

Open

Ethics and Standards Committee

Agenda

5.30pm
Thursday, 22nd September 2016
Stourport-on-Severn Room/Bewdley Room
Wyre Forest House
Finepoint Way
Kidderminster



Ethics and Standards Committee

Members of Committee:

Chairman: Councillor N Gale

Vice-Chairman: Councillor J R Desmond

Councillor I Hardiman

Councillor V Higgs

Councillor S Miah

Councillor R J Vale

Co-opted Members: Reverend J Cox and Mr R Reynolds

Parish Council Representative(s): R Hobson, L Green, C Edginton-White

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.

Declaration of Interests by Members – interests of members in contracts and other matters

Declarations of Interest are a standard item on every Council and Committee agenda and each Member must provide a full record of their interests in the Public Register.

In addition, alongside the Register of Interest, the Members Code of Conduct ("the Code") requires the Declaration of Interests at meetings. Members have to decide first whether or not they have a disclosable interest in the matter under discussion.

Please see the Members' Code of Conduct as set out in Section 14 of the Council's constitution for full details.

Disclosable Pecuniary Interest (DPI) / Other Disclosable Interest (ODI)

DPI's and ODI's are interests defined in the Code of Conduct that has been adopted by the District.

If you have a DPI (as defined in the Code) in a matter being considered at a meeting of the Council (as defined in the Code), the Council's Standing Orders require you to leave the room where the meeting is held, for the duration of any discussion or voting on that matter.

If you have an ODI (as defined in the Code) you will need to consider whether you need to leave the room during the consideration of the matter.

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 Louisa Bright, Principal Committee and Member Services Officer, Wyre Forest House, Finepoint Way, Kidderminster, DY11 7WF. Telephone: 01562 732763 or email louisa.bright@wyreforestdc.gov.uk

Wyre Forest District Council

Ethics and Standards Committee

Thursday, 22nd September 2016

Stourport-on-Severn Room/Bewdley Room, Wyre Forest House, Finepoint Way,
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, together with the name of the Councillor for whom he/she is acting.	
3.	Declarations of Interests by Members In accordance with the Code of Conduct, to invite Members to declare the existence and nature of any Disclosable Pecuniary Interests (DPI's) and / or Other Disclosable Interests (ODI's) in the following agenda items and indicate the action that they will be taking when the item is considered. Please see the Members' Code of Conduct as set out in Section 14 of the Council's Constitution for full details.	
4.	Minutes To confirm as a correct record the Minutes of the meetings held on the 21 st January 2016 and the 24 th February 2016.	5
5.	The Localism Act 2011 – Dispensations To receive a report from the Monitoring Officer which asks to consider arrangements for granting dispensations and recommends appropriate generic dispensations.	9
6.	Complaints to the Local Government Ombudsman 2015/16 To receive a report from the Chief Executive which reports the outcome of complaints to the Local Government Ombudsman in accordance with Council Policy for the period 1 st April 2015 to 31 st March 2016.	12
7.	To consider any other business, details of which have been communicated to the Solicitor to the Council 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.	

8.	Exclusion of the Press and Public To consider passing the following resolution: “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”.	
-----------	---	--

Part 2

Not open to the Press and Public

9.	To consider any other business, details of which have been communicated to the Solicitor to the Council 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.	
-----------	--	--

WYRE FOREST DISTRICT COUNCIL

ETHICS AND STANDARDS COMMITTEE

STOURPORT-ON-SEVERN/BEWDLEY ROOM, WYRE FOREST HOUSE,
FINEPOINT WAY, KIDDERMINSTER

21ST JANUARY 2016 (5.00PM)

Present:

Councillors: J D Smith (Chairman), J R Desmond (Vice-Chairman), H E Dyke, I Hardiman, N Knowles and S J Williams.

Co-opted Member: Rev J A Cox.

Parish Council Representatives: R Hobson, L Green and C Edginton-White.

Observers:

There were no members present as observers.

ES.1 Apologies for Absence

Apologies for absence were received from Councillor J Phillips and Mr R Reynolds (Co-opted Member).

ES.2 Appointment of Substitutes

Councillor S J Williams was appointed as a substitute for Councillor J Phillips.

ES.3 Declarations of Interests by Members

No declarations of interest were made.

