

AGENDA

Meeting: Standards Committee
Place: Kennet Room - County Hall, Trowbridge BA14 8JN
Date: Wednesday 16 September 2015
Time: 2.00 pm

Please direct any enquiries on this Agenda to Kieran Elliott of Democratic Services, County Hall, Bythesea Road, Trowbridge, direct line 01225 718504 or email kieran.elliott@wiltshire.gov.uk

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

This Agenda and all the documents referred to within it are available on the Council's website at www.wiltshire.gov.uk

Membership:

Cllr Julian Johnson (Chairman)	Cllr Terry Chivers
Cllr Paul Oatway QPM (Vice Chairman)	Cllr Howard Greenman
Cllr Desna Allen	Cllr Sheila Parker
Cllr Allison Bucknell	Cllr Horace Prickett
Cllr Rosemary Brown	Cllr Jerry Wickham
Cllr Trevor Carbin	

Substitutes:

Cllr George Jeans	Cllr Glenis Ansell
Cllr Mary Douglas	Cllr John Smale
Cllr Dennis Drewett	Cllr Magnus Macdonald
Cllr Ernie Clark	Cllr Bob Jones MBE
Cllr Pip Ridout	Cllr Ian Thorn

Non-Elected Non-Voting Members:

Mr Philip Gill MBE JP
Mr Paul Neale
Mr John Scragg
Miss Pam Turner

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AGENDA

Part 1

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

1 **Apologies**

To receive any apologies or substitutions for the meeting.

2 **Minutes** (*Pages 5 - 22*)

a) To approve the minutes of the meeting held on 24 June 2015.

b) To receive the minutes of the Standards Review Sub-Committees held since the last meeting of the Committee in June 2015.

c)

3 **Declarations of Interest**

To receive any declarations of disclosable interests or dispensations granted by the Standards Committee.

4 **Chairman's Announcements**

To receive any announcements through the Chair.

5 **Public Participation and Questions**

The Council welcomes contributions from members of the public.

Statements

If you would like to make a statement at this meeting on any item on this agenda, please register to do so at least 10 minutes prior to the meeting. Up to 3 speakers are permitted to speak for up to 3 minutes each on any agenda item. Please contact the officer named on the front of the agenda for any further clarification.

Questions

To receive any questions from members of the public or members of the Council received in accordance with the constitution. Those wishing to ask questions are required to give notice of any such questions in writing to the officer named on the front of the agenda no later than 5pm on *9 September 2015*. Please contact the officer named on the front of this agenda for further advice. Questions may be asked without notice if the Chairman decides that the matter is urgent.

Details of any questions received will be circulated to Committee members prior to the meeting and made available at the meeting and on the Council's website.

6 **Status Report on Complaints** (Pages 23 - 24)

To receive an update on the status of Code of Conduct complaints.

7 **Review of Part 13 of the Constitution: Code of Conduct** (Pages 25 - 48)

To consider revisions to the Code of Conduct, as requested by the Committee on 21 January 2015.

8 **Forward Plan** (Pages 49 - 50)

To consider the draft Forward plan.

9 **Urgent Items**

Any other items of business which, in the opinion of the Chairman, should be taken as a matter of urgency.

Part II

Item(s) during consideration of which it is recommended that the public should be excluded because of the likelihood that exempt information would be disclosed

None

STANDARDS COMMITTEE

MINUTES OF THE STANDARDS COMMITTEE MEETING HELD ON 24 JUNE 2015 AT KENNET ROOM - COUNTY HALL, TROWBRIDGE BA14 8JN.

Present:

Cllr Julian Johnson (Chairman), Cllr Jerry Wickham (Vice Chairman),
Cllr Desna Allen, Cllr Allison Bucknell, Cllr Rosemary Brown, Cllr Trevor Carbin,
Cllr Paul Oatway, Mr Philip Gill, Mr John Scragg and Miss Pam Turner

Also Present:

Cllr Dennis Drewett and Cllr Magnus Macdonald

13 Membership and Apologies

Following the meeting of Council on 12 May 2015, there were the following changes to Membership of the Committee.

Councillor John Noeken was removed as a Full Member of the Committee.
Councillor Jerry Wickham was removed as a Substitute Member and added as a Full Member of the Committee.
Councillor Alan MacRae was added as a Substitute Member of the Committee.

Apologies were received for the meeting from Councillors Terry Chivers, Howard Greenman, Sheila Parker and Howard Prickett.

Councillor Parker was substituted by Councillor Prickett.

14 Minutes

Resolved:

The minutes of the meeting held on 21 January 2015 were approved and signed as a true and correct record.

15 Declarations of Interest

There were no declarations.

16 **Chairman's Announcements**

With the assent of the Committee, it was agreed to change the order of the agenda to move the Constitution Focus Group Recommendations on Changes to the Constitution forward.

17 **Public Participation and Questions**

There were no questions or statements submitted.

18 **Constitutional Changes**

The Monitoring Officer presented recommendations from the cross-party Constitution Focus Group on changes to the constitution following reviews requested by Standards, Council or which were required by legislative changes, as detailed in the report.

Part 4 - Council Procedure Rules

The Committee considered proposed changes to Part 4 of the Constitution in relation to disturbances by the public, recorded voting, the 'State of Wiltshire' debate and the submission of and presenting of councillor questions to Full Council.

The Committee accepted the reasoning of the Focus Group regarding the proposed amendments to clarifying the rules on dismissal of a member of the public causing a disturbance at a meeting, noting it was the responsibility of Members to ensure a Chairman was aware of the nature of a disturbance or offence if this was not immediately apparent, and that ordering the dismissal of that member of the public remained an option for the Chairman in consultation with the proper officer, not an automatic decision.

The Committee also agreed to the alterations regarding recorded voting and the deletion of a constitutional requirement to hold a 'State of Wiltshire' debate, which was no longer necessary when the presentation of the council's business plan and subsequent debate had taken on many of the characteristics the 'State of Wiltshire' debate had been designed for.

In regards to Councillor questions to Council, members discussed the proposed new procedure, which included a total limit on questions that could be answered at any one meeting, but which still permitted as many questions as councillors wished to submit and guaranteed written responses either before the meeting or within five working days after the meeting depending on which deadline for submission of their question was met. The other key change was to reorder the presentation of questions to Council such that no Member could ask a second question until all other Members who had submitted a question had asked their first questions, with the same rule applying to second and subsequent questions.

The Committee debated whether the proposed procedure was effective and balanced, with some members concerned the procedure might be confusing to implement, although it was noted the elements of the proposed changes had been taken from operations at other councils. It was confirmed that all written responses to questions would be attached to the minutes of the relevant meeting, and it was also felt that as only 20 questions would be received at the meeting, to avoid confusion and delays it was the responsibility of Members to indicate to Democratic Services before a meeting if they did not wish to ask a supplementary question.

It was also requested that the Focus Group consider the paragraphs requiring Members to stand to speak at Council meetings, in particular in the context of equality rules.

