

AGENDA SUPPLEMENT (1)

Meeting: Standards Committee
Place: Council Chamber - Council Offices, Monkton Park, Chippenham,
SN15 1ER
Date: Wednesday 7 March 2012
Time: 2.00 pm

The Agenda for the above meeting was published on Tuesday 28 February 2012 and indicated that the reports detailed below in item 6 would be to follow. These are now available and are attached to this Agenda Supplement. Item 7 was revised and updated and is also attached to this Agenda Supplement.

Please direct any enquiries on this Agenda to Pam Denton, of Democratic Services, County Hall, Bythesea Road, Trowbridge, direct line 01225 718371 or email pam.denton@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

6. Recommendations of the Focus Group on the Review of the Constitution
(Pages 1 - 24)
 7. Review of the Standards Committee Plan 2010 - 2014 (Pages 25 - 30)
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DATE OF PUBLICATION: 5 March 2012

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WILTSHIRE COUNCIL

STANDARDS COMMITTEE

7 March 2012

NEW STANDARDS FRAMEWORK

Purpose of Report

1. This report updates the Committee on developments since the last meeting and asks the Committee to consider the draft documentation requested at its last meeting for approval and recommendation to Council at its meeting on 15 May 2012.

Background

2. At its meeting on 25 January 2012 the Committee considered key issues in preparing to meet the requirements of the new standards framework and resolved:
 - (1) To note the action taken so far and the views of the Standards Task and Finish Group, Group Leaders and the Constitution Focus Group on the implementation of the new standards framework.
 - (2) To ask the Monitoring Officer, in consultation with the Standards Task and Finish Group and the Chairman of the Constitution Focus Group, to prepare detailed proposals on the following for the Constitution Focus Group to consider at its next meeting:
 - (i) the size and terms of reference of a proposed new standards committee;
 - (ii) the arrangements for dealing with complaints;
 - (iii) the arrangements for appointment of the independent person(s), including the number to be appointed, a job description and person specification for this role;
 - (iv) a code of conduct, subject to the regulations to be issued on interests, having regard to any national or regional models that are being developed, and the views of members.
 - (3) To oversee the arrangements for consulting and providing support to town and parish councils in the implementation of the new standards framework.

- (4) To ask the Constitution Focus Group to report back to the Standards Committee at its meeting on 7 March 2012 with a view to final recommendations being made to the Council at its meeting on 15 May 2012.
3. The Standards Task and Finish Group was due to meet on 21 February 2012, but was cancelled as many of the members were unable to attend. Those members who were available were, therefore, invited to join the Constitution Focus Group's meeting on the same day to consider the draft documents requested by the Standards Committee. These were discussed in depth and amendments were proposed by the Focus Group as shown tracked on the attached appendices.

Main Considerations

Terms of Reference for a New Standards Committee

4. There is general agreement that it would be desirable for the Council to establish a standards committee to discharge the Council's functions under the new standards regime. This should include the wider role undertaken by the existing Standards Committee, which has worked well, particularly in relation to oversight of the constitution.
5. A copy of the proposed terms of reference is attached at Appendix 1. These provide for:
- 13 elected councillors to be appointed annually by the Council on a politically proportionate basis, with provision for substitutes as permitted under the Constitution;
 - up to 8 co-opted non-voting members. One half of those appointed will be parish, town or city representatives from Wiltshire who are not officers or members of Wiltshire Council. The other half will be made up of independent members similar to those on the current Standards Committee.
 - it is proposed that the co-opted members will serve for 2 years to provide some continuity.
 - the discharge of the Council's functions under the new standards legislation and the wider responsibilities undertaken by the existing Standards Committee;
 - Hearing, Review and Dispensation Sub-Committees comprising 3 elected councillors drawn from the membership of the new standards committee and the pool of substitutes.

- It is proposed that the political balance requirements for these sub-committees will be waived by the Council to ensure cross party representation as far as possible.
- The sub-committees may, in addition, include 2 co-opted members, one of whom shall be a parish, town or city representative where the complaint involves a parish, town or city councillor.
- The co-opted members may play a full part in the hearing, review or dispensation meeting, but cannot vote on the decision.

Arrangements for dealing with misconduct complaints

6. Relevant authorities, other than parish councils, must put in place arrangements for investigating and determining complaints under the code of conduct and deciding the actions that may be taken if there is found to be a breach of the code.
7. Complaints against members of parish councils are to be dealt with under the arrangements adopted by their principal council. However, any consequential action in the event of a breach of the code will rest with the parish council.
8. The Standards Committee has agreed that any procedure adopted should be:
 - fair
 - quick and simple
 - proportionate
 - cost effective
 - serve to improve standards of conduct
9. A draft procedure is attached at Appendices 2 and 3. This aims to provide a fair and efficient process with an appropriate balance between the rights of the complainant and subject member. The draft procedure:
 - gives the member an opportunity to respond to the complaint before it is referred for initial assessment;
 - makes it clear that complaints must be lodged within 3 months of the date of the incident giving rise to the complaint;
 - delegates decision-making at the stages of initial assessment and consideration of the investigation report to the Monitoring Officer, after consultation with the Independent Person, subject to a right of review by the Review Sub-Committee;

- defines the role of the Independent Person(s) in the process;
- provides for alternative resolution, including mediation, at both these stages;
- sets out the arrangements for hearing complaints and the sanctions that may be imposed;
- gives no right of appeal against a determination of the Hearing Sub-Committee;
- covers the arrangements for complaints against parish councillors.

