

# AGENDA

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**Meeting:** Standards Committee  
**Place:** The West Wiltshire Room - County Hall, Trowbridge BA14 8JN  
**Date:** Wednesday 17 January 2018  
**Time:** 2.00 pm

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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](mailto: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](http://www.wiltshire.gov.uk)

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## 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	

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## 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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**Monkton Park, Chippenham**

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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 I

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

1 **Apologies**

To receive any apologies or substitutions for the meeting.

2 **Minutes** (*Pages 5 - 26*)

- a) To confirm the minutes of the Standards Committee meeting held on 7 June 2017.
- b) To receive the minutes of the Standards Review Sub-Committee from the meetings held on 28 March 2017, 6 June 2017, 17 August 2017 and 23 August 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 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 10 January 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 12 January 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**

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.

The Committee is therefore advised that advertisements are shortly to be placed for the four positions, which have an annual allowance of £1180 for each member. Shortlisting and interviewing of prospective candidates will be undertaken by a selection panel comprising the Chairman, Vice-Chairman and one other member of the Standards Committee. The selection panel will then recommend candidates for appointment by the Committee at its next meeting on 18 April 2018.

**7 Review of the Constitution (Pages 27 - 28)**

A report from the Monitoring Officer is attached.

**8 Status Report on Code of Conduct Complaints (Pages 30 - 32)**

A report from the Monitoring Officer is attached.

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

The Monitoring Officer will update the Committee on the provision of training for parish councillors on the Code of Conduct, particularly in relation to the registration and disclosure of interest.

**10 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**

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### **MINUTES OF THE STANDARDS COMMITTEE MEETING HELD ON 7 JUNE 2017 AT THE KENNET ROOM - COUNTY HALL, TROWBRIDGE BA14 8JN.**

#### **Present:**

Cllr Paul Oatway QPM (Chairman), Cllr Howard Greenman (Vice Chairman), Cllr Derek Brown OBE, Cllr Peter Evans, Cllr Peter Fuller, Cllr Russell Hawker, Cllr Ruth Hopkinson, Cllr Fred Westmoreland, Cllr Sue Evans (Substitute) and Cllr Peter Hutton (Substitute)

#### **Also Present:**

Cllr Richard Britton, Cllr Trevor Carbin and Cllr Gordon King

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#### **26 Apologies**

Apologies were received from Councillors Allison Bucknell, Anna Cuthbert and Bob Jones MBE.

Councillor Cuthbert was substituted by Councillor Peter Hutton. Councillor Bucknell was substituted by Councillor Sue Evans.

#### **27 Minutes**

The minutes of the meeting held on 25 April 2017 were presented, and it was,

#### **Resolved:**

**To approve and sign as a true and correct record.**

#### **28 Declarations of Interest**

There were no declarations.

#### **29 Chairman's Announcements**

Through the Chair it was announced that three Independent Persons had been appointed at Council on 16 May 2017 on the recommendation of the Committee, and that arrangements were underway for code of conduct training for town and parish councillors to take place in the autumn 2017.

30 **Public Participation**

There were no questions or statements submitted.

31 **Status Report on Complaints**

The Committee received an update report on the status of Code of Conduct complaints, including total numbers, those referred for investigation and the types of complaint received.

**Resolved:**

**To note the report.**

32 **Appointment of Constitution Focus Group**

Since its creation as a unitary authority in 2009 the Council has appointed a Constitution Focus Group to advise and assist the Monitoring Officer and the Standards Committee in their respective roles of overseeing the Council's Constitution.

The Committee received a report recommending the Focus Group be re-established, with minor changes to the terms of reference to specify how the chairman be appointed and to clarify that constitutional changes might need to be made in response to any legislative changes.

**Resolved:**

**To approve the establishment of a Constitution Focus Group with terms of reference as attached to these minutes.**

33 **Date of Next Meeting**

The date of the next meeting was confirmed as 13 September 2017.

34 **Urgent Items**

There were no urgent items.

