

AGENDA

Meeting: Standards Committee
Place: The Kennet Room - County Hall, Trowbridge BA14 8JN
Date: Wednesday 18 April 2018
Time: 2.00 pm

Please direct any enquiries on this Agenda to Kieran Elliott, of Democratic Services, County Hall, Bythesea Road, Trowbridge, direct line 01225 718504 or email kieran.elliott@wiltshire.gov.uk

Press enquiries to Communications on direct lines (01225) 713114/713115.

This Agenda and all the documents referred to within it are available on the Council's website at www.wiltshire.gov.uk

Membership:

Cllr Paul Oatway QPM (Chairman)	Cllr Peter Fuller
Cllr Howard Greenman (Vice-Chairman)	Cllr Russell Hawker
Cllr Derek Brown OBE	Cllr Ruth Hopkinson
Cllr Allison Bucknell	Cllr Bob Jones MBE
Cllr Anna Cuthbert	Cllr Fred Westmoreland
Cllr Peter Evans	

Substitutes:

Cllr Richard Britton	Cllr Peter Hutton
Cllr Trevor Carbin	Cllr George Jeans
Cllr Ernie Clark	Cllr Gordon King
Cllr Sue Evans	Cllr Brian Mathew
Cllr Nick Fogg MBE	Cllr Graham Wright
Cllr Chris Hurst	

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Public Participation

Please see the agenda list on following pages for details of deadlines for submission of questions and statements for this meeting.

For extended details on meeting procedure, submission and scope of questions and other matters, please consult [Part 4 of the council's constitution](#).

The full constitution can be found at [this link](#).

For assistance on these and other matters please contact the officer named above for details

AGENDA

Part 1

Items to be considered when the meeting is open to the public

1 **Apologies for Absence**

To receive any apologies or substitutions for the meeting.

2 **Minutes** (*Pages 5 - 24*)

To confirm the minutes of the Standards Committee held on 17 January 2018.

To receive the minutes of the Standards Review Sub-Committee from the meetings held on 27 July 2017, and the meetings held on 30 January, 15 February and 23 March 2018.

3 **Declarations of Interest**

To receive any declarations of disclosable interests or dispensations granted by the Standards Committee.

4 **Chairman's Announcements**

To receive any announcements through the Chair.

5 **Public Participation**

The Council welcomes contributions from members of the public.

Statements

If you would like to make a statement at this meeting on any item on this agenda, please register to do so at least 10 minutes prior to the meeting. Up to 3 speakers are permitted to speak for up to 3 minutes each on any agenda item. Please contact the officer named on the front of the agenda for any further clarification.

Questions

To receive any questions from members of the public or members of the Council received in accordance with the constitution.

Those wishing to ask questions are required to give notice of any such questions in writing to the officer named on the front of this agenda no later than 5pm on 11 April 2018 in order to be guaranteed of a written response. In order to receive a verbal response questions must be submitted no later than 5pm on 13 April 2018. Please contact the officer named on the front of this agenda for

further advice. Questions may be asked without notice if the Chairman decides that the matter is urgent.

Details of any questions received will be circulated to Committee members prior to the meeting and made available at the meeting and on the Council's website.

6 **Appointment of Co-Opted Members**

To confirm appointment of co-opted members of the Standards Committee following an interview process.

7 **Status Report on Complaints** (*Pages 25 - 30*)

A report from the Monitoring Officer is attached.

8 **Constitution Focus Group: Updates and Recommendations** (*Pages 31 - 48*)

A report from the Monitoring Officer is attached.

9 **Local Government Ethical Standards: Stakeholder Consultation** (*Pages 49 - 52*)

To agree an approach to respond to the consultation from the Committee on Standards in Public Life, which closes on 18 May 2018.

10 **Urgent Items**

Part II

Item(s) during consideration of which it is recommended that the public should be excluded because of the likelihood that exempt information would be disclosed

STANDARDS COMMITTEE

MINUTES OF THE STANDARDS COMMITTEE MEETING HELD ON 17 JANUARY 2018 AT THE WEST WILTSHIRE ROOM - COUNTY HALL, TROWBRIDGE BA14 8JN.

Present:

Cllr Paul Oatway QPM (Chairman), Cllr Howard Greenman (Vice-Chairman), Cllr Derek Brown OBE, Cllr Allison Bucknell, Cllr Anna Cuthbert, Cllr Peter Evans, Cllr Peter Fuller, Cllr Russell Hawker and Cllr Fred Westmoreland

1 Apologies

Apologies for absence were received from Councillors Ruth Hopkinson and Bob Jones MBE

2 Minutes

The minutes of the Standards Committee meeting held on 7 June 2017, and the Standards Review Sub-Committee meetings held on 28 March, 6 June, 17 August and 23 August 2017, were presented.

Resolved:

To approve and sign as a correct record the minutes of the Standards Committee held on 7 June 2017.

To receive and note the minutes of the Standards Review Sub-Committee meetings held on 28 March, 6 June, 17 August and 23 August 2017.

3 Declarations of Interest

There were no declarations.

4 Chairman's Announcements

It was announced that Mr Paul Neale, a longstanding co-opted member of the Committee, had passed away since its last meeting in June 2017. On behalf of the Committee the Chairman formally noted their condolences.

5 Public Participation

No questions or statements were submitted.

6 **Appointment of Co-Opted Members**

As detailed in the agenda Full Council on 16 May 2017 delegated to the Standards Committee the appointment of four non-voting co-opted members to the Standards Committee, two of whom must be serving parish, town or city councillors from within the Council's area. The arrangements for selection of such members were delegated to the Monitoring Officer in consultation with the Chairman of the Standards Committee.

Ian Gibbons, Monitoring Officer, informed the committee that advertisements for the four positions would soon be placed and detailed the proposed selection process to be undertaken, and that the Committee would be in a position to appoint to the positions in 18 April 2018.

The Committee discussed the update, confirming that at least two of the four positions must be filled by serving town or parish councillors, but that more than two could be appointed. Methods to publicise the positions beyond town and parish councils were also discussed, such as through the area boards and 'our community matters' websites.

Resolved:

To note the update.

7 **Review of the Constitution**

A report from the Monitoring Officer was presented detailing a proposed work programme for the Constitution Focus Group, including reviews of the councillor-officer relations protocol and to clarify the process for publication and scrutiny review of officer decisions.

Additionally details were provided on ongoing amendments to be made under the Monitoring Officer's delegated powers to correct errors, clarify ambiguities and give effect to decisions of Full Council. Other than minor corrections, these would be taken the Focus Group prior to amendment, and reported to the Standards Committee.

At the conclusion of discussion,

Resolved:

- 1) **To approve the proposed work programme for the Constitution Focus Group, together with any further items the Committee may wish to include; and,**
- 2) **To note the work that is underway in updating the Constitution under the Monitoring Officer's delegated powers, and any changes to be reported to the Committee.**

8 **Status Report on Code of Conduct Complaints**

A report from the Monitoring Officer was presented detailing the status of complaints submitted regarding alleged breaches of Codes of Conduct of town and parish councils, and Wiltshire Councillors.

It was detailed that the total number of complaints received for 2017 was 37 vs 59 in 2016. Details were provided on the type of complaints received and the outcomes.

The Committee discussed the update, requesting further details on complaints that had been subject to review requests, as well as the officer time input administering the complaints process.

Resolved:

To note the update.

9 **Training for Parish Councils on the Code of Conduct**

Ian Gibbons, Monitoring Officer, provided a verbal update on training for parish councils. As part of a wider parish council networking session he had delivered some initial information to representatives of around 100 parishes, out of 253 in Wiltshire as a whole. The Wiltshire Council Monitoring Officer has an obligation to maintain the register of interests for parish councils, as well as promote high standards of conduct.

The views of the Standards Committee were sought on the level of support that could and should be offered in the light of concerns both on the level of compliance of parish councils in adopting Codes of Conduct and properly registering their interests, as well as general understanding of their own obligations.