10. On this basis the proposed process from receipt of complaint to hearing should take less than 6 months overall. However, the exercise of the right of review, exploring alternative dispute resolution, and difficulties regarding the availability of members and parties for the hearing may inevitably lengthen the process.

Appointment of Independent Persons

11. The council must appoint at least one independent person whose views must be sought and taken into account before the council makes a decision on an allegation it has decided to investigate. The views of the independent person may also be sought on other allegations, and by a member who is the subject of an allegation.
12. It is proposed to appoint 2 independent persons, one to advise the Monitoring Officer, Review Sub-Committee and Hearing Sub-Committee, and the other to advise the subject member, as reflected in the draft procedure. It may be prudent to appoint a third as a reserve.
13. It will be necessary for the Council to determine an appropriate level of remuneration for each independent person. In setting this amount the Council will wish to have regard to what other authorities are intending to pay. Further information will be provided on this aspect when it becomes available.
14. A suggested job description and person specification is attached at Appendix 4. This reflects the statutory responsibilities of the role and the personal qualities that are considered necessary to undertake it. On further reflection, it would be useful to include the statutory restrictions which apply to the appointment of the independent person as follows:

The following persons are not eligible for appointment as an independent person

- *current members, co-opted members and officers of the Council or of any of the parish, town or city councils within its area, or their relatives or close*

friends.

- *any person who has within the last 5 years been a member, co-opted member or officer of the Council or of any of the parish councils in its area.*

15. It is understood that the Government is considering making a transitional provision which permits a principal authority to appoint a person as an independent person who, although not a member or chairman of an existing standards committee at the time of appointment (or thereafter), has held such a post within the last five years. This transitional provision would apply for the first year of the new arrangements (i.e. until 30 June 2013), and any person appointed under the transitional provisions would be able to continue to hold office after the transitional period, for whatever term the principal authority saw fit.

16. Subject to the issue of regulations to this effect, existing co-opted members of the Standards Committee may, therefore, be permitted to apply for appointment as an independent person, enabling the Council potentially to secure the benefit of their knowledge and experience in standards issues for the exercise of this new statutory role.

17. The Council may also wish to encourage current independent members from other standards committees in Wiltshire e.g. fire authority, or other adjoining authorities to seek appointment as an independent person.

18. The 2011 Act requires:

- the Council to advertise the vacancy for an independent person in such manner as the Council considers appropriate.
- applicants to submit an application for the position;
- The person's appointment must be approved by a majority of the members of the Council.

19. It is proposed that the arrangements for the advertisement of the position of independent person and the appointments process are delegated to the Monitoring Officer, in consultation with the chairman of the new standards committee.

Code of Conduct

20. The position regarding the code of conduct remains unclear. There is no sign of the regulations on interests, nor any indication as to when these might be available.
21. The National Association of Local Councils (NALC), the Association of Council Secretaries and Solicitors (ACSeS), and other bodies representing various interest groups in local government are in discussion with the Local Government Association (LGA), which represents the interests of principal authorities, to produce a national template code of conduct. No agreement has been reached on this yet and a further meeting on 14 March has been arranged to try to progress this.
22. Until the regulations have been issued and the emerging picture is clearer regarding any national template code, the Council needs a fall-back position. It is, therefore, proposed that the existing code of conduct should form the basis of the new code of conduct, amended as necessary to meet the requirements of the new legislation. This will be reviewed when the regulations on disclosable pecuniary interests are available.
23. Parish councils will continue to be encouraged to adopt the same code as Wiltshire Council.

Dispensations

24. Relevant authorities may, on receipt of a written request, grant dispensations for up to 4 years for a member to be able to participate in or vote at meetings where they have a disclosable pecuniary interest. The grounds on which a dispensation may be granted are set out in section 33 of the Act.
25. It is proposed that this function is delegated to a sub-committee of the new standards committee on the basis set out in the draft terms of reference included at Appendix 1.
26. Parish councils will need to make their own arrangements for granting dispensations.

Consultation with Parish Councils

27. Following my initial letter and briefing paper to the clerks to parish, town and city councils in December we have included an update in the February Parish Newsletter. A further update will be provided after the Standards Committee's meeting. I am also meeting with representatives of WALC and the County Branch of the Society of Clerks to discuss how we can best support our parish, town and city councils in implementing the new standards framework.
28. NALC is about to issue guidance to parish councils on the new legislation.
29. Clearly when we are clearer about the position on the new code of conduct we will be able to consult more fully.

Recommendations

30. The Committee is asked to consider the draft documentation attached to this report and, subject to any changes the Committee may wish to make, to agree to recommend Council as follows:

- (1) To establish a standards committee in accordance with the terms of reference set out at appendix 1.
- (2) To adopt the arrangements for dealing with code of conduct complaints as set out in appendices 2 and 3.
- (3) To approve the job description and person specification for the independent person as set out in Appendix 4, and to authorise the Monitoring Officer, in consultation with the chairman of the new standards committee, to take the necessary steps to secure the appointment of 2 independent persons and one reserve by the Council.
- (4) To agree an appropriate rate of remuneration for the independent person, having regard to arrangements being made by other authorities.
- (5) Pending the issue of the regulations on interests and the emergence of any national template code of conduct, to use the existing code of conduct as the basis for a new code of conduct, amended as necessary to meet the requirements of the new legislation.
- (6) To support parish, town and city councils in Wiltshire in preparing for the new standards framework and to consult them as far as possible on the proposed arrangements for Wiltshire Council.

