

# AGENDA

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Meeting: **STANDARDS COMMITTEE**  
Place: **Committee Room III, County Hall, Trowbridge**  
Date: **Wednesday 24 November 2010**  
Time: **2.00 pm**

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Please direct any enquiries on this Agenda to Pam Denton, of Democratic Services, County Hall, Trowbridge, direct line 01225 718371 or email [pam.denton@wiltshire.gov.uk](mailto:pam.denton@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 and Mr Gerry Robson OBE (Vice-Chair)

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## Part 1

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

1. **Apologies**

2. **Minutes of previous meetings** (*Pages 1 - 14*)

To confirm and sign the minutes of the Committee meeting held on 22 September and 26 October (copies attached).

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 22 November 2010**.

6. **Minutes of Sub Committees** (*Pages 15 - 18*)

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

Dispensations Sub Committee – 21 October 2010

7. **Outcome of a Consideration Sub-Committee** (*Pages 19 - 26*)

To advise the Committee of the outcome of a meeting of a Consideration Sub-Committee – report by the Monitoring Officer

8. **Code of Conduct Determination Hearing**

To advise the Committee of the outcome of a meeting of the Hearing Sub-Committee – report by the Monitoring Officer

8a **Determination Hearing**

To receive the report of the Monitoring Officer

8b **Determination Hearing**

To receive a verbal report from the Monitoring Officer.

9. **Review of Constitution** (*Pages 37 - 50*)

To receive the report of the Monitoring Officer

10. **Report of the Task and Finish Group on Presentation to Area Boards**

To receive a verbal update from Mr Gerry Robson OBE

11. **Status Report on Complaints made under the Code of Conduct** (*Pages 51 - 54*)

To receive attached status report.

12. **Review the allowances for standards committee members**

As requested at the last meeting to give consideration to the levels of allowances payable to members of the Standards Committee.

13. **Size and Composition of the Standards Committee** (*Pages 55 - 58*)

To receive the report of the Monitoring Officer.

14. **Procedures Surrounding Register of Interest Submissions** (*Pages 59 - 60*)

To receive the report of the Monitoring Officer.

15. **Forward Plan** (*Pages 61 - 62*)

To receive the committee's forward plan.

16. **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**

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

None

## STANDARDS COMMITTEE

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### DRAFT MINUTES OF THE STANDARDS COMMITTEE MEETING HELD ON 22 SEPTEMBER 2010 AT COMMITTEE ROOM III, COUNTY HALL, TROWBRIDGE.

#### Present:

##### Wiltshire Council Members

Cllr Nigel Carter, Cllr Peter Fuller, Cllr Julian Johnson and Cllr Ian McLennan

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

Mr William Bailey, 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 Stuart Middleton and Mr Gerry Robson OBE (Vice-Chair)

#### Also Present:

Cllr F Morland

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#### 66. Apologies

Apologies were received from Cllr Ernie Clark, Mr Craig McCallum and Mr Ian McGill

#### 67. Minutes of previous meeting

The minutes of the meeting held on 21 July 2010 were presented

#### **Resolved**

**To approve as a correct record and sign the minutes.**

68. **Chairman's announcements**

**Review of the Constitution**

The Chairman said that the review of the constitution was progressing well and that a further meeting of the Focus Group would be held on 8 October, following which a report would be prepared for consideration by Cabinet at its meeting on 19 October.

It had been planned to hold a meeting of the Standards Committee on 13 October to consider the Focus Group's recommendations however due to the tight timescales involved it was suggested that the committee meet instead on 25 or 26 October to discuss the report and any recommendations from Cabinet prior to consideration by Full Council at its meeting on 9 November.

The Chairman asked Democratic Services to contact committee members to establish their availability and arrange a meeting on one of the suggested dates.

**Press release on future of the Standards Board regime**

The Chairman drew member's attention to the recent press release from the Department of Communities and Local Government on the future of the Standards Board regime. She emphasised that the committee would carry on as usual until these proposed changes were enacted.

69. **Declarations of Interest**

Cllr Peter Fuller declared a personal interest in item no. 13 on the agenda as he is the recipient of a dispensation as mentioned in the report.

70. **Public participation**

There were no members of the public present

71. **Minutes of sub-committees**

The minutes of the Dispensation sub-committees held on 27 July and 19 August were presented.

**Resolved**

**That the minutes be noted.**

72. **Annual Report of the Local Government Ombudsman**

The committee considered the report of the Local Government Ombudsman for the period 2009-10 which was the first Annual Report from the Local Government Ombudsman since becoming Unitary.

It was noted that complaints and/or enquires from the Ombudsman have dropped by 29% since the publication of the last report, although the response times were still slightly above the target time.

**Resolved**

- a. That the report be noted
- b. To agree that the response times need to improve to meet the Local Government Ombudsman's target.

73. **Department of Community Services Compliments and Complaints Annual Report 2009-2010**

The committee considered the Department of Community Services Compliments and Complaints Annual Report for 2009 – 2010.

Mark Edwards, Programme Lead (Customer Service), answered member's questions and clarified information presented in the tables.

**Resolved**

**That the report be noted.**

74. **Code of Conduct Determination Hearing**

Public participation

Cllr Francis Morland expressed some concerns regarding the hearing process.

The Monitoring Officer introduced the report on the outcome of the Standards Hearing Sub-Committee which was held on 5 July 2010 to consider an allegation of a breach of the Code of Conduct for Members.

The outcome of the hearing was that no further action be taken however the sub-committee had made a recommendation that the Standards Committee undertakes a review of the procedures surrounding register of interest submissions and highlights the importance of registering personal interests. In the light of these recommendations a report would be brought to the Standards Committee's November meeting.

**Resolved**

- a. That the report be noted.
- b. That a report be brought to the November meeting of the committee on procedures surrounding register of interest submissions.

75. **Local Standards Framework - Review of Process**

The Monitoring Officer presented the report which requested the Committee to consider proposals for streamlining the process for dealing with complaints under the Code of Conduct following a review of the Council's procedures under the local standards framework.

The committee considered the proposal that the same sub-committee be appointed for both the consideration and hearing stages of the process.

**Resolved**

**a. That the outcome of the review of the Council's procedures under the local standards framework and the steps suggested to streamline the process are noted.**

**b, That the possibility of informal resolution at the pre-complaint stage is actively explored where this is appropriate and that the merits of 'other action' at the assessment and review stages are fully considered;**

**c. That the same members are appointed to the consideration and hearing sub-committees, save where this is not reasonably practicable.**

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

The Monitoring officer presented the report and drew member's attention to the downward trend in the number of cases received.

**Resolved**

**That the report be noted.**

77. **Review of the Standards Committee Plan 2010-2014**

The Chairman introduced the report which informed the Committee on progress made against the targets and priorities set in the Standards Committee's Plan since May 2010.

**Resolved**

**That performance against the plan since the committee meeting in May 2010 be noted.**



78. **Dispensations - Dual-Hatted Members of Area Boards**

The Monitoring Officer introduced the report which requested members to agree a policy on the granting of dispensations to dual-hatted members of area boards in relation to their consideration of applications by their parish, town or city councils ('parish councils') for grant or transfer of community assets.

The Monitoring Officer added that he considered that the most suitable policy would be to grant such dispensations for a period until the end of the unitary councillor's term of office in May 2013, subject to any material change in the circumstances under which the dispensation was granted. This was on the understanding that each case would be considered on its facts and exceptions would be made in exceptional circumstances.

The committee was asked if it wished to consider a fixed membership for the Dispensation Sub-committee to help reinforce consistency.

After a debate during which concerns were raised regarding notification of changes in material circumstances, the need for dispensations to be reviewed on an annual basis and the length of time granted for dispensations it was

**Resolved**

- a. **To agree to grant dispensations to the end of May 2013 on the basis that these would be subject to an annual review.**
- b. **That all members who are granted a dispensation are reminded to report any changes in material circumstances as soon as these occur and that they make clear the reason for the granting of the dispensation at each applicable meeting of the Area Board.**
- c. **That the Monitoring Officer writes to all Community Area Managers informing them of the committee's decision and asking them to ensure that members comply with the recommendations.**
- d. **That the membership of the Dispensation Sub-committee continues to be drawn from all members of the Standards Committee.**

79. **Report of the Task and Finish Group on Presentations to Area Boards**

Mr Gerry Robson OBE presented a verbal update. He said that he and the Monitoring Officer had met with Cllr Laura Mayes to look at ways that the Task and Finish Group's proposed presentation could fit in to the cultural change programme. During the discussion it was noted that the Council would be revisiting 'What we will be like' and it was agreed that the Standards Committee would be involved in the consultation meetings that will be taking place.

Mr Robson suggested that the Task and Finish Group's presentation be postponed in the light of the Government's proposals in respect of the standards regime but that a short statement should be issued to Area Boards to inform them of the proposals and reiterating that the present situation would continue for the foreseeable future.

**Resolved**

- a. **That the presentation to Area Boards be postponed until the Government's plans for the standards regime have been determined.**
- b. **That a short statement is prepared for Area Board Chairmen to read out at their autumn meetings.**
- c. **To note that the Task and Finish Group will continue to work closely with the cultural change programme and will make regular updates on progress at future Standards Committee meetings.**

80. **Forward Plan**

The committee's forward workplan was presented and considered. The committee's forward workplan was presented and considered. It was noted that the Dr Jane White, the Local Government Ombudsman, would be happy to attend a future Standards Committee meeting and 9 March 2011 might present a suitable opportunity.

**Resolved**

**To note the forward workplan and invite the Local Government Ombudsman to attend a future meeting**

81. **Standards for England Bulletin No. 48**

The Standards for England Bulletin was presented.

