

AGENDA

Meeting: **STANDARDS COMMITTEE**
Place: **Committee Room III, County Hall, Trowbridge**
Date: **Wednesday 12 January 2011**
Time: **2.00 pm**

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

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

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 Stuart Middleton and Mr Gerry Robson OBE (Vice Chairman)

Part 1

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

1. **Apologies**

2. **Minutes of previous meeting** (*Pages 1 - 6*)

To confirm and sign the minutes of the Committee meeting held on 24 November 2010 (copy 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 **5pm on Wednesday 5 January 2011**.

6. **Minutes of Sub Committees** (*Pages 7 - 8*)

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

Dispensations Sub Committee – 16 November 2010

7. **Localism Bill - Proposed Changes to the Standards Regime** (*Pages 9 - 34*)

To receive the report of the Monitoring Officer

8. **Annual Audit Letter 2009/10** (*Pages 35 - 50*)

The Annual Audit Letter is attached.

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

To receive a verbal update from Mr Gerry Robson OBE

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

To receive attached status report.

11. **Feedback on the use of detailing findings of fact in investigation reports**

To receive a verbal update from the Head of Governance

12. **Review of Allowance for Standards Committee Members** (*Pages 55 - 56*)

To receive the report of the Monitoring Officer

13. **Forward Plan** (*Pages 57 - 58*)

To receive the committee's forward plan

14. **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

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STANDARDS COMMITTEE

DRAFT MINUTES OF THE STANDARDS COMMITTEE MEETING HELD ON 24 NOVEMBER 2010 AT COMMITTEE ROOM III, COUNTY HALL, TROWBRIDGE.

Present:

Wiltshire Council Members

Cllr Ernie Clark, Cllr Peter Fuller and Cllr Malcolm Hewson

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

Mr Michael Cronin, Mr Gerry Robson OBE, Mr Philip Gill MBE JP, Mrs Isabel McCord (Chairman) and Mr Ian McGill CBE

Also Present:

Cllr Francis Morland

89. Apologies

Apologies were received from Mrs Jane Bayley, Councillor Nigel Carter, Councillor Julian Johnson, Mr Craig McCallum, Councillor Ian McLennan and Mr Stuart Middleton

90. Minutes of previous meetings

The minutes of the meetings held on 22 September and 26 October were presented.

Resolved:

To approve as a correct record and sign the minutes

91. **Chairman's announcements**

Localism Bill

The Chairman announced that the publication of the Localism Bill had been delayed until 8 December.

Dates of Future Meetings

These were listed on the Committee's Forward plan.

Mentoring Training

The Chairman had recently attended the mentoring training organised by the Councillor Development Group. She requested those who were due to attend the next session to send feedback on the course to Democratic Services.

Mr William Bailey

The Chairman congratulated Mr Bailey in his success in the recent NALC awards where he was placed in second place in the Councillor of the Year category.

92. **Declarations of Interest**

There were no declarations of interest

93. **Public participation**

There were no members of the public present

94. **Minutes of Sub Committees**

The minutes of the Dispensation sub-committee held on 21 October were presented.

Resolved:

To note the minutes

95. **Outcome of a Consideration Sub-Committee**

The committee considered a report on the outcome of a Consideration sub-committee.

Resolved:

To note the report

96. **Code of Conduct Determination Hearings**

96a **Determination Hearing**

The Monitoring Officer introduced the report and explained the background to the complaint. He added that training had been arranged for Councillor Ludlow and also for the Parish Council and this would take place in the near future.

Resolved

To note the outcome of the Hearing

96b **Determination Hearing**

The Chairman gave a verbal update of the outcome of a Standards Hearing sub-committee. She outlined the reasons for hearing 2 complaints together and the process involved. She also outlined lessons learnt from this hearing which included the importance of the Assessment sub-committee being clear about which aspects of the case the Investigating Officer should address.

Resolved

To note the outcome of the Hearing

98. **Review of Constitution**

The Chairman introduced the report which advised members of the decision of the council on the review of the constitution following the detailed work carried out by the Focus Group on the Review of the Constitution.

The Chairman added that the Focus Group would continue to meet with the membership remaining unchanged.

Resolved:

To note the report

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

Mr Gerry Robson OBE reported that as the Localism Bill had been deferred, the presentation to Area Boards would not take place until after 8 December.

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

The Deputy Monitoring Officer presented the report and outlined how the caseload was being managed. She explained the usefulness of the

investigators findings of fact being set out in the hearing sub-committee report and said that this would be trialled at the next hearing sub-committee with feedback given at the next meeting of this committee.

Resolved

- a. That the report be noted.
- b. That feedback on the use of detailing findings of fact in the investigation report be brought back to the next meeting.

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

The Chairman asked for the committee's views on the proposed allowance rise that was due in May 2011. After a debate it was

Resolved:

To ask the Monitoring Officer to investigate, and bring a report to the next meeting, on the possibility of freezing the co-optees allowances at their present level.

102. **Size and Composition of the Standards Committee**

The Deputy Monitoring Officer introduced the report which recommended recommend a reduction in the size of the Standards Committee from 22 to 14 members by April 2011.

A debate ensued during which it was

Resolved:

To defer the decision in the light of the imminent publication of the Localism Bill and to bring a report to the next meeting of the committee

103. **Procedures Surrounding Register of Interest Submissions**

The Deputy Monitoring Officer introduced the report which updated the 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.

It was requested that advice be also given to Wiltshire Councillors on the importance of being specific in their Registers of Members' Interests.

Resolved

To note the report

104. **Forward Plan**

The committee's forward workplan was presented.

Resolved

To note the forward workplan.

105. **Urgent Items**

There were no urgent items

(Duration of meeting: 4.00 pm)

The Officer who has produced these minutes is Pam Denton, of Democratic Services,
direct line 01225 718371, e-mail pam.denton@wiltshire.gov.uk

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STANDARDS DISPENSATION SUB-COMMITTEE

DRAFT MINUTES OF THE STANDARDS DISPENSATION SUB-COMMITTEE MEETING HELD ON 16 NOVEMBER 2010 AT COMMITTEE ROOM VII - COUNTY HALL, TROWBRIDGE.

Present:

Mr Michael Cronin, Cllr Malcolm Hewson and Mr Keith Wallace

Also Present:

Ian Gibbons, Monitoring Officer

1. Declarations of Interest

There were no declarations of interest

**2. Consideration of a dispensation request Councillor John Knight of
Wiltshire Council**

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

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

He 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 John Knight to speak and vote at meetings of Trowbridge Area Board on matters pertaining to grant applications by Trowbridge Town Council and community asset transfers from Wiltshire Council to Trowbridge Town Council.

(Duration of meeting: 14.00 – 14.20)

The Officer who has produced these minutes is Pam Denton, of Democratic Services, direct line 01225 718371, e-mail pam.denton@wiltshire.gov.uk

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WILTSHIRE COUNCIL

STANDARDS COMMITTEE

12 January 2011

Localism Bill - Proposed Changes to the Standards Regime

Purpose

1. To advise the Standards Committee of the Government's proposals for the future of standards in local government contained in the Localism Bill and to suggest that these are referred to the Constitution Focus Group for initial consideration.

Background

2. The Localism Bill was introduced to Parliament on 13 December 2010. The Bill is intended to set the foundations for the big society by radically transforming the relationships between central government, local government, communities and individuals. The main aims of the Bill are to:
 - empower local people;
 - free local government from central and regional control;
 - give local communities a real share in local growth;
 - provide a more efficient and more local planning system.
3. Within the context of localism the Bill makes substantial changes to the standards regime. The relevant provisions are set out in clauses 14-20 of Chapter 5 of Part 1 of the Bill. The consequential amendments to existing statutory provisions are set out in Schedule 4 to the Bill.
4. Clause 13 of the Bill seeks to clarify the law on predetermination to enable councillors to fulfil their responsibilities more effectively within their communities without the risk of legal challenge.
5. Clauses 13-20 of the Bill are attached as Appendix 1. Schedule 4 has not been included as this has to be read in conjunction with the legislation which it is amending. The full text of the Bill may be read at:

<http://www.publications.parliament.uk/pa/cm201011/cmbills/126/11126.i-v.html>

The relevant parts of the Explanatory Notes to the Bill are included at Appendix 2.

6. Attached at Appendix 3 is a copy of a letter dated 30 November 2010 from Standards for England and a letter from the Department for Communities and Local Government dated 15 October 2010 summarising the proposed changes.

