

AGENDA

Meeting: Standards Committee
Place: The Kennet Room - County Hall, Trowbridge BA14 8JN
Date: Tuesday 25 April 2017
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.

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Membership:

Cllr Paul Oatway QPM (Chairman)	Cllr Julian Johnson
Cllr Allison Bucknell (Vice Chairman)	Cllr Sheila Parker
Cllr Desna Allen	Cllr Horace Prickett
Cllr Rosemary Brown	Mr Philip Gill MBE JP
Cllr Trevor Carbin	Mr John Scragg
Cllr Terry Chivers	Miss Pam Turner
Cllr Howard Greenman	

Substitutes:

Cllr Glenis Ansell	Cllr Bob Jones MBE
Cllr Ernie Clark	Cllr Magnus Macdonald
Cllr Dennis Drewett	Cllr Pip Ridout
Cllr Peter Evans	Cllr John Smale
Cllr Charles Howard	Cllr Ian Thorn
Cllr George Jeans	

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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**

2 **Minutes** (*Pages 5 - 14*)

To confirm the minutes of the meeting held on 26 January 2017.

To receive the minutes of the Review Sub-Committee held on 2 February 2017.

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 Chairman.

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 Tuesday 18 April 2017 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 Thursday 20 April 2017. 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 Standards Independent Persons**

To consider the outcome of the selection process for the three Independent Persons, which will be reported at the meeting.

7 **Appointment of Co-opted Members of the Standards Committee**

To consider the appointment of co-opted members of the Standards Committee following the Unitary and Parish Council elections in May 2017. Report to follow.

8 **Status Report on Complaints** (*Pages 15 - 18*)

To receive an update on Code of Conduct complaints.

9 **Code of Conduct Training**

To discuss arrangements for training of unitary and parish councillors on their obligations under the Code of Conduct following the local elections on 4 May 2017. Report to follow.

10 **Forward Plan and Date of Next Meeting** (*Pages 19 - 20*)

To note the Forward Work Plan as attached.

The date of the next meeting is scheduled as 7 June 2017.

11 **Urgent Items**

To consider any items considered, in the opinion of the Chairman, to be urgent.

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 26 JANUARY 2017 AT THE KENNET ROOM - COUNTY HALL, TROWBRIDGE BA14 8JN.

Present:

Cllr Paul Oatway QPM (Chairman), Cllr Allison Bucknell (Vice Chairman), Cllr Trevor Carbin, Cllr Howard Greenman, Cllr Julian Johnson, Cllr Sheila Parker, Mr Philip Gill MBE JP, Mr John Scragg, Miss Pam Turner and Cllr Glenis Ansell (Substitute)

Also Present:

Cllr Stuart Wheeler

1 Apologies

Apologies were received from Councillors Desna Allen, Rosemary Brown, Horace Prickett and Mr Paul Neale.

Councillor Allen was substituted by Councillor Glenis Ansell.

2 Minutes

The minutes of the previous meeting held on 29 June 2016 were presented for consideration.

Also received were the minutes of the Hearing Sub-Committee on 1 September 2016, and the minutes of the Review Sub-Committees held on 21 June, 3 August, 21 November and 9 December 2016, and 10 January 2017.

In respect of the minutes of the Hearing Sub-Committee it was noted there had been a recommendation that within three months of election all Wiltshire councillors should attend training on confidentiality requirements, with group leaders informed where this was not the case with the recommendation no-one be appointed to a committee or position or responsibility without it. The hearing had been regarding a breach of the Code as a result of the disclosure of confidential information.

In response it was noted that the Committee that it was intended confidentiality requirements be included with general training on the Code of Conduct that would be offered to all members as part of their induction process and the Committee strongly urged to attend.

Resolved:

To approve and sign the minutes of the meeting held on 26 June 2016 as a true and correct record

To receive the minutes of the Hearing Sub-Committee on 1 September 2016, and the minutes of the Review Sub-Committees held on 21 June, 3 August, 21 November and 9 December 2016, and 10 January 2017.

3 Declarations of Interest

There were no declarations.

4 Chairman's Announcements

On behalf of the Committee before the meeting the Chairman paid tribute to his predecessor as Chairman Councillor Julian Johnson. He thanked Councillor Johnson for his work as Chairman and the example he set in seeking to improve high standards of conduct for elected representatives in Wiltshire.

5 Public Participation

Under Minute 6 Mr Francis Morland delivered a statement in which he criticised the council's procedure in respect of standards complaints as unfair to subject members, as well as highlighting what he regarded as errors on the council's website in respect of complaints.