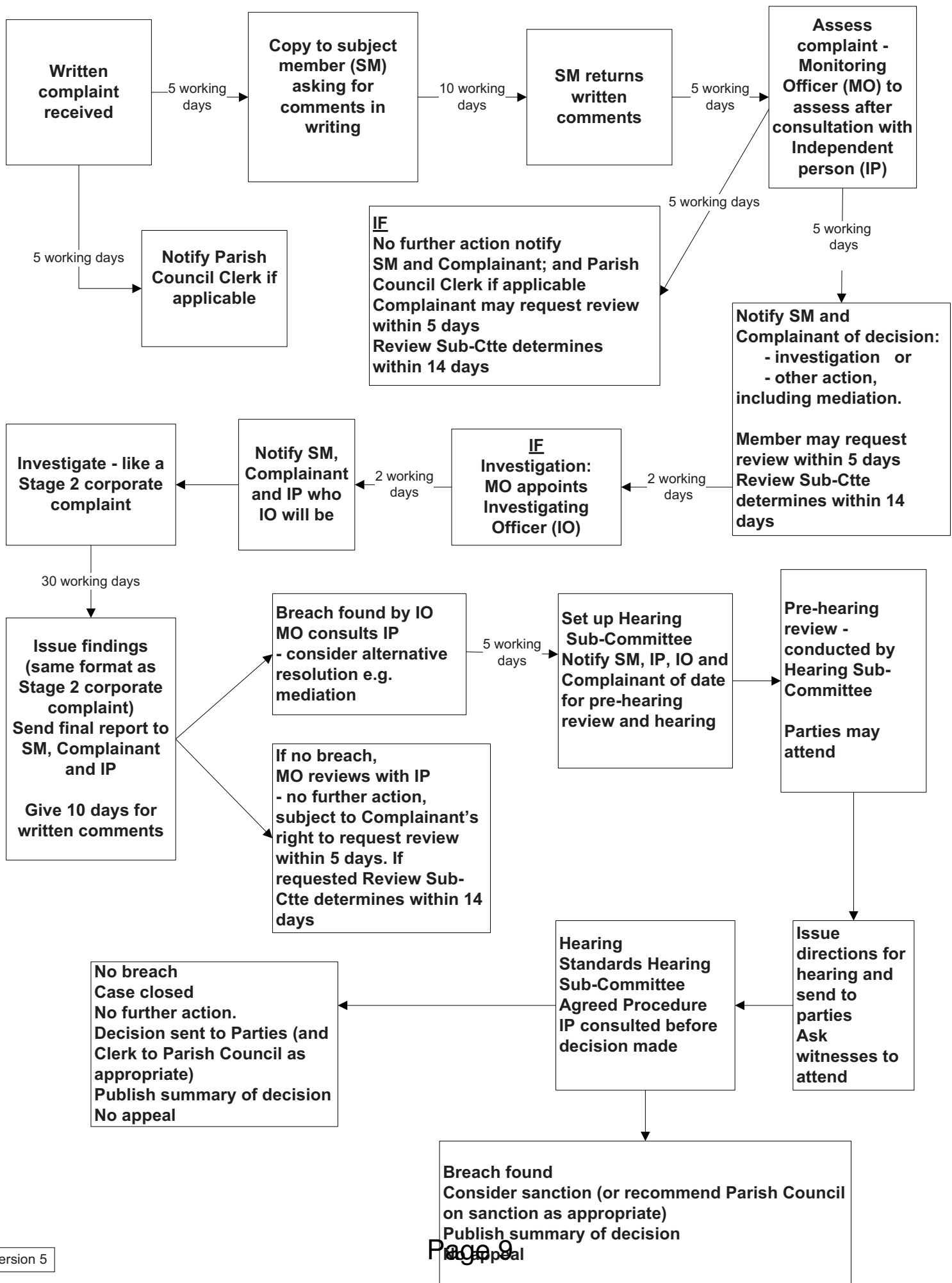
IAN GIBBONS

SOLICITOR TO THE COUNCIL AND MONITORING OFFICER

Report Author: Ian Gibbons

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Localism Act 2011 - Draft Process for Code of Conduct Complaints



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Wiltshire Council

Arrangements for dealing with Code of Conduct Complaints under the Localism Act 2011

1 Context

- 1.1 These arrangements are made under Section 28 of the Localism Act 2011. They set out the process for dealing with a complaint that an elected or co-opted member of Wiltshire Council or of a parish, town or city council within its area has failed to comply with their Code of Conduct.
- 1.2 An overview of the complaints process is attached at Appendix A.