Main Issues for Consideration

7. The Bill, in summary, makes the following changes:
 - abolishes the Relevant Authorities (General Principles) Order 2001, which sets out the 10 principles which govern the conduct of members and co-opted members of relevant authorities;
 - abolishes the requirement for relevant authorities to adopt a model code of conduct;
 - abolishes the current requirements as to the composition of a standards committee;
 - abolishes Standards for England;
 - removes jurisdiction from the First-tier Tribunal (Local Government Standards in England) in respect of references and appeals concerning the conduct of local authority members;
 - makes transitional arrangements pending the abolition of the standards regime;
 - introduces new arrangements for the registration and declaration of personal interests, backed in certain circumstances by the criminal law;
 - allows local authorities to adopt their own, voluntary code of conduct.

8. The following paragraphs deal in turn with the particular provisions of the Bill giving effect to these changes:

Duty to promote and maintain high standards of conduct (clause 15)

9. This clause imposes a duty on relevant authorities (including unitary, town, parish and city councils) to promote and maintain high standards of conduct by members and co-opted members. In the absence of further specific provision it will be for each authority to determine how it discharges this general duty.

10. It should be noted that, under clause 15(6), the discharge of this duty and other functions conferred by this Chapter of the Bill are not to be the responsibility of the Cabinet. At member level, therefore, responsibility would vest in the Council or any committee to whom it decided to delegated these functions.

11. A co-opted member is defined as a person who is not a member of a relevant authority, but who is a voting member of any committee or sub-committee of the authority. For the purposes of the rest of this report 'member' is deemed to include 'co-opted member'.

Voluntary codes of conduct (clause 16)

12. This clause gives relevant authorities an explicit power to adopt, revise, replace or withdraw a code dealing with the conduct expected of members of the authority when

they are acting in that capacity. The authority may publicise its voluntary code and any changes to it as it considers appropriate. The Bill makes it clear that the function of adopting, revising or withdrawing a code of conduct cannot be delegated to a third party (clause 16(6)).

13. Where a written complaint is made that a member has failed, or may have failed, to comply with the authority's code of conduct, the authority must consider whether it is appropriate to investigate the complaint and, if appropriate, it must investigate the complaint as it sees fit.
14. If the authority finds that a member has failed to comply with its code of conduct it may have regard to the failure in deciding whether to take any action against the member and, if so, what action to take. The Bill does not specify what action may be taken in such circumstances. In the absence of a power to suspend or disqualify this would appear to leave censure as a sanction. It may be possible to impose a requirement to issue an apology or undertake training if this is written into the code of conduct and adopted as part of the authority's constitution. Enforcement of such a requirement may, however, be difficult if a member refuses to co-operate.

Disclosure and registration of members' interests (clauses 17 and 18)

15. Clause 17 gives the Secretary of State the power to make regulations governing the disclosure and registration of members' interests. The regulations may:
 - require the monitoring officer to establish and maintain a register of interests for the members of the authority;
 - specify the financial and other interests that must be registered;
 - require a member to disclose any specified kind of interest before taking part in any business of the authority relating to that interest;
 - prevent or restrict a member from taking part in any business of the authority relating to an interest which is required to be disclosed.
 - enable an authority to grant dispensations in specified circumstances where members would otherwise be prohibited from taking part;
 - specify the sanctions that an authority may impose on a member for failure to comply with these requirements;
 - require the authority to make copies of the register available to the public and to inform the public that copies are available.
16. The Bill leaves open the question as to who will be responsible for establishing and maintaining a register of interests for parish and town councillors - see clause 17(4). Currently, of course, this falls to me as monitoring officer for the relevant unitary authority, but in future this will be determined by the regulations to be made under clause 17(1).
17. The regulations will also make it an offence for a member who, without reasonable excuse, fails to comply with the requirements as to registration and disclosure of interests or any restriction or prohibition on participation. Whilst it will be necessary to see the

regulations before assessing how this will operate in practice, it would seem that the criminal law will apply to those cases where there is wilful failure to comply. In other cases any sanction will rest with the authority (clause 18).

18. A person convicted of an offence under clause 18 will be liable to a maximum fine of £ 5,000. The court also has power to disqualify the member for a maximum period of 5 years from being or becoming a member of the relevant authority or any other relevant authority.

Transitional Arrangements

19. The proposed transitional arrangements will be the subject of an order under clause 20 and are likely to include the following measures:

- the present regime will continue until a fixed date ('the appointed day'), probably two months after the Bill receives Royal Assent;
- any cases in the system on the appointed day will be considered and determined by the local standards committee;
- any cases being investigated by Standards for England will, on the appointed day, be referred to the local standards committee to arrange for the conclusion of the case;
- any cases before the First-tier Tribunal on the appointed day will be concluded by the tribunal;
- no appeals to the First-tier Tribunal against standards committee rulings will be permitted after the appointed day;
- the suspension sanction will be removed from standards committees for the transitional period;
- no new allegations may be received after the appointed day. Standards committees will remain in being until it has dealt with all outstanding complaints.

Parish and Town Councils

20. The provisions of the Bill relating to standards apply to parish, town and city councils, but it would appear that the Council will no longer have responsibility for the exercise of standards functions in relation to its parish, town and city councils - paragraph 14 of Schedule 4 removes this. Further, as indicated above, it is not clear whether I will have any role as monitoring officer in relation to the discharge of their standards functions. This should be clarified by regulations in due course.

Standards Committees

21. Following the transitional period authorities will still be required to establish a committee to exercise its standards functions, but the existing provisions stipulating the membership of standards committees (including the requirements for independent and parish and town representatives) will no longer apply. The committee will be an ordinary committee of the Council to which the political balance rules would apply. The Council could decide

to co-opt independent members. As the law currently stands, however, such co-opted members would be non-voting.

22. The requirement to have a committee to exercise standards functions will also apply to town and parish councils. Currently there is no such requirement as they are covered by the Council's Standards Committee.
23. Under section 54 Local Government Act 2000 (as amended by paragraph 12 of Schedule 4) the functions of a standards committee under the new provisions will include:
 - promoting and maintaining high standards of conduct by members;
 - assisting members of the authority to observe the authority's code of conduct;
 - advising the authority on the adoption or revision of a code of conduct;
 - monitoring the operation of the authority's code of conduct;
 - advising, training or arranging to train members on matters relating to the authority;s code of conduct;
 - such other functions as the authority considers appropriate.

Predetermination

24. Whilst predetermination is a common law matter, separate from the current Code of Conduct, it has been a difficult and sometimes controversial issue for many local authority members who have seen it as placing undue restriction on their ability to represent their constituents properly. The Bill (at clause 13) seeks to relax the position to give councillors freedom to campaign, to express views on issues and to vote on them without fear of being unjustly accused of having a closed mind and running the risk of a legal challenge as to the validity of the relevant decision.
25. Clause 13 provides that a member is not to be taken as having a closed mind when making a decision on behalf of the authority just because they had previously done anything that directly or indirectly indicated what view they took, or would or might take in relation to a relevant matter.

Proposed Timescale and Implications for the Standards Committee

26. Based on current information the Bill is likely to receive Royal Assent in November 2011. The transitional period, beginning with the appointed day, is likely to commence in the Spring 2012. The Council will, therefore, be required to retain its Standards Committee beyond that date until all outstanding complaints have been completed.
27. It is difficult to predict the impact of the proposed legislation on the level of complaints the Standards Committee may receive between now and the end of the transitional period. We will continue to monitor trends, but for the foreseeable future, based on the discussion at the last meeting, it would seem sensible to move to a committee of 15 members from May 2011 comprising:

- 5 independent members
- 5 town and parish representatives
- 5 elected members.

Financial Implications

28. None at this stage.

Environmental Implications

29. None.

Legal Implications and Risks

30. As discussed above. The Council is required to discharge its statutory responsibilities in relation to the assessment, investigation and determination of complaints under the current regime until the end of the transitional period, as defined in the Bill and subsequent regulations. The Council will need to ensure that it has sufficient staffing and that its Standards Committee is of an appropriate size and composition to achieve this
31. It is too early to assess the risks that may arise from the proposed new legislation. This will be kept under review as the Bill passes through Parliament.

Potential Implications for Task Groups

32. No implications for establishing task groups at this stage.

Conclusion

33. The proposals in the Bill, as currently drawn, abolish the current standards regime and make provision for local authorities, including town and parish councils, to adopt voluntary arrangements of their own in accordance with their duty to promote and maintain high standards of conduct.
34. Much of the detail relating to the registration and disclosure of interests, transitional arrangements and timing of implementation remains to be seen when the regulations are drafted.
35. The proposals, when implemented, will require changes to the Council's Constitution. The Committee may, therefore, wish to refer this report to the Constitution Focus Group for initial consideration and report back to the Committee with its views, particularly concerning voluntary arrangements for standards, when the Bill is nearing completion of its passage through Parliament, probably in the autumn 2011.

Recommendation

36. To ask the Committee to:

- a. note the provisions of the Localism Bill concerning the future of standards in local government;
- b. refer this matter to the Constitution Focus Group for initial consideration and to ask the Group to report back to the Committee with its views, particularly on voluntary arrangements for standards in Wiltshire Council, by autumn 2011 when the final details of the proposed new legislation should be clear.

