

AGENDA

Standards Committee

Date: **Friday 13 January 2012**

Time: **2.00 pm**

Place: **The Council Chamber, Brockington, 35 Hafod Road,
Hereford**

Notes: Please note the **time, date** and **venue** of the meeting.

For any further information please contact:

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If you would like help to understand this document, or would like it in another format or language, please call Heather Donaldson, Democratic Services Officer on 01432 261829 or e-mail hdonaldson@herefordshire.gov.uk in advance of the meeting.

Agenda for the Meeting of the Standards Committee

Membership:

Chairman	David Stevens	Independent Member
Vice-Chairman	Jake Bharier	Independent Member
	Olwyn Barnett	Local Authority Representative
	Chris Chappell	Local Authority Representative
	Isabel Fox	Independent Member
	Richard Gething	Parish and Town Council Representative
	Mary Morris	Parish and Town Council representative

GUIDANCE ON DECLARING PERSONAL AND PREJUDICIAL INTERESTS AT MEETINGS

The Council's Members' Code of Conduct requires Councillors to declare against an Agenda item(s) the nature of an interest and whether the interest is personal or prejudicial. Councillors have to decide first whether or not they have a personal interest in the matter under discussion. They will then have to decide whether that personal interest is also prejudicial.

A personal interest is an interest that affects the Councillor more than most other people in the area. People in the area include those who live, work or have property in the area of the Council. Councillors will also have a personal interest if their partner, relative or a close friend, or an organisation that they or the member works for, is affected more than other people in the area. If they do have a personal interest, they must declare it but can stay and take part and vote in the meeting.

Whether an interest is prejudicial is a matter of judgement for each Councillor. What Councillors have to do is ask themselves whether a member of the public – if he or she knew all the facts – would think that the Councillor's interest was so important that their decision would be affected by it. If a Councillor has a prejudicial interest then they must declare what that interest is. A Councillor who has declared a prejudicial interest at a meeting may nevertheless be able to address that meeting, but only in circumstances where an ordinary member of the public would be also allowed to speak. In such circumstances, the Councillor concerned will have the same opportunity to address the meeting and on the same terms. However, a Councillor exercising their ability to speak in these circumstances must leave the meeting immediately after they have spoken.

AGENDA

	Pages
<p>1. APOLOGIES FOR ABSENCE</p> <p>To receive apologies for absence.</p>	
<p>2. DECLARATIONS OF INTEREST</p> <p>To receive any declarations of interest by members in respect of items on the agenda.</p>	
<p>3. MINUTES</p> <p>To approve and sign the minutes of the meeting held on 14 October 2011.</p>	1 - 4
<p>4. APPLICATIONS FOR DISPENSATIONS RECEIVED FROM PARISH AND TOWN COUNCILS</p> <p>To consider applications for dispensations received from parish and town councils.</p> <p>Wards: County Wide</p> <p><i>(Note: At the time that the agenda went to print, no applications had been received. If any arrive subsequently and in time for the meeting, they will be reported on and considered at the meeting)</i></p>	
<p>5. STANDARDS WORKING GROUP - THE FUTURE OF THE LOCAL GOVERNMENT STANDARDS FRAMEWORK</p> <p>To consider the report of the Standards Working Group which proposes a new regime of member conduct, following the abolition of the statutory Code of Member Conduct and penalties through the Localism Act.</p> <p>Wards: County Wide</p>	5 - 12
<p>6. EXCLUSION OF THE PUBLIC AND PRESS</p> <p>In the opinion of the Proper Officer, the following item will not be, or is likely not to be, open to the public and press at the time it is considered.</p> <p>RECOMMENDATION: that under section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in Schedule 12(A) of the Act, as indicated below and it is considered that the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</p> <p style="padding-left: 100px;">7A Information which is subject to an obligation of confidentiality;</p>	
<p>7. LOCAL FILTER CASES AND DETERMINATIONS</p> <p>To update the Committee on progress made with complaints about local authority, parish and town councillors.</p>	13 - 54

Wards: County Wide

8. FUTURE MEETINGS

To consider dates and times of future meetings.



