

# AGENDA

---

Meeting: **STANDARDS COMMITTEE**  
Place: **Committee Room III, County Hall, Trowbridge**  
Date: **Wednesday 22 September 2010**  
Time: **2.00 pm**

---

Please direct any enquiries on this Agenda to Pam Denton, of Democratic Services, County Hall, Trowbridge, direct line 01225 718371 or email [pam.denton@wiltshire.gov.uk](mailto:pam.denton@wiltshire.gov.uk)

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

All public reports referred to on this agenda are available on the Council's website at [www.wiltshire.gov.uk](http://www.wiltshire.gov.uk)

---

## **Membership:**

### Wiltshire Council Members

Cllr Nigel Carter, Cllr Ernie Clark, Cllr Peter Fuller, Cllr Malcolm Hewson, Cllr Julian Johnson and Cllr Ian McLennan

### Town/Parish Council Co-opted Members

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

### Independent Co-opted Members

Mrs Jane Bayley, Mr Michael Cronin, Mr Philip Gill MBE JP, Mrs Isabel McCord (Chairman), Mr Ian McGill CBE, Mr Stuart Middleton and Mr Gerry Robson OBE (Vice-Chair)

---

1. **Apologies**

2. **Minutes of previous meeting** (*Pages 1 - 8*)

To confirm and sign the minutes of the Committee meeting held on 21 July 2010 (copy attached).

3. **Chairman's announcements**

4. **Declarations of Interest**

To receive any declarations of personal or prejudicial interests.

5. **Public participation**

The Council welcomes contributions from members of the public.

If you would like to make a statement at this meeting on any item on this agenda, please register to do so at least 10 minutes prior to the meeting. Up to 3 speakers are permitted to speak for up to 3 minutes each on any agenda item. The Chairman will, however, exercise her discretion in order to ensure that members of the public have the opportunity to contribute.

Members of the public wishing to ask a question should give written notice (including details of any question) to the officer named above by **12.00 noon on Monday 20 September 2010**.

6. **Minutes of sub-committees** (*Pages 9 - 16*)

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

Dispensations Sub Committee – 27 July 2010 and 19 August 2010

7. **Annual Report of the Local Government Ombudsman** (*Pages 17 - 38*)

To consider the annual report of the Local Government Ombudsman

8. **Department of Community Services Compliments and Complaints Annual Report 2009-2010**

Report to follow.

9. **Code of Conduct Determination Hearing** (*Pages 39 - 48*)

To advise the Committee of the outcome of a meeting of the Hearing Sub-Committee – report by the Monitoring Officer

10. **Local Standards Framework - Review of Process** (*Pages 49 - 64*)  
To receive the report of the Monitoring Officer
11. **Status Report on Complaints made under the Code of Conduct** (*Pages 65 - 68*)  
To receive the attached status report
12. **Review of the Standards Committee Plan 2010-2014**  
Report to follow
13. **Dispensations - Dual-Hatted Members of Area Boards** (*Pages 69 - 76*)  
To receive the report of the Monitoring Officer
14. **Report of the Task and Finish Group on Presentations to Area Boards**  
To receive a verbal update from Mr Gerry Robson, OBE
15. **Forward Plan** (*Pages 77 - 78*)  
To receive the committee's forward plan
16. **Standards for England Bulletin No. 48** (*Pages 79 - 82*)  
To consider the latest Bulletin from Standards for England and discuss any issues arising from it.
17. **Urgent Items**  
Any other items of business, which in the opinion of the Chairman, should be taken as a matter of urgency. Urgent items of a confidential nature may be considered under Part II of this agenda.

This page is intentionally left blank

## **STANDARDS COMMITTEE**

---

### **DRAFT MINUTES OF THE STANDARDS COMMITTEE MEETING HELD ON 21 JULY 2010 AT COMMITTEE ROOM III, COUNTY HALL, TROWBRIDGE.**

#### **Present:**

##### Wiltshire Council Members

Cllr Nigel Carter, Cllr Julian Johnson and Cllr Ian McLennan

##### Town/Parish Council Co-opted Members

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

##### Independent co-opted Members

Mrs Jane Bayley, Mr Michael Cronin, Mr Philip Gill MBE JP, Mrs Isabel McCord (Chairman), Mr Ian McGill CBE, Mr Stuart Middleton and Mr Gerry Robson OBE (Vice-Chair)

#### **Also Present:**

Cllr Francis Morland

---

#### **51. Apologies**

Apologies were received from Cllrs Ernie Clark and Peter Fuller

#### **52. Minutes of previous meeting**

The minutes of the meeting held on 19 May 2010 were presented.

#### **Resolved:**

**To approve as a correct record and sign the minutes.**

## 53. **Chairman's announcements**

### **Bereavement**

The Chairman extended her sympathy, and that of the committee, to Ian Gibbons and his wife for their sad loss.