2 Interpretation

- 2.1 'Member' means a member or a co-opted member of Wiltshire Council, or of a parish, town or city council within its area, against whom a complaint has been made under the Code of Conduct.
- 2.2 'Council' means Wiltshire Council.
- 2.3 'Investigating Officer' means the person appointed by the Monitoring Officer to undertake an investigation of an allegation of misconduct by a Member.
- 2.4 'The Monitoring Officer' is a senior officer of the authority who has statutory responsibility for maintaining the register of members' interests and who is responsible for administering the arrangements for dealing with complaints of member misconduct. It includes any officer nominated by the Monitoring Officer to act on his or her behalf in that capacity.
- 2.5 'Independent Person' means a person appointed under Section 28(7) of the Localism Act:
 - a. whose views must be sought and taken into account before a decision is made on an allegation of member misconduct under these arrangements;
 - b. who may be consulted by the Member about the complaint.

In order to avoid any conflict of interest two Independent Persons will be allocated to each complaint, one to advise and assist the Monitoring Officer and the Hearing Sub-Committee, and the other to be available for consultation by the Member.

- 2.6 'Parish Council' means a parish, town or city council within the area of Wiltshire Council.
- 2.7 'Code of Conduct' means the code of conduct for members which the Council and Parish Councils are required to adopt under Section 27 of the Localism Act 2011.
- 2.8 'Days' means working days.
- 2.9 'Parties' includes the Complainant, Member and the Investigating Officer.
- 2.10 The 'Hearing Sub-Committee' is a sub-committee of the Council's Standards Committee appointed to determine complaints of member misconduct under these arrangements.
- 2.11 The 'Review Sub-Committee' is a sub-committee of the Council's Standards Committee appointed to review a decision of the Monitoring Officer under sections 4 and 6 of these arrangements.
- 2.12 Where a complaint is made against a member of a Parish Council the Clerk to the Parish Council will be notified of the complaint and kept informed of the progress and outcome of the matter.

3 Making a Complaint

- 3.1 A complaint against a Member under the Code of Conduct must be made in writing on the Council's standard form (*available from the Council's web-site and offices*) and addressed to the Monitoring Officer [*address / e-mail*] within 12 weeks of the date of the incident which is the subject of the complaint.
- 3.2 The Monitoring Officer will acknowledge receipt of the complaint within 5 days of receiving it, and will send a copy to the Member.
- 3.3 The Member will be invited to submit a written response to the complaint within 10 days of the date on which it is sent to them.
- 3.4 The Member may seek advice and assistance in connection with the complaint from a friend or professional legal adviser, in confidence, and may at any time consult the Independent Person designated for that purpose.

4 Initial Assessment

- 4.1 The Monitoring Officer will review the complaint within 5 days of receiving the Member's response and, after consultation with the Independent Person, will decide whether it merits formal investigation.
- 4.2 In reaching this decision the Monitoring Officer will have regard to the Standards Committee's assessment criteria.
- 4.3 The Monitoring Officer will inform the Parties of his or her decision and the reasons for it in writing.

- 4.4 The Monitoring Officer may seek to resolve the complaint informally, without the need for a formal investigation. This may involve mediation or other suitable action, including training or an apology by the Member.
- 4.5 Where the Member or the Council make a reasonable offer of local resolution, but the Complainant is not willing to accept that offer, the Monitoring Officer may take this into account in deciding whether the complaint merits formal investigation.
- 4.6 If the complaint identifies potential criminal conduct by any person, the Monitoring Officer may call in the Police or other regulatory agencies.

5 Investigation

- 5.1 If the Monitoring Officer decides that a complaint merits formal investigation, he/she will appoint an Investigating Officer within 2 days of the decision to investigate and inform the Parties of the appointment.
- 5.2 The Investigating Officer will investigate the complaint in accordance with guidelines produced by the Monitoring Officer and will send a copy of the investigation report to the Parties, in confidence, within 30 days of the notification of the Investigating Officer's appointment.
- 5.3 The Parties will be invited to submit any written comments on the report to the Monitoring Officer within days of the date on which the report is sent to them.

6 Consideration of Investigating Officer's Report

- 6.1 The Monitoring Officer will, as soon as reasonably practicable, review the Investigating Officer's report and any comments submitted by the Parties, in consultation with the Independent Person.
- 6.2 Where the Investigating Officer concludes that there is no evidence of a failure to comply with the Code of Conduct and the Monitoring Officer is satisfied that the Investigating Officer's report is sufficient, the Monitoring Officer will, after consultation with the Independent Person, inform the Parties that no further action is required.
- 6.3 If the Monitoring Officer is not satisfied that the investigation has been conducted properly, he/she may ask the Investigating Officer to reconsider his/her report and findings.
- 6.4 Where the Investigating Officer concludes that there is evidence of a failure to comply with the Code of Conduct the Monitoring Officer will, after consulting the Independent Person, either refer the matter for hearing before the Hearing Sub-Committee or seek an alternative resolution.

7 Alternative Resolution

- 7.1 Where the Monitoring Officer, in consultation with the Independent Person, considers that the matter can reasonably be resolved without the need for a hearing, he/she will consult with the Parties to seek to agree a fair resolution

which also helps to ensure higher standards of conduct for the future.

