

AGENDA

Meeting: Standards Committee
Place: The Kennet Room - County Hall, Trowbridge BA14 8JN
Date: Wednesday 20 June 2018
Time: 3.00 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.

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Membership:

Cllr Derek Brown OBE	Cllr Paul Oatway QPM (Chairman)
Cllr Allison Bucknell	Cllr Fred Westmoreland
Cllr Ernie Clark	Cllr Stuart Wheeler
Cllr Peter Evans	Mr Richard Baxter
Cllr Peter Fuller	Mr Philip Gill MBE
Cllr Howard Greenman (Vice-Chairman)	Mr Michael Lockhart
Cllr Ruth Hopkinson	Miss Pam Turner (Non-voting)
Cllr Bob Jones MBE	

Substitutes:

Cllr Richard Britton	Cllr Peter Hutton
Cllr Trevor Carbin	Cllr George Jeans
Cllr Sue Evans	Cllr Gordon King
Cllr Nick Fogg MBE	Cllr Brian Mathew
Cllr Chris Hurst	Cllr Graham Wright

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Public Participation

Please see the agenda list on following pages for details of deadlines for submission of questions and statements for this meeting.

For extended details on meeting procedure, submission and scope of questions and other matters, please consult [Part 4 of the council's constitution](#).

The full constitution can be found at [this link](#).

For assistance on these and other matters please contact the officer named above for details

AGENDA

Part I

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

1 **Apologies**

To receive any apologies for the meeting.

To note any changes of membership to the Committee.

2 **Minutes** (*Pages 5 - 10*)

To confirm the minutes of the meeting held on 18 April 2018.

3 **Declarations of Interest**

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

4 **Chairman's Announcements** (*Pages 11 - 18*)

To receive any announcements through the Chair, including:

- 1) Ombudsman Complaint
- 2) Consultation Response – Committee for Standards in Public Life

5 **Public Participation**

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 this agenda no later than

5pm on 13 June 2018 in order to be guaranteed of a written response. In order to receive a verbal response questions must be submitted no later than 5pm on 15 June 2018. 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 Code of Conduct Complaints** *(Pages 19 - 24)*

To receive a report from the Monitoring Officer.

A supplement will follow regarding the Code of Conduct Assessment Criteria.

7 **Constitution Focus Group Update** *(Pages 25 - 28)*

To receive a report from the Monitoring Officer.

8 **Code of Conduct Training and Register of Interests Update** *(Pages 29 - 36)*

To receive a report from the Monitoring Officer.

9 **Date of Next Meeting**

To note the date of the next scheduled meeting as 26 September 2018.

10 **Urgent Items**

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

STANDARDS COMMITTEE

MINUTES OF THE STANDARDS COMMITTEE MEETING HELD ON 18 APRIL 2018 AT THE KENNET ROOM - COUNTY HALL, TROWBRIDGE BA14 8JN.

Present:

Cllr Paul Oatway QPM (Chairman), Cllr Allison Bucknell, Cllr Peter Fuller, Cllr Ruth Hopkinson, Mr Michael Lockhart, Cllr Fred Westmoreland and Cllr Peter Hutton (Substitute)

11 Apologies for Absence

Apologies were received from Councillors Howard Greenman, Derek Brown OBE, Anna Cuthbert, Peter Evans, Russell Hawker and Bob Jones MBE.

Councillor Brown was substituted by Councillor Peter Hutton.

12 Minutes

The minutes of the previous meeting were presented, along with the minutes of Review Sub-Committees where the complaints in question had been resolved since the last meeting.

Resolved:

To approve and sign as a true and correct record the minutes of the meeting held on 17 January 2018.

To receive the minutes of the Review Sub-Committee minutes from the meetings held on 27 July 2017, 30 January, 15 February and 23 March 2018.

13 Declarations of Interest

In the interests of openness and transparency, the Chairman drew attention to the Review Sub-Committee minutes from 23 March 2018. He explained a complaint had been submitted against him, investigated, with a decision to dismiss the complaint, which was upheld by the Sub-Committee.

14 Chairman's Announcements

Through the Chairman it was announced that it had not been possible due to resource issues to provide a report on town and parish council codes of conduct

and compliance with registering interests. A letter had now been circulated to towns and parishes seeking the relevant information, and members would be updated at the next meeting.

15 **Public Participation**

There were no statements or questions submitted.

16 **Appointment of Co-Opted Members**

Following an advertising period, the Chairman and two other members of the Committee had held interviews for the four positions for non-voting co-opted member of the Standards Committee. Following recommendation to appoint four of those interviewed, and on the moving of Councillor Paul Oatway QPM, seconded by Councillor Ruth Hopkinson, it was,

Resolved:

To confirm the appointment of:

**Mr Richard Baxter
Mr Philip Gill MBE
Mr Michael Lockhart
Miss Pam Turner**

As non-voting co-opted members of the Standards Committee.

Mr Lockhart was in attendance and invited to join the Committee's deliberations.

17 **Status Report on Complaints**

It was also stated that following a recent review it had been noted that the current assessment criteria for complaints had as a test that if a member was no longer a member of a council, the complaint should not be investigated. However, a recent Tribunal case had suggested that in some instances it might still be in the public interest to proceed with an investigation.