**Resolved**

**That the Bulletin be noted.**

82. **Urgent Items**

There were no urgent items

(Duration of meeting: 2.00 - 3.25 pm)

The Officer who has produced these minutes is Pam Denton, of Democratic Services,  
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## STANDARDS COMMITTEE

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### DRAFT MINUTES OF THE STANDARDS COMMITTEE MEETING HELD ON 26 OCTOBER 2010 AT COMMITTEE ROOM III - COUNTY HALL, TROWBRIDGE.

#### Present:

##### Wiltshire Council Members

Cllr Julian Johnson and Cllr Ian McLennan

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

Mr Paul Neale, Mr Robert Oglesby JP 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 and Mr Stuart Middleton

#### 83. Apologies

Apologies for absence were received from Cllr Nigel Carter, Cllr Ernie Clark, Cllr Peter Fuller, Cllr Malcolm Hewson, Mr William Bailey, Mr Craig McCallum, Mr John Scragg, Miss Pam Turner, Mr Keith Wallace and Mr Gerry Robson OBE.

#### 84. Chairman's Announcements

There were no Chairman's announcements.

#### 85. Declarations of Interest

There were no declarations of interest.

#### 86. Public participation

There were no members of the public present.

#### 87. Review of the Constitution of Wiltshire Council

Consideration was given to a report by the Monitoring Officer on the outcome of the review of the constitution for onward recommendation to Council on 9 November 2010.

The Chairman reminded the Committee that the constitution had last been reviewed in 2009/10 to ensure that it would meet the needs of the new Wiltshire Council when it came into effect as a unitary authority on 1 April 2009. The Council had adopted the new constitution on the basis that a review of the constitution's effectiveness would be carried in the light of experience after six months of operation. Council requested this Committee to carry out the review.

Accordingly, this Committee established a cross party Focus Group which included representation from the Standards, Audit and Overview and Scrutiny Committees to undertake the detailed work on the review. The Focus Group chaired by the Chairman of the Standards Committee met on four occasions between March and October 2010 and examined in detail the various Parts and Protocols which made up the constitution. Responses to a questionnaire on the constitution from members of the Council and views from the public in response to an online snap survey were also taken into account. It was noted that town and parish councils had also been given the opportunity to comment on the review.

The Focus Group proposed a number of changes identified as tracked changes in a recommended revised draft of the constitution as presented to the Committee. The Democratic Governance Manager presented and guided the Committee through a summary of the main changes proposed as set out in Appendix 5 of the report presented.

It was noted that the review carried out took into account the outcomes of separate reviews undertaken in respect of Area Boards, Overview and Scrutiny arrangements and Development Control.

Cabinet at its meeting on 19 October 2010 considered a report on the outcome of the review of the Development Control Service. That report included proposals to amend the Scheme of Delegation on Planning and the Planning Code of Practice for Members of Wiltshire Council Protocol.

The Committee noted that Cabinet had resolved to defer consideration of that review until such time as the implications of any changes to the planning system as a result of the Decentralisation and Localism Bill were known. In the meantime, Cabinet also resolved to establish a Working Group to consider the issue of the 21 day call-in period in more detail.

The Committee noted the proposed inclusion of the following three new Protocols in the constitution for the reasons outlined in the report. The Monitoring Officer explained the main provisions of each Protocol:

- Guidance to Councillors Appointed to Outside Bodies
- Partnership
- Governance Reporting Arrangements

The Chairman drew the Committee's attention to the following matters which remained outstanding at this stage:

#### Cabinet member response times

The Member Support in the Locality Task Group had recommended inclusion of a provision in the constitution setting out a specific timescale for Cabinet members to respond to other members of the Council. Members of the Focus Group considered this and suggested a form of wording and timescale as detailed in the report presented. However, Cabinet members had commented that it would be unrealistic on occasions particularly due to holidays and other absences to adhere to the suggested timescales. They suggested a broader protocol to the effect that every effort should be made to provide a prompt response wherever possible with this being applied to all Councillors and not just Cabinet members.

The Committee considered these views and concluded that whilst it would be useful to include an appropriate timescale for responses this was a matter for Councillors to determine and requested that this be reflected in the recommendations to Council.

#### Media Relations Protocol

The Committee noted that this Protocol was currently being redrafted at the request of the Focus Group. The intention was to produce a revised draft for initial consideration by Group Leaders before being presented to Council if this could be achieved within the timescale. The Monitoring Officer explained that the Protocol would need to reflect the provisions of a revised Code of Practice on Local Authority Publicity which was currently out for consultation.

#### Amendments to motions – Rules of Procedure - Council

Following concerns previously expressed by Councillors on the application of this rule, the Focus Group requested the Monitoring Officer to draw up a convention on the application of this rule acceptable to the Chairman of Council and Group Leaders. The Monitoring Officer explained that he was currently working on producing such a convention which would be circulated to Group Leaders and the Chairman of Council for their comments prior to consideration by Council.

The Chairman requested that the report to Council on the outcome of the review of the constitution include a specific section on outstanding issues as detailed above for determination by Council.

The Chairman sought the Committee's views on the thoroughness and effectiveness of the review, the proposed amendments to the constitution and the proposals as set out in the report which would form the basis of recommendations to Council on 9 November.

The Committee confirmed it was satisfied with the way in which the review had been carried out. The Committee also recommended a number of further changes to be reflected in the revised draft constitution being recommended to Council as detailed below.

**Resolved:**

- (a) That the following additional amendments be reflected in the revised draft constitution:
- (i) To transfer the section on the Corporate Parenting Panel from Part 3 - Responsibility for Functions (on the basis that the Panel did not form part of the formal decision making structure) to Part 12 - Members' Job Description (see (ii) below) in the context of existing reference to Councillors acting as Corporate Parents.
  - (ii) That Part 12 – Members' Job Description be renamed 'Role and Responsibilities of Councillors' to better reflect the content of the document. That this Part be specifically reviewed in any subsequent review of the constitution.
  - (iii) To widen the category of persons who can submit a question or make a statement as set out in Part 4 - Rules of Procedure – Council to be consistent with the categories referred to in the section on petitions.
  - (iv) To clarify that the deadline for submitting questions at meetings is four clear working days before a meeting as referred to in Part 4 - Rules of Procedure – Council.
  - (v) To remove the document 'One Council One Culture – What will we be like?' from Protocol 2 – Councillor/Officer Relations Protocol. Whilst relevant when the current constitution was adopted, was now largely out of date. Consideration would be given to including the outcome of work on 'Shaping the Future' in any subsequent review of the constitution.
- (b) The level of allowances paid to members of the Standards Committee be reviewed at the next meeting in light of current financial pressures faced by the Council.

**Recommended to Council:**

- (a) To approve the changes proposed to the constitution shown as tracked changes on the draft revised constitution for adoption by



**Council at its meeting on 9 November 2010 (summary of main changes referred to in Appendix 5 of the report presented).**

- (b) To approve for inclusion in the constitution the Protocol on Partnerships, the Protocol on Guidance to Councillors on Outside Bodies and the Protocol on Governance Reporting Arrangements.**
- (c) To note that the Protocol on Media Relations is still under review and that a revised Protocol would be considered by Group Leaders before being presented to Council as part of the revised constitution.**
- (d) That Council determines the issue of whether or not provision should be made in the constitution in respect of response times by Cabinet members.**
- (e) To note the decision of Cabinet dated 19 October 2010 to defer consideration of the review of the Development Control Service until such time as the implications of any changes to the planning system as a result of the Decentralisation and Localism Bill are known. Consequently, the Scheme of Delegation on Planning – Part 3C and the Planning Code of Good Practice for Members of Wiltshire Council – Protocol 4 remain unchanged in the meantime.**
- (f) To designate the current Scrutiny Manager post as Wiltshire Council's Scrutiny Officer to be responsible for the statutory functions as defined in Section 31 of the Local Democracy, Economic Development and Construction Act 2009 (Appendix 3 refers).**
- (g) To authorise the Monitoring Officer to make such amendments as are necessary to give effect to decisions of Cabinet, Council or its committees and to ensure that the constitution is clearly presented and legally fit for the purpose of the Council.**
- (h) To thank the Focus Group, its Chairman Mrs Isabel McCord and other members of the Council who contributed to the review for all their valuable work in undertaking the detailed work required to carry out the review.**
- (i) To agree that the Focus Group remains in being to assist with**
  - the ongoing review work on the constitution as and when required;**
  - producing user friendly summaries of the relevant parts of the constitution for use by members of the public and members of the Council and**

- **specifically to review the constitution in light of any changes in the legislation including the proposed Decentralisation and Localism legislation**

**and to amend its terms of reference to reflect the above.**

88. **Urgent Items**

There were no urgent items.

(Duration of meeting: 2.00 - 3.35 pm)

The Officers who has produced these minutes are Roger Bishton/Yamina Rhouati, of Democratic Services, direct line 01225 718024  
e-mail [roger.bishton@wiltshire.gov.uk](mailto:roger.bishton@wiltshire.gov.uk)  
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## STANDARDS DISPENSATION SUB-COMMITTEE

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### MINUTES OF THE STANDARDS DISPENSATION SUB-COMMITTEE MEETING HELD ON 21 OCTOBER 2010 AT COMMITTEE ROOM VIII, COUNTY HALL, BYTHESEA ROAD, TROWBRIDGE.

**Present:**

Mrs Jane Bayley, Cllr Ernie Clark and His Hon David MacLaren Webster QC

**Also Present:**

Mrs Nina Wilton – Deputy Monitoring Officer

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Mrs Jane Bayley in the Chair.

1. **Declarations of Interest**

There were no declarations of interest.

2. **Consideration of a dispensation request - Councillor Alan Hill of Wiltshire Council**

The Deputy Monitoring Officer introduced the report and explained that as a member of Wiltshire Council Councillor Alan Hill sits on the Calne Area Board. His request for dispensation relates to any grant applications made by Calne Town Council and community asset transfers from Wiltshire Council to Calne Town Council which are both considered by Calne Area Board.

