monitoring Officer continues to work with other Worcestershire Councils to agree a final version of the Code of Conduct with the view to bringing the same back to this Committee for discussion and/or approval.

3. BACKGROUND

- 3.1 Councillors play a crucial role in local life. The people who elect them have the right to expect the highest standards of behaviour. The Government believes it is important to have safeguards to prevent the abuse of power and misuse of public money. Currently, all local authorities must, by law, adopt a national code of conduct and a standards committee to oversee the behaviour of their councillors and receive complaints. A central body, the Standards Board for England, regulates each of these committees.

The Government believe this system of safeguards is ineffective and that it is too easy for people to put forward ill-founded complaints about councillors' conduct. Lengthy debates about petty complaints or deliberately harmful accusations can undermine people's faith in local democracy and put them off standing for public office.

4. KEY ISSUES**4.1 Localism Act**

Through the Localism Act, the Government has abolished the Standards Board regime. Instead, local authorities will draw up their own codes, and it will become a criminal offence for councillors to deliberately withhold or misrepresent a financial interest. This means that councils will not have to spend time and money investigating trivial complaints, while councillors involved in corruption and misconduct will face

appropriately serious sanctions. The Government believes that this will provide a more effective safeguard against unacceptable behaviour.

4.2 **Clarifying the rules on predetermination**

In parallel with the abolition of the Standards Board, the Government has used the Localism Act to clarify the rules on 'predetermination'. These rules were developed to ensure that councillors came to council discussions - on, for example, planning applications - with an open mind. In practice, however, these rules had been interpreted in such a way as to reduce the quality of local debate and stifle valid discussion. In some cases councillors were warned off doing such things as campaigning, talking with constituents, or publicly expressing views on local issues, for fear of being accused of bias or facing legal challenge.

The Localism Act makes it clear that it is proper for councillors to play an active part in local discussions, and that they should not be liable to legal challenge as a result. This will help them better represent their constituents and enrich local democratic debate. People can elect their councillor confident in the knowledge that they will be able to act on the issues they care about and have campaigned on.

5. **WAY FORWARD**

- 5.1 Councillors in Worcestershire have agreed to progress the development of a shared Code of Conduct to ensure consistent standards across the District. A first draft is attached to this briefing note and the Standards Committee is invited to consider the model proposed.

6. **FINANCIAL IMPLICATIONS**

- 6.1 There are no financial implications arising from this report.

7. **LEGAL AND POLICY IMPLICATIONS**

- 7.1 The statutory framework governing standards remains operative until such time as any new relevant legislation is passed.

8. **EQUALITY IMPACT NEEDS ASSESSMENT**

- 8.1 This report was screened for impact on equalities. As a result of this screening it has been decided that a full equality impact assessment is not required.

9. **RISK MANAGEMENT**

- 9.1 It is necessary to ensure that until alternative arrangements are in place that the statutory framework for standards is adhered to.

10. **CONSULTEES**

- 10.1 Chairman/Vice-Chairman of Ethics and Standards Committee
- 10.2 Legal Services

11. **BACKGROUND PAPERS**

- 11.1 Ethical Governance Portfolio – Draft Code of Conduct and Appendix 1

Draft CODE OF CONDUCT

Introduction

This Code applies to you as a member of this authority when you act in your role as a member and it is your responsibility to comply with the provisions of this Code.

You are a representative of this authority and the public will view you as such therefore your actions impact on how the authority as a whole is viewed and your actions can have both positive and negative impacts on the authority.

This Code is based upon the "Nolan Principles – the seven principles of public life" which are set out at Appendix 1.

This Code does not cover matters in respect of which the Secretary of State may, under the Localism Act (when in force), specifically provide that criminal sanctions will apply.

Interpretation

In this Code—

"meeting" means any meeting of—

- (a) the authority;
- (b) the executive of the authority;
- (c) any of the authority's or its executive's committees, sub-committees, joint committees, joint sub-committees, or area committees;

whether or not the press and public are excluded from the meeting in question by virtue of a resolution of members

"member" includes a co-opted member and an appointed member.