It was requested that a revised assessment criteria be considered at the next meeting.

At the conclusion of discussion, it was,

Resolved:

To note the complaints, and receive an update on the assessment criteria at the next meeting of the Committee.

18 **Constitution Focus Group: Updates and Recommendations**

A report from the Monitoring Officer was presented detailing proposed changes to the constitution, following consideration and then recommendation from the Constitution Focus Group.

Changes were proposed in relation to Part 3D(3) of the Constitution, the Scheme of Delegation Specific to Planning. New regulations would come into effect from 1 June 2018 to allow applicants to submit applications for 'Permission in Principle' (PIP) for minor housing led developments of up to 9 houses. This process had a shorter timescale for determination, and existing procedures relating to call-in of items to committee were not appropriate.

The Focus Group had considered that call-in of planning applications was one of the more vital councillor powers, and did not consider that removing PIP from the call-in procedure was appropriate. Therefore, they had recommended wording to shorten the timescale for call-in of PIP, as well as expedited notification procedures. Wording was proposed to that effect, as detailed in the agenda papers.

The Committee discussed the proposed changes, amending the use of 'House' for 'Dwelling', as well as seeking details on how the new procedure would work in practice. It was also commented that the change in legislation had not been brought to the recent Planning Committee Task Group, and it was requested any future such changes be considered by such a task group in future, if it was still in place.

Other proposed changes related to the Audit Committee. The Audit Committee had set up a task and finish group to identify best practice in relation to Audit responsibilities, and to recommend changes where appropriate to the constitutions, as well as such corrections as necessary to ensure consistent referencing of audit responsibilities.

A report was taken to the Focus Group, identifying amendments to Part 2 (The Constitution), Part 3 (Responsibility for Functions), Part 9 (Finance Regulations) and Protocol 11 (Governance Reporting Arrangements). The changes clarified the distinct roles of Audit and Overview and Scrutiny, as well as making the various sections consistent and emphasising the key aspects of the audit function.

The Committee discussed the proposals, and supported the amendments, though it was requested in their presentation to Council the context of all sections be made clearer.

It was also noted by the Committee that various changes had been made under the delegated authority of the Monitoring Officer, which had been reported to the Focus Group. In particular it was noted that further changes would be necessary regarding clarity over the definition of the Proper Officer in relation to the Head of the Paid Service.

At the conclusion of discussion, and on the moving of Councillor Allison Bucknell, seconded by Councillor Ruth Hopkinson, it was,

Resolved:

To recommend that Full Council approve the proposed changes to Part 2, Part 3, Part 3D(3), Part 9 and Protocol 11 of the Constitution as detailed in the report, subject to amending reference from 'House' to 'Dwelling' in Part 3D(3).

19 **Local Government Ethical Standards: Stakeholder Consultation**

A report from the Monitoring Officer was presented informing the Committee of a review of local government ethical standards being undertaken by the Committee on Standards in Public Life.

Details of the consultation were provided, including all the questions, which related to existing structures and procedures for ensuring high standards of conduct, any gaps in the current regime, whether existing sanctions were sufficient, arrangements regarding whistleblowing and other questions as detailed in the report.

As the consultation would close on 18 May 2018, it was requested the Committee discuss the questions and provide direction for the Monitoring Officer, in consultation with the Chairman, to prepare a response on behalf of the Council.

The Committee therefore considered the consultation, where points including but not limited to the following were raised.

With over 250 parishes in the Wiltshire Council area, and no ability to enforce compliance with obligations, it was difficult as a principal authority to ensure towns and parishes in particular were adopting codes and registering interests appropriately. A single national code would simplify the process and make compliance with and understanding of that code easier. An alternate approach would be an opt-out system whereby parishes under a principal authority were automatically subject to the Code of the principal authority, unless they specifically determined otherwise. This would allow flexibility where desired, without over burdening smaller parishes, and remove confusion where more than one code applied to a member on more than one council.

It was also raised that a gap in the regime was that Code of Conduct complaints were often the only avenue for people to register concern with a parish council, when the main problem was the conduct of that council as a whole, and its operation, rather than an individual's personal conduct.

Options for online or in person training to improve compliance was discussed, with currently no ability to demand certain training be undertaken in order to undertake specific responsibilities

It was also felt that the current level of sanctions was insufficient for ensuring high standards of conduct, as the Committee had concluded in previous reviews of its own Code.

It was felt that clarity could be provided on whether it was necessary to withdraw following a declaration of pecuniary interest, as currently this was left up to individual councils to decide. Additionally, government guidance stated a councillor with a pecuniary interest could not speak as a member of the public, but Wiltshire had taken the view that this was not the case, in particular as it would disadvantage a councillor versus a regular member of the public, and clarity should be provided on this. The Committee also felt it should be mandatory to declare any relevant interests at a meeting, irrespective of whether the interest was on a register of interest.

A report was requested on the council's whistleblowing policy for the next meeting.

In respect of a question on intimidation of local councillors, the Committee noted the opportunity for more intimidation on social media in particular, but that they did not have any specific data to respond to that section of the consultation. They did, however, consider that some measure of support should be provided to town, parish and Wiltshire councillors who were subjected to intimidation.