The Committee discussed the situation, noting that while very few parish councils had adopted no Code of Conduct at all, this was a statutory obligation and it was vital that all do so. In particular it was noted Wiltshire Council was unable to properly conduct its own statutory obligation to deal with Code of Conduct complaints where a Code was absent. It was also raised that the level of understanding of parish councillor obligations and compliance with registration of interests was highly varied, and that the experience and knowledge of the clerks of a parish council was an important factor.

While supporting the need to assist parish councils in meeting their obligations, some concerns were raised that it was not an obligation of Wiltshire Council to provide training and free resources for parish councils, and it was questioned whether such matters could most appropriately be provided through the Wiltshire Association of Local Councils (WALC), in concert with or without occasional regional training sessions from the Monitoring Officer.

At the conclusion of discussion it was proposed that the Monitoring Officer write to parish council clerks and chairman seeking, in the first instance, confirmation of whether their council had adopted a Code of Conduct, and providing information on the necessity to properly register councillor interests, and for confirmation if such registers had been completed and were up to date. It was also requested that WALC be contacted to inquire as to the level of support and guidance they were able to offer parish councils.

Resolved:

For the Monitoring Officer to contact all parish councils to seek details of their compliance with adopting Codes of Conduct and registering disclosable pecuniary interests; and

For a report on the responses to be provided at the meeting on 18 April 2017, along with details of support able to be provided by WALC.

10 **Urgent Items**

There were no urgent items.

(Duration of meeting: 2.00 - 3.15 pm)

The Officer who has produced these minutes is Kieran Elliott of Democratic Services, direct line 01225 718504, e-mail kieran.elliott@wiltshire.gov.uk

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STANDARDS REVIEW SUB-COMMITTEE

MINUTES OF THE STANDARDS REVIEW SUB-COMMITTEE MEETING HELD ON 27 JULY 2017 AT THE NORTH WILTSHIRE ROOM - COUNTY HALL, TROWBRIDGE BA14 8JN.

Present:

Cllr Ernie Clark, Cllr Howard Greenman and Cllr Brian Mathew

Also Present:

Kieran Elliott (Senior Democratic Services Officer), Tony Drew (Independent Person), Sukdave Ghuman (Public Law and Compliance)

34 **Election of Chairman**

Resolved:

To elect Councillor Howard Greenman as Chairman for this meeting only.

35 **Declarations of Interest**

There were no declarations.

36 **Meeting Procedure and Assessment Criteria**

The procedure and assessment criteria for the meeting were noted.

37 **Exclusion of the Public**

Resolved:

To agree that in accordance with Section 100A(4) of the Local Government Act 1972 to exclude the public from the meeting for the business specified in Minute 38 because it is likely that if members of the public were present there would be disclosure to them of exempt information as defined in paragraph 1 of Part I of Schedule 12A to the Act and the public interest in withholding the information outweighs the public interest in disclosing the information to the public.

Paragraph 1 - information relating to an individual

38 **Review of an Assessment Decision: Reference WC-ENQ00198**

The Chairman led the Sub-Committee through the local assessment criteria which detailed the initial tests that should be satisfied before assessment of a complaint was commenced. The complaint was regarding alleged conduct of Cllr Tom Rounds, a member of Calne Town Council.

Upon going through the initial tests, it was agreed that the complaint related to the conduct of a member and that the member was in office at the time of the alleged incident and remains a member of Calne Town Council. A copy of the appropriate Code of Conduct was also supplied for the assessment.

The Sub-Committee therefore had to decide whether the alleged behaviour would, if proven, amount to a breach of that Code of Conduct. Further, if it was felt it would be a breach, was it appropriate under the assessment criteria to refer the matter for investigation.

In reaching its decision, the Sub-Committee took into account the complaint, the initial assessment of the Deputy Monitoring Officer to take no further action and the complainant's request for a review. The Sub-Committee also considered the written representation made to the Review by the complainant, who was not able to attend in person. The Sub-Committee noted that the subject member had not replied to the Deputy Monitoring Officer's invitation for him to provide a response to the complaint.

Conclusion

The Deputy Monitoring Officer had resolved that the matter was principally in relation to an item not appearing upon a council agenda at the complainant's request, being a member of the Town Council at the time of the complaint. Furthermore, as compilation of agendas was an officer function of the Council, that the Code of Conduct did not apply. Additionally, while a lack of response on such issues by the subject member would be discourteous, that it would not in itself be sufficient to amount to a breach.

The Sub-Committee noted the comments of the complainant in their request for a review of the initial assessment decision disputing the specific interpretation of their complaint, being an allegation that proper procedure had not been followed by the subject member and that this failure constituted a breach of the Code. They also noted the comments in relation to the proper procedures of the Town Council and whether or not the subject member acting in their capacity as mayor had any obligations or expectations to follow in the matter, and whether a failure to communicate or act might amount to a potential breach of the Code.

The Sub-Committee considered that there was a lack of clarity as to the procedures that should have been followed and the extent of the subject

member's reasonable requirement to act, to make a decision of some measure, especially in light of his position as town mayor and the nature of the complaint. They noted that it appeared the complainant may have been denied a review of the decision of Personnel Sub-Committee in relation to his complaint. Therefore they considered they could not dismiss the complaint in accordance with the initial assessment decision and that an investigation was necessary to establish the facts with greater certainty in order to make such a judgement, particularly in light of the lack of a response or explanation from the subject member.

Lacking that clarity, the Sub-Committee therefore further considered that with current information if the allegations made were proven, there were possible breaches under paragraphs 4 and 5 of the Code of Conduct, in addition to a failure to promote and support high standards of conduct or have sufficient regard to the principles of openness, accountability and leadership.

Decision

In accordance with the approved arrangements for resolving standards complaints adopted by Council on 26 June 2012, which came into effect on 1 July 2012 and after hearing from the Independent Person, the Review Sub-Committee decided to refer the complaint for investigation.

(Duration of meeting: 1.00 - 1.30 pm)

The Officer who has produced these minutes is Kieran Elliott of Democratic Services, direct line 01225 718504, e-mail kieran.elliott@wiltshire.gov.uk

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STANDARDS REVIEW SUB-COMMITTEE

**DRAFT MINUTES OF THE STANDARDS REVIEW SUB-COMMITTEE MEETING
HELD ON 30 JANUARY 2018 AT THE WEST WILTSHIRE ROOM - COUNTY
HALL, TROWBRIDGE BA14 8JN.**

Present:

Cllr Howard Greenman, Cllr Fred Westmoreland and Cllr Brian Mathew

Also Present:

Kieran Elliott (Senior Democratic Services Officer), Paul Taylor (Senior Solicitor), Stuart Middleton (Independent Person), Andrew Gordon (Complainant)

6 Election of Chairman

Resolved:

To elect Councillor Howard Greenman as Chairman for this meeting only.

7 Declarations of Interest

There were no declarations.

8 Meeting Procedure and Assessment Criteria

The procedure and assessment criteria for the meeting were noted.

9 Exclusion of the Public

Resolved:

To agree that in accordance with Section 100A(4) of the Local Government Act 1972 to exclude the public from the meeting for the business specified in Minute 10 because it is likely that if members of the public were present there would be disclosure to them of exempt information as defined in paragraph 1 of Part I of Schedule 12A to the Act and the public interest in withholding the information outweighs the public interest in disclosing the information to the public.

Paragraph 1 - information relating to an individual

10 **Review of an Assessment decision regarding the conduct of a Councillor**

Preamble

The Chairman led the Sub-Committee through the local assessment criteria which detailed the initial tests that should be satisfied before assessment of a complaint was commenced. The complaint was regarding the Cllr Nic Coome of Chilton Foliat Parish Council.