Protocols 1 and 2 - Briefing and Information for Local Councillors and Councillor-Officer Relations, and Part 2 - The Constitution

The Committee considered proposed changes to Protocols 1 and 2 of the Constitution as detailed in the report, which would involve their merger into a single Protocol. The changes also required a small amendment to Part 2 of the Constitution regarding rights of members of the public.

The Protocol had been updated to reflect the type and frequency of information councillors should be informed of, particularly in relation to their divisions. Following referral of a motion from Council on response times, these had been amended to be more realistic for councillors and the public, with explanations to be made where meeting those deadlines was not possible.

The Committee was also informed the Corporate Leadership Team had assured that further measures to encourage officers to meet their obligations in respect of providing councillors with information would be taken.

The Committee was satisfied with the proposed changes.

Protocol 7 - Media Protocol

The Committee considered proposed changes to Protocol 7 as detailed in the report, which was mainly focused around the adoption of webcasting guidance, and rules on when broadcasts could or should be suspended.

The Committee accepted the proposed changes, and also proposed adoption of the associated 'Social Media Guidance for Councillors' to assist Members with any social media activity they might undertake.

Protocol 9 - Monitoring Officer

The Committee considered proposed changes to Protocol 9 as detailed in the report, and accepted and approved of these as updates to reflect current practice.

Protocol 11 - Governance Reporting Arrangements

The Committee considered proposed changes to Protocol 11 as detailed in the report, to reflect the creation of new bodies as well as updating the reporting arrangements for existing bodies.

The Committee considered that several Overview and Scrutiny Task Groups, while not standing task groups with the exception of the Financial Planning Task Group, such as the Safeguarding Children and Young People Task Group, were of such importance and expected to be long-running, that it might be more appropriate if they were to be formally constituted as sub-committees rather than Task Groups, and that this view be reported to the Overview and Scrutiny Management Committee.

The Committee also noted the series of changes as detailed in the report to be made by the Monitoring Officer under delegated powers to reflect the decisions of Full Council, ensure consistency and update following changes in legislation. In particular changes to the rules and procedures on dismissal of Heads of Paid Service, Monitoring Officers and s.151 Finance Officers were required to be made and reported to Full Council on 14 July and would require constitution changes including to Part 15 - Officer Employment Procedure Rules, as well as the contractual implications.

Resolved:

- 1) To recommend that Council adopt the proposed changes to the Constitution in relation to Part 4, Protocols 1-2 and Part 3, Protocol 7, Protocol 9 and Protocol 11, as detailed in the agenda papers subject to any amendments detailed above;**
- 2) To note the intention of the Monitoring Officer to make changes under delegated authority contained in Article 15.3 of Part 2 of the Constitution to make necessary amendments to Part 2.1, Part 3, Part 7, Part 14, Part 15 and a new Protocol 2, as detailed in agenda papers; And,**
- 3) To request the Overview and Scrutiny Management Committee consider reviewing whether standing or especially significant and expected to be long running Task Groups should be constituted as formal sub-committees, as detailed in the minutes above.**

19 Draft Annual Governance Statement 2014/15

The Monitoring Officer presented a report on the draft Annual Governance Statement, as drafted by the Governance Assurance Group which is comprised of senior officers who have lead roles in corporate governance and a representative from the Audit Committee, to review the effectiveness of the council's governance arrangements.

It was noted that paragraphs 27 and 70 of the draft Statement related to governance arrangements under the responsibility of the Standards Committee, and no objections were raised.

Members discussed the draft, and requested further drafting to ensure consistency across the document.

At the end of discussion, it was,

Resolved:

To note that the draft AGS will be revised in the light of comments from the Committee, as detailed above and further work by the Governance Assurance Group before being brought back to the Audit committee for final approval and publication with the Statement of Accounts at the end of July.

20 Status Report on Complaints

The Monitoring Officer presented an update on Complaints received since the last meeting of the Committee, noting that the total number was at present significantly down on those received in 2014, and that very few had been referred for investigation.

Members considered whether the reduction was as a result of the difficulties discussed in previous meetings regarding identifying a specific section of the Code under which to underpin a complaint, or lack of faith in the limited sanctions, but noted they had previously resolved to attempt to lobby the government for increased sanctions to be permitted and to strengthen to Code, and that these would be considered at their next meeting.

Resolved:

To note the update and the intention to bring proposed changes to the Code of Conduct to the next meeting of the Committee.

21 Forward Plan

The Forward Work Programme was approved.

Due to the change in date of the Council meeting from 20 October to 29 September 2015, it was noted the date of the next Standards Committee would need to be brought forward from 7 October.

Details would be circulated to Members and on the council's website as soon as they were available.

22 **Urgent Items**

There were no urgent items.

(Duration of meeting: 2.00 - 3.20 pm)

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

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

STANDARDS REVIEW SUB-COMMITTEE

MINUTES OF THE STANDARDS REVIEW SUB-COMMITTEE MEETING HELD ON 8 JULY 2015 AT SALISBURY ROOM - COUNTY HALL, TROWBRIDGE.

Present:

Cllr Trevor Carbin Cllr Dennis Drewett and Cllr Pip Ridout and Mr John Scragg (non-voting)

Also Present:

Mr Paul Taylor, Mr Stuart Middleton

15 Election of Chairman

Resolved:

To elect councillor Pip Ridout as Chairman for this meeting only.

16 Declarations of Interest

There were no declarations.

17 Exclusion of the Public

Resolved

To agree that in accordance with Section 100A(4) of the Local Government Act 1972 to exclude the public from the meeting for the business specified in Agenda Item Number 4 because it is likely that if members of the public were present there would be disclosure to them of exempt information as defined in paragraph 1 of Part I of Schedule 12A to the Act and the public interest in withholding the information outweighs the public interest in disclosing the information to the public.

Paragraph 1 - information relating to an individual

18 **Review of an Assessment Decision: Reference WC-ENQ096**

The Sub-Committee was satisfied that the initial tests, which should be completed as part of the local assessment criteria, had been correctly undertaken. The Sub-Committee agreed that the complaint related to the conduct of a member, that the member was in office at the time of the alleged incident and that the Code of Conduct was in force at the relevant time.

The complaint sets out a number of alleged breaches of the Code during a meeting of the Southern Area Planning Committee that Councillor Fred Westmoreland was chairing, where it is alleged his actions as detailed in the agenda papers breached the Nolan principles set out in the Code of Conduct.

The Sub-Committee relied upon the original complaint a, initial assessment and the additional information supplied in the complainant's request for a review of that initial assessment.

Although the initial complaint had set out a number of alleged breaches, only one had been named in the request for a review of the initial assessment decision to dismiss the complaint, As the request for review had only been in relation to that point, that the subject member had exhibited sexism toward a female member of the committee, the Sub-Committee did not review the decision of the deputy monitoring officer in relation to the other alleged breaches of the Code of Conduct.