### **Coalition government**

The Chairman drew members attention to the announcement by the coalition government announced in the Queen's speech that it intended to abolish the standards regime. No further details were available at present, however the Standards for England annual assembly due to be held in October has been cancelled.

The Code of Conduct remains in force until any legislation to the contrary is passed. The Council will therefore continue to handle complaints under the Code using the processes we have put in place.

Our wider duty to promote good governance is unaffected by the proposed abolition of the standards regime.

The committee will review its plan in the light of these developments at the September meeting.

### **The Independent Forum**

The next meeting of the Forum had been delayed until late September/early October until there was more information on the new Standards regime. It was suggested that as it was more likely that there would not be any information before the New Year that any meeting be deferred until then when the Forum could meet to discuss any consultation material that was available.

### **Council summons**

The Chairman said that if any members of the committee did not want to receive hard copies of the Council summons they should inform Democratic Services.

### **Review of the constitution**

A meeting had been arranged for 29 July. Main areas to be considered were:

- Review of Development Control
- Scrutiny: overview and scrutiny arrangements and designation of Scrutiny Officer
- Protocol on membership of outside bodies
- Update on changes which have already been agreed by council.
- Analysis of the responses from members returned questionnaires on their views on the constitution.

### **Annual report**

The Chairman informed the committee that the committee's annual report had been presented to Council on 13 July, there had been no questions.

### **Register of Interests – online publication**

The Chairman reminded members of the decision to publish online on an opt-in basis. She said that it would be helpful if the committee led by example having made the recommendation to Council.

### **Officer Code of Conduct**

The Chairman informed the committee that Council had approved at updated Code of Conduct for officers at its meeting on 13 July. Details could be found in the Staffing Committee minutes of 19 May.

### **Online Code of Conduct training**

The Chairman drew member's attention to an article in Elected Wire which advised that the online training tool was now available.

#### **54. Declarations of Interest**

There were no declarations of interest

#### **55. Public participation**

There were no members of the public present.

Councillor Francis Morland spoke in respect of the exempt agenda item and expressed concern that this was being considered in closed session and that no decision notice in respect of this hearing had as yet been published.

#### **56. Minutes of sub-committees**

The minutes of the Dispensation sub-committees held on 11 May and 17 June were presented. The Monitoring Officer drew member's attention to the minutes of 17 June and explained that an error had been made and the revised minutes would be circulated to sub-committee members shortly.

Concerns were raised regarding inconsistent timescales arrived at by different panels. The Chairman requested that a report be brought to the next meeting detailing ways of achieving consistency.

### **Resolved**

**That the minutes be noted and that a report be brought to the next meeting on ways of achieving consistent timescales.**

## **57. Update on Town and Parish Council Training Sessions**

The Head of Governance updated members on town and parish training sessions. She suggested that training should be actively offered to any town and parish councils that had asked for advice or where there was clearly a need.

The committee noted the helpful response from the Councillor Development Group to allow town and parish councillors to attend its training on a fill up basis.

It was agreed that the Chairman would send a letter out to all town and parish councils enclosing a copy of the Standards Committee leaflet and reminding them that the Code of Conduct remains in force and the Standards Committee will continue to carry out its statutory responsibilities of handling complaints regarding the Code and granting dispensations from requirements relating to interests. The letter would also add that if there were spaces on any training sessions on the Code then these would be offered to town and parish councils via Wiltshire Association of Local Councils.

It was also agreed that a letter be sent to all Wiltshire Councillors asking them to help in identifying which councils would benefit from such training and in encouraging them to take it up.

### **Resolved**

- 1. That training should be actively offered to any town and parish councils that had asked for advice or where there was clearly a need.**
- 2. That the Chairman writes to all town and parish councils inviting them to participate in any available training sessions.**
- 3. That the Chairman writes to all Wiltshire Councillors asking them to assist in identifying any town and parish councils that would benefit from training.**

## **58. Arrangements for Mediation**

The Monitoring Officer presented the report which asked the committee to consider the use of mediation as a means of preventing or resolving complaints under the Code of Conduct.

The committee considered the report and the consensus was that mediation was a useful alternative for investigation in some cases and that its use should be pursued.



It was noted that the Council did not have any trained mediators. The Monitoring Officer and the Head of Governance would be prepared to attend mediation training, after which they would be able to offer mediation in cases where that would appear to be an appropriate remedy, however it was acknowledged that there were resource implications. To this end it was suggested that any members of the committee who were experienced in mediation, and were prepared to offer their services, liaise with the Monitoring Officer.