Ian Gibbons

Monitoring Officer

Author of this report: Ian Gibbons

Unpublished documents relied upon in the preparation of this report: None

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- (ii) starting to operate executive arrangements or a committee system under Part 1A of that Act,
- (b) as to whether, and how, anything done, or in the process of being done, under any provision of Part 2 of that Act is to be deemed to have been done, or be in the process of being done, under any provision of Part 1A of that Act (whether generally or for specified purposes), or
- (c) modifying the application of any provision of Chapter 4 of Part 1A of that Act in relation to a change in governance arrangements by a local authority within a specified period.
- (3) The reference in subsection (2)(b) to things done includes a reference to things omitted to be done. 10
- (4) In this section –
- “change in governance arrangements” has the meaning given by section 90A of the Local Government Act 2000;
- “local authority” means a county council in England, a district council or a London borough council; 15
- “specified” means specified in an order under this section.

CHAPTER 4

PREDETERMINATION

- 13 Prior indications of view of a matter not to amount to predetermination etc 20**
- (1) Subsection (2) applies if –
- (a) as a result of an allegation of bias or predetermination, or otherwise, there is an issue about the validity of a decision of a relevant authority, and
- (b) it is relevant to that issue whether the decision-maker, or any of the decision-makers, had or appeared to have had a closed mind (to any extent) when making the decision. 25
- (2) A decision-maker is not to be taken to have had, or to have appeared to have had, a closed mind when making the decision just because –
- (a) the decision-maker had previously done anything that directly or indirectly indicated what view the decision-maker took, or would or might take, in relation to a matter, and
- (b) the matter was relevant to the decision. 30
- (3) Subsection (2) applies in relation to a decision-maker only if that decision-maker – 35
- (a) is a member (whether elected or not) of the relevant authority, or
- (b) is a co-opted member of that authority.
- (4) In this section –
- “co-opted member”, in relation to a relevant authority, means a person who is not a member of the authority but who –
- (a) is a member of any committee or sub-committee of the authority, or 40
- (b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority,

and who is entitled to vote on any question which falls to be decided at any meeting of the committee or sub-committee;

“decision”, in relation to a relevant authority, means a decision made in discharging functions of the authority, functions of the authority’s executive, functions of a committee of the authority or functions of an officer of the authority (including decisions made in the discharge of any of those functions otherwise than by the person to whom the function was originally given);

“elected mayor” has the meaning given by section 9H or 39 of the Local Government Act 2000;

“member” –

- (a) in relation to the Greater London Authority, means the Mayor of London or a London Assembly member, and
- (b) in relation to a county council, district council, a county borough council or London borough council, includes an elected mayor of the council;

“relevant authority” means –

- (a) a county council,
- (b) a district council,
- (c) a county borough council,
- (d) a London borough Council,
- (e) the Common Council of the City of London,
- (f) the Greater London Authority,
- (g) a National Park authority,
- (h) the Broads Authority,
- (i) the Council of the Isles of Scilly,
- (j) a parish council, or
- (k) a community council.

- (5) This section applies only to decisions made after this section comes into force, but the reference in subsection (2)(a) to anything previously done includes things done before this section comes into force. 30

CHAPTER 5

STANDARDS

14 Amendments of existing provisions

Schedule 4 (which amends the existing provisions relating to the conduct of local government members and employees in England and makes related provision) has effect. 35

15 Duty to promote and maintain high standards of conduct

- (1) A relevant authority must promote and maintain high standards of conduct by members and co-opted members of the authority. 40
- (2) In this Chapter “co-opted member”, in relation to a relevant authority, means a person who is not a member of the authority but who –
 - (a) is a member of any committee or sub-committee of the authority, or

- (b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority,
and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee.
- (3) The reference in subsection (2) to a joint committee or joint sub-committee of a relevant authority is a reference to a joint committee on which the authority is represented or a sub-committee of such a committee. 5
- (4) In this Chapter “relevant authority” means – 10
- (a) a county council in England,
 - (b) a district council,
 - (c) a London borough council,
 - (d) a parish council,
 - (e) the Greater London Authority,
 - (f) the Metropolitan Police Authority,
 - (g) the London Fire and Emergency Planning Authority,
 - (h) the Common Council of the City of London in its capacity as a local authority or police authority,
 - (i) the Council of the Isles of Scilly,
 - (j) a fire and rescue authority in England constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies, 20
 - (k) a police authority (in England or in Wales) established under section 3 of the Police Act 1996,
 - (l) a joint authority established by Part 4 of the Local Government Act 1985, 25
 - (m) an economic prosperity board established under section 88 of the Local Democracy, Economic Development and Construction Act 2009,
 - (n) a combined authority established under section 103 of that Act,
 - (o) the Broads Authority, or
 - (p) a National Park authority in England established under section 63 of the Environment Act 1995. 30
- (5) Any reference in this Chapter to a member of a relevant authority –
- (a) in the case of a relevant authority to which Part 1A of the Local Government Act 2000 applies, includes a reference to an elected mayor;
 - (b) in the case of the Greater London Authority, is a reference to the Mayor of London or a London Assembly member. 35
- (6) Functions that are conferred by this Chapter on a relevant authority to which Part 1A of the Local Government Act 2000 applies are not to be the responsibility of an executive of the authority under executive arrangements.
- (7) Functions that are conferred by this Chapter on the Greater London Authority are to be exercisable by the London Assembly acting on behalf of the Authority. 40
- 16 Voluntary codes of conduct**
- (1) A relevant authority may adopt a code dealing with the conduct that is expected of members and co-opted members of the authority when they are acting in that capacity (referred to in this section as a “code of conduct”). 45

- (2) A relevant authority may –
- (a) revise its existing code of conduct,
 - (b) adopt a code of conduct to replace its existing code of conduct, or
 - (c) withdraw its existing code of conduct without replacing it.
- (3) If a written allegation is made to a relevant authority that a member or co-opted member of the authority has failed, or may have failed, to comply with its code of conduct, it must –
- (a) consider whether it is appropriate to investigate the allegation, and
 - (b) if it decides that an investigation is appropriate, investigate the allegation in such manner as it thinks fit.
- (4) If a relevant authority finds that a member or co-opted member of the authority has failed to comply with its code of conduct (whether or not the finding is made following an investigation under this section) it may have regard to the failure in deciding –
- (a) whether to take action in relation to the member or co-opted member, and
 - (b) what action to take.
- (5) A relevant authority may publicise its adoption, revision or withdrawal of a code of conduct in any manner that it considers appropriate.
- (6) A relevant authority’s function of adopting, revising or withdrawing a code of conduct under this section may be discharged only by the authority.
- (7) Accordingly –
- (a) in the case of an authority to whom section 101 of the Local Government Act 1972 (arrangements for discharge of functions) applies, the function is not a function to which that section applies;
 - (b) in the case of the Greater London Authority, the function is not a function to which section 54 of the Greater London Authority Act 1999 (discharge of Assembly functions by committees or single members) applies.
- 17 Disclosure and registration of members’ interests** 30
- (1) The Secretary of State may by regulations make provision for or in connection with requiring the monitoring officer of a relevant authority to establish and maintain a register of interests of the members and co-opted members of the authority.
- (2) Regulations under this section may, in particular, make provision – 35
- (a) specifying the financial and other interests that are to be registered in the register;
 - (b) requiring any member or co-opted member of a relevant authority who has an interest of a specified kind to disclose that interest before taking part in business of the authority relating to the interest; 40
 - (c) preventing or restricting the participation of a member or co-opted member of a relevant authority in any business of the authority to which an interest disclosed by virtue of paragraph (b) relates;
 - (d) for a relevant authority to grant dispensations in specified circumstances from a prohibition imposed by virtue of paragraph (c); 45

- (e) about the sanctions that a relevant authority may impose on a member or co-opted member for failure to comply with regulations under this section;
 - (f) requiring a relevant authority to make copies of the register available to the public and to inform the public that copies are available. 5
- (3) The provision that may be made by virtue of subsection (2)(e) does not include provision—
- (a) for the suspension or partial suspension of a person from being a member or co-opted member of the authority, or
 - (b) for the disqualification of a person for being or becoming (by election or otherwise) a member or co-opted member of that or any other relevant authority. 10
- (4) The reference in subsection (1) to a monitoring officer of a relevant authority includes, in relation to a relevant authority that is a parish council, such person as may be specified. 15
- (5) In this section “specified” means specified in regulations under this section.