Upon going through the initial tests, it was agreed that the complaint related to the conduct of a member and that the member was in office at the time the alleged incident and remains a member of Chilton Foliat Parish Council. The Sub-Committee accepted the reasoning of the Deputy Monitoring Officer in his initial assessment decision regarding the appropriate Code of Conduct, in that a Code had in error not been formally adopted by the Parish Council, but that all the councillors had accepted compliance with the NALC Code when signing their acceptance of office and that it should be treated as the relevant Code.

The Sub-Committee therefore had to decide whether the alleged behaviour would, if proven, amount to a breach of that Code of Conduct. Further, if it was felt it would be a breach, was it still appropriate under the assessment criteria to refer the matter for investigation.

In reaching its decision, the Sub-Committee took into account the complaint and supporting documentation, the response of the subject member, the initial assessment of the Deputy Monitoring Officer to take no further action, and the complainant's request for a review. The Sub-Committee also considered the verbal representation made at the Review by the complainant, as well as a written statement from the Subject Member, who was not in attendance.

Conclusion

The complaint principally related to the tone and content of an email dated 29 August 2017 from the subject member to the complainant during email correspondence between the parties regarding a request from the Local Church Committee for a contribution from the parish council toward the cost of maintenance of a churchyard, and previous council decisions on the matter. The situation had been aggravated by other procedural and administrative concerns arising from the parish council being without a clerk.

The Sub-Committee carefully considered the alleged behaviours, and the requirements of the NALC Code to behave in a respectful manner, and uphold the principles of objectivity, selfless and leadership, among others. It was clear that the tone of the email could be considered to be provocative and unhelpful even if some of the queries were reasonable, and in a statement to the Sub-Committee the subject member had accepted that his tone had been unwise.

However, while the Sub-Committee agreed that the tone had been unwise, it was not satisfied that it rose to the level of a breach of the Code, though it considered that in order to rebuild a good working relationship between the Local Church Committee and the Parish Council it would be helpful if the subject member could reinforce his acceptance of his poor choice of words by providing a direct apology to the complainant.

The Sub Committee noted that, on 9 January 2018, the Parish Council had formally adopted a code of conduct. They also considered that some of the other concerns raised by the complainant regarding aspects of the administration of Parish Council business would be addressed by recruiting a clerk and by regularising the publication and public display of its minutes.

Decision

In accordance with the approved arrangements for resolving standards complaints adopted by Council on 26 June 2012, which came into effect on 1 July 2012 and after hearing from the Independent Person, the Review Sub-Committee has decided to take no further action.

(Duration of meeting: 9.40 - 10.40 am)

The Officer who has produced these minutes is Kieran Elliott, of Democratic Services, direct line 01225 718504, e-mail kieran.elliott@wiltshire.gov.uk

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STANDARDS REVIEW SUB-COMMITTEE

MINUTES OF THE STANDARDS REVIEW SUB-COMMITTEE MEETING HELD ON 15 FEBRUARY 2018 AT THE WEST WILTSHIRE ROOM - COUNTY HALL, TROWBRIDGE BA14 8JN.

Present:

Cllr Peter Hutton, Cllr Anna Cuthbert and Cllr Graham Wright

Also Present:

Kieran Elliott (Senior Democratic Services Officer), Paul Taylor (Senior Solicitor), Stuart Middleton (Independent Person), Jasper Selwyn (Complainant)

11 Election of Chairman

Resolved:

To elect Councillor Peter Hutton as Chairman for this meeting only.

12 Declarations of Interest

There were no declarations.

13 Meeting Procedure and Assessment Criteria

The procedure and assessment criteria for the meeting were noted.

14 Exclusion of the Public

Resolved:

To agree that in accordance with Section 100A(4) of the Local Government Act 1972 to exclude the public from the meeting for the business specified in Minute 15 because it is likely that if members of the public were present there would be disclosure to them of exempt information as defined in paragraph 1 of Part I of Schedule 12A to the Act and the public interest in withholding the information outweighs the public interest in disclosing the information to the public.

Paragraph 1 - information relating to an individual

15 Review of an Assessment Decision: Reference WC-ENQ00231

Preamble

The Chairman led the Sub-Committee through the local assessment criteria which detailed the initial tests that should be satisfied before assessment of a complaint was commenced. The complaint related to alleged conduct of Cllr Horace Prickett, of Wiltshire Council.

Upon going through the initial tests, it was agreed that the complaint related to the conduct of a member and that the member was in office at the time the alleged incident and remains a member of Wiltshire Council. A copy of the relevant Code of Conduct was supplied for the assessment.

The Sub-Committee therefore had to decide whether the alleged behaviour would, if proven, amount to a breach of that Code of Conduct. Further, if it was felt it would be a breach, was it still appropriate under the assessment criteria to refer the matter for investigation.

In reaching its decision, the Sub-Committee took into account the complaint and supporting documentation, the initial assessment of the Deputy Monitoring Officer to take no further action, and the complainant's request for a review. The Sub-Committee also considered the verbal representation made at the Review by the complainant. The subject member was not in attendance.

Conclusion

The complaint related to a series of requests for information from the Subject Member in their capacity as Portfolio Holder for Transport. The complainant considered that the failure to respond to these requests amounted to a breach of the Code.

The Deputy Monitoring Officer in his assessment had noted that paragraphs 4 and 5 of the Code relate specifically to decisions taken by subject members, and therefore did not apply in the alleged circumstances. However, the Sub-Committee considered that the question before them was whether a failure to respond to requests for information was, in addition to obvious discourtesy, of such a level as to amount to a breach of the requirements under the Code to promote and maintain high standards of conduct and abide by the Nolan Principles of conduct in public life.

The Sub-Committee agreed with the reasoning of the Deputy Monitoring Officer that a failure to respond as alleged was a matter of disrespect and additionally that it would be disappointing behaviour for any elected member. Nevertheless, they did not consider that a failure to respond, however discourteous, was in

itself capable of being sufficiently serious as to constitute a breach of the Code. They therefore resolved that no further action be taken in respect of the complaint.

The Sub-Committee did note, however, that it appeared the complainant had still not been furnished with the information he had been seeking, and considered that the matter should be referred to the appropriate officers who would respond accordingly.

Decision

In accordance with the approved arrangements for resolving standards complaints adopted by Council on 26 June 2012, which came into effect on 1 July 2012 and after hearing from the Independent Person, the Review Sub-Committee has decided to take no further action.

(Duration of meeting: 10.00 - 10.25 am)

The Officer who has produced these minutes is Kieran Elliott, of Democratic Services, direct line 01225 718504, e-mail kieran.elliott@wiltshire.gov.uk

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STANDARDS REVIEW SUB-COMMITTEE

MINUTES OF THE STANDARDS REVIEW SUB-COMMITTEE MEETING HELD ON 23 MARCH 2018 AT DYSON ROOM, COUNTY HALL, TROWBRIDGE, BA14 8JN.

Present:

Cllr Bob Jones MBE, Cllr Fred Westmoreland and Cllr Graham Wright

Also Present:

Kieran Elliott (Senior Democratic Services Officer), Paul Barnett (Senior Solicitor), Caroline Baynes (Independent Person), Mr and Mrs Baldry (Complainant), Cllr Paul Oatway QPM (Subject Member)

16 **Election of Chairman**

Resolved:

To elect Councillor Bob Jones MBE as Chairman for this meeting only.

17 **Declarations of Interest**

There were no declarations.

18 **Meeting Procedure and Assessment Criteria**

The procedure and assessment criteria for the meeting were noted.

19 **Exclusion of the Public**

Resolved:

To agree that in accordance with Section 100A(4) of the Local Government Act 1972 to exclude the public from the meeting for the business specified in Minute 20 because it is likely that if members of the public were present there would be disclosure to them of exempt information as defined in paragraph 1 of Part I of Schedule 12A to the Act and the public interest in withholding the information outweighs the public interest in disclosing the information to the public.

Paragraph 1 - information relating to an individual

Preamble

A complaint had been made by Mr Larry Baldry against Cllr Paul Oatway QPM, a member of Wiltshire Council. The allegation was that the subject member had made false statements before a public inquiry with the effect and intent of damaging the complainant.