The Deputy Monitoring Officer explained the law and guidance relevant to this request and advised that, in her view, a personal and prejudicial interest would arise as those matters affect the financial position of Calne Town Council, of which Councillor Alan Hill is a member.

She reminded the Sub-Committee that, in reaching a decision, they must have regard to guidance from Standards for England.

**Resolved**

**That it is in the public interest to grant a dispensation to run until the next election in May 2013, subject to there being no material change in the circumstances under which this dispensation is granted.**

**The dispensation is to enable Councillor Alan Hill to speak and vote at meetings of Calne Area Board on matters pertaining to grant applications by Calne Town Council and community asset transfers from Wiltshire Council to Calne Town Council.**

3. **Consideration of a dispensation request - Councillor Anthony Trotman of Wiltshire Council**

The Deputy Monitoring Officer introduced the report and explained that as a member of Wiltshire Council Councillor Anthony Trotman sits on the Calne Area Board. His request for dispensation relates to any grant applications made by Calne Town Council and community asset transfers from Wiltshire Council to Calne Town Council which are both considered by Calne Area Board.

The Deputy Monitoring Officer explained the law and guidance relevant to this request and advised that, in her view, a personal and prejudicial interest would arise as those matters affect the financial position of Calne Town Council, of which Councillor Anthony Trotman is a member.

She reminded the Sub-Committee that, in reaching a decision, they must have regard to guidance from Standards for England.

**Resolved**

**That it is in the public interest to grant a dispensation to run until the next election in May 2013, subject to there being no material change in the circumstances under which this dispensation is granted.**

**The dispensation is to enable Councillor Anthony Trotman to speak and vote at meetings of Calne Area Board on matters pertaining to grant applications by Calne Town Council and community asset transfers from Wiltshire Council to Calne Town Council.**

4. **Consideration of a dispensation request - Councillor Howard Marshall of Wiltshire Council**

The Deputy Monitoring Officer introduced the report and explained that as a member of Wiltshire Council Councillor Howard Marshall sits on the Calne Area Board. His request for dispensation relates to any grant applications made by Calne Town Council and community asset transfers from Wiltshire Council to Calne Town Council which are both considered by Calne Area Board.

The Deputy Monitoring Officer explained the law and guidance relevant to this request and advised that, in her view, a personal and prejudicial interest would arise as those matters affect the financial position of Calne Town Council, of which Councillor Howard Marshall is a member.

She reminded the Sub-Committee that, in reaching a decision, they must have regard to guidance from Standards for England.

**Resolved**

**That it is in the public interest to grant a dispensation to run until the next election in May 2013, subject to there being no material change in the circumstances under which this dispensation is granted.**

**The dispensation is to enable Councillor Howard Marshall to speak and vote at meetings of Calne Area Board on matters pertaining to grant applications by Calne Town Council and community asset transfers from Wiltshire Council to Calne Town Council.**

(Duration of meeting: 9.35 - 9.50 am)

The Officer who has produced these minutes is Anna Thurman, of Democratic Services, direct line 01225 718379, e-mail [anna.thurman@wiltshire.gov.uk](mailto:anna.thurman@wiltshire.gov.uk)

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## WILTSHIRE COUNCIL

### STANDARDS COMMITTEE

24 NOVEMBER 2010

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#### Outcome of Standards Consideration Sub-Committee

##### Purpose of Report

1. To report the outcome of the Standards Consideration Sub-Committee which was held on 7 September 2010 to consider an allegation of a breach of the Code of Conduct for Members.

##### Background

2. On 3 November 2009 the Monitoring Officer of Wiltshire Council received a complaint from Mr Bruce Evans regarding the alleged conduct of Councillor Stephen Andrews, a member of Westbury Town Council. It was alleged that Councillor Andrews had behaved in such a manner as to bring his office or authority into disrepute and had failed to treat others with respect. Mr Evans alleged that at a meeting of Westbury Town Council on 2 November 2009 Councillor Andrews launched a confrontational and hysterical verbal attack on him, accusing him of threatening behaviour at a previous meeting and of adopting Colonel Gaddafi as a role model.
3. On 1 December 2009 the Standards Assessment Sub-Committee of Wiltshire Council considered the complaint regarding Councillor Andrews. In accordance with section 57A(2) of the Local Government Act 2000 the Assessment Sub-Committee decided to take no further action.
4. On 16 December 2009 Mr Evans requested a review of the Assessment Sub-Committee's decision, in accordance with Section 57B of the Local Government Act 2000, as amended.
5. On 3 February 2010 the Standards Review Sub-Committee considered the request for review and decided, in accordance with Section 57A(2) of the Local Government Act 2000, to refer the complaint to the Monitoring Officer for investigation. They considered that if proven, the behaviour giving rise to the complaint may be capable of breaching the following paragraphs of the Code:

*3(1) – You must treat others with respect*

*5 – You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute*

6. The Monitoring Officer delegated his investigatory powers to Mrs Marie Lindsay, Ethical Governance Officer, pursuant to section 82A of the Local Government Act 2000. The Investigator's report found that there had been no breach of the Code of Conduct.
7. On 7 September 2010 the Investigator's report went before the Standards Consideration Sub-Committee. The Sub-Committee considered the alleged breach of paragraphs 3(1) and 5 of the Code of Conduct and accepted the Investigating Officer's finding of no breach. The minutes of the meeting, together with the decision notice, are attached at **Appendix A**.
8. The Chairman and members of the Sub-Committee may wish to comment on the hearing orally at the meeting.

### **Main considerations for the Committee**

9. The Standards Committee has set a target time of 6 months from the Assessment Sub-Committee's referral of a complaint for investigation to the completion of the investigation and issuing of a final report. In this case, the complaint was referred for investigation on 3 February 2010 and the final report was completed on 12 August 2010, 9 days over the 6 month deadline.
10. The Standards Committee has set a target time of 3 months from the issuing of the final report to a Determination Sub-Committee hearing. The Investigator issued her report on 12 August 2010 and the Consideration Sub-Committee met on 7 September 2010. A Determination Sub-Committee hearing was not required, however the Consideration Sub-Committee did meet well within the 3 month deadline.

### **Proposals**

11. The Standards Committee is asked to note the outcome of this matter.

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

12. There are no general 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**

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

Ian Gibbons  
Monitoring Officer

Report Author: Marie Lindsay – Ethical Governance Officer

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



# **DECISION NOTICE: NO BREACH**

**Reference WC 42/09**

**Subject Member**  
Councillor Stephen Andrews

**Complainant**  
Mr Bruce Evans

**Consideration Sub-Committee Membership**  
Mr Gerry Robson OBE, Chairman (Independent)  
Councillor John Scragg (Town Councillor)  
Councillor Nigel Carter (Wiltshire Council)

**Monitoring Officer**  
Ian Gibbons

**Investigating Officer**  
Marie Lindsay

**Clerk**  
Anna Thurman

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## **Complaint**

On 3 November 2009 the Monitoring Officer of Wiltshire Council received a complaint from Mr Bruce Evans regarding the alleged conduct of Stephen Andrews, a member of Westbury Town Council.

The complaint concerns allegations that at a meeting of Westbury Town Council on 2 November 2009 Councillor Andrews launched a confrontational and hysterical verbal attack on the complainant, accusing him of threatening behaviour at a previous meeting and of adopting Colonel Gaddafi as a role model.

On 1 December 2009, the Standards Assessment Sub-Committee of Wiltshire Council considered the complaint regarding Councillor Andrews. In accordance with section 57A(2) of the Local Government Act 2000, as amended, the Assessment Sub-Committee decided to take no further action.

On 16 December 2009 Mr Evans requested a review of the Assessment Sub-Committee's decision.

On 3 February 2010 the Standards Review Sub-Committee considered the request for review and decided, in accordance with Section 57A(2) of the Local Government Act 2000, that the complaint should be referred to the Monitoring Officer for investigation. They considered that if proven, the behaviour giving rise to the complaint may be capable of breaching the following paragraphs of the Code:

*3(1) – You must treat others with respect.*

*5 – You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.*

The Monitoring Officer delegated his investigatory powers to Mrs Marie Lindsay, Ethical Governance Officer, pursuant to section 82A of the Local Government Act 2000.

The Investigator's report found that there had not been any breach of paragraphs 3(1) or 5 of the Code of Conduct.

## **Decision**

Having carefully considered the Investigating Officer's report and findings, in accordance with Regulation 17 of the Standards Committee (England) Regulations 2008, the Consideration Sub-Committee of the Standards Committee of Wiltshire Council decided to accept the Investigator's finding that no breach of the Code had occurred.

## **Reasons for decision**

The Sub-Committee was satisfied on the basis of the information documented in the Investigator's report that Councillor Andrews' actions did not amount to a breach of the Code of Conduct.

## **Summary of evidence considered**

The Sub-Committee considered the following:

1. The written complaint.
2. The Investigator's report, which contained evidence from witnesses who were interviewed and various documents, including extracts of minutes of meetings of the Town Council.

This decision notice is sent to the person making the allegation, the member against whom the allegation was made, Westbury Town Council and Standards for England.

**Additional Help**

If you need additional support in relation to this or future contact with us, please let us know as soon as possible. If you have difficulty reading this notice we can make reasonable adjustments to assist you, in line with the requirements of the Disability Discrimination Act 2000.

We can also help if English is not your first language.

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Signed .....



Date ..22.9.2016.....

Chair of Consideration Sub-Committee

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## STANDARDS CONSIDERATION SUB-COMMITTEE

MINUTES OF THE STANDARDS CONSIDERATION SUB-COMMITTEE MEETING  
HELD ON 7 SEPTEMBER 2010 AT COMMITTEE ROOM III, COUNTY HALL,  
BYTHESEA ROAD, TROWBRIDGE.