The Sub-Committee upheld the reasoning of the Deputy Monitoring Officer in the Initial Assessment that the alleged incident would not, if proved, be capable of breaching the Code of Conduct. There was insufficient evidence, in particular no comment or complaint from the alleged focus of the subject members' behaviour, to proceed with further assessment of the complaint.

The Sub-Committee did however advise that the subject member, and all members, be more mindful of their responsibilities when chairing a meeting, to ensure that all committee members are treated equitably to avoid a possible perception of unfairness or bias

Decision

In accordance with the approved arrangements for resolving standards complaints adopted by Council on 26 June 2012, which came into effect on 1 July 2012 and after hearing from the Independent Person, the Review Sub-Committee of the Standards Committee has decided:

- To dismiss the complaint.

19 **Review of an Assessment Decision: Reference WC-ENQ093**

The Sub-Committee relied upon the original complaint against Councillor Roger Drurie of Great Bedwyn Parish Council in relation to a dispute over the replacement of fencing around a memorial stone, minutes in relation to the actions, and the behaviour of Councillor Drurie toward the complainant, the initial assessment and the additional information supplied in the complainant's request for a review of that initial assessment.

The Sub-Committee was in agreement with the reasoning of the Deputy Monitoring Officer that issues 1 to 4 as detailed in the agenda papers were in relation to the conduct of the Parish Council rather than the specific behaviours of the subject member, even if the subject member was the person whom the complainant has had or attempted principal contact with. They are not therefore within the remit of the Sub-Committee as they are not Code of Conduct matters. In particular, a dispute on the lawfulness of the Parish Council's actions would be a matter for the courts to determine. The Sub-Committee as a result took no view on the legality or otherwise of those actions.

In relation to issue 5, where the complainant felt insulted by comments made by the complainant, the Sub-Committee was satisfied that the initial tests, which should be completed as part of the local assessment criteria, had been correctly undertaken. The Sub-Committee agreed that the complaint related to the conduct of a member, that the member was in office at the time of the alleged incident and that the Code of Conduct was in force at the relevant time.

The Sub-Committee assessed the complainant's submissions in their request for review, and did not consider that the additional material undermined the reasoning of the Deputy Monitoring Officer that, while the reference to the complainants' relationship to the subjects of the commemoration stone was unwise and caused some distress to the complainant, this did not rise to the level that would amount to a breach of the Code of Conduct.

Decision

In accordance with the approved arrangements for resolving standards complaints adopted by Council on 26 June 2012, which came into effect on 1 July 2012 and after hearing from the Independent Person, the Review Sub-Committee of the Standards Committee has decided:

- To dismiss the complaint.

(Duration of meeting: 12.00 - 1.00 pm)

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

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

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STANDARDS REVIEW SUB-COMMITTEE

MINUTES OF THE STANDARDS REVIEW SUB-COMMITTEE MEETING HELD ON 9 JULY 2015 AT WILTON ROOM, COUNTY HALL, TROWBRIDGE, BA14 9JG.

Present:

Cllr Ernie Clark, Cllr George Jeans and Cllr Jerry Wickham and Mr Philip Gill MBE JP (non-voting)

Also Present:

Caroline Baynes, Paul Taylor

1 Election of Chairman

Resolved:

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

2 Declarations of Interest

There were no interests declared.

3 Exclusion of the Public

Resolved

To agree that in accordance with Section 100A(4) of the Local Government Act 1972 to exclude the public from the meeting for the business specified in Agenda Item Number 4 because it is likely that if members of the public were present there would be disclosure to them of exempt information as defined in paragraph 1 of Part I of Schedule 12A to the Act and the public interest in withholding the information outweighs the public interest in disclosing the information to the public.

Paragraph 1 - information relating to an individual

4 Review of an Assessment Decision: Reference WC-ENQ00085

The Sub-Committee had regard for the submitted papers for the meeting, being:

The initial complaint and communications with the complainant
The response of the subject member

The initial assessment decision notice

The Complainants' request for a review of that decision notice

Incident 1

The Sub-Committee noted the complainant's concern in his request for review that the summary of the incident in the Initial Assessment Decision Notice was insufficient. They took account of the complainant's reemphasis of the substance of the complaint, which involved a confrontation with the subject member, Councillor Simon Killane, on the street resulting, it was alleged, in the subject member refusing to communicate with the complainant further, thus failing in his duty as a councillor to communicate with and be able to represent the complainant.

The Sub-Committee accepted the reasoning of the Deputy Monitoring Officer that the complaint had not been progressed within the appropriate timescales and therefore could not be investigated further. It was noted that there was no provision in the Code of Conduct complaints procedure for complaints to be put "on hold", and that in the complainant's own words they had chosen not to pursue the matter at the time. Although subsequent events had led the complainant to wish to revise that earlier decision, there was no provision in the procedure to permit this.

Notwithstanding their decision to dismiss the complaint for the reason stated above, for the avoidance of doubt the Sub-Committee considered the incident under the local assessment criteria had the complaint been submitted and progressed within the correct timescales.

The incident in question had been during a confrontation between the complainant and subject member on the street and the actions arising thereafter. Upon going through the initial tests, the Sub-Committee were not satisfied that the subject member had been acting in their capacity as a member of the council during the initial confrontation, and as such the behaviours expressed would not be capable of breaching the Code of Conduct.

Furthermore, although it was alleged by the complainant that the subject member stated they would 'never speak to [the complainant] again', and had blocked the complainant from their Facebook page, the subject member had provided a statement on their website emphasising that all their electorate, including those who had been blocked from the subject members' Facebook such as the complainant, could contact him in his role as their Division member. The Wiltshire Council website contained email, address and phone numbers for the subject member in addition to the details on their personal website. Therefore, although the relationship between the complainant and subject member was clearly difficult, means of contact were available to enable the subject member to fulfil his role as championing the Division and keeping in touch with constituents.

As such the Sub-Committee upheld the reasoning of the Deputy Monitoring Officer in the Initial Assessment that the complaint would not, if proved, be capable of breaching the Code of Conduct.

Incident 2

The second incident related to the subject member's response to posts on local Facebook pages. The Sub-Committee was in agreement with the reasoning of the Deputy Monitoring Officer that this was a personal matter and that as the subject member was not acting in their official capacity as a councillor in relation to the matter giving rise to the complaint, no further action could be taken.

The Sub-Committee did however wish to state to all parties that Wiltshire Council through its Standards Committee had recently reviewed and approved 'Social Media Guidance for Councillors', which while not forming part of the Council's Code of Conduct or Constitution, had been provided to assist councillors in considering issues that might arise when using social media. The guidance is available at

<https://cms.wiltshire.gov.uk/ecSDDisplay.aspx?NAME=Protocol%207%20%20Media%20Relations%20Protocol&ID=877&RPID=10465410&sch=doc&cat=13386&path=13386> .

Resolved:

In accordance with the approved arrangements for resolving standards complaints adopted by Council on 26 June 2012, which came into effect on 1 July 2012 and after hearing from the Independent Person, the Review Sub-Committee of the Standards Committee has decided:

- To dismiss the complaint.