#### **Resolved**

- 1. That the committee support mediation as the best way forward in some cases.**
- 2. That the Monitoring Officer liaises with members of the committee who are experienced in mediation and looks at ways of taking this forward.**

#### **59. Report of the Task and Finish Group on Presentations to Area Boards**

Mr Gerry Robson OBE gave a verbal update on progress and said that the group had not met since the last Standards Committee meeting and he requested guidance on how the committee wished to move this forward.

A debate ensued during which concerns were raised regarding the effectiveness of presentations and it was suggested that perhaps the message from the Standards Committee could be incorporated into presentations on the cultural change programme. It was also noted that the presentation needed to centre on the interests aspect of the code and include dispensations as these were issues relevant to Area Boards.

#### **Resolved**

**That Mr Robson and the Monitoring Officer liaise with Councillor Laura Mayes to find ways to link this into the cultural change programme and report back to the next meeting of the Standards Committee.**

#### **60. Annual Governance Statement 2009 -10**

The Monitoring Officer presented the report which asked the committee to consider a draft Annual Governance Statement for 2009/10 before final approval is sought from the Audit Committee at its meeting on 30 September 2010.

He drew members' attention to the section on ethical governance.

It was requested that, in respect of paragraph 42 (b), mention be made of issue of quorums and dispensations that could be granted by the Standards

Committee and the leaflet that had been produced on the Standards Committee “Introducing your ... Standards Committee “One county, one standards”. It was also felt that in paragraph 18 an additional responsibility of the Standards Committee should be added namely “grants dispensations relating to personal and prejudicial interests”:

**Resolved**

**To note the report and make the necessary amendments as detailed above.**

**61. Code of Conduct Complaints Status Report**

The Head of Governance presented the report and explained the background to the items marked in amber and red.

The Chairman thanked the Head of Governance and her team for their work.

**Resolved:**

**To note the report**

**62. Forward Plan**

The committee’s forward workplan was presented and considered. It was agreed to move the item on the size and composition of the committee to November.

The Chairman said that it may be necessary to have an extra meeting of the committee in October to consider the review of the constitution report prior to its presentation to Cabinet.

**Resolved**

**To note the forward workplan and make the necessary amendments.**

**63. Urgent Items**

There were no urgent items

**64. Exclusion of the Press and Public**

**Resolved**

**To agree that in accordance with Section 100A(4) of the Local Government Act 1972 to exclude the public from the meeting for the business specified**

**in Item Number 15 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.**

**65. Code of Conduct Determination Hearing**

A confidential report of a determination hearing was presented. Members discussed lessons learnt and the Monitoring Officer gave an update on how issues had been addressed.

**Resolved**

**To note the report**

(Duration of meeting: 2.00 - 4.10 pm)

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

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

This page is intentionally left blank

## STANDARDS DISPENSATION SUB-COMMITTEE

---

**DRAFT MINUTES OF THE STANDARDS DISPENSATION SUB-COMMITTEE  
MEETING HELD ON 27 JULY 2010 AT COMMITTEE ROOM VIII, COUNTY HALL,  
BYTHESEA ROAD, TROWBRIDGE.**

**Present:**

Mr Michael Cronin, Cllr Ian McLennan and Mr Keith Wallace

**Also Present:**

Ian Gibbons and Roger Wiltshire

---

1. **Election of Chairman**

Mr Michael Cronin, as Independent Member, was confirmed as the Chairman.

2. **Declarations of Interest**

Councillor Ian McLennan said that he knew Councillor Maurice John Martin however he did not have a close association and therefore felt that there was no personal or prejudicial interest.

3. **Background**

The Monitoring Officer explained that these were four similar applications from members of Landford Parish Council in respect of any consideration by the Parish Council of planning application 10/9523, an application for determination by the New Forest National Park Authority as the local planning authority. The application is for change of use of a house in the parish to a new school for children aged 2-16 and this could be considered to be likely to have an impact on the existing schools serving the parish – New Forest School and Nomansland Pre-School.

He explained that the Parish Council had a membership of six, four of whom had requested dispensations on the basis that they considered that they had a prejudicial interest in the application for the reasons outlined in the report. As the quorum was 3 this would result in the committee becoming inquorate. He advised the committee to look at each application on its own merits having

regard to guidance from Standards for England on dispensations and the Standards Committee criteria, in particular the nature of the member's prejudicial interest and the need to maintain public confidence in the conduct of the Council's business.

4. **Consideration of a dispensation request by Cllr Mark Coleman, Landford Parish Council**

The Monitoring Officer introduced the report and said that Councillor Coleman considered that he had a personal and prejudicial interest in the planning application as his wife is employed by both the New Forest School and the Nomansland Pre-School and one of his children attends Nomansland Pre-School and two attend New Forest School. The site of the proposed new school referred to in the planning application is also approximately 120 meters from Councillor Coleman's residence.