The complaint had received an initial assessment which had concluded that the alleged behaviour, if proven, would amount to a breach of the Code of Conduct. Although the complaint had been submitted out of time under procedure, the matter had been referred for investigation to establish whether or not a breach had occurred in the interests of transparency, which was not challenged by the subject member.

Following that investigation the Investigating Officer's report concluded that there was no evidence of a breach of the Code of Conduct. In consultation with one of the council's Independent Persons, the Monitoring Officer had then upheld the Investigating Officer's finding of there being no breach. The complainant then requested a review of the Monitoring Officer's decision to uphold the findings of the Investigating Officer's reports.

In reaching its decision, the Sub-Committee took into account the Investigating Officer's report and supporting documentation, which included the original complaint, the response of the subject member, the initial assessment decision, other evidence provided during the investigation, comments on the report itself from both parties, the decision notice of the Monitoring Officer, and the complainant's request for a review. The Sub-Committee also considered the verbal representations made at the Review by the complainant and the subject member.

Conclusion

As the Investigating Officer had noted in their report, the issue was whether, if the subject member was incorrect in what he told the public inquiry on 23 May 2017, that mis-statement was made deliberately in order to disadvantage the complainant. While there was a dispute over precisely what had been said by the subject member, or to the subject member, and what impact his statements had on the wider issues being determined by the independent inspector at the inquiry, on the basis of the evidence available to him the Investigating Officer had concluded that there was no evidence of such an attempt to misrepresent the facts.

The Sub-Committee considered the report and the representations made by both parties, and were of the view that no submissions had been made which would justify overturning the decision of the Monitoring Officer to uphold the

findings of the Investigating Officer. It was the view of the Sub-Committee that the Investigating Officer's report had been thorough in its examination of the key allegations and facts of the incidents which had given rise to the complaint, and therefore they accepted the conclusions that there was no breach of the Code of Conduct.

Decision

In accordance with the approved arrangements for resolving standards complaints adopted by Council on 26 June 2012, which came into effect on 1 July 2012 and after hearing from the Independent Person, the Review Sub-Committee has decided to take no further action.

The Officer who has produced these minutes is Kieran Elliott of Democratic Services, direct line 01225 718504, e-mail kieran.elliott@wiltshire.gov.uk

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Wiltshire Council

Standards Committee

18 April 2018

Code of Conduct Complaints - Status Report

Statutory Background

1. All local authorities are required, by s.28 Localism Act 2011, to adopt a code of conduct for their members. All such codes are required to cover the following:
 - The principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership
 - The registration and disclosure of pecuniary and other interests
2. Wiltshire Council, as a principal authority, is required to have in place arrangements for investigating and determining allegations that a member of the Council, or a member of a parish council with the council's area, has failed to comply with the relevant Code of Conduct. These arrangements must include the appointment of at least one independent person, whose views must be taken into account before a decision is made on any alleged breach of a code of conduct.

Council Structure and Procedures

3. Wiltshire Council's arrangements for considering complaints about alleged code of conduct breaches are set out in Protocol 12 to the Constitution. All complaints are subject to an initial assessment on behalf of the Monitoring Officer, having sought comments from the Subject Member (the councillor who is the subject of the complaint). This initial assessment may conclude that no further action should be taken; it may refer the complaint for investigation or it may recommend that an alternative resolution be explored with the parties.
4. Both parties (the Complainant and the Subject Member) have a right to a review of the initial assessment. This is considered by the Review Sub-Committee of the Standards Committee.
5. If it is determined that a formal investigation should be undertaken (either at the initial assessment stage or by the Review Sub-Committee), an investigating officer is appointed by the Monitoring Officer. If the recommendation of the investigating officer is that there has been a breach of the Code of Conduct, and that alternative resolution is not appropriate, then a Standards Hearing Sub-Committee will be convened. This will conduct a hearing into the complaint to determine whether there has been a breach of the Code and, if so, what sanctions, if any, should be applied to the Subject Member. If the Subject Member is a member of a town or parish council, the Hearing Sub-Committee's decision regarding sanctions will be in the form of a recommendation to the relevant council.

6. The full Standards Committee has oversight of the operation of the procedures for dealing with Code of Conduct complaints as well as a general responsibility to promote and maintain high standards of conduct by elected and co-opted members and officers.

Summary of complaints received 1 January 2018 to 31 March 2018

7. Between 1 January 2018 and 31 March 2018, the Monitoring Officer received seven complaints under the Code of Conduct. Of these complaints, two concerned a member of Wiltshire Council, while the remainder were against members of town and parish councils within the authority's area.
8. Of the cases received, the decision of the Deputy Monitoring Officer was as follows:

Complaints currently awaiting assessment or issue of decision	1
No further action to be taken	6
Referred to Monitoring Officer for alternative local resolution	0
Referred for investigation	0
Incomplete information provided (complaint not taken forward)	0
Subject members no longer serving councillors (complaints not taken forward)	0

A monthly breakdown of complaints received is attached at **Appendix 1**

Reviews

9. Three requests for review have been received during March 2018; the review sub-committees are pending.
10. The complaints had been assessed as no further action and all requests for a review were received from the complainants.

Investigations

11. Since the beginning of 2018 one complaint has been referred for investigation on assessment (27/02/2018 (date of complaint 15/12/2017)). This complaint is currently pending a request for review.
12. The two complaints referred for investigation during 2017 are still currently in progress and an update is shown in the table below. Progress of the open investigations referred during 2016 is also shown in the table below:

Reference	Date of Assessment	Progress
WC-ENQ00167	09/09/2016	Investigation report being finalised
WC-ENQ00172	04/10/2016	MO to issue decision notice following consideration of investigation report.
WC-ENQ00198	27/07/2017 (on review)	Decision notice issued following MO's consideration of investigation report – request for review pending
WC-ENQ00219	01/08/2017	Investigation decision notice issued – review sub-committee 23/03/2018

Types of Complaint

13. The types of complaints received in 2018 are categorised as follows:

Type of complaint	Number
Non-disclosure of interests/participating and voting at meetings	4
Inappropriate behaviour i.e. disrespect/bullying	1
Failure to act in the public interest	1
Failing to respond to letter/emails or to provide information/lack of communication	1
Total	7

Proposal

14. To note the current position on Code of Conduct Complaints.

Ian Gibbons, Monitoring Officer

Report Author: Sukdave Ghuman, Team Leader, Public Law and Compliance,
sukdave.ghuman@wiltshire.gov.uk

Appendix 1 – Summary of Complaints 2017

[Link to Constitution](#)

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Appendix 1

Summary of Complaints Received 1 January 2017 to 31 March 2018

	Cases received (*denotes unitary cllr)	Cases open (cumulative)	Assessed investigation	Assessed no further action	Assessed alternative resolution/ *complaint withdrawn	Pending assessment (*assessed & decision notice being finalised)	Other	Cases closed	Requests for review received
2017									
January	3	19	0	3	0	0	0	7	1 (upheld)
February	*1	17	0	0	*1	0	0	3	5 (upheld)
March	*2	17	0	2	0	0	0	2	5 (3 upheld & 2 overturned)
April	9 & *2	26	1	3	*2	0	5*	2	0
May	2	21	0	2	0	0	0	7	0
June	2 & *2	20	0	4	0	0	0	5	1 (upheld)
July	3 & *2	25	1	4	0	0	0	0	1 (overturned)
August	1	18	0	1	0	0	0	8	3 (2 upheld & 1 overturned)
September	4	20	0	3	0	0	1**	2	0
October	2	16	0	2	0	0	0	6	0
November	*1	14	0	1	0	0	0	3	0
December	2	15	1	0	0	0	1**	1	0
	38	N/A	3	25	3	0	7	46	16
2018									
January	6	14	0	6	0	0	0	7	2 (upheld)
February	0	12	0	0	0	0	0	2	0
March	*1	10	0	0	0	1	0	3	4 (1 upheld & 3 pending)
	7	N/A	0	6	0	1	0	12	6