7.2 Alternative resolution may involve mediation and may include the Member accepting that their conduct was unacceptable and offering an apology, and/or other remedial action by the Council or the Parish Council as the case may be. If the Member complies with the suggested resolution, the Monitoring Officer will report the matter to the Standards Committee, and the relevant Parish Council where appropriate, for information, but will take no further action.

8 Local Hearing

- 8.1 If the Monitoring Officer, after consultation with the Independent Person, considers that alternative resolution is not appropriate or, after exploring the possibility, concludes that it is unlikely to be achieved he/she will refer the matter to the Hearing Sub-Committee to conduct a local hearing to determine the complaint.
- 8.2 The Hearing Sub-Committee, supported by the Monitoring Officer, will conduct a pre-hearing review to identify the issues, areas of agreement and disagreement, and to give directions for the efficient conduct of the hearing. This may either be conducted in writing or by a meeting with the Parties.
- 8.3 The Monitoring Officer will notify the Parties in writing of the directions for the hearing.
- 8.4 The Sub-Committee may exclude the press and public from the hearing where it appears likely that confidential or exempt information will be disclosed and the public interest in withholding the information outweighs the public interest in disclosing the information to the public.
- 8.5 At the hearing, the Investigating Officer will present their report, call such witnesses as they consider necessary and make representations to substantiate their conclusion that the Member has failed to comply with the Code of Conduct.
- 8.6 The Complainant will have the right to make a statement in support of their complaint.
- 8.7 The Members of the Hearing Sub-Committee and the Member may ask questions of the Investigating Officer and any witnesses called.
- 8.8 The Member will have an opportunity to give their evidence, to call witnesses and to make representations as to why they consider that they did not fail to comply with the Code of Conduct.
- 8.9 The Members of the Hearing Sub-Committee and the Investigating Officer will have the opportunity to ask questions of the Member and any witnesses called.
- 8.10 The Investigating Officer and the Member may each make a concluding statement.

- 8.11 The Members of the Hearing Sub-Committee will then withdraw, with the Independent Person, to consider the case, taking advice from the Independent Person and, where necessary, from the Monitoring Officer on law and procedure.
- 8.12 The Hearing Sub-Committee may conclude that the Member did not fail to comply with the Code of Conduct, and so dismiss the complaint.
- 8.13 If the Hearing Sub-Committee concludes that the Member did fail to comply with the Code of Conduct, the Chairman will inform the Parties of this finding and the Hearing Sub-Committee will then consider what action, if any, should be taken as a result of the breach.
- 8.14 The Investigating Officer and the Member will be invited to make representations on the question of sanctions.
- 8.15 The Sub-Committee will, after consulting the Independent Person, determine what action, if any, to take (or recommend in the case of a parish councillor) in respect of the matter.

9 Sanctions

The range of sanctions might include:

- 9.1 *The Council has delegated to the Hearing Sub-Committee such of its powers to take action in respect of individual members of the Council as may be necessary to promote and maintain high standards of conduct. The Hearing Sub-Committee may therefore:*
- 9.2 *Publish its findings in respect of the Member's conduct;*
- 9.3 *Report its findings to Council or, in the case of a Parish Councillor, to their Parish Council for information;*
- 9.4 *Recommend to the Member's Group Leader (or in the case of un-grouped members, recommend to Council or to Committees) that the Member is removed from any or all Committees or Sub-Committees of the Council;*
- 9.5 *Recommend to the Leader of the Council that the Member is removed from the Cabinet, or removed from particular portfolio responsibilities;*
- 9.6 *Instruct the Monitoring Officer, or recommend the Parish Council, to arrange training for the Member.*
- 9.7 *Remove or recommend the Parish Council to remove the Member from all outside appointments to which he/she has been appointed or nominated by the Council or by the Parish Council;*

The Sub-Committee may impose (or in the case of a parish councillor recommend) such restrictions as it considers necessary to ensure the efficient and effective discharge of the Council's functions in line

with the decision of the Court of Appeal in R v Broadland District Council ex parte Lashley. Without limitation this may include:

- a. withdrawal of facilities provided to the Member by the Council, such as a computer, web-site and/or e-mail and internet access; or*
- b. excluding the Member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings; or*
- c. Such other action as is appropriate in the circumstances.*

10 Decision

- 10.1 At the end of the hearing, the Chairman will announce the decision of the Hearing Sub-Committee in summary form.
- 10.2 The Monitoring Officer will send the Parties, and where appropriate the relevant Parish Council, a formal decision notice, which will be published on the Council's web-site and made available for public inspection.

11 Revision of these arrangements

- 11.1 The Council may by resolution agree to amend these arrangements, and has delegated to the Monitoring Officer and the Hearing Sub-Committee the right to depart from these arrangements where they consider that it is expedient to do so in order to secure the effective and fair consideration of any matter.

12 Appeals

- 12.1 The Complainant or the Member may request a review of the Monitoring Officer's decision at the initial assessment stage (section 4 above).
- 12.2 The Complainant may request a review of a decision by the Monitoring Officer to dismiss the complaint following consideration of the Investigation Officer's report (section 6 above).
- 12.3 Any request for a review must be made in writing to the Monitoring Officer within 5 days of the date of his/her decision and must set out the grounds for the review.
- 12.4 A review request will be determined by the Review Sub-Committee, after consulting the Independent Person, within 14 days of receipt of the request.
- 12.5 There is no right of appeal for the Complainant or the Member against a decision of the Hearing Sub-Committee.