At the conclusion of discussion, and on the moving of Councillor Allison Bucknell and Councillor Fred Westmoreland, it was,

Resolved:

To ask the Monitoring Officer after consultation with the Chairman of the Committee, to prepare a response to the consultation reflecting the Committee's views on behalf of the Council.

20 **Urgent Items**

There were no urgent items.

(Duration of meeting: 2.00 - 3.35 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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Review of Local Government Ethical Standards: Stakeholder Consultation **Responses on behalf of Wiltshire Council**

1. Wiltshire Council welcomes the opportunity to contribute to the review of local government ethical standards, being undertaken by the Committee on Standards in Public Life. The consultation questions have been considered by the Council's Standards Committee and the responses set out below have been prepared by the Council's Monitoring Officer, taking into account the comments made by members of that Committee.
2. Wiltshire Council is a large unitary authority with 98 members. There are also 252 parish councils within the County, the majority representing rural areas with small populations. The Monitoring Officer for Wiltshire Council deals with all Code of Conduct complaints relating to these parish councils. Most of the issues that have arisen with the operation of the ethical standards regime in Wiltshire have involved parish councillors, rather than Unitary councillors.
3. In response to the specific questions posed by the Committee, the Council's comments are as follows. Some of the comments of necessity overlap between different questions:
 - a. *Are the existing structures, processes and practices in place working to ensure high standards of conduct by local councillors? If not, please say why.*
 - b. *What, if any, are the most significant gaps in the current ethical standards regime for local government?*
4. A significant concern that the Council has with the current regime is that it only deals with the ethical standards of individual councillors and does not address the problem of poor standards of decision-making and procedures that may exist within a parish council itself as a corporate body. The Monitoring Officer receives many complaints about the actions of parish councils as well as ones about the conduct of individual councillors. Many parish councils in Wiltshire struggle to attract and retain sufficient numbers of people with appropriate skills and experience to serve as parish councillors. At the May 2017 elections only 44 out of the 252 parish councils in Wiltshire had contested elections, the majority of those being the larger town councils. A number of parish councils continue to operate with one or more vacancies, as they have not been able to fill those vacancies by co-option. In addition, some parish clerks (particularly in the smaller parish councils) need more support

and training on governance matters and there is a problem of a high turnover of clerks in some parish councils.

5. There is currently no mechanism for members of the public to challenge poor practices by a parish council itself (other than by legal proceedings or, if relevant, referral to the appointed auditor). This can lead to attempts to frame such challenges as Code of Conduct complaints against individual members of the parish council, leading to frustration and wasted time by all concerned. Wiltshire Council recently had a case where separate Code of Conduct complaints were brought against all members of a parish council, in an attempt to challenge a decision taken by that council.
6. The Council has concerns about the effectiveness of sanctions under the current regime and this is addressed below.

c. Are local authority adopted codes of conduct for councillors clear and easily understood? Do the codes cover an appropriate range of behaviours? What examples of good practice, including induction processes, exist?

7. The Council considers that it would be preferable to have a single Code of Conduct that applied either nationally, or across a principal authority's area, rather than requiring each individual parish council to adopt its own Code. Whilst many parish councils in Wiltshire have adopted the Wiltshire Council Code of Conduct, a number have adopted their own Codes, which can cause confusion in interpretation, especially where the drafting of some of the provisions may not be particularly clear. In addition, there are some parish councils that have still not adopted a Code of Conduct and there is little that this Council can do, other than to remind them of their legal obligations. The Council feels that it may be worth considering having an 'opt out' system, whereby all parish councils are automatically covered by a standard Code of Conduct (with standard interpretation of terms), unless they positively determine to adopt a different one. A standard Code of Conduct would also assist councillors who sit on more than one parish council, or who are both parish and Unitary councillors.
8. Wiltshire Council conducts a comprehensive induction programme for new Unitary Councillors, immediately after election. However, it is not practicable to provide such induction to all parish councillors, given the number and geographic spread of parish councils in the county. The Council is looking at providing on-line training for parish councillors, however it would not be possible to ensure that all councillors undertook such training.

9. The Council has also prepared and adopted Guidance on the interpretation of the Wiltshire Council Code of Conduct, which is included in its constitution. However, that guidance does not apply to differently worded Codes that have been adopted by parish councils.

d A local authority has a statutory duty to ensure that its adopted code of conduct for councillors is consistent with the Seven Principles of Public Life and that it includes appropriate provision (as decided by the local authority) for registering and declaring councillors' interests. Are these requirements appropriate as they stand? If not, please say why.

10. The Council considers that these requirements are appropriate as they stand. However, as mentioned above, the Council feels that this duty could be strengthened by having a standard code applicable to all councils, which could avoid ambiguities and ensure that the seven Principles were addressed and applied to all councils consistently.

e. Are allegations of councillor misconduct investigated and decided fairly and with due process?

i What processes do local authorities have in place for investigating and deciding upon allegations? Do these processes meet requirements for due process? Should any additional safeguards be put in place to ensure due process?

