

# AGENDA

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Meeting: **STANDARDS COMMITTEE**  
Place: **Committee Room III - County Hall, Bythesea Road,  
Trowbridge**  
Date: **Wednesday 10 March 2010**  
Time: **2.00 pm**

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Please direct any enquiries on this Agenda to Yamina Rhouati, of Democratic and Members' Services, County Hall, Trowbridge, direct line 01225 718371 or email [yamina.rhouati@wiltshire.gov.uk](mailto:yamina.rhouati@wiltshire.gov.uk)

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

All public reports referred to on this agenda are available on the Council's website at [www.wiltshire.gov.uk](http://www.wiltshire.gov.uk)

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## **Membership:**

### Wiltshire Council Members

Cllr Nigel Carter, Cllr Ernie Clark, Cllr Peter Fuller, Cllr Malcolm Hewson,  
Cllr Julian Johnson and Cllr Ian McLennan

### Town/Parish Council Co-opted Members

Mr William Bailey, Mr Craig McCallum, Mr Paul Neale, Mr Robert Oglesby JP,  
Mr John Scragg, Miss Pam Turner, Mr Keith Wallace and  
His Hon David MacLaren Webster QC

### Independent Co-opted Members

Mrs Jane Bayley, Mr Michael Cronin, Mr Philip Gill MBE JP, Mrs Isabel McCord  
(Chairman), Mr Ian McGill CBE, Mr Stuart Middleton, Mr Gerry Robson OBE  
(Vice-Chair) and Mr Keith Shipman

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## Part 1

### Items to be considered while the meeting is open to the public

1. **Apologies**

2. **Minutes of previous meeting** (*Pages 1 - 8*)

To confirm and sign the minutes of the Committee meeting held on 3 February 2010.

3. **Chairman's announcements**

4. **Declarations of Interest**

To receive any declarations of personal or prejudicial interests.

5. **Public participation**

The Council welcomes contributions from members of the public.

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. The Chairman will, however, exercise her discretion in order to ensure that members of the public have the opportunity to contribute.

Members of the public wishing to ask a question should give written notice (including details of any question) to the officer named above by **12.00 noon on Monday 8 March**.

6. **Minutes of Sub-committees** (*Pages 9 - 24*)

The Committee is asked to receive and note the minutes of the following Sub-Committee:

Dispensations Sub Committee - 11 November 2009, 26 November 2009 & 8 January 2010.

### Items for Action

7. **Standards Committee Plan 2010-14** (*Pages 25 - 32*)

To consider the report of the Monitoring Officer which incorporates the following items from the Committee's work plan:

- Presentation to Area Boards
- Informing and engaging the public – programme of events

The Committee will also be asked to consider its work plan taking into account the priorities identified within the 2010-14 Plan.

8. **Size and composition of the Standards Committee**

The Committee has previously undertaken to review the size of the Committee in the light of experience and the term of office of its Independent members. The Committee agreed in September 2009 to defer consideration of a report on the term of office of Independent members until members had served a year in office given that the first meeting of the Committee had only taken place in July 2009.

Officers will be preparing a report on the composition of the Committee dealing with both the size of the Committee and the term of office of its Independent members to the September 2010 meeting using the experience gained over what will be then, the past full year of operating a 22 strong Committee.

The Chairman will initiate a preliminary discussion to help inform the report to the September meeting.

9. **Venues of Standards Committee Hearings** (*Pages 33 - 36*)

Report by the Head of Governance

10. **Timescales for Local Investigation and Determination** (*Pages 37 - 56*)

Report by the Monitoring Officer.

11. **Draft Annual Report of the Standards Committee 2009/10** (*Pages 57 - 66*)

The Committee's views are sought on the attached draft Annual Report of the Committee which covers the period 2009/10. The report will be updated to reflect the outcomes of this meeting and the Committee is asked to authorise the Monitoring Officer in consultation with the Chairman to finalise the report on its behalf.

**Items for Information**

12. **Culture Change Programme**

The Monitoring Officer will update the Committee on the Culture Change Programme and arrangements for Councillor Laura Mayes, Portfolio Holder for Organisational Culture to give a presentation to a future meeting of the Committee on the Culture Change Programme.

13. **Report of the Task and Finish Group on Training Needs Analysis**

A verbal update on progress made by the Task and Finish Group.

14. **Status Report on Complaints made under the Code of Conduct** (*Pages 67 - 70*)

To note the summary of the Code of Conduct complaints received by the Monitoring Officer since 1 April 2009.

15. **Anonymous Digest of Code of Conduct Cases** (*Pages 71 - 72*)

Examples of cases.

16. **Standards for England Bulletin No. 47** (*Pages 73 - 82*)

To consider the latest Bulletin from Standards for England and discuss any issues arising from it.

17. **Urgent Items**

Any other items of business, which in the opinion of the Chairman, should be taken as a matter of urgency. Urgent items of a confidential nature may be considered under Part II of this agenda.

**Part II**

**Items during whose consideration it is recommended that the public should be excluded because of the likelihood that exempt information would be disclosed**

None

Would Committee members please note that we will be taking photographs for inclusion in the Committee's Annual Report at the end of the meeting.

## STANDARDS COMMITTEE

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### MINUTES OF THE STANDARDS COMMITTEE MEETING HELD ON 3 FEBRUARY 2010 AT COMMITTEE ROOM III, COUNTY HALL, TROWBRIDGE.

#### Present:

#### Wiltshire Council Members

Cllr Nigel Carter, Cllr Ernie Clark, Cllr Peter Fuller and Cllr Julian Johnson

#### Town/Parish Council Co-opted Members

Mr W Bailey, Mr C McCallum, Mr PNeale, Mr R Oglesby JP, Mr J Scragg, Miss P Turner, Mr K Wallace and His Hon MacLaren Webster QC

#### Independent co-opted Members

Mrs Jane Bayley, Mr Philip Gill MBE JP, Mrs Isabel McCord (Chairman), Mr Ian McGill CBE, Mr Stuart Middleton and Mr Gerry Robson OBE

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#### 1. Apologies

Apologies were received from Councillors McLennan, Hewson, Mr Shipman and Mr Cronin.

#### 2. Minutes of previous meeting

The minutes of the meeting held on 11 November were confirmed as a correct record and signed by the Chairman.

#### 3. Chairman's announcements

##### **Leader's Award**

The Chairman informed members of the committee that the Leader of the Council, Jane Scott, had received an OBE in the New Years Honours List. She suggested that congratulations on her commitment and achievement in delivering Wiltshire Council, and being justly rewarded with this honour be sent from the committee.

##### **Meeting with the Leader and Chief Executive**

The Chairman announced that she and Ian Gibbons had met with the Leader of the Council and the Chief Executive on 17 December. It had been very clear from the meeting that they were supportive of the Standards Committee and its

work and welcomed further meetings. The next meeting will be in February or March once the new Chief Executive is in post and thereafter meetings will be quarterly unless for a specific issue.

#### **Constitution Focus Group Update**

The elected member from the Scrutiny Committee has not yet been notified but once this is done the first meeting will be arranged. It is hoped that this will be convened shortly.

#### **Guidance note on officer's code of conduct**

It had not been possible to be completed in time for the meeting so it would be circulated to committee members by e-mail.

#### **Agenda**

The Chairman said that this was the first agenda to be produced on the Modern.Gov system and hoped that members would find the addition of page numbers a useful tool.

#### 4. **Declarations of Interest**

There were no declarations of interest

#### 5. **Public participation**

None

#### 6. **Communications Sub-Committee Update**

Miss Turner gave an update on the progress made by the Communications sub-committee. She said that the committee had welcomed the Chair of the Training sub-committee to their last meeting and they had discussed the roles of both committees. The meeting had then concentrated on reviewing the leaflet on the work of the Standards Committee. It was almost complete and this would be circulated to all members of the committee for their comments prior to issue.

It was requested that the annual, anonymous digest of Code of Conduct cases mentioned in the action plan be themed so that the most common issues were highlighted.

The Chairman requested that the digest be added to the agenda for the next meeting for comments by the committee prior to publication. She said that all members would receive a copy of the digest and that it would be published on the Council's website.

#### 7. **Training Sub-Committee Update**

Mr Robson said that the committee had looked at training for Town and Parish Councils and that Mr McCallum had volunteered to run a trial session at his own

parish council. He drew attention to the work plan which identified which areas of training the committee felt should be progressed.

## 8. **Communications and Training Sub-Committees**

The committee considered a report which proposed new arrangements for the discharge and oversight of the communications and training functions of the Standards Committee.

A debate ensued and it was agreed that the two committees should be disbanded and replaced by task and finish groups which would concentrate on specific issues; membership would be drawn from the Standards Committee.

The Chairman asked that the Chairmen of the sub-committees review their respective work plans to identify which issues needed to be agreed by the Standards Committee and to refer them to the Monitoring Officer for inclusion in the agenda for the next meeting.

It was recognised that there was a need to ensure continuity in the link between the Standards Committee and the Councillor Development Group and it was agreed that if Councillor Carter should cease to be a member of the Group then he should be replaced with a Standards Committee representative.

It was requested that a task and finish group be set up with immediate effect to look at training needs analysis, membership to be drawn from the current Training sub-committee and assistance from Human Resources would be sought.

### **Resolved**

1. **To disband the existing Communications and Training Sub-Committees and replace them with “task and finish” groups. These task and finish groups would be constituted to carry out particular tasks identified by the Standards Committee as and when a need is identified.**
2. **Reports to the Standards Committee should contain a paragraph that considers whether the report contains issues giving rise to a training or communications need. If so, the Standards Committee would establish an ad hoc task and finish group to deliver the specific piece of work identified. The task and finish group would only exist until the project had been completed.**
3. **Membership of task and finish groups would be not be fixed. Members would be drawn from the Standards Committee, with officer support, as the need arises. Consideration would be given to the skills needed for each task, and to the availability of members. This arrangement would provide for greater flexibility, would enable the Standards Committee to capitalise on the very**

wide range of skills in its membership, and give all members of the Committee the opportunity to engage in project work.

4. **That continuity in the link between the Standards Committee and the Councillor Development Group be maintained. This link ensures that the training needs of councillors in relation to the Code of Conduct and other matters within the Standards Committee's remit are taken into account as part of the overall member development strategy, which is within the remit of the Member Development Group. Should Councillor Carter leave the Group it was agreed that there should always be Standards Committee representation on the Member Development Group, notwithstanding the fact that individual councillors will change.**
5. **To set up a task and finish group to look at training needs analysis; membership to be drawn from the current Training sub-committee.**

9. **Status Report on Complaints made under the Code of Conduct**

The committee considered the status report on complaints. Some concern was expressed at the length of time some of the cases had been open. The Monitoring Officer said that the Standards for England guidance on the length of time to progress a complaint to completion of the investigation was 6 months.

The Chairman requested that a report be brought to the next meeting of the committee detailing progress on complaints including any reasons for delays together with proposed timescales and the implications of adopting a 6 month timescale for completing the investigation. It was also requested that officers develop a 'traffic light' system in order to identify the progress of complaints against timescales more clearly.

**Resolved**

**That a report detailing progress on complaints including any reasons for delays together with proposed timescales and the implications of adopting a 6 month timescale for completing the investigation be brought to the next meeting.**

**That officers develop a 'traffic light' system in order to identify the progress of complaints more clearly.**

10. **Standards Committee Plan 2010-2014**

The committee considered a report which sought agreement on a plan setting out the committee's priorities, and actions to meet them, over the next four years. The plan had drawn from Standards for England guidance on what excellent Standards Committees should be doing and linked to the goals and aims of the Council.



The Chairman said that the plan would need to be reviewed to include items from the discontinued sub-committees work plans.

It was agreed that Mr McGill would work with the Monitoring Officer to develop a method for evaluating the performance of the committee in delivering its goals This would be brought back to a future meeting.

The plan should be brought to the committee on a regular basis for review.

**Resolved**

- 1. That the priorities and actions for 2010 - 14, as set out in the plan be approved subject to some modifications including evaluation of performance.**
- 2. That the forward work plan be amended accordingly.**

11. **Register of Members' Interests**

The committee considered a report setting out the statutory and practice requirements relating to the on-line publication of the register of members' interests. The report outlined the statutory provisions relating to the register of members' interests, and considerations relating to the on-line publication of that register on the Council's web-site.

**Resolved**

- 1. That the Standards Committee recommends to Council that members and co-opted members of Wiltshire Council may opt into the on-line publication of their entries in the statutory register of members' interests.**
- 2. That the on-line version of the register be redacted to remove copies of councillors' signatures.**

Mr W Bailey asked that his vote against the resolution be recorded.

12. **Annual Audit and Inspection Letter**

The committee considered the report which drew attention to KPMG's Annual Audit Letter and invited the committee to consider its response.

The Chairman informed members that the process would be handled differently next year and Standards Committee members would be invited to a joint briefing with the Audit Committee.

She also drew attention to the seminar for all Councillors included co-opted members on the Comprehensive Area Assessment and in particular the use of resources. This would be held at County Hall at 2pm on 17 February 2010.

### **Resolved**

**That the committee welcomes KPMG's report which clearly identifies issues and actions to be taken by the Council, noting that the actions due completion at the end of December 2009 had been done.**

13. **Standards for England Bulletin No. 46**

The committee received Bulletin no. 46 from Standards for England. It was noted that the Annual Return 2010 which was mentioned on page 6 of the Bulletin would be brought to the committee prior to it being sent to Standards for England. Also the Governance Toolkit for Parish and Town Councils (Page 99) would be advertised in the Town and Parish Newsletter.

### **Resolved**

**That the committee notes Standards for England Bulletin no. 46**

14. **Forward Plan**

The Committee received the Committee's Work Plan for 2010/11.

### **Resolved**

**That the workplan be received and that the following items be added for the March 2010 meeting:**

- 1. Items from the Training and Communications sub-committee work plans.**
- 2. Cllr Laura Mayes, Portfolio holder for culture change to attend the meeting. Link in with Council's action plan for organisational culture.**
- 3. Programme of meetings and events for Standards Committee involvement.**
- 4. Annual, anonymous digest of Code of Conduct cases.**
- 5. Engagement with Area Boards**
- 6. Report on progress of complaints and adoption of local assessment timescales.**

15. **Urgent Items**

There were no urgent items

(Duration of meeting: 2.00 - 4.05 pm)

The Officer who has produced these minutes is Pam Denton, of Democratic & Members' Services, direct line 01225 718371, e-mail [pam.denton@wiltshire.gov.uk](mailto:pam.denton@wiltshire.gov.uk)

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## STANDARDS DISPENSATION SUB-COMMITTEE

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MINUTES of the STANDARDS DISPENSATION SUB-COMMITTEE held at COUNTY HALL, TROWBRIDGE on FRIDAY 11 SEPTEMBER 2009.

PRESENT:

Independent Member - Mrs I McCord (Chairman)  
Town/Parish Members - Miss P Turner  
Wiltshire Council Members - Mr J Johnson

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**1. Election of Chairman**

Mrs McCord was elected as Chairman for one meeting only.