STANDARDS COMMITTEE
DRAFT TERMS OF REFERENCE

Composition

1. This Committee will comprise 13 elected councillors, other than the Leader or any other member of the Cabinet, and up to 8 co-opted non-voting members, 50% of whom shall be town, parish or city councillors within the Council's area who are not councillors or officers of the Council.
2. Appointments to the Committee will be made annually by the Council having regard to the rules on political proportionality.
3. The term of office for co-opted non-voting members shall be 2 years.
4. Substitutes will be permitted in accordance with Part 4 of the Constitution.

Role and Function

5. The Standards Committee is responsible for:
 - promoting and maintaining high standards of conduct by elected and co-opted members and officers.
 - assisting the elected and co-opted members to observe the members' code of conduct.
 - advising the Council on the adoption or revision of the members' code of conduct and the arrangements for dealing with member complaints of misconduct which the Council is required to make under Section 28 of the Localism Act 2011.
 - monitoring and advising the Council about the operation of its code of conduct in the light of best practice and any changes in the law.
 - advising, and, through the Councillor Development Group, arranging to train elected and co-opted members on matters relating to the members' code of conduct and ensuring that members are aware of the standards expected of them under the code.
 - granting dispensations to elected and co-opted members from requirements relating to interests.
 - overseeing the operation of the Council's arrangements for dealing with misconduct complaints against members and co-opted members of Wiltshire Council, and parish, town and city councillors in Wiltshire.
 - overview of the whistle blowing policy.
 - overview of corporate complaints handling and Ombudsman investigations.
 - reviewing the implementation of recommendations made by the Ombudsman.

- oversight of the constitution.
6. The Standards Committee has the power to appoint such sub-committees as may from time to time be necessary for the efficient discharge of its functions. In particular, the Committee will appoint:
- a) A Hearing Sub-Committee to determine member misconduct complaints under the Council's arrangements.
 - b) A Review Sub-Committee to determine requests for review under the Council's arrangements.
 - c) A Dispensation Sub-Committee to determine requests for dispensation from the requirements relating to interests.

In each case the Sub-Committee shall comprise 3 elected members from whom a chairman will be elected. The Sub-Committee may include 2 non-voting co-opted members of the Standards Committee, one of whom shall be a parish, town or city representative where the complaint concerns a parish, town or city councillor.

The above sub-committees are not subject to the requirements of political balance. The composition of any sub-committee will be determined by the Monitoring Officer in consultation with the Chairman of the Standards Committee on the basis of member availability, drawing from the membership of the Committee and their substitutes and seeking to ensure cross party representation as far as possible.

WILTSHIRE COUNCIL

JOB DESCRIPTION AND PERSON SPECIFICATION

INDEPENDENT PERSON APPOINTED UNDER SECTION 28(7) LOCALISM ACT 2012

Job Purpose

To undertake the statutory role of the Independent Person appointed under section 28(6) of the Localism Act 2011 and to assist the Council generally in discharging its duty to promote and maintain high standards of conduct by members and co-opted members of Wiltshire Council.

Contacts

- Elected and co-opted members of Wiltshire Council and of Parish, Town and City Councils in Wiltshire
- Wiltshire Council officers
- Members of the Public

Key tasks

- Advising the Monitoring Officer in connection with the initial assessment of member misconduct complaints in accordance with the Council's arrangements made under section 28(6) of the Localism Act 2011.
- Advising the Hearing Sub-Committee in connection with the determination of member misconduct complaints in accordance with the Council's arrangements made under section 28(6) of the Localism Act 2011.
- Advising elected and co-opted members of Wiltshire Council and of Parish, Town and City Councils in Wiltshire in connection with complaints made against them under their Code of Conduct.
- Advising and assisting Wiltshire Council in discharging its duty to promote and maintain high standards of conduct by members and co-opted members of Wiltshire Council.

Equal Opportunities

The Independent Person is obliged to demonstrate and promote a commitment to the Council's equality and diversity policies.

Person specification

- The post holder must have personal integrity and a commitment to equal opportunities.
- They must be fair and able to take an objective view of sometimes emotive situations.
- They must act with independence and tenacity, and demonstrate skills of persuasion and influence.
- They must be able to exercise sound judgement, and must be able to analyse and solve complex problems.
- They must be able to express their ideas and point of view effectively, while being an excellent listener.
- They must have excellent inter-personal skills.

FOCUS GROUP ON THE REVIEW OF THE CONSTITUTION

MINUTES OF THE FOCUS GROUP ON THE REVIEW OF THE CONSTITUTION MEETING HELD ON 21 FEBRUARY 2012 AT COMMITTEE ROOM VII - COUNTY HALL, TROWBRIDGE.

Present:

Cllr Nigel Carter, Cllr Peter Doyle, Cllr Jon Hubbard, Mrs I McCord (Chair), Mr S Middleton, Mr Paul Neale, Cllr Ricky Rogers, Cllr Anthony Trotman and Cllr Stuart Wheeler

Also Present:

Mr John Scragg

11. **Apologies**

There were no apologies for absence, but Cllr Stuart Wheeler and Cllr Peter Doyle gave notice that they would have to leave the meeting at 1600.

