

**Wiltshire Council**

**Standards Committee**

**Annual Report 2011/12**

## Foreword by the Chairman

Once again I am delighted to present the Wiltshire Council Standards Committee Report for 2011/2012. It explains who sits on the committee, what it does, its achievements over the last year and the tasks the current committee faces before it retires on 30 June as required by the Localism Act 2011. I know that Wiltshire Council take seriously the need for good governance and high standards of behaviour not only to ensure public confidence in its actions but also so that it is effective in delivering its responsibilities. I am confident this will continue in the future under the new arrangements coming into force on 1 July 2012

It has been a busy year for the Standards Committee and the officers who provide it with excellent support. The main areas of work have been:

- Handling complaints arising from the Wiltshire Council Code of Conduct
- Refining the current local assessment processes to ensure they are efficient and fair with particular emphasis on reducing the time taken to complete investigations of Code of Conduct complaints
- Reviewing the Wiltshire Council Constitution in conjunction with elected members
- Developing proposals for the new standards framework required by the Localism Act 2011
- Supporting and advising Town and Parish Councils on governance issues including the changes brought about by the Localism Act 2011

Discussion at all our meetings has always been open and constructive and I welcome any members of the public who wish to attend and contribute to our discussions. I would like to thank my fellow members and our officers for their hard work and valuable contributions both in committee and at the many other times when they support the committee's work. We have developed sound proposals for the new standards framework using our experience of delivering the current local assessment process and listening to Members, officers and the public's views on it. Most importantly we have reduced substantially the time taken to complete the local assessment process and have introduced informal resolution of complaints at the early possible opportunity. This work has not been easy for either the Committee or its officers due to the number of changes introduced to the proposed act during its parliamentary stages and the current lack of regulations governing the new rules on interests and transitional arrangements. We have not yet completed our proposals on a new voluntary Code of Conduct but will make recommendations to Council in June.

I am delighted that the Wiltshire Council Standards Committee has continued to play an important role in the effective running of the Council over the last year. High standards of conduct are important in raising public trust in local democracy and the Standards Committee will continue to use its experience and knowledge to support the Council in developing an effective system to ensure these high standards are maintained now the mandatory regime has been abolished until its role is taken over by the new Standards Committee on 1 July this year.

Isabel McCord

## Introduction

Under the Local Government Act 2000 all councils are required to have a standards committee. The Wiltshire Council Standards Committee's main role is to promote and maintain high standards of conduct of the 98 members of Wiltshire Council, co-opted members, church and parent governor representatives, 256 town and parish councillors and of Wiltshire Council's officers.

In achieving this role the committee carries out the following functions:

- assists elected and co-opted members and church and parent governor representatives to observe the members' code of conduct
- advises the council on the adoption or revision of the members' code of conduct
- monitors and advises the council about the operation of its code of conduct in the light of best practice, changes in the law, guidance from the Standards for England and recommendations of case tribunals under Section 80 of the Local Government Act 2000
- advises on training or arranges to train elected and co-opted members and church and parent governor representatives on matters relating to the members' code of conduct
- handles all matters relating to alleged breaches of the code of conduct for elected and co-opted members of Wiltshire Council and the town parish and city councils within Wiltshire Council's jurisdiction
- grants dispensations to elected and co-opted members and church and parent governor representatives from requirements relating to interests set out in the members' code of conduct
- promotes and oversees high standards of ethical governance throughout the council
- overviews the council's whistle-blowing policy
- overviews corporate complaints handling and reviews the implementation of recommendations made by the Ombudsman
- has oversight of Wiltshire Council's Constitution
- considers and determines applications for exemption to the requirements in relation to politically restricted posts.

## Members of Wiltshire Council Standards Committee



### **Independent co-opted members (eight)**

Jane Bayley, Michael Cronin, Philip Gill MBE JP, Isabel McCord, Stuart Middleton and Gerry Robson OBE, 2 vacancies

### **Wiltshire Council members (six)**

Cllr Nigel Carter, Cllr Ernie Clark, Cllr Peter Fuller, Cllr Howard Marshall, Cllr Julian Johnson and Cllr Ian McLennan

### **Town/parish council co-opted members (eight)**

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

### **The Monitoring Officer**

Wiltshire Council's Monitoring Officer, Ian Gibbons, and other officers from the governance team and democratic services team support the Standards Committee in its work. The Monitoring Officer is a statutory role responsible for ensuring that the council, its members and officers carry out their functions in a lawful manner.

## Meetings

The following standards committee and sub-committees meetings were held (figures in brackets are for 2010/11):

<b>Standards committee*</b>	<b>7(6)</b>
<b>Assessment sub-committee</b>	<b>14(13)</b>
<b>Review sub-committee</b>	<b>7(4)</b>
<b>Consideration sub-committee</b>	<b>3(8)</b>
<b>Hearing*</b>	<b>3(7)</b>
<b>Dispensation sub-committee*</b>	<b>3(10)</b>

Meetings marked \* are usually public meetings. Agenda, papers and minutes are on the Wiltshire Council web site ([www.wiltshire.gov.uk](http://www.wiltshire.gov.uk)).