(Duration of meeting: 1.00 - 1.55 pm)

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

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STANDARDS REVIEW SUB-COMMITTEE

MINUTES OF THE STANDARDS REVIEW SUB-COMMITTEE MEETING HELD ON 24 AUGUST 2015 AT BOWOOD ROOM - COUNTY HALL, TROWBRIDGE.

Present:

Cllr Desna Allen, Cllr Bob Jones MBE and Cllr Paul Oatway QPM and Miss Pam Turner (non-voting)

Also Present:

Caroline Baynes, Frank Cain

1 Election of Chairman

Resolved:

To elect Councillor Desna Allen as Chairman for this meeting only.

2 Declarations of Interest

There were no interests declared.

3 Exclusion of the Public

Resolved

To agree that in accordance with Section 100A(4) of the Local Government Act 1972 to exclude the public from the meeting for the business specified in Agenda Item Number 4 because it is likely that if members of the public were present there would be disclosure to them of exempt information as defined in paragraph 1 of Part I of Schedule 12A to the Act and the public interest in withholding the information outweighs the public interest in disclosing the information to the public.

Paragraph 1 - information relating to an individual

4 **Review of an Assessment Decision: Reference WC-ENQ00111**

The Chairman led the Sub-Committee through the local assessment criteria which detailed the initial tests that should be satisfied before assessment of a complaint was commenced.

Upon going through the initial tests, it was agreed that the complaint related to the conduct of a member, that the member was in office at the time of the alleged incident and that the Code was in force at the relevant time.

The Sub-Committee relied upon the original complaint, initial assessment and the additional information supplied in the complainant's request for a review of that initial assessment.

The complaint sets out a number of alleged breaches of the Code email exchanges between Councillor Richard Tonge and the complainant.

The Sub-Committee noted the comments of the complainant and subject member in relation to how many complaints had been made, regarding what, and how many incidents had been properly referred for their consideration. The Sub-Committee accepted the view of the Deputy Monitoring Officer for the initial assessment that concerns in relation to processes relating to highways works which had been the catalyst for the contact with the subject member, were being dealt with through the appropriate channels, via the Community Area Transport Group (CATG), and therefore any concerns with those processes would not be considered as a Code of Conduct matter.

In assessing whether the alleged behaviour of the subject member would, if proven, amount to a breach of the Code of Conduct, the Sub-Committee noted that while the initial response had been brief, as the concerns of the complainant would be determined by the CATG, referral of the matter to them and confirmation he would continue to work with the Chairman of the CATG regarding the matter, was an appropriate course of action not in itself evidence of a failure to be open, accountable or objective.

It was also clarified during the meeting that the Deputy Monitoring Officer during the course of their initial assessment, had contacted the subject member to clarify whether his comments about not responding to the member of the public related to all contact or was specific to the issue being raised in the email trail. The subject member confirmed the comment related only to the specific issue being raised.

Whilst the Sub-Committee was satisfied with the enquiry and its outcome it did recommend that should any clarification be sought in respect of complaint then generally this should be referred to the other party for comment.

No evidence had been submitted of historic or otherwise repeated incidents of concern regarding the subject member's openness or objectivity, and so the

Sub-Committee was in agreement with the Deputy Monitoring Officer for the initial assessment that while the tone of the email correspondence from the subject member was perhaps unfortunate, his actions as demonstrated had not risen to level that would amount to a breach of the code.

Decision

In accordance with the approved arrangements for resolving standards complaints adopted by Council on 26 June 2012, which came into effect on 1 July 2012 and after hearing from the Independent Person, the Review Sub-Committee of the Standards Committee has decided:

- To take no further action.

(Duration of meeting: 1.15 - 1.50 pm)

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

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Code of Conduct Complaints - Status Report
Complaints received and progressed under new arrangements

	Cases received	Cases open (cumulative)	Assessed investigation	Assessed no further action	Assessed alternative resolution/complaint withdrawn	Pending assessment	Cases closed
2012							
May - December	25	11	1	24	0	0	14
2013							
January – December	24	11	0	16	7	1	24
2014							
January – December	79	17	1	62	16	0	73
2015							
January	1	10	1	0	0	0	8
February	9	15	0	7	2 *	0	4
March	3	16	0	1	1**	1	2
April	2	16	0	2	0	0	2
May	5	21	0	4	1***	0	0
June	8	22	0	6	2***	0	7
July	4	16	0	2	1***	1	10
August	2	15	0	0	0	2	3
Totals for 2015 to date	34	N/A	1	22	7	4	36

Appeals received
4 (not upheld)
5 (not upheld)
16 (14 not upheld & 2 upheld)
2 (not upheld)
3 (not upheld)
0
0
0
0
3 (not upheld)
1 (not upheld)
9

*possible referral to Police
 ** not Code of Conduct
 *** full information not provided

Complaints referred for investigation since 1 January 2014

Case reference	Date of Assessment	Progress
WC 13/14	29/04/2014	Finding of no breach - MO's endorsement of finding sent to all parties. No review - case closed 23/06/2015
WC 24/14	30/05/2014	Finding of no breach - MO's endorsement of finding sent to all parties. No review - case closed 03/06/2015
WC-ENQ00081	19/02/2015	Finding of no breach - MO's endorsement of finding sent to all parties. No review - case closed 11/08/2015

The types of complaints received 2015 to date are categorised as follows:

Type of complaint	Number
Inappropriate use of social media	9
Non-disclosure of interests/participating and voting at meetings	8
Inappropriate behaviour i.e. disrespect	4
Failing to respond to letter/emails or to provide information	4
Pre-determination of planning applications	2
Showing bias towards/against parishioners	2
Used position to restrict candidates for vacancy on parish council	1
Subject member not calling in planning application	1
Subject member influenced by neighbours of planning applicant	1
Subject member acting undemocratically towards complainant	1
Deliberate misrepresentation of facts	1

Wiltshire Council

Standards Committee

16 September 2015

Review of Part 13 of the Constitution: Code of Conduct for Members

Purpose of Report

1. To ask the Standards Committee to consider proposed changes to the Council's Code of Conduct for Members.

Background

2. Under the Localism Act 2011 councils were required to adopt a new Code of Conduct with effect from 1 July 2012 as part of their duty under section 27 of that Act to promote and maintain high standards of conduct. The code must broadly reflect the seven principles of conduct in public life set out in the Act: selflessness, integrity, objectivity, accountability, openness, honesty and leadership.
3. Wiltshire Council adopted a model Code of Conduct issued by the Department for Local Government and Communities (DCLG) with some variations.
4. The purpose of the Code of Conduct is to promote accountability, transparency and public confidence in local government. The code of conduct should be framed in a way that supports these objectives.
5. As principal authority Wiltshire Council deals with all Code of Conduct complaints for unitary, parish, town and city councillors in accordance with its agreed complaints procedure. A large proportion of Wiltshire's parish, town and city councils have adopted the same code of conduct as Wiltshire Council.
6. At its meeting on 21 January 2015 the Standards Committee received a report reviewing the effectiveness of the Council's Code of Conduct and highlighting a number of areas where a lack of specificity in the provisions of the Code is making it difficult to apply and enforce. Concerns were expressed that this has resulted in very few cases being referred for investigation and a potential risk of undermining public confidence in local democracy. The report also considered whether specific provision should be made in the Code for members to register gifts and hospitality received by them in their Register of Interests.
7. The Committee resolved:

That the Monitoring Officer:

1). *Draft proposals to strengthen the Code of Conduct;*

- 2). *Draft proposals for enabling the recording of gifts and hospitality at an appropriate level;*
 - 3). *Continue efforts to work with other authorities to lobby central Government to increase the level of sanctions available to councils, as soon as appropriate.*
8. A copy of the report and minutes of the meeting of 21 January 2015 is attached at **Appendix 1** by way of background.