11. The processes operated by Wiltshire Council for investigating Code of Conduct complaints are considered to be robust and few concerns have been raised about the operation of those processes by those who have participated in them. The Council's arrangements provide for an initial assessment of a complaint to be undertaken by a representative of the Monitoring Officer and there is a right for either the complainant or the Subject Member to ask for a review of that assessment. This is undertaken by a Sub-Committee of the Council's Standards Committee. Similarly, if, following an investigation of a complaint, the Monitoring Officer determines that no further action should be taken, the Complainant can ask for a review of that decision by the Review Sub-Committee. Whilst the inclusion of these reviews can increase the time taken to determine a complaint, it is felt that they provide useful safeguards for all parties.

ii. Is the current requirement that the views of an Independent Person must be sought and taken into account before deciding on an allegation sufficient to ensure the objectivity and fairness of the decision process? Should this requirement be strengthened? If so, how?

12. The Council considers that the involvement of an Independent Person in the complaints process is very helpful and provides a useful safeguard to all parties. The Council has adopted a procedure whereby, on receipt of a complaint, an IP is allocated to assist the

Subject Member, if requested, with another IP assisting the decision-maker. This has proved to be successful and appreciated by those involved during what can be quite a stressful process. Where a complaint is referred to a Review Sub-Committee for assessment, the IP that has been allocated to assist the decision-maker will attend the meeting of the Sub-Committee to present their views, together with the IP supporting the subject member if required.

iii. Monitoring Officers are often involved in the process of investigating and deciding upon code breaches. Could Monitoring Officers be subject to conflicts of interest or undue pressure when doing so? How could Monitoring Officers be protected from this risk?

13. The arrangements operated by Wiltshire Council ensure, so far as is possible, that the Monitoring Officer is protected from conflicts of interest. The initial assessment of complaints is undertaken by the Deputy Monitoring Officer, or an experienced member of the Council's Legal Team. A different Legal officer will advise the Review Sub-Committee, if a review is requested. The Council also has experienced investigating officers in its Corporate Complaints Team. The Monitoring Officer himself would only usually become directly involved in a complaint on completion of an investigation and if that complaint then went to a hearing. It is accepted, however, that Councils with smaller legal teams may have more difficulty in maintaining these separations of functions during the complaints process.

Sanctions

f. Are existing sanctions for councillor misconduct sufficient?

i. What sanctions do local authorities use when councillors are found to have breached the code of conduct? Are these sanctions sufficient to deter breaches and, where relevant, to enforce compliance?

ii. Should local authorities be given the ability to use additional sanctions? If so, what should these be?

14. Wiltshire Council has had very few complaints that have been upheld following investigation and censure has been the sanction applied in those cases. There have been other cases where the complaint has not been upheld, but where, in its decision, the Council has made a recommendation of some other form of resolution, such as mediation (either formal or informal) or has suggested that training be provided to the councillors concerned, or to the parish council as a whole.

15. For most breaches of the Code, censure may well be a sufficient sanction. However, there is a perception amongst some complainants that it is inadequate and this has dissuaded them from pursuing a formal complaint. There have been a number of occasions where the Monitoring Officer's staff have been contacted by a person wanting to complain about the actions of a councillor. When the process has been explained to them, and they have been told that, if the complaint is upheld after investigation, the ultimate sanction would be likely to be a censure, they have taken the view that it is not worth the effort to make a formal complaint.

16. Where the complaint involves a breach of the Code which is also a criminal offence, such as participating in a discussion and vote on a matter in which the councillor has a disclosable pecuniary interest, the Council refers the matter to the police for investigation and it has a protocol with the local police for this. However, unless the offence is a serious one that can be proved to the criminal standard, the police tend not to pursue the complaint beyond an initial investigation. The Council feels, therefore, that there may be benefit in considering an intermediate form of sanction (between censure and criminal prosecution) for such cases e.g suspension. Suspension may also be warranted in other cases of serious misconduct.

g. Are existing arrangements to declare councillors' interests and manage conflicts of interest satisfactory? If not please say why.

i. A local councillor is under a legal duty to register any pecuniary interests (or those of their spouse or partner), and cannot participate in discussion or votes that engage a disclosable pecuniary interest, nor take any further steps in relation to that matter, although local authorities can grant dispensations under certain circumstances. Are these statutory duties appropriate as they stand?

ii. What arrangements do local authorities have in place to declare councillors' interests, and manage conflicts of interest that go beyond the statutory requirements? Are these satisfactory? If not, please say why.

17. At the moment, the legislation does not require a councillor to declare an interest at a meeting, if it is included within their register of interests. The Council considers that this can cause confusion and that it would be preferable for all interests to be declared at the appropriate point in a meeting, irrespective of whether that interest has already been registered.

18. The Council considers that there needs to be clarity as to whether a councillor who has declared a disclosable pecuniary interest at a meeting can still participate in that meeting as a member of the public - for example, where the Council's procedures allow members of the

public to make representations on planning applications at the start of Planning Committee meetings. It is the Council's view that, whilst councillors should not be able to take advantage of their position as a councillor in relation to matters in which they have a pecuniary or other interest, they should not be placed in a worse position than other members of the public by virtue of their office of councillor. Having declared an interest and left the meeting, a councillor should, nevertheless, be able to effectively become a member of the public during consideration of the matter in question. This Council has reflected that position in its Standing Orders which provides that, 'where a member has declared a pecuniary interest in an item on an agenda, they must withdraw from the meeting in their capacity as a councillor for the duration of that item and not speak or vote on the item with the exception of exercising their right to speak as a member of the public.'