The sub-committee considered the application and agreed that Councillor Coleman did have a personal and prejudicial interest and that the legal requirements for a dispensation were met. However, having regard to Standards for England advice on dispensations the sub-committee were of the unanimous view that it was inappropriate to grant a dispensation as they felt that to do so might undermine public confidence in local decision-making because of the nature of his interest, which concerned his wife's financial position.

**Resolved**

**Not to grant a dispensation in relation to Landford Parish Council's consideration of planning application 10/9523 as Councillor Coleman's prejudicial interest related to his wife's financial position and public confidence would be likely to be undermined if a dispensation were to be granted in these circumstances.**

5. **Consideration of a dispensation request by Cllr Maurice Martin, Landford Parish Council**

The Monitoring Officer introduced the report and said that Councillor Martin considered himself to have a personal and prejudicial interest in this application as he lives 3 houses' distance away from the proposed site of the new school, and has objected to the application.

The sub-committee considered the application and agreed that Councillor Martin did have a personal and prejudicial interest and that the legal requirements for a dispensation were met. However, having regard to Standards for England advice on dispensations, the sub-committee were of the

unanimous view that it was inappropriate to grant the dispensation. They felt that public confidence in local decision making would be likely to be undermined, given the nature of Councillor Martin's interest which concerned the potential effect of the application on his property.

### **Resolved**

**Not to grant a dispensation in relation to Landford Parish Council's consideration of planning application 10/9523, as Councillor Martin's prejudicial interest was of a financial nature arising as a result of the potential effect of the application on the value of his property and that public confidence would be likely to be undermined if a dispensation were to be granted under these circumstances.**

#### **6. Consideration of a dispensation request by Cllr Sylvia Pender, Landford Parish Council**

The Monitoring Officer introduced the report and said that Councillor Pender considered herself to have a personal and prejudicial interest in this application as she is a governor of New Forest School and has two children who attend New Forest School.

The sub-committee considered the application and agreed that Councillor Pender did have a personal and prejudicial interest and that the legal requirements for a dispensation were met. Having noted that Councillor Pender's prejudicial was not of a personal financial nature, the sub-committee unanimously

### **Resolved**

**To grant a dispensation to Councillor Pender to speak and vote on any matter relating to planning application 10/9523 being considered at a meeting of Landford Parish Council's Planning Committee.**

#### **7. Consideration of a dispensation request by Cllr Alan Westmore, Landford Parish Council**

The Monitoring Officer introduced the report and said that Councillor Westmore considers himself to have a personal and prejudicial interest in the application as he is a governor of New Forest School. He has two children who attend New Forest School. He is paid to maintain the school grounds, and his wife is an employee of New Forest School. He also rents the field to the rear of the application site which is rented from the immediate neighbour of the application site.

The sub-committee considered the application and agreed that Councillor Westmore did have a personal and prejudicial interest and that the legal requirements for a dispensation were met. However, having regard to Standards for England advice on dispensations the sub-committee were of the unanimous view that it was inappropriate to grant a dispensation as they felt that public confidence in local decision-making would be likely to be undermined, given the personal financial nature of Councillor Westmore's prejudicial interest.

### **Resolved**

**Not to grant a dispensation in relation to Landford Parish Council's consideration of planning application 10/9523, as Councillor Westmore's prejudicial interest was of a personal financial nature and public confidence was likely to be undermined if a dispensation were to be granted in these circumstances.**

(Duration of meeting: 2.00 - 2.55 pm)

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

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



## STANDARDS DISPENSATION SUB-COMMITTEE

---

### DRAFT MINUTES OF THE STANDARDS DISPENSATION SUB-COMMITTEE MEETING HELD ON 19 AUGUST 2010 AT COMMITTEE ROOM III - COUNTY HALL, TROWBRIDGE.

#### **Present:**

Cllr Ernie Clark, Mr Ian McGill and Mr Paul Neale

#### **Also Present:**

Nina Wilton

---

#### 1. **Declarations of Interest**

There were no declarations of interest

#### 2. **Consideration of a dispensation request by Councillor Michael Cuthbert - Murray of Wiltshire Council**

The Deputy Monitoring Officer introduced the report and explained that as a member of Wiltshire Council Councillor Cuthbert-Murray sits on the Westbury Area Board. His request for dispensation relates to any grant applications made by Westbury Town Council which are to be considered by the Westbury Area Board. She added that in further correspondence received from Councillor Cuthbert-Murray he had requested that the dispensation also covered community asset transfers from Wiltshire Council to Westbury Town Council.

The Deputy Monitoring Officer explained the law and guidance relevant to this request and advised that, in her view, a personal and prejudicial interest would arise as those matters affect the financial position of Westbury Town Council of which Councillor Cuthbert-Murray is a member. She also stated that the legal criteria had been met as three out of the four members (more than 50%) of the Area Board were dual hatted members (members of Westbury Town Council as well as Wiltshire Council) and would be prohibited from voting at a meeting as a result of their prejudicial interest under the Code of Conduct.