Main Considerations

9. A copy of the proposed revisions to Wiltshire Council's Code is shown tracked as attached at **Appendix 2**. The proposed changes reflect the Committee's previous consideration and have regard to the content of codes of Conduct adopted by other authorities. They cover the following:
- a. Conduct
 - treating others with respect;
 - equality;
 - bullying and intimidation;
 - compromising the impartiality of officers;
 - confidentiality;
 - bringing a councillor's office or authority into disrepute;
 - b. Interests
 - registration of interests other than the statutory disclosable pecuniary interests;
 - registration of gifts and hospitality.
10. The Constitution Focus Group met to consider these potential changes on 2 September 2015. A copy of the minutes of the meeting summarising their views are included at **Appendix 3**.

Conduct

11. The proposed changes relating to conduct are relatively straightforward, setting out more explicitly what standards of conduct are expected of members when acting in their capacity as members or co-opted members. They are largely derived from the conduct provisions in the former statutory Code of Conduct and carry with them a substantial body of guidance to assist in their application. It should make the framing, assessment and determination of complaints clearer and more efficient in the interests of all concerned, not least the public interest in seeing that conduct matters are dealt with appropriately.

Interests

12. There has been an increasing number of complaints and challenges over the past year relating to members' declaration of interests where issues of apparent bias have been raised. These typically concern membership of other public bodies, community groups and political parties relating to the business under consideration.
13. Therefore, in order to address this situation and provide greater clarity and consistency in the interests of transparency it is proposed that the Code is amended to require members to include any of the following in their register of interests:
 - any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by the authority;
 - any body exercising functions of a public nature of which you are a member or in a position of general control or management;
 - any body directed to charitable purposes of which you are a member or in a position of general control or management;
 - any body one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union) of which you are a member or in a position of general control or management.

Gifts and Hospitality

14. Under the proposed change in paragraph 18 of the draft revised Code members will be required to register any gift, benefit or hospitality with a value in excess of £ 50 which they have accepted as a member in their published Register of Interests.

Parish, Town and City Councils

15. It is proposed to inform Wiltshire Parish, Town and City Councils of any changes the Standards Committee is minded to recommend to full Council and invite them to review their own code of conduct in the light of these changes should they wish to do so.

Sanctions

16. The inadequacy of the sanctions available to local authorities in dealing with breaches of the code of conduct continues to be a significant source of concern for many authorities. It seems, however, that very little is being done nationally to address these concerns despite representations being made to Ministers on this issue. As far as we know the Local Government Association (LGA) is not taking up this issue with the Government.

17. The Committee on Standards in Public Life (CSPL) are keeping this on their radar but there is no indication as yet that any substantive action is to be taken. Members of the Committee may be interested to read the relevant part of the CSPL's Annual Report and Business Plan 2015-16 (see in particular paragraphs 63-71 on pages 22 -24) which may be found on the following link:

<https://www.gov.uk/government/publications/cspl-annual-report-2014-2015-and-business-plan-2015-2016>

Environmental Considerations

18. None.

Safeguarding Implications

19. No specific safeguarding issues arise from this report.

Public Health Implications

20. None

Equalities Implications

21. The proposed changes to the Code of Conduct provide for the inclusion of a specific obligation in relation to equalities legislation.

Procurement Implications

22. None

Risk Implications

23. There is a risk that the lack of a clear and effective code of conduct will undermine public confidence in local democracy and accountability.

Financial Considerations

24. None arising directly from this report.

Legal Implications

25. As outlined in the report. The council is obliged to discharge its statutory duty to promote and maintain high standards of conduct under section 27 Localism Act 2011, in particular by adopting 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.

Recommendations

26. The Committee is asked to consider the proposed changes to the Code of Conduct as set out in Appendix 2 and recommend full Council to adopt any changes that are agreed.
27. Members are asked to note that Wiltshire Parish, Town and City Councils will be advised of any changes the Standards Committee is minded to recommend to full Council and invite them to review their own code of conduct in the light of these changes should they wish to do so.

Ian Gibbons, Associate Director, Legal and Governance and Monitoring Officer

Report Author: Kieran Elliott, Senior Democratic Services Officer,
kieran.elliott@wiltshire.gov.uk , 01225 718504

Unpublished reports relied upon in the preparation of this report: None.

Appendices:

Appendix 1 - Report on Effectiveness of the Code of Conduct and Minutes of Meeting
21 January 2015

Appendix 2 - Draft Revised Code of Conduct

Appendix 3 - Draft Minutes of the Constitution Focus Group 2 September 2015

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STANDARDS COMMITTEE

MINUTES OF THE STANDARDS COMMITTEE MEETING HELD ON 21 JANUARY 2015 AT SALISBURY ROOM - COUNTY HALL, TROWBRIDGE.

Present:

Cllr Julian Johnson (Chairman), Cllr John Noeken (Vice Chairman), Cllr Trevor Carbin, Cllr Howard Greenman, Cllr Paul Oatway, Cllr Horace Prickett, Cllr Terry Chivers, Mr Philip Gill, Mr Paul Neale, Mr John Scragg and Cllr Jerry Wickham (Substitute)

1 **Apologies for Absence**

Apologies were received from Councillors Desna Allen, Rosemary Brown, Sheila Parker and Miss Pam Turner.

Councillor Parker was substituted by Councillor Jerry Wickham.

2 **Minutes**

The minutes of the meeting held on 8 October 2014 were presented for consideration and it was,

Resolved:

To APPROVE and sign as a true and correct record.

3 **Declarations of Interest**

There were no declarations.

4 **Chairman's Announcements**

There were no announcements.

5 **Public Participation and Questions**

There were no statements or questions submitted.

6 **Review of the Effectiveness of the Code of Conduct for Members Update**

The Monitoring Officer presented a report updating the Committee on investigations into the effectiveness of the Code of Conduct Complaints Procedure, as instructed by the Committee at its meeting on 8 October 2014. The Committee was also asked to consider the current arrangements on Gifts and Hospitality, following referral from Council on 21 October 2014 of a motion to reinstate the requirement to register gifts and hospitality over £25.