ES.4 Minutes

Decision: The minutes of the meeting held on 11th February 2015 be confirmed as a correct record and signed by the Chairman.

Councillor C Edginton-White entered the meeting at this point (5.05pm).

ES.5 Exclusion of the Press and Public

Decision: Under Section 100A(4) of the Local Government Act, 1972 the press and public be excluded from the meeting during consideration of the following items of business on the grounds that they involve the likely disclosure of "Exempt Information" as defined in paragraphs 8 and 9 of Part I of Schedule 12A of the Act.

The Committee received a short legal briefing from the Monitoring Officer.

The meeting resumed at 5.11pm in open session.

ES.6 Breach of Members Code of Conduct

The Committee received a report from the Monitoring Officer which asked Members to consider a report from the Independent Person following two complaints received relating to the conduct of a Member.

The Monitoring Officer reiterated the legal situation relating to the Committee.

Members were advised the meeting was not a tribunal or judicial forum seeking to apportion blame, establish negligent behaviour or any functions performed by the civil or criminal courts. The meeting was purely a forum to maintain and promote high standards for Councillors.

The Committee were meeting on this occasion to consider a referral from the Independent Standards Member on a very specific point, and the matter before the Committee was whether the social media posts reproduced on the agenda fell below the standards expected of Members. It was not about the right or wrongs of the events.

The Monitoring Officer outlined the series of events and tabled a letter from the Member in question which had been received by the Chairman of the Committee. A copy of the letter is attached as appendix 1 to the minutes.

The Monitoring Officer confirmed that the letter had been posted on the "We love Stourport-on-Severn" Facebook site.

Decision:

The unanimous decision of the Ethics and Standards Committee was that the language used on the social media site fell well below the standards expected from a Councillor, and unanimously censured the behaviour of the Member. The Committee calls for the Councillor to receive further Reputation Training on the use of social media and invites the Councillor to make a donation to the Chairman's Charity.

There being no further business, the meeting ended at 5.36pm.

WYRE FOREST DISTRICT COUNCIL

SPECIAL ETHICS AND STANDARDS COMMITTEE

STOURPORT-ON-SEVERN ROOM/BEWDLEY ROOM, WYRE FOREST HOUSE,
FINEPOINT WAY, KIDDERMINSTER

24TH FEBRUARY 2016 (4.30 PM)

Present:

Councillors: J D Smith (Chairman), H E Dyke, I Hardiman and J Phillips.

Co-opted Members: Mr R Reynolds.

Parish Council Representative: Councillor R Hobson.

Observers:

There were no Members present as observers.

ES.7 Apologies for Absence

Apologies for absence were received from Councillors:
J R Desmond (Vice-Chairman), N Knowles, C Edginton-White, L Green, and
Reverend J Cox (Co-opted Member).

ES.8 Appointment of Substitutes

Councillor C Rogers was a substitute for Councillor J Desmond.
Councillor J A Shaw was a substitute for Councillor N Knowles.

ES.9 Declarations of Interests by Members

No declarations of interest were made.

ES.10 Applications for Dispensation

The Committee considered a report from the Solicitor to the Council, which considers whether or not to grant a dispensation to Members to enable them to participate in the consideration of and/or vote in respect of a motion submitted under Standing Orders relating to the Housing and Planning Bill at the Council meeting on 24th February 2016.

The Solicitor to the Council clarified the key issues in the report and advised Members that the motion on the Council agenda was regarding the contents of the Bill, not Wyre Forest District Council's exercise of its powers, and that supporting or opposing the motion would not result in Members incurring an immediate direct levy, charge or discount.

Decision:

The Ethics and Standards Committee considers it is appropriate to grant a dispensation to the Members who have applied for one to enable them to participate in the consideration of and/or vote in respect of a motion submitted under Standing Orders relating to the Housing and Planning Bill at Council on 24th February 2016.

There being no further business, the meeting ended at 4.41 pm

WYRE FOREST DISTRICT COUNCIL

ETHICS AND STANDARDS COMMITTEE

22ND SEPTEMBER 2016

The Localism Act 2011 - Dispensations

OPEN	
RESPONSIBLE OFFICER:	Monitoring Officer
CONTACT OFFICER:	Caroline Newlands, Ext 2715
APPENDICES	None

1. PURPOSE OF REPORT

- 1.1 To ensure consideration is given to Members having appropriate dispensations in respect of issues relating to the Council's decision making process.
- 1.2 To consider arrangements for granting dispensations and recommend appropriate generic dispensations.