(Duration of meeting: 12.00 - 12.15 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](mailto:kieran.elliott@wiltshire.gov.uk)

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

## CONSTITUTION FOCUS GROUP

### TERMS OF REFERENCE

To undertake the following:

- ongoing review work on the constitution as and when required;
- producing user friendly summaries of the relevant parts of the constitution for use by members of the public and members of the Council and

specifically to review the constitution in light of any changes in the legislation

- To consider the views of (as appropriate):
  - elected and co-opted members of the Council
  - officers
  - decision making bodies of the Council
  - town, parish and city councils and
  - members of the public

ascertained through questionnaire responses and appropriate methods of communication and make appropriate recommendations

- To offer a councillor perspective on and accordingly to influence key issues within the constitution.
- To advise the Standards Committee of final recommendations on any changes to the constitution for consideration and onward recommendation to Council.

#### Membership

- (i) a member from each political group on the Council nominated by group leaders;

**Conservative:**

**Liberal Democrat:**

**Independent:**

**Labour:**

- (ii) a member of the Overview and Scrutiny Management Committee;
- (iii) a member of the Audit Committee;
- (iv) two co-opted non-voting members of the Standards Committee (one of which to be a town/parish representative);

(v) the Chairman of the Standards Committee

and

(vi) that appropriate Councillors and Officers are invited to attend as and when requested by the Focus Group or its Chairman to assist it in its work.

#### Chairmanship

A chairman will be selected by the Focus Group from among its membership

## STANDARDS REVIEW SUB-COMMITTEE

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**MINUTES OF THE STANDARDS REVIEW SUB-COMMITTEE MEETING HELD ON 28 MARCH 2017 AT THE KENNET ROOM - COUNTY HALL, TROWBRIDGE BA14 8JN.**

**Present:**

Cllr Desna Allen, Cllr Ernie Clark and Cllr Howard Greenman

**Also Present:**

Paul Taylor, Senior Solicitor, William Oulton, Senior Democratic Services Officer, Colin Malcolm, Independent Person, Cllr Jonathon Seed, Dr Nigel Knott and Mr Gerald Churchouse.

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22 **Election of Chairman**

**Resolved:**

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

23 **Declarations of Interest**

There were no declarations.

24 **Meeting Procedure and Assessment Criteria**

The procedure and assessment criteria for the meeting were noted.

25 **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 Item Numbers 26-28 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.**

26 **Review of an Assessment Decision: Reference WC-ENQ00135**

The Sub-Committee went through the initial tests required by the local assessment criteria, and agreed with the assessment of the Deputy Monitoring Officer that the complaint related to the subject member, that they were in office at the time of the alleged incident, and were acting in their capacity as a councillor. They therefore then had to determine whether the remaining assessment criteria were met and, if so, whether the matters alleged in the complaint were, if proven, capable of breaching the Code of Conduct of Wiltshire Council.

The Review Sub-Committee agreed the matters that were subject to a complaint lodged with the Information Commissioner were not relevant to the consideration of the initial complaint. Therefore there was no reason not to proceed to determine that original complaint at this time. It was noted that if, following the decision of the Information Commissioner, the complainant considered that there had been other breaches of the Code, a separate complaint could be made.

In reaching its decision the Sub-Committee relied upon the original complaint and supporting information, the response of the subject member, the initial assessment and the additional information submitted by the Complainant in his request for a review of the initial decision to take no further action. The Sub-Committee also received, at their meeting, verbal representations from Dr Nigel Knott, Mr Gerald Churchouse and Cllr Jonathon Seed.

The Sub-Committee agreed with the conclusions of the Deputy Monitoring Officer that the remarks by the subject member had been made in the context of an on-going political debate between the parties, who had known each other for some time. In considering the matter, the Sub-committee felt that whilst the language could be considered strong, it would not in itself be considered a breach of the code, taking into account the context in which the comments had been made and that it was therefore not a matter for further investigation. However, the Sub-Committee did feel that both parties should be encouraged to address their differences through informal processes separate to the Standard Framework.

**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 as amended ), the Review Sub-Committee decided that no further action should be taken.

27 **Review of an Assessment Decision: Reference WC-ENQ00196**

The sub-committee considered a complaint against Councillor Dan Jackson of Southwick Parish Council.