**2. Declarations of Interest**

None.

**3. Consideration of Dispensation Request (A)**

The Monitoring Officer introduced a report presenting a dispensation request received from Cllr Alan Hill on 26 August 2009. The request related to item 5(b) of the 25 August 2009 meeting of Calne Area Board. This item involved consideration of a grant application submitted by Calne Town Council to the Area Board, who were the decision making body in this matter.

The Monitoring Officer explained the law and guidance relevant to this request and advised, in particular, that in his view a prejudicial interest would arise in these circumstances based on the following reasoning:

1. As a member of Calne Town Council Cllr Hill has a personal interest in any business of the Calne Area Board that relates to or is likely to affect Calne Town Council (paragraph 8 (1)(a)(ii)(aa) Wiltshire Council's Code of Conduct for Members)

2. Calne Town Council is the applicant for and potential beneficiary of a grant from Calne Area Board. In this situation a member of the public with knowledge of the relevant facts would reasonably regard Mr Hill's interest as a member of the Town Council as so significant that his judgment of the public interest on this matter is likely to be prejudiced. (paragraph 10 (1) Code of Conduct)

3. The matter in question affects the financial position of Calne Town Council (paragraph 10(2)(a) of the Code of Conduct)

4. None of the exemptions in paragraph 10(2)(c) of the code of Conduct apply.

5. So Mr Hill has a prejudicial interest in respect of this item of business and would be unable to participate and vote (save for being able to make representations to the same extent as any member of the public before withdrawing from the meeting),

Members noted from Mr Hill's application that Calne Area Board has five voting unitary councillors, three of whom were in the same position as Mr Hill and have submitted identical dispensation requests. Consequently, three of the five voting members would be prohibited from taking part in this item and voting because of a prejudicial interest.

The Sub-Committee noted further that under the rules for the operation of Area Boards the Calne Area Board would not be quorate under these circumstances and would be unable to discharge its function in relation to this particular item of business.

Having regard to the Standards Committee's criteria for determination of dispensation requests, the Sub-Committee was satisfied that Mr Hill's request met the necessary legal criteria, in that the transaction of the Area Board's business would otherwise be impeded, because more than 50% of the members who would be entitled to vote on this item at the meeting would be prohibited from doing so under the Code of Conduct.

The Sub-Committee recognised that unless the dispensation request were granted the efficient and effective conduct of Wiltshire Council's business through the Calne Area Board would be impeded.

The Monitoring Officer reminded the Sub-Committee that in accordance with the guidance they were obliged to disregard any dispensations granted to other members of the same body.

The Sub-Committee noted that Mr Hill was only seeking a dispensation in respect of this particular item of business. The Sub-Committee, therefore,

**Resolved:**

- 1. to grant a dispensation to Cllr Alan Hill in the terms requested to enable him to participate and vote on the grant application submitted by**

**Calne Town Council when this item is next considered by the Calne Area Board, following its deferral on 25 August 2009.**

**4. Consideration of Dispensation Request (B)**

This item concerned a dispensation request received from Cllr Howard Marshall. The request was identical in nature to that considered under item 3. Adopting the same approach, the Sub-Committee:

**Resolved:**

- 1. to grant a dispensation to Cllr Howard Marshall in the terms requested to enable him to participate and vote on the grant application submitted by Calne Town Council when this item is next considered by the Calne Area Board, following its deferral on 25 August 2009.**

**5. Consideration of Dispensation Request (C)**

This item concerned a dispensation request received from Cllr Tony Trotman. The request was identical in nature to that considered under item 3; Adopting the same approach, the Sub-Committee:

**Resolved:**

- 1. to grant a dispensation to Cllr Tony Trotman in the terms requested to enable him to participate and vote on the grant application submitted by Calne Town Council when this item is next considered by the Calne Area Board, following its deferral on 25 August 2009.**

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(Duration of meeting: 10.00am – 11.10am)

The officer who has produced these minutes is Henry Powell, Democratic Services Officer, direct line (01225) 718052, [henry.powell@wiltshire.gov.uk](mailto:henry.powell@wiltshire.gov.uk)

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## STANDARDS DISPENSATION SUB-COMMITTEE

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MINUTES of the STANDARDS DISPENSATION SUB-COMMITTEE held at COUNTY HALL, TROWBRIDGE on THURSDAY 26 NOVEMBER 2009.

### PRESENT:

Independent Member - Mr G Robson OBE (Chairman)  
Town/Parish Member - Mr R Oglesby JP  
Wiltshire Council Member - Cllr E Clark

### OTHERS

Dispensation Applicant - Cllr R Hawker

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#### **1. Election of Chairman**

Mr G Robson OBE was elected as Chairman for one meeting only.

#### **2. Declarations of Interest**

Cllr Clark declared an interest in Item No. 5, as the Chairman of Trowbridge Area Board.

#### **3. Consideration of Dispensation Request (A)**

The Monitoring Officer introduced a report presenting two dispensation requests received from Cllr Russell Hawker of Wiltshire Council and Westbury Town Council. Both requests related to grant applications scheduled for consideration by Westbury Area Board on 1 December 2009.

##### Grant application from Westbury Town Council

The first request related to a grant application from Westbury Town Council submitted to Westbury Area Board, who are the decision making body in this matter.

The Monitoring Officer explained the law and guidance relevant to this request and advised, in particular, that in his view a prejudicial interest would arise in these circumstances based on the following reasoning:

1. As a member of Westbury Town Council Cllr Hawker has a personal interest in any business of the Westbury Area Board that relates to or is likely to affect Westbury Town Council (paragraph 8 (1)(a)(ii)(aa) Wiltshire Council's Code of Conduct for Members).
2. Westbury Town Council is the applicant for and potential beneficiary of a grant from Westbury Area Board. In this situation, a member of the public with knowledge of the relevant facts would reasonably regard Cllr Hawker's interest as a member of the Town Council as so significant that his judgment of the public interest on this matter is likely to be prejudiced. (paragraph 10 (1) Code of Conduct).
3. The matter in question affects the financial position of Westbury Town Council (paragraph 10(2)(a) of the Code of Conduct)
4. None of the exemptions in paragraph 10(2)(c) of the Code of Conduct apply.
5. So Cllr Hawker has a prejudicial interest in respect of this item of business and would be unable to participate and vote (save for being able to make representations to the same extent as any member of the public before withdrawing from the meeting).

Cllr Hawker reported that although he did not agree that he had a prejudicial interest in the matter, he suspected that the Monitoring Officer's view would be one shared by most monitoring officers and Standards for England.

Two of the four voting members of Westbury Area Board had applied for dispensations. One of the other two voting members was unwell and there was no indication of when they would be well enough to attend meetings. Cllr Hawker requested a dispensation to apply to this and future meetings of Westbury Area Board in respect of the consideration of grant applications from Westbury Town Council.

Members noted that Westbury Area Board were due to consider another grant application from Westbury Town Council in February 2010, and further applications beyond that. They discussed whether it may be sensible therefore to grant an appropriate dispensation for the remainder of the life of Wiltshire Council (until May 2013).

Members also noted that if grant applications from other parties were consistently refused and those from the Town Council were consistently granted then blanket dispensations enabling dual-hatted councillors to vote on such applications may add to any perception of unfairness.

Members agreed that the Council's business would be impeded if a dispensation was not granted in this case.

Members noted that in order to grant a dispensation, more than 50% of the members who would be entitled to vote at the meeting must be prohibited from voting. The Monitoring Officer clarified that the wording “entitled to vote” assumes attendance at the meeting. It was noted that this legal criterion would only be met if the voting member currently unable to attend due to ill health or the other member entitled to vote, did not attend the meeting. If all four members did attend, then exactly 50% (not “more than 50%”) of the members entitled to vote would be prohibited from voting and the criterion would not be met. The meeting would not be quorate (3 members required for a quorum), and so the business could still not be conducted. The Monitoring Officer confirmed that quorum was a separate issue to be considered in the context of the constitution of area boards. Members, therefore, agreed that any dispensation granted should only come into effect if either of the two voting members who were not members of Westbury Town Council did not attend the meeting.

Members agreed that there was no issue of political balance with respect to this application as the rules on political proportionality do not apply to area boards. They further agreed that public confidence would not be undermined by the granting of a dispensation in these circumstances where the objective was to enable the Council to discharge its business in an open and transparent manner.

#### Grant application from Westbury Heritage Society

The second request related to a grant application from Westbury Heritage Society. Westbury Area Board were the decision making body in this matter. Cllr Hawker is a member of Westbury Town Council and the Town Council’s representative on the committee of Westbury Heritage Society. Cllr Hawker’s application clarified that this role is non-voting and observational in nature.

Following a member query, Cllr Hawker confirmed that Westbury Heritage Society is a registered charity and that his position on its committee is included in his Register of Interests. He also reported that he is a member of the Society in a private capacity.

The Monitoring Officer explained the law and guidance relevant to this request and advised, in particular, that in his view a prejudicial interest would arise in these circumstances based on the following reasoning:

1. As a member of the Westbury Heritage Society, Cllr Hawker has a personal interest in any business of the Westbury Area Board that relates to or is likely to affect Westbury Heritage Society (paragraph 8 (1)(a)(ii)(bb) Wiltshire Council’s Code of Conduct for Members).
2. Westbury Heritage Society is the applicant for and potential beneficiary of a grant from Westbury Area Board. In this situation, a member of the public with knowledge of the relevant facts would reasonably regard Cllr Hawker’s interest as a member of Westbury Heritage Society as so significant that his judgment of the public interest on this matter is likely to be prejudiced. (paragraph 10 (1))

Code of Conduct).

3. The matter in question affects the financial position of Westbury Heritage Society (paragraph 10(2)(a) of the Code of Conduct).

4. None of the exemptions in paragraph 10(2)(c) of the Code of Conduct apply.

5. So, Cllr Hawker has a prejudicial interest in respect of this item of business and would be unable to participate and vote (save for being able to make representations to the same extent as any member of the public before withdrawing from the meeting).

The Monitoring Officer explained that the item for which the dispensation application had been requested did not satisfy the relevant criteria within the Dispensation Regulations under which the Sub-Committee may only grant a dispensation where the transaction of the Council's business would otherwise be impeded by the Code of Conduct because more than 50% of the members who would be entitled to vote at a meeting are prohibited from voting. In this instance Cllr Hawker was the only voting member with a prejudicial interest. If the voting member who is unwell did not attend the meeting, two voting members will still be eligible to vote, meaning only 33% of the members eligible to vote would be prohibited from doing so. The meeting would not be quorate and so the business could still not be conducted but the Monitoring Officer confirmed that quorum is a separate issue.

Members expressed regret that the legal requirements for granting dispensations prevented them from assisting Westbury Area Board in conducting the Council's business in relation to this issue. They further regretted that the situation might result in a delay to Westbury Heritage Society receiving important grant funding.

Members agreed that if the absence of a single voting member could impede the business of the Council as it had done in both of the requests for dispensations considered here then the composition of Area Boards requires further examination. The Monitoring Officer agreed to raise these concerns with the Head of Community Governance to explore how best to resolve them.

Having considered the position carefully, as summarised above, the Sub-Committee

**Resolved:**

- 1. To grant a dispensation to Cllr Russell Hawker to enable him to participate and vote at meetings of Westbury Area Board on matters pertaining to grant applications from Westbury Town Council, but only where one of the remaining voting members of Westbury Area Board, who is not also a member of Westbury Town Council, is absent from the meeting.**

2. **The dispensation granted in 1 above is to apply until 30 April 2013, subject to review in the event of any material change of circumstances.**
3. **Not to grant a dispensation to Cllr Russell Hawker to enable him to participate and vote on the grant application submitted by Westbury Heritage Society to Westbury Area Board, scheduled for consideration on 1 December 2009, because the request failed to meet the criterion defined in Paragraph 17(1)(a)(i) of The Standards Committee (Further Provisions) (England) Regulations 2009.**

**4. Consideration of Dispensation Request (B)**

The Monitoring Officer introduced a report presenting a dispensation request received from Cllr Michael Cuthbert-Murray of Wiltshire Council and Westbury Town Council. The request was identical in nature to that received from Cllr Hawker relating to the grant application from Westbury Town Council considered under item 3. Adopting the same approach, the Sub-Committee reached the following resolution:

**Resolved:**

**To grant a dispensation to Cllr Michael Cuthbert-Murray to enable him to participate and vote at meetings of Westbury Area Board on matters pertaining to grant applications from Westbury Town Council, but only where one of the remaining voting members of Westbury Area Board, who is not also a member of Westbury Town Council, is absent from the meeting.**

**The dispensation granted in 4 above is to apply until 30 April 2013, subject to review in the event of any material change of circumstances.**

**6. Consideration of Dispensation Request (C)**

This item concerned a dispensation request received from Cllr Peter Fuller of Wiltshire Council and Trowbridge Town Council. The request related to future grant applications from Trowbridge Town Council submitted to Trowbridge Area Board.

The Monitoring Officer advised that Cllr Clark's position as Chairman of Trowbridge Area Board gave rise to a potential conflict of interest in this matter. The Sub-Committee therefore,

**Resolved:**

**To defer consideration of Cllr Peter Fuller's dispensation request to a future Dispensation Sub-Committee with different membership.**

(Duration of meeting: 3.30pm – 5.10pm)

The officer who has produced these minutes is Henry Powell, Senior Scrutiny Officer,  
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Press enquiries to Communications, direct line (01225) 713114/713115.

## STANDARDS DISPENSATION SUB-COMMITTEE

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MINUTES of the STANDARDS DISPENSATION SUB-COMMITTEE held at COUNTY HALL, TROWBRIDGE on FRIDAY 8<sup>th</sup> January 2010.

PRESENT:

Independent Member	-	Mrs J Bayley (Chairman)
Town/Parish Member	-	Mr C McCallum
Wiltshire Council Member	-	Councillor N Carter

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**1. Election of Chairman**

Mrs Bayley was elected as Chairman for one meeting only.

**2. Declarations of Interest**

None.

**3. Consideration of Dispensation Request (A)**

The Monitoring Officer introduced a report presenting a dispensation request received from Councillor Peter Fuller on 22 October 2009. This matter had been deferred from a previous meeting as one of the Sub-Committee members had declared an interest. Councillor Fuller is a member of Trowbridge Town Council and Trowbridge Area Board. The request related to future items of the Trowbridge Area Board involving Trowbridge Town Council.

The Monitoring Officer explained the law and guidance relevant to this request and advised, in particular, that in his view a prejudicial interest would not arise in all items of business involving Trowbridge Town Council. A dispensation could not be granted where there was no prejudicial interest.

The Sub-Committee considered the nature of the member's prejudicial interest and concluded that as a member of Trowbridge Town Council, Councillor Fuller has a personal interest in any business of the Trowbridge Area Board that relates to or is likely to affect Trowbridge Town Council (paragraph 8 (1)(a)(ii)(aa) of

Wiltshire Council's Code of Conduct for Members).