18 Offence of breaching regulations under section 17

- (1) A person who is a member or co-opted member of a relevant authority commits an offence if, without reasonable excuse, the person—
- (a) fails to register a financial or other interest in accordance with regulations under section 17, 20
 - (b) fails to disclose an interest of a kind specified in such regulations in accordance with such regulations before taking part in business of the authority relating to the interest, or
 - (c) takes part in business of the authority to which an interest disclosed by virtue of such regulations relates contrary to a prohibition or restriction imposed by such regulations. 25
- (2) A person who is guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (3) Where a person is convicted of an offence under this section, the court may by order disqualify the person, for a period not exceeding five years, for being or becoming (by election or otherwise) a member or co-opted member of the relevant authority in question or any other relevant authority. 30
- (4) A prosecution for an offence under this section is not to be instituted except by or on behalf of the Director of Public Prosecutions. 35
- (5) Proceedings for an offence under this section may be brought within a period of 12 months beginning with the date on which evidence sufficient in the opinion of the prosecutor to warrant the proceedings came to the prosecutor’s knowledge.
- (6) But no such proceedings may be brought more than three years—
- (a) after the commission of the offence, or
 - (b) in the case of a continuous contravention, after the last date on which the offence was committed. 40
- (7) A certificate signed by the prosecutor and stating the date on which such evidence came to the prosecutor’s knowledge is conclusive evidence of that 45

fact; and a certificate to that effect and purporting to be so signed is to be treated as being so signed unless the contrary is proved.

19 Amendment of section 15 following abolition of police authorities

In section 15(4) (which defines “relevant authority” for the purposes of this Chapter) omit—

- (a) paragraph (f) (the Metropolitan Police Authority), and
- (b) paragraph (k) (police authorities).

5

20 Transitional provision

(1) An order under section 206(2) may, in particular, provide for any provision made by or under Part 3 of the Local Government Act 2000 to have effect with modifications in consequence of any partial commencement of any of the amendments to, or repeals of, provisions of that Part made by Schedule 4.

10

(2) An order under section 206(2) may, in particular, make provision for an allegation or a case that is being investigated under Part 3 of the Local Government Act 2000 by the Standards Board for England or an ethical standards officer—

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- (a) to be referred to an authority of a kind specified in or determined in accordance with the order;
 - (b) to be dealt with in accordance with provision made by the order.
- (3) The provision that may be made by virtue of subsection (2)(b) includes —
- (a) provision corresponding to any provision made by or under Part 3 of the Local Government Act 2000;
 - (b) provision applying any provision made by or under that Part with or without modifications.

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CHAPTER 6

25

PAY ACCOUNTABILITY

21 Senior pay policy statements

(1) A relevant authority must prepare a senior pay policy statement for the financial year 2012-2013 and each subsequent financial year.

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(2) A senior pay policy statement for a financial year must set out the authority’s policies for the financial year relating to the remuneration of its chief officers.

(3) The statement must include the authority’s policies relating to—

- (a) the level and elements of remuneration for each chief officer,
- (b) remuneration of chief officers on recruitment,
- (c) increases and additions to remuneration for each chief officer,
- (d) the use of performance related pay for chief officers,
- (e) the use of bonuses for chief officers,
- (f) the approach to the payment of chief officers on their ceasing to hold office under or to be employed by the authority, and
- (g) the publication of and access to information relating to remuneration of chief officers.

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Localism Bill

These notes refer to the Localism Bill

as introduced in the House of Commons on 13 December 2010 [Bill 126]

Explanatory Notes

INTRODUCTION

1. These explanatory notes relate to the Localism Bill as introduced in the House of Commons on 13 December 2010. They have been prepared by the Department for Communities and Local Government in order to assist the reader of the Bill and inform debate on it. They do not form part of the Bill and have not been endorsed by Parliament.

2. These notes need to be read in conjunction with the Bill. They are not, and are not meant to be, a comprehensive description of the Bill. So where a clause or part of a clause does not seem to require any explanation or comment, none is given.

BACKGROUND AND SUMMARY

3. The Bill devolves more powers to councils and neighbourhoods and gives local communities greater control over local decisions like housing and planning.

4. The Bill contains numerous provisions in relation to Local Government. These include a general power of competence for Local Authorities ("LAs"), governance arrangements for LAs including new provisions for directly elected mayors, the abolition of the standards board regime and requirements for LAs to set senior pay policy statements.

5. A key element of the Bill is to provide for community empowerment with powers to enable people to instigate local referendums on any issue, to approve or veto in a referendum a council tax increase deemed to be excessive, to express an interest in running local authority services and to provide local community groups with an opportunity to bid to buy assets of community value.

6. Reform of the Planning system is another key element of the Bill with provisions to abolish regional strategies, provide for neighbourhood plans, make pre-application consultation compulsory, make changes to planning enforcement and in relation to nationally significant infrastructure.

Bill 126-EN 55/1

7. The Bill contains provisions to reform social housing including measures to offer flexible tenancies for new social tenants, create a new system of council housing finance, provide assistance for tenants to exchange their social rented property, transfer the functions of the Tenants Services Authority to the Homes and Communities Agency and make changes to the system for tenants to make a complaint about their social landlord.

8. Finally, the Bill also contains a number of provisions for London that provide the Mayor with additional powers to secure an Olympic legacy and incorporate the role of the Homes and Communities Agency in relation to London into the Greater London Authority.

9. Further background is included on these and other elements of the Bill in the "Overview of the Structure" section.

10. A glossary of terms and abbreviations used in these Explanatory Notes is provided at the end of these Notes.

Chapter 4: Predetermination

Clause 13 - Prior indications as to view of a matter not to amount to predetermination

143. Clause 13 clarifies how the common law concept of "predetermination" applies to councillors in England and Wales. Predetermination occurs where someone has a closed mind, with the effect that they are unable to apply their judgment fully and properly to an issue requiring a decision. Decisions made by councillors later judged to have predetermined views have been quashed. The clause makes it clear that if a councillor has given a view on an issue, this does not show that the councillor has a closed mind on that issue, so that if a councillor has campaigned on an issue or made public statements about their approach to an item of council business, he or she will be able to participate in discussion of that issue in the council and to vote on it if it arises in an item of council business requiring a decision.

144. Clause 13 applies to members of all councils in England and Wales to which there are direct elections - although it applies both to elected and to co-opted members of those councils, and also to members of National Parks Authorities and the Broads Authority.

Chapter 5: Standards

Clause 14 - Amendments of existing provisions

145. Clause 14, and the Schedule it introduces, abolish the Standards Board regime, which consists of the Standards Board for England, standards committees of local authorities, the jurisdiction of the First Tier Tribunal in relation to local government standards in England and a codes of conduct for councillors. The abolition of the Standards Board for England and revocation of the codes of conduct will take place on a date appointed by the Secretary of State. None of the functions of the Standards Board for England are to be preserved. The power for the Secretary of State to issue a model code of conduct and to specify principles to govern the conduct of members of relevant authorities is removed together with the requirement for relevant authorities to establish standards committees. The First Tier Tribunal loses its jurisdiction over councillor conduct issues.

146. The Schedule contains provision for the Secretary of State to make an order regarding the transfer of the assets and liabilities from the Standards Board for England. It also makes provision for the Secretary of State to issue directions in connection with the abolition, including directions about information held by the Standards Board for England and makes provision for the final statement of accounts for the Standards Board for England to be prepared by the Secretary of State.

Clause 15 - Duty to promote and maintain high standards of conduct

147. Clause 15 places a duty on a relevant authority to ensure that members and co-opted members maintain high standards of conduct. It also defines what a 'co-opted member' is and what a relevant authority is for the purpose of this Chapter.

Clause 16 - Voluntary codes of conduct

148. Clause 16 provides that a relevant authority may adopt a voluntary code of conduct. If an allegation of a breach of a code is made in writing, the authority must take a decision on whether or not to investigate the allegation and, if it is considered that an investigation is warranted, investigate in any way the authority sees fit.

Clause 17 - Disclosure and registration of members' interests

149. Clause 17 provides for the establishment and maintenance of a register of members' and co-opted members' interests by the local authority by giving the Secretary of State power to make regulations to specify what interests must be recorded in that register. The regulations may make provision for restrictions on taking part in the business of the council to be imposed on a member or co-opted member with a registered or declared interest. The regulations may require the register to be available to the public and may make provision about exempting sensitive information from it.

Clause 18 – Offence of breaching regulations under clause 18

150. Clause 18 makes it a criminal offence to fail, without reasonable excuse, to comply with obligations imposed by regulations under clause 17 to register or declare personal interests, or to take part in council business when prevented from so doing by such regulations. The penalty that the magistrates' court may impose upon conviction is a fine of up to £5,000 and an order disqualifying the person from being a member of a relevant authority for up to five years. A prosecution for the offence may be brought within 12 months of the prosecuting authorities having the evidence to warrant prosecution, but only by or on behalf of the Director of Public Prosecutions.