12. **Minutes of the Previous Meeting**

The minutes of the meeting held on **16 January 2012** were presented.

It was,

Resolved

To approve the minutes as a correct and true record.

13. **Declarations of Interest**

There were no declarations of interest.

14. **Date of the Next Meeting**

The date of the next meeting was confirmed as Friday 30 March 2012 at 10:30am.

15. **Localism - Standards Regime**

At its meeting on 16 January 2012, the Focus Group resolved to consider further the details and key issues arising from the new standards framework introduced by the Localism Act 2011.

The Monitoring Officer introduced a report on the new standards framework previously presented to the Standards Committee at its meeting on 25 January 2012. It was noted that the issue of the new rules on predetermination had been raised at the meeting on 16 January 2012, and had been incorporated into the Council's Planning Code of Good Practice, subject to approval by the Focus Group, Standards Committee and Council.

The Monitoring Officer then invited the Members to consider the following issues arising from the new rules as detailed in the Localism Act:

- Whether to have a Standards Committee?
- What Code of Conduct should be adopted?
- What arrangements should be adopted for dealing with misconduct complaints?
- What arrangements should be made for the appointment of Independent Persons?
- What arrangements should be adopted for granting dispensations?
- What support is to be provided to Parish Councils in implementing the new arrangements?

A discussion followed, during which the following were covered:

- the form of any new standards committee;
- the fact that co-opted members would be non-voting, unlike at present;
- regulations are awaited on pecuniary interests; until these are available it is not possible to finalise a the code of conduct;
- The new code of conduct should aim to be simpler and minimalistic;
- the role and restrictions on the appointment of the Independent Person;

- The Focus Group expressed appreciation for the significant contribution made by current independent members of the Standards Committee.
- the rules on dispensation, which are wider than under present legislation and the desirability of a sub-committee determining requests for dispensation;
- The Monitoring Officer updated the Focus Group on his communications with town and parish council clerks on the arrangements for the new standards framework; most town and parish councils appear to favour adopting Wiltshire Council's code of conduct; he advised that no charge could be levied on town/parish councils for dealing with complaints against town and parish councillors as this was a statutory duty for Wiltshire Council.

The Monitoring Officer then introduced draft documents for the following:

- Arrangements for dealing with Code of Conduct Complaints;
- Process for Code of Conduct Complaints Chart;
- Terms of Reference for a new standards committee;
- Job Description and Person Specification for the role of Independent Person

The Focus Group were informed that the Standards Task and Finish Group had been unable to meet to discuss the draft documentation and offer its recommendations and comments, but Mr John Scragg of the Task Group was in attendance to assist with the discussions of the Focus Group.

The Focus Group reviewed the draft documents in depth and proposed various amendments as shown tracked on the attached drafts.

Resolved

To ask the Standards Committee to consider the attached documents, as amended, and, subject to any changes the Standards Committee is minded to make, to recommend adoption by the Council accordingly.

16. **Planning Code of Good Practice**

This item was deferred until the meeting on 30 March 2012.

17. **Urgent Items**

There were no urgent items.

(Duration of meeting: 3.35 - 6.40 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

Press enquiries to Communications, direct line (01225) 713114/713115

STANDARDS COMMITTEE PERFORMANCE AGAINST PLAN – REVIEW SEPTEMBER 2011

Wiltshire Council’s Vision is to create stronger and more resilient communities, underpinned by 3 key goals:

- 1. Deliver high quality, low cost, customer focused services.**
- 2. Ensure local, open, honest decision-making.**
- 3. Working together to support Wiltshire’s communities**

Wiltshire Council Standards Committee Vision is to raise public trust and confidence in local democracy by promoting consistently high standards of conduct throughout local government in Wiltshire

Top Priorities for Action 2011-12

Standards Committee Goals	Standards Committee Output	Targets	Owner Responsibility	Comments
Promote the ethical well-being of Wiltshire Council by embedding standards further within the Council	Develop local voluntary Code of Conduct and range of possible sanctions for adoption by full Council	Voluntary Code and procedure for receiving and handling complaints developed by September 2011	Nina Wilton	<i>Localism Act 2011 received Royal Assent on 15 November 2011 with significant changes being made to the earlier proposals in the Bill. Work on a new code of conduct on hold until further detail of possible national code available and more is known about the new rules on interests. Complaints procedure to be agreed by Standards Committee on 7 March 2012</i> <i>New standards framework under the Localism Act due to come into force on 1 July 2012. Proposed Code and all associated procedures and organisational structures will now be taken to May Council meeting</i> <i>Possible sanctions to be agreed by Standards Committee at meeting on 7 March 2012</i>
		Standards Committee agrees voluntary Code for presentation to full Council – Spring 2012 following Royal Assent for Localism Bill	Ian Gibbons/Nina Wilton/Chair	
		Standards Committee agrees range of possible sanctions, submitted for Cabinet input, and ready for presentation to full Council – Spring 2012	Ian Gibbons/Nina Wilton/Chair	
	Develop proposals for role and, composition of Standards Committee informed by detail and scope of new voluntary local Code, any statutory requirements from Localism Bill and Wiltshire Council needs	Consultation document to relevant stakeholders as Bill completes passage through Parliament. Report and recommendations to Council based	Ian Gibbons/Nina	