2. RECOMMENDATION

2.1 It is recommended that;

Generic dispensations are given to all Members for a period of 4 years in respect of the matters detailed below:

1. Membership of outside bodies

A general dispensation under s33(2) (c) and (e) of the Localism Act and under the Code of Conduct to allow the full participation in Council, Committee and other meetings where members of the Council or their spouse or partner are members of or employed by one or more of the following bodies, and who because of this would or could be prevented from participating in such meetings unless a decision relates directly to their own (or spouse or partner) financial circumstances:

(a) any parish or town council.

(b) Worcestershire County Council.

(c) any other body of a public nature to which the member has been appointed as the Council's nominee or representative.

2. Addressing committees considering matters in which a member has an interest.

A general dispensation under s33(2)(c) and (e) of the Localism Act and under the Code of Conduct to allow members who would otherwise be prevented from doing

so to address Council and committees in the same way as a member of the public may

[NB Such a member must still then withdraw from the meeting once they have addressed it.]

3. A general dispensation for members whose spouses are employed by a body of a public nature, unless a decision relates directly to their own financial circumstances.

3. **BACKGROUND**

3.1 The provisions relating to dispensations are significantly changed by the Localism Act. Formerly, a member who had a prejudicial interest could apply to the Standards Committee for a dispensation on two grounds, namely:

- That at least half of the members of a decision-making body have prejudicial interests; and
- That so many members of one political party have prejudicial interests in the matter that it will upset the result of the vote on the matter.
- The new Localism Act introduces wider criteria and empowers a relevant authority, on receipt of a written request, to grant dispensations for up to four years for a member to be able to participate in or vote at meetings where they have a disclosable pecuniary interest.

Authorities may grant dispensations if they consider that by not granting a dispensation, the business of the authority or committee is likely to be impeded; or that

- the political balance of the committee or authority is so upset as to alter the outcome of a vote; or
- that granting the dispensation is in the interests of residents; or that all members of the executive.
- Are unable to participate in business to be carried out by the executive; or that they consider it.
- Appropriate to grant a dispensation for other reason.

4. **FINANCIAL IMPLICATIONS**

4.1 None.

5. **LEGAL AND POLICY IMPLICATIONS**

5.1 The proposals are in accordance with the Localism Act 2011 and Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 (SI 2012/1464).

6. EQUALITY IMPACT NEEDS ASSESSMENT

6.1 The report raises no equality impact that needs considerations.

7. RISK MANAGEMENT

7.1 The Authority would not be able to conduct its business without appropriate dispensation.

8. CONSULTEES

8.1 Independent Person.

9. BACKGROUND PAPERS

9.1 Localism Act 2011.

WYRE FOREST DISTRICT COUNCIL**ETHICS AND STANDARDS COMMITTEE****22ND SEPTEMBER 2016****Complaints to the Local Government Ombudsman 2015/16**

OPEN	
RESPONSIBLE OFFICER:	Chief Executive
CONTACT OFFICER:	Ian Miller, Ext. 2700 Ian.Miller@wyreforestdc.gov.uk
APPENDICES:	Appendix A - Definition of decision terms Appendix B - Table showing Comparison No. of Complaints decided by Local Government Ombudsman for District Councils in Worcestershire Appendix C - List of complaints and compliments received by the Council

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 1st April 2015 to 31st March 2016.

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 two-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 decided by the Ombudsman

4.1 The table below summarises the results of the Ombudsman's investigations into complaints decided in 2015/16. Of the 9 complaints referred to the Ombudsman, 1 complaint was not upheld, 2 were closed after initial enquiries 5 were referred back for local resolution and 1 advice was given.

Local Authority	Detailed Investigations			Advice given	Closed after initial enquiries	Incompletion/ Invalid	Referred back for local resolution	Total
	Upheld	Not Upheld	Uphold Rate					
Wyre Forest DC	0	1	0%	1	2	0	5	9

4.2 Explanations for the terms used to describe the different types of Ombudsman decision can be found in Appendix A.

Background to Complaints of Detailed Investigations and Outcome

Complaint – Not upheld

4.3 Mr B complains that a Council Officer wrongly told him that he did not need planning permission to build a wall.

Outcome

4.4 The investigation looked into the Planning Inspector's findings and the Local Government Ombudsman had no reason to investigate.