## How does local assessment work?

Wiltshire Council Standards Committee is responsible for receiving all complaints about alleged breaches of the code of conduct made against elected members of Wiltshire Council and the town and parish councils and co-opted members. There is an **initial assessment stage** when the **assessment sub-committee** of the standards committee meets to consider whether the complaint relates to a local member, if it involves a potential breach of the code and, if it does, whether it should be investigated or dealt with by other action such as training or mediation.

Depending on the outcome, the complainant can **appeal against the assessment sub-committee decision**. If this happens a **review sub-committee**, made up of different members of the standards committee from the assessment sub-committee will consider the appeal.

If a complaint is referred for investigation, a **consideration sub-committee** will consider the monitoring officer's investigation report and determine the next procedural steps in the light of the investigating officer's findings.

Finally the complaint will be considered by a **hearing sub-committee**, which will hear evidence and representations to determine if there has been a breach of the code and, if so, what sanctions are appropriate.

## Complaints 2011/12

### Number of complaints received

51 complaints were received between April 2011 and March 2012

The outcome of the complaints that were assessed was:

<b>Action</b>	<b>Numbers</b>
Investigated/under investigation	20
No investigation	28

The complaints that were not assessed fall into the following categories:

Reasons for no assessment	Numbers
Case closed as sufficient details not provided	0
Not a code of conduct complaint	0
Complaint withdrawn	0
Yet to be assessed	3

### Breakdown of Code of Conduct Complaints

Paragraph of Code	Number of times cited 2011
3(1) – you must treat others with respect	41
3(2)(a) – you must not do anything which may cause your authority to breach any of the equality enactments	7
3(2)(b) - You must not bully any person	13
3(2)(c) – you must not intimidate any person who is or is likely to be a complainant	8
3(2)(d) – you must not do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your authority	10
4(a) – you must not disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonable to be aware, is of a confidential nature	1
4(b) – you must not prevent another person from gaining access to information to which that person is entitled by law	3
5 – you must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute	31
6(a) – you must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage	20
6(b)(i) – You must, when using or authorising the use by others of the resources of your authority, act in accordance with your authority’s reasonable requirements	0
6(b)(ii) – 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)	0

Paragraph of Code	Number of times cited 2011
6(c) – you must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986(a)	0
8(1)(a) – you have a personal interest in any business of your authority where either it relates to or is likely to affect: (ii) 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 your authority; (ii) any body – (aa) exercising functions of a public nature; (bb) directed towards charitable purposes; (cc) 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.	4
8(2)(a) – you have a personal interest in any business of your authority where either it relates to or is likely to affect a member of your family or any person with whom you have a close association	8
9 (1) – subject to sub-paragraphs (2) to (7), where you have a personal interest in any business of your authority and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.	9
10 – subject to sub-paragraph (2), where you have a personal interest in any business of your authority you also have a prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.	13
12 (1) – subject to sub-paragraph (2), where you have a prejudicial interest in any business of your authority you must withdraw from the chamber where a meeting considering the business if being held	0
12(1)(c) – subject to sub-paragraph (2), where you have a prejudicial interest in any business of your authority you must not seek to improperly influence a decision about that business	1
13 (1)(b) – subject to paragraph 14, you must, within 28 days of your election or appointment to office (where that is later), register in your authority’s register of members’ interests details of your personal interests where they fall within a category mentioned in paragraph 8(1)(a), by providing written notification to your authority’s monitoring officer.	1

## **The work of the Wiltshire Council Standards Committee April 2011 – March 2012**

### **Localism Act 2011**

The committee considered the proposals in the Localism Bill during its passage through Parliament and the changes that would be required to the Council's standards framework. Once the Localism Act received Royal Assent on 15 November 2011 it noted the significant changes made to the earlier proposals in the Bill and refined its proposals for the new standards framework accordingly.

The committee has developed proposals for Council to consider on:

- Arrangements for dealing with Code of Conduct Complaints under the Localism Act 2011 including possible sanctions
- Terms of Reference for a new standards committee which will be an ordinary committee of the Council whose voting members will be drawn from members of Wiltshire Council
- Job Description and Person Specification of the Independent Persons appointed under Section 28(7) of Localism Act 2011

These proposals have been drawn up taking into account the views of the Constitution Focus Group.

The Committee has not developed a new code of conduct. It is awaiting further detail of a possible national template code and the regulations concerning the new rules on interests.

The Committee has considered how to support Town, Parish and City Councils in preparing for the new standards framework. To this end the Monitoring Officer wrote to them on 30 December 2011 updating them of the impact of the Act upon them. Further updates have been given primarily through the Parish Newsletter. Also the training package for Town, Parish and City Councils has been amended to include reference to the Localism Act.