*subject members no longer serving councillors - complaints not taken forward

** further information not provided – complaint not taken forward

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Wiltshire Council

Standards Committee

18 April 2018

Recommendations of the Constitution Focus Group

Purpose of Report

1. This report asks the Standards Committee to consider recommendations of the Constitution Focus Group on the following matters:
 - a) Part 3D(3): Scheme of Delegation Specific to Planning
 - b) Part 2, Part 3, Part 9 and Protocol 11 - Changes relating to the Audit Committee
2. The Standards Committee is also asked to note that changes were made to the Constitution by the Monitoring Officer under delegated powers as permitted under Article 15.3 of Part 2 of the Constitution, on the following matters:
 - c) Part 2: The Constitution
 - d) Part 3: Responsibility for Functions
 - e) Part 4: Council Procedure Rules

Background

3. The Standards Committee has responsibility for oversight of the Council's constitution. It has established a cross party working group, known as the Constitution Focus Group, to advise and assist the committee in carrying out this function.
4. The Focus Group met on 6 March and 29 March 2018 to review sections of the constitution as detailed in paragraph 1 and made a series of recommendations. They also received details of updates and corrections to be made under Article 15.3 of Part 2.

Main Considerations

5. The relevant minutes and resolutions of the Focus Group meetings listed in paragraph 4 can be found at Appendix 1.

Summary of proposed changes

(a) Part 3D(3) - Scheme of Delegation Specific to Planning

6. The Government has made clear its desire to ensure that more housing is provided. One of the areas it wishes to see change is in a greater diversification of the market, allowing a larger number of smaller and medium enterprises to successfully obtain land for housebuilding. It perceives that there is a problem that needs to be addressed namely the difficulty that firms of this size have in obtaining planning permission on small sites.

7. To tackle this perceived problem, the Government have introduced legislation that will allow applicants to submit applications for 'Permission in Principle' for minor housing led- developments of up to 9 houses. This legislation will come into force on 1 June 2018.
8. An application for 'Permission in Principle' differs from a planning application both in the reduced amount of information that is required to accompany the application, and the much shorter length of time that a local planning authority has to determine the application.
9. The current Scheme of Delegation is predicated on the Council having 8 weeks in which to determine planning applications for residential development, and this allows adequate time for consultation to take place with parish and town councils and for a call-in request to be actioned.
10. The new legislation provides a shortened timetable of five weeks for the Council to make a decision on applications for 'Permission in Principle'. This will mean that the current procedures for circulation of new applications and call-in of those applications are insufficient to determine 'Permission in Principle' applications in an appropriate timescale
11. The Focus Group considered that call-in of planning applications was one of the more vital of councillor powers, and did not consider that removing 'Permission in Principle' applications from call-in was appropriate. Instead, it has proposed a shortened time frame for call-in of these applications be put in place in line with the shortened time frame for determination, as well as expedited procedure for notification to local councillors.
12. Proposed amendments to that effect are attached at Appendix 2.

Recommendation

13. **That the Standards Committee recommend to Council approval to changes to Part 3D(3) of the Constitution, as shown in the attached tracked change document at Appendix 2.**

(b) Part 2, Part 3, Part 9 and Protocol 11 – Audit Committee

14. Following discussions on 12 December 2017, the Audit Committee at its meeting on 14 February 2018 approved terms of reference for an Audit Task and Finish Group. The Task Group was to identify best practice in relation to Audit Committee responsibilities, and to recommend changes where appropriate to the Constitution, along with such corrections as necessary to ensure consistent referencing of those responsibilities throughout the Constitution.
15. A report from Task Group was presented to the Focus Group on 29 March 2018, identifying proposed amendments to Part 2 (The Constitution), Part 3 (Responsibility for Functions), Part 9 (Finance and Procurement Regulations) and Protocol 11 (Governance Reporting Arrangements) of the Constitution.

16. The changes clarify the distinct roles of Audit and Overview and Scrutiny, as well as making the various sections consistent and emphasising the key aspects of the functions of the Audit Committee.
17. Following discussion, the proposed amendments were agreed by the Focus Group as shown in the attachment at Appendix 3.

Recommendation:

18. **That the Standards Committee recommend to Council approval to changes to Part 2, Part 3, Part 9 and Protocol 11 of the Constitution, as shown in the attached document at Appendix 3.**

Article 15.3 of Part 2 Changes

19. Under Article 15.3 of Part 2 of the Constitution the Monitoring Officer has the delegated authority to amend the constitution to reflect '*...the decisions of Full Council, changes in the law, to correct errors or clarify ambiguities, where to do so does not alter (but gives further effect to) the executive arrangements or the principles enshrined in the constitution*'.
20. Since the last meeting of the Standards Committee a number of changes to the Constitution have been or will be required under the principles in paragraph 19 above, and are summarised below. All changes were first reviewed by the Constitution Focus Group

(c) Part 2 of the Constitution

21. Amendments were made to correct references to other sections of the Constitution, and to update the list of Chief Officers and the statutory roles following the senior management restructure. It was noted that further amendments may be necessary in relation to the Head of Paid Service and Proper Officer designations, now that the Head of Paid Service is no longer a Corporate Director. This is currently under review.

(d) Part 3 of the Constitution

22. Amendments were made to correct references to other sections of the Constitution, correct references to parish council names (e.g. the dissolution of Roundway Parish Council), correct references to 'Associate Directors', remove duplications, and correct number sequencing in Parts 3B and 3D. It was also confirmed that references to Cabinet Committees would be removed with the cessation of 2 of the 3 former Cabinet Committees.

Safeguarding Implications

23. There are no safeguarding issues arising from this report.

Equalities Impact of the Proposal

24. There are no equalities impacts arising from this report.

Risk assessment

25. There are no significant risks arising from this report

Financial Implications

26. There are no financial implications arising from this report.

Legal Implications

27. The recommendations in this report are consistent with the relevant legislation, and there are no legal implications arising from this report

Public Health Impact of the Proposals

28. There are no public health impacts arising from this report.

Environmental Impact of the Proposals

29. There are no environmental impacts arising from this report.

Proposal

30. **That the Standards Committee recommends Council approve the changes to the Constitution as set out in paragraphs 13 and 18 of this report.**

Ian Gibbons, Director, Legal and Democratic (and Monitoring Officer

Report Author: Kieran Elliott, Senior Democratic Services Officer, 01225 718504,
kieran.elliott@wiltshire.gov.uk

Unpublished reports relied upon in the preparation of this report: None

Appendices

Appendix 1 - Minutes of the Constitution Focus Group (6 March and 29 March 2018)

Appendix 2 - Proposed Changes to Part 3D(3)

Appendix 3 - Proposed Changes to Part 2, Part 3, Part 9 and Protocol 11 in relation to the Audit Committee

CONSTITUTION FOCUS GROUP

MINUTES OF THE CONSTITUTION FOCUS GROUP MEETING HELD ON 6 MARCH 2018 AT COUNCIL CHAMBER - COUNTY HALL, TROWBRIDGE BA14 8JN.

Present:

Cllr Ian Thorn, Cllr Jon Hubbard, Cllr Richard Britton and Cllr Richard Clewer

1 Election of Chairman

Resolved:

To elect Councillor Richard Clewer as Chairman of the Constitution Focus Group.

2 Apologies

Apologies were received from Councillors Nick Murry and Paul Oatway QPM.

3 Minutes of the Previous Meeting

Resolved:

To approve the minutes of the meeting held on 6 September 2016.

4 General Review of the Constitution

Ian Gibbons, Monitoring Officer, outlined a proposed programme for review of the Constitution. Specific sections had already been identified as in need of review, as detailed further in minutes 5-6.

In addition to these, and any other items members of the Focus Group requested, it was intended for officers to undertake checks of each section of the constitution in turn. This check would firstly identify errors or ambiguities, which could be corrected under the delegated powers of the Monitoring Officer, and also seek to reformat and renumber sections in the interest of consistent presentation, referencing and greater clarity. Any changes made under the delegated powers of the Monitoring Officer would, as resolved by the Standards Committee, first be presented to the Focus Group.