As a member of Trowbridge Town Council, Councillor Fuller has a prejudicial interest only in items of business of the Area Board where a member of the public with knowledge of the relevant facts would reasonably regard Councillor Fuller's interest as a member of the Town Council as so significant that his judgment of the public interest is likely to be prejudiced (paragraph 10 (1) of the Code of Conduct). Further, a prejudicial interest will only arise if the matter affects the financial position of the Town Council, or concerns the determination of any approval, consent, licence, permission or registration in relation to the Town Council (paragraphs 10 (2)(a) and (b) of the Code). Councillor Fuller would be unable to participate and vote on such items (save for being able to make representations to the same extent as any member of the public before withdrawing from the meeting).

Members of the Sub-Committee discussed the legal criteria for the granting of a dispensation and noted that six of the nine members of Trowbridge Area Board are also members of Trowbridge Town Council, which represents 66% of the Area Board membership. Having regard to the Standards Committee's criteria for determination of dispensation requests, the Sub-Committee was satisfied that Councillor Fuller's request met the necessary legal criteria, in that the transaction of the Area Board's business would otherwise be impeded, because more than 50% of the members who would be entitled to vote on items affecting the financial position of Trowbridge Town Council or in the determination of regulatory matters affecting the Town Council, would be prohibited from doing so under the Code of Conduct. The Sub-Committee also recognised that unless the dispensation request were granted the efficient and effective conduct of Wiltshire Council's business through the Trowbridge Area Board would be impeded.

The Sub-Committee was concerned that there had been no other requests for a dispensation from other 'dual-hatted' members of the Trowbridge Area Board and expressed wider concern about the position of dual-hatted members on area boards generally.

**Resolved:**

- 1. To grant Councillor Fuller a dispensation in respect of any item of business of Trowbridge Area Board relating to Trowbridge Town Council, which affects the financial position of Trowbridge Town Council (e.g. applications for grant by the Town Council) or concerns the determination of any approval, consent, licence, permission or registration in relation to the Town Council (e.g. planning applications by the Town Council).**
- 2. To agree that the dispensation in 1 above is effective until 30 April 2013, but is subject to review in the event of any material change of circumstances.**



3. **To ask the Monitoring Officer to explore why similar requests for dispensation have not been received from other dual-hatted members on Trowbridge Area Board.**
4. **To ask the Monitoring Officer to undertake a wider review of the position of dual-hatted members on Area Boards, to include the distribution of grants to town and parish councils, by Area Boards and to report to the Standards Committee at the earliest opportunity.**

**4. Consideration of Dispensation Request (B)**

The Monitoring Officer introduced a report presenting a dispensation request from Mrs Jane Clark, the Chairman of Seagry Parish Council, dated 9<sup>th</sup> December 2009. The request involved an item on the agenda of the Parish Council in January 2010 regarding the setting of the precept for Seagry, Startley and Great Somerford Village Hall Trust. Mrs Clark's husband is a member of the Trust.

The total number of Parish Councillors is seven, two other Councillors are themselves Trustees and, of the four remaining members, one is suffering ill health and may not be able to attend the meeting, another is frequently overseas. The dispensation is requested for four years as the erection of a new village hall is an ongoing matter.

The Sub-Committee considered firstly whether Mrs Clark's position gave rise to a personal or prejudicial interest. The Sub-Committee concluded, on advice from the Monitoring Officer, that as Mrs Clark was not herself a member of the Seagry, Startley and Great Somerford Village Hall Trust, she has no personal, nor, therefore, any prejudicial interest in any items regarding the Village Hall and therefore no dispensation is required.

**Resolved:**

1. **Not to grant a dispensation to Mrs Clark because her circumstances, as outlined in her request, do not give rise to a prejudicial interest and, consequently no dispensation is required or available under the criteria.**

**5. Consideration of Dispensation Request (C)**

The Monitoring Officer introduced a report presenting a dispensation request from Mr John Crosland of Seagry Parish Council, dated 2<sup>nd</sup> December 2009. The request involved an item on the agenda of the Parish Council for January 2010 regarding the setting of the precept for Seagry, Startley and Great Somerford Village Hall Trust.

The total number of Parish Councillors is seven. Mr Crosland is a Trustee along with another member of the Parish Council. As to the remaining councillors, one is suffering ill health and may not be able to attend the meeting, another is

frequently overseas. The dispensation is requested for four years as the erection of a new village hall is an ongoing matter.

The Sub-Committee considered firstly whether Mr Crosland had a prejudicial interest for which a dispensation may be granted. The Monitoring Officer referred the Sub-Committee to paragraph 10 (2)(c)(vi) of the Code of Conduct which provides an exemption for business relating to the setting of the precept so that a prejudicial interest does not arise in such circumstances. Therefore no dispensation is required and Mr Crosland may participate and vote on this matter.

However, the Sub-Committee noted that the erection of a new village hall is an ongoing matter and it was apparent that a dispensation was being requested to cover such business for a period of four years. Where the Parish Council is conducting business, other than the setting of the precept, which affects the financial position of the Village Hall Trust or the determination of any regulatory matter in relation to the Trust, Mr Crosland would have a prejudicial interest and would be unable to participate and vote (save for being able to make representations to the same extent as any member of the public before withdrawing from the meeting).

The Sub-Committee then considered the application of the legal criteria for granting dispensations, in particular, whether or not the transaction of the Council's business would otherwise be impeded because more than 50% of the members who would be entitled to vote at a meeting are prohibited from voting because of a prejudicial interest arising under the Code of Conduct. Two members of the Parish Council are Village Hall Trustees and would be prohibited on this basis from voting. The Chairman, Mrs Clark does not have a prejudicial interest by virtue of her husband being a trustee. Therefore 5 out of the 7 Parish Councillors would, in the absence of any other personal circumstances, still be able to vote. The legal criteria of more than 50 % of those eligible to vote being prohibited is not met and no dispensation can therefore be granted.

**Resolved:**

- 1. Not to grant a dispensation to Mr Crosland in the case of the specific business relating to the setting of the precept at the January meeting of the Parish Council, as no prejudicial interest arises by virtue of the statutory exemption in paragraph 10 (2)(c)(vi) of the Code of Conduct.**
- 2. Not to grant a dispensation in the case of other business which affects the financial position of the Village Hall Trust or concerns the determination of regulatory matters in relation to the Trust, as the legal criteria is not met for the reasons stated above.**
- 3. To ask the Monitoring Officer to write to Mr Crosland with advice on his position in relation to the conduct of business relating to the Village Hall Trust at meetings of the Parish Council.**

**6. Consideration of Dispensation Request (D)**

This item concerned a dispensation request from Ms Clare Cliverd of Seagry Parish Council dated 3<sup>rd</sup> December 2009. This request was identical in nature to that considered under item 5. Adopting the same approach the Sub-Committee:

**Resolved:**

- 1. Not to grant a dispensation to Ms Cliverd in the case of the specific business relating to the setting of the precept at the January meeting of the Parish Council, as no prejudicial interest arises by virtue of the statutory exemption in paragraph 10 (2)(c)(vi) of the Code of Conduct.**
- 2. Not to grant a dispensation in the case of other business which affects the financial position of the Village Hall Trust or concerns the determination of regulatory matters in relation to the Trust, as the legal criteria is not met for the reasons stated above.**
- 3. To ask the Monitoring Officer to write to Ms Cliverd with advice on her position in relation to the conduct of business relating to the Village Hall Trust at meetings of the Parish Council.**

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(Duration of meeting: 10.30am – 11.30am)

The officer who has produced these minutes is Janice Green, Democratic Services Officer, direct line (01225) 718380, [janice.green@wiltshire.gov.uk](mailto:janice.green@wiltshire.gov.uk)

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

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## WILTSHIRE COUNCIL

### STANDARDS COMMITTEE

10 MARCH 2010

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#### **STANDARDS COMMITTEE PLAN 2010-2014**

##### **Purpose of Report**

1. To ask the Committee:
  - 1.1 to note the work in progress in developing suitable targets for evaluating performance against the actions set out in the Committee's Plan;
  - 1.2 to set up a task and finish group to prepare a presentation to make to the Council's 18 area boards promoting the role of the Standards Committee and the local standards framework;
  - 1.3 to agree a programme of events to inform and engage the public on standards in local government.

##### **Background**

2. At its meeting on 3 February 2010 the Standards Committee agreed a plan setting out its vision, goals and actions for 2010-2014. The plan was agreed, subject to some modifications, including the development of targets for evaluating performance against the plan.
3. It was agreed that Mr McGill would work with the Monitoring Officer to develop a method for evaluating the performance of the Committee in delivering its goals.

##### **Main Considerations for the Council**

##### **Revisions to the Plan - Work in Progress**

4. Following initial consultations between the Monitoring Officer, the Chairman and Vice-Chairman and Mr McGill some revisions have been made to the plan, as shown in appendix 1 to this report. These provide a new lay-out for the plan, incorporating the Council's vision and goals and those of the Standards Committee. They also include some provisional targets to enable the Committee to evaluate performance against the outputs specified in the plan.
5. This is work in progress and further work will be undertaken to finalise the targets. The final version will be brought to the next meeting of the Committee for approval.

## **Presentations to Area Boards**

6. The Committee has agreed to increase its visibility by attendance at meetings of Council, Cabinet, Committees and Area Boards. This is in support of the second goal of promoting the well-being of Wiltshire Council by embedding standards further within the Council. Some performance indicators have been suggested for this purpose as set out in the appendix.
7. The development of area boards as a key part of local decision making is central to the Council's vision of creating stronger and more resilient communities. It is appropriate for the Standards Committee to support the Council in the development of area boards by promoting high standards of conduct and public confidence in their operation.
8. It is proposed that the Committee undertakes a programme of briefings to the 18 area boards in Wiltshire promoting the work of the Standards Committee and the importance of standards in local government. To this end it is proposed that a task and finish group is established to prepare a suitable presentation, including a DVD and other supporting materials for this purpose.
9. It is suggested that the task group should report to the July meeting with a draft presentation and materials for approval by the Committee. Briefings to area boards would then commence during the Autumn of this year.

## **Informing and Engaging the Public - Programme of Events**

10. The programme of presentations to Area Boards proposed above will provide a good platform for the Committee to inform and engage the public on standards in local government. Area boards are well attended by members of the public, parish and town council representatives and partner agencies. This forum will provide a useful opportunity to provide a clear and consistent message on the importance of standards and transparency in local democracy.
11. Consideration will be given to taking part in other suitable events as and when they arise.

## **Environmental Impact**

8. None.

## **Equalities Impact**

9. The plan is consistent with the Council's Equality and Diversity Policy.

## **Financial Implications**

10. There are none arising directly from this report. There will be costs associated with the implementation of the proposed plan e.g. training, printing costs. These will be met from within existing resources.

## **Legal Implications**

11. Implementation of the plan will enable the Committee to discharge its legal responsibilities more effectively.

## **Proposal**

12. The Committee is, therefore, asked to:

12.1 note the work in progress in developing the plan, including targets for evaluating performance against the outputs specified in the plan;

12.2 to set up a task and finish group to prepare a presentation and supporting materials to make to the Council's 18 area boards promoting the role of the Standards Committee and the local standards framework;

12.3 to ask the task group to report back to the Committee at its July meeting with its proposals with a view to commencing the programme of briefings to area boards in the Autumn term.

## **Reason for Proposal**

13. To develop the Committee's plan to ensure that it enables the Committee to discharge its role and responsibilities more effectively and the Committee is able to review its performance against the plan.

**Ian Gibbons**  
**Monitoring Officer**

Report Author: Ian Gibbons

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**The following unpublished documents have been relied on in the preparation of this Report:** None

Appendix

Proposed revisions to the Plan

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**STANDARDS COMMITTEE PERFORMANCE AGAINST PLAN  
THIRD DRAFT**

<p align="center"><b>Wiltshire Council's Vision is to create stronger and more resilient communities, underpinned by 3 key goals:</b></p> <ol style="list-style-type: none"> <li><b>1. Deliver high quality, low cost, customer focused services.</b></li> <li><b>2. Ensure local, open, honest decision-making.</b></li> <li><b>3. Working together to support Wiltshire's communities</b></li> </ol> <p align="center"><b>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</b></p>					
Standard Committee Goals	Standard Committee Output	Targets	Achieved Outputs		Links to Wiltshire Council Goals (1) (2) (3) (above) and Comments
			2009/10 Y/N	2010/11 Y/N	
<p><b>Apply the local standards framework in a fair, efficient and proportionate manner</b></p>	<p>Consider outcome of Standards for England's review on proportionality in local standards framework; review proportionality in the operation of the Council's own procedures.</p>	<p>Review operation of procedures by 31 Jul 10 <i>(depends on S for E's review)</i></p>			<p><b>(2)</b></p> <p><i>Completion date for Standards for England's review expected by 30 Apr 10?</i></p>
	<p>Review approach to local assessment to bring more in line with national average of complaints referred for investigation; arrange workshop on local assessment.</p>	<p>Initial assessment within 20 working days of receipt of complaint. Review decision within 20 working days of request for review. All investigations to be completed within 6 months of complaint reaching the Assessment Sub-Committee's (or if appropriate the Review Sub-Committee's) Decision. Subsequent Standards Committee hearings to be completed within 12 weeks of receipt of Investigator's Report</p>	N		<p><i>Local Assessment Workshop held on 3 Feb 10. Review quarterly</i></p>
	<p>Implement new Code of Conduct with training for all councillors.</p>	<p>Training Plan to be agreed before new code adopted Guidance sent to all councillors on changes introduced by the new code before adoption. All Wiltshire councillors <i>(a target for T,P&amp;C councillors is mentioned on Pg 3)</i> to be trained in the new code ? months after adoption by the Council</p>	N		<p><i>New code due after the General Election</i></p>
	<p>Explore the use of mediation and informal resolution of complaints.</p>	<p>By 31 Jul 10</p>			