Clause 19 - Amendment of section 2 following abolition of police authorities

151. Clause 19 removes police authorities from the list of "relevant authorities" in clause 15. The Police Reform and Social Responsibility Bill contains provision for the abolition of police authorities and their replacement with police and crime commissioners. The clause will be commenced when police authorities cease to exist.

Clause 20 – Transitional provision

152. Clause 20 gives the Secretary of State power to make transitional provision in relation to the abolition of the Standards Board regime. Allegations of misconduct can be brought against a member up to the date when section 57A of the Local Government Act 2000 is repealed. The transitional provisions made under this clause will make provision for any such allegations to be transferred from the Standards Board for England to local standards committees, and may make provision for the penalties which can be imposed by those committees, and rights of appeal to be modified.

Appendix 3

Letter from Standards for England dated 30 November 2010 and letter from DCLG dated 15 October 2010

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Bob Neill MP
Parliamentary Under Secretary of State

**Department for Communities and Local
Government**
Eland House
Bressenden Place
London SW1E 5DU

Dr. Robert Chilton

Tel: 0303 444 3430
Fax: 0303 444 3986
E-Mail: bob.neill@communities.gsi.gov.uk

www.communities.gov.uk

A handwritten signature in black ink, appearing to read "Bob Neill".

15 OCT 2010

Conduct of local authority members

Recently Andrew Stunell announced the broad package of changes that we intend to put in place to abolish the Standards Board regime. A press notice relating to this announcement is available on the Department's web-site at:

<http://www.communities.gov.uk/news/corporate/157558411>

When we met on Wednesday 15 September, I undertook to let you have the details of what we are proposing once the package of changes was announced, and accordingly I enclose a short paper setting out the changes we intend to make.

I would of course be very happy to discuss these with you and your Committee. If you would like a meeting, please don't hesitate to get in touch with my office.

A handwritten signature in black ink, appearing to read "Bob Neill".
A printed name in black ink, appearing to read "BOB NEILL MP".



Abolition of the Standards Board regime

The Standards Board regime

The Coalition Agreement *Our Programme for Government* included the commitment to “abolish the Standards Board regime”.

The Government considers that the Standards Board regime, consisting of a centrally prescribed model code of conduct, standards committees with the power to suspend a local authority member and regulated by a central quango was inconsistent with the principles of localism. In addition there is a concern that the regime is a vehicle for vexatious or politically motivated complaints.

The Government considers that it is the right and the responsibility of the electorate to determine who represents them and that the abolition of the regime will restore power to local people.

Accordingly, given the interdependencies of the bodies, requirements and guidance that constitute the Standards Board regime, the Government is proposing to abolish the regime in its entirety.

Subject to Parliament approving the necessary legislation, the changes are as follows:

- The Relevant Authorities (General Principles) Order 2001, which sets out the principles which govern the conduct of members and co-opted members of relevant authorities in England and police authorities in Wales, will be revoked.
- The Local Authorities (Model Code of Conduct) Order 2007 (S.I 2007/1159) which prescribes the model code of conduct to apply to members of relevant authorities, will be revoked.
- The requirement for local authorities to have standards committees will be abolished.
- Standards for England (formally known as the Standards Board for England) will be abolished. Established by the Local Government Act 2000 and the regulator for local authority standards committees, the Standards Board requires primary legislation to abolish it and its legislative functions. None of the Standards Boards functions will be transferred to other bodies.

- The First-tier Tribunal (Local Government Standards in England), the independent judicial tribunal established as a disciplinary body to hear and determine references and appeals concerning the conduct of local authority councillors, will lose its jurisdiction over the conduct of local authority members.

It is intended to effect the abolition of the Standards Board regime through the Localism Bill. It is anticipated that the Bill will be laid before Parliament in December and will receive Royal Assent late-2011.

The present conduct regime (a model code governing local authority members' conduct and enforced through local authority standards committees, regulated in turn by the Standards Board for England), will continue to function in a normal manner, considering, investigating and determining allegations of misconduct, until a fixed date ("the appointed day"), probably two months after the Bill receives Royal Assent.

This means that until the appointed day, an allegation of misconduct can be made; after the appointed day, no further allegations of misconduct can be made under the standards board regime. It also means that at the appointed day, allegations will be in the process of investigation and, further, that appeals against sanctions will be pending. Transitional measures will be put in place to address this.

Proposed transitional measures

Any cases in the system at the appointed day will make their way through a transitional regime. This would meet the expectation of those who had made allegations that their allegations would be properly dealt with. It also enables that if a member has an allegation made against them, they should have the opportunity to clear their name.

The Government propose that any investigations being undertaken by Standards for England transfer, on the appointed day, to the local authority that referred the investigation. It will be for that local authority to arrange for the conclusion of the investigation. The local authority's standards committee will remain established until the last complaint it is considering, referred either internally or from Standards for England, has been dealt with.

Any cases with which the First-tier Tribunal (Local Government Standards in England) is dealing on the appointed day will be concluded by that tribunal. It will not receive any appeals against standards committee rulings after that date.

The right of appeal will not exist for those cases standards committees deal with as they work their way through the transitional system. The Government considers that the risk of protracted proceedings justifies this approach. The sanctions available to standards committees are significantly less severe than the sanctions available to the First-tier Tribunal (Local Government Standards in England).

Further, the Government propose that the suspension sanction is removed from standards committees for the transitional period. Hence the most a standards

committee could do is, for instance, to issue a councillor with a censure or a request that they undergo training.

The conduct regime in a post-Standards Board world

The Government is committed to maintaining high standards of conduct in office and will ensure that, in the absence of a statutory code of conduct, councillors do not abuse their office for personal gain by putting their personal interests before those of the general community or local area that they represent. Members will be required to continue to register and declare personal interests and will not be allowed to use their position improperly for personal gain. The Government intend that wilful failure to comply with these requirements will constitute a criminal offence.

The requirement for local authorities to adopt a model code of conduct and for local authority members to abide by that code will be abolished. However, local authorities will be free to adopt their own, voluntary code of conduct should they so wish.

The requirement to maintain a standards committee will be abolished. However, local authorities will be free, should they choose, to establish voluntary standards committees to consider complaints about the conduct of elected and co-opted members. Such committees will, according to councils' local constitutions, be able to censure but will not be able to suspend or disqualify members from council membership.

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To: Standards Committee Chairs

30 November 2010

Dear colleagues

I would like to draw your attention to a letter sent to me from the Local Government Minister, Bob Neill MP about the Government proposals for the future of standards in local government. This letter has now been published on both our and CLG's website.

As you will know, since the Coalition Government announced its intention 'to abolish the Standards Board regime', there has been little detail available about what this would mean in practice. The letter from the Minister now sets out the proposition in greater detail.

In brief, you will see that the proposal is that, alongside the abolition of Standards for England, the First Tier Tribunal (Local Government Standards in England) would lose jurisdiction over member conduct. The Government also intends to remove the national Code of Conduct for councillors and the requirement to have a standards committee. Instead it would be for councils themselves to choose whether or not they wish to have a local code or a standards committee (which would be an 'ordinary committee' of the authority and therefore not need to have independent representation). Any standards committee would no longer have the power to suspend a member. There would also be a new criminal offence created relating to failure to register or declare interests.

In the meantime, you will see that these proposals will need primary legislation. Our understanding is that the Decentralisation and Localism Bill, which would contain such provisions, will be introduced to Parliament by the end of the year. The current framework will continue in place until such time as the bill receives Royal Assent and the relevant provisions are enacted. Our understanding is that

this is likely to be some time in the summer or autumn next year, although exact timing will obviously depend upon Parliamentary progress of the bill as a whole. Consequently, in the meantime, as the Minister recognises, standards committees will continue to have a legal requirement to operate as now and, in particular, to continue to consider any allegations.

You will see that the Minister's letter sets out, in some detail, the transition arrangements that they intend to apply to any cases which will be in the pipeline at the end of the framework. While these proposals obviously depend on Parliamentary approval, in brief, Standards for England would cease to handle cases from an Appointed Day (likely to be two months after the coming into force of the provisions). At that stage, all cases still open would be passed back to the relevant local authority to complete. Any cases with the Tribunal at that stage would be completed but no further references could be made to it. Any cases being handled locally would need to be completed locally after that date by the standards committee, with no power to pass them to Standards for England or the Tribunal, but no new allegations could be made after the Appointed Day.

I hope that you find this helpful.

Yours Sincerely

A handwritten signature in black ink, appearing to read 'R Chilton', with a stylized flourish at the end.

Robert Chilton
Chair

WILTSHIRE COUNCIL

CABINET

25 January 2010

AUDIT COMMITTEE

15 December 2010

STANDARDS COMMITTEE

12 January 2011

Subject: ANNUAL AUDIT LETTER 2009-10

Cabinet member: Councillor Jane Scott, Leader of the Council

Key Decision: No

Executive Summary

This report draws KPMGs Annual Audit Letter to the attention of Cabinet, Audit Committee and Standards Committee and invites councillors to consider their response. The comments of the chief executive on the key messages in the Annual Audit Letter are set out in the report.