A summary of all the Code of Conduct complaints received by the Council since the new Code came into effect in July 2012 was presented, with analysis of which complaints may have been referred for investigation under the previous Code. The Committee discussed whether there were any gaps in the Code which were limiting the Council in its duty to promote and maintain high standards of conduct, and how that duty could be strengthened if necessary.

In response to queries on the evidence relied upon, it was acknowledged much was subjective or anecdotal, as in the absence of a single statutory body receiving information on complaints, compiling data was a more difficult task.

The Committee noted that with the limited sanctions permitted under legislation, the most effective means of censure in the event of a breach of a code would be to publicise the decision, and discussed whether it was possible to do so more widely than at present. It was felt that reliance on internal political group sanctions in the event of a breach was ineffective, particularly in Towns and Parishes with no political groupings. The need for additional sanctions was reemphasised, but it was acknowledged that efforts to lobby for further change would be delayed until after the May 2015 General Election.

The benefits of Towns and Parishes having complaints procedures to ensure good governance which could resolve many concerns before they rose to the level of a Code of Conduct complaint was discussed, as well as the impact of the Behaviours Framework attached to the Wiltshire Council Code and need for guidance on social media use.

In relation the referred motion on Gifts and Hospitality, it was stated it would be a simple process to add an option under the Register of Interests to record gifts and hospitality received by Members, though guidance on what constituted a gift or hospitality, and the level of value that would be appropriate to be recorded without being unduly onerous, would need to be clarified.

It was also stated that Town and Parish Councils, many of which currently utilized Wiltshire Council's Code of Conduct, would be informed of the intention to revise the Code.

Resolved:

That the Monitoring Officer,

- 1) Draft proposals to strengthen the Code of Conduct**

- 2) **Draft proposals for enabling the recording of gifts and hospitality at an appropriate level**
- 3) **Continue efforts to work with other Authorities to lobby central government to increase the level of sanctions available to councils, as soon as appropriate.**

7 Complaints under the Council's Complaints Procedures and the Local Government Ombudsman's Annual Review Letter 2014

The Corporate Complaints Manager presented a report providing an overview of the Council's complaints service, the annual reports on complaints and the Local Government Ombudsman's (LGO) Annual Review Letter 2014.

The Committee discussed the report, noting comparisons in terms of complaints and investigations with other similar unitary authorities, and welcomed the intention to increase focus on complaints toward mediation and other alternate resolutions in place of formal investigative processes, in an attempt to resolve issues more locally, swiftly and less resources. In response to queries it was stated it was intended internal complaints staff would be trained to offer mediation skills to resolve issues.

Resolved:

To note the report.

8 Recommendations from the Constitution Focus Group

A report was presented from the Monitoring Officer on recommendations from the Constitution Focus Group to amend Part 3 of the Constitution.

On 29 July 2014 Council requested the sections of Part in relation to the election of Chairmen of Area Boards and attendance of Cabinet Members at Area Boards be reviewed further. The Constitution Focus Group considered the sections and proposed amendments to clarify and simplify the procedure for regular and unitary election years, with a representative of Democratic Services to preside over the election of Chairmen.

Resolved:

To recommend to Council to adopt the proposed amendments to Part 3 of the Constitution as contained at appendix 1.

9 Forward Plan

The Committee noted the draft Forward Plan, and were informed a revised plan would be circulated after the meeting further to the date of the July meeting

being moved from 8 July, as a result of the movement of Council from 28 to 14 July 2015.

10 **Urgent Items**

There were no urgent items.

11 **Exclusion of Public**

No members of the public being present, no determination was made to exclude.

12 **Standards Review Sub-Committee Minutes**

The minutes of the Standards Review Sub-Committee held on 17 December 2014 were received.

Resolved:

To note the minutes of the Review Sub-Committees.

(Duration of meeting: 2.00 - 3.30 pm)

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

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

Review of the Effectiveness of the Council's Code of Conduct for Members

Purpose of Report

1. To ask the Standards Committee to consider whether any changes need to be made to the Council's Code of Conduct for Members in the light of the matters covered in this report.

Background

2. At its meeting on 8 October 2014 the Committee received a report reviewing the Council's arrangements for discharging its duty under section 27 Localism Act 2011 to promote and maintain high standards of conduct by Councillors. The Committee agreed:
 - 1) *To task the Monitoring Officer with investigating the effectiveness of the Code of Conduct Complaints Procedure by collecting and analysing evidence on complaints received by Wiltshire Council, and to examine the Codes and procedures at other local authorities, and to bring a set of recommendations on any proposed changes to the Committee at its meeting on 21 January 2015.*
 - 2) *To ask the Monitoring Officer to liaise with colleagues in other Local Authorities to lobby the Secretary of State for Communities and Local Government for a change in the legislation to permit further sanctions, as agreed by a council's Standards Committee, to be imposed in the event of a breach of a Code if deemed appropriate.*
3. Under the Localism Act 2011 councils were required to adopt a new code of conduct with effect from 1 July 2012. The new code has to broadly reflect 7 principles of conduct in public life, which are set out in the Act: selflessness, integrity, objectivity, accountability, openness, honesty and leadership. The council adopted a model code of conduct issued by the Department for Local Government and Communities (DCLG) with some variations. A copy of the current Code of Conduct is attached at Appendix 1.
4. A summary of the position on codes of conduct in other authorities, provided by Hoey Ainscough Associates Limited is included at Appendix 2.
5. A large proportion of Wiltshire's parish, town and city councils have adopted the same Code of Conduct as Wiltshire Council.
6. As principal authority Wiltshire Council deals with all complaints made under the code of conduct for unitary, parish, town and city councillors in accordance with its agreed complaints procedure.
7. A summary of the complaints received since the introduction of the new standards regime is attached at Appendix 3.