General Obligations

1. When acting in your role as a member of the authority:

1.1 **Do** treat others with respect.

1.2, **Do not** conduct yourself in a manner which is contrary to the Council's duty to promote and maintain high standards of conduct of members.

1.3 **Do not** disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where—

- (i) you have the consent of a person authorised to give it;
- (ii) you are required by law to do so;

(iii) the disclosure is made to a third party for the purpose of obtaining professional *legal* advice provided that the third party agrees not to disclose the information to any other person; or

(iv) the disclosure is—

(a) reasonable and in the public interest; and

(b) made in good faith and in compliance with the reasonable requirements of the authority; and

(c) you have consulted the Monitoring Officer prior to its release; or

1.4 **Do not** prevent another person from gaining access to information to which that person is entitled by law.

2. When using or authorising the use by others of the resources of the authority—

2.1 **Do** act in accordance with the authority's reasonable requirements including the requirements of the authority's ITC policy and the policies listed at appendix 3, copies of which have been provided to you and which you are deemed to have read ;

2.2 **Do** make sure that such resources are not used improperly for political purposes (including party political purposes); and

2.3 **Do** have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

Interests

3. As a public figure, your public role may, at times, overlap with your personal and/or professional life and interests however when performing your public role as a member, **Do** act solely in terms of the public interest and **Do not** act in a manner to gain financial or other material benefits for yourself, your family, your friends, your employer or in relation to your business interests.

4. There will be no requirement for you to declare or register any gifts and hospitality; however **Do not** accept any gifts or hospitality in excess of £50.00 (Fifty Pounds).

Disclosure and participation

5. At a meeting where any such issues arise, **Do** declare any personal and/or professional interests relating to your public duties and **Do** to take steps to resolve any conflicts arising in a way that protects the public interest.

6. Certain types of decisions, including those relating to a permission, licence, consent or registration for yourself, your friends, your family members, your employer or your business interests, are so closely tied to your personal and/or professional life that your ability to make a

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decision in an impartial manner in your role as a member may be called into question and in turn raise issues about the validity of the decision of the authority. **Do not** become involved in these decisions any more than a member of the public in the same personal and/or professional position as yourself is able to be and **Do not** vote in relation to such matters.

7. There are some decisions that your authority will need to make that could affect every member. A list of these is set out at Appendix 1. **You may** take part in these decisions *unless* you fall into one of the exceptions set out in the list.

8. **Do not** improperly use knowledge gained solely as a result of your role as a member for the advancement of yourself, your friends, your family members, your employer or your business interests.

Pre-determination or bias

9. Where you have been involved in campaigning in your political role on an issue which does not impact on your personal and/or professional life you should not be prohibited from participating in a decision in your political role as member, however **Do not** place yourself under any financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.

10. When making a decision, **Do** consider the matter with an open mind and on the facts before the meeting at which the decision is to be taken.

Interests arising in relation to overview and scrutiny committees

11. In relation to any business before an overview and scrutiny committee of the authority (or of a sub-committee of such a committee) where—

11.1 that business relates to a decision made (whether implemented or not) or action taken by your authority's executive or another of your authority's committees, sub-committees, joint committees or joint sub-committees; and

11.2 at the time the decision was made or action was taken, you were a member of the executive, committee, sub-committee, joint committee or joint sub-committee mentioned in paragraph 11.1 and you were present when that decision was made or action was taken;

Or

11.3 that business relates to a decision made (whether implemented or not) or action taken by you (whether by virtue of the Council's constitution or under delegated authority from the Leader);

You may attend a meeting of the overview and scrutiny committee of your authority or of a sub-committee of such a committee but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

APPENDIX 1

THE SEVEN PRINCIPLES OF PUBLIC LIFE

SELFLESSNESS

Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

INTEGRITY

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

OBJECTIVITY

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

ACCOUNTABILITY

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

OPENNESS

Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

HONESTY

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

LEADERSHIP

Holders of public office should promote and support these principles by leadership and example.