Present:

Cllr Nigel Carter, Mr Gerry Robson OBE and Mr John Scragg

Also Present:

Ian Gibbons, Monitoring Officer and Marie Lindsay, Investigating Officer  
Mr Andrews, attended as a member of the public

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Mr Gerry Robson OBE in the Chair

1. Declarations of Interest

None.

2. Exclusion of the Press and Public

Members of the Sub Committee considered whether to exclude the public from the meeting for the business specified in item number 4. After consulting the Monitoring Officer for legal advice and noting that the subject member had no objection to the matter being considered in public the Sub-Committee decided it would be in the public interest for the meeting to remain open to the public.

3. Consideration of an Investigators Report - Complaint Regarding the alleged conduct of Councillor Stephen Andrews of Westbury Town Council

The Sub-Committee considered the Investigating Officer's report and its findings. The Investigating Officer responded to questions from members of the Sub-Committee by way of clarification of the content of her report.

After careful consideration the Sub-Committee,

**Resolved:**

To determine the matter in accordance with the attached Decision Notice.

(Duration of meeting: 2.55 - 3.33 pm)

The Officer who has produced these minutes is Pam Denton, of Democratic Services,  
direct line 01225 718379, e-mail [anna.thurman@wiltshire.gov.uk](mailto:anna.thurman@wiltshire.gov.uk)

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

  
22/9/2010

WILTSHIRE COUNCIL

AGENDA ITEM NO.8a

STANDARDS COMMITTEE

24 November 2010

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## Outcome of Standards Hearing Sub-Committee - Complaint against Councillor Ludlow

### **Purpose of Report**

1. To report the outcome of a hearing by the Standards Hearing Sub-Committee which was held on 14<sup>th</sup> October 2010 to consider an allegation of a breach of the Code of Conduct for Members.

### **Background**

2. On 7<sup>th</sup> July 2009 the Monitoring Officer of Wiltshire Council received a complaint from Mr Martin Paver regarding the alleged conduct of Councillor Kenneth Ludlow, a member of Winterslow Parish Council. The complaint alleged that at a meeting of Winterslow Parish Council on the 11<sup>th</sup> May 2009 Councillor Ludlow breached the Code of Conduct by failing to declare a personal or prejudicial interest in Mr Paver's planning application, remained in the meeting to discuss and vote on the application, and that Councillor Ludlow's actions brought his office or authority into disrepute.
3. The Standards Hearing Sub-Committee met on 14<sup>th</sup> October 2010 to determine the complaint. A copy of the decision notice is attached as an appendix.
4. The Chairman and members of the Sub-Committee may wish to comment on the hearing at the meeting.

### **Main Considerations for the Committee.**

5. The Standards Committee has set a target time of 6 months from the Assessment Sub Committee's referral of a complaint for investigation to the completion of the investigation and issuing a final report. In this case, the complaint was referred for investigation on 10<sup>th</sup> August 2009 and the final report was issued on 13<sup>th</sup> July 2010.
6. The delay in this investigation was due initially to delay in the appointment of investigators within the Governance team following the transition to unitary status, and subsequently as a result of Councillor Ludlow being out of the country between January and April 2010, which

meant that the draft report could not be finalised.

7. Four interviews were carried out during this investigation. Three of the interviews were carried out over the telephone.
8. The Standards Committee has set a target of three months from the issuing of the final report to the determination of the case by a Hearing Sub-Committee. The final report was issued on the 13<sup>th</sup> July 2010 and the Standards Hearing Sub Committee met on the 14<sup>th</sup> October 2010, missing the target by one day. The pre-hearing process that has to be undertaken within the three month target leaves little room for delay and difficulties may arise when arranging the hearing date e.g. availability of a suitable venue, availability of staff, committee members, the subject member and any witnesses.
9. Members will note that by way of sanction the Sub-Committee decided to impose a requirement for Councillor Ludlow to undertake training on the Code of Conduct, and also recommended that this should be extended to the clerk and all members of Winterslow Parish Council to ensure consistency in the knowledge and application of the requirements of the Code.
10. We are currently arranging a date for the training with the clerk to the Parish Council. Councillor Ludlow has agreed that we may use this case as a case study.

### **Proposal**

11. The Standards Committee is asked to note the outcome of this matter.

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

12. Training on the Code of Conduct Councillor is to be provided to Councillor Ludlow and Winterslow Parish Council.

### **Risks**

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

Ian Gibbons  
Monitoring Officer

Report Author: Roger Wiltshire, Ethical Governance Officer.





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## **DECISION NOTICE**

### **BREACH OF THE CODE OF CONDUCT – SANCTION IMPOSED**

**Wiltshire Council Reference No: WC 33/09**

**Date of Determination** 14 October 2010

**Subject Member**

Councillor Kenneth Ludlow - Winterslow Parish Council

**Subject Member's Representative**

Mr Roger Hardy

**Complainant**

Mr M Paver

**Hearing Sub-committee Membership**

Mr P Gill – Chairman (Independent Co-Opted Member)

Councillor P Fuller (Wiltshire Council Member)

Ms P Turner (Town / Parish Co-Opted Member)

**Monitoring Officer / Legal Adviser**

Mr I Gibbons

**Investigating Officer**

Mr R Wiltshire

**Clerk**

Ms P Denton

**Complaint**

The Hearing Sub-Committee of Wiltshire Council's Standards Committee met to consider an investigation report on a complaint that Councillor Kenneth Ludlow had failed to comply with the Model Code of Conduct for Members, adopted by Winterslow Parish Council.

The complainant alleged that Councillor Ludlow failed to declare a personal or prejudicial interest at a meeting of the Parish Council on 11 May 2009, in breach of the requirements of paragraphs 8, 9, 10 and 12 of the Code of Conduct, and that Councillor Ludlow's actions brought the Council into disrepute in breach of paragraph 5 of the Code of Conduct.

The complaint was assessed by the Standards Assessment Sub-committee of Wiltshire Council on 10 August 2009, and was referred to the Monitoring Officer for investigation.

The Monitoring Officer delegated his investigatory powers to Mr Roger Wiltshire, Investigating Officer, pursuant to section 82A of the Local Government Act 2000.

The Standards Consideration Sub-Committee considered the Investigating Officer's report on 27 July 2010 and decided that the alleged breaches of paragraphs 9(1) and 12(1) of the Code relating to the declaration of personal and prejudicial interests should be referred to a Standards Committee Hearing for determination.

A hearing was therefore conducted by the Hearing Sub-Committee on 14 October 2010 in accordance with Regulations 18 and 19 of the Standards Committee (England) Regulations 2008 and the Council's Procedure for Determination of Complaints.

The Chairman introduced those present and explained the purpose and process for the hearing.

There were no declarations of interest by the members of the Sub-Committee.

### **Preliminary Issues**

The Sub-Committee considered submissions from the parties on whether the hearing should be open to the public. No objections were raised to the matter being heard in public. The Sub-Committee also received advice from the Legal Adviser on the legal position and statutory guidance from Standards for England.

The Sub-Committee decided not to exclude the public from the hearing as they considered that the public interest in openness and transparency outweighed the public interest in preserving confidentiality.

### **Summary of Evidence Considered and Representations Made**

The Sub-committee considered the following evidence and representations:

1. The written complaint;
2. The Investigator's report dated 13 July 2010, which contained evidence from interviews conducted with the Subject Member, the Complainant, and others, as well as copies of relevant documents.
3. Representations at each stage from the Subject Member and his representative and the Investigating Officer.
4. Oral evidence from the Subject Member.

The Sub-Committee adjourned the meeting to consider its decision at each stage of the hearing. The parties withdrew on each occasion. The Clerk and the Legal Adviser remained with the Sub-Committee to record their decision and provide advice on matters of law and procedure.

## **FINDINGS OF FACT (Stage 1)**

After hearing from the parties the Sub-Committee made the following findings of fact:

1. On the 23<sup>rd</sup> April 2009 the Local Planning Authority received a planning application from Mr Martin Paver for a first floor extension to his property: Woodspring, Livery Road, Winterslow. Details of the planning application were placed on the Local Planning Authority's website.
2. The garden of Mr Paver's property abuts the garden of Cllr Ludlow. Cllr Ludlow's property does not appear on the plan of properties held on the Local Planning Authority website, but Cllr Ludlow's property, Southview, Weston Road, Winterslow, is included on the list of neighbours held on the website.
3. On the 30<sup>th</sup> April 2009 the Local Planning Authority sent notice of the planning application to all the properties included on the list of neighbours, including Cllr Ludlow's property. According to the planning office these letters are courtesy letters, they are not required by statute.
4. Proof of posting is not proof of receipt and Cllr Ludlow can not remember receiving or seeing the letter from the Local Planning Authority.
5. The Local Planning Authority received one objection to the planning application from the immediate neighbour of Mr Paver, Mr Richards, who is the owner of the property Bel Etage.
6. Cllr Ludlow is also a neighbour of the owner of Bel Etage; the gardens of the properties adjoin.
7. Mr Paver's planning application was discussed at the Winterslow Parish Council meeting on Monday the 11<sup>th</sup> May 2009. At that meeting Cllr Ludlow objected to Mr Paver's planning application. Cllr Ludlow did not declare an interest, either personal or prejudicial, in the planning application at any time during the meeting. He participated in the meeting and voted on the application.