### **Local assessment**

The majority of Committee members sat on the various sub-committees involved in local assessment of code of conduct complaints.

The committee received regular updates on the number of complaints regarding alleged breaches of the code of conduct. In the case of complaints going forward to investigation it has been a significant challenge to achieve completion of the Investigating Officer's Report within the 6 months timescale set by the Committee. This has occurred mainly as a result of factors outside the Committee and Investigating Officers' control. The Committee understands the stress this puts on the Member concerned and apologises to Members where investigations have taken longer than 6 months.



The local assessment process was kept under review, which resulted in the Assessment Sub Committee giving specific direction to Investigating Officers on the areas of the complaint to be investigated and for the Findings of Fact to be clearly identified in the Investigating Officers' report. This has helped to reduce the time taken to complete the investigations.

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

After reviewing the Wiltshire Council constitution in 2010 in the light of six months of operation after the move to a unitary council, Council, on the recommendation of the Standards Committee, asked that the Constitution Focus Group continue its work on developing the constitution in the light of the changes required by Localism Act 2011 and other changes in Council procedures to increase its efficiency.

The Focus Group has cross-party representation and includes four of the five political group leaders of the Council. It also includes representation from the Standards, Audit and Scrutiny Select Committees and is chaired by Mrs Isabel Mc Cord, Chairman of the Standards Committee.

The Focus Group met on four occasions between April 2011 and March 2012 to consider the following areas of the constitution:

- Changes to the Budget Process
- Media Relations Protocol
- Questions and Motions on Notice
- Senior Management Restructuring
- Contract Regulations
- Localism Act:
  - Standards Framework
  - Planning Code Of Good Practice

The Focus Group made a number of recommended changes to the constitution as documented in reports presented to meetings of the Standards Committee. The recommended changes were accepted by the Standards Committee and reported to Council meetings during the year. The Standards Committee's recommendations were accepted by the Council.

### **Politically Restricted Posts – Applications for Exemption**

The Committee have taken on the responsibility considering applications for exemption from the holders of politically restricted posts. These applications will be determined by the Dispensation Sub-Committee. To date no applications have been received.

### **Local Government Ombudsman**

In September Mrs Barbara Hedley, Assistant Local Government Ombudsman, gave a presentation on the role of the Ombudsman including recent changes and possible future development. It was noted that overall response times had slipped but it was hoped that this would be addressed under the systems review of complaints.

### **Standards Committee Plan**

The Committee were updated in respect of the priorities in the Standard's Committee's plan at their meetings in November 2011 and March 2012.

### **Acceptable Usage policy – for email, internet and computer use**

The Committee considered and endorsed a report which presented changes to the existing email, internet and computer use policy.

### **Annual Governance Statement**

The committee considered the annual governance statement and made some revisions prior to it being considered by Cabinet and Audit Committee.

### **Wiltshire Council Behaviours Framework**

The Committee received a briefing on the Wiltshire Council Behaviours Framework by Councillor Laura Mayes and Councillor Allison Bucknell at its meeting on 23 November 2011. This was very well received by the Committee and allowed it to see how it could support this important initiative.

### **Wiltshire Council Website**

Work has been undertaken to ensure information on Standards of Behaviour in local government is easily accessible on the Wiltshire Council Website

## **Issues for 2012/13**

The Committee will finalise its proposals for the complaints procedure and organisational structures of the new standards framework for presentation to Council at its meeting on 15 May 2012. These proposals will be explained to Wiltshire Councillors at their Localism Act 2012 briefing in April 2012.

It will make recommendations on a new Code of Conduct taking into account the development of a national code and the regulations regarding interests as well as drawing on the experience of the current code for Wiltshire Councillors.

The committee will continue to implement the current local assessment processes in a fair, efficient and proportionate manner until the new standards framework under the Localism Act comes into force on 1 July 2012 as well as complete its other core functions:

- consider the local government Ombudsman's annual report
- provide views on the council's annual governance statement prior to adoption by the audit committee
- review the effectiveness of the council's whistle-blowing policy
- ensure members' compliance with the code of conduct in respect of the completion of the register of members' interests and gifts and hospitality forms.

The Committee will continue to ensure support and training is provided to Town and Parish Councils on both effective governance and standards of behaviour. In

addition the Committee will continue to update Town, Parish and City Councils on the new standards framework and will send the draft Arrangements, SC TOR and Job Description for the Independent Members to Parish, Town and City clerks and WALC as well as including them in the April Parish Newsletter.

This report has been produced by Wiltshire Council's Standards Committee.

If you would like further information about the content or the work of the standards committee please contact:

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Minutes of the standards committee can be found on the following link of the council's website:

<http://cms.wiltshire.gov.uk/standards committee>

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