HEREFORDSHIRE COUNCIL

MINUTES of the meeting of Standards Committee held at The Council Chamber, Brockington, 35 Hafod Road, Hereford on Friday 14 October 2011 at 2.00 pm

Present:

David Stevens	(Vice-Chairman in the Chair), Independent Member
Olwyn Barnett	Local Authority Representative
Jake Bharier	Independent Member
Chris Chappell	Local Authority Representative
Isabel Fox	Independent Member
Richard Gething	Parish and Town Council Representative
Mary Morris	Parish and Town Council Representative

In attendance: Councillors John Hardwick and John Stone (Substitute Local Authority Representatives)

10. CHAIRMAN OF THE STANDARDS COMMITTEE

The Vice-Chairman in the Chair, Mr David Stevens, reported that Mr Robert Rogers has resigned as Chairman and Independent Member of the Standards Committee on 31 July 2011. Mr Rogers had recently been appointed Clerk to the House of Commons and Chief Executive and Chairman of the Management Board, and inevitably this very senior appointment had made weekday visits to Hereford very difficult for him.

Mr Rogers had been a founder, Independent Member and Chairman of the Standards Committee since 2002. The Committee commented that it had appreciated his leadership, procedural advice and common sense solutions, as indeed had all Councillors who knew him. Members added that his impeccable demeanour and discretion had earned him their respect, and they wished him the best for the future.

11. APOLOGIES FOR ABSENCE

Apologies were received from Ms Nicky Carless, substitute parish and town council representative.

12. DECLARATIONS OF INTEREST

There were no declarations of interest made.

13. MINUTES

RESOLVED: (unanimously) that the minutes of the meeting held on 24 June 2011 be approved as a correct record and signed by the Vice-Chairman in the Chair.

14. APPLICATIONS FOR DISPENSATIONS RECEIVED FROM PARISH AND TOWN COUNCILS

The Committee considered a report outlining written applications for dispensations received from Garway Parish Council and Colwall Parish Council. Members referred to the Standards Committee (Further Provisions) (England) Regulations 2009, which enabled them to grant dispensations in circumstances when the number of councillors that would be prohibited from participating in the business of the council (due to them having a prejudicial interest) would exceed 50%.

Garway Parish Council

Four members of Garway Parish Council had requested a dispensation on the basis that they were trustees of Garway Village Hall, and the dispensation was therefore required to enable them to discuss village hall matters. The total membership of the Parish Council was six.

Colwall Parish Council

Colwall Parish Council had requested a dispensation in relation to twelve of its members on the basis that they were trustees of the Walwyn Meadow, and the dispensation was required to enable them to discuss matters relating to it. The total membership of the Parish Council was fifteen.

The Assistant Director – Law, Governance and Resilience advised that the Localism Bill, once enacted, might have an impact on how dispensations were handled. For the timebeing, however, it was necessary to rely on the current legislation governing dispensations when making a decision. The Committee agreed in respect of both applications to grant dispensations for a four year period, or until the mandatory Code of Member Conduct was revoked following the enactment of the Localism Bill.

RESOLVED: (unanimously) that

- (i) **a dispensation under Regulation 17 of the Standards Committee (further Provisions) (England) Regulations 2009 be granted to**

**Councillor David Atkinson
Councillor Chris Strange
Councillor Malcolm Howard
Councillor Colin Robinson**

(of Garway Parish Council), for the period of four years, or until the earlier revocation of the mandatory Code of Member Conduct, where the transaction of business of the Garway Parish Council involves Garway Village Hall; and

- (ii) **a dispensation under Regulation 17 of the Standards Committee (further Provisions) (England) Regulations 2009 be granted to**

**Councillor Nicola Carless
Councillor Barry Ashton
Councillor John Morris
Councillor Nick Abbotts
Councillor Roland Trafford-Roberts
Councillor Neil Banning
Councillor Jim Beard
Councillor Michael Milne
Councillor John Mills
Councillor John Stock
Councillor Gwyneth Rees**

Councillor John Andrews

(of Colwall Parish Council), for the period of four years, or until the earlier revocation of the mandatory code of member conduct, where the transaction of business of the Colwall Parish Council involves the Walwyn Meadow.