8. Winterslow Parish Council voted unanimously to oppose Mr Paver's planning application.
9. The list of neighbours was not included in the paperwork passed to Winterslow Parish Council. No one from the Local Planning Authority attended the meeting, and no one present at the Parish Council meeting of 11<sup>th</sup> May mentioned that Cllr Ludlow was a neighbour or a person potentially affected by the planning application.
10. Cllr Ludlow was acting in his official capacity as a member of Winterslow Parish Council throughout the Parish Council meeting of 11<sup>th</sup> May 2009, including participating in and voting on Mr Paver's planning application.
11. Parish Councils are consulted with regard to planning applications relating to their areas. However, although their views may be taken into account in the Local Planning Authority's decision, the Parish Council's decision is not binding on the Local Planning Authority and there have to be valid planning reasons for an application to be refused by the Local Planning Authority.
12. The Local Planning Authority considered Mr Paver's application and turned the application down as in this case the authority considered there were relevant planning grounds for refusing the application.
13. Mr Paver successfully appealed against the decision to refuse his planning application. The success of the appeal was not dependent upon or affected by Cllr Ludlow's involvement in the Parish Council's response to the consultation.
14. The investigating officer has visited Cllr Ludlow's property and found the distance between Cllr Ludlow and Mr Paver's properties to be approximately 80 metres. Cllr Ludlow's view of Mr Paver's property is partly obscured by trees and the extension may only be visible to Cllr Ludlow from parts of the garden. The gardens do connect but Cllr Ludlow is not directly affected by Mr Paver's proposed extension, that is, he is not overlooked nor his views, light or access affected.
15. The geography of the relevant properties is shown in the photographs produced by the Subject Member.

These findings of fact were then used as the basis for the Sub-Committee's consideration at Stage 2 on the question of whether there had been a breach of the Code of Conduct.

## **DECISION ON A POSSIBLE BREACH OF THE CODE OF CONDUCT (Stage 2)**

After hearing representations on this issue from both parties the Sub-Committee concluded in relation to each of the relevant provisions of the Code as follows:

***Paragraph 9(1)*** - *Subject to sub-paragraphs (2) to (5), where you have a personal interest in any business of your authority and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.*

The Sub-Committee found that Councillor Ludlow should have declared a personal interest in the planning application at the meeting of the Parish Council on 11 May 2009, and that by failing to do so he had breached paragraph 9(1) of the Code.

### **Reasons**

Councillor Ludlow himself accepted that he should have declared a personal interest due to the fact that his property was adjacent to the application site.

The Sub-Committee concurred with the Investigating Officer's findings that Councillor Ludlow had a personal interest because the planning application related to or was likely to affect his property, 'Southview' which was included in his Register of Interests.

***Paragraph 12(1)*** - *Subject to sub-paragraph (2), where you have a prejudicial interest in any business of your authority.*

*(a) you must withdraw from the room or chamber where a meeting considering the business is being held.*

*(i) in a case where sub-paragraph (2) applies, immediately after making representations, answering questions or giving evidence;*

*(ii) in any other case, whenever it becomes apparent that the business is being considered at that meeting; unless you have obtained a dispensation from your authority's standards committee; and*

*(b) you must not seek improperly to influence a decision about that business.*

*(2) Where you have a prejudicial interest in any business of your authority, you may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the*

*business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.*

The Sub-Committee concluded that Councillor Ludlow did not have a prejudicial interest in the matter and, therefore, did not breach paragraph 12(1) of the Code.

### **Reasons**

The Sub-Committee recognised that the geography of the properties was determinative in this case. In the light of their finding that the complainant's planning application had no significant impact on Mr Ludlow's property the Sub-Committee were satisfied that a member of the public with knowledge of the facts would not regard his interest as so significant that it would be likely to prejudice his judgment of the public interest. The test for a prejudicial interest in paragraph 10(1) of the Code was not, therefore, met.

### **SANCTION (Stage 3)**

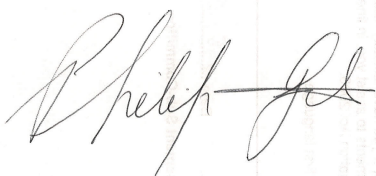
After hearing representations from the Investigating Officer and from the Subject Member and his representative, the Sub-Committee decided that the appropriate sanction in these circumstances was to require Councillor Ludlow to undertake training on the Code of Conduct.

### **RECOMMENDATION**

The Sub-Committee also recommended that training on the Code of Conduct should be extended to the clerk and all members of Winterslow Parish Council to ensure consistency in the knowledge and application of the requirements of the Code within the Council.

The training is to be arranged by the Monitoring Officer at the earliest opportunity and should be delivered in plain language.

This Decision Notice is sent to the Complainant, the Subject Member, Winterslow Parish Council and Standards for England.

A handwritten signature in black ink, appearing to read 'Philip Jel', is written over a faint, light-colored background that looks like a stamp or watermark.



**Wiltshire Council**

**Standards Committee**

**24 November 2010**

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## **Review of the Council's Constitution**

### **1. Purpose**

To advise the Standards Committee of the Council's decisions on the review of the constitution following the detailed work carried out by the Focus Group on the Review of the Constitution (Focus Group) on the Committee's behalf.

### **2. Background**

A report on the outcome of the review of the constitution and a recommended revised draft constitution was considered by the Standards Committee at a special meeting on 26 October 2010 convened for that purpose. At that meeting, the Committee considered the outcome of the review carried out by the Focus Group and agreed a number of issues for onward recommendation to Council.

A report incorporating the Committee's recommendation was considered by Council at its meeting on 9 November 2010. The report was presented to Council by Mrs McCord as Chairman of the Committee and the Focus Group and is attached as background information. To save paper, the appendices referred to in the report have not been included in this agenda as they were previously circulated to members of the Committee via the Council Summons. The papers can also be accessed on the following link:

<http://cms.wiltshire.gov.uk/ieListDocuments.aspx?CId=130&MId=943&Ver=4>

### **3. Outcome of the Review**

In considering the report and the recommended revised draft constitution, Council resolved as follows:

- (a) To adopt the recommendations of the Standards Committee dated 26 October 2010 (as set out in the report) with the exception of (iii) relating to the Media Relations Protocol.
- (b) To ask the Monitoring Officer, after consultation with the Focus Group on the Review of the Constitution and the Service Director, Policy and Communications, to prepare and approve a revised Media Relations Protocol, which takes account of the proposed

new Local Authority Code of Recommended Practice on Local Authority Publicity, due to come into effect on 1 January 2011.

- (c) To ask the Monitoring Officer to approve the 'Guidance on Amendments to Motions' following consultation with the Focus Group on the Review of the Constitution for inclusion as an appendix to Part 4 of the Constitution – Rules of Procedure – Council.
- (d) In relation to the issue of Cabinet Member response times, to include the following as a third bullet point under paragraph 6.8 of Part 12 – Role and Responsibilities of Councillors, applying the provision to all Councillors:

'To acknowledge any enquiries normally within four working days of receipt, and provide a substantive response, where required, within ten working days, if possible.'

- (e) To agree that the Constitution as revised should come into effect on 1 December 2010 in order to allow time for the document to be updated and formatted and for the changes to be communicated to all concerned.

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

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Report author:

Yamina Rhouati  
Democratic Governance Manager

Appendix – Report to Council dated 9 November 2010

## Review of the Constitution of Wiltshire Council

### Summary

The constitution was last reviewed in 2009/10 to ensure it would meet the needs of the new Wiltshire Council. The purpose of that review was to ensure a constitution fit for purpose was in place when Wiltshire Council came into effect as a unitary authority on 1 April 2009.

The Council adopted the new constitution on the basis that the new Council would review the effectiveness of the constitution in light of experience after six months of operation and requested the Standards Committee to undertake the review.

The Standards Committee established a Focus Group on the Review of the Constitution (Focus Group) to undertake the detailed work required. The Focus Group has met on four occasions and has recommended a number of changes to the constitution. The revised draft of the constitution reflects the recommended changes. The outcome of the work to review the constitution by the Focus Group was reported to the Standards Committee at a special meeting convened for that purpose on 26 October 2010.

The Standards Committee was satisfied with the detailed work undertaken by the Focus Group to review the constitution. The Standards Committee considered the changes proposed and has drawn up a series of recommendations for consideration by Council with a view to adopting a revised constitution.

A hard copy of the revised draft constitution has been made available to members of the Standards Committee to assist in its consideration of the outcome of the review. This report and revised draft constitution will be made available to all members electronically with hard copies available on request from Democratic Services.

### Proposals

**To consider the following recommendations of the Standards Committee from its meeting held on 26 October 2010 following its review of the constitution of the Council:**

- (i) To approve the changes proposed to the constitution shown as tracked changes on the draft revised constitution for adoption by Council at its meeting on 9 November 2010 (summary of main changes referred to in Appendix 5).**

- (ii) To approve for inclusion in the constitution the Protocol on Partnerships, the Protocol on Guidance to Councillors on Outside Bodies and the Protocol on Governance Reporting Arrangements.
- (iii) To note that the Protocol on Media Relations is still under review and that a revised Protocol will be considered by Group Leaders before being presented to Council as part of the revised constitution.
- (iv) That Council determines the issue of whether or not provision should be made in the constitution in respect of response times by Cabinet members.
- (v) To note the decision of Cabinet dated 19 October 2010 to defer consideration of the review of the Development Control Service until such time as the implications of any changes to the planning system as a result of the Decentralisation and Localism Bill are known. Consequently, the Scheme of Delegation on Planning – Part 3C and the Planning Code of Good Practice for Members of Wiltshire Council – Protocol 4 remain unchanged in the meantime.
- (vi) To designate the current Scrutiny Manager post as Wiltshire Council's Scrutiny Officer to be responsible for the statutory functions as defined in Section 31 of the Local Democracy, Economic Development and Construction Act 2009 (Appendix 3 refers).
- (vii) To authorise the Monitoring Officer to make such amendments as are necessary to give effect to decisions of Cabinet, Council or its committees and to ensure that the constitution is clearly presented and legally fit for the purpose of the Council.
- (viii) To thank the Focus Group, its Chairman Mrs Isabel McCord and other members of the Council who contributed to the review for all its valuable work in undertaking the detailed work required to carry out the review.
- (ix) To agree that the Focus Group remains in being to assist with
- the ongoing review work on the constitution as and when required;
  - producing user friendly summaries of the relevant parts of the constitution for use by members of the public and members of

**the Council and**

- **specifically to review the constitution in light of any changes in the legislation including the proposed Decentralisation and Localism legislation**

**and to amend its terms of reference to reflect the above.**

**Ian Gibbons  
Monitoring Officer**

## **Review of the Constitution of Wiltshire Council**

### **Purpose of Report**

1. To consider the outcome of the review of the constitution with a view to adopting a revised constitution for the Council.