		on stakeholder consultation and Constitution Focus Group feedback. Probable timing late spring 2012	Wilton/Chair	<i>Constitution Focus Group's views given at meeting on 21 February 2012. Members' seminar being arranged prior to Council Meeting in May 2012. Arrangements for consulting parish councils being considered on 7 March.</i>
Work with Parish, Town and City Councils to support them in their application of the local standards framework	<p>Develop training package for Town, Parish and City (TP&C) Councils in conjunction with WALC; finalise and implement programme for delivery of training; monitor the take-up and effectiveness of training.</p> <p>Monitor developments relating to standards of conduct affecting TP&C Councils in the Localism Bill and develop appropriate support and information for TP&C Councils.</p> <p>Develop proposals for support (if relevant) for TP&C Council codes to be produced depending upon detail of Localism Bill</p> <p>Provide training event for TP&C councils on the areas of the Localism Bill that affects them</p>	<p>Completed</p> <p>Monitoring on-going. When final amendments to the Bill go through Parliament, assess impact on TP&C Councils and develop appropriate information materials for publication on web-site and/or support for implementation of local codes (subject to capacity in the Governance Service)</p> <p>Present to relevant decision making body of the authority in late spring/early summer 2012 – timing depends on passage of Bill through Parliament</p> <p>To be arranged when the details of the Bill are known</p>	<p>Nina Wilton / Vice Chair</p> <p>Ian Gibbons/Nina Wilton/Chair</p> <p>Ian Gibbons/Nina Wilton/Chair</p> <p>Nina Wilton/Vice Chair</p>	<p>New training package designed to include reference to proposed changes in Localism Bill. Training offered but limited take-up from T&P Councils</p> <p><i>Monitoring Officer wrote to TP&C Councils on 30 December 2011 updating them on impact of Localism Act on them. Update provided in February Parish Newsletter. Further information will be given once the work on the code and associated procedures are agreed by the Standards Committee</i></p> <p><i>This will form part of the proposals put to Council at its May meeting</i></p>
Inform and engage the public on standards in local government	Ensure that the Standards Content on the Wiltshire Council Website is easily accessible	Completed	Nina Wilton / Mr. Craig McCallum	

Chairman's Overview.

1. The main area of work since September 2011 has been using the committee's experience of the current local assessment and determination of code of conduct complaints to develop arrangements for dealing with complaints under the new standards framework as required under the Localism Act 2011. This includes proposals for a new standards committee and Independent Persons. It has taken into account the views of the Constitution Focus Group. The work on the new code is on hold until more is known about the possible national code and the details of the new rules on interests are available.
2. The committee will involve TP&C Councils in the development of the new arrangements. To this end the Monitoring Officer wrote to them on 30 December 2011 with information about the new standards framework and provided an update in the February Parish newsletter. Further updates will be provided as the work progresses.
3. The committee awaits details of the transitional rules to determine how it should deal with complaints under the existing regime that are outstanding when the new standards framework comes into effect.

Other Areas for Action 2011				
Standard Committee Goals	Standard Committee Output	Targets	Owner Responsibility	Comments
Apply the local standards framework in a fair, efficient and proportionate manner	Improve efficiency of local assessment process	All Investigating Officers' reports to clearly identify the Findings of Fact wef 1 November 2011	Nina Wilton	<i>Complete</i>
		Assessment Sub Committees to give clear direction on areas of complaint to be included in the investigation wef 1 November 2011	Chairmen of Assessment Sub Committees	<i>Complete</i>
Promote the ethical well-being of Wiltshire Council by embedding standards further within the Council and promote standards in partnerships	Support the Council in moving to a single culture by promoting agreed values	Consider Wiltshire Council Behaviours Framework at meeting 23 November 2011	Ian Gibbons/Chair	<i>Complete</i>
	Periodic meetings between Chairman, Monitoring Officer, Leader and CE	Met 3 August 2011.	Ian Gibbons/Chair	<i>A further meeting has not yet been arranged</i>
	Increased Standards Committee visibility by attendance at Council, Cabinet, committee meetings and at Area Boards	Chairman or Vice Chairman to attend Council Meetings (6 per year) and 50% of Cabinet meetings. SC representation at all Area Boards at least once per year	Chair/Vice Chair	
	Oversight of Council's complaint handling to ensure complaints are dealt with efficiently and lead to improvements in services to the public	Local Government Ombudsman Report and statistical report to be considered by the Committee annually	Nina Wilton	<i>Annual Ombudsman's report considered in September 2011</i>
	Review partnership governance arrangements	Scope of Complaints System Review to be considered by committee at meeting 23 November 2011	Nina Wilton	<i>Committee received report on the review at its meeting in November. Restructure of complaints team underway</i>
	Incorporate agreed values and standards of behaviour in partnership documentation	Complete		
		No timescale has been set for this yet.	Ian Gibbons	<i>Nothing to report as yet</i>
Work with Parish, Town and City Councils to support them in their application of the local standards framework.	Communicate regularly with TP& C Councils on standards issues	Provide articles in Parish newsletters as required	Nina Wilton /Chair	<i>See above on involvement of TP & C Councils in development of arrangements for new standards framework</i>
		Provide annual digest of code of conduct cases		