<p><b>Promote the ethical well-being of Wiltshire Council by embedding standards further within the Council</b></p>	<p>Support the Council in moving to a single culture by promoting the values articulated in “What will we be like?”</p> <p>Increase the Committee’s visibility by attendance at meetings of Council, Cabinet, Committees and Area Boards.</p> <p>Arrange regular meetings between the Chairman of the Standards Committee, Leader and Chief Executive to maintain contact and exchange areas of development and opportunities.</p> <p>Work collaboratively with Cabinet, Overview and Scrutiny Select Committees and the Audit Committee in improving the Council’s governance arrangements; develop working protocol for inclusion in the Constitution.</p> <p>Undertake review of the effectiveness of the Constitution as requested by Council.</p> <p>Oversight of the Council’s complaints handling to ensure that complaints are dealt with efficiently and lead to improvements in services to the public.</p> <p>Provide training on the Code of Conduct; monitor take-up and effectiveness of training.</p>	<p>To be developed in consultation with Cllr Laura Mayes, Wiltshire Council’s Portfolio holder for Culture Change</p> <p>Chair or Vice Chair to attend Council Meetings (6 per year) Chair or Vice Chair to attend 50% of Cabinet Meetings Standards Committee representation at all Area Boards at least once a year Standards Committee briefing to all Area Boards by October 2011</p> <p>Quarterly.</p> <p>Protocol to be completed for inclusion in Constitution in May 2010.</p> <p>Complete by 31 July 10. Review annually</p> <p>Submit an annual statistical return</p> <p>Code of Conduct to be included in the induction process of Officers and Councillors Provide E Training Package by ? ?% of Wiltshire Councillors undertaken training on code ?% reduction in complaints against Wiltshire Councillors</p>	<p>Y (C’llrs) N (Offrs)?</p>	<p style="text-align: center;"><b>(1) (2)</b></p> <p><i>Portfolio lead for culture change (Laura Mayes) to be invited to meeting in May 2010. Link in with Council’s action plan for culture change</i></p> <p><i>Other Standards Committee Members encouraged to attend, especially where business is directly relevant to standards committee</i></p> <p><i>Met on 17 Dec 09. Next meeting to be fixed with new Chief Executive Feb / Mar 10</i></p> <p><i>Joint seminar on Comprehensive Area Assessment arranged on 17 Feb 10</i></p> <p><i>Dependent on the development of a complaints tracking system</i></p> <p><i>With HR advice, explore viability of Code of Conduct awareness being linked to appraisal reports</i></p>
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<p><b>Work with Parish, Town and City Councils to support them in their application of the local standards framework</b></p>	<p>Develop training package for Town, Parish and City(T,P&amp;C) Councils in conjunction with WALC; finalise and implement programme for delivery of training; monitor the take-up and effectiveness of training.</p> <p>Communicate regularly with Town, Parish and City Councils on standards issues e.g. through Parish newsletter.</p> <p>Standards Committee visible presence at meetings of T,P&amp;C Councils.</p> <p>Promote excellence in wider aspects of governance through membership of WALC.</p>	<p>Agree content / schedule by 31 Jul 10? Begin implementation by 31 Jul 10? Monitor effectiveness from 1 Nov 10?</p> <p>? % of T,P&amp;C councils trained by 1 Apr 2011 ? % reduction in complaints against T,P&amp;C councillors</p> <p>Articles in Parish newsletters as required Provide annual digest of code of conduct cases</p> <p>Standards Committee briefing to all Area Boards by October 2011</p> <p>Standards Committee representation at all Area Boards at least once a year.</p> <p>Aim for 90% WALC membership by 31 Sept10 and 95% WALC membership by 31 Sep 11?</p>			<p><b>(2) (3)</b></p> <p><i>Need advice from WALC how this is monitored. Perhaps a simple feedback form is needed for completion by T,P&amp;C Council Clerks after the training?</i></p> <p><i>Briefing package to be developed by a SC Task &amp; Finish Group by 31 Jul 2010</i></p> <p><i>May target some Parish Councils where a visit would be beneficial</i></p>
<p><b>Inform and engage the public on standards in local government</b></p>	<p>Provide articles related to the Code of Conduct in Wiltshire Council internal and external communications.</p> <p>Attend public meetings and events</p> <p>Produce leaflet on making a complaint and the local assessment process for distribution throughout Wiltshire.</p> <p>Review the Wiltshire Council web-site to ensure easy access.</p>	<p>Set % positive response target to People's Voice survey?</p> <p>Standards Committee representation at Area Boards.</p> <p>28 February 2010</p> <p>NYK</p>			<p><b>(2) (3)</b></p> <p><i>Aim for relevant input into the June 2010 edition</i></p> <p><i>Review events annually</i></p> <p><i>Timescale to be agreed with Web-site team</i></p>

<b>Promote standards in partnerships</b>	Review partnership governance arrangements; incorporate agreed values and standards of behaviour in partnership documentation	To be developed			<b>(1) (3)</b> <i>Needs to be done jointly with affiliated partners</i>
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**Chair's summary of identified key trends.**

1.

2.

3.

## WILTSHIRE COUNTY COUNCIL

### STANDARDS COMMITTEE

10 MARCH 2010

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### VENUES FOR STANDARDS COMMITTEE HEARINGS

#### Purpose of Report

1. To review the current arrangements regarding venues for Standards Committee hearings.

#### Background

2. Since Wiltshire Council became a unitary authority in 2009 its Standards Committee has assumed the statutory responsibility for the local determination of complaints brought under the Code of Conduct for members not only for elected members of the unitary authority, but also for members of town and parish councils in the authority's area.
3. This new responsibility has resulted in complaints being brought about members of towns and parishes across the area. The current arrangements are for Standards Committee hearings to determine these complaints to take place in County Hall. The Chair of the Standards Committee has asked for officers to review these arrangements and to report to the Committee.

#### Main considerations for the Committee

4. The underlying purpose of the legislation relating to the introduction and implementation of a statutory Code of Conduct for elected councillors is to promote public confidence in local democracy. One of Wiltshire Council's primary aims is to deliver transparent and accountable services with a focus on local communities. Both of these considerations tend towards the conclusion that it would support the legislative intent of the Code of Conduct and the strategic aims of Wiltshire Councils to conduct Standards Committee hearings relatively close to the community the councillor in question has been elected to represent.
5. Conducting hearings locally will enable local residents to attend hearings relatively easily, should they choose to do so, thus providing them with the opportunity to see that determinations are conducted openly and fairly. It will give the public an increased opportunity to engage with the process, thus reinforcing public confidence in the process and raising the public profile of the Standards Committee's role.
6. Consultation with town and parish council representatives on the role and functions of the Standards Committee was conducted by Wiltshire County Council as part of the transition preparations for a unitary authority for Wiltshire. There was strong support from the town and parish representatives who part in the consultation for local hearings. One of the aspects of the former district councils that they valued was their relative proximity to the towns and parishes for which their Standards Committees had responsibility in relation to the Code.

7. For these reasons, it seems desirable to consider conducting determination hearings that arise from complaints about town and parish councillors closer to their councils' location than the current arrangements allow.
8. One alternative would be to arrange for hearings to take place in local parish halls or other similar venues. However, the premises may not necessarily be suitable for hearings, might not be available in a timeframe that would enable a hearing to take place within the statutory timescales, and there is very likely to be a rental cost involved. There is no current budget provision for premises rental.
9. Wiltshire Council has retained and continues to use the buildings occupied by the former district councils, thus ensuring that there service delivery "hub" in each of the council's areas. The former district councils used their offices as venues for determination hearings, and this arrangement appears to have been satisfactory.
10. The use of the service hubs in Melksham, Salisbury, Devizes and Trowbridge as venues for determination hearings would balance the desirability of holding hearings locally to the subject member's town or parish with the need to ensure reliability and quality of venues and affordability. There would be no cost associated with the use of the hubs for determination hearings.
11. There may occasionally be exceptional circumstances (e.g. special needs of one of the key parties) when it would be necessary to consider hiring a more local venue, and this option is not therefore ruled out for such cases.
12. Wiltshire Council members are elected to represent the whole area. For that reason, it is likely that County Hall will still be the most appropriate venue for hearings when the subject member is a member of Wiltshire Council.

### **Proposals**

13. Subject to availability of "hub" venues within the statutory timescales, to conduct local determination hearings in the Wiltshire Council "hub" office most local to the town or parish to which the subject member has been elected.
14. To allow flexibility in these arrangements to accommodate exceptional circumstances, such as the special needs of the subject member or key witnesses.
15. For local determinations in cases where the subject member is a member of Wiltshire Council to continue to take place at County Hall.

### **Training and Communications Issues Arising**

16. There are no training or communications issues arising from the proposals made in this report that would require the formation of a task and finish group of the Standards Committee. Communication would take place as part of the normal administrative tasks involved in arranging a hearing. There are no training requirements.

## **Risks**

17. There are no risks associated with the proposals made in this report.

Ian Gibbons  
Monitoring Officer

Report Author: Nina Wilton – Head of Governance

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**The following unpublished documents have been relied on in the preparation of this Report: None**

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## WILTSHIRE COUNCIL

### STANDARDS COMMITTEE

10 MARCH 2010

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### TIMESCALES FOR LOCAL INVESTIGATION AND DETERMINATION

#### Purpose of Report

1. To advise the Committee about proposals to introduce target timescales for the completing the local investigation and determination of complaints brought under the Code of Conduct for Members.

#### Background

2. Prior to Wiltshire County Council becoming a unitary authority in April 2009 its Standards Committee did not receive any complaint about members of Wiltshire County Council that resulted in a local assessment, investigation, or determination.
3. From 1<sup>st</sup> April 2009 the new Wiltshire Council assumed responsibility from the former district councils of Wiltshire for the local assessment and determination of complaints relating to members of town and parish councils in the unitary authority's area. At the same time, the number of members of Wiltshire Council increased from 49 in Wiltshire County Council to 98 members in the new authority.
4. These new responsibilities brought with them a significant increase in the workload of the Standards Committee and of the newly established Governance Service, which was created in part to promote and support the work of the Standards Committee. In order to enable local investigations to be conducted in-house, two ethical governance officers were appointed, but they did not take up their posts until the late summer of 2009. These were new roles and the officers involved had no prior experience of investigations.
5. As the Standards Committee is aware from earlier reports, local assessments by the Committee from April 2009 resulted in the Monitoring Officer being required to conduct a significant number of investigations. A far higher proportion of complaints were referred for investigation than the national average.
6. This has inevitably resulted in investigations taking a relatively long time to complete. However, most of the cases referred for investigation in the early days of the new authority are now reaching final report/determination stage, and the Standards Committee has reviewed referrals following assessment. The number of cases being referred for investigation following that review has decreased.
7. The Governance Service officers have now developed, implemented and refined the administrative processes that underlie the progression of a complaint from receipt to completion, and the number of new referrals for investigation appears to have stabilised. It therefore seems appropriate at this stage to consider setting targets for the completion of investigations and determination hearings.

## **Main considerations for the Committee**

8. There are no statutory timescales for the completion of an investigation. However, Standards for England has issued guidance (page 11 of their Conducting Investigations guidance) which states that: “The Standards Board would recommend that most investigations are carried out, and a report on the investigation completed, within six months of the original complaint being assessed.”
9. At present the investigations are taking longer than this on average, but that is largely attributable to the unavoidable delays in appointing to the Governance Service, “teething problems” as newly-appointed officers developed and became familiar with processes, and with the high workload generated by assessments. It is now realistic to set a 6 month target from referral for investigation to final report stage, based on Standards for England’s guidance.
10. The Standards Committee (England) Regulations 2008 provide that a standards committee must ensure that a determination hearing is held within 3 months from the date on which the monitoring officer’s investigation report is completed, or as soon as reasonably practicable thereafter [regulation 18(1)(b) and (d)]. The Council’s Procedure for Determination of Referred Complaints by the Standards Committee, (copy attached at Appendix 1 for ease of reference) provides for a time limit of 3 months.
11. While this might seem generous at first glance, it is necessary to take into account the number of steps which have to be completed within this part of the process, the timescales for which are set either by statute or statutory guidance from Standards for England.
12. Appendix 2 contains a flow-chart showing the key stages in the local assessment and determination process together with the relevant timescale for each stage. In straightforward cases it may be possible to shorten these times with the agreement of the parties. Delays may, however, arise as a result of various factors, including challenges over process, illness or lack of co-operation of the subject member or problems regarding availability of the parties, witnesses or sub-committee members.
13. On this basis the time-scale of 3 months from the Monitoring Officer’s final report to a determination seems realistic.

## **Proposals**

14. That the Standards Committee requires the Monitoring Officer to set a target time of 6 months from the Assessment Committee’s referral of a complaint for investigation to the completion of the investigation and issuing of a final report.
15. That the Standards Committee requires the Monitoring Officer to set a target time of 3 months from the issuing of his final report to the conclusion of a Determination Sub-Committee hearing.
16. That the Monitoring Officer brings reports to each Standards Committee setting out the progress of each case (in anonymised form using the alpha-numeric identifiers already in use by the Governance Service to identify cases) against these two targets, using a “traffic light” system. Cases that are on target will be shown as green, those about which the Monitoring Officer has concerns will be shown as

amber, and those that have exceeded the target will be shown as red. Red and amber cases should be accompanied with a brief explanation of their amber or red status.

17. That the report should show, where applicable, the alpha-numeric identifier for each complaint, the date it was received by the Monitoring Officer, the date it was considered by the Assessment Sub-Committee, the date it was referred for investigation (which will usually be the same date unless the Sub-Committee adjourned for further information), the date the final report was issued, the date of the Consideration Sub-Committee meeting, and the date of the Determination Sub-Committee hearing.

### **Training and Communications Issues Arising**

18. There are no training or communications issues arising from the proposals made in this report that would require the formation of a task and finish group of the Standards Committee.

### **Risks**

19. There are no risks associated with the proposals made in this report

### **Financial Implications**

20. None arising from this report

### **Legal Implications**

21. The Standards Committee is required to work within the framework and timescales prescribed by statute and guidance.

**Ian Gibbons**  
**Monitoring Officer**

Report Author: Nina Wilton – Head of Governance

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**The following unpublished documents have been relied on in the preparation of this Report:** None

Appendices

Appendix 1 - The Council's Procedure for Determination of Referred Complaints by the Standards Committee

Appendix 2 – Flow Chart

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**REVISED PROCEDURE**

**PROCEDURE FOR DETERMINATION OF REFERRED COMPLAINTS  
BY THE STANDARDS COMMITTEE**

**Introduction**

Under the provisions of the Local Government Act 2000, as amended by the Local Government and Public Involvement in Health Act 2007, standards committees may require monitoring officers to conduct investigations into allegations that a member of a relevant council has failed to comply with the code of conduct. The Standards Committee (England) Regulations 2008 (the Regulations) provide a framework for the operation of a locally based system for the assessment, referral, investigation and hearing of complaints of member misconduct. The purpose of this procedure is to set out in detail how the findings of investigations will be heard by the Standards Committee.

**1 Interpretation**

1.1 'Member' means the elected or co-opted member of the council or an elected or co-opted member of a town or parish council within the council's area who is the subject of the allegation being considered by the Standards Committee, unless stated otherwise. It also includes the member's nominated representative.

1.2 'Investigator' means the person appointed by the monitoring officer to undertake an investigation of an allegation of misconduct. This may include the monitoring officer, and his or her nominated representative.

1.3 'Committee' means a sub-committee of the Standards Committee appointed to discharge the functions of the Standards Committee in relation to the consideration of reports referred by the monitoring officer (Paragraph 17 of the Regulations) and to the hearing of complaints against members (Paragraphs 18 to 20 of the Regulations).

1.4 'Legal Adviser' means the officer responsible for providing legal advice to the Standards Committee. This will usually be the monitoring officer, unless he/she has a conflict of interest in which case another legally qualified officer of the Council, or someone appointed for this purpose from outside the Council, who is also legally qualified.

1.5 'Chairman' means the member appointed as chairman of the committee, who shall be an independent member as defined in the Regulations.

1.6 'Clerk' means the clerk to the Standards Committee

**Right to Representation**

The member may be represented or accompanied during the meeting by a solicitor, by counsel, or (with the permission of the Committee) by any other person. It should be noted that the costs of such representation must be met by the Member.