4.5 Appendix B provides a comparison with other district councils in Worcestershire. It will be seen that Wyre Forest was one of only two districts where no complaint was upheld; and also that the number of complaints was proportionately lower in Wyre Forest than elsewhere (Malvern Hills has a much smaller population than Wyre Forest). Appendix C sets the complaints dealt with by the Ombudsman in context with the number of compliments received during 2015-16.

5. FINANCIAL IMPLICATIONS

5.1 None.

6. LEGAL AND POLICY IMPLICATIONS

6.1 Section 5 & Section 5A of Local Government and Housing Act 1989 create a responsibility for the Monitoring Officer to report where there is a finding of maladministration (which now includes where there is a local settlement). There were no occasions where the Monitoring Officer was required to prepare reports during the year 2015/16.

7. **RISK MANAGEMENT**

7.1 None.

8 **CONSULTEES**

8.1 Corporate Leadership Team.

8.2 Councillor Marcus Hart, Leader of the Council and Cabinet Member for Strategy.

9. **BACKGROUND PAPERS**

9.1 None.

Definition of Decision Terms by the Local Government Ombudsman

- **Upheld:** These are complaints where we have decided that an authority has been at fault in how it acted and that this fault may or may not have caused an injustice to the complainant, or where an authority has accepted that it needs to remedy the complaint before we make a finding on fault. If we have decided there was fault and it caused an injustice to the complainant, usually we will have recommended the authority take some action to address it.
- **Not upheld:** Where we have investigated a complaint and decided that a council has not acted with fault, we classify these complaints as not upheld.
- **Advice given:** These are cases where we give advice about why LGO would not look at a complaint because the body complained about was not within the LGO's scope or we had previously looked at the same complaint from the complainant, or another complaints handling organisation or advice agency was best placed to help them.
- **Closed after initial enquiries:** These complaints are where we have made an early decision that we could not or should not investigate the complaint, usually because the complaint is outside LGO's jurisdiction and we either cannot lawfully investigate it or we decide that it would not be appropriate in the circumstances of the case to do so. Our early assessment of a complaint may also show there was little injustice to a complainant that would need an LGO investigation of the matter, or that an investigation could not achieve anything, either because the evidence we see shows at an early stage there was no fault, or the outcome a complainant wants is not one we could achieve, for example overturning a court order.
- **Incomplete/invalid:** These are complaints where the complainant has not provided us with enough information to be able to decide what should happen with their complaint, or where the complainant tells us at a very early stage that they no longer wish to pursue their complaint.
- **Referred back for local resolution:** We work on the principle that it is always best for complaints to be resolved by the service provider wherever possible. Furthermore, the Local Government Act 1974 requires LGO to give authorities an opportunity to try and resolve a complaint before we will get involved. Usually we tell complainants how to complain to an authority and ask them to contact it directly. In many instances, authorities are successful in resolving the complaint and the complainant does not recontact us.

Complaints & enquiries decided (by outcome) 2015-16

**Table Showing the Comparison No. Of Complaints
Decided by Local Government Ombudsman for District Councils in Worcestershire**

Authority	Invalid or incomplete	Advice given	Referred back for local resolution	Closed after initial enquiries	Not upheld	Upheld	Uphold rate (%)	Total	Complaints remedied by LGO	Complaints remedied by Authority	Compliance rate (%)
Bromsgrove District Council	0	0	4	4	2	6	75	16	5	1	100
Malvern Hills District Council	0	0	2	5	0	1	100	8	1	0	100
Redditch Borough Council	0	0	7	3	2	0	0	12	0	0	100
Worcester City Council	0	0	6	5	3	4	57	18	2	0	100
Wychavon District Council	0	0	7	6	3	2	40	18	2	0	100
Wyre Forest District Council	0	1	5	2	1	0	0	9	0	0	100

**Table Showing the Compliments and Complaints
Received by Wyre Forest District Council
For the period 2015 – 2016**

	Total Number Received	Parks	Planning	Street scene	Hub	Benefits/Council Tax	Parking	Leisure/KAF	Others	Dealt with at First Stage	Dealt with at Second Stage
Complaints	9		1	2	2	1			3	6	0
Compliments	40	4	1	10	10	4		11			