

AGENDA

Meeting: Standards Committee

Place: [Access the online meeting here](#)

Date: Wednesday 14 April 2021

Time: 10.00 am

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

Substitutes:

Cllr Trevor Carbin	Cllr George Jeans
Cllr Sue Evans	Cllr Gordon King
Cllr Nick Fogg MBE	Cllr Brian Mathew
Cllr Jon Hubbard	Cllr Fleur de Rhé-Philippe MBE
Cllr Chris Hurst	Cllr Graham Wright
Cllr Peter Hutton	

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AGENDA

Part I

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

1 **Apologies for Absence**

To receive any apologies or substitution for the meeting.

2 **Minutes of the Previous Meeting** (*Pages 5 - 14*)

To confirm the minutes of the meeting held on 4 February 2021.

To receive the minutes of the Hearing Sub-Committee held on 17 March 2021.

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**

The Council welcomes contributions from members of the public.

[Guidance on how to participate in the meeting online](#)

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Statements

If you would like to make a statement at this meeting on any item on this agenda, please contact the officer named on the front of the agenda no later than 5pm on 12 April 2021.

Questions

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 7 April 2021 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 9 April 2021. 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 **Recruitment of Independent Persons** *(Pages 15 - 16)*

To recommend Council ratify the appointment of three Independent Persons.

7 **Urgent Items**

Any other items which the Chairman agrees to consider 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

Standards Committee

MINUTES OF THE STANDARDS COMMITTEE MEETING HELD ON 4 FEBRUARY 2021 AT ONLINE.

Present:

Cllr Richard Britton, Cllr Derek Brown OBE, Cllr Ernie Clark, Cllr Peter Evans, Cllr Peter Fuller, Cllr Howard Greenman (Vice-Chairman), Cllr Ruth Hopkinson, Cllr Paul Oatway QPM (Chairman), Cllr Fred Westmoreland, Cllr Stuart Wheeler and Mr Michael Lockhart

Also Present:

Cllr Trevor Carbin

21 **Apologies**

Apologies were received from Cllr Derek Brown OBE, Pam Turner and Richard Baxter.

Cllr Brown was substituted by Cllr Sue Evans.

22 **Minutes**

The minutes of the Standards Committee meeting held on 7 October 2020 were presented for consideration. The minutes of the Standards Hearing Sub-Committee meeting held on 23 September 2020, 2 November 2020 and 6 November 2020 were also received, and it was,

Resolved:

To approve and sign the minutes of the Standards Committee as a true and correct record.

To receive the minutes of the Standards Hearing Sub-Committee as a true and correct record.

23 **Declarations of Interest**

There were no declarations.

24 **Chairman's Announcements**

There were no announcements.

25 **Public Participation**

A statement and question was received from Andrew Nicolson as attached to these minutes regarding Members not voting on Full Council recorded votes, rather than voting for, against or abstain, on Full Council recorded votes, and whether as a matter of transparency the Constitution could be amended to make it best practice for an active vote to be cast when present.

Following discussion from the Committee, it was agreed to refer the matter to the Constitution Focus Group for consideration.

26 **Status Report on Code of Conduct Complaints**

Paul Barnett, Acting Team Leader for Public Law and Compliance, presented a report updating the Committee on Code of Conduct complaints received and determined since the last meeting.

It was noted that there had been a large number of complaints submitted in August and September 2020, but that the number had reduced since that time.

In discussion, it was also noted that when there were a large number of complaints this could be the result of a single incident which received multiple complaints rather than multiple incidents.

It was then,

Resolved:

To note the Code of Conduct complaints update.

27 **Complaints Report**

Ian Gibbons, Monitoring Officer, introduced a report summarising annual statistics in relation to corporate complaints, developments of the service and review of complaints procedures.

The number of complaints received under the corporate complaints procedure was 459 in 2019/20, compared to 588 the previous year and continuing a decreasing trend. Details were provided of complaints dealt with under Children's Services statutory procedures, and that work was ongoing with services to identify trends and improve reporting to the Committee and the Corporate Leadership Team.