Main Considerations for the Committee

8. The purpose of the Code of Conduct is to promote accountability, transparency and public confidence in local government. The Code of Conduct should be framed in a way that supports these objectives.
9. The Monitoring Officer, complainants and the Independent Persons report that they have found it difficult to link complaints to specific paragraphs of the Code. This issue was highlighted during the case study discussions at the seminar on standards on 23 July 2014, led by Hoey Ainscough Associates. It has resulted in a significant reduction in the number of complaints that have been referred for investigation – only 3 since the new Code came into operation in July 2012.
10. Appendix 3 provides a brief summary of every complaint assessed since July 2012. The right hand column states whether the complaint would have been referred for investigation under the old statutory code of conduct. This is not an indication that the complaint would have been upheld – a judgement of that nature cannot be made without the evidence having been tested by means of investigation and hearing. However, it is of concern that so few complaints can be linked to the current provisions of the Code in a way that enables referral for investigation.
11. From Appendix 3 it is evident that of the 122 complaints assessed since July 2012, 61 would probably have been investigated under the provisions of the old Code of Conduct. However, many of these relate to the declaration of interests. The statutory provisions regarding members' interests have been fundamentally reformed and a comparison of complaints regarding interests is therefore not relevant. However, 39 complaints would probably have been investigated under the following provisions of the old Code of Conduct, which required that when acting in their official capacity, members were required to:
 - treat others with respect;
 - not to bully others;
 - not to act in a way that would bring their office or authority into disrepute;
 - not to act in a manner that would cause their authority to be in breach of any relevant equalities duties.
12. Whilst not all of these 39 complaints would have warranted an investigation, and the new assessment procedures would assist in sifting out the less serious complaints, the fact that only 3 complaints were put forward for investigation is a cause for concern.
13. This is a particular concern where complainants allege bullying or serious disrespect by a councillor. Since the Code, as it is currently framed, does not specifically provide for bullying or disrespect to be a breach of the Code, these complaints have generally not been referred for investigation. If a member could be proven to have bullied others or treated them disrespectfully it is difficult to establish that this behaviour fails to meet an (undefined) standard of selflessness, integrity, objectivity, accountability, openness, honesty or leadership.

14. This means that complainants who have brought complaints that could reasonably be regarded as serious may be left without redress. It also means that if a councillor is alleged to have bullied an employee, the Council may be unable to demonstrate that it has met its duty of care towards its employees, in that there is no other statutory avenue through which an allegation of bullying by a councillor can be investigated and addressed.
15. The Council has a duty to comply with the provisions of the Equality Act 2010. Section 149 (1) of the Equality Act 2010 provides: -
- (1) A public authority must, in the exercise of its functions, have due regard to the need to -*
- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;*
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;*
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.*
16. As the Code stands there may be difficulties in dealing with an allegation that a councillor has not complied with their obligations under the Equalities Act as there is no specific provision in the Code for such an allegation to be investigated, nor for any breach in the equalities duties to be addressed.
17. Similar considerations apply to the duty of confidentiality owed by councillors in respect of confidential information.
18. When a complaint is made, whether or not it is well founded, it is likely to cause the subject member significant stress. The broad nature of the Code, as currently drafted, makes it difficult for the Monitoring Officer to provide subject members with the protection of a clear and robust rejection of complaints relating to behaviour that is not capable of breaching the Code. Its lack of clarity may also result in complainants bringing complaints that they might not, with a clearer and more specific Code, decide to pursue.
19. The lack of clarity and specificity in the wording of the Code means that it is highly subjective, and while parties may hold equally strong but conflicting views on whether alleged behaviour is capable of breaching, for example, the general principle of "integrity" it is difficult to draft a clearly reasoned and understandable decision notice that explains precisely why a complaint will not be taken further. Clarification of the Code, particularly where it relates to personal conduct, may strengthen it and protect members against complaints being brought where they would clearly not be capable of breaching any of the provisions of the Code.

Gifts and Hospitality

20. At its meeting on 21 October 2014 Council referred the following motion to the Standards Committee to consider and report back to full council:

Further to this Council adopting its Code of Conduct at Full Council in

February, this Council considers amending the Code of Conduct to include a register of gifts and hospitality.

The existing Code states, at paragraph 2, 'you must not place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.'

To protect members and to ensure full; transparency, for Wiltshire Council, and its members this Council adopts a register of interests for all gifts and hospitably over £25.00.

21. The requirement for members to register gifts and hospitality exceeding £ 25 in value that had existed under the former statutory code of conduct was repealed by the Localism Act 2011. The new code adopted by the council provides at paragraph 2 of the code:

You must not place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.

22. At its meeting on 4 February 2014 the council decided not to make any changes to the code of conduct on gifts and hospitality on the basis that the existing provision at paragraph 2 of the code was adequate. However, some members have expressed the view that they would find it helpful for Wiltshire Council to require gifts and hospitality over, say £25, in value to be declared on the register of interests currently maintained by the Monitoring Officer in order to provide greater transparency and protection to members.

Environmental Considerations

23. None.

Financial Considerations

24. None arising directly from this report.

Legal Implications

25. As outlined in the report. The council is obliged to meet its statutory requirements regarding the promotion and maintenance of high standards of conduct under the Localism Act 2011.

Recommendations

26. Members are asked to consider whether the code of conduct should be amended to include more specific provision on the standards of conduct expected of members and on the registration of gifts and hospitality in order to provide greater clarity and

enforceability.

27. If members are minded to make changes to the Code officers will draft the necessary provisions in accordance with the Committee's wishes and bring these back to the Committee for final review before the Committee makes its recommendations to full Council.

Ian Gibbons

Associate Director Legal and Governance and Monitoring Officer

Author: Ian Gibbons and Nina Wilton, Head of Governance and Deputy Monitoring Officer

Background Papers

Unpublished reports relied upon in the preparation of this report: None.

Appendices:

Appendix 1 - Code of Conduct

Appendix 2 – Hoey Ainscough Associates Ltd – Code of Conduct Discussion Paper

Appendix 3 - Summary of complaints received since 1 July 2012

Part 13

Wiltshire Council Code of Conduct

You are a member or co-opted member of Wiltshire Council and hence you shall have regard to the following principles - selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

You must promote and support high standards of conduct when serving in your public post, in particular as characterised by the following requirements, by leadership and example.

Accordingly, when acting in your capacity as a member or co-opted member:

1. ~~4.~~—You must treat others with respect.
2. You must not:
 - (a) do anything which may cause your authority to breach the Equality Act 2010 or other relevant equality enactments.
 - (b) bully or intimidate any person;
 - (c) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of your authority.
3. You must not:
 - (a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:
 - (i) you have the consent of a person authorised to give it;
 - (ii) you are required by law to do so;
 - (iii) the disclosure is:
 - (aa) reasonable and in the public interest; and
 - (bb) made in good faith and in compliance with the reasonable requirements of your authority; or

(b) prevent another person from gaining access to information to which that person is entitled by law.

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

6. You must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, a friend or close associate.

7.2. You must not place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.

8.3. When carrying out your public duties you must make all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits, on merit.

9.4. You are accountable for your decisions to the public and you must co-operate fully with whatever scrutiny is appropriate to your office.

10.5. You must be as open as possible about your decisions and actions and the decisions and actions of your authority, and should be prepared to give reasons for those decisions and actions.

11.6. You must declare any private interests, both pecuniary and non-pecuniary, that relate to your public duties, and must take steps to resolve any conflicts arising in a way that protects the public interest, including registering and declaring interests in a manner conforming with the procedures set out below.

12.7. You must, when using or authorising the use by others of the resources of your authority, ensure that such resources are not used improperly for political purposes (including party political purposes) and you must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

Members of Wiltshire Council will have regard to the Roles and Responsibilities of Wiltshire Councillors according to Appendix 1 and Wiltshire Council Behaviours Framework at Appendix 2.