19. Finally, on this point, the Council considers that, where a councillor has declared a disclosable pecuniary interest (and is not exercising any rights of the public as mentioned above) there should be a consistent position as to whether they are required to leave the meeting room during consideration of the item concerned. At the moment, this is a matter for individual councils to determine and again this can cause confusion where councillors serve on more than one council with differing requirements.

Whistleblowing

- h. What arrangements are in place for whistleblowing, by the public, councillors, and officials? Are these satisfactory?*

20. The Council has a whistleblowing policy which allows concerns to be raised in confidence in writing or via a dedicated telephone number. The details are then passed on to a designated senior officer who will contact the person who has raised the concerns and, if appropriate, refer the matter for investigation. The investigation is carried out by a specialist who reports to the Monitoring Officer and the relevant Corporate Director, who is responsible for taking any remedial action identified in the investigation report.

Improving standards

- i. What steps could **local authorities** take to improve local government ethical standards?*
- j. What steps could **central government** take to improve local government ethical standards?*

21. As stated above, Wiltshire Council is seeking to provide training to both parish councillors and clerks on ethical standard requirements, particularly in relation to the disclosure of interests and related issues. However, it is difficult to see how such training could be made compulsory and it would require considerable resources to try to ensure that all councillors and clerks received the training, given the numbers involved and the rate of turnover of both parish councillors and clerks.
22. Wiltshire Council considers that central government could seek to improve ethical standards in local government by amending the current legislation in the following ways, which have been mentioned above:
- a. Providing that all councils (either nationally or within the relevant county) are automatically subject to a standard code of conduct which can be applied and interpreted consistently across all councils;
 - b. Requiring councillors with a disclosable pecuniary interest to declare that interest at the meeting determining whether there is then a requirement to withdraw from the room during consideration of the matter, to ensure a consistency of approach;
 - c. Providing clarity within the legislation as to whether, having declared a pecuniary interest in a matter, a councillor still has the same opportunity as other members of the public to participate in the meeting;
 - d. Considering an alternative sanction to censure for breaches of the requirements regarding disclosable interests which do not merit the use of criminal procedures and for cases of serious misconduct.

Intimidation of local councillors

k. What is the nature, scale, and extent of intimidation towards local councillors?

i. What measures could be put in place to prevent and address this intimidation?

23. The Council does not keep any specific data on incidents of intimidation towards local councillors. It is accepted, however, that the rise in the use of social media has increased the risk of such intimidation, particularly where councillors are involved in matters that are controversial within their locality.
24. Wiltshire Council would be pleased to provide additional information on any of these matters if it would assist the Committee.

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Wiltshire Council

Standards Committee

20 June 2018

Code of Conduct Complaints - Status Report

Statutory Background

1. All local authorities are required, by s.28 Localism Act 2011, to adopt a code of conduct for their members. All such codes are required to cover the following:
 - The principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership
 - The registration and disclosure of pecuniary and other interests
2. Wiltshire Council, as a principal authority, is required to have in place arrangements for investigating and determining allegations that a member of the Council, or a member of a parish council with the council's area, has failed to comply with the relevant Code of Conduct. These arrangements must include the appointment of at least one independent person, whose views must be taken into account before a decision is made on any alleged breach of a code of conduct.

Council Structure and Procedures

3. Wiltshire Council's arrangements for considering complaints about alleged code of conduct breaches are set out in Protocol 12 to the Constitution. All complaints are subject to an initial assessment on behalf of the Monitoring Officer, having sought comments from the Subject Member (the councillor who is the subject of the complaint). This initial assessment may conclude that no further action should be taken; it may refer the complaint for investigation or it may recommend that an alternative resolution be explored with the parties.
4. Both parties (the Complainant and the Subject Member) have a right to a review of the initial assessment. This is considered by the Review Sub-Committee of the Standards Committee.
5. If it is determined that a formal investigation should be undertaken (either at the initial assessment stage or by the Review Sub-Committee), an investigating officer is appointed by the Monitoring Officer. If the recommendation of the investigating officer is that there has been a substantial breach of the Code of Conduct, and that alternative resolution is not appropriate, then a Standards Hearing Sub-Committee will be convened. This will conduct a hearing into the complaint to determine whether there has been a breach of the Code and, if so, what sanctions, if any, should be applied to the Subject Member. If the Subject Member is a member of a

town or parish council, the Hearing Sub-Committee's decision regarding sanctions will be in the form of a recommendation to the relevant council.

6. The full Standards Committee has oversight of the operation of the procedures for dealing with Code of Conduct complaints as well as a general responsibility to promote and maintain high standards of conduct by elected and co-opted members and officers.

Summary of complaints received 1 January 2018 to 31 May 2018

7. Between 1 January 2018 and 31 May 2018, the Monitoring Officer received 20 complaints under the Code of Conduct. Of these complaints, five concerned a member of Wiltshire Council, while the remainder were against members of town and parish councils within the authority's area.