The Sub-Committee went through the initial tests required by the local assessment criteria, and agreed with the assessment of the Deputy Monitoring Officer that the complaint related to the subject member, that he was in office at the time of the alleged incident, and was acting in his capacity as a councillor. They therefore then had to determine whether the remaining assessment criteria were met and, if so, whether the matters alleged in the complaint were, if proven, capable of breaching the Code of Conduct of the Parish Council.

In reaching its decision the Sub-Committee relied upon the original complaint and supporting information, the response of the subject member, the initial assessment and the additional information submitted by the Complainant in his request for a review of the initial decision to take no further action.

The Deputy Monitoring Officer had identified that the complaint related the interpretation of the requirement to declare an interest in a decision that related to a property where the subject member had a beneficial interest. The Deputy Monitoring Officer stated that there was insufficient evidence of a breach and that no actions should be taken. The Sub-Committee agreed with the reasoning, as outlined in the initial assessment notice.

The Sub-Committee therefore upheld the reasoning and the initial assessment decision of the Deputy Monitoring Officer to dismiss the complaint.

However, notwithstanding its decision to dismiss the complaint for the reason stated above, the Sub-Committee asked that the Parish Council be advised that consideration should be given to providing further training to members on the disclosure of interests to avoid misunderstandings in the future.

**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 that no further action will be taken in respect of this complaint.

28 **Review of Assessments Decisions Reference: WC-ENQ00165 & WC-ENQ00181**

The sub-committee considered a review of a complaint against Councillor Nigel Donald Anderson of Redlynch Parish Council.

The Sub-Committee went through the initial tests required by the local assessment criteria, and agreed with the assessment of the Deputy Monitoring Officer that the complaint related to the subject members, that they were in

office at the time of the alleged incident, and were acting in their capacities as councillors. They therefore then had to determine whether the remaining assessment criteria were met and, if so, whether the matters alleged in the complaint were, if proven, capable of breaching the Code of Conduct of the Parish Council.

In reaching its decision the Sub-Committee relied upon the original complaint and supporting information, the response of the subject member, the initial assessment and the additional information submitted by the Complainant in his request for a review of the initial decision to take no further action.

The Deputy Monitoring Officer had, as part of his previous consideration of the complaint, referred the matter to the Police, as the allegations related to breaches of the statutory requirements relating to disclosable pecuniary interests. Consideration of the complaint was held in abeyance pending conclusion of their investigations. The police concluded their investigation and stated that they had advised the Subject Member on his obligations in respect of disclosable pecuniary interests and will be taking no further action. The Deputy Monitoring Officer concluded that, in light of the steps taken by the police, no further action should be taken.

The Sub-Committee, in considering the matter, felt that the alleged breach of the Code was sufficiently serious that, notwithstanding the decision of the police not to pursue it, the complaint should be referred for further investigation to enable the facts of the case to be determined.

### **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 complaints for investigation or other suitable action by the Monitoring Officer.

(Duration of meeting: 2.00 - 3.00 pm)

The Officer who has produced these minutes is Will Oulton of Democratic Services,  
e-mail [william.oulton@wiltshire.gov.uk](mailto:william.oulton@wiltshire.gov.uk)

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

## STANDARDS REVIEW SUB-COMMITTEE

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**MINUTES OF THE STANDARDS REVIEW SUB-COMMITTEE MEETING HELD ON 6 JUNE 2017 AT THE KENNET ROOM - COUNTY HALL, TROWBRIDGE BA14 8JN.**

**Present:**

Cllr Peter Evans, Cllr Howard Greenman and Cllr Graham Wright

**Also Present:**

Kieran Elliott, Senior Democratic Services Officer, Paul Taylor, Senior Solicitor, Caroline Baynes, Independent Person, Cllr Roy While

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29 **Election of Chairman**

**Resolved:**

**To elect Councillor Gordon King as Chairman for this meeting only.**

30 **Declarations of Interest**

There were no declarations.

31 **Meeting Procedure and Assessment Criteria**

The procedure and assessment criteria for the meeting were noted.