During the review where it was felt that a deeper analysis or revision was required, such an item would be added to the work programme of the Focus Group.

Resolved:

To note the proposed programme for a general review of the Constitution.

5 Review of Part 3 - Scheme of Delegation

A report was received detailing proposed changes to Part 3 of the Constitution. There had not been a full review of Part 3 and it was noted that further changes would likely be required in respect of ensuring references to the Scrutiny committee structure were up to date, inclusion of definitions on the role of Cabinet Portfolio Holders, which would also be referenced in Protocol 1 to the Constitution (Councillor-Officer Relations), and other more minor changes.

Specific reference was made to the scheme of delegation with respect to planning. It was explained that in June 2018 new regulations would come into effect which would allow applicants to submit applications for 'Permission in Principle' (PIP) for minor housing led developments of up to 9 houses. Such an application would require a reduced amount of information to accompany it and a much shorter length of time for a local planning authority to determine the application, 5 weeks in total. Outline or full applications would still be required prior to any development.

It was explained that the current scheme of delegation was predicated on an 8 week period for determination of planning applications, and that the shorter timetable for PIP would not enable the council to consult, publicise, assess, prepare a report and notify for a committee decision, should the current scheme remain unamended.

It was proposed that applications for PIP be added to the list of applications which would not be eligible for call-in and so would be dealt with under delegated powers, although the Director could still receive representations from members and decline to determine the application.

The Focus Group did not support such a proposal, emphasising the important role of planning for the public and members which should not be lost. It was noted that any PIP must still be advertised publicly for 2 weeks, and it was suggested the call-in period for PIP be reduced to 15 days from 21 days for regular applications, and that rather than be circulated to members on a weekly list, that it be sent as soon as was practicable from the registration of the application.

The Focus Group requested revised changes to that effect be presented at the next meeting, as well as seeking comment from the Cabinet Member on how the administration of PIP using such a revised approach could be managed.

The Focus Group also considered a number of proposed changes to be made under the delegated authority of the Monitoring Officer under Article 15.3 of Part 2 of the Constitution. These involved correction of officer and cabinet member titles, technical reference changes, and renumbering of paragraphs 1.2 and 1.3

of Part 3D to make clear items would only be considered by Strategic Planning when call-in by members. It was also confirmed that although not specified in the constitution Gypsy and Traveller applications would continue to be determined by Strategic Planning, and it was requested to see whether this should be clarified in the document itself.

The Focus Group also highlighted a number of other areas of Part 3 for potential review, which would be considered by officers and brought back to the next meeting.

Resolved:

For a revised part 3 to be considered at the next meeting, taking into account the comments of the Focus Group above.

6 **Forthcoming Items**

The list of forthcoming items to be reviewed was noted. It was stated that the appendix to Protocol 1 in relation to support and facilities for councillors would be considered by CLT and proposals for updating brought back to the Focus Group. Details were also provided of the intention to update Protocol 9 to be in relation to all statutory officers, and that the Partnership Protocol needed significant revision and would be brought back later in the year.

It was also explained that work on officer decisions was being undertaken in relation to identifying which decisions needed to be published, where they would be published, how members could be notified of this, the method of asking for an officer decision to be reviewed, and the process once a request had been accepted.

Resolved:

To note the proposed items

7 **Article 15.3 Changes**

The Focus Group were informed of a change made by the Monitoring Officer under his delegated authority to give effect to the decision of Council on 17 October 2017 in relation to more recorded votes at meetings of Full Council.

Part 4 paragraph 130 of the Constitution had been amended to state:

*Recorded votes shall be taken on all decisions **of Full Council** in respect of setting the authority's budget and determining the level of council tax to be levied; **Policy Framework Items; Councillor Motions; and other substantive items** . The names for and against the motion or amendment or abstaining from voting on these matters will be recorded **and attached to** the minutes.*

8 **Date of Next Meeting**

The date of the next meeting would be 29 March 2018.

9 **Urgent Items**

The Focus Group was advised of work from an Audit Task and Finish Group assessing the role and functions of the Audit Committee and the references throughout the Constitution in relation to that Committee.

Proposals for amendments would be brought to the Focus Group by the Audit Task Group.

(Duration of meeting: 9.00 - 11.00 am)

The Officer who has produced these minutes is Kieran Elliott of Democratic Services, direct line 01225 718504, e-mail kieran.elliott@wiltshire.gov.uk

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CONSTITUTION FOCUS GROUP

MINUTES OF THE CONSTITUTION FOCUS GROUP MEETING HELD ON 29 MARCH 2018 AT THE LONGLEAT ROOM - COUNTY HALL, TROWBRIDGE BA14 8JN.

Present:

Cllr Richard Clewer (Chairman), Cllr Richard Britton, Cllr Jon Hubbard, Cllr Nick Murry and Cllr Ian Thorn

Also Present:

Cllr Stuart Wheeler

10 **Apologies**

Apologies were received from Councillor Paul Oatway QPM.

11 **Minutes of the Previous Meeting**

The minutes of the meeting held on 6 March 2018 were presented for consideration, and it was,

Resolved:

To approve and sign as a correct record the minutes of the meeting held on 6 March 2018.

12 **Part 2 of the Constitution**

The Focus Group considered a series of corrections and updates to Part 2 of the Constitution to be undertaken by the Monitoring Officer using the powers delegated under Article 15.3 of Part 2 of the Constitution.

The changes were mostly in relation to correcting references to other sections of the constitution, and also revised wording in relation to Article 12, to reflect the council's revised senior officer appointments and arrangements. It was noted that references to the Head of Paid Service in particular could be subject to further revision, to account for the updated position wherein a Corporate Director was no longer holding that position. It was also confirmed Protocol 9 of the Constitution was being updated to set out in detail the roles and functions of all statutory officers, not only that of the Monitoring Officer, which would be referenced in Part 2 once that protocol was approved.

At the conclusion of discussion, it was,

Resolved:

To note the amendments to be made to Part 2 of the Constitution under the delegated authority of the Monitoring Officer under Article 15.3 of Part 2 of the Constitution, as attached to these minutes.

The changes to Part 2 in relation to Minute 14 - Recommendations from the Audit Task Group - to be forwarded to the Standards Committee for recommendation to Council.

13 **Part 3 of the Constitution**

The Focus Group considered a series of changes to Part 3 of the Constitution.

In addition to the updates noted at the previous meeting to be undertaken by the Monitoring Officer using the powers delegated under Article 15.3 of Part 2 of the Constitution, further corrections and updates had been identified, including updates to parish council details, names of partner agencies, numbering updates, removing duplications and other reference changes.

Following its resolution at its last meeting the Focus Group considered proposed wording in relation to Part 3D(3) - Scheme of Delegation Specific to Planning - to set out the arrangements for call-in of Permission in Principle for Minor Residential Development. Confirmation was also sought in relation to the status of the Cabinet Committees listed in the Constitution, with the terms of reference to be removed where they were no longer in existence.

At the conclusion of discussion, it was,

Resolved:

- 1) To note the amendments to be made to Part 3 of the Constitution under the delegated authority of the Monitoring Officer under Article 15.3 of Part 2 of the Constitution, as attached to these minutes.**

The changes to Part 3 in relation to Minute 14 - Recommendations from the Audit Task Group - to be forwarded to the Standards Committee for recommendation to Council.

- 2) And to forward the changes in relation to Part 3D(3) to the Standards Committee for recommendation to Council.**

14 **Recommendations from the Audit Task Group**

Following discussions on 12 December 2017, the Audit Committee at its meeting on 14 February 2018 approved terms of reference for an Audit Task and Finish Group. The Task Group was to identify best practice in relation to Audit Committee responsibilities, and to recommend changed where

appropriate to the Constitution, along with such corrections as necessary to ensure consistent referencing of those responsibilities throughout the Constitution.