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Where the decision referred to in Clause 7 above relates to one of the functions of the authority set out below, and the condition which follows that function does not apply to you when making that decision, you may participate in the decision:

- (i) housing, where you are a tenant of your authority *unless* those functions relate particularly to your tenancy or lease;
- (ii) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, *unless* it relates particularly to the school which the child attends;
- (iii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
- (iv) an allowance, payment or indemnity given to members;
- (v) any ceremonial honour given to members; and
- (vi) setting council tax or a precept under the Local Government Finance Act 1992.

WYRE FOREST DISTRICT COUNCILETHICS AND STANDARDS COMMITTEE5th DECEMBER 2011**Complaints to the Local Government Ombudsman 2010/2011**

OPEN	
RESPONSIBLE OFFICER:	Linda Collis, Director of Community and Partnership Services
CONTACT OFFICER:	Gilda Holmes, PA to Chief Executive Gilda.holmes@wyreforestdc.gov.uk
APPENDICES:	Appendix A - Definition of decision terms Appendix B - Table showing Comparison of Complaint Statistics for District Councils in Worcestershire.

1. PURPOSE OF THE REPORT

- 1.1 To report the outcome of complaints to the Local Government Ombudsman in accordance with Council Policy for the period of April 2010 to March 2011.

2. RECOMMENDATION

The Committee is asked to **DECIDE** that:

- 2.1 This report be noted.

3. BACKGROUND

- 3.1 The Council's Corporate Complaints Procedure provides a three-stage approach for handling of customer complaints. If resolution through this process is not possible, the complainant can contact the independent Local Government Ombudsman.
- 3.2 The Local Government Ombudsman's role is to consider whether 'injustice' has been caused by shortcomings in the administrative actions of the Council. He examines what the Council has done compared with its legal obligations, the requirements of its own policies and procedures and of good administrative practice.
- 3.3 Members of the public may contact the Ombudsman directly, however complainants who do so are always encouraged to resolve a grievance at a local level.

4. KEY ISSUES**Analysis of Complaints to the Ombudsman**

- 4.1 The table on page 2 summarises the results of the Ombudsman's investigations into complaints received in 2010/11 (2009/10 figures in brackets). Of the 2 complaints referred to the Ombudsman, none resulted in a finding of maladministration.
- 4.2 Explanations for the terms used to describe the different types of Ombudsman decision can be found in Appendix A.

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- 4.3 A table comparing the number of complaints received by the Ombudsman for the District Councils within Worcestershire can be seen at Appendix B.

Detail	Ombudsman's Decision			
	No or Insufficient Evidence of Maladministration	Local Settlement	Ombudsman's Discretion	Outside Jurisdiction
4.3 Complainant 1	✓			
4.4 Complainant 2	✓			
TOTAL 2 (11)	2 (8)	0 (2)	0 (0)	0 (1)

Background to Complaints and Outcomes

5 Complainant 1

- 5.1 Mr. & Mrs. A. complain that the Council and Wyre Forest Community Housing (WFCH) failed to deal with their complaints of nuisance and anti-social behaviour by their neighbours over a number of years. As a consequence they say that they have not been able to enjoy their home and garden without disturbance.
- 5.2 There has been a history of neighbour disputes including complaints of DIY and noise from children going back to 1996. The Ombudsman limited the investigation to events that have occurred since 2009 when the neighbours who are the subject of Mr. & Mrs. A's complaints bought their property from WFCH. Prior to this purchase WFCH had carried out extensive investigation of complaints of noise nuisance. When the property was purchased from WFCH, they informed Mr. & Mrs. A that they could no longer have any involvement and any further complaints should be made to the Council in future.
- 5.3 The Council instigated lengthy investigation and monitoring of this complaint by Worcestershire Regulatory Services (WRS) and found no evidence of any unreasonable noise.
- 5.4 Mr. & Mrs. A. continued to make complaints, this time about anti-social behaviour which were referred to the Council's Community Safety & Partnerships Officer for investigation, as requested by the Ombudsman.
- 5.5 The situation was monitored and seemed to calm down resulting in less frequent phone calls to the Police. Mr. & Mrs. A. were informed that if neighbourly relationships breakdown in the future, they will be offered mediation by the police and strongly encouraged to participate.