6 Review of the Standards Complaints Procedure

The Monitoring Officer, Ian Gibbons, presented a report on the review of the Standards Complaints Procedure requested by the Committee on 29 June 2016 following recommendation to Council to adopt guidance on the Code of Conduct rather than make amendments directly to the Code itself.

As detailed in the report the Constitution Focus Group had examined three documents relating to the Standards Complaints Procedure: Protocol 12 of the Constitution (*Arrangements for dealing with Code of Conduct complaints*), the Local Assessment Criteria by which complaints were assessed, and a procedure document for the conduct of Review Sub-Committees, held when a subject member or complainant requested a review of an initial assessment by the Monitoring Officer or his representative.

Councillor Stuart Wheeler, Chairman of the Constitution Focus Group, was in attendance and confirmed that the Focus Group had considered a number of issues that had been raised by subject members, officers, independent persons and complainants, and considered that the procedure and associated documents had in general been operating effectively and appropriately, but did feel some redrafting on specific points in the interests of clarity would be beneficial.

The Committee considered and debated the proposed tracked changes to Protocol 12 of the Constitution as detailed in the agenda papers. They were supportive of additional wording to set the time limit for submission of a complaint to be from when a complainant 'became or ought reasonably to have become aware' of a matter giving rise to a complaint. While there would be circumstances where it might be reasonable to accept a complaint long after the event itself, particularly if the event was unknown to the complainant, there should a judgement made in any assessment as to that reasonableness, and that this should be further detailed in the Assessment Criteria.

The Committee also requested a definition of who could be a complainant be inserted to clarify that it was required to be an individual not a body corporate in order to prevent effectively anonymous allegations. Other changes discussed were minor amendments to make clear Review Sub-Committees also had the ability where appropriate in the interests of fair and just administration to depart from the arrangements, and power to determine whether to make public documents relating to a complaint.

In respect of the Assessment Criteria the Committee discussed the five initial tests that were undertaken by Monitoring Officer or Review-Sub-Committee, including a drafting correction to test c) and confirming for test d) that it was necessary for there to be a Code of Conduct provided for the assessment, but that it did not matter who provided it. Additional amendments debated included a paragraph specifying a limit to new correspondence at the assessment stage, whether further wording was necessary in relation to confidentiality requirements and other minor changes as detailed in the tracked change document in the report.

The proposed Review Procedure was also considered. It was noted the document had been developed over time in light of the experience of sub-committees that had been held, and was intended to provide guidance and clarity to members of the public, subject members and the sub-committee as to the purpose of the meeting and the expectations of all parties.

At the conclusion of debate, it was,

Resolved

- 1) To recommend Council adopt the proposed changes to Protocol 12 of the Constitution as attached to these minutes.**
- 2) To approve the changes to the Local Assessment Criteria as attached to these minutes.**
- 3) To adopt the proposed Review Procedure as attached to these minutes.**

7 **Status Report on Standards Complaints**

The Monitoring Officer, Ian Gibbons, presented the latest status report on Standards Complaints. It was noted that the number of complaints for 2016 had increased slightly from 2015, although remained below the level of 2014. It was also clarified that multiple complaints could be submitted against the same member regarding the same incident, which could impact the figures.

The Committee discussed the report, and in response to queries on complaints referred to the police it was confirmed a protocol was being prepared with Wiltshire Police and Swindon Borough Council to ensure a clear procedure for such referrals, where a potential Code of Conduct breach was also a potential criminal offence.

The Committee also requested for future updates details of the breakdown between complaints against members of Wiltshire Council and town and parish councils.

Resolved:

To note the report.

8 **Local Government Ombudsman's Annual Review Letter 2015 - 2016**

The Monitoring Officer, Ian Gibbons, presented a brief report on the Annual Review Letter from the Local Government Ombudsman for 2015-16 in respect of corporate complaints against the council. It was confirmed the number of complaints was similar to previous years, and that the council had been judged as 100% compliant in responding to comments from the Ombudsman in the cases it had deal with in 2015-16.

The Committee discussed the report, seeking details of how council services and the complaints team handled complaints at each stage of the process and how lessons were learned. It was also confirmed town and parish councils were exempt from referrals to the Ombudsman for corporate complaints, and that details would be provided to the Committee at its next meeting on restructuring of the complaints team within the Legal service area.

Resolved:

To note the report.

9 **Appointment of Independent Persons**

The Monitoring Officer, Ian Gibbons, presented a report on the appointment of Independent Persons to assist him with Code of Conduct Complaints. Under the Localism Act 2011 (the Act) the council was required to appoint at least one such Independent Person (IP). The council had chosen to appoint three IPs, and following an extension of their terms at Council on 10 May 2016, the current terms would conclude in May 2017.