32 **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 33 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*

33 **Review of an Assessment Decision: Reference WC-ENQ00200**

A complaint had been submitted by Mr Phil Chipper against Councillor Roy While of Wiltshire Council. The complaint related to the subject member's tenure as Chairman of the Shadow Community Operations Board (SCOB) which had consulted and advised on options for the development of a Melksham Campus, and what were regarded by the complainant as errors in the outcomes of and within the processes of the Campus project which had breached the Code of Conduct.

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 remained a member of Wiltshire Council. A copy of the appropriate Code of Conduct was also supplied for the assessment.

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 representation made at the Review by the subject member, as well as written submissions from the complainant, who was not in attendance.

As had been clarified by the Deputy Monitoring Officer in his initial assessment, the SCOB were an advisory body with community membership, without decision making authority in respect of the Campus programme. The decision maker was the Cabinet of Wiltshire Council, and while it would be the case that the views of the SCOB were influential, the SCOB could not and did not make the final decisions in relation to the Melksham Campus. As documents included by the complainant in their request for a review showed, the Cabinet received reports from Area Boards, who had reports from SCOBs, but the Cabinet took the final decisions. If failings existed or continued to exist with the campus project, the mere existence of those failings would not in itself be capable of being a breach of a Code of Conduct, which related to behaviour an individual member or members, but would be the responsibility of the decision-making body.

In response to points raised in the request for a review of the initial assessment decision, it was also noted that details being withheld from council reports, or discussed in confidential session at an otherwise public council meeting, could not simply be requested by any member of a council. It was therefore not possible that the subject member could have breached the Code simply

because certain information was not publicly accessible when the decisions were taken.

Therefore, the Sub-Committee were satisfied that none of the allegations, if proven, were capable of breaching the Code of Conduct. This was irrespective of the other reason for dismissal from the Deputy Monitoring Officer, which was that the complaint had been submitted well beyond the limit in the assessment criteria of 20 working days from the date the complainant became aware, or ought to reasonably have become aware, of the matters giving rise to the complaint. The matters in this case related to 2015 and earlier, with the complaint submitted on 1 March 2017. The Sub-Committee did not consider that there were any exceptional circumstances in this case to justify an extension to the usual time limits.

### **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 that no further action be taken in respect of the complaint.**

(Duration of meeting: 12.30 - 1.15 pm)

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## STANDARDS REVIEW SUB-COMMITTEE

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**MINUTES OF THE STANDARDS REVIEW SUB-COMMITTEE MEETING HELD ON 17 AUGUST 2017 AT THE KENNET ROOM - COUNTY HALL, TROWBRIDGE BA14 8JN.**

**Present:**

Cllr Trevor Carbin, Cllr Ruth Hopkinson and Cllr Ernie Clark

**Also Present:**

Kieran Elliott, Senior Democratic Services Officer, Paul Taylor, Senior Solicitor, Paul Barnett, Senior Solicitor, Tony Drew, Independent Person, Cllr Mary Douglas, Susan Dawson.

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34 **Election of Chairman**

**Resolved:**

**To elect Councillor Trevor Carbin 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. Cllr Ernie Clark substituted for Cllr Allison Bucknell.

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 38-39 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.**

38 **Review of an Assessment Decision: Reference WC-ENQ00215**

A complaint had been submitted by Mr Patrick and Mrs Lucinda Horton against Cllr Susan Dawson of East Knoyle Parish Council. The allegation was that there had been a breach of the Code of Conduct in relation to conduct surrounding a public right of way.

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 some of the alleged incidents and remains a member of East Knoyle 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 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 complainants' request for a review. The Sub-Committee also considered the verbal representation made at the Review by the subject member, as well as written submissions from the complainants, who were not in attendance, and the subject member.

The Sub-Committee took note that the additional representations from the complainants stated that they considered that the summary of their complaint in the initial assessment, replicated above, did not adequately reflect the substance of their complaints. They noted the clarifications provided by the complainants for the review. These included that the complainants considered the subject member's actions to have breached paragraphs 1,2,3 and 4 of the Code of Conduct. The complainants had also set out what they considered to be the links between the public and private actions of the subject member that had allegedly been to her own personal advantage.