### **3 Legal Advice**

The Committee may take legal advice from its Legal Adviser at any time during the hearing or while it is considering the outcome. The substance of any legal advice given to the Committee should be shared with the member and the investigator if they are present at the hearing.

### **4 Timescale**

A hearing must be held within three months of receipt of the investigator's report by the monitoring officer. However, all hearings will be arranged in the shortest timescale possible and no later than three months. The hearing should not be held until at least fourteen days after the date on which the monitoring officer sent the report to the member, unless the member concerned agrees to the hearing being held earlier.

### **5 Consideration of reports by the Standards Committee**

Where the monitoring officer refers a report to the Standards Committee the committee shall convene to consider that report and make one of the following findings—

- (a) that it accepts the investigating officer's finding of no failure ("a finding of acceptance"); or
- (b) that the matter should be considered at a hearing of the Standards Committee conducted under paragraph 18 of the Regulations; or
- (c) that the matter should be referred to the Adjudication Panel for England for determination.

The committee may only make a finding under sub-paragraph 5 (c) if—

- (a) it has determined that the action it could take against the member would be insufficient were a finding of failure to be made; and
- (b) the president or deputy president of the adjudication panel has agreed to accept the referral.

### **6 Pre-Hearing**

6.1 The following pre-hearing process to deal with procedural matters will normally be carried out in writing, although exceptionally, a face-to-face meeting between the chairman, the member, the legal adviser and the investigator and their representatives may be necessary.

6.2 As soon as reasonably practicable, and in any event within three working days after receiving a copy of the investigator's report from the Investigator, the monitoring officer shall send a copy of the investigator's report to the member, by special delivery or by hand. The member shall be requested to acknowledge receipt of the report immediately by telephone or e-mail. A copy will also be sent to the complainant.

6.3 The ethical governance officer, in consultation with the chairman, will write to the member, enclosing a copy of this procedure, to propose a date for the hearing and to explain the member's rights. They will ask for a written response from the member, within 10 working days, to find out whether or not he or she:

- disagrees with any of the findings of fact in the investigator's report, and if so, which ones and the reasons for any disagreements;
- wants to be represented at the hearing by a solicitor, barrister or any other person (the latter will require the express permission of the committee which is not to be unreasonably withheld);

- wants to give evidence to the committee, either orally or in writing;
- wants to call relevant witnesses to give evidence or submit written evidence on any disagreements as to the findings of fact or mitigation to the committee;
- wants any part of the hearing to be held in private;
- wants any part of the investigator's report or other relevant documents to be withheld from the public; and the reason why
- can come to the hearing.

NOTE: The member is encouraged to use the forms attached to this part of the procedure to identify any findings of fact that he or she disagrees with (Form A) and outline any further evidence that he or she believes the Committee should consider (Form B).

The member is encouraged to give advance consideration to any representations to be taken into account if he or she is found to have failed to follow the code of conduct (Form C).

The member will be asked to give information about his or her requirements for representation and witness attendance at the hearing (Forms D and E).

NOTE: The complainant will be notified of the proposed date, location of the hearing and procedure at the same time as the member.

6.4 The ethical governance officer will ask the investigator to comment on the member's response, within 10 working days from the date of receipt, to say whether or not he or she:

- wants to be represented at any hearing (and if so to indicate their availability to attend);
- wants to call relevant witnesses to give evidence to the Committee;
- wants any part of the hearing to be held in private; and
- wants any part of the Investigator's Report or other relevant documents to be withheld from the public.

6.5 For the avoidance of doubt, should the member and/or the Investigator fail to respond within the time set for a response they will, for the purpose of this procedure, be deemed to have no objection to the findings of fact or the member's response as the case may be.

The committee will meet within 10 working days to consider any responses from the member concerned and the investigator, and to decide whether any other witnesses should be present who it feels may help in determining the case, including the person who made the original allegation. However, no witnesses can be ordered to appear or give evidence. The committee should resolve any issues raised during the pre-hearing process about how the hearing should be conducted.

NOTE: The ethical governance officer will produce a pre-hearing process summary to include information listed in Form F and will include this with the letter to everyone involved.

6.6 When the committee has considered any responses as set out above, the ethical governance officer, in consultation with the legal adviser, will write to everyone involved within five working days of the pre-hearing and at least 10 working days before the hearing, to:

- confirm the date, time and place for the hearing
- summarise the allegation;
- outline the main facts of the case that are agreed;
- outline the main facts which are not agreed;
- state whether the member or the Investigator will attend or be represented at the hearing;
- list those witnesses, if any, who will be asked to give evidence; and
- outline the proposed procedure for the hearing

## **7 Procedure for the Hearing – Setting the Scene**

7.1 After the members of the committee and everyone involved have been formally introduced, the chairman will explain how the committee is going to run the hearing.

7.2 The chairman shall ask members of the committee to disclose the existence and nature of any personal or prejudicial interests which they have in the matter, and to withdraw from consideration of the matter if so required.

7.3 The committee may exclude the press and public from its consideration of this matter, where it appears likely that confidential or exempt information will be disclosed.

The chairman shall ask the member, the investigator and the legal adviser whether they wish to ask the committee to exclude the press or public from all or any part of the hearing. If any of them so request, the chairman shall ask them to put forward reasons for so doing and ask for responses from the other parties present and the committee shall then determine whether to exclude the press and public from all or any part of the hearing.

Where the committee does not resolve to exclude the press and public, the agenda and any documents which have been withheld in advance of the meeting shall then be made available to the press and public.

## **8. Absence of the member**

If the member is not present at the time and place fixed for the hearing and the committee is satisfied that s/he has been given notice of the hearing, the committee may, unless it is satisfied that there is sufficient reason for the member's absence, consider the allegation and make a determination in the absence of the member concerned or adjourn the hearing to another date.

## **9. Making findings of fact**

9.1 After dealing with any preliminary issues, the committee will move on to consider whether or not there are any significant disagreements about the facts contained in the Investigator's report or other pre hearing papers circulated with the agenda.

9.2 If there is no disagreement about the facts, the committee will move on to the next stage of the hearing set out at section 10 below.

9.3 If there is a disagreement, the investigator, if present, will be invited to make any representations to support the relevant findings of fact in the report. With the committee's permission, the Investigator may call any necessary supporting witnesses to give evidence. The committee will give the member an opportunity to challenge any evidence put forward by any witness called by the Investigator.



9.4 The member will have the opportunity to make representations to support his or her version of the facts and, with the committee's permission, to call any necessary witnesses to give evidence.

9.5 The committee may at any time question any of the people involved or any of the witnesses, and will allow the Investigator to challenge any evidence put forward by witnesses called by the member.

9.6 If the member disagrees with any relevant fact in the investigator's report, without having given prior notice of the disagreement, he or she must give good reasons for not mentioning it before the hearing. After considering the member's explanation for not raising the issue at an earlier stage, the committee may, if the Investigator is present:

- continue with the hearing, relying on the information in the Investigator's Report;
- allow the member to make representations about the issue, and invite the Investigator to respond and call any witnesses, as necessary; or
- adjourn the hearing to arrange for appropriate witnesses to be present.

Should the circumstances mentioned in paragraph 9.6 arise, and the Investigator is not present, the committee will consider whether or not it will be in the public interest to continue in his or her absence. If the committee decides that it is not in the public interest to continue, it shall adjourn the hearing to allow the Investigator to attend or to make further representations.

9.7 The committee may at any stage prior to the conclusion of the hearing adjourn the hearing and require the Investigator to seek further information or undertake further investigation on any point specified by the committee. No more than one adjournment may be allowed on this basis.

9.8 The committee may at any stage prior to the conclusion of the hearing adjourn the hearing and make a written request to the ethical standards officer of the Standards Board that the matter is referred to the ethical standards officer for further investigation. The committee must set out its reasons for making the request. Only one such request may be made by the committee.

9.9 The committee will usually move to another room to consider the representations and evidence in private. The clerk shall accompany the committee.

9.10 On their return, the chairman will announce the committee's findings of fact.

## **10 Did the member fail to comply with the 'Code of Conduct'?**

10.1 The committee will determine whether or not, based on the facts either as agreed at section 9.2 above or based on its findings following sections 9.3 to 9.10, the member has failed to comply with the 'Code of Conduct' (Code).

10.2 The committee will consider any oral or written representations from the member as to why the committee should decide that he or she has not failed to comply with the Code of Conduct.

10.3 The committee will consider any oral or written representations from the Investigator as to why the committee should decide that the member has failed to comply with the Code of Conduct.

10.4 The committee may, at any time, question anyone involved on any point they raise in their representations.

10.5 The member will, if present, be invited to make any final relevant points.

10.6 The committee will move to another room to consider the representations. The clerk shall accompany the committee.

10.7 The committee may make one of the following findings:-

- the member has not failed to comply with the council or other relevant authority's Code of Conduct; or
- the member has failed to comply with the council or other relevant authority's code of conduct.

10.8 On their return, the chairman will announce the committee's decision as to whether or not the member has failed to comply with the Code of Conduct.

### **11 If the member has not failed to comply with the Code of Conduct**

11.1 If the Committee decides that the member has not failed to comply with the Code of Conduct, in the manner set out in the investigator's report, the committee will consider, having regard to any oral or written representations from the Investigator, whether it should make any recommendations to the Council or other relevant authority with a view to promoting high standards of conduct among members.

11.2 If the committee considers, from the evidence which they have received during the hearing, that a member has failed to comply with the Code of Conduct for reasons other than those covered by the complaint ) the chairman will outline the committee's concerns whilst recognising that there can be no further action without a written complaint.

11.3 Finally, the chairman will ask the member whether he/she wishes the council not to publish a statement of its findings in accordance with the Regulations.

### **12. If the member has failed to comply with the Code of Conduct**

12.1 If the committee decides that the member has failed to comply with the Code of Conduct, it will consider any oral or written representations from the Investigator and the member as to:

- whether or not the committee should impose a sanction; and
- what form any sanction should take.

12.2 The committee may question the Investigator and member, and take legal advice, to make sure they have the information they need in order to make an informed decision.

12.3 The committee will then move to another room to consider whether or not to impose a sanction on the member and, if so, what the sanction should be. The clerk shall accompany the committee.

12.4. In accordance with paragraph 19 of the regulations the committee may impose any one of, or any combination of the following sanctions:-

(a) censure of the member;

(b) restriction for a period not exceeding six months of the member's access to the premises of the Council or authority concerned or the member's use of its resources, provided that those restrictions—

(i) are reasonable and proportionate to the nature of the breach; and

- (ii) do not unduly restrict the member's ability to perform the functions of a member;
- (c) partial suspension of the member for a period not exceeding six months;
- (d) suspension of the member for a period not exceeding six months;
- (e) that the member submits a written apology in a form specified by the committee;
- (f) that the member undertakes such training as the committee specifies;
- (g) that the member participates in such conciliation as the committee specifies;
- (h) partial suspension of the member for a period not exceeding six months or until such time as the member has submitted a written apology in a form specified by the committee;
- (i) partial suspension of the member for a period not exceeding six months or until such time as the member has undertaken such training or has participated in such conciliation as the committee specifies;

12.5 On their return, the chairman will announce the committee's decision

12.6 Any sanction imposed by the committee (other than censure) shall commence immediately unless the committee directs that it shall commence on any date specified within six months of the date of the hearing.

12.7 If, at any time before the committee has determined upon any appropriate sanction, the committee considers that the nature of the failure to comply with the Code of Conduct is such that the appropriate sanction would exceed the powers of the Standards Committee, the committee may request that the matter is referred to the adjudication panel for determination.

### **13. The written decision**

13.1 The committee will announce and provide a short written note of its decision on the day of the hearing. It will issue a full written decision as soon as reasonably practicable after the hearing.

13.2 After the hearing, the ethical governance officer will prepare a written notice of the committee's determination and shall arrange for the distribution and publication of the notice in accordance with the requirements of paragraph 20 of the regulations.

### **14. Appeals**

14.1 The member will be advised of their right to appeal in accordance with paragraph 21 of the regulations.

**FORM A** Please enter the number of any paragraph where you disagree with the findings of fact in the investigator's report and give your reasons and your suggested alternative.

Member's response to the evidence set out in the investigator's report

Paragraph number from the investigator's report	Reasons for disagreeing with the findings of fact provided in that paragraph	Suggestion as to how the paragraph should read

Please attach separate sheets if necessary.

**FORM B**

Please set out below, using the numbered paragraphs any other evidence you feel is relevant to the allegation made about you.

Other evidence relevant to the allegation

Paragraph number	Details of the evidence

Please attach separate sheets if necessary.

**FORM C** Please set out below using the numbered paragraphs, any factors that the Standards Committee should take into account if it finds that a member has failed to follow the Code of Conduct.

Representations to be taken into account if a member is found to have failed to comply with the Code of Conduct.

Please note that no such finding has yet been made.

Paragraph number	Factors for the Standards Committee to take into account when deciding whether or not to order any censure, restriction of resources or allowances, suspension or partial suspension

Please attach separate sheets if necessary.

**FORM D**

Arrangements for the Standards Committee hearing

\*Please delete as appropriate

<p><b>1</b> The proposed date for the Standards Committee hearing is given in the accompanying letter. Are you planning to attend the hearing?</p> <p>If 'No', please explain why.</p>	<p>*YES/NO</p>	<p>Reason:</p> <p>.....</p> <p>.....</p> <p>.....</p>
<p><b>2</b> Are you going to present your own case?</p>	<p>*YES/NO</p>	<p>Reason:</p> <p>.....</p> <p>.....</p> <p>.....</p>
<p><b>3</b> If you are not presenting your own case, will a representative present it for you?</p> <p>If 'Yes', please state the name of your representative</p>	<p>*YES/NO</p>	<p>Name:</p> <p>.....</p> <p>.....</p> <p>.....</p>
<p><b>4</b> Is your representative a practising solicitor or barrister?</p> <p>If 'Yes', please give his or her legal qualifications then go to Question 6</p> <p>If 'No', please go to question 5.</p>	<p>*YES/NO</p>	<p>Qualifications:</p> <p>.....</p> <p>.....</p> <p>.....</p>
<p><b>5</b> Does your representative have any connection with the case?</p> <p>If 'Yes', please give details</p>	<p>*YES/NO</p>	<p>Details:</p> <p>.....</p> <p>.....</p> <p>.....</p>

<p><b>6</b> Are you going to call any witnesses?</p> <p>If 'Yes', please fill in Form E</p>	<p>*YES/NO</p>	
<p><b>7</b> Do you, your representative or your witness have any access difficulties (for example, is wheelchair access needed)?</p> <p>If 'Yes', please give details</p>	<p>*YES/NO</p>	<p>Details:</p> <p>.....</p> <p>.....</p> <p>.....</p>
<p><b>8</b> Do you, your representative or witness have any special needs (for example, is an interpreter needed)?</p> <p>If 'Yes', please give details</p>	<p>*YES/NO</p>	<p>Details:</p> <p>.....</p> <p>.....</p> <p>.....</p>
<p><b>9</b> Do you want any part of the hearing held in private?</p> <p>If 'Yes', please give reasons.</p>	<p>*YES/NO</p>	<p>Reasons:</p> <p>.....</p> <p>.....</p> <p>.....</p>
<p><b>10</b> Do you want any part of the relevant documents to be withheld from public inspection?</p> <p>If 'Yes', please give reasons.</p>	<p>*YES/NO</p>	<p>Reasons:</p> <p>.....</p> <p>.....</p> <p>.....</p>

Please attach separate sheets if necessary.