### **Background**

2. The purpose of the constitution is to:
  - enable the Council to provide clear leadership to the community of Wiltshire in partnership with citizens, businesses and other organisations;
  - support the active involvement of citizens in the process of local authority decision making;
  - help councillors represent their constituents more effectively;
  - enable decisions to be taken efficiently and effectively;
  - create a powerful and effective means of holding decision-makers to public account;
  - ensure that no-one will review or scrutinise a decision in which they were directly involved;
  - ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions;
  - provide a means of improving the delivery of services to the community;
  - help the Council to focus on its strategic objectives.
3. The last full review of the constitution took place during 2009/10. The purpose of that review was to ensure a constitution fit for purpose was in place when Wiltshire Council came into effect as a unitary authority on 1 April 2009. This included work to ensure that the decision making process of the new council reflected the functions previously administered by the former district councils.

4. Wiltshire County Council at its meeting on 24 February 2009 adopted a revised constitution for use by the new Council. This was on the basis that the new Council would review the effectiveness of the constitution in light of experience after six months of operation. Council also noted that work was ongoing in respect of the Area Boards and Overview and Scrutiny arrangements which would be reflected in the constitution for approval by the new Council.
5. At the Annual meeting On 16 June 2009, Wiltshire Council approved the constitutional arrangements for Area Boards, Overview and Scrutiny and public participation, and a number of additional protocols and amendments of a minor nature for inclusion in the constitution. Council also agreed that a review of the constitution should be undertaken in the light of experience after six months and requested the Standards Committee with its responsibility for oversight of the constitution, to undertake the review.
6. This report sets out the outcome of the review by the Standards Committee.

### **Focus Group on the Review of the Constitution**

7. The Standards Committee at its meeting on 11 November 2009 agreed a process for reviewing the constitution by establishing a Focus Group to undertake the detailed work required. The membership of the Focus Group comprised representation from the Standards, Audit and Overview and Scrutiny Organisation and Resources Select Committees and a member from each of the political groups on the Council. The Focus Group was chaired by Mrs Isabel McCord, Independent Member and Chairman of the Standards Committee.
8. Details of the membership and terms of reference of the Focus Group are set out in **Appendix 1**. The Focus Group met on 4 occasions: 15 March, 29 July, 20 September and 8 October. As background information, the minutes of those meetings are attached as **Appendix 2**

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

9. The Council is required to have a constitution in place to ensure that it is able to discharge its functions effectively and lawfully.
10. Whilst the opportunity has been taken to review the entire constitution, many parts of it have not been changed as these are required by legislation and statutory guidance.
11. In adopting the current constitution, it was acknowledged that areas new to Wiltshire Council such as Area Boards, Planning Committees and also the Overview and Scrutiny arrangements would be the subject of review at a later stage. The priority at the time was to have a constitution in place which provided the necessary decision making framework and processes to discharge

these functions effectively. This was the rationale for requesting the new Council to review the constitution in the light of experience after six months.

12. Accordingly, there have been separate reviews of these areas, the outcomes of which have been reflected in the constitution.

#### Area Boards

13. The Leader of Council undertook a review of the operation of Area Boards as reported to Cabinet on 23 March 2010. The review took into account feedback received during consultation on the operation of Area Boards. The only constitutional implication arising from this review related to amending the Scheme of Delegation to Officers (Part 3B) to include the Area Board and Delegated Decisions checklist for officers. The checklist provides guidance to officers on the issue of when and how to involve local councillors and Area Boards in decisions about local services. As this is very much an operational internal document, the view has been taken not to include it as part of the constitution, but to refer to it in both the Scheme of Delegation to Officers and in the Protocol on Briefing and Information for Local Councillors.
14. The Focus Group at its meeting on 20 September 2010 and 8 October reviewed the sections of the constitution relating to Area Boards and has recommended a number of changes as outlined in the attached summary of main changes at **Appendix 5**. The recommended changes have been reflected in the draft revised constitution.

#### Development Control

15. A review of the development control service was undertaken following consultation with members of the Council and town and parish councils. The outcome of the review included proposals to revise the Scheme of Delegation on Planning and the Planning Code of Good Practice for Members of Wiltshire Council.
16. The changes which had been proposed were considered in detail by the Focus Group at its meeting on 29 July 2010 following presentation by the Service Director for Development and the Cabinet Member for Economic Development, Planning and Housing. The Focus Group was supportive of the general approach that was being taken but made a number of comments which it would like taken into account.
17. Cabinet at its meeting on 19 October 2010 considered a report on the outcome of the review of the development control service. Cabinet resolved to defer consideration of the review of the service until such time as the implications of any changes to the planning system as a result of the Decentralisation and Localism Bill were known.
18. This was reported to the Standards Committee which acknowledged the Cabinet position. Consequently, the Scheme of Delegation and Planning Code of Good Practice for Members of Wiltshire Council within the revised draft remain unchanged until such time as changes are agreed as part of the review



of the development control service and any changes in the legislation. Any changes to the Scheme of Delegation or Planning Code would require Council approval as they form part of the constitution.

#### Overview and Scrutiny

19. An interim review of the overview and scrutiny arrangements was undertaken as part of a planned review. One of the outcomes of the review was to establish a Liaison Board which has been meeting on an informal basis. The operation of this Board will be reviewed after 12 months of operation in the light of experience.
20. Slightly amended Articles and Overview and Scrutiny Procedure Rules were considered by the Focus Group at its meeting on 20 September and 8 October 2010 following presentation by the Scrutiny Manager and the Chairman of the Organisation and Resources Select Committee. Apart from a few further minor changes, the amendments were supported by the Focus Group.
21. The Focus Group at its meeting on 29 July 2010 considered a report on the requirement under Section 31 of the Local Democracy, Economic Development and Construction Act 2009 to designate one of the Council's officers as the statutory designated 'Scrutiny Officer'. The Focus Group supported the recommendation to Council to appoint the current Scrutiny Manager post as the Council's Designated Scrutiny Officer. By way of background information, the report considered by the Focus Group and the Organisation and Resources Liaison Board is attached at **Appendix 3**.
22. The Focus Group was advised of progress to develop a Protocol promoting a clear two way relationship between the Executive and Scrutiny. It was noted that this would now form part of a wider governance review called for by the Leader which would focus on backbench member involvement in the Council's decision making process.
23. The issue of whether overview and scrutiny committees should be chaired by members belonging to the majority group on the Council was also considered by the Focus Group. The Focus Group accepted the principle of minority parties influencing the content and direction of the overview and scrutiny function. This was supported by the research into arrangements operated by some other local authorities. This will be considered further as part of the wider governance review referred to in paragraph 22 above.

#### Changes previously agreed

24. Councillors may recall that a number of changes to the constitution have been previously agreed by the Council where the changes could not be delayed and considered as part of this review. A summary of those changes is attached at **Appendix 4**.

## Main Changes now being proposed

25. The changes now being recommended as a result of this review of the constitution are shown as tracked changes in the draft revised constitution. To further assist Councillors, a summary of the main changes is attached at **Appendix 5**.

### Introduction of new Protocols

26. The Focus Group has recommended the inclusion of three new Protocols in the revised constitution as follows:

#### **Protocol 3 – Guidance to Councillors Appointed to Outside Bodies**

27. This Protocol sets out the main issues which councillors should consider when appointed by the Council to serve on outside bodies. This is especially important in the context of voluntary sector representation and funding, where the need to ensure transparency and avoid conflicts of interest is paramount.
28. Much of the guidance also applies to councillors who are involved in outside bodies in their private capacity, though the Council's insurance and indemnity arrangements will not apply in these circumstances.
29. The guidance:
- sets out the issues which councillors should consider before accepting appointment to any outside body;
  - deals with the roles, responsibilities and potential liabilities that apply to various types of organisation;
  - provides that councillors should generally be appointed to outside bodies on behalf of the Council as members with observer status only, unless there are exceptional reasons for more formal participation.
  - covers issues relating to the Code of Conduct for Members and pre-determination;
  - summarises the Council's insurance cover and provides for the extension of the officers' indemnity to members and co-opted members
30. It is intended to undertake a review of the Council's appointments to outside bodies in the light of this guidance.
31. Further assistance on this subject will be provided to councillors through information (e.g. Frequently Asked Questions) on the Councillors' area of the Council's web-site and through Councillor development training.
32. This Protocol was considered by the Focus Group at its meeting on 29 July 2010 and, briefly again on 8 October, to update members on some further changes, including the addition of some recent guidance from Standards for England on dual-hatted members, and the proposed extension of the officers' indemnity to cover members. The Focus Group fully supported the Protocol.

## **Protocol 8 – Partnership**

33. Cabinet in May 2007 adopted a framework policy for the evaluation, approval and registration of partnerships in order to strengthen the Council's partnership governance arrangements. This Protocol has now been updated. In order to raise the profile of the governance of partnership arrangements and in recognition of increased partnership activity, it is being recommended for inclusion as a Protocol to the constitution. The Focus Group considered the Protocol on 8 October and apart from a very minor amendment, supported this view.