Registering and declaring pecuniary and non-pecuniary interests

13.8. You must, within 28 days of taking office as a member or co-opted member, notify your authority's monitoring officer of any disclosable pecuniary interest as defined by regulations made by the Secretary of State, where the pecuniary interest is yours, your spouse's or civil partner's, or is the pecuniary interest of somebody with whom you are living as a husband of wife, or as if you were civil partners.

14.9. In addition, you must, within 28 days of taking office as a member or co-opted member, notify your authority's monitoring officer of any disclosable pecuniary or non-pecuniary interests which your authority has decided should be included in the register, including:

(a) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by the authority;

(b) any body exercising functions of a public nature of which you are a member or in a position of general control or management;

(c) any body directed to charitable purposes of which you are a member or in a position of general control or management;

(d) any body one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union) of which you are a member or in a position of general control or management.

15.0. If an interest has not been entered onto the authority's register you must disclose the interest to any meeting of authority at which you are present, where you have a disclosable interest in any matter being considered and where the matter is not a sensitive interest.

16.4. Following any disclosure of an interest which is not on the authority's register or the subject of pending notification, you must notify the monitoring officer of the interest within 28 days beginning with the date of disclosure.

17.2. Unless dispensation has been granted, you may not participate in any discussion of, vote on, or discharge any function related to any matter in which you have a pecuniary interest as defined by regulations made by the Secretary of State. Additionally, you must observe the restrictions your authority places on your involvement in matters where you have a pecuniary or non-pecuniary interest as defined by your authority.

18. You must within 28 days of receipt, notify the monitoring officer in writing of any gift, benefit or hospitality with a value in excess of £50 which you have accepted as a member from any person or body other than the authority. The monitoring officer will record your notification on your register of interests

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CONSTITUTION FOCUS GROUP

MINUTES OF THE CONSTITUTION FOCUS GROUP MEETING HELD ON 2 SEPTEMBER 2015 AT KENNET ROOM - COUNTY HALL, TROWBRIDGE BA14 8JN.

Present:

Cllr Stuart Wheeler (Chairman), Cllr Julian Johnson, Cllr Jeff Osborn and Miss Pam Turner

27 **Apologies**

Apologies were received from Councillors Ernie Clark, Jon Hubbard and Helen Osborn, and Mr Paul Neale.

28 **Minutes of the Previous Meeting**

The minutes of the meeting held on 11 June 2015 were presented for consideration and it was,

Resolved:

To APPROVE and sign as a true and correct record.

29 **Review of Part 13: Code of Conduct**

Following a review of the effectiveness of the Code of Conduct complaints procedure after several years of operating under the new standards regime, the Standards Committee resolved at its meeting on 21 January 2015 to task the Monitoring Officer to draft proposals to strengthen the Code of Conduct, to address any potential gaps or enhance specific areas as necessary. Prior to consideration of the revised Code by the Standards Committee, it was determined to seek the views of the Constitution Focus Group.

Following introduction of the revisions from the Chairman of the Standards Committee, the Monitoring Officer presented a revised Code of Conduct for consideration and debate, as detailed in the Agenda Supplement. It was explained that the Codes of other authorities had been examined to assess whether there were aspects which it would be appropriate to include within Wiltshire's Code. The Focus Group then debated each potential addition and any other changes that might be appropriate in turn:

- The Focus Group were in agreement that additions to include treating others with respect, not to bully or intimidate any person, and not to do anything that might cause an Authority to breach the Equality Act 2012 or other relevant equality enactments, would be positive additions to the Code. It was felt that while robust language was to be expected at times when operating in a political capacity, it was important councillors at all levels treat people with respect.
- The Focus Group was also in agreement at including detailed provisions on not disclosing confidential information except in specific circumstances, and suggested amendments to make these clearer.
- There was debate about how a councillor's conduct would be defined as 'reasonably' bringing their office into disrepute, and the distinction between acting in one's capacity as a member or as a member of the public, but concluded that such a provision should be included in the revised Code.
- The Focus Group discussed a proposed provision on not compromising the impartiality of those who work for on or behalf of a relevant authority, and how this was defined, and recommended the Standards Committee consider the issue carefully when debating the draft revisions, without offering a settled view themselves.

The Focus Group also discussed the elements of the Code in relation to registering interests, which it was stated had been of increasing relevance to many complaints, and had also been used to challenge the lawfulness of some council decisions.

- It was noted that in addition to statutory pecuniary interests that needed to be registered, authorities could and many did specify additional non-pecuniary interests which members would be required to register on their register of interests form. While Council had initially determined not to include additional interests, the Focus Group noted the increasing use of a failure to register certain non-pecuniary interests in complaints or to challenge the lawfulness of decisions on the grounds of openness, transparency and accused predetermination of decisions. The Focus Group concluded that if there was any doubt in a member's mind at present they were advised to disclose their interest at a meeting as a precautionary measure, and that if specific interests in relation to membership of other bodies and other organisations was listed on the register of interests, this would insulate the member and the authority from complaints or challenges on that basis.
- The Focus Group also noted the decision of the Standards Committee to reintroduce a gifts and hospitality register on each members' register of interest form, and endorsed the proposed register level of a gift , benefit or hospitality in excess of £50.

The Focus Group also noted and endorsed the view of the Standards Committee that the lack of available sanctions for those found in breach of a Code, other than recommendations to Group Leaders/Parish Councils to remove a member from a committee or working group, or public censure, limited the effectiveness of the Code. In particular, it was felt the lack of appropriate sanctions, along with the current difficulty for certain inappropriate behaviours to be tied to the Code as written, risked damaging the public perception of members to be held to proper account. The Focus Group therefore urged further efforts to lobby for improved powers to sanction members found in breach, including working through the Local Government Association to put the view to central government.

Resolved:

To report the views of the Focus Group on the draft revised Code of Conduct to the Standards Committee on 16 September 2015.

30 **Forward Plan and Date of Next Meeting**

The Focus Group noted the proposed Forward Plan and the date of the next scheduled meeting as 2 December 2015.

31 **Urgent Items**

There were no urgent items.

(Duration of meeting: 12.00 - 1.15 pm)

The Officer who has produced these minutes is Kieran Elliott, of Democratic & Members' Services, direct line 01225 718504, e-mail kieran.elliott@wiltshire.gov.uk

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

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STANDARDS COMMITTEE FORWARD PLAN 2015-2016

<u>Constitution Focus Group Meeting Date</u>	<u>Agenda Circulation</u>	<u>Items</u>	<u>Standards Committee Date</u>	<u>Councillors Briefing (if required)</u>	<u>Council Date</u>
<u>2 December 2015</u>	<u>6 January 2016</u>	<p>Constitution Updates (Part 9 - Financial Regulations)</p> <p>Constitution Updates (Part 6 - Budget and Policy Framework)</p> <p>Constitution Update (Protocol 4 - Planning Code of Good Practice)</p> <p>Constitution Update (Part 11 - Contract and Procurement Regulations)</p>	<u>21 January 2016</u>	<u>28 January 2016</u>	<u>2 February 2016</u>

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