8. Of the cases received, the decision of the Deputy Monitoring Officer was as follows:

Complaints currently awaiting assessment or issue of decision	12
No further action to be taken	6
Referred to Monitoring Officer for alternative local resolution	0
Referred for investigation	0
Incomplete information provided (complaint not taken forward)	1
Subject members no longer serving councillors (complaints not taken forward)	0
Complaint out of time	1

9. In relation to the current number of complaints we have experienced a surge in May. Of these complaints five relate to the same parish council but have been logged individually in line with the complaints procedure. Not all complaints are submitted with full information and this delays the sending of the complaint to the subject member. In addition, once we have received the subject member's response, which can take ten working days, there may be a gap of up to two weeks before a scheduled assessment takes place.

A monthly breakdown of complaints received is attached at **Appendix 1**

Reviews

10. Three requests for review were received between 1 January 2018 and 31 May 2018. The Deputy Monitoring Officer's decisions of "no further action" were upheld by the three review sub-committees.

11. Where the complaints had been assessed as no further action, all requests for a review were received from the complainants.

Investigations

12. Since the beginning of 2018 one complaint has been referred for investigation on assessment (27/02/2018 (date of complaint 15/12/2017)). The subject member resigned on 10/04/2018 and therefore no further action was taken in respect of the

complaint.

13. The two complaints referred for investigation during 2017 are still currently in progress and an update is shown in the table below. Progress of the open investigations referred during 2016 is also shown in the table below:

Reference	Date of Assessment	Progress
WC-ENQ00167	09/09/2016	Investigation report being finalised
WC-ENQ00172	04/10/2016	MO to issue decision notice following consideration of investigation report.
WC-ENQ00198	27/07/2017 (on review)	No breach found – complaint closed
WC-ENQ00219	01/08/2017	Review Sub-Committee upheld decision of no breach – complaint closed

Types of Complaint

14. The types of complaints received in 2018 are categorised as follows:

Type of complaint	Number
Non-disclosure of interests/participating and voting at meetings	4
Inappropriate behaviour i.e. disrespect/bullying	6
Failure to act in the public interest	1
Failing to respond to letter/emails or to provide information/lack of communication	1
Slander/defamation of character	6
Not executing duties with honesty & integrity	1
Bribery of councillor	1
Total	20

Proposal

15. To note the current position on Code of Conduct Complaints.

Ian Gibbons, Monitoring Officer

Report Author: Sukdave Ghuman, Team Leader, Public Law and Compliance,
sukdave.ghuman@wiltshire.gov.uk

Appendix 1 – Summary of Complaints 2017

[Link to Constitution](#)

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Appendix 1

Summary of Complaints Received 1 January 2017 to 31 May 2018

	Cases received (*denotes unitary cllr)	Cases open (cumulative)	Assessed investigation	Assessed no further action	Assessed alternative resolution/ *complaint withdrawn	Pending assessment (*assessed & decision notice being finalised)	Other	Cases closed	Requests for review received
2018									
January	5 & 1*	14	0	6	0	0	0	7	2 (upheld)
February	0	12	0	0	0	0	0	2	0
March	1*	10	0	0	0	1*	0	3	4 (upheld)
April	3 & 2*	9	0	0	0	3* & 1	1*	6	0
May	7 & 1*	17	0	0	0	8	0	0	0
June									
July									
August									
September									
October									
November									
December									
2017									
2016									
Total	20	N/A	0	6	0	13	1	18	6

* further information not provided – complaint not taken forward

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Wiltshire Council

Standards Committee

20 June 2018

Recommendations of the Constitution Focus Group

Purpose of Report

1. This report asks the Standards Committee to consider recommendations of the Constitution Focus Group on Part 3 of the Constitution

Background

2. The Standards Committee has responsibility for oversight of the Council's constitution. It has established a cross party working group, known as the Constitution Focus Group, to advise and assist the committee in carrying out this function.
3. The Focus Group met on 5 June 2018 to review several sections of the constitution. One of those reviews has led to a recommendation for a minor change to Part 3C of the Constitution

Main Considerations

4. The Council operates a system of Portfolio Holders appointed by the Leader of the Council to assist Cabinet Members in their duties in developing policy, overseeing services, interacting with partners and other matters.
5. This system has been confirmed as positive and effective through Local Government Association Peer Reviews, and Independent Remuneration Panels have recommended significant special responsibility allowances for the positions.
6. At present, however, the position of Portfolio Holder is not defined within the Constitution, despite its significance. The Focus Group therefore considered the insertion of wording in Part 3C of the Constitution to address this..
7. The wording confirms the position is appointed by the Leader, that those appointed cannot serve on Scrutiny Committees or their activities, and that they do not hold nor can be delegated any executive decision making authority.
8. Wording has been agreed by email by the Focus Group members as detailed in Appendix 1.

Safeguarding Implications

9. There are no safeguarding issues arising from this report.

Equalities Impact of the Proposal

10. There are no equalities impacts arising from this report.

Risk assessment

11. There are no significant risks arising from this report

Financial Implications

12. There are no financial implications arising from this report.

Legal Implications

13. The recommendations in this report are consistent with the relevant legislation, and there are no legal implications arising from this report

Public Health Impact of the Proposals

14. There are no public health impacts arising from this report.

Environmental Impact of the Proposals

15. There are no environmental impacts arising from this report.

Proposal

16. **That the Standards Committee recommends Council approve the changes to the Constitution as set out in Appendix 1 to this report.**

Ian Gibbons, Director, Legal and Democratic (and Monitoring Officer)

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

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

Appendices

Appendix 1 – Proposed Changes to Part 3C of the Constitution

PART 3

RESPONSIBILITY FOR FUNCTIONS

SECTION C:

DELEGATION OF EXECUTIVE FUNCTIONS

1. The Leader will decide how arrangements for the discharge of cabinet functions are to be exercised except insofar as they are already set out in the cabinet arrangements adopted by the Council.
2. This scheme of delegation records the arrangements made by the Leader or the Cabinet for the discharge of executive functions by:
 - The Cabinet as a whole;
 - a committee of the Cabinet;
 - an individual member of the Cabinet;
 - an Area Board;
 - an officer;
 - joint arrangements or;
 - another local authority.