The complaints related to the circumstances around a public right of way that lay on the subject member's property, and the recent and historic actions of the subject member in relation to that right of way. The complainants were of the view that the subject member had breached the relevant Code of Conduct by failing to properly register and declare her interest in the land at various meetings and during the discharge of council related functions. The initial

assessment had concluded that the subject member had been acting in her private capacity for most of the alleged incidents, where the Code would not apply, and that the allegations which did relate to her public capacity as a parish councillor would not, if proven, be a breach of the Code.

Considerable documentation had been provided which demonstrated that the exact route of the public right of way in question, and actions around it, had been the subject of significant local interest and dispute over an extended period of time of many years. However, as noted in the initial assessment, disputes relating to accuracy of any of that evidence would not be a Code of Conduct matter, except insofar it related directly to the public capacity of the subject member.

It was evident that the complainants were in dispute with the subject member regarding the accuracy of statements made in relation to evidence gathered during the legal process for creation of an additional right of way alongside the existing one, and the alleged obstruction of the existing right of way in the past. Most of these statements were clearly in relation to the private role of the subject member as a landowner, and the question for the Sub-Committee was to what extent the matter had directly arisen only in relation to her role as parish councillor and the discharge of council functions.

As conceded by the complainants in their request for a review, the subject member was under no legal obligation to make a declaration on her register or at council meetings regarding the right of way which was the cause of dispute between the parties. The only obligation was to register and disclose her general land interests, as set out in the relevant regulations. In the absence of a legal obligation to make such a declaration, it therefore could not be possible to breach the Code by failing to do so. The Sub-Committee was in agreement with the deputy monitoring officer that it would not be a breach to fail to make a declaration or withdraw from the meeting when an unscheduled update mentioning the land was raised by another councillor.

As noted in the initial assessment, the complaint was principally a dispute between neighbours over a public right of way which had resulted in a serious breakdown in communication and trust. It was apparent that communication between the involved parties was at times strained, and the tone hostile. However, despite the extensive submissions, the Sub-Committee was not satisfied that it had been demonstrated that the subject member either had an obligation to volunteer her position regarding the public right of way, or that she had utilised her position as a member of the parish council improperly, or that she had otherwise breached the Code. Simply being a member of the parish council would not make every action of the subject member in relation to the right of way a public rather than private capacity action.

As such, the Sub-Committee did not feel the submissions indicated there had been an improper use of council resources, that an advantage or disadvantage

had been improperly conferred, or that in her public capacity the subject member had demonstrated disrespect. The complainants had made reference to distress caused by what they described as harassment and vandalism they suffered as a result of 'false rumours'. However there was no suggestion the subject member had been a party to any harassment or vandalism.

Therefore, the Sub-Committee resolved to take no further action in respect of the complaint.

### **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.**

### **39 Review of an Assessment Decision: Reference WC-ENQ00204**

A complaint had been submitted by Ms Carrie Creamer against Councillor Mary Douglas of Wiltshire Council. The allegation was that Councillor Douglas had breached the Code in relation to consideration of a grant application.

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 Wiltshire 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 representative of the Monitoring Officer to take no further action and the complainant's request for a review. The Sub-Committee also considered the verbal representation by the subject member at the Review. The complainant was not in attendance.

The allegations related to a meeting of Salisbury Area Board, where the subject member is the Chairman, and the consideration of a grant application which was refused by a majority of the Area Board. That application was for a project looking at the history of LGBT communities through the lens of fashion. It was alleged that the personal views of the subject member in relation to LGBT issues meant that she did not act in the public interest when considering the

grant, failed to give adequate, open or transparent reasons for her decision and failed to consider the needs of different groups, and in doing so breached the Code as detailed above.

As noted in the initial assessment five members of the Area Board voted against the grant in question, including the subject member. The subject member had raised concerns before and at the meeting about what she regarded as the political nature of the grant request, due to the type of activity supported by the grant rather than the type of person the intended project would engage. However, those concerns were not shared by the other members, and the reasons for refusal, confirmed as accurate at a later meeting by the Area Board, did not include them as a reason for the refusal. While the Sub-Committee did not agree with the reasoning of the subject member's interpretation of the grant request as political activity, she had been open and transparent about her concerns at the meeting. They endorsed the comments in the initial assessment that what might constitute political activity in the context of a grant application should be formally clarified in guidance to Area Boards.