## **Protocol 11 - Governance Reporting Arrangements**

34. This Protocol documents the governance reporting arrangements for the Council's Cabinet, Audit, Overview and Scrutiny and Standards Committees. It identifies key areas of council activity, the extent of involvement by the executive and non-executive lead committee for each of those activities. This is a useful reference document relating to the decision making structure of the Council and is therefore being recommended for inclusion as a Protocol to the constitution.

### Outstanding Issues

35. The following issues remain outstanding:

## **Protocol 7 – Media Relations Protocol**

36. Apart from a few very minor amendments, it had not been proposed to change this Protocol. However, the Focus Group was not happy with the Protocol as it stood and asked for it to be redrafted taking on board specific comments it made. The Focus Group asked for a revised version to be considered by Group Leaders initially before being presented to Council as part of the revised constitution.
37. The Protocol is currently being redrafted to take into account comments from the Focus Group, recognising that further changes may be required as a result of the introduction of a revised Code of Practice on Local Authority Publicity, which is currently out for consultation. The intention is to present a revised Protocol (on an interim basis pending the outcome of the review of the Code of Practice on Local Authority Publicity) for initial consideration by Group Leaders before presentation to Council if this can be done within the time available. For the reason, this Protocol has not been included in the revised draft constitution at this stage.

## **Cabinet Member Response Times**

38. A recommendation from the Member Support in the Locality Task Group related to the need to include a protocol stipulating that Councillors can expect an initial response from Cabinet Members and Portfolio Holders within two days and a substantive response within seven days.

39. The view of Cabinet Members is that realistically, the suggested protocol could not be kept to all of the time. They have therefore recommended a broader protocol to the effect that in respect of member enquiries from other members, every effort should be made to provide a prompt response wherever possible with this being applied to all Councillors and not just Cabinet members.

40. The stance taken by the majority of members of the Focus Group is as follows:

*'Response from Cabinet members to other members of the Council*

*A response will, unless there are exceptional circumstances be acknowledged within two working days of receipt. A substantive response will be provided within ten working days of receipt. If that is not possible an explanation will be given as to the reason for the delay, what action is being taken, and when a response will be sent'.*

41. The Standards Committee considered the recommendation from the Task Group, the views of Cabinet members and the Focus Group. The view of the Standards Committee is that whilst it would be useful to include an appropriate timescale for responses, this was a matter for the Councillors to determine.

42. Should Council agree to include provision for a timescale for responses as suggested, this could be reflected in Part 12 previously entitled 'Members' Job Description'. One of the recommended changes to the constitution is that Part 12 should be renamed 'Role and Responsibilities of Councillors'.

**Amendments to Motions (within the Rules of Procedure: Council – Part 4)**

43. A number of Councillors have through their feedback via the questionnaire on the constitution and at recent meetings of Council expressed concern over what constitutes a valid amendment to a motion. The wording of this particular rule of the constitution is as set out in the Modular Constitution prescribed in statutory guidance.

44. The Focus Group considered Councillors' concerns and has not recommended a change to this particular rule. It also acknowledged that it was more about the application of this rule rather than the wording of the rule itself. Accordingly, it has requested that consideration be given to the Monitoring Officer drawing up a convention on the application of this rule acceptable to the Chairman of Council and Group Leaders.

Further Review

45. The constitution will need to be reviewed in the light of any new legislation to ensure that it remains lawful and fit for purpose. The proposed Decentralisation and Localism Bill in particular, is likely to have a significant impact on the Council's decision making arrangements.

46. The review of the constitution by a representative Focus Group has once again proved to be a very practical and constructive way of undertaking the detailed work required. One of the recommendations in this report is that the Focus

Group continues with the same membership to consider any significant further revisions as part of an ongoing review. More specifically, the Focus Group would be asked to review the constitution in light of the Localism Bill and other relevant new legislation and for this to be reflected in its terms of reference.

### **Consultation**

47. All elected and co-opted members of Wiltshire Council were given the opportunity to contribute to the review by completing a questionnaire. Of the 123 questionnaires issued (to 98 elected members and 25 co-opted members), 35 completed questionnaires were received; this equates to a 28.45% response rate. The comments received were taken into account by the Focus Group during the review. A summary of the responses together with a commentary is attached at **Appendix 6**.
48. Using the Parish Newsletter, town, parish and city councils were advised that the constitution was being reviewed and invited to submit their comments to help inform the review. No responses other than a few requests for further information on specific areas of the constitution were received. Town, parish and city councils were specifically consulted on the main areas of interest to them namely, the operation of Area Boards, development control and the operation of Planning Committees.
49. The Focus Group was keen to seek the views of members of the public, although it recognised that a number of the documents which make up the constitution might not generate much public interest. The Focus Group therefore agreed a series of questions for inclusion in an online snap survey which centred on public engagement and participation at meetings, details of which were reported to Councillors in the Elected Wire dated 1 October 2010. Whilst a response of only 28 completed surveys is not representative, the comments received will be taken into consideration in seeking to increase public engagement.
50. Cabinet at its meeting on 19 October 2010 received an update on the outcome of the review of the constitution. Cabinet considered that user friendly leaflets summarising the relevant parts of the constitution for use by members of the public and Councillors should be provided. This had been acknowledged during the last review of the constitution and a proposal for this to be undertaken is included as a recommendation to Council. Cabinet also considered that a user friendly summary of the Area Handbook should also be provided.

### **Environmental Impact of the Proposal**

51. None.

### **Equalities Impact of the Proposal**

52. The constitution as amended complies with the Council's obligations under equalities legislation and its Equality and Diversity Policy.

## **Financial Implications**

53. Work on this project has been undertaken within existing resources. There will be a relatively minor cost in the printing of the constitution, although as far as possible the emphasis will be on providing electronic copies of the document. As mentioned in paragraph 49, it is recognised that a user-friendly summary of how members of the public can engage in the decision making process of the Council is needed. This is an area that the Focus Group could be asked to consider along with any financial considerations.

## **Legal Implications & Risk Assessment**

54. The Council is required to have a constitution in place to ensure it is able to discharge its functions effectively and lawfully. The Constitution is a fundamental part of the Council's governance and risk management arrangements.

## **Conclusion**

55. This essentially concludes the review of the constitution requested by the Council. Generally the constitution has been fit for purpose and worked effectively in meeting the objectives in paragraph 2.
56. The few outstanding issues are referred to in paragraphs 35 - 44 of this report. A further review of the constitution will be necessary once the proposals in the Localism Bill and other relevant new legislation are clear.

**IAN GIBBONS**  
**MONITORING OFFICER**

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Report Author:

Yamina Rhouati  
Democratic Governance Manager

Appendices:

Appendix 1	-	terms of reference and membership of Focus Group
Appendix 2.1	-	minutes of the Focus Group – 15 March 2010
Appendix 2.2	-	minutes of the Focus Group – 29 July 2010
Appendix 2.3	-	minutes of the Focus Group – 20 September 2010
Appendix 2.4	-	minutes of the Focus Group - 8 October 2010
Appendix 3	-	Report – Designated Scrutiny Officer
Appendix 4	-	Summary of previously agreed changes to constitution
Appendix 5	-	Summary of main changes now proposed
Appendix 6	-	Summary of questionnaire responses from members

Background Papers: None

## 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
Month 2010						
January	0	18	0	0	0	5
February	1	16	0	1	0	3
March	3	19	0	3	0	0
April	4	19	0	4	0	4
May	3	19	2	1	0	3
June	0	14	0	0	0	5
July	6	19	1	5	0	1
August	3	22	1 (referred to SfE)	1	1****	0
September	5	21	0	4	1**	6
October	1	17	0	0	1	5
Totals	70	n/a	22	29	19	53

Appeals received
0
0
0
0
0
0
0
0
0
1 (overturned)
2 (upheld)
0
0
1 (upheld)
1 (upheld)
0
0
0
4 (upheld)
1 (awaiting review)
10

- \* 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

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			n/a
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	Yes (1)
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 (2)
<b>2010</b>				
January	0			n/a
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 Referral to Determination Sub-Committee	No
March	4	02/03/10 – 1 x Consideration Sub-Committee 30/03/10 – 3 x Assessment Sub-Committee	Referral to Determination Sub-Committee 1 referral to MO & 2 no further action	Yes (1)



2010	Number of hearings	Date(s) and type(s) of hearing	Outcome	Appeal (Y/N)
April	4	12/04/10 – 1 x Determination Sub-Committee 15/04/10 - 3 x Consideration Sub-Committee	Failure to comply – sanction: censure 2 no failure to comply – closed 1 referral to Determination Sub-Committee	n/a
May	10	11/05/10 – 5 x Assessment Sub-Committee 13/05/10 – 1 x Determination Sub-Committee 25/05/10 – 3 x Assessment Sub-Committee 25/05/10 – 1 x Review Sub-Committee	2 no further action, 1 referral to MO and 2 referrals to SfE * Failure to comply – sanction: training 2 investigations & 1 no further action Decision upheld	n/a
June	1	17/06/10 – 1 x Review Sub-Committee	Decision upheld	n/a
July	4	05/07/10 – 1 x Determination Sub-Committee 27/07/10 - 3 x Consideration Sub-Committee	Failure to comply – no further action 3 referrals to Determination Sub-Committee	n/a
August	6	19/08/10 - 6 x Assessment Sub-Committee	1 investigation & 5 no further action	Yes (4)
September	7	07/09/10 – 1 x Assessment Sub-Committee 07/09/10 – 1 x Consideration Sub-Committee 28/09/10 – 1 x Assessment Sub-Committee 29/09/10 – 4 x Review Sub-Committee	1 x no further action 1 x no failure to comply 1 x investigation - referred to SfE * 4 x no further action	Yes
October	7	06/10/10 – 2 x Determination Sub-Committee 14/10/10 - 1 x Determination Sub-Committee 21/10/10 – 4 x Assessment Sub-Committee	2 x no failure to comply 1 x 1 no failure to comply & 1 failure to comply – sanction: training 4 x no further action	