Details were also received in relation to the Annual Review Letter from the Local Government and Social Care Ombudsman, the impact of Covid-19 with a rise in anxious or aggressive contacts with the complaints team, and proposals to review the complaints procedure. It was also stated that the complaints team would from April 2021 be transferred to the Democracy and Governance service as detailed in the report.

The Committee received the report and noted the ongoing discussions with services as well as the comments of the Ombudsman on some delays in completing remedies within agreed timescales, and that a review had taken place to ensure improvement of timeliness.

It was then,

Resolved:

- 1) **To note the current position on Corporate Complaints and Ombudsman investigations, and the proposed transfer of the complaints function to the Democracy and Governance Service.**
- 2) **To note the review of the Complaints Procedure in Protocol 6 of the Constitution and to agree that the proposed new procedure is referred to the Constitution Focus Group for consideration and report to the Standards Committee.**

28 **Appointment of Co-opted Members of the Standards Committee**

Kieran Elliott, Senior Democratic Services Officer, introduced a report regarding the appointment of a co-opted member of the Standards Committee. The Committee had to consider whether to recommend Council appoint co-opted members in future, how many to appoint, and the process for that appointment.

The Committee discussed the report, noting the invaluable work of co-opted members in particular with the Assessment Sub-Committee regarding Code of Conduct complaints. It was considered that retaining four co-opted members was appropriate, and to request Full Council delegate the appointment to the Committee, and that arrangements be made to advertise in advance and after the May 2021 local elections. A comment was received from a co-opted member thanking officers for their support during the current term of appointment.

It was then,

Resolved:

To recommend that Council:

- 1) **Appoint four non-voting co-opted Members for the next council term; and**
- 2) **delegate the appointment of any non-voting co-opted members to the Standards Committee and the arrangements for selection of such members to the Monitoring Officer in consultation with the Chairman of the Standards Committee.**

29 **Local Government Association (LGA) Model Code of Conduct**

Ian Gibbons, Monitoring Officer, introduced a report on the Model Local Government Association (LGA) Code of Conduct. The Committee had responded to the consultation on the draft LGA Code in 2020.

The Committee discussed the Model Code, which was a more detailed Code than the previous light touch Code. Some Members considered that the Council's Code needed to be strengthened and the LGA Code or elements of it could be a step in that direction. The continuing lack of effective sanctions, which would require legislative changes, was also raised.

Following discussion, it was then,

Resolved:

To refer the updated Model Code of Conduct to the Constitution Focus Group to review, and make comments and recommendations to the Standards Committee as appropriate.

30 **Urgent Items**

There were no urgent items.

(Duration of meeting: 1.00 - 1.45 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

Wiltshire Council

Standards Committee

4 February 2021

Item 5 – Public Participation

Question from Andrew Nicolson

Question

By way of introduction to the question, here is some context:

Council Rules of Procedure section 22.5 states, "... the names for and against the motion or amendment **or abstaining from voting** will be recorded in the minutes." [I added the emphasis].

From a citizen's perspective, the identities of those present for a motion but voting neither 'For' nor 'Against' is always of interest as an element of members' voting records, and a matter of democratic accountability and transparency, but especially in the run-up to an election.

On trying to compile a complete voting record on a 2019 Full Council motion, I discovered that is possible, but very time-consuming, cumbersome and technical, to figure out which members were present and non-voting, over and above those registering 'Abstain'. This exercise involved cross-checking the attendance and apologies records, the printable and web-based recorded vote lists and the meeting departure times.

I have concluded that section 22.5 is not working: not all the names of the members present but **not** voting are being recorded in the minutes. The reason is that some members present are recording 'Abstain' but others appear to be just not voting, and of those in turn some are being minuted but others possibly not.

I can see that it isn't feasible for the Constitution to compel a member to either vote or register an 'Abstain' on the system. I cannot see what sanction there could be if they don't.

So my question is:

Will the Standards Committee consider, directly or after a referral to the Constitution Focus Group, adding a clause in the members' Codes of Conduct that defines it as best practice for each member present at meetings to register an 'Abstain' if voting neither 'For' nor 'Against' a motion (and conversely not good practice to omit to do that), together with a rationale for that new clause?