15. THE FUTURE OF THE LOCAL GOVERNMENT STANDARDS FRAMEWORK

The Committee considered the progress of the Localism Bill and discussed recent developments in relation to the outlook for standards and ethics in local government, and the potential future roles of the Committee. The Bill was currently at report stage in the House of Lords, and was expected to be enacted before the end of 2011. Numerous amendments had been made to the Bill since the Committees' previous meeting, including the addition of more information about the nature and scope of interests, details of a possible new mandatory code of conduct, and the establishment of a Standards Committee to discharge certain functions. It was noted that the amendments were still open to debate, and that further changes to the Bill were still possible.

Members noted that the former Chairman of the Standards Committee, Mr Robert Rogers, had met with Group Leaders to report on the implications of the Localism Bill. The Group Leaders had requested that the Standards Committee put forward proposals for the future of standards and ethics in Herefordshire, and for the future role of the Standards Committee.

In view of the likely timing of the Localism Bill, the Committee agreed to establish a working group to keep track of the Bill and to draw up the proposals. To this end, the working group would meet on 21 October 2011. There would then be an additional Standards Committee programed for 10 November 2011 in order to consider the working group's initial report.

The Assistant Director – Law, Governance and Resilience, tabled a sample draft code of conduct provided by the Association of Council Secretaries and Solicitors (ACSeS), and said that he would welcome views on what form a new code of conduct might take, and on how the code might be enforced.

Mr Richard Gething reported on the National Association of Local Council's (NALC) views on the Bill. NALC's main concern was the scope for non-mandatory elements in the new code, which could result in a high volume of different parish and town council codes of conduct. NALC would instead be requesting a mandatory common code for all of its members, and it had also been in discussions with ACSeS about the sample draft code.

RESOLVED (unanimously): that

- (i) A Standards Working Group be formed, reporting to the Standards Committee and comprising Mr David Stevens (in the Chair), Mr Jake Bharier, Mr Richard Gething, and Councillor John Stone, to put forward proposals for the future of standards and ethics in Herefordshire, having regard to the proposals contained in the Localism Bill and any amendments made by Parliament; and**
- (ii) The Standards Committee's ultimate proposals be reported to the Council's Group Leaders.**

16. EXCLUSION OF THE PUBLIC AND PRESS

RESOLVED: (unanimously) that under section 100(A) (4) of the Local Government Act 1972, the public be excluded from the meeting for the following item of business on the grounds that it involved the likely disclosure of exempt information as defined in Schedule 12(A) of the Act, as indicated below and it is considered that the public interest in maintaining the exemption outweighed the public interest in disclosing the information

7A Information which is subject to an obligation of confidentiality.

17. LOCAL FILTER CASES AND DETERMINATIONS

The Committee reviewed progress made on complaints about local authority parish and town councillors since the introduction of the local filter system on 08 May 2008. To date, the Assessment and Review Sub-Committees had dealt with eighteen complaints in 2008, fifty in 2009, thirty-one in 2010 and fifty-eight in 2011.

RESOLVED (unanimously): that

- (i) the report be noted; and
- (ii) a report about further progress be presented at the next meeting.

18. DATES OF FUTURE MEETINGS

The following dates of future meetings were noted:

- Thursday 10 November 2011 at 2.00 p.m.;
- Friday 13 January 2012 at 2.00 p.m.;
- Friday 20 April 2012 at 2.00 p.m.

The meeting ended at 3.20 pm

CHAIRMAN

Herefordshire Council Standards Committee Localism Act 2011 Standards (chapter 7)

Proposal for a new regime of member conduct

On 25th July 2011 at the Group Leaders' meeting it was decided that the Standards Committee should be tasked with working up some proposals, to be brought back to the next meeting. This was agreed by all the Group Leaders.

A working group (D.Stevens, J.Bharier, R.Gething, J.Stone) has now prepared this report, recommending a new regime of member conduct following the abolition of the statutory code and penalties. Initial drafts have been discussed with the Group Leaders on 12 December 2011, and with the Standards Committee on 10 November 2011.

This report is for discussion at the next Standards Committee meeting on 13th. January 2012.

Subsequently these recommendations are to be brought forward to Herefordshire Council.

Attached:

- Summary of recommendations to Herefordshire Council
- Introduction
- Outline process chart for dealing with a complaint

December 19th. 2011.