A report from Task Group was presented to the Focus Group, identifying proposed amendments to Part 2, Part 3, Part 9 and Protocol 11 of the Constitution. The Focus Group discussed the proposals and suggested alternate wording for some sections, as well as noting the changes in particular clarifying the responsibilities of the Audit Committee and the responsibilities of Overview and Scrutiny under the direction of the Overview and Scrutiny Management Committee.

At the conclusion, it was,

Resolved:

To forward changes as attached to these minutes to the Standards Committee for recommendation to Council.

15 **Forward Plan and Date of Next Meeting**

The Forward Plan of items was noted, along with the date of the next meeting on 5 June 2018.

16 **Urgent Items**

There were no urgent items.

(Duration of meeting: 12.30 - 2.05 pm)

The Officer who has produced these minutes is Kieran Elliott of Democratic Services, direct line 01225 718504, e-mail kieran.elliott@wiltshire.gov.uk

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PROPOSED REVISIONS IN BLUE TEXT

Part 3 Section D3

SCHEME OF DELEGATION SPECIFIC TO PLANNING

1. The Director for Economic Development and Planning (and any officers designated by that officer under a Scheme of Sub Delegation) is authorised to:
 - determine any planning application and discharge conditions under delegated powers (including tree/hedgerow work applications);
 - deal with all enforcement matters (including deciding on the expediency of taking/not taking action and issuing enforcement notices, including listed building enforcement and urgent works notices and taking any further action, including prosecution and direct action in respect of any breach of control);
 - deal with all types of appeal and their format;
 - where an appeal has been lodged against a planning decision and counsel advises that specific refusal reasons are unreasonable and/or likely to undermine or weaken the Council's case and time constraints prevent the matter being brought back to Committee, officers, in consultation with the Committee Chairman and Local Division Member are authorised to inform the appellant and the Planning Inspectorate that the Council will not seek to defend such reason(s) at appeal, provided any such action does not overturn the substantive decision of the Planning Committee;
 - make and confirm Tree Preservation Orders; Tree Replacement Notices and serve notices requiring action in relation to dangerous trees, and to initiate any associated direct action required to deal with dangerous trees; deciding whether to prosecute for breaches of the Planning Acts in relation to tree and hedgerow matters;
 - determining any applications made under the high hedges provisions of the anti-social behaviour legislation; including any necessary enforcement action;
 - deal with decisions, correspondence and consultations under relevant local government, social, planning, listed building, conservation, building and environmental and other legislation. This includes proposals to change legislation or national guidance and consultation by other planning authorities;
 - determine the requirements for, and amend when necessary the local validation list for planning applications;
 - make and confirm Article 4 directions restricting or removing permitted development rights;
 - nominate officers to represent the council on forums and working parties;
 - authorise officers to enter land and buildings in the course of their duties in accordance with the provisions of the Town & Country Planning Acts;
 - enter into, modify or discharge planning or legal agreements securing controls over development (e.g. Section 106 of the Town & Country Planning Act 1990);

- make changes to conditions approved at Committee (in the light of changing circumstances between the meeting and the issue of the decision) provided this is in line with the principles of the Committee's decision. Any such changes will be reported back to a subsequent Committee for members' information;
- annually recommend to the budget process all planning fees and charges
- refuse applications following a resolution to grant permission or consent if the required legal agreements are not completed by the applicant within the timeframe set out in the officer's report and present an information report for acceptance by the relevant Planning Committee on a quarterly basis ;
- institute and defend judicial reviews and statutory challenges in consultation with the Director-of Legal and Democratic Services.
- Make and serve Building Preservation Notices.
- determine whether an application falls within the remit of Strategic Planning Committee or the relevant area planning committee, after consultation with the relevant cabinet member.

With the following exceptions:

- 1.1 Applications submitted by Wiltshire Council will not be dealt with under delegated powers where an objection has been received raising material planning considerations.
- 1.2 Reference to Committee by Wiltshire Council Division Member

Division Members can request in writing/email that a planning application, **or an application for Permission in Principle for Minor Residential Development**, within their Division proceed to determination by way of an Area Planning Committee. Any request **relating to a planning application** must be received within 21 calendar days of the circulation of the weekly list of 'applications received' in which it appears, **and any request relating to an application for Permission in Principle must be received within 15 calendar days of the despatch of the email notification of the application to the Division Member. In both cases, Members must** set out the material planning consideration(s) which warrant the application going before committee. Officers will confirm what action is being taken following receipt of the request.

Applications for tree work, prior approvals, Certificates of Lawfulness; notifications and variations/discharge of legal agreements - where the latter would bring them in line with a planning decision already made by the Council, will not be eligible for call-in and will be dealt with under delegated powers.

Where it has not been possible or appropriate to call an application in within this time, officers will accept call in requests in the following circumstances:

a)An application has not been determined and it can still go to Committee and be determined within the target date.

b)The application is already going to go out of time (because of negotiations/amended plans etc.) and taking it to Committee will make no difference to performance.

Where neither of the above apply, and the Division Member thinks there is a strong case to delay the determination of the application and take it to committee, they can discuss the case with the Head of Development Management who will arrange for a (or to discuss with the Director for Economic Development and Planning prior to arranging for) an informed decision whether or not to exercise delegated powers.

1.3 If private applications are made by or land/property owned by:

- a member or their close relations;
- a Director of the Council or their close relations; or
- a planning officer

and objections are received raising material planning considerations the application will be determined by a committee.

1 It is perfectly acceptable for members to nominate a substitute(s) to undertake their planning responsibilities, including application 'call in', if they have a conflict of interest or during periods of absence such as holidays or illness.

3. There will be occasions where it would be possible to deal with certain applications under delegated powers but where the Director-for Economic Development and Planning considers it inappropriate to do so, having considered any public representation and consultee responses. In these cases the applications will be determined by an appropriate planning committee.

4 The following applications, if called in shall be dealt with by the Strategic Planning Committee:

- Large-scale major developments which, by their nature (e.g. scale, location etc.) have wider strategic implications and raise issues of more than local importance. This will include applications of a similar nature by Wiltshire Council to develop any land of Wiltshire Council, or for development of any land by Wiltshire Council or by Wiltshire Council jointly with any other person which have similar implications or raise similar issues.
- Planning applications for mineral extraction or waste disposal, other than small scale works which are ancillary to an existing mineral working or waste disposal facility;

- Applications, which if approved, would represent a significant departure from the policies of the statutory development plan, where they are recommended for approval;
- Applications called in by a Division Member that cross the boundary of two Area Planning Committees;
- Any application that the Director-for Economic Development and Planning deems raises issues that should be considered by the Strategic Planning Committee.

Definitions

- Planning application means any application submitted to the Council for determination and included within the Government's planning application statistical returns (This is a statistical questionnaire dealing with performance which local authorities have to submit regularly to the government and which divides planning application into distinct categories; householder, minor, major etc.)
- 'Large scale major development' means any application for 200 or more houses; residential development of 4ha or more or other development of more than 10,000 square metres or more than 2 ha, as defined by the Government in the planning application statistical returns
- Householder development and the other descriptions of development referred to above shall have the meaning ascribed to them in the Government's planning application statistical returns.
- Enforcement notices includes all other formal notices under the Planning Acts used to investigate and remedy alleged breaches of planning control or improve the appearance of an area, including Breach of condition notices and Section 215 notices.
- A private application is one which has no connection with a member or officer's council duties. For example, if an officer submitted a Regulation 3 application on behalf of Wiltshire Council it would not be a private application.
- A close relation is defined as spouse, partner, sibling, parent or offspring.
- **Minor residential development means housing led development of between one and nine houses**

Proposed changes to the Constitution in order to clarify the separate roles of the Audit Committee and the Overview and Scrutiny Management Committee

1 The role of the Audit Committee is set out in **paragraph 2.8 of Part 3** of the Constitution. This paragraph requires some modification in order to make it a definitive statement of Audit's role to include references to activities mentioned elsewhere in the Constitution and to reflect guidance from various professional bodies.