Proposal(s)

The chief executive recommends that:

- a) The Cabinet welcomes the Annual Audit Letter and asks me to review any outstanding recommendations covered by the Letter and include them in the council's business planning processes
- b) The Audit Committee and Standards Committee consider those matters relevant to their own work programmes and interests

Reason for Proposal

To ensure that a response to KPMGs Annual Audit Letter is provided by the council reflecting the governance roles of the Cabinet, Audit Committee and Standards Committee

Andrew Kerr
Chief Executive

WILTSHIRE COUNCIL

CABINET

25 January 2010

AUDIT COMMITTEE

15 December 2010

STANDARDS COMMITTEE

12 January 2011

Subject: ANNUAL AUDIT LETTER 2009-10

Cabinet member: Councillor Jane Scott, Leader of the Council

Key Decision: No

Purpose of Report

1. To draw the Annual Audit Letter to the attention of Cabinet, Audit Committee, and Standards Committee and to invite members to consider their response.

Background

2. The Annual Audit Letter has been prepared by KPMG. It summaries the key issues arising from the 2009-10 audit at Wiltshire Council. KPMGs main responsibility is to carry out an audit that meets the requirements of the Audit Commission's Code of Audit Practice which requires KPMG to review and report on the use of resources and on the annual accounts.
3. The approach to the Annual Audit Letter may change in future as the government has removed the Comprehensive Area Assessment (CAA), is changing the performance reporting requirements, and has proposed the abolition of the Audit Commission.
4. The period covered by the Audit Letter is 2009-10 and is the first year of the new unitary council.
5. The Annual Audit Letter will be circulated to all members of the council as soon as it is finalised by the Audit Commission. The Letter is attached to this report in Appendix 1.

Main Considerations for the Council

6. KPMGs key messages are summarised on pages 2-5 of the Audit Letter. These are that:

Use of resources (value for money)

- An unqualified value for money conclusion has been made for 2009-10, with KPMG being satisfied that proper arrangements were in place for securing economy, efficiency, and effectiveness in the council's use of resources. This is an improvement on last year.

- The council has adequate procedures in place for managing its finances. It recognised that improvements have been made in a number of areas including the financial statements closedown process. Further improvements are needed in areas including cost and performance benchmarking, defining a corporate fees and charges strategy and the approach to debt monitoring.
- The governance arrangements in place are sound and the council has continued to review, improve, and consolidate its processes.
- The arrangements for managing other resources are adequate. Progress and developments were noted in many areas including the rationalisation of its property estate, and workforce planning.
- There were no significant issues arising from the specific risk based review work undertaken.

Financial statements (annual accounts)

- An unqualified opinion on the annual accounts has been made for 2009-10, with KPMG being satisfied that they give a true and fair picture of the council's financial position.
 - The difficulties of introducing and embedding a new financial system (SAP) were recognised. A large number of control and operational issues needed to be addressed and whilst this process is continuing the arrangements now in place are much improved from earlier in the year.
 - A large number of issues were identified in the interim audit when the financial and wider controls were tested and assessed. However, the council has made good progress in addressing most of the recommendations made.
 - Significant improvements have been made to the council's financial reporting arrangements.
7. During the year KPMG issued a large number of recommendations through its various audit reports. In particular the interim audit contained many recommendations to improve the financial and IT controls in place. KPMG has acknowledged the significant progress being made to address many of these current and previous recommendations. It concluded the council is responding effectively to the external audit process.
8. The chief executive's response to the Letter is summarised below.

I am pleased to receive this positive report and feedback from KPMG. It is reassuring to get an impartial view that the council has made significant improvements and that we are heading in the right direction. The Letter recognises the considerable work undertaken during the year to deal with the many complex financial and service matters that occurred following the creation of the new unitary council. It also accepts that the council is facing significant challenges from the government in terms of delivering

financial savings and transforming its services and is well placed to respond to these new national requirements.

The council is continuing to build on the work and achievements made during 2009-10. The next steps and future direction are being set out in the new business plan which is currently in preparation.

The council will continue to work closely with external audit and will take account of any changes to future audit arrangements following the abolition of the Audit Commission.

Environmental and climate change considerations

9. No specific recommendations or implications.

Equalities impact of the proposal

10. No specific recommendations or implications.

Risk Assessment

11. The council needs to maintain its positive response to the external challenges posed from the external audit process, and especially in effectively addressing the high priority recommendations. This will help to ensure the council continues to secure improvements to services and builds on its reputation. There may be significant changes to the way in which external audit is conducted in the future. The council will need to ensure it keeps up to date with any revised external audit requirements.

Financial Implications

12. The Annual Audit Letter is relevant to the council's financial arrangements and future improvements.

Legal Implications

13. No specific implications.

Conclusions

14. KPMG has provided a positive Annual Audit Letter for 2009-10 with an unqualified value for money conclusion and an unqualified opinion on the council's accounts.

Andrew Kerr
Chief Executive

Report author: Paul Mountford, Policy Officer, tel 01225 718431

15 November 2010

Background Papers

The following unpublished documents have been relied on in the preparation of this report:

Corporate Leadership Team minutes 15 December 2010

Appendices

Appendix 1: Wiltshire Council Annual Audit Letter – November 2010, KPMG.

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PUBLIC SECTOR

Wiltshire Council

Annual Audit Letter

November 2010

AUDIT

Introduction

The contacts at KPMG in connection with this report are:

Chris Wilson

Partner
KPMG LLP (UK)

Tel: 0118 964 2238
christopher.wilson@kpmg.co.uk

Darren Gilbert

Senior Manager
KPMG LLP (UK)

Tel: 029 2046 8205
darren.gilbert@kpmg.co.uk

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Background

This Annual Audit Letter summarises the key issues arising from our 2009/10 audit of Wiltshire Council (the Council). Although addressed to the Members of the Council, it is also intended to communicate these issues to key external stakeholders, including members of the public. The letter will also be published on the Audit Commission website at www.audit-commission.gov.uk. It is the responsibility of the Council to publish the letter on the Council's website at www.wiltshire.gov.uk. In the letter we highlight areas of good performance and also provide recommendations to help you improve performance. We have reported all the issues in this letter to the Council throughout the year and a list of all reports we have issued is provided in Appendix A.

Scope of our audit

The statutory responsibilities and powers of appointed auditors are set out in the Audit Commission Act 1998. Our main responsibility is to carry out an audit that meets the requirements of the Audit Commission's Code of Audit Practice (the Code) which requires us to report on:

Use of Resources (UoR)

We conclude on the arrangements in place for securing economy, efficiency and effectiveness ('value for money') in your use of resources.

Financial Statements

We provide an opinion on your accounts, covering both the Council's accounts and those for the local government pension fund which the Council administers.

Fees

Our fee for 2009/10 was £431,319 excluding VAT. This is £31,569 more than our original estimated fee for the year, with additional fees being required due to extra work for the financial statements audit (£27,950) and on the consideration of questions and objections from local electors (£3,619). We will report our fees for grants certification work separately when this work is complete.

Our fee for the audit of the Wiltshire local government pension fund was £46,950, down from our original estimate of £70,900.

We also received additional fees of for non-audit services to the Council of during the last year, namely a review of leisure service options (£16,000) and a post-implementation review of the Council's new SAP system (£35,000). We also received approximately £83,000 in relation to tax advice on VAT claims – these related to work for the now demised Salisbury District Council and West Wiltshire District Council which were paid this year following decisions by HM Revenues & Customs.

This report is addressed to Wiltshire Council and has been prepared for the sole use of the Council. We take no responsibility to any member of staff acting in their individual capacities, or to third parties. The Audit Commission has issued a document entitled Statement of Responsibilities of Auditors and Audited Bodies. This summarises where the responsibilities of auditors begin and end and what is expected from the audited body. We draw your attention to this document. External auditors do not act as a substitute for the audited body's own responsibility for putting in place proper arrangements to ensure that public business is conducted in accordance with the law and proper standards, and that public money is safeguarded and properly accounted for, and used economically, efficiently and effectively.

If you have any concerns or are dissatisfied with any part of KPMG's work, in the first instance you should contact Chris Wilson who is the engagement lead to the Council or Trevor Rees, the national contact partner for all of KPMG's work with the Audit Commission. After this, if you still dissatisfied with how your complaint has been handled you can access the Audit Commission's complaints procedure. You can contact the Complaints Unit by phone (0844 798 3131), by email (complaints@audit-commission.gov.uk), through the audit commission website (www.audit-commission.gov.uk/aboutus/contactus), by textphone/minicom (020 7630 0421), or via post to Complaints Unit, Audit Commission, Westward House, Lime Kiln Close, Stoke Gifford, Bristol, BS34 8SR.