**FORM E**

Details of proposed witnesses to be called.

Name of witness or witnesses	1  2  3	..... ..... .....
<p>WITNESS 1</p> <p>A Will the witness give evidence about the allegation?</p> <p>If 'Yes', please provide an outline of the evidence the witness will give</p> <p>B Will the witness give evidence about what action the Standards Committee should take if it finds that the Code of Conduct has not been followed?</p> <p>If 'Yes', please provide an outline of the evidence the witness will give</p>	<p>*Yes/No</p> <p>*Yes/No</p>	<p>Outline of evidence:</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>Outline of evidence:</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p>

## FORM F

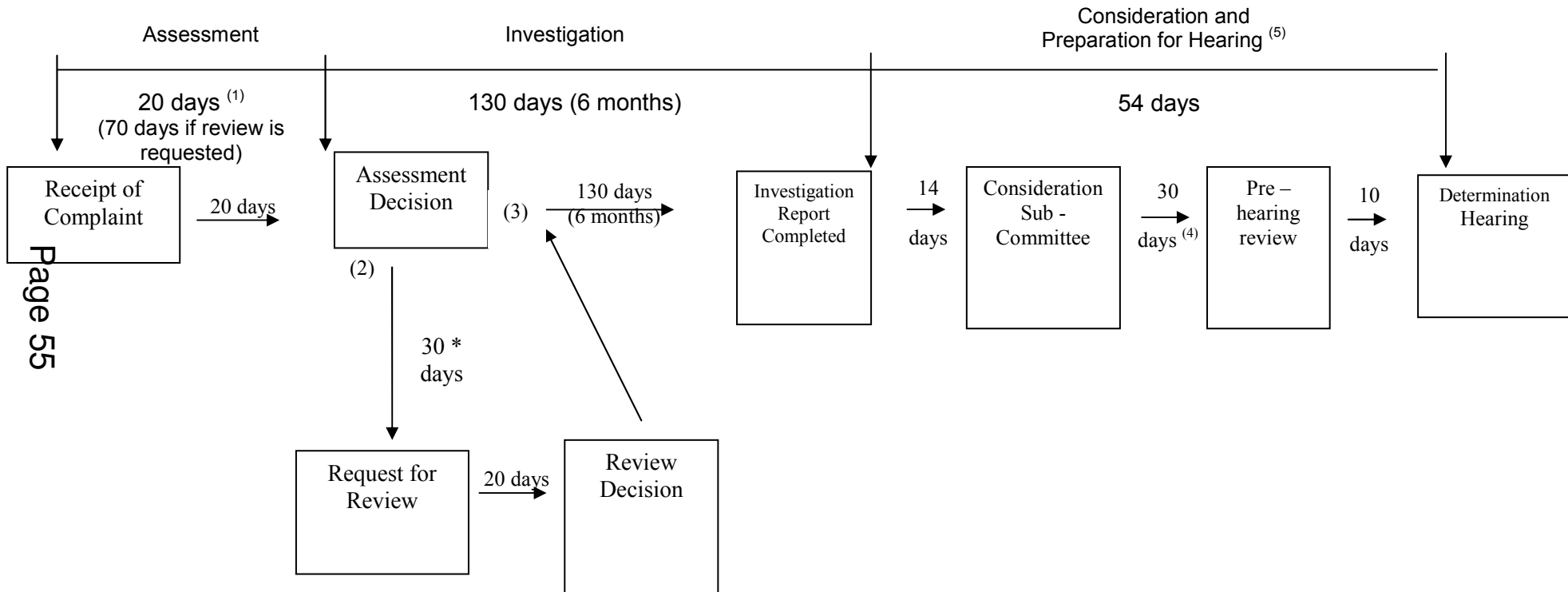
### Checklist for the pre-hearing process summary

After the Standards Committee has received responses from the member about whom the allegation has been made and from the ethical standards officer, it should prepare a summary of the main aspects of the case that will be heard.

The pre-hearing process summary should include:-

- the name of the authority;
- the name of the member about whom the allegation has been made;
- the name of the person who made the original allegation (unless there are good reasons to keep his or her identity confidential);
- case reference numbers of the Authority and the Standards Board for England;
- the name of the Standards Committee member who will chair the hearing;
- the name of the monitoring officer;
- the name of the ethical standards officer who referred the matter;
- the name of the clerk of the hearing or other administrative officer;
- the date the pre-hearing process summary was produced;
- the date, time and place of the hearing;
- a summary of the allegation;
- the relevant section or sections of the Code of Conduct;
- the findings of fact in the ethical standards officer's report that are agreed;
- the findings of fact in the ethical standards officer's report that are not agreed;
- whether or not the member or the ethical standards officer will attend or be represented;
- the names of any witnesses who will be asked to give evidence; and
- an outline of the proposed procedure for the hearing.

Timescales for Assessment, Review, Consideration  
And Determination of Complaints under the  
Code of Conduct for Members



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Notes

- (1) 'Days' means working days except where otherwise indicated (\*)
- (2) Assessment Sub-Committee decides to take no action on complaint
- (3) Assessment Sub-Committee or Review Sub committee decides to refer complaint for investigation
- (4) Pre-hearing process – see paragraph 6 of Wiltshire Council's Procedure for Determination of Referred Complaints by the Standards Committee.
- (5) Governed by the Standards Committee (England) Regulations 2008 and Wiltshire Council's Procedures for Determination of Referred Complaints by the Standards Committee

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## DRAFT

### WILTSHIRE COUNTY COUNCIL

#### STANDARDS COMMITTEE

#### ANNUAL REPORT – 2009/10

#### Introduction by Isabel McCord – Independent Chairman

I am very pleased to present the Annual Report of the Standards Committee for the period 2009/10. The report explains what the Committee does, what it has been doing over the last year and also outlines our future work programme.

It has been an extremely busy time for the Standards Committee and I would therefore like to take this opportunity to thank all my colleagues on the Standards Committee for their hard work, support and commitment over the last year. I would also like to thank officers for the support they have given me and the Committee.

As in previous years, this report is being published on the Council's website rather than producing multiple hard copies.

#### Membership

In accordance with the Standards Committee (England) Regulations 2008 the Committee assumed the responsibility from Standards Board for England (now called Standards for England) for the determination of complaints against elected and co-opted members of Wiltshire County Council for alleged breaches of the Code of Conduct for Members (the Code). This is often referred to as the Local Assessment Framework.

The 1 April 2009, saw the amalgamation of the four Wiltshire district councils, namely Kennet, North Wiltshire, Salisbury, West Wiltshire and Wiltshire County Council to create one Council for Wiltshire, Wiltshire Council. Consequently, the Standards Committee took over the responsibility for determining similar complaints against town and parish councillors of the 255 town and parish councils within the whole of the new Wiltshire Council area.

Such complaints are considered and determined at each stage by a sub-committee comprising 3 members of the Standards Committee with no member serving on more than one sub-committee for any one allegation or set of allegations

In recognition of the Committee's added responsibility and increased workload which include the determination of each stage of the local assessment process with a separate sub-committee, membership of the Standards Committee was increased from 9 to 22 members as follows:

### Independent Co-opted Members (8)

Mrs Jane Bayley, Mr Michael Cronin, Mr Philip Gill MBE JP, Mrs Isabel McCord (Chairman), Mr Ian McGill CBE, Mr Stuart Middleton, Mr Gerry Robson OBE (Vice-Chairman) and Mr Keith Shipman

### Wiltshire Council Members (6)

Cllr Nigel Carter, Cllr Ernie Clark, Cllr Peter Fuller, Cllr Malcolm Hewson, Cllr Julian Johnson and Cllr Ian McLennan

### Town/Parish Council Co-opted Members (8)

Mr Bill Bailey, Mr Craig McCallum, Mr Paul Neale, Mr Robert Oglesby JP, Mr John Scragg, Miss Pam Turner, Mr Keith Wallace and His Hon David MacLaren Webster QC

Keith Shipman retired at the end of March 2010 having served for four years and having chaired the Committee during 2008/09. The Committee is grateful for his services and the valuable contribution he has made to the work of the Committee particularly during the transition to One Council and the impact this has had on the Committee as outlined above.

The Committee will be reviewing its size and composition with the aim of ensuring we have the optimum number of members to deliver its objectives and carry out its responsibilities.

### Officer Support

The Committee is supported by the following officers of the Council:

Ian Gibbons	- Solicitor and Monitoring Officer (Service Director for Legal and Democratic Services)
Nina Wilton	- Head of Governance and the Governance Team
Yamina Rhouati	- Democratic Governance Manager and the Democratic Services team.

### What Does the Standards Committee Do?

Under the Local Government Act 2000 all Councils are required to have a Standards Committee. Standards Committees have a proactive role in creating an ethical framework which governs the relationship between high standards of conduct and transparency and openness in decision making. The Standards Committee's other main role is to assess complaints against elected members and co-opted members of Wiltshire Council and town and parish councils within the Council's jurisdiction into alleged breaches of the Code.

In accordance with the Constitution of the Council, this Council's Standards Committee carries out the following functions:

- promotes and maintains high standards of conduct by elected members, co-opted members and church and parent governor representatives and officers
- assists elected and co-opted members and church and parent governor representatives to observe the members' code of conduct
- advises the council on the adoption or revision of the members' code of conduct
- monitors and advises the council about the operation of its code of conduct in the light of best practice, changes in the law, guidance from the Standards for England and recommendations of case tribunals under section 80 of the Local Government Act 2000
- advises on training or arranges to train elected and co-opted members and church and parent governor representatives on matters relating to the members' code of conduct and ensures that all members of the council have access to training in all aspects of the code of conduct, that this training is actively promoted, and that members are aware of the standards expected from local councillors under the code
- grants dispensations to elected and co-opted members and church and parent governor representatives from requirements relating to interests set out in the members' code of conduct
- deals with all matters relating to the dealing of complaints into alleged breaches of the Code of Conduct for elected and co-opted members of Wiltshire Council and the town and parish councils within the Council's jurisdiction.
- promotes and oversees high standards of ethical governance throughout the Council
- overviews the whistle blowing policy
- overviews corporate complaints handling and Ombudsman investigations
- reviews the implementation of recommendations made by the Ombudsman
- has oversight of the Constitution
- considers and determines applications for exemption to the requirements in relation to politically restricted posts.

### Sub-Committees

Due to the Committee's varied responsibilities, the Committee has appointed the under mentioned sub-committees to carry out the following functions on its behalf:

#### Assessment Sub Committee

Assess complaints into alleged breaches of the Code of Conduct against elected members and co-opted members.

### Review Sub-Committee

Reviews decisions of the Assessment Sub-Committee if requested to do so by the complainant.

### Consideration Sub-Committee

Following referral of a case for investigation, considers the Monitoring Officer's final investigation report and determines whether the alleged breach if proven justifies the holding of a full hearing into the complaint.

### Hearing Sub-Committee

Conducts hearings in respect of alleged breaches of the Code of Conduct.

### Dispensation Sub-Committee

Considers and determines requests from elected members for dispensations under the relevant Regulations from having to declare an interest where this affects 50% or more of the membership of a particular meeting.

### \*Communications Sub-Committee

Publicises, promotes and raises awareness of the work of the Standards Committee and is proactive in promoting good behaviour by members of Wiltshire Council and town and parish councils within the Council's jurisdiction.

### \*Training Sub-Committee

Co-ordinates and oversees the training function of the Standards Committee to encompass the Committee's wider remit to promote high standards of conduct, including arrangements for training officers on the Officers' Code of Conduct.

\*having achieved their main objectives, these Sub-Committees have now been disbanded and replaced by a Task and Finish Group to progress specific areas of work.

### What have We Done this year?

As a Committee, we met 5 times although there were several meetings of the above mentioned sub-committees. Below is a summary of the key outcomes of the Standards Committee's deliberations over the past year.

#### **The Annual Audit and Inspection Letter**

The Letter was considered by the Committee to enable it to consider any ethical governance issues arising from the Letter, although it was noted that there were no significant issues.

#### **Communications Strategy**

The Committee endorsed a Communications Strategy developed by its Communication Sub-Committee.



### **Local Assessment Framework**

The Committee received regular updates on the number of complaints made under the local assessment framework. The Committee noted that the percentage of complaints going forward to investigation was higher than the national average and that this was also the case for other local authorities.

### **Determining applications for Dispensations**

In considering the implications of the Standards Committee (Further Provisions) (England) Regulations 2009, the Committee agreed a procedure and criteria for dealing with applications for dispensations and established a Sub-Committee to determine such applications.

### **Hearings into complaints**

The Committee considered the general outcomes of hearings with a view to considering the necessity or otherwise of adjusting its procedures in light of experience gained. This also served as a mechanism to share the experience with other members of the Committee.

### **Local Government Ombudsman**

The Committee was fortunate to receive a presentation from Jerry White, the Local Government Ombudsman and Vereena Jones, Assistant Ombudsman on the role of the Ombudsman and the relationship between the Ombudsman and the Council. The Ombudsman also presented his Annual Review of Wiltshire Council for the year ended March 2009 in which it was noted there had been a reduction in complaints made to the Ombudsman against the Council.

### **Department of Community Services Compliments and Complaints Annual Report 2008/09**

The Committee considered the Annual Report and noted that some major improvements had taken place in this area, but requested that in future, benchmarking information be included.

### **Register of Interest**

The Committee considered an annual update which confirmed that following the elections in June 2009, all elected and co-opted members of the Council had complied with their obligation to provide details of their interests as required by the Code. The Committee was also satisfied that members would continue to receive periodic reminders of their obligations to update their register of interest forms and submit details of any gifts and hospitality received as and when necessary.

Following recommendation by this Committee, the Council agreed that members and co-opted members of Wiltshire Council may opt into the on-line publication of their entries in the statutory register of members' interests. This is in addition to the statutory obligation to make the register of interests open for public inspection.

### **Whistleblowing Procedure**

The Committee noted that the Whistleblowing Procedure had been revised to take account of advice from the external auditors, good practice and learning gained from running the procedure over the past 5 years.

## **Review of the Wiltshire Constitution**

In keeping with its role of having oversight of the Council's Constitution, the Standards Committee was kept informed of the progress on reviewing the document. The Chairman of the Standards Committee chaired a cross-party group of members, the Focus Group on the Constitution which assisted with the review and made recommendations to the Implementation Executive prior to consideration and adoption of an updated Constitution by the Council in February and June 2009.