Outcome

- 5.6 The Ombudsman investigated this case and on 31 January, 2011 recorded a decision of "no or insufficient evidence of maladministration"

6 Complainant 2

- 6.1 Complainant B stated that the Council had acted inconsistently in its planning advice and application of planning policies in respect of an extension to a property in Rock and that this had subsequently damaged Complainant B's reputation as a professional. However, no evidence of this could be supplied to the Ombudsman.

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- 6.2 Complainant B was unaware that his clients had obtained pre-application advice in 2007 before purchasing their home that a basic pitched roof design sketch was acceptable in principle.
- 6.3 During an eight month period of enquiries, the Planning Officer resisted the principle of any form of pitched roof over a proposed extension to the property, irrespective of design, on the grounds that it was over development and in contravention of Planning Policy D.17 – Design of Residential Extensions. Subsequently, approval of provision of a pitched roof over the same garage conversion was given to others, even though it was still in conflict with the same Planning Policy.
- 6.4 It is claimed that the Planning Officer, in his refusal treated Complainant B differently to others who subsequently successfully applied for the pitched roof and he was, therefore, inconsistent and discriminatory in his application of the same Planning Policy.

Outcome

- 6.5 The Ombudsman investigated this case and on the 24 May, 2010 recorded a decision of “no or insufficient evidence of maladministration”.

7. FINANCIAL IMPLICATIONS

- 7.1 None.

8. LEGAL AND POLICY IMPLICATIONS

- 8.1 None.

9. RISK MANAGEMENT

- 9.1 None.

10. CONSULTEES

- 10.1 Corporate Management Team.
- 10.2 Councillor Tracey Onslow – Cabinet Member for Community Well-being.

11. BACKGROUND PAPERS

- 11.1 Case Files.
- 11.2 Correspondence from the Local Government Ombudsman.

Definition of Decision Terms

Maladministration with Injustice: These are cases where the Local Government Ombudsman has concluded the investigation and has issued a formal report finding maladministration causing injustice.

Maladministration: This is where the Local Government Ombudsman has concluded an investigation and issued a formal report finding maladministration but causing no injustice to the complainant.

Local Settlement: This term is used to describe the outcome of a complaint where during the course of the investigation, the Council takes, or agrees to take, some action which the Ombudsman considers is a satisfactory response to the complaint and the investigation does not need to be completed.

No or Insufficient Evidence of Maladministration: These are decisions discontinuing an investigation because the Local Government Ombudsman has found no administrative fault by the Council in its dealings with the complainant.

Ombudsman's Discretion: These are decisions discontinuing an investigation where the Local Government Ombudsman has exercised his general discretion not to pursue a complaint. This can be for various reasons, but the most common is that the Local Government Ombudsman has found no or insufficient injustice to warrant the matter being pursued further.

Outside Jurisdiction: These are complaints that are not pursued as they are not within the Ombudsman's remit to do so, for example because the complainant has a legal remedy or because the complaint has been directed to the Council incorrectly.

Appendix B

Table Showing the Comparison of Complaint Statistics for District Councils in Worcestershire

District Council	Total excluding premature		Maladmin/ Injustice		Local Settlement		Maladmin. Reports		Maladmin. Reports		No Maladmin. Without Report		Ombudsman's Discretion		Outside Jurisdiction	
	2010/11	2008/09	2010/11	2009/10	2010/11	2009/10	2010/11	2009/10	2010/11	2009/10	2010/11	2009/10	2010/11	2009/10	2010/11	2009/10
BDC	7	20	0	1	0	5	0	0	0	0	6	5	1	8	0	1
MH	9	9	0	0	1	2	0	0	0	0	5	3	1	1	2	3
RB	8	9	0	0	2	3	0	0	0	0	4	3	1	3	1	0
W City	6	9	0	0	1	1	0	0	0	0	2	4	1	1	2	3
WDC	6	13	0	0	1	2	0	0	0	0	3	5	1	4	1	2
WFDC	2	11	0	0	0	2	0	0	0	0	2	8	0	0	0	1