Cabinet as a whole

3. In accordance with the terms of reference of Cabinet as set out at paragraph 3 of Part 3 of this Constitution, the Leader either directly or through Cabinet will carry out within the Council's Budget and Policy Framework all of the local authority's functions which are not the responsibility of any other part of the local authority whether by law or under this Constitution.
4. Cabinet is defined at Article 7 of Part 2 of this Constitution. The procedure rules governing meetings of cabinet are set out at Part 7 of this Constitution.

A Committee of the Cabinet

5. The Leader may appoint a committee of the Cabinet for the discharge of executive functions.
6. To date the following cabinet committees have been appointed:
 - **None**

An individual member of the Cabinet

7. Cabinet members may exercise any executive functions within their allocated areas of responsibility, as set out in Appendix 2. The monitoring officer has delegated authority to amend Appendix 2 from time to time to reflect the decision of the Leader.
8. This does not include executive functions which are specifically reserved to the Council, the Leader and/or Cabinet, or officers.

9. In exercising delegated functions cabinet members must have regard to the Leader's Protocol for individual decision making, Protocol 5 of this Constitution, which promotes good practice and ensures transparency and consistency in the decision-making process.
10. Cabinet members may in consultation with the Leader refer matters to the Cabinet for decision if they consider that it is more appropriate to do so.
11. Where a Cabinet Member is unable to act because of absence, a conflict of interest or any other reason, the Leader may nominate another member of the Cabinet to exercise the function on their behalf.

Cabinet Portfolio Holders

12. The Leader may also appoint other councillors as 'Portfolio Holders' to assist Cabinet Members with the oversight, policy development and management of their areas of responsibilities.
13. Portfolio Holders are not members of the Cabinet, and cannot exercise or be delegated any executive functions.
14. As members of the administration involved in formulation of policy, Portfolio Holders cannot serve on Overview and Scrutiny Committees, Task Groups or Rapid Scrutiny Exercises unless called as witnesses.

Wiltshire Council

Standards Committee

20 June 2018

Code of Conduct Training and Register of Interests Update

Purpose

1. To update the Committee on the responses received so far from parish and town councils regarding codes of conduct, training and registration of interests and to consider any further action that the Committee deem appropriate.

Background

2. At its last meeting on 18 April 2018 the Standards Committee were advised that the Monitoring Officer had written to all parish, town and city clerks in line with the Committee's wishes seeking information on their codes of conduct, registration of interests, training and invited them to share any responses they had submitted in respect of the review of local government ethical standards being undertaken by the Committee on Standards in Public Life. A copy of the letter that was sent out on 13 April 2018 is attached at Appendix 1.
3. The Monitoring Officer agreed to provide the Committee with an update on the responses received. The current position is set out below.

Code of Conduct Training Provision

4. The Monitoring Officer through the Public Law and Compliance Team has undertaken an initial review of training available for parish and town councils in relation to code of conduct and standards related matters. Contact has been made with a number of local authorities in the South West region, and with the County Associations of Local Councils. The intention was to obtain an overview of training currently available and the format in which the training is available.
5. Contact has also been made with Wiltshire Association of Local Councils (WALC), in addition to reviewing the training options available through the National Association of Local Councils (NALC). An internet search of training providers who may specialise in providing training to councils on this subject was also conducted.
6. Training provision is limited with the only training that seemed to be available to councillors being through the County Associations of Local Councils. They use a consultancy firm Hoey Ainscough Associates,

(<http://hoeyainscough.co.uk/index.html>) to deliver training which is subscription based. The Council has previously subscribed to the services provided by this

firm and some members may recall that they provided a training session for unitary councillors a few years ago. There are a limited number of training providers that run a very limited number of national training seminars.

7. NALC appears to deliver training through their regional leads such as WALC. This training would appear to be driven by local demand, capacity, and in response to specific issues that may arise within a parish or town council.
8. Having conducted an initial review of training, there would appear to be very little training available on standards matters. The training does not appear to be uniform across the South West region and we believe that specific training is being provided by authorities locally. We have been unable to identify any over-arching training provision, and the training that has been identified is not e-learning based.
9. Discussions are currently underway within Wiltshire Council to develop an e-learning platform which will enable Wiltshire Council to deliver and track training provision. It was initially hoped that the development of such a tool could adapt training already available, but there would appear to be very little existing training resources from which to draw so it will be necessary to develop this from scratch. The Public Law and Compliance Team lead is scheduled to meet with the lead co-ordinating e-learning development on the 4th July, to take the project forward.
10. In response to the above letter to parish and town councils in Wiltshire 26 councils indicated that they would be interested in undertaking training. They indicated training needs in relation to the following areas:
 - Code of Conduct
 - Registers of Interests – declaring interests and withdrawing from meetings
 - Complaints process
 - Equality Duty
 - Councillor interactions with the public
 - Member and clerk responsibilities
 - Treatment of staff by councillors
 - Dealings with press and social media
 - GDPR, emails and use of own devices at meetings
 - 24 / 7 online resource

Parish Council Code of Conduct Adoption

11. The Monitoring Officer has so far received a total of 151 responses to the request for information, which constitutes a response rate of 64%. The team are following up on those councils who have not yet responded

12. The 151 responses to date are included in the table below detailing the adoption of various types of code of conduct.