\* SfE decisions – no further action

## Investigations

Case reference	Date of Assessment hearing	Progress	Estimated date of final report
WC 06/09	13/05/09	Determination Sub-Committee 13 May 2010 – failure to comply (sanction – training) - closed	N/A
WC 14/09	23/06/09	Consideration Sub-Committee 15 April 2010 – no failure to comply – closed	N/A
WC 15/09	23/06/09	Consideration Sub-Committee 15 April 2010 – no failure to comply – closed	N/A
WC 18/09	13/05/09	Determination Sub-Committee 6 October 2010 – no failure to comply - closed	N/A
WC 19/09	13/05/09	Determination Sub-Committee 6 October 2010 - no failure to comply - closed	N/A
WC 20/09	23/06/09	Final report being drafted	November 2010
WC 24/09	07/07/09	Determination Sub-Committee 12 April 2010 – failure to comply (sanction- censure) - closed	N/A
WC 30/09	07/07/09	Report being drafted - complex case involving deeds of easement	November 2010
WC 31/09	07/07/09	Report being drafted – complex case involving deeds of easement	November 2010
WC 32/09	07/07/09	Report being drafted – complex case involving deeds of easement	November 2010
WC 33/09	07/07/09	Determination Sub-Committee 14 October 2010 – 1 no failure to comply & 1 failure to comply (sanction – training) - closed	N/A
WC 38/09	19/11/09	Determination Sub-Committee 5 July 2010 – failure to comply (no further action) closed	N/A
WC 43/09	02/12/09	Report being drafted – outstanding in order to clear backlog on older cases	Dec 2010/Jan 2011
WC 45/09	02/12/09	Report being drafted – outstanding in order to clear backlog on older cases	Dec 2010/Jan 2011
WC 42/09	03/02/10 (Review Sub-Ctte)	Consideration Sub-Committee 7 September 2010 – no failure to comply - closed	N/A
WC 09/10	25/05/10	Draft report sent out	November 2010
WC 10/10	25/05/10	Draft report sent out	December 2010
WC 12/10	19/08/10	Interviews in progress	January 2011

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Casestatusreport24/11/2010

Standards Committee 24 November 2010

## WILTSHIRE COUNCIL

### STANDARDS COMMITTEE

24 November 2010

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#### Review of Size of the Standards Committee

##### Purpose

1. To recommend a reduction in the size of the Standards Committee from 22 to 14 members by April 2011.

##### Background

2. Wiltshire Council's Standards Committee has 22 members, making it one of the largest Standards Committee's in the country. The size of the Committee was determined in anticipation of the volume of complaints that it would be required to determine, based on data submitted by the former district council's of Wiltshire.
3. It was agreed that the number of Committee members would be reviewed after the Council had a clearer idea of the volume of work undertaken by the Standards Committee following the creation of the new unitary authority for Wiltshire. Members of the Standards Committee have asked officers to consider the size of the current Committee in the light of that experience.

##### Main issues for consideration

4. There have been 32 meetings of the Standards Committee and its decision-making sub-committees between April 2009 and August 2010. There were 7 meetings of the full Standards Committee, and a further 25 sub-committee meetings, to assess complaints, consider dispensations, consider investigation reports and determine complaints. The number given for sub-committees refers to occasions when members met as a sub-committee; on many occasions a sub-committee was convened to conduct a number of assessments and went on to consider granting dispensations. These have been counted as a single meeting. Training and Communications Sub-Committee meetings have not been included in these figures.
5. The current membership of the Standards Committee comprises:
  - Eight independent members
  - Eight town and parish members
  - Six elected members of Wiltshire Council

6. Each of the sub-committee meetings between April 2009 and August 2010 was attended, as required by the Constitution and by statute, by an independent member of the Standards Committee, a town and parish council member, and a member of Wiltshire Council. This meant that, in addition to the usual scheduled meetings of the full Standards Committee, independent and town and parish members attended 3.1 meetings during the period in question. The Wiltshire Council members attended, on average, 6.25 of these meetings.
7. Several members of the Standards Committee have reported that they would wish to be more fully occupied with regard to their Standards Committee duties, and have indicated that the size of the Standards Committee may be too large for the work required of it.
8. The Governance Support Officer reports that, with the current membership, it is usually relatively straightforward to find independent and town and parish members of the Standards Committee who would be available to attend assessment/dispensation/consideration meetings, but that it is often more difficult to find Wiltshire Council members of the Standards Committee who are available, mainly because of other Wiltshire Council commitments.
9. Officers have considered whether a reduction in the size of the Standards Committee could be achieved while still maintaining the capacity to deliver the Committee's statutory and constitutional functions. The risk of reducing the Committee's size, and consequently its overall capacity, has to be weighed against the cost of a committee of this size, and the fact that not all members feel that they are able to contribute as much as they would wish to the Committee's work.
10. Another factor to be taken into account is the announcement by the Coalition Government that it intends to repeal the Code of Conduct legislation, and is likely to remove the statutory requirement for councils to operate standards committees. The detail and timing of these changes are to be determined by the new Localism Bill, which is unlikely to come into force before November 2011 at the earliest. Nonetheless, it seems prudent to bear these forthcoming legislative changes in mind. The proposals in this report represent an interim position pending clarification of the proposals for standards in the Localism Bill.
11. If the size of the Committee is to be reduced, members remaining on the Standards Committee would need to be aware that the demands on their time are likely to increase for the next 12 months or so, in order to ensure that the statutory functions of the Standards Committee can be carried out. Officers in the Governance Team will arrange a regular schedule of monthly meetings well in advance, to ensure that each decision making sub-committee meeting is composed of the members required by the Constitution and by the legislation to make decisions on Code of Conduct complaints and on dispensations, and that members have these meetings fixed in their diaries.

## **Recommendations**

12. That the Standards Committee recommends to Wiltshire Council a revised Standards Committee membership of 14, comprising the following:
  - 6 independent members who are not members or officers of the council, nor have been so for the five years preceding their appointment;
  - 4 town or parish councillors who are not elected members of Wiltshire Council;
  - 4 elected members of the council, other than the Leader or any member of the Cabinet.

13. That the Standards Committee recommends to Wiltshire Council that the membership numbers set out in paragraph 12 above are a target, with membership numbers to be managed down from the current levels between now and April 2011 by means of voluntary resignations from the Standards Committee, and by not recruiting to any vacancies unless the target for each category is reached and there are insufficient members of the Standards Committee to fulfil the Committee's functions.

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

12. 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**

13. There is a risk that too many members of the Standards Committee seek to resign, meaning that the Committee does not retain sufficient numbers to fulfil its statutory functions.
14. There is a risk that the target composition of the Standards Committee proposed in this report will not be sufficient for the Committee to fulfil its statutory functions.

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

24 NOVEMBER 2010

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#### Registers of Members' Interests – Town and Parish Councils

##### Purpose of Report

1. To update the Standards Committee on the work that has been undertaken by the Governance Team since 1 April 2009 in respect of the Registers of Members' Interests for town and parish councils.

##### Background

2. Following the formation of Wiltshire Council on 1 April 2009 the responsibility for the retention of Registers of Members' Interests for town and parish councils passed to Wiltshire Council and the records retained by the former district councils were forwarded to the Governance Team.
3. The Governance Team carried out an audit of the records received and it became apparent that there were several towns and parishes within the amalgamated areas which had previously either:
  - (a) not submitted the completed Registers of Interests to the respective Monitoring Officer for signature and retention;
  - or
  - (b) had the original Register returned to them by the district council once signed by the Monitoring Officer and the district council had not taken a copy for its records.
4. It was also noted that town and parish councils were submitting forms that were not always fully completed and some councils were continuing to submit forms issued by the former district councils.
5. In August 2009 the Governance Team wrote to all town and parish councils introducing itself and outlining the ways in which Wiltshire Council was able to support towns and parishes in promoting the Code of Conduct for Members and good governance in general.

## **Main considerations for the Committee**

6. Since August 2009 the Governance Team has been engaged in the following activities:
  - obtaining those Registers of Interests not held on file
  - updating clerks with forms issued by Wiltshire Council
  - contacting clerks and confirming the procedures for the submission and retention of Registers
  - giving advice to clerks and councillors regarding the completion of Registers
  - acknowledging receipt of new Registers of Interest
7. An exercise is currently underway to evaluate the processes surrounding the completion and submission of Registers to create a more streamlined system. This will include articles being published in the monthly parish newsletter to remind town and parish councillors to provide Notices of Revision and Confirmation of Interests Previously Given where appropriate.
9. The Governance Team is also developing a dedicated area for towns and parishes on the Standards pages of the Wiltshire Council website, which will provide clerks and councillors with information relevant to them, including Registers of Interests.

## **Proposal**

10. The Standards Committee is asked to note the contents of this report.

## **Training and Communications Issues Arising**

11. There are no general 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**

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

Ian Gibbons  
Monitoring Officer

Report Author: Anna Browne - Governance Support Officer

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



## COMMITTEE'S WORK PLAN 2011/12

Meeting Date and Time	Name of Report	Scope of Report
Wednesday 12 January 2011	Status Report on Complaints made under the Code of Conduct	
	Annual Audit Letter	
Wednesday 9 March 2011	Review of the Standards Committee Plan 2010-2014	
	Status Report on Complaints made under the Code of Conduct	
	Standards Committee Draft Annual Report 2010/11	
16 May 2011	Annual Report on Dispensations Granted.	
	Reappointment of Sub-Committees	
	Status Report on Complaints made under the Code of Conduct	

Future meeting dates:

20 July 2011  
 21 September 2011  
 23 November 2011  
 11 January 2012  
 7 March 2012

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