Herefordshire Council Standards Committee

Localism Act: proposal on Standards

Summary of recommendations to Herefordshire Council

1. Code of Conduct

The model code of conduct produced by ACSeS be used as the basis for consultation with parish and town councils, with a view to it being initially adopted with appropriate amendment by Herefordshire Council and subsequently adopted by Parish and Town councils,

2. Standards Panel

A Standards Panel be established by the Council, comprising, as a minimum:

- Three Independent members (one of whom is to be Chair & one Vice Chair),
- two members of Herefordshire Council,
- two Parish/Town Councillors.

3. Additional members

Consideration be given to appointing a fourth independent member in due course, and that substitutes be nominated for the four councillors.

4. Appointment of Independent Members

The existing independent members of the Standards Committee be appointed, in the first instance, to the Standards Panel as Independent Persons under the Localism Act.

5. Complaints Procedure

The appended complaints procedure be endorsed in principle.

6. Procedure working

The MO work with the Standards Committee and subsequently the Standards Panel to settle the detailed working of the complaints procedure.

7. Procedure Review

The Standards Panel regularly review the procedure and report to Herefordshire Council on any changes that may be appropriate in the light of experience.

8. Registers of Interest

The MO commences work as soon as possible on establishing new registers of interest for the Council, and for all town and parish councils within the remit of the Council, and that appropriate resources be allocated to meet this statutory obligation.

9. Training

The MO, with the support of the Standards Committee and subsequently the Standards Panel, and with HALC, ensures that all councillors receive appropriate information and briefing on the new statutory duties and new arrangements.

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Introduction

The Localism Act 2011 received Royal Assent on 15 November 2011. Sections 26 – 37 of the Act deal with standards. The current regime, including a statutory code of conduct for councillors, and oversight of the arrangements by Standards for England, is abolished. In place of this are new statutory obligations, which are considerably less prescriptive.

The Secretary of State has not yet made an order to bring into force these changes. However, there are indications that the effective date would be 1 April 2012, by which date Herefordshire Council would need to have in place arrangements for compliance with the statutory duties.

The Standards Committee has considered this, and had discussions with the Group Leaders. We now present proposals for meeting statutory obligations in a manner which would maintain public confidence. In respect of complaints, our aim has been to have a procedure which is as simple and short as is possible, while complying with a range of legal obligations, such as the principles of natural justice, as well as those of the Localism Act.

A few aspects of the proposals remain tentative: we are seeking clarification on interpretation of one or two matters.

The statutory obligations

Herefordshire Council must:

- promote and maintain high standards of conduct (section 27);
- adopt a code of conduct which must:
 - be consistent with the Nolan principles;
 - set out requirements for a register for disclosure of interests – financial and non-financial (ss 27 and 28).
- set up arrangements for dealing with complaints relating to members of the council and of parish and town councils, which must
 - Include involvement of at least one independent person (s28).
- establish a register of interests – and registers of interests for parish and town councils (s29).

Members must:

- register and declare financial interests of themselves and their spouse or partner(s30). Failure to do so becomes a criminal offence (s34).

High standards of conduct – the code

The Act states that the adoption of a code is a requirement for discharging the duty to promote high standards of conduct.

The duty to adopt a code extends to parish and town councils. However, such councils may adopt the code of their principal authority (in our case, Herefordshire Council).

The Standards Committee has considered three options:

- a. to adopt the existing code of conduct, contained within the Council's constitution, subject to some amendment, in particular in relation to disclosure of interests;
- b. to adopt a model code prepared by ACSeS and LGA; or
- c. to prepare a new code which would meet the requirements for content.

At the time of writing, a final version of the model code (option b) is not yet available. However, the most recent draft is written in more positive terms than the council's existing code. Our view is that, subject to any amendment of detail to deal with local circumstances, option 'b' would be preferred.

1. We recommend that the model code of conduct produced by ACSeS be used as the basis for consultation with parish and town councils, with a view to it being initially adopted with appropriate amendment by Herefordshire Council and subsequently adopted by Parish and Town councils,

"... at least one independent person"

The Act requires that the Council appoint "... at least one independent person ... whose views are to be sought, and taken into account, by the authority before it makes its decision on an allegation that it has decided to investigate."