Response

A verbal response was received at the meeting, agreeing to refer the matter to the Constitution Focus Group for consideration.

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Standards Hearing Sub-Committee

MINUTES OF THE STANDARDS HEARING SUB-COMMITTEE MEETING HELD ON 17 MARCH 2021 AT ONLINE MEETING.

Present:

Cllr Ruth Hopkinson (Chairman), Cllr Fred Westmoreland, Cllr Stuart Wheeler and Mr Richard Baxter (non-voting)

Also Present:

Marie Lindsay (Investigating Officer), Kieran Elliott (Senior Democratic Services Officer), Lisa Moore (Democratic Services Officer), Paul S Barnett (Representative of the Monitoring Officer), Stuart Middleton (Independent Person)

1 **Election of Chairman**

Nominations for a Chairman were sought, and it was,

Resolved:

To elect Councillor Ruth Hopkinson as Chairman for this meeting only.

2 **Declarations of Interest**

There were no declarations.

3 **Exclusion of the Press and Public**

It was,

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 Item Number 5 onwards 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

4 **Meeting Procedure**

The procedure for the meeting was noted.

5 **Determination of Code of Conduct Complaint COC126112 Regarding (former) Councillor J Tighe, Upavon Parish Council**

On 21 October 2019 a complaint was submitted by Neil and Emma Sheen, the complainants, regarding the conduct of then Councillor John Tighe of Upavon Parish Council, the Subject Member. This was in respect of a telephone conversation between the parties on 18 October 2019.

The Investigating Officer, Marie Lindsay, introduced her report setting out the facts in relation to the complaint. It had been alleged that during the above conversation the Subject Member told one of the complainants 'You do not want to fall out with me, you will regret it' and in so doing breached paragraphs 3 and 7 of the Upavon Parish Council Code of Conduct.

The Investigating Officer set out that following an investigation, the Monitoring Officer had upheld a conclusion that the allegations did not rise to a level of a breach and to take no further action in respect of the complaint. The complainants requested a review of the decision, and a Review Sub-Committee overturned the decision on 10 December 2020 and referred the matter to a Hearing Sub-Committee.

The Subject Member subsequently resigned from Upavon Parish Council. The Review Sub-Committee reconvened on 11 February 2021 and upheld its previous decision notwithstanding the resignation of the Subject Member.

Although there were aspects of the conversation on 18 October 2019 which were disputed, it was not disputed that the specific words alleged had been made.

The Sub-Committee noted that the complainants had been informed of the hearing and had been given the opportunity to attend. A statement previously provided to a Review Sub-Committee was read to the Sub-Committee as requested by the complainants in their absence.

Opportunity was provided to question the Investigating Officer.

The Subject Member, former Councillor John Tighe, had been informed of the hearing and had been given the opportunity to attend. A statement provided to the council from Mr Tighe was read to the Sub-Committee as requested by the Subject Member in his absence.

In the absence of the Subject Member and there being no further questions or comments, in accordance with the agreed procedure the Sub-Committee withdrew together with the Independent Person, representative of the Monitoring Officer and supporting officers.

The Independent Person was consulted throughout the process and his contributions were taken into consideration by the Sub-Committee in reaching their decision.

Resolved:

Having considered all relevant matters, including the complaint, the Investigating Officer's report and evidence, the Monitoring Officer's comments and recommendation to that Investigation Report, the decision notices of the Review Sub-Committees, and the statements from the Complainants and the Subject Member, it was resolved that:

1. It was not disputed by either party that during a telephone conversation on 18 October 2019 then Councillor John Tighe stated to the Complainant '*you do not want to fall out with me you will regret it*'.
2. The Subject Member at the time was Chairman of Upavon Parish Council and the Sub-Committee considered that during the conversation on 18 March 2019 he had been acting in his capacity as a councillor.
3. Notwithstanding the differing accounts of the conversation, the Sub-Committee concluded that the facts and statement not in dispute amounted to a breach of paragraph 3 of the Upavon Parish Council Code of Conduct.
4. For a serving parish councillor available possible sanctions would include a formal censure, requesting a formal apology and suggesting consideration of the Member's position on the council. Given the Subject Member's resignation from the parish council and previously made expressions of apology, the Hearing Sub-Committee considered that it was not appropriate or proportionate to recommend any further sanction be upheld by the Parish Council.
5. Accordingly, the Hearing Sub-Committee determined that it be noted that it considered on the available evidence that a breach of the Code of Conduct had occurred, but that no further action be taken and that the matter was therefore concluded.