Adoption of the Constitution was on the basis that a review of the effectiveness of the document would be undertaken in light of experience after six months and the Standards Committee was requested to undertake such a review. The Committee therefore agreed a process for undertaking the review and established another cross-party Focus Group which includes Standards Committee representation to progress the review. This will be a major piece of work for the Standards Committee in 2010.

## **Annual Assembly of the Standards Board for England – 12-13 October 2009**

It is customary for the Committee to be represented by a member and officer at the Annual Assembly. Some 800 delegates attended from Councils across England. On behalf of the Chairman, Councillor Ernie Clark attended the Annual Assembly along with the Monitoring Officer and the Committee considered a report on the outcomes of the Assembly.

## **Meeting with the Leader of the Council and Chief Executive**

The Chairman of the Committee and Monitoring Officer met with the Leader of the Council and Chief Executive to explain and promote the work of the Standards Committee. A further meeting has been arranged with the Leader and recently appointed Chief Executive and future meetings have been arranged to take place on a quarterly basis. The aim is to ensure high standards of conduct and ethical governance remain core values of the Council.

## **Training**

As well as its work through the Training Sub-Committee, the Committee has also ensured the training needs of its own members are met. Training on the Code and specific training on the role of the Committee and its members was provided last year.

Mindful that the assessment of complaints into alleged breaches of the Code is a relatively new area of work for the Committee, follow up training in this area was provided. This training took the form of viewing the 'Assessment Made Clear' DVD produced by Standards for England; a question and discussion session, sharing learning points, examining case studies and exploring use of other action including mediation.

## **Raising awareness of the Code of Conduct**

The Committee has taken the view that the majority of complaints made against members into alleged breaches of the Code stemmed from a misunderstanding of the provisions of the Code rather than a wilful act to breach it.

The Committee considered it was important to take a proactive stance in raising awareness of the provisions of the Code particularly among town and parish councils in order to create a better understanding and observance of it which in turn, would bring about a reduction in the number of complaints received.

To this end, a letter was circulated to all town and parish councils in the Council's area which drew attention to the work of the Standards Committee and outlined ways in which Wiltshire Council may be able to support governance arrangements in those town and parish councils. The letter included a leaflet, developed by the Communication Sub-Committee which summarised the key provisions of the Code of Conduct; a copy of the Standards for England DVD 'The Code Uncovered' and a booklet kindly donated by Wiltshire Association of Local Councils (WALC) 'The Good Councillor Guide'.

### **Assurance Group**

The Committee agreed representation on the Assurance Group which has responsibility for progressing a range of governance and assurance issues.

### **Annual Governance Statement**

The Committee considered the Statement in order to ensure that ethical governance issues were adequately addressed in the document.

### **'The Bulletin'**

The Committee continued to receive 'The Bulletin' newsletter from Standards for England and discussed matters of interest contained therein. The Committee finds the publication useful in terms of benchmarking against what happens in other authorities, and in that it provides a link to the Standards for England and access to best practice arrangements being operated elsewhere.

### **Standards Committee Plan 2010-2014**

In order to ensure that it remains effective in its role and makes the best use of its resources, the Committee agreed its priorities over the next four years subject to reviewing the Plan every quarter.

The Plan was drawn up using Standards for England guidance on what excellent Standards Committees should be doing and was linked to the goals and aims of the Council.

### **What Will We Be Doing Next Year**

The Committee will continue with its core functions and continue to look at the following areas:

- consider the Local Government Ombudsman's Annual Report
- consider the Annual Audit and Inspection Letter in so far as ethical governance issues are concerned
- review the effectiveness of the Council's Whistle-blowing Policy

- provide views on the Council's Annual Governance Statement prior to adoption by the Audit Committee
- ensure Members' compliance with the Code of Conduct in respect of the completion of Register of Members' Interest and gifts and hospitality forms

As mentioned above, the Committee has agreed a Standards Committee Plan for the period 2010-2014. Although the Plan will be considered by the Committee every quarter to review its priorities as necessary, it does provide an agreed plan of action to focus the Committee's attention in a managed and timely manner. The following areas of work have been included in the Standards Committee Plan:

### **Local Standards Framework**

The Committee will review its processes to ensure it continues to apply the local standards framework in a fair, efficient and proportionate manner.

### **Promote Ethical Wellbeing**

The Committee will promote the ethical well-being of Wiltshire Council by embedding standards further within the Council. It will do this by supporting the Council in moving to a single culture by promoting the values articulated in the Council document 'What Will We Be Like'; increasing the Committee's visibility at meetings of Council, Cabinet, Committees and Area Boards and hold regular meetings between the Chairman of the Committee, the Leader and Chief Executive of the Council.

### **Review of the Constitution**

As requested by the Council the Committee will undertake the review of the Council's constitution to ensure it continues to be lawful and fit for purpose. The review will be carried out with the assistance of a cross-party group of Councillors and representatives of the Standards Committee and Overview and Scrutiny Management Resources Select Committee and Audit Committee.

### **Complaints handling**

The Committee will review how the Council handles complaints received to ensure they are dealt with efficiently and lead to improvements to services to the public.

### **Code of Conduct Training**

The Committee will ensure the provision of training on the Code of Conduct for elected and co-opted members of the Council and monitor the take-up and effectiveness of the training.

### **Town and Parish Councils**

The Committee will communicate regularly with town and parish councils on standards issues and have a visible presence at meetings of those councils. It will promote excellence in wider aspects of governance through membership of WALC.

### **Standards in Local Government**

The Committee will inform and engage the public on standards in local government. It will do this by providing articles related to the Code of Conduct in Wiltshire Council internal and external communications and ensure Committee representation at public meetings and events. It will also produce a leaflet on making a complaint and

the local assessment process for distribution throughout the Council's area. The Committee will also assist in reviewing the Wiltshire Council web-site to ensure easy access and navigation.

### **Promote Standards in Partnerships**

The Committee will review partnership governance arrangements and incorporate agreed values and standards of behaviour in partnership documentation.

### Conclusion

I am very pleased that the Standards Committee has continued to play an effective role in the work of the Council. Ethical governance issues even on a national basis have received so much media attention this year, much of it negative. It is therefore more important than ever to improve confidence in government albeit at a local level and those elected to serve it by promoting high standards of conduct and behaviour in the Council's activities.

It was reassuring to know that ethical governance was taken seriously by the former Wiltshire County Council and continues to be taken seriously by the new Wiltshire Council.

The Committee's responsibilities have been expanded to deal not only with the assessment of complaints against members and co-opted members of this Council but also complaints made against members and co-opted members of town and parish councils. This is a key piece of work which the Committee takes very seriously. Having increased the membership of the Committee to ensure it had sufficient members to service this area of work, it also ensured that those members were trained to a sufficient level to carry out this work both lawfully and efficiently.

As can be seen by the work undertaken this year, progress has been made in a number of areas and the Committee is keen to maintain this momentum and keep ethical governance where it should be, at the heart of what the authority does. As can be seen from the key areas of work agreed over the next four years as outlined above, the Committee is attempting to be as proactive as it possibly can to improve upon and progress its core functions.

The Committee is also grateful to have the continued support from the Leader of the Council, the Chief Executive and the Council generally.

### Would You Like To Be Involved?

The position of Independent Member is open to anyone who can demonstrate they

- can exercise personal integrity and are committed to integrity in local government
- have experience of critically assessing written and verbal evidence and reaching a balanced and objective decision based on the evidence
- have comprehensive experience of working with a wide range of people, both colleagues and customers or service users, and that they can communicate

effectively at all levels

- are able to express their ideas and point of view confidently, effectively and tactfully
- have excellent listening skills
- have experience of problem solving and analysis
- are tenacious and independent, and can exercise persuasion and influence
- have an understanding of the principles and practice of equality and diversity and be committed to those principles

Although the Committee will be reviewing its size and composition, if you are interested in applying to serve on the Committee as an independent member or as a town or parish council representative, please look out for the adverts in the local newspapers or register your interest with us using the contact details below and we will contact you when we next recruit new members.

This report has been produced by Wiltshire Council's Standards Committee. If you would like further information about the content or the work of the Standards Committee please contact:

Yamina Rhouati Tel: 01225 718024 E-mail: [yamina.rhouati@wiltshire.gov.uk](mailto:yamina.rhouati@wiltshire.gov.uk)  
Nina Wilton Tel: 01225 713078 E-mail: [nina.wilton@wiltshire.gov.uk](mailto:nina.wilton@wiltshire.gov.uk)

Minutes of the Standards Committee can be found on the following link of the Council's website:

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You can also contact us by writing to: The Standards Committee, c/o the Monitoring Officer, County Hall, Bythesea Road, Trowbridge, Wiltshire, BA14 8JN

## Code of Conduct Complaints Status Report

Month 2009	Cases received	Cases open (cumulative)	Assessed by Committee – investigation	Assessed by Committee – no investigation	To be assessed by Committee/other	Cases closed
April	12	12	8 & 1*	1	2**	0
May	2	14	0	1	1***	0
June	13	25	4	0	7** & 2***	2
July	3	26	1	0	2**	2
August	1	13	0	1	0	14
September	1	14	0	1	0	0
October	5	18	2	3	0	1
November	7	24	2	3	2****	1
December	0	23	0	0	0	1
January	0	18	0	0	0	5
February	1	16	0	0	1	3
<b>Totals</b>	<b>45</b>	<b>n/a</b>	<b>18</b>	<b>10</b>	<b>17</b>	<b>29</b>

Appeals received
0
0
0
0
0
0
0
0
0
0
1 (overturned)
2 (upheld)
0
3

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- \* complaint presented to an Assessment Sub-Committee at Salisbury District Council and transferred to Wiltshire Council for investigation 01/04/09
- \*\* further and better particulars requested but not received – complaint closed
- \*\*\* not code of conduct complaint – complaint closed
- \*\*\*\* complaint withdrawn

N.B. Two additional Appeals have been received but these relate to carried over complaints from former district councils and are not recorded in these figures

## Hearings

Month 2009	Number of hearings	Date(s) and type(s) of hearing	Outcome	Appeal (Y/N)
April	0			
May	4	13/05/09 – 4 x Assessment Sub-Committee	3 investigations & 1 alternative action by MO	No
June	4	23/06/09 – 4 x Assessment Sub-Committee	3 investigations & 1 no breach	No
July	4	07/07/09 – 4 x Assessment Sub-committee	4 investigations	No
August	2	10/08/09 & 27/08/09 – 2 Assessment Sub-Committees	1 investigation & 1 no further action	No
September	0			No
October	1	15/10/09 – 1 x Assessment Sub-Committee	No further action	No
November	5	19/11/09 - 5 x Assessment Sub-Committee	1 investigation & 4 no further action	No
December	7	02/12/09 – 4 x Assessment Sub-Committee 10/12/09 – 3 x Assessment Sub-Committee	2 investigations & 2 no further action 1 referral to MO & 2 adjournments (complaints now withdrawn and closed)	Yes
January	0			Yes x 2
February	5	03/02/10 – 1 x Assessment Sub-Committee (referred back following death of subject member (original decision – investigation)) 03/02/10 – 3 x Review Sub-Committee 09/02/10 – 1 x Consideration Sub-Committee	No further action  2 decisions upheld and 1 overturned – investigation Proceed to full Hearing	No

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## Investigations

Case reference	Date of Assessment hearing	Progress	Estimated date of final report
WC 06/09	13/05/09	Consideration Sub-Committee – 02/03/10	N/A
WC 14/09	23/06/09	Draft report completed	March 2010
WC 15/09	23/06/09	Draft report completed	March 2010
WC 18/09	13/05/09	Draft report completed	March 2010
WC 19/09	13/05/09	Draft report completed	March 2010
WC 24/09	07/07/09	Consideration Sub-Committee 09/02/10 – proceeding to full hearing	N/A
WC 30/09	07/07/09	Report being drafted	Spring 2010
WC 31/09	07/07/09	Report being drafted	Spring 2010
WC 32/09	07/07/09	Report being drafted	Spring 2010
WC 33/09	07/07/09	Report completed – subject member unavailable between 04/01/10 & 19/04/10	N/A
WC 38/09	19/11/09	Draft report sent out 15/02/10 – comments required by 02/03/10	March 2010
WC 43/09	02/12/09	Interviews commenced	Spring 2010
WC 45/09	02/12/09	Interviews commenced	Spring 2010
WC 42/09	03/02/10 (Review Sub-Ctte)	Interviews in progress	Spring 2010





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**WILTSHIRE COUNCIL**

**STANDARDS COMMITTEE**

**10 MARCH 2010**

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## **ANONYMOUS DIGEST OF CODE OF CONDUCT CASES**

The following cases are brought to the Committee's attention for information purposes:

### **Example 1**

In the case APE 0403, the appeals tribunal was of the view that whether or not advice is provided, it is the personal responsibility of a member to determine if they have a prejudicial interest and so whether they need to withdraw. This means that even if a member relies on incorrect legal advice, it does not mean that a breach has not been committed. Any advice sought or given only affects the seriousness of the breach and therefore the sanction.

### **Example 2**

In APE 0396, the chair at a planning meeting declared a personal interest but not a prejudicial interest, which he also had. The member voted at the meeting and used his casting vote as chair following an equality of votes to object to the planning application. The appeals tribunal upheld the standards committee finding that the use of the casting vote elevated the seriousness of the breach. This was taken into account when the sanction was imposed

### **Example 3**

The Tribunal in the case of APE 0399 considered the threshold for a failure to treat others with respect. The subject member made comments about the town clerk at a parish meeting saying that an officer found her "difficult to get on with". The member added that "this is also the view of many town's people who say that when they try to contact the town clerk, she

is downright rude to them”.

The Tribunal considered that the threshold for a failure to treat another with respect has to be set at a level that allows for the passion and frustration that often accompanies political debate and the discussion of the efficient running of a council. It should also be set within the context of who was involved in the exchange.

In this case, the comments were opinions of other individuals which the member honestly believed to be true. The member’s conduct was not unfair, unreasonable or demeaning to the town clerk and not made in a malicious or bullying manner. The town clerk was very experienced in her dealings with councillors and given her seniority was entirely able to defend her position. So the Tribunal decided that the threshold was not met.

#### **Example 4**

In APE 0395, an appeal from a standards committee, the member declared a personal and prejudicial interest and withdrew from the meeting. He returned after the conclusion of the item to chair the remainder of the agenda.

The standard agenda item enabling members of the public to raise issues they would like to be included on the next meeting’s agenda was then considered. At this point, a member of the public expressed dissatisfaction about the minimal progress made in reaching a decision on the item in which the chair had previously declared the interest. A short exchange then followed between some councillors and that member of the public.

The tribunal decided that this exchange did not constitute consideration for the purposes of the Code, as there was no intention to have a further discussion on that item. □



## **2010 Annual Assembly of Standards Committees ‘A place for standards’**

Following the success of last year’s fully booked Annual Assembly, we are well on the way to finalising the programme for this year’s event, which takes place on 18 and 19 October at the ICC in Birmingham.

We are already working with a panel of standards committee members and monitoring officers to develop a range of sessions focused on sharing notable practice, developing high standards and building confidence in managing the local standards framework.