She reminded the Sub-Committee that, in reaching a decision, they must have regard to guidance from Standards for England.

## **Resolved**

**That it is in the public interest to grant a dispensation to run until the next election in May 2013, subject to there being no material change in the circumstances under which this dispensation is granted.**

**The dispensation is to enable Councillor Cuthbert-Murray to speak and vote at meetings of Westbury Area Board on matters pertaining to grant applications by Westbury Town Council and community asset transfers from Wiltshire Council to the Town Council.**

### **3. Consideration of a dispensation request by Councillor David Jenkins of Wiltshire Council**

The Deputy Monitoring Officer introduced the report and explained that as a member of Wiltshire Council Councillor Jenkins sits on the Westbury Area Board. His request for dispensation relates to any grant applications made by Westbury Town Council which are to be considered by the Westbury Area Board. She added that, in further correspondence received from Councillor Jenkins, he had requested that the dispensation also covered community asset transfers from Wiltshire Council to Westbury Town Council

The Deputy Monitoring Officer explained the law and guidance relevant to this request and advised that, in her view, a personal and prejudicial interest would arise as those matters affect the financial position of Westbury Town Council, of which Councillor Jenkins is a member. She also stated that the legal criteria had been met as three out of the four members (more than 50%) of the Area Board were dual hatted members (members of Westbury Town Council as well as Wiltshire Council) and would be prohibited from voting at a meeting as a result of their prejudicial interest under the Code of Conduct.

She reminded the Sub-Committee that, in reaching a decision, they must have regard to guidance from Standards for England.

## **Resolved**

**That it is in the public interest to grant a dispensation to run until the next election in May 2013, subject to there being no material change in the circumstances under which this dispensation is granted.**

**The dispensation is to enable Councillor Jenkins to speak and vote at meetings of Westbury Area Board on matters pertaining to grant applications by Westbury Town Council and community asset transfers from Wiltshire Council to Westbury Town Council.**

4. **Urgent Items**

5. **Consideration of a dispensation request by Councillor Russell Hawker of Wiltshire Council**

The Chairman agreed to the consideration of the following late item of business as it could not be deferred to a later meeting.

The Deputy Monitoring Officer introduced the report and explained that as a member of Wiltshire Council Councillor Hawker sits on the Westbury Area Board. His request for dispensation related to any grant applications made by Westbury Town Council which are to be considered by the Westbury Area Board. She added that, in further correspondence received from Councillor Hawker, he had requested that the dispensation to any situation where he had to declare a prejudicial interest as a result of being a town councillor at the Area Board until May 2013.

The Deputy Monitoring Officer advised the sub-committee that, in her opinion, it would not be prudent to grant a dispensation for any situation that might arise given that there could be instances where the prejudicial interest was of a financial nature and would not therefore have been granted under these circumstances, she therefore advised the sub-committee to consider the dispensation in the same way as Councillors Cuthbert-Murray and Jenkins.

The Deputy Monitoring Officer explained the law and guidance relevant to this request and advised that, in her view, a personal and prejudicial interest would arise as those matters affect the financial position of the Town Council. She also stated that the legal criteria had been met as three out of the four members (more than 50%) of the Area Board were dual hatted members (members of Westbury Town Council as well as Wiltshire Council) and would be prohibited from voting at a meeting as a result of their prejudicial interest under the Code of Conduct.

She reminded the Sub-Committee that, in reaching a decision, they must have regard to guidance from Standards for England.

**Resolved**

**That it is in the public interest to grant a dispensation to run until the next election in May 2013, subject to there being no material change in the circumstances under which this dispensation is granted.**

**The dispensation is to enable Councillor Hawker to speak and vote at meetings of Westbury Area Board on matters pertaining to grant applications by Westbury Town Council and community asset transfers from the Area Board to the Town Council.**

(Duration of meeting: 14.00 – 14.25)

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

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

## **ANNUAL REPORT OF THE COMMISSIONER FOR LOCAL ADMINISTRATION IN ENGLAND AND WALES (THE LOCAL GOVERNMENT OMBUDSMAN)**

### **Purpose of Report**

1. To bring the Local Government Ombudsman's Annual Report to the attention of the Committee.

### **Background**

2. The Standards Committee has constitutional responsibility for the oversight of the council's arrangements for handling customer complaints.
3. The most serious unresolved complaints made about council services are considered by the Local Government Ombudsman. Every year he issues a report to each local authority on their performance in that year. At Appendix 1 members will find the Ombudsman's report for 2009-10. This report covers complaints received by her over that period.
4. The Committee will note a change in the Ombudsman with responsibility for Wiltshire Council. Following on from Jerry White, Dr Jane Martin has now joined the Local Government Ombudsman. We hope to extend an invitation to her in the near future.