The views of the independent person may be sought by the Council in relation to allegations which it decides not to investigate, and also by members of the Council or parish councils who are subject to a complaint.

The statutory requirement raises the likelihood of possible prejudice: a councillor may consult the independent member who later may also be required to offer views on the investigation into that member.

It is also possible that, in the interests of natural justice, an independent person may exclude themselves from involvement in a case because of close personal or financial interest.

We have also taken account of the number of complaints that have been dealt with over the past three years: about 50 a year. We therefore consider that the Council would need to appoint a panel of at least three independent persons.

Our experience has been that it is very valuable for the independent members of the current Standards Committee to work alongside members of the Council and of parish councils and therefore we consider that the current committee format to be an appropriate and effective mechanism.

2. We recommend that a Standards Panel be established by the Council, comprising, as a minimum:

- **Three Independent members (one of whom is to be Chair & one Vice Chair),**
- **two members of Herefordshire Council,**
- **two Parish/Town Councillors.**

3. We recommend that consideration be given to appointing a fourth independent member in due course, and that substitutes to be nominated for the four councillors.

The mechanism of appointment for independent persons, and the qualifications for such persons, are set out in the Act. Mechanism and qualifications are broadly unchanged from those currently applying. It is plainly in the interests of the Council to utilise the learning and experience of the past. Advice is still being sought on detail in this area.

4. We recommend that the existing independent members of the Standards Committee be appointed, in the first instance, as Independent Persons under the Localism Act.

Complaints procedure - Arrangements for dealing with complaints.

The Council "...must have in place —

- (a) arrangements under which allegations can be investigated, and
- (b) arrangements under which decisions on allegations can be made." (s28)

Our understanding is that such decisions become decisions of the Council, whereas under the present system, decisions would be made by the Standards Committee. This is a significant change. We consider this a little later, in the section on the procedure.

We have taken the opportunity to simplify the current (statutory) procedure, and to make it more transparent. Our proposal is shown schematically in Appendix 1. Some further commentary is necessary.

- i. The Monitoring Officer (MO) plays a more prominent role than at present. In particular, the MO would be the first filter on receipt of any complaint, whereas the current arrangement for filtering requires a meeting of an assessment sub-committee of the Standards Committee.
- ii. The member subject to a complaint would learn about this, and be able to respond, earlier in the process than at present.
- iii. If a complaint is investigated, and therefore requires "a decision of the Council", it would first be referred to a sub-Panel of the Standards Panel, comprising an independent Chair and two others, who would normally be a councillor and a parish councillor.
- iv. The sub-panel would consider the complaint, usually at a meeting where complainant, subject member and MO could present their submissions. The option could be available for all submissions to be presented in writing.

- v. The sub-panel would prepare a report, which would include recommendations on findings, and any appropriate sanction.
- vi. The report would be published.
- vii. The report would be presented:
 - a) If the subject member is a member of Herefordshire Council, to the Audit and Governance Committee for decision; or
 - b) If the subject member is a parish or town councillor, to that parish or town council for decision.

We would expect that, usually, the time from a complaint being received to the publication of a report, would be no more than 12 weeks.

5. We recommend that the appended complaints procedure be endorsed in principle.

This is an area where some detail will need further clarification. We also recognise that we will need to learn from our experience.

6. We recommend that the MO work with the Standards Committee and subsequently the Standards Panel to settle the detailed working of the complaints procedure.

7. We recommend that the Standards Panel regularly review the procedure and report to Herefordshire Council on any changes that may be appropriate in the light of experience.

Registers of interest

The Council, and town and parish councils, will need to have new registers of interests consistent with the revised requirements on disclosure that will be contained in the code of conduct. The registers should also identify those interests, the non-disclosure of which would be a criminal offence.

8. We recommend that the MO commence work as soon as possible on establishing new registers of interests for the Council, and for all town and parish councils within the remit of the Council, and that appropriate resources be allocated to meet this statutory obligation.