The cost of attending both days of the Assembly has been held at £430 (plus VAT) for the fourth year running, while a one-day place is £230 (plus VAT).

Online booking is now open on our website. We will also be sending out hard copy booking forms to all authorities from mid-March. Further information about the programme and speakers will be added to the website so keep checking back for the most up-to-date information.

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## **Stakeholder Tracker 2009 – ‘A qualitative assessment of advice and guidance’**

Every two years Standards for England (SfE) conducts a ‘stakeholder tracker’ in two parts: a quantitative survey, and a qualitative investigation. This research assesses the levels of satisfaction of members and officers in local government with the performance of SfE and their attitudes to the ethical environment. As some of you may recall, the survey was completed last summer. We are now happy to report that the qualitative section of the research, which provides a more in-depth analysis of some of the issues that emerged from the quantitative research, has been completed and is available on our website. **We would like to thank those of you who participated in the research. It is only through your continued support that we are able to track our progress, and identify areas for improvement.**

BMG research carried out this research by holding a number of focus groups with monitoring officers, standards committee members and parish councillors.

## Some of the findings:

- The research found that monitoring officers and standards committee members are very positive about the local standards framework. They feel it has 'bedded in' well, and welcome the chance to take ownership of the process of investigating complaints.
- SfE's monitoring officer helpline received positive feedback, and some stakeholders suggested that the service callers receive has improved over the past 12 months.
- Monitoring officers welcome the development of peer and local/regional networks – however, there is some suggestion that a number of authorities may already have some form of networking in place. They would like SfE to provide content for delivery at networking events.
- The research identified several topics on which stakeholders think SfE could provide further guidance such as more information on other standards committee practices, sanctions and proportionality, mediation, guidance specifically for parish councillors, and more advice on the overlap with Freedom of Information and Data Protection legislation.

A copy of the full report can be [downloaded here](#).

**For further information, please contact:**

**Tom Bandenburg (Research Assistant) on 0161 817 5427 or email [tom.bandenburg@standardsforengland.gov.uk](mailto:tom.bandenburg@standardsforengland.gov.uk)**

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## **A REMINDER: Please send us your hearing decision notices**

As you may already be aware, authorities are required to send Standards for England (SfE) copies of their hearing decision notices. The legal basis for this can be found in the Standards Committee (England) Regulations 2008 under regulation 20(1)(a). However, not all authorities have complied with this requirement.

Hearing decision notices provide a valuable source of information from which SfE can draw conclusions about how the local standards framework is functioning. We have decided to give greater emphasis to our analysis of the notices and we will share our conclusions with you.

### **What you need to do**

Please send us a copy of the full decision notice for any determinations made by your Standards Committee. At the end of each quarter (from 1 April 2010) we will check whether we have received a decision notice for all the hearings completed that quarter and then contact authorities for any that are missing.

We prefer to receive decision notices as an email attachment in Word or PDF format if possible.

You can send them to [authorityreturns@standardsforengland.gov.uk](mailto:authorityreturns@standardsforengland.gov.uk).

If you are unable to send them electronically, please post your decision notices to:

**The Monitoring Team, Standards for England, 4th floor, Griffin House**

**40 Lever Street, Manchester M1 1BB**

When writing the decision notices, please ensure that you include all the legal requirements set out in paragraph 20 of the Standards Committee (England) Regulations 2008. We also recommend that you refer to our guidance, which you can find in your local standards framework guide or online at

<http://www.standardsforengland.gov.uk/determinations>

**Note:** Please do not send us decision notices for any other type of decision such as initial assessments, reviews or consideration meetings. This is not a legal requirement and we will not be using them in our analysis.

#### **What we will do**

We will use the notices to help widen our knowledge of how the local standards framework is operating and provide some context to the quarterly returns data. The notices may also highlight areas where we can produce new guidance or improve on what we have already published.

Thank you for your co-operation. We will keep you informed of how the decision notices help us to support the local standards framework.

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## **Adjudication Panel for England becomes known as First-tier Tribunal (Local Government Standards in England)**

On the 18th January the functions of the Adjudication Panel for England were transferred to the First-tier Tribunal (Local Government Standards in England) and the Adjudication Panel for England was abolished. The First-tier Tribunal sits in the General Regulatory Chamber with Charity, Gambling, Information, Estate Agents, Claims Management, Consumer Credit and Transport Tribunals.

The role of the First-tier Tribunal is to hear cases referred to it by an Ethical Standards Officer or a Standards Committee following an investigation. The Tribunal will also hear appeals by a subject member against the decision of a Standards Committee.

There have been changes to the powers and procedures of the Tribunal.

### **Powers and Procedures**

The First-tier Tribunal now has additional powers and procedures. It has the power to summon witnesses or require witnesses to produce documents relating to its hearings.

All Tribunal hearings can now be conducted either orally or by written representations with the consent of all parties.

Hearings can be conducted by less than 3 Tribunal members.

The President of the Adjudication Panel for England has been appointed as a Principle Judge of the First-tier Tribunal, legal members are now Judges and lay members are members.

### **Appeals**

Previously any appeal from the Adjudication Panel was heard at the High Court. This process has now changed. Appeals will now be heard by the Upper Tribunal. The Upper Tribunal is an appellate tribunal created by the Tribunals, Courts and Enforcement Act 2007. The Administrative Appeals Chamber is the part of the Upper Tribunal which hears and decides appeals from decisions of the General Regulatory Chamber of the First-tier Tribunal.

### **Who can appeal to the Upper Tribunal?**

Any party may appeal to the Administrative Appeals Chamber of the Upper Tribunal if they can show that the First-tier Tribunal made an error of law.

Additionally, the subject member has the right to appeal findings of fact, if their appeal is against

- (a) a decision that they failed to comply with a code of conduct,
- (b) a decision imposing suspension or another sanction

### **Appeals by other parties**

A further change to the appeals process is that if a subject member is successful at the First-tier Tribunal, it is still possible for an Ethical Standards Officer or Standards Committee to appeal on a point of law to the Upper Tribunal. The First-tier Tribunal will notify the subject member if any of these parties wish to appeal.



## Costs

The First-tier Tribunal now has the power to make an order for costs if the Tribunal considers that a party has acted unreasonably in bringing, defending or conducting the proceedings. It may make an order for costs following an application or on its own initiative.

This will mean that the Tribunal can award costs against a standards committee, Ethical Standards Officer or subject member if they have acted unreasonably in the conduct of their investigations or hearings. The First-tier Tribunal may also make an award for wasted costs incurred by any legal or other representative where the Tribunal considers that they have acted negligently, improperly or unreasonably in bringing, defending or conducting proceedings.

For more information and detailed guidance please see [www.adjudicationpanel.tribunals.gov.uk](http://www.adjudicationpanel.tribunals.gov.uk)

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## Our Risk Based Approach

One of the best practice requirements of a regulator is that they take a risk -based approach to their work: that is they are able to assess risks in their area of regulation and apply their own resources accordingly to keep risks low.

For Standards for England there are three types of risk which concern us.

- Systemic risk – risk which could lead to a widespread failing in the work of the framework or in standards across all authorities
- Sectoral risk – risk which could lead to a failing in standards in a number of similar authorities
- Entity risk – risk of a serious standards failure affecting one of the authorities covered by the local standards framework

Assessing entity, systemic or sectoral risks to standards or the success of the framework allows us to target our effort at those activities, situations or authorities that pose the biggest risk helping ensure we provide value for money.

The Success of the local standards framework relies in part on our ability to see potential pitfalls or risks to standards in advance. For example, the emergence of new technologies such as internet social networking, blogs and Twitter, have presented their own unique challenges to standards. During 2009-10 we were able to produce guidance, place articles in the local government press and give a presentation at a national members' conference on this subject.

Spotting such challenges allows us to provide early advice and guidance to the standards community to help prevent problems arising. We will be developing our approach to systemic and sectoral risk, closely linked to our research programme, to help us identify trends or potential problems, and so offer appropriate advice at the earliest opportunity.

We work closely with authorities where challenging standards issues emerge. Based on our increasing experience supporting these authorities we are developing our plans for managing entity risk.

We intend to prioritise the way we interact with authorities on the basis of our risk assessment of the likelihood and impact of any failure of standards in that authority. Working through our relationship managers we will take a differential approach based on this assessment to satisfy ourselves that authorities are working to minimise risks. We envisage working with 30-40 authorities at our highest level of contact and a further 100-120 at an intermediate level, at any one time.

Typically authorities at the lowest level of risk will be in contact with us only as they go about their routine business in operating the standards framework and sending back the required monitoring data, whereas authorities at the intermediate level might be contacted by relationship managers on a six monthly basis, and those at the highest level contacted or visited more frequently as deemed appropriate.

We will be testing our planned approach and consulting with the regulated community about it over the next six months.

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## **Social networking: an effective medium of communication but not without risk**

When it comes to reaching certain groups quickly, cheaply and maintaining control over your message, many councillors find online methods hard to beat.

At the recent Cllr' 10 event, Standards for England and the IDeA ran an interactive session which looked at how councillors can use social networking effectively and ethically to engage with their local communities.

This article highlights some of the key messages from the session for councillors.

- If you use blogs, Facebook or Twitter to help you to carry out your political work, rather than in your private capacity, your obligation to meet certain standards of conduct still applies. You can still be involved in robust political debate and state your opinions strongly – the Code does not exist to gag you or fellow councillors or stop you expressing political views. It does, however, prohibit treating others with disrespect, bullying and bringing one's office or authority into disrepute. It is important if you are blogging or tweeting personally and not in your role as councillor, that you do not act, claim to act, or give the impression that you are acting as a representative of your Authority. It is worth noting that web links to official council websites may give or reinforce the impression that you are representing the council.

- You may use a blog to draw attention to a particular local issue and call the council to account, as you would in a public meeting. However, blog entries ridiculing or attacking particular officers, or making serious accusations about their personal competence or integrity, could amount to disrespect, even bullying, in some circumstances.
- It is worth considering that while the immediacy of social media can be a great benefit, it also has a downside. For example, it is possible for you to Tweet on a matter seconds after leaving the council chamber – long before your opponents have issued press statements. This can result in broadcasting spontaneous remarks that may quickly seem unwise. By the time you have reconsidered and deleted them, they may have been seen by thousands, Facebook-shared, re-Tweeted, linked to, and committed to local headlines. That is fine, if you have got this message across just how you wanted to; less so if your post was an outburst in the heat of the moment. Such remarks are easily withdrawn, apologised for and forgotten when made in person, but posting them on the internet means that they have been published, and in a way that cannot be contained.
- It is important to note that good ethical standards are not limited to the Code of Conduct. While you may not be investigated for using online media, your conduct can still attract adverse publicity, even where the Code does not apply. For example, a regional newspaper recently called a councillor's blog post against a rival party a "toilet-mouthed tirade" saying:

"A [Code] breach it may not have been; childish, crude and demeaning to all who vote or follow politics it certainly was."

It is clear that social networking sites can enhance political debate and add positively to local politics when used correctly. [Click here](#) to see our online guide to blogging.

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## New Online Guides on Our Website

The Guidance and Information team has produced several new online guides at the end of 2009. They are now available on our website. Here are the titles and links to the guides:

- [Charitable Trustees and declarations of interest under the Code](#)
- [Freemasons and the Code](#)
- [Independent members](#)
- [Notifications to parish and town councils concerning complaints about their members and the Standards](#)
- [Role and appointment of parish and town council reps to the standards committee](#)
- [Blogging quick guide](#)

We hope you find these new pieces of guidance helpful. Please e-mail any feedback you have on our guidance to [enquiries@standardsforengland.gov.uk](mailto:enquiries@standardsforengland.gov.uk)

## Standards Committees can take a lead from ‘notable practice’

Research into ‘notable practice’, was carried out jointly by Hull University and the University of Teesside and was finalised in October 2009. It is called ‘notable practice’ to highlight the fact that the tips for success are examples of where particular approaches have worked in certain authorities, rather than ‘set-in-stone’ rules about what should be done.

Bristol City Council standards committee was identified as being particularly effective at facilitating organisational learning, sharing learning with the local government community and acting as hub for other authorities and independent members in the South West. The focus of the case study in South Cambridgeshire was on the standards committee’s proactive approach to the recruitment and retention of independent members.

The research identified nine examples of notable practice in different authorities. Below is the list of the notable practice examples and the case study authorities.

<b>Notable practice</b>	<b>Case study authority</b>
Organisational learning	Bristol City Council
Working with town and parish councils	Taunton Deane Borough Council
Member development	Surrey Police Authority
Working with partnerships	Newark and Sherwood District Council
Recruitment and retention	South Cambridgeshire District Council
Training and development	Herefordshire County Council
Joint standards and audit committees	Runnymede Borough Council
High pressure investigations	Greater London Author
Embedding standards	Newcastle City Coun

Standards committees can now access these case studies, examine details of the notable practice, and benefit from key learning points. The research, 'Assessing the Impact of Standards Committees 2009', can be found at

[www.standardsforengland.gov.uk/Resources/Research/2009reports/](http://www.standardsforengland.gov.uk/Resources/Research/2009reports/)

## Further information

For further information on this paper or any other work undertaken by the Research Team, please contact **Hannah Pearson (Research and Projects Adviser)**, email: [hannah.pearson@standardsforengland.gov.uk](mailto:hannah.pearson@standardsforengland.gov.uk) , ext: 5417

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## Impartial and Objective Investigators

Standards committees must ensure that they appoint investigators who have the necessary impartiality to conduct investigations with no perception of bias. This principle of impartiality should be applied to external and internal investigators alike. It is important that any external investigators are and appear to be impartial; a characteristic which should form part of any selection criteria applied when choosing one.

One of the key benefits of reciprocal arrangements with other authorities is that they enable authorities to pass investigations involving their own employees to another council. It is the monitoring officer's responsibility to ensure they select an impartial investigator.

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## Have your say

Has your authority or standards committee developed an innovative way of promoting ethical behaviour or delivering the standards framework? Why not share your ideas with over 1,000 other council officers and standards committee members on the Standards Forum?

You can use the Forum to discuss anything you find topical in this Bulletin with fellow council officers or standards committee members. It provides a place to network, ask questions, share good practice and make recommendations.

There are currently over 100 posts on more than 40 different topics. Popular topics include:

- Dealing with vexatious complaints
- Developing protocols for informing members
- Promoting ethical behaviour

To have your say, visit:

[www.standardsforengland.gov.uk/resources/TheStandardsForum/](http://www.standardsforengland.gov.uk/resources/TheStandardsForum/)

If you are a member of a standards committee, a monitoring officer or a relevant officer and you are not currently registered for the forum or have any questions please email: [forum@standardsforengland.gov.uk](mailto:forum@standardsforengland.gov.uk)

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## **Delay on the New Code of Conduct**

As you may be aware a new Code of Conduct for Members will not be laid during this Parliamentary session. Communities and Local Government have notified us that the Government is concentrating on financial instruments and so there will not be Parliamentary time available for the Code.

In practice this means that a new Code will not now be laid until after a general election.