### **Main issues for consideration by the Committee**

5. This is the first Annual Report from the Local Government Ombudsman since become Unitary. Compared to the previous year 2008/2009, complaints and/or enquires from the Ombudsman have dropped from 111 to 81 equating to a drop of 27%.
6. The response time for replying to Ombudsman enquiries is 28 calendar days. The Council's average for 2009/10 is 29.9 days. Although the Ombudsman notes that this is slightly outside the target time, the Head of Governance and Corporate Complaints Manager are encouraged by this, given the huge challenges which have faced this Council over that reporting period.
7. The Ombudsman noted that some complainants had commented that they were unsure whether their complaint was being dealt with through the Council's complaint procedure. The corporate complaints team is currently working with teams across the organisation advising when a response should include reference to the complaints procedure.
8. Whilst there is room for improvement, the Ombudsman notes that in the first year of a new authority, complaints handling has made a positive start.

### **Specific issues arising from the report**

9. Whilst the Ombudsman's noted the response time were slightly over the set deadline of 28 days, both the Head of Governance and Corporate Complaints Manager would ask the committee to take into account that one particular response to a complaint took 41 days to respond to. This was due to a delay from the Department of Children and Education under exceptional circumstances and one which is not expected to arise again. Had this not occurred it is firmly believed the response time would have certainly met the 28 deadline, if not been significantly under.
10. The Head of Governance and Corporate Complaints Manager would like to improve on the response time and will be working with both service teams and Complaints Managers in ensuring requests for information on receipt of an Ombudsman's complaint are dealt with within the set timescales.
11. To ensure a consistent approach in providing responses for Ombudsman investigations, the Corporate Complaints team has undertaken to organise regularly meetings with Complaints Managers across each of the service departments. It is hoped that once this is established, an invitation will be extended to an investigator from the Local Government Ombudsman's office to attend a meeting and offer an insight into the investigation process.

### **Recommendation**

To note the report

IAN GIBBONS – DIRECTOR OF LEGAL AND DEMOCRATIC SERVICES AND  
MONITORING OFFICER

Report Author: SARAH BUTLER – CORPORATE COMPLAINTS MANAGER

---

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

None

**The Local Government Ombudsman's  
Annual Review  
Wiltshire Council  
and the former County and District  
Councils  
for the year ended  
31 March 2010**

Local Government Ombudsmen (LGOs) provide a free, independent and impartial service. We consider complaints about the administrative actions of councils and some other authorities. We cannot question what a council has done simply because someone does not agree with it. If we find something has gone wrong, such as poor service, service failure, delay or bad advice, and that a person has suffered as a result, we aim to get it put right by recommending a suitable remedy. We also use the findings from investigation work to help authorities provide better public services through initiatives such as special reports, training and annual reviews.





# Contents of Annual Review

<b>Section 1: Complaints about Wiltshire Council and the former County and District Councils 2009/10</b> .....	<b>4</b>
Introduction.....	4
Enquiries and complaints received.....	4
Complaint outcomes.....	5
Liaison with the Local Government Ombudsman.....	6
Training in complaint handling.....	6
Conclusions.....	6
<b>Section 2: LGO developments</b> .....	<b>8</b>
Introduction.....	8
New schools complaints service launched.....	8
Adult social care: new powers from October.....	8
Council first.....	8
Training in complaint handling.....	9
Statements of reasons.....	9
Delivering public value.....	9
<b>Appendix 1: Notes to assist interpretation of the statistics 2009/10</b> .....	<b>10</b>
<b>Appendix 2: Local authority report 2009/10</b>	

# Section 1: Complaints about Wiltshire Council and the former County and District Councils 2009/10

## Introduction

This annual review provides a summary of the complaints we have dealt with about Wiltshire Council. It also covers complaints about the former County Council and the Kennet, North Wiltshire, Salisbury and West Wiltshire District Councils. Complaints about these former councils are now dealt with by Wiltshire Council, as successor authority.

We have included comments on the authority's performance and complaint-handling arrangements, where possible, so they can assist with your service improvement.

I hope that the review will be a useful addition to other information your authority holds on how people experience or perceive your services.

Two appendices form an integral part of this review: statistical data for 2009/10 and a note to help the interpretation of the statistics.

## Enquiries and complaints received

During 2009/10 we received enquiries on a total of 61 complaints concerning the new unitary council. Of these 14 complaints were found to be premature and were referred back to be dealt with under the council's own complaints procedure; on 10 enquiries advice was given and 37 complaints were referred to the investigative team. Three of those complaints forwarded to the investigative team had previously been referred to the council as premature.