Wiltshire Council	80	
NALC	48	
Department of Communities and Local Government (DCLG) Illustrative Code	2	
Own version (based on either the DCLG or NALC versions)	9	
The former statutory code of conduct before the Localism Act 2011 came into effect	4	These councils are adopting a new Code in line with the current legislation
Currently reviewing Code and sending copy in due course	8	
Total	151	

Registers of Interests

13. 9 councils have confirmed that their members' registers of interests are up to date and 83 councils have confirmed that their members have been reminded to update their registers of interests. Of the 151 councils ncil, 59 councils did not respond to this part of the request. This suggests that further, follow up action is needed to ensure that Wiltshire Councillors are complying with their obligations in respect of the registration of interests.

Responses to Local Government Consultation

14. Amesbury Town Council and Erlestoke Parish Council confirmed that they have sent responses to the recent local government consultation on standards. Details of their response will be provided as soon as this is available.

Recommendations

15. The Committee is asked to note the position regarding the responses received to date in relation to the matters covered in the letter to parish, town and city councils and to advise on any further action it considers appropriate.

Ian Gibbons
Monitoring Officer

Report Author: Sukdave Ghuman, Team Leader, Public Law and Compliance,
sukdave.ghuman@wiltshire.gov.uk

Appendix 1 – Letter to Parish, Town and City Council Clerks dated 13 April 2018

13 April 2018

Legal and Democratic Services
County Hall
Bythesea Road
Trowbridge
Wiltshire
BA14 8JN

Parish, Town and City Council Clerks

By Email

Dear Colleague,

Localism Act 2011 - Standards

I am writing as Monitoring Officer for Wiltshire Council to seek your assistance on the following matters in connection with the standards framework for members and co-opted members under the above legislation.

1.Code of Conduct

As you will know complaints against members of parish, town and city councils under their respective Code of Conduct are dealt with by this Council under arrangements agreed in accordance with the relevant provisions of the Localism Act. It will be of help to us in discharging this responsibility if you could provide us with a copy of your council's current Code of Conduct so that we have this readily available. It will also give us a better idea of the range of codes that have been adopted in Wiltshire.

2. Registration of Interests

As Monitoring Officer I am obliged under section 29 Localism Act to establish and maintain a register of interests of members and co-opted members of all councils in Wiltshire. You will be familiar with the arrangements we have in place for members of your council to register their interests on line and for these to be published on your web site, if you have one.

It is important that members keep their register of interests up to date and to this end I would be grateful if you could remind them of their obligations in this respect and confirm that their register of interests has been duly completed.

There is some guidance that we have found useful on the registration and declaration of personal in the (then) DCLG's document 'Openness and transparency on personal interests' which may be found on the following link:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/240134/Openness_and_transparency_on_personal_interests.pdf

3. Government Consultation on Local Government Ethical Standards.

I should draw your attention to a review which the Committee on Standards in Public Life is undertaking on local government ethical standards. The review will consider all levels of local government and will:

- examine the structures, processes and practices in local government in England for:
 - maintaining codes of conduct for local councillors
 - investigating alleged breaches fairly and with due process
 - enforcing codes and imposing sanctions for misconduct
 - declaring interests and managing conflicts of interest
 - whistleblowing
- assess whether the existing structures, processes and practices are conducive to high standards of conduct in local government
- make any recommendations for how they can be improved
- note any evidence of intimidation of councillors, and make recommendations for any measures that could be put in place to prevent and address such intimidation

Details of the consultation may be found on the link below:

<https://www.gov.uk/government/consultations/local-government-ethical-standards-stakeholder-consultation>

The consultation closes on 18 May 2018. We would be interested to see a copy of any response your Council submits to the Government.

4. Training

Finally, we are currently exploring options for the provision of training on the code of conduct and particularly the declaration and registration of interests. We will write further on this in due course, but in the meantime if you have any thoughts on what you would like the training to cover please let us know.

I would be grateful if you could respond on behalf of your council to the above points to my colleague, Anna Browne, Governance Support Officer either by email or using the postal address above, **by Friday, 11 May 2018**.

Anna's contact details are as follows:

Email: anna.browne@wiltshire.gov.uk

Direct Line: 01225 718454

In the meantime, if you have any queries or require any assistance with your response please contact Anna Browne.

Your assistance on these matters is greatly appreciated.

Kind regards.

A handwritten signature in black ink, appearing to read 'IR Gibbons'.

Ian Gibbons
Associate Director
Solicitor to the Council and Monitoring Officer
Legal & Democratic Services
Wiltshire Council
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