Under the terms of the Act a majority of members of the Council were required to appoint the IPs, following advertisement and application by those interested. It was requested the Committee authorise the Monitoring Officer, in consultation with the Chairman, to oversee arrangements for the advertisement, interview and selection of candidates, to be confirmed at the next meeting for recommendation to Council on 16 May 2017. It was proposed to continue with appointing three IPs.

The Committee noted the exemplary work of the three current IPs Mr Colin Malcolm, Mrs Carolyn Baynes and Mr Stuart Middleton, and the comments of the Monitoring Officer that in addition to the wide range of assistance they had provided to himself, subject members and committees over more than 200 complaints and over 30 sub-committees, it was his intention to utilise the IPs for further work as appropriate such as mediation between parties.

It was noted that the original decision of Standards and Council in 2012 had been to appoint each IP to a term of different length to have staggered appointments in future, but that the Committee had recommended this not take place as in practice it had been felt the experience and expertise of the IPs should be retained for a full length of a council. It was recommended the job description and advertisement be amended accordingly to confirm all three appointments be for a four-year term.

In response to queries it was also confirmed that the current IPs would be able to reapply for the roles.

Resolved:

To authorise the Monitoring Officer in consultation with the Chairman, to take all necessary steps to secure the appointment of three Independent Persons at the meeting of Full Council on 16 May 2017.

10 **Forward Plan**

The proposed forward work plan of the Committee was received. In response to queries it was confirmed the report to April 2017 on appointment of Co-opted members of the Committee would be to establish the process for appointment following the May 2017 elections, and details were provided on the planned review of the Whistleblowing Policy.

Resolved:

To approve the forward plan.

11 **Date of Next Meeting**

The date of the next meeting was confirmed as 5 April 2017.

12 **Urgent Items**

There were no urgent items.

13 **Exclusion of the Public**

No members of the public being present, the Committee took no view on passing a motion to exclude.

14 **Minutes**

The Part II minutes of the Hearing Sub-Committee held on 1 September 2016 were received.

(Duration of meeting: 2.00 - 3.30 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

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

STANDARDS REVIEW SUB-COMMITTEE

MINUTES OF THE STANDARDS REVIEW SUB-COMMITTEE MEETING HELD ON 2 FEBRUARY 2017 AT THE KENNET ROOM - COUNTY HALL, TROWBRIDGE BA14 8JN.

Present:

Cllr Charles Howard, Cllr Allison Bucknell, Cllr Ernie Clark and Miss Pam Turner

Also Present:

Paul Taylor (Senior Solicitor), Kieran Elliott (Senior Democratic Services Officer), Ted Pomeroy, Kath Noble, Francis Morland, Anthony Doel and Colin Malcolm

6 Election of Chairman

Resolved:

To elect Councillor Ernie Clark as Chairman for this meeting only.

7 Declarations of Interest

There were no declarations.

8 Meeting Procedure and Assessment Criteria

The procedure for the meeting was noted.

9 Exclusion of the Public

Agreed 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 Number 10 onwards 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(s)

10 Review of Assessment Decisions: Reference WC-ENQ00185, WC-ENQ00186 and WC-ENQ00187

A complaint had been submitted by Mr William Johnson against Councillor Anthony Doel, Kath Noble and Ted Pomeroy, members of Southwick Parish

Council. The allegation was that at a meeting of Southwick Parish Council the subject members, had withheld information from Wiltshire Council's planning department and as a result breached the code of conduct in not having regard to the principles of openness and honesty.

The initial assessment of the Monitoring Officer had been for there to be no further action in respect of the complaint.

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.

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 Southwick Parish 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 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 representations made at the Review by the complainant, a representative for the subject member, and the other two subject members who were collectively subject to the same allegation.

The complaint related to behaviour of the subject members in relation to a meeting at which the parish council had resolved to respond, as statutory consultees to Wiltshire Council, with 'no comment' regarding a planning application within the parish. The complainant considered that the three members listed in the complaint had withheld information that was relevant to this planning application from Wiltshire Council and by so doing had not had regard to the principles of openness and honesty and thereby breached the parish council's code of conduct.

In assessing the complaint the Review Sub-Committee noted that the decision to respond in the fashion that it had was a collective decision taken by Southwick Parish Council. Information had been presented to the parish council and it had as a whole taken the view to respond in the manner described above. Parish Councils were required to be consulted for their views, but it was not the role of parish councils to relay any and all concerns or supportive comments to the Development Control service at Wiltshire Council. Individuals were entitled to submit their own comments and observations regarding any application to the relevant Planning Authority.

The complainant and others had objections to the planning application that had been considered by the parish council, and that planning application had since been approved by Wiltshire Council. They had raised concerns about alleged

breaches of planning control. The Review Sub-Committee noted that such breaches were a matter for Planning Enforcement, and again individuals were able to submit comments to the Planning Authority if they felt breaches had occurred.