Of the 61 complaints and enquiries dealt with, 10 were about Education matters and 10 about Planning; seven concerned Transport and Highways; six were about Housing issues; three concerned Adult Care Services and three Children and Family Services. There were two complaints about Benefits and three about Public Finance and Local Taxation. The remaining 17 concerned a variety of other council functions.

The advice team also dealt with enquiries and complaints about the former councils. Advice was given on three enquiries on matters concerning Wiltshire County Council and six complaints were forwarded to our investigative team. Two complaints about Kennet District Council were considered premature and were referred back to the council to be considered under the council's complaints procedures and one complaint was passed to the investigative team. Advice was given on an enquiry concerning North Wiltshire District Council. Four complaints/enquiries on Salisbury District Council were received: advice was given on one, another was treated as premature and referred back to the council and two complaints were referred to the investigative team. Of four enquiries on West Wiltshire District Council one was referred back to the council as premature and three were forwarded to the investigative team.

Of the 20 complaints and enquiries about the former councils, four each concerned Education, Planning and Transport and Highways; two were about Adult Social Care and one about Children and Family Services; one each on Benefits and Public Finance and Local Taxation; and four on other council functions.

The total of 81 enquiries and complaints received for the new council and the five former councils compares with a total of 111 received during 2008/09 for the five former councils.

## **Complaint outcomes**

Decisions were made on 21 complaints against the council. On 15 of those no evidence of maladministration was found. Investigation of four complaints was discontinued for other reasons; typically these are cases where even though there may have been some fault by the council there is no significant injustice to the complainant. One complaint was not investigated because it concerned an issue outside jurisdiction.

On some complaints still being considered concern has been expressed that complainants had been unsure about how the council was dealing with their complaints and how correspondence fitted into the complaints process. You may therefore find it helpful to review the information provided to complainants about the complaints procedures when responses are sent to them.

For the former councils decisions were made on a total of 22 complaints. Eight of those were against the former County Council. Three of these complaints concerned matters outside my jurisdiction, no evidence of fault was found on three; one was discontinued because the complainants decided they no longer wished to pursue it; and another was the subject of a local settlement.

For Kennet District Council one complaint was outside jurisdiction and on another no evidence of maladministration was found.

One complaint against North Wiltshire District Council was outside jurisdiction.

Decisions were made on eight complaints against Salisbury District Council: two were the subject of local settlements, one was discontinued when no evidence of maladministration was found and discretion was exercised not to pursue investigation of another; three complaints were outside jurisdiction.

Of four complaints against West Wiltshire District Council one was the subject of a local settlement, on one no evidence of fault was found and two were outside jurisdiction.

## **Local settlements**

A 'local settlement' is a complaint where, during the course of our investigation, a council takes or agrees to take some action that we consider to be a satisfactory response to the complaint. In 2009/10, 26.9% of all complaints the Ombudsmen decided and which were within our jurisdiction were local settlements. Of the complaints we decided against your authority only one complaint on a Housing Benefit issue was settled locally.

In that complaint we found delay in chasing up a response on a benefit appeal which had been passed to the Appeals Tribunal Services but where no response had been received. This meant that the claimant was unable to challenge the council's decision on their benefit claim for an unnecessarily long time. However during that time the claimant was receiving a Discretionary Housing Payment so that they were not left financially disadvantaged. The council agreed to offer a formal apology for the delay and gave a commitment to review procedures so that similar delays do not recur.

An apology was also considered to provide an appropriate remedy in a complaint against the former County Council. In that case evidence was found of delays and poor communications in the way the council dealt with a statement of special educational needs. It was acknowledged that the length of time taken to complete the statement and identify an appropriate educational placement also resulted from the complexity of the pupil's needs.

Two complaints against Salisbury District Council were closed as local settlements. In one case the council delayed in resolving a tenant's concerns about a fault in the airing cupboard heater, as a result of which the tenant had suffered significant time and trouble, for which the council offered compensation of £100. In another case the council delayed in completing adaptations to the complainant's home including resurfacing to provide a non-slip area outside the front door. The council offered compensation of £150 and agreed to complete the necessary works. In that case the complainant remained very dissatisfied and the council agreed to enter mediation with the complainant, to be provided through my office.

On a complaint against West Wiltshire District Council we found poor record keeping and delay of six months in following up action points agreed at a meeting to discuss problems caused by stone throwing from council-owned premises towards the complainant's home. The complaint was settled by the council taking the agreed follow up action.

### **Liaison with the Local Government Ombudsman**

We made formal enquiries on 12 complaints against the council during 2009/10 and the council achieved an average response time of 29.9 days. This is slightly outside the target time of 28 days and I hope that there will be scope to improve this average during next year as complaints systems become more established across the new council.

In September 2009 my predecessor was invited to make a presentation to the council's Standards Committee on the role of the Local Government Ombudsman on the annual review for 2008/09. I believe that this proved informative and would be happy to attend future meetings.