KEY	
BDC	Bromsgrove District Council
MH	Malvern Hills District Council
RB	Redditch Borough Council
W City	Worcester City Council
WDC	Wychavon District Council
WFDC	Wyre Forest District Council

WYRE FOREST DISTRICT COUNCIL**ETHICS AND STANDARDS COMMITTEE**
5th DECEMBER 2011**Outcome of Assessment Sub-Committee Meeting**

OPEN	
DIRECTOR:	Monitoring Officer
CONTACT OFFICER:	Caroline Newlands, Ext. 2715 Caroline.newlands@wyreforestdc.gov.uk
APPENDICES:	None

1. PURPOSE OF REPORT

- 1.1 To inform Members of the Ethics and Standards Committee of the outcome of the recent Assessment Sub-Committee meeting.

2. RECOMMENDATION

The Committee is asked to **DECIDE** that:

- 2.1 The report be noted.

3. BACKGROUND

- 3.1 The Local Government and Public Involvement in Health Act 2007 and the Standards Committee (England) Regulations 2008 gave powers to local authorities to be responsible for the assessment of allegations that a Member has breached the Code of Conduct. The legislation gave the Council responsibility for any subsequent investigations, decisions and sanctions (except where the cases could not be handled locally due to their seriousness, conflicts of interest or other public interest reasons).

4. KEY ISSUES

- 4.1 On 21st October 2011 a meeting of the Assessment Sub-Committee was held to consider allegations that Councillor A Sewell had breached the Code of Conduct. A summary of the complaint is set out below;

At the Cabinet meeting of 20th September 2011 the Cabinet Members alleged that Councillor Adrian Sewell behaved unacceptably.

- i. That during the course of the Cabinet meeting Councillor Sewell continually interrupted others when speaking including calling Councillor Desmond and other Cabinet Members 'liars'.
- ii. Councillor Sewell had to be called to order on a number of occasions.
- iii. Councillor Sewell failed to respect the Chairman's authority and did not desist from his inappropriate actions.
- iv. Councillor Sewell failed to be quiet when the Chairman stood to rule him out of order

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- 4.2 The Assessment Sub-Committee was comprised of the following independent members Reverend J Cox (Chairman), and Mr T Hipkiss, Mr R Reynolds and Mr J Swift.
- 4.3 The Assessment Sub-Committee felt the behaviour regrettable and fell short of the standards expected of a Councillor. The comments were disappointing and it was totally unacceptable for a Councillor to behave in such a way and to have no respect for the Chairman or no regard to the Council's Code of Conduct. However they recognised the comments made by Councillor Sewell were spontaneous and reflected the passion he felt about the contentious and emotive subject that was being discussed.

The Assessment Committee felt it was important for the Councillor to send a written apology outside of the heat of the situation to the Cabinet Members. Moreover, Members felt that it was appropriate that Councillor Sewell received training and guidance on the code and that he received mentoring from his group leader to ensure that this behaviour was not repeated.

The Assessment Committee made clear that they would be very concerned if an apology was not forthcoming and would request that the matter was referred back to them for further consideration.

- 4.4 On 16th November Councillor Sewell apologised to the Cabinet by email.

5. FINANCIAL IMPLICATIONS

- 5.1 There are no financial implications in convening these sub-committees as they can be met from existing budgets.

6. LEGAL AND POLICY IMPLICATIONS

- 6.1 The Council is required under the Standards (England) Regulations (2008) to determine alleged breaches of the Code of Conduct.

7. EQUALITY IMPACT NEEDS ASSESSMENT

- 7.1 An equality impact assessment has been undertaken but it is considered that there are no discernable impacts on the six equality strands.

8. RISK MANAGEMENT

- 8.1 The Council is required to follow the legislation and guidance concerning the local determination of alleged breaches of the Code of Conduct

9. CONCLUSION

- 9.1 This authority takes seriously its responsibility for the local determination of alleged breaches of the Code of Conduct.

10. CONSULTEES

- 10.1 Chairman and Vice-Chairman of Ethics and Standards Committee.

11. BACKGROUND PAPERS

- 11.1 The Local Government and Public Involvement in health Act 2007.
11.2 Standards (England) Regulations (2008.)