Headlines

Use of Resources (UoR)	Use of Resources assessment	<ul style="list-style-type: none"> ● In May 2010 the government announced that the Comprehensive Area Assessment (CAA) would be abolished. The Audit Commission subsequently confirmed that work related to CAA should cease with immediate effect. This included auditors' UoR scored assessments at local authorities. However, there is no change to the requirement for auditors to issue a VFM conclusion. At the time of the announcement, the vast majority of UoR work for 2010 had already been completed and this therefore informed our 2009/10 VFM conclusion. ● From our work this year we concluded that the Council has adequate procedures in place for managing its finances. Improvements were seen in a number of areas, notably the financial statements closedown process (see next page). We highlighted scope for further improvements in a number of areas including cost and performance benchmarking, defining a corporate fees and charges strategy and the approach to debt monitoring. ● The Council's governance arrangements remain robust and improvements were noted in data security, addressing issues highlighted through last year's UoR audit. The Council has continued to review, develop and consolidate the governance arrangements it inherited from the predecessor councils. ● The Council continues to actively manage its other resources, with developments noted in many areas. In particular, the Council is pursuing a significant programme to rationalise its estate. Workforce planning arrangements developed during 2009/10 with the Council needing to manage staffing matters following the move to One Council. Our audit did identify some opportunities for further improvement but overall we were satisfied that arrangements were adequate.
	Specific risk based reviews	<ul style="list-style-type: none"> ● There were no significant issues arising from any of the specific risk based reviews performed in year.
	Our conclusion	<ul style="list-style-type: none"> ● We issued an unqualified value for money conclusion for 2009/10. This means that we are satisfied that you have put into place proper arrangements for securing economy, efficiency and effectiveness in your use of resources. This represents an improvement on the previous year, when we qualified our VFM conclusion due to weaknesses in the Council's financial reporting arrangements.

Headlines

Financial Statements	Annual accounts	<ul style="list-style-type: none"> At the start of the 2009/10 financial year the Council introduced a new financial system (SAP), replacing numerous systems operated by the predecessor councils. Any complex IT investment inevitably presents a number of difficulties, but in this case the circumstances around consolidating multiple systems alongside the integration and merger of the five previous councils proved to be very challenging. As a result, it has taken a long time for the Council to implement and embed the new SAP system, including needing to address a large number of control and operational issues. This process continues, although arrangements are now much improved from earlier in the year. We undertook a specific review of the process for migrating data from the old systems into SAP. This provided assurance in a number of areas but we also highlighted some useful lessons for the Council to consider when undertaking similar processes to rationalise legacy IT systems. We also identified a large number of issues through our Interim Audit (where we test and assess the financial and wider controls in place in the Council). However, we were pleased to report later in the year that the Council had made good progress in addressing a high proportion of our recommendations. Last year we highlighted significant weaknesses in the Council’s financial reporting arrangements. This year we were pleased to report that the Council has taken significant steps to address those issues. Our audit did identify a number of large amendments to the Council’s accounts, but these were of a technical accounting or disclosure nature and none had any ultimate impact on the Council’s reported financial performance for the year or its financial position. There remains scope for further improvement in the financial reporting process, but the Council can approach this from a sounder base following the improvements made this year.
	Annual Governance Statement (AGS)	<ul style="list-style-type: none"> No significant adjustments were required to the AGS.
	Our conclusion	<ul style="list-style-type: none"> We issued an unqualified opinion on your accounts on 30 September 2010. This means that we believe the accounts give a true and fair view of the financial affairs of the Council and of the income and expenditure recorded during the year. We also issued an unqualified opinion on the Pension Fund’s accounts.

Headlines

<p>Recommendations</p>	<p>High priority recommendations</p>	<ul style="list-style-type: none"> ● The Council operated in a highly complex financial and control environment during the last year following the merger of the five previous councils and the implementation of the new SAP system. This resulted in our audit identifying numerous issues for the Council to address and consequently we have issued a large number of recommendations during the year through various audit reports: <ul style="list-style-type: none"> – our Interim Audit Report in June 2010 contained a high number of recommendations concerning financial and IT controls, including 18 recommendations graded as high priority (although we were pleased to note excellent progress by the Council against these recommendations in September 2010, when only two of the high priority recommendations were still to be implemented, both of which had later target dates); and – our September report summarising our audit of the Council’s financial statements made considerably fewer recommendations than in the previous year – seven in total, of which three were graded as high priority. ● We have not summarised the recommendations in this report because of the high volume, but these can be seen in our detailed audit reports (summarised in Appendix A), all of which are available in the Audit Committee papers on the Council’s website. ● We also followed up progress against recommendations made in last year’s audit and were pleased to note that 17 of the 18 high priority recommendations had been implemented. We are therefore satisfied that the Council is taking appropriate steps to respond to the external challenge of our audit process.
<p>Exercise of auditors’ powers</p>		<ul style="list-style-type: none"> ● We did not issue a report in the public interest or exercise other audit powers in 2009/10. We did receive a formal objection to the Council’s accounts from a local elector which we considered carefully, but this did not result in any action.

Headlines

High profile issues	Economic Downturn and pressure on the public sector	<ul style="list-style-type: none">● Following the Comprehensive Spending Review announcement in October 2010, there is now greater clarity on the spending cuts that will affect local government. Local authorities will face 7.1% annual cuts representing 28% reductions over the next four years. The Council will be losing Area Based Grant and specific grant funding, as well as reductions in general revenue support grant.● Although this is less than many commentators had predicted, this still represents one of the biggest cuts for any part of the public sector and there is a greater 'front-loading' element than had been expected. Detailed analysis will be required as further details of these funding cuts are clarified - the real impact will not be known until the government departments produce their business plans later this year and organisations have a chance to digest the Chancellor's messages.● The Authority has been preparing for cuts of this magnitude for some time and already has some action in hand to deliver some of the savings and efficiencies which will be necessary, for example through consolidating the Council's management structure and fundamentally reviewing its estate to rationalise future accommodation requirements.● However, it is clear that the Council, like all public sector bodies, will have to identify and deliver an unprecedented level of financial savings and in doing so will need to consider how best to protect the level and quality of services, especially those provided to the most vulnerable in society. Facing up to these challenges will require revolutionary transformation of public sector services, rather than tinkering. Strong leadership from Members and senior management will be essential. Our future audit work will focus more heavily on how the Council is responding to this challenge.
	International Financial Reporting Standards (IFRS)	<ul style="list-style-type: none">● Experience has shown that a significant investment of resource is required to deal with the technical accounting requirements for IFRS implementation at an organisation of the size and complexity of a unitary council. We have held meetings with the Finance team in recent months to discuss the requirements and are confident the Council is taking appropriate action to ensure the timescales for implementation are met. This work will continue and accelerate over the next few months.● We will continue to work closely with Finance staff during the coming months.

Headlines

High profile issues

Treasury management

- The Council continues to have a significant amount of money placed with two banks that were affected by the October 2009 Icelandic bank crisis. The total amount invested originally was £12m. The Council has already received interim repayments of £3.1m from one of the banks concerned and it envisages receiving further instalments in line with that institution's published repayment plan. Overall, it is currently anticipated that all but £2.4m of the original £12m will be recovered.
- The Council continues to apply the accounting treatment as prescribed in the appropriate guidance issued by CIPFA, including recognising an impairment cost for the proportion of the original investments which is currently believed likely to be irrecoverable.

Future audit work

Changes to next year's value for money work programme

- Given the scale of the pressures facing public bodies in the current economic climate, the Audit Commission has reviewed its work programme for 2010/11 onwards. As part of this exercise, the Commission has been discussing possible options for a new approach to local value for money (VFM) audit work with key national stakeholders. From 2010/11 we will therefore apply a new, more targeted approach to our local VFM audit work. This will be based on a reduced number of reporting criteria specified by the Commission, concentrating on:
 - securing financial resilience; and
 - prioritising resources within tighter budgets.
- We will determine a local programme of VFM audit work based on our audit risk assessment, informed by these criteria and our statutory responsibilities. We will no longer make annual scored judgements relating to our local VFM audit work. Instead we will report the results of all the local VFM audit work and the key messages for the audited body in our annual report to those charged with governance and in a clear and accessible annual audit letter.