### **Training in complaint handling**

I am pleased that a member of your Complaints Team attended one of our training courses on Good/Effective Complaint Handling, which was delivered in February this year.

As you know, we offer training courses for all levels of local authority staff in complaints handling and investigation. All courses are presented by experienced investigators. They give participants the opportunity to practice the skills needed to deal with complaints positively and efficiently. We can also provide customised courses to help authorities to deal with particular issues and occasional open courses for individuals from different authorities, such as the course in February this year.

I have enclosed some information on the full range of courses available together with contact details for enquiries and bookings.

### **Conclusions**

The first year of the new authority will have offered many challenges and I am pleased to note that a positive start has been made in the area of complaints handling.

I welcome this opportunity to give you my reflections about the complaints my office has dealt with over the past year. I hope that you find the information and assessment provided useful when seeking improvements to your authority's services.

**Dr Jane Martin  
Local Government Ombudsman  
The Oaks No 2  
Westwood Way  
Westwood Business Park  
Coventry  
CV4 8JB**

**June 2010**

## Section 2: LGO developments

### Introduction

This annual review also provides an opportunity to bring councils up to date on developments in the LGO and to seek feedback.

### New schools complaints service launched

In April 2010 we launched the first pilot phase of a complaints service extending our jurisdiction to consider parent and pupil complaints about state schools in four local authority areas. This power was introduced by the Apprenticeships, Skills, Children and Learning Act 2009.

The first phase involves schools in Barking and Dagenham, Cambridgeshire, Medway and Sefton. The Secretary of State no longer considers complaints about schools in these areas. In September the schools in a further 10 local authority areas are set to join the pilot phase.

We are working closely with colleagues in the pilot areas and their schools, including providing training and information sessions, to shape the design and delivery of the new service. It is intended that by September 2011 our jurisdiction will cover all state schools in England.

A new team in each office now deals with all complaints about children's services and education on behalf of the Ombudsman. Arrangements for cooperation with Ofsted on related work areas have been agreed.

For further information see the new schools pages on our website at [www.lgo.org.uk/schools/](http://www.lgo.org.uk/schools/)

### Adult social care: new powers from October

The Health Act 2009 extended the Ombudsmen's powers to investigate complaints about privately arranged and funded adult social care. These powers come into effect from 1 October 2010 (or when the Care Quality Commission has re-registered all adult care providers undertaking regulated activity). Provision of care that is arranged by an individual and funded from direct payments comes within this new jurisdiction.

Each Ombudsman has set up a team to deal with all adult social care complaints on their behalf. We expect that many complaints from people who have arranged and funded their care will involve the actions of both the local authority and the care provider. We are developing information-sharing agreements with the Care Quality Commission and with councils in their roles as adult safeguarding leads and service commissioners.

### Council first

We introduced our Council first procedure in April last year. With some exceptions, we require complainants to go through all stages of a council's own complaints procedure before we will consider the complaint. It aims to build on the improved handling of complaints by councils.

We are going to research the views of people whose complaints have been referred to councils as premature. We are also still keen to hear from councils about how the procedure is working, particularly on the exception categories. Details of the categories of complaint that are normally treated as exceptions are on our website at [www.lgo.org.uk/guide-for-advisers/council-response](http://www.lgo.org.uk/guide-for-advisers/council-response)

## **Training in complaint handling**

Demand for our training in complaint handling has remained high, with 118 courses delivered over the year to 53 different authorities. Our core Effective Complaint Handling course is still the most popular – we ran some of these as open courses for groups of staff from different authorities. These are designed to assist those authorities that wish to train small numbers of staff and give them an opportunity to share ideas and experience with other authorities.

The new Effective Complaint Handling in Adult Social Care course, driven by the introduction of the new statutory complaints arrangements in health and adult social care in April 2009, was also popular. It accounted for just over a third of bookings.

Over the next year we intend to carry out a thorough review of local authority training needs to ensure that the programme continues to deliver learning outcomes that improve complaint handling by councils.

## **Statements of reasons**

Last year we consulted councils on our broad proposals for introducing statements of reasons on the individual decisions of an Ombudsman following the investigation of a complaint. We received very supportive and constructive feedback on the proposals, which aim to provide greater transparency and increase understanding of our work. Since then we have been carrying out more detailed work, including our new powers. We intend to introduce the new arrangements in the near future.

## **Delivering public value**

We hope this information gives you an insight into the major changes happening within the LGO, many of which will have a direct impact on your authority. We will keep you up to date through LGO Link as each development progresses, but if there is anything you wish to discuss in the meantime please let me know.

Mindful of the current economic climate, financial stringencies and our public accountability, we are determined to continue to increase the efficiency, cost-effectiveness and public