As noted four other members had voted to refuse the grant application in addition to the subject member. There was no suggestion that the other members had acted improperly, and merely holding specific personal views would not, in itself and in the absence of evidence to the contrary, demonstrate that the subject member had acted in breach of the Code. The request for review raised concerns with the stated reasons for refusal at the meeting. However as stated previously these had subsequently been confirmed as accurate by the Area Board, and there had been no evidence submitted that the subject member had not openly and transparently considered the application. Even if someone felt the reasons given by the Area Board were inadequate, five members had in open debate considered otherwise.

As a result, the Sub-Committee considered that there was no evidence submitted that the subject member had contravened paragraphs 1 and 5 of the Code, or failed to have regard to the Nolan principles of conduct in public life as alleged.

**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: 1430-1530)

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

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## STANDARDS REVIEW SUB-COMMITTEE

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**MINUTES OF THE STANDARDS REVIEW SUB-COMMITTEE MEETING HELD ON 23 AUGUST 2017 AT THE NORTH WILTSHIRE ROOM - COUNTY HALL, TROWBRIDGE BA14 8JN.**

**Present:**

Cllr Sue Evans, Cllr Peter Hutton and Cllr George Jeans

**Also Present:**

Paul Taylor, Senior Solicitor, Kieran Elliott, Senior Democratic Services Officer, Phil Mathews, Peter Edge

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**1 Election of Chairman**

**Resolved:**

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

**2 Declarations of Interest**

Councillor George Jeans declared a non-pecuniary interest in that he had attended meetings of the South West Wiltshire Area Board and so he had encountered the names of the parties, although he was not closely acquainted with them.

**3 Meeting Procedure and Assessment Criteria**

The procedure and assessment criteria for the meeting were noted.

**4 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 Item Number 5 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*

**5 Review of an Assessment Decision: Reference WC-ENQ00202**

A complaint had been submitted by Mrs Julia Hawkins against Councillor Philip Matthews, a member of Wilton Town Council. At the time of the complaint Mrs Hawkins had also been a member of Wilton Town Council. The allegation was that over a sustained period Councillor Matthews had subjected Mrs Hawkins to a pattern of disrespectful and bullying behaviour in breach of the relevant Code of Conduct.

The initial assessment of the Deputy Monitoring Officer had been that the allegations, if proven, might rise to the level of a breach of the Code, but to attempt alternate resolution in the form of mediation between the parties, both being committed to the local community. When it was apparent that mediation would not resolve the areas of dispute between the parties, the matter had been referred for investigation by the Deputy Monitoring Officer. Councillor Matthews had then requested a review of that decision.

At the meeting following exclusion of the public, Councillor Matthews addressed the Sub-Committee regarding the complaint. He was accompanied by Councillor Peter Edge, also of Wilton Town Council. Councillors Matthew and Edge then withdrew from the meeting.

The Chairman then 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 the alleged incidents and remains a member of Wilton 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 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 refer the matter for alternate resolution and mediation, and then to refer for investigation when it was stated mediation was not accepted, and also the subject member's request for a review. The Sub-Committee also considered the verbal representation from Councillor Matthew as noted above, and additional written submission from Mrs Hawkins, who was not able to attend.

The Deputy Monitoring Officer in their initial assessment had noted that the matters raised were finely balanced. Taken individually he had considered that the alleged behaviour might not reflect well on the subject member but did not rise to the level of a breach, noting the objective tests as to whether a reasonable person would consider such alleged incidents as disrespectful or bullying. In the words of the Deputy Monitoring Officer, 'by the finest margins' he had considered that when considering the alleged incidents collectively they could, if proven, be capable of breaching the Code in terms of the provisions on disrespectful behaviour.

The Sub-Committee considered the submissions from both parties carefully, noting that communication and trust had clearly broken down between them over a period of time, and that the complainant felt aggrieved at the alleged treatment they received. However, noting in particular the finely balanced nature of the initial judgement, and taking into account the town council explicitly placing the test of disrespectful and/or bullying behaviour as an objective rather than subjective test, they were not satisfied the alleged behaviours, even considered collectively, would, if proven, amount to a breach of the Code of Conduct.