- External Audit is the major statutory provision which is the responsibility of the Audit Committee and **the entry "External Audit activity" should precede "Internal Audit Activity" in para 2.8**
- In "Internal Audit Activity" second line to read **"and the annual internal audit plan and subsequent changes thereto."**
- In "Regulatory Framework", 1st bullet point second line to read: **"of corporate governance, risk and performance management and internal controls and to receive"**
- In "Regulatory Framework", 2nd bullet point, second line **"statement (AGS), to review the supporting evidence including the arrangements for governance of partnership working, and to"**
- In "Financial Management and Accounts" 1st bullet point, second line: **"..... are adequate and effective, and, together with its accounting policies, are regularly reviewed."**

2 **In Protocol 11** DELETE the words **"process and soundness of information"** from column 6 of rows 2, 3 and 4.

3 In order to clarify the separate and distinct role of Overview and Scrutiny the following changes are proposed.

In Part 2 Article 6 Overview and Scrutiny Committees:

- After the 6th bullet point **"Overview, policy development and scrutiny of policy framework and corporate and organisational matters"** Insert new bullet point **"Overview and scrutiny engagement on budget setting, budget monitoring and the Medium Term Financial Strategy (MTFS)"**
- Insert new paragraph 6.5: **"The Management Committee will also work closely with the Audit Committee to refer matters of governance and/or the control environment for further review. Likewise, the Audit Committee can refer matters arising from its remit that have a specific impact or risk to the Council's policy or operation to the Management Committee to consider the need for review"**
- Renumber paras 6.6, 6.7 and 6.8 accordingly.

In Section 3 of Part 9 of the Constitution

- Section heading to read “**Audit Committee and Overview and Scrutiny management Committee**”
- In para 3.1 2nd sentence DELETE “(incorporating Scrutiny Select Committees and the Financial Planning Task Group)”
- Para 3.2 to read “**The Audit Committee and Overview and Scrutiny Management Committee report to the Cabinet or the Full Council in relation to matters concerning their respective responsibilities as set out in Para 2.8 of Section B of Part 3 and Part 2 Article 6.2 of the Constitution respectively.**”
- In para 3.3 DELETE the second sentence “**The committees are responsible for reviewing the external auditor’s reports and the annual audit letter and internal audit’s annual report**”

Wiltshire Council

Standards Committee

18 April 2018

**The Committee on Standards in Public Life
Review of local government ethical standards.**

Purpose of Report

1. To inform the Standards Committee of a review of local government ethical standards which the Committee on Standards in Public Life is undertaking.
2. To seek the Committee's views on the questions raised in the consultation.
3. To ask the Monitoring Officer after consultation with the Chairman of the Standards Committee, to prepare a response to the consultation reflecting the Committee's views on behalf of the Council delegate to the Monitoring Officer after consultation with the Chairman of the Standards Committee, to prepare and submit a submission on behalf of the Council.

Background

4. The Committee on Standards in Public Life is undertaking a review of local government ethical standard with a view to ensuring robust standards arrangements are in place to safeguard local democracy, maintain high standards of conduct, and to protect ethical practice in local government. As part of this review, the Committee is holding a public stakeholder consultation which concludes the 18 May 2018.
5. The terms of reference for the review are to:
 - I. *Examine the structures, processes and practices in local government in England for:*
 - a. *Maintaining codes of conduct for local councillors;*
 - b. *Investigating alleged breaches fairly and with due process;*
 - c. *Enforcing codes and imposing sanctions for misconduct;*
 - d. *Declaring interests and managing conflicts of interest; and*
 - e. *Whistleblowing.*
 - II. *Assess whether the existing structures, processes and practices are conducive to high standards of conduct in local government;*
 - III. *Make any recommendations for how they can be improved; and*

IV. *Note any evidence of intimidation of councillors, and make recommendations for any measures that could be put in place to prevent and address such intimidation.*

6. The review will consider all levels of local government in England, including town and parish councils, principal authorities, and combined authorities. A link to the Committee for Standards in Public Life consultation portal is included below.

<https://www.gov.uk/government/consultations/local-government-ethical-standards-stakeholder-consultation>

Consultation Questions

7. The Committee invites responses to the following consultation questions:
- a. Are the existing structures, processes and practices in place working to ensure high standards of conduct by local councillors? If not, please say why.
 - b. What, if any, are the most significant gaps in the current ethical standards regime for local government?
 - c. Are local authority adopted codes of conduct for councillors clear and easily understood? Do the codes cover an appropriate range of behaviours? What examples of good practice, including induction processes, exist?
 - d. A local authority has a statutory duty to ensure that its adopted code of conduct for councillors is consistent with the Seven Principles of Public Life and that it includes appropriate provision (as decided by the local authority) for registering and declaring councillors' interests. Are these requirements appropriate as they stand? If not, please say why.
 - e. Are allegations of councillor misconduct investigated and decided fairly and with due process?
 - i. What processes do local authorities have in place for investigating and deciding upon allegations? Do these processes meet requirements for due process? Should any additional safeguards be put in place to ensure due process?
 - ii. Is the current requirement that the views of an Independent Person must be sought and taken into account before deciding on an allegation sufficient to ensure the objectivity and fairness of the decision process? Should this requirement be strengthened? If so, how?

- iii. Monitoring Officers are often involved in the process of investigating and deciding upon code breaches. Could Monitoring Officers be subject to conflicts of interest or undue pressure when doing so? How could Monitoring Officers be protected from this risk?
 - f. Are existing sanctions for councillor misconduct sufficient?
 - i. What sanctions do local authorities use when councillors are found to have breached the code of conduct? Are these sanctions sufficient to deter breaches and, where relevant, to enforce compliance?
 - ii. Should local authorities be given the ability to use additional sanctions? If so, what should these be?
 - g. Are existing arrangements to declare councillors' interests and manage conflicts of interest satisfactory? If not please say why.
 - i. A local councillor is under a legal duty to register any pecuniary interests (or those of their spouse or partner), and cannot participate in discussion or votes that engage a disclosable pecuniary interest, nor take any further steps in relation to that matter, although local authorities can grant dispensations under certain circumstances. Are these statutory duties appropriate as they stand?
 - ii. What arrangements do local authorities have in place to declare councillors' interests, and manage conflicts of interest that go beyond the statutory requirements? Are these satisfactory? If not, please say why.
 - h. What arrangements are in place for whistleblowing, by the public, councillors, and officials? Are these satisfactory?
 - i. What steps could *local authorities* take to improve local government ethical standards?
 - j. What steps could *central government* take to improve local government ethical standards?
 - k. What is the nature, scale, and extent of intimidation towards local councillors?
 - l. What measures could be put in place to prevent and address this intimidation?
8. The Standards Committee has reviewed the effectiveness of the Wiltshire Council Code of Conduct and the procedure for dealing with Code of Conduct Complaints in recent years. Links to the relevant meetings are listed under background papers.

Safeguarding Implications

9. There are no safeguarding issues arising from this report.

Equalities Impact of the Proposal

10. There are no equalities impacts arising from this report.

Risk assessment

11. There are no significant risks arising from this report

Financial Implications

12. There are no financial implications arising from this report.

Legal Implications

13. There are not legal implications arising from this report

Public Health Impact of the Proposals

14. There are no public health impacts arising from this report.

Environmental Impact of the Proposals

15. There are no environmental impacts arising from this report.

Proposal

16. To ask the Monitoring Officer after consultation with the Chairman of the Standards Committee, to prepare a response to the consultation reflecting the Committee's views on behalf of the Council.

Ian Gibbons, Monitoring Officer

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Unpublished reports relied upon in the preparation of this report: None
Background Papers

[21 January 2015](#)

[16 September 2015](#)

[27 April 2016](#)

[29 June 2016](#)

[26 January 2017](#)