Reasons for Decision

1. The complaint had arisen following a telephone conversation in respect of access to parish council offices located at the old Upavon Primary School building, where the Wellyboots Nursery operated by the complainants is located. There had been ongoing discussions with the parish council and others regarding access to the site.
2. Whilst there had at times been expressions of regret from the Subject Member over his actions, which had taken place during a telephone conversation which had become heated, as is noted above it was not in dispute that the alleged comments had occurred. The comment that '*You do not want to fall out with me, you'll regret it*', as noted by the Review Sub-Committee on 10 December 2020, contain an implicit threat, particularly given the Subject Member's position at the time as Chairman of the Parish Council.

- 3. Such a threat, intentional or otherwise, whilst not conferring any disadvantage on the Complainants (and therefore not in breach of paragraph 6), was an extremely serious and unacceptable comment for any councillor to have made, especially a Chairman. It was therefore considered by the Hearing Sub-Committee to be a breach of paragraph 3 of the Code of Conduct, by not treating others with respect and being intimidating. It was also thought the nature of the comment by the Subject Member could amount to bullying.**
- 4. The Hearing Sub-Committee carefully considered the comments of the Subject Member, previous apologies, and his resignation from the Parish Council. It noted that the Review Sub-Committee had considered the complaint sufficiently serious that it was required to be formally determined notwithstanding that resignation. The Hearing Sub-Committee accepted, on the basis of the evidence, that a breach of the Code had occurred; in offering some amount of previous apologies and having resigned it considered that the Subject Member had in effect met or exceeded any possible available sanctions which might be recommended to the Parish Council.**
- 5. Accordingly, the Hearing Sub-Committee was satisfied that although they had determined a breach of the Code had taken place, it would not be appropriate to recommend any further sanction, and therefore considered the matter was now concluded.**

(Duration of meeting: 10.45 - 11.45 am)

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

Wiltshire Council

Standards Committee

14 April 2021

Appointment of Independent Persons

Purpose of Report

1. This report asks the Standards Committee to recommend Full Council ratify the appointment of three Independent Persons.

Background

2. The Council is required under the Localism Act 2011 to appoint at least one Independent Person (IP) whose views must be sought and taken into account before the Council makes a decision on an allegation it has decided to investigate. The views of the IP may also be sought on other allegations, and by a member who is the subject of an allegation.
3. The Council has appointed three Independent Persons, whose terms will come to an end in May 2021.

Main Considerations

4. At its meeting on 7 October 2020 the Committee agreed to authorise the Monitoring Officer, in consultation with the Chairman to take all necessary steps to secure the appointment of three Independent Persons at the next meeting of Full Council following the election in May 2021, for a four year term.
5. The positions were advertised from 18 February 2021 – 18 March 2021. Following shortlisting of application, nine candidates were selected for interview.
6. The Chairman, along with two other Members, and advised by the Monitoring Officer and a retiring Independent Person, conducted interviews on 30-31 March 2021.
7. Following those interviews the Chairman will recommend the appointment of three candidates at the meeting on 14 April 2021.

Safeguarding Implications

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

Equalities Impact of the Proposal

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

Risk assessment

10. There are no significant risks arising from this report.

Financial Implications

11. The IPs each currently receive remuneration of £2,522 a year for carrying out their duties. This sum is adjusted in accordance with the annual pay award to council staff, as with Member allowance, and was set by Council in 2011 in accordance with the recommendation of the Independent Remuneration Panel.

Legal Implications

12. The recommendations in this report are consistent with the Council's obligations under the relevant legislation.

Public Health Impact of the Proposals

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

Environmental Impact of the Proposals

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

Recommendation

15. **That Council ratify the appointment of three Independent Persons following the selection process undertaken by the Standards Committee**

Ian Gibbons, Director of Legal and Governance

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6 April 2021