Future audit arrangements

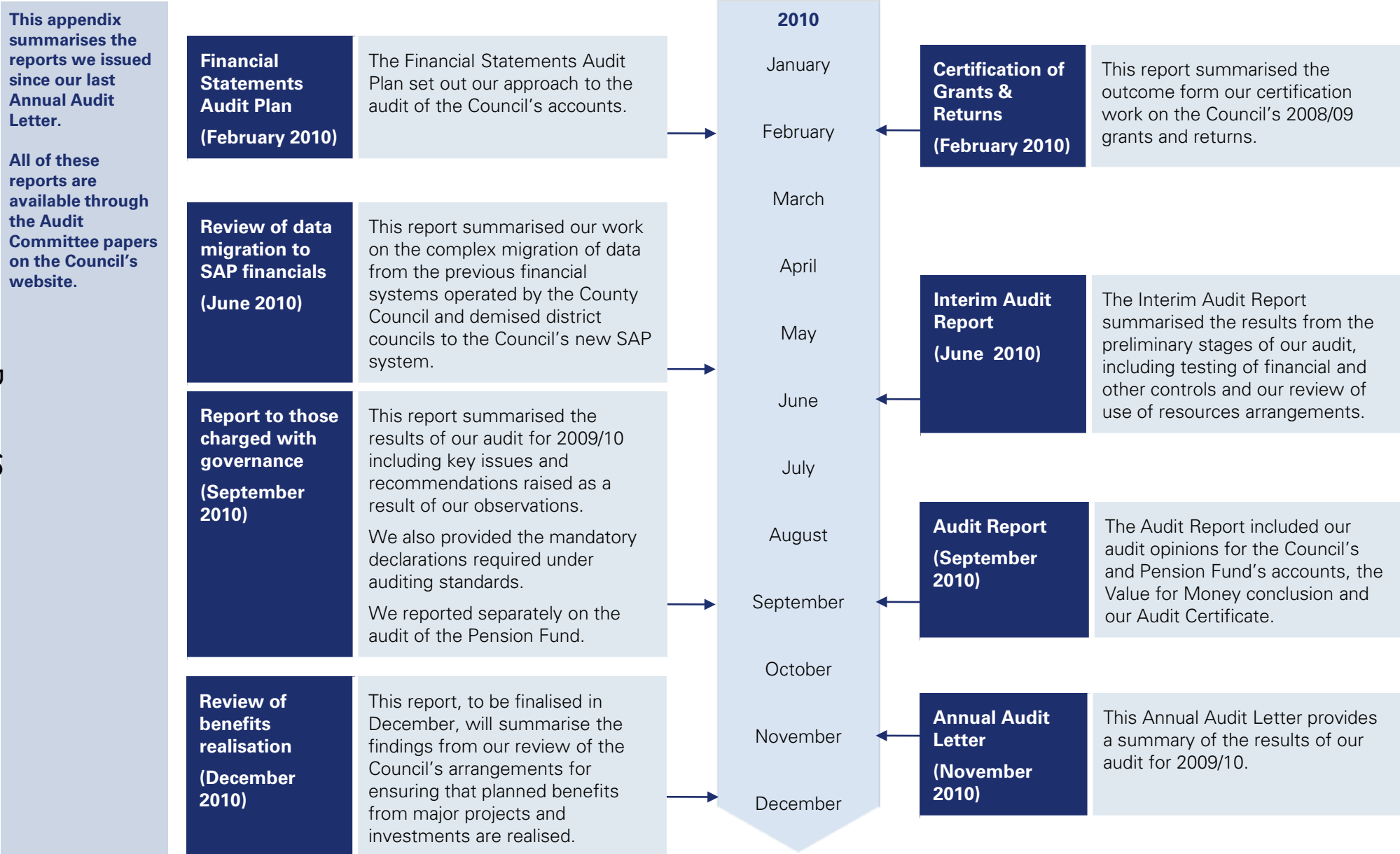
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- In August 2010 the Secretary of State for Communities and Local Government announced proposals to abolish the Audit Commission. The proposed abolition will be from 2012 and the government will seek legislation in this session of Parliament.
- There is no immediate change to the current audit arrangements. We will keep you informed about the future audit programme and any changes to audit arrangements.

Acknowledgement

- This has been KPMG's third year as the Council's external auditor – but the first since local government reorganisation – following our appointment as the County Council's auditor by the Audit Commission in 2007. We would like to thank the Council's management and staff for the help, support and co-operation they have provided throughout our audit. We look forward to working closely with the Council in the coming year to deliver our next programme of work.

Appendix A: Summary of Reports issued



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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	Appeals received
April	12	12	8 & 1*	1	2**	0	0
May	2	14	0	1	1***	0	0
June	13	25	4	0	7** & 2***	2	0
July	3	26	1	0	2**	2	0
August	1	13	0	1	0	14	0
September	1	14	0	1	0	0	0
October	5	18	2	3	0	1	0
November	7	24	2	3	2****	1	0
December	0	23	0	0	0	1	1 (overturned)
Month 2010							
January	0	18	0	0	0	5	2 (upheld)
February	1	16	0	1	0	3	0
March	3	19	0	3	0	0	0
April	4	19	0	4	0	4	1 (upheld)
May	3	19	2	1	0	3	1 (upheld)
June	0	14	0	0	0	5	0
July	6	19	1	5	0	1	0
August	3	22	1 (referred to SfE)	1	1****	0	0
September	5	21	0	4	1**	6	4 (upheld)
October	1	17	0	1	0	5	1 (upheld)
November	7	20	0	4	3	4	0
December	0	18	0	0	0	2	0
Totals	77	n/a	22	34	21	59	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)
2010				
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)

Standards Committee 12 January 2011

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	Yes (1)
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 (1)
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	Yes (1)
November	3	16/11/10 – 3 x Assessment Sub-Committee	3 x no further action	
December	5	07/12/10 - 2 x Assessment Sub-Committee 07/12/10 – 1 x Review Sub-Committee 14/12/10 – 2 x Consideration Sub-Committee	2 x no further action Decision upheld 1 x referral to Determination Sub-Committee 1 x no failure to comply - closed	

* 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	Consideration Sub-Committee on 14 Dec 2010 - hearing to take place early 2011 – date to be confirmed	N/A
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	Final report sent 17 Dec 2010. To go to Consideration Sub-Ctte early 2011	N/A
WC 31/09	07/07/09	Final report sent 17 Dec 2010. To go to Consideration Sub-Ctte early 2011	N/A
WC 32/09	07/07/09	Final report sent 17 Dec 2010. To go to Consideration Sub-Ctte early 2011	N/A
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	Draft report finished. Due to be sent out before Christmas	Dec 2010
WC 45/09	02/12/09	Draft report finished. Due to be sent out before Christmas	Dec 2010
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	Consideration Sub-Committee 14 December 2010 – no failure to comply - closed	N/A
WC 10/10	25/05/10	Consideration Sub-Committee 11 January 2011	N/A
WC 12/10	19/08/10	Report being drafted	January 2011

WILTSHIRE COUNCIL

STANDARDS COMMITTEE

12 JANUARY 2011

Allowances for Standards Committee Members

Purpose of Report

1. To inform the Standards Committee co-opted members of the action they could take if they wish to freeze their allowances at the current level.

Background

2. At its last meeting the Standards Committee resolved:

“To ask the Monitoring Officer to investigate, and bring a report to the next meeting, on the possibility of freezing the co-optees allowances at their present level.”

3. Members’ allowances are agreed by the Council in accordance with the provisions of the Local Authorities (Members’ Allowances) (England) Regulations 2003. The scheme continues to have effect until revoked or amended by a resolution of the Council.
4. The Council has agreed that the scheme be updated annually to phase in the proposed increases in allowances through to 2013 at the rates shown in Part 14 of the Constitution (see below).

Co-opted Members’ Allowance	2009/10	2010/11	2011/12	2012/13
Chairman of Standards Committee	£5,200	£5,354	£5,509	£5,663
Independent member of Standards Committee (8)	£2,010	£2,087	£2,163	£2,240
Town/Parish Council member of Standards Committee (8)	£2,010	£2,087	£2,163	£2,240

Main considerations for the Committee

5. The level of members' allowances is considered by an Independent Remuneration Panel which then makes recommendations to the full Council.
6. As outlined above, only the full Council can amend the members' allowances scheme. However, there is provision under the regulations for a councillor or co-optee to forgo any part of his or her entitlement to an allowance under the scheme. This can be done by giving notice in writing to the Director of Resources.
7. A request to forgo entitlement to an allowance must be submitted on an individual basis and cannot be made by the committee as a whole.
8. If any co-opted member of the Standards Committee wishes to only receive their current level of allowance with no increase they should give notice of this request in writing before the start of the new financial year (by 31 March 2011).

Risks

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

Proposal

10. The Standards Committee members are asked to note the action they could take if they wish to only receive the current level of allowances.

Ian Gibbons
Monitoring Officer

Report Author: Marie Todd – Area Board and Member Support Officer

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

COMMITTEE'S WORK PLAN

<u>Meeting Date and Time</u>	<u>Name of Report</u>	<u>Scope of Report</u>
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	
	Outcome of a consideration sub-committee	
Wednesday 18 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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