Therefore, they resolved to take no further action in respect of the complaint.

The Sub-Committee further noted the initial assessment decision stating that both parties were committed to public service in the parish, and the hope that alternate resolution could conclude the matter satisfactorily for both parties. Whilst recognising that further attempts at mediation were unlikely, the Sub-Committee did not consider that the matters alleged should be resolved through the Code of Conduct process, and hoped that further discussion might resolve the difficulties between the parties.

The Sub-Committee also took the opportunity to highlight to all potential subject members and complainants that, once the complaints procedure was initiated, all matters relating to the complaint should remain confidential until a Standards Sub-Committee or the Monitoring Officer decided otherwise.

**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 has decided to take no further action.**

(Duration of meeting: 12.30 - 1.00 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](mailto:kieran.elliott@wiltshire.gov.uk)

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## Wiltshire Council

### Standards Committee

17 January 2018

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## Review of the Constitution

### Purpose

1. To approve an initial work programme for the Constitution Focus Group, and to be advised of updates to the Constitution by the Monitoring Officer under his delegated powers.

### Background

2. Under paragraph 2.5 of Part 3B of the Constitution the Standards Committee has oversight of the Wiltshire Council Constitution.
3. At its meeting on 7 June 2017 the Standards Committee established the Constitution Focus Group as a cross-party forum to review the effectiveness of the Constitution and advise and assist the Committee in formulating any recommendations to Full Council for consideration. Membership includes representatives from each political group, a member of the Overview and Scrutiny Management Committee, a Member of the Audit Committee, and the Chairman of the Standards Committee.
4. Under Article 15.3 of Part 2 of the Constitution the Monitoring Officer has delegated authority to amend the constitution to reflect decisions of Full Council, changes in the law, to correct errors and to clarify ambiguities, where to do so does not alter (but gives further effect to) the executive arrangements or the principles enshrined in the Constitution.

### Main Considerations

#### Constitution Focus Group

5. The confirmed membership of the Focus Group is as follows:
  - Conservative Group: Cllr Richard Clewer
  - Liberal Democrat Group: Cllr Ian Thorn
  - Independent Group: To be advised
  - Labour Group: To be advised
  - Scrutiny Representative: Cllr Jon Hubbard
  - Audit Representative: Cllr Richard Britton
  - Standards Chairman: Cllr Paul Oatway QPM
6. Initial dates have been scheduled for 2018 to lead into meetings of the Standards Committee as follows:
  - 1 March 2018 (for April Standards Committee)

- 29 March 2018 (for April Standards Committee)
- 5 June 2018 (for June Standards Committee)
- 5 September 2018 (for September Standards Committee)
- 4 December 2018 (for January Standards Committee)

Further meetings will be arranged if required.

7. Initial items for consideration by the Focus Group are suggested as follows:

- Protocol 1 - Councillor/Officer Relations (Appendix 1 - Support and Facilities Provided to Councillors)
- Part 11 - Roles and Responsibilities of Councillors
- Part 3 and Part 8 – Arrangements for scrutiny of officer decisions
- Protocol 3 - Guidance to Members on Outside Bodies
- Protocol 8 - Partnership Protocol
- Protocol 9 - Monitoring Officer

Other items will be added as required by the Monitoring Officer, Constitution Focus Group or Standards Committee.

#### Monitoring Officer Updates

8. The Monitoring Officer has delegated authority to amend the Constitution within the terms of the delegation set out in paragraph 4 above.
9. The Monitoring Officer is amending the constitution to reflect recent decisions of the council, including in particular changes arising from the senior management restructure and the recording of votes at meetings of Full Council. Any errors, formatting or necessary clarification will be picked up as part of the ongoing review work by the Monitoring Officer and amended within the scope of his delegation. Otherwise any proposed changes will be referred to the Constitution Focus Group and then on to the Standards Committee for approval and recommendation to Full Council.