Neither the Standards regime nor Wiltshire Council generally had responsibility for oversight of collective parish council decisions, nor could individual members of that council be held responsible for such a collective decision. The Code of Conduct applied to conduct of a member in their individual capacity, not in relation to the decision-making process of a parish council, including its role as a consultee on planning applications. Neither the parish council, nor its individual members, had any obligation to pass along comments or information from others to the Planning Authority, and it could not be a breach of the Code to fail to do so.

Therefore, the Review Sub-Committee were in agreement with the reasoning of the Deputy Monitoring Officer that the alleged behaviour of the subject members was not capable of breaching the Code of Conduct.

Additionally, it had been raised at the review whether the complaints had been submitted within time for consideration. Since they were of the view that none of the matters in the complaint were capable of breaching the Code of Conduct, the Review Sub-Committee did not consider it necessary to take a view on whether it had been submitted in a timely fashion. However, it was noted that the Standards Committee had on 26 January 2017 amended the Local Assessment Criteria to apply for future assessments to clarify:

A complaint will not be referred for investigation when it is made more than 20 working days from the date upon which the complainant became, or ought reasonably to have become, aware of the matter giving rise to the complaint.

In any event, the Monitoring Officer may decide not to refer a complaint for investigation where, in his opinion, the length of time that has elapsed since the matter giving rise to the complaint means that it would not be in the interest of justice to proceed.

Resolved

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 that no further action will be taken in respect of these complaints.

(Duration of meeting: 09:30 – 10:00)

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

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Complaints referred for investigation since 1 January 2016

Case reference	Date of Assessment	Progress
WC-ENQ00137	22/03/2016	Hearing Sub-Committee 01/09/2016 – Investigating officer's finding of breach agreed – file closed 06/09/2016
WC-ENQ00153	08/07/2015	Investigating Officer appointed 02/02/2017 - investigation in progress (in conjunction with WC-ENQ162 & WC-ENQ00190)
WC-ENQ00162	21/12/2016	Investigating Officer appointed 07/03/2017 – investigation in progress (in conjunction with WC-ENQ00153 & WC-ENQ00190)
WC-ENQ00165	09/09/2016	Referred for investigation at Review Sub-Ctte 28/03/2017 - investigating officer to be appointed (in conjunction with WC-ENQ00181)
WC-ENQ00167	09/09/2016	Investigating Officer appointed 06/12/2016 – investigation report being finalised
WC-ENQ00172	04/10/2016	Referred for investigation at Review Sub-Committee 03/03/2017 – investigating officer to be appointed
WC-ENQ00173	04/10/2016	Investigation report with MO for review
WC-ENQ00178	21/12/2016	Investigating Officer appointed 30/03/2017 – investigation in progress
WC-ENQ00181	09/11/2016	Referred for investigation at Review Sub-Ctte 28/03/2017 - investigating officer to be appointed (in conjunction with WC-ENQ00165)
WC-ENQ00190	21/12/2016	Investigating Officer appointed 07/03/2017 – investigation in progress (in conjunction with WC-ENQ00153 & WC-ENQ00162)

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The types of complaints received in 2016 are categorised as follows:

Type of complaint	Number
Non-disclosure of interests/participating and voting at meetings	7
Inappropriate behaviour i.e. disrespect/bullying	24
Failing to respond to letter/emails or to provide information/lack of communication	2
Deliberate misrepresentation of facts	12
Spreading false rumours	2
Data breach	1
Showing bias towards/against parishioners	4
Failing to act in the public interest	2
Inappropriate use of social media	2
Bringing council into disrepute	1
Seeking to damage complainant's reputation	1
Operation of parish council (not Code of Conduct)	1
Total	59

The types of complaints received in 2017 are categorised as follows:

Type of complaint	Number
Non-disclosure of interests/participating and voting at meetings	2
Inappropriate behaviour i.e. disrespect/bullying	1
Failing to act in the public interest	2
Failing to respond to letter/emails or to provide information/lack of communication	1

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STANDARDS COMMITTEE FORWARD PLAN 2017

<u>Meeting Date</u>	<u>Items</u>	<u>Councillors Briefing (if required)</u>	<u>Council Date</u>
<u>7 June 2017</u>	<p>Status Report on Complaints</p> <p>Appointment of Co-opted Members</p> <p>Constitution Focus Group Terms of Reference and Appointment</p>	<u>na</u>	<u>11 July 2017</u>
<u>Future Items</u>	<p>Review of Whistleblowing Policy</p> <p>Constitutional Changes</p> <p>Annual Review Letter – Local Government Ombudsman</p>		

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