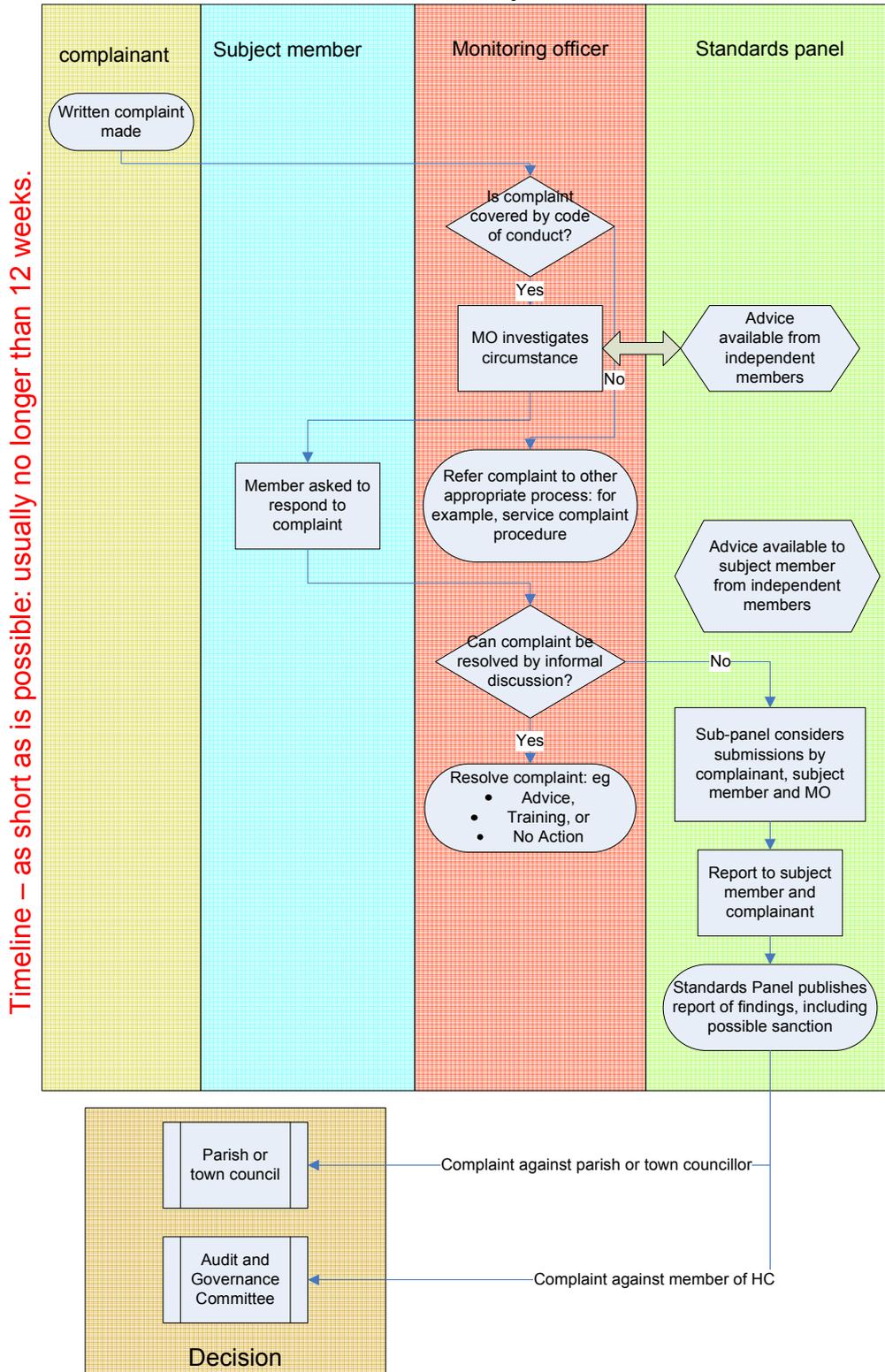
Training - Transition to the new arrangements

9. We recommend that the MO, with the support of the Standards Committee and subsequently the Standards Panel, and with HALC, ensure that all councillors receive appropriate information and briefing on the new statutory duties and new arrangements.

Appendix

Outline process for dealing with a complaint of a breach of the Code of Conduct

Proposal from the Standards Committee to Herefordshire Council:
13 January 2012



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