#### **Conclusion**

10. The Standards Committee is therefore asked to:

- a) Approve the proposed work programme for the Constitution Focus Group, together with any further items the Committee may wish to include; and,
- b) To note the work that is underway in updating the Constitution under the Monitoring Officer's delegated powers.

**Ian Gibbons, Director of Legal and Democratic Services, and Monitoring Officer**

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**Background Papers - [Wiltshire Council Constitution](#)**

**Wiltshire Council**

**Standards Committee**

**17 January 2018**

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## **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 within 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 2017 to 31 December 2017

7. Between 1 January 2017 and 31 December 2017, the Monitoring Officer received 37 complaints under the Code of Conduct. Of these complaints, 10 concerned members of Wiltshire Council, while the remainder were against members of town and parish councils within the authority's area. A full table summary is attached at appendix 1.

8. Of the cases received, the decision of the Deputy Monitoring Officer was as follows:

No further action to be taken	23
Referred to Monitoring Officer for alternative local resolution	3
Referred for investigation	2
Incomplete information provided (complaint not taken forward)	1
Subject members no longer serving councillors (complaints not taken forward)	5

Of the 16 requests for review received, 12 decisions were upheld and 4 were overturned. 3 complaints are currently awaiting assessment or the issuing of the decision.

Investigations

9. Since the beginning of 2017, two complaints have been referred for investigation: one on assessment (date of assessment 01/08/2017) and one on review (date of review 27/07/2017). Both investigations are currently in progress.

Types of Complaint

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

Type of complaint	Number
Non-disclosure of interests/participating and voting at meetings	4
Inappropriate behaviour i.e. disrespect/bullying	11
Failing to act in the public interest	4
Failing to respond to letter/emails or to provide information/lack of communication	3
Inappropriate use of social media	1
Bringing council into disrepute	1
Showing bias towards/against parishioners	8
Deliberate misrepresentation of facts	1
Failure to promote and support high standards of conduct	2
Conferring advantage/disadvantage	1
Inappropriate forwarding of email	1
<b>Total</b>	<b>37</b>

## **Proposal**

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

**Ian Gibbons, Director of Legal and Democratic Services, and Monitoring Officer**

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Appendix 1 – Summary of Complaints 2017

[Link to Constitution](#)

**Appendix 1 - Summary of Complaints Received 1 January 2017 to 31 December 2017**

	<b>Cases received (*denotes unitary cldr)</b>	<b>Cases open (cumulative)</b>	<b>Assessed investigation</b>	<b>Assessed no further action</b>	<b>Assessed alternative resolution/ *complaint withdrawn</b>	<b>Pending assessment (*assessed &amp; decision notice being finalised)</b>	<b>Other</b>	<b>Cases closed</b>
<b>2017</b>								
<b>January</b>	3	19	0	3	0	0	0	7
<b>February</b>	1*	17	0	0	*1	0	0	3
<b>March</b>	2*	17	0	2	0	0	0	2
<b>April</b>	9 & *2	26	1	3	*2	0	5*	2
<b>May</b>	2	21	0	2	0	0	0	7
<b>June</b>	2 & *2	20	0	4	0	0	0	5
<b>July</b>	3 & *2	25	1	4	0	0	0	0
<b>August</b>	1	18	0	1	0	0	0	8
<b>September</b>	4	20	0	2	0	*1	1**	2
<b>October</b>	2	16	0	2	0	0	0	6
<b>November</b>	1	14	0	0	0	1	0	3
<b>December</b>	1	14	0	0	0	1	0	1
	<b>37</b>	<b>N/A</b>	<b>2</b>	<b>23</b>	<b>3</b>	<b>3</b>	<b>6</b>	<b>46</b>

<b>Requests for review received</b>
<b>1 (upheld)</b>
<b>5 (upheld)</b>
<b>5 (3 upheld &amp; 2 overturned)</b>
<b>0</b>
<b>0</b>
<b>1 (upheld)</b>
<b>1 (overturned)</b>
<b>3 (2 upheld &amp; 1 overturned)</b>
<b>0</b>
<b>0</b>
<b>0</b>
<b>0</b>
<b>16</b>

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

\*\* further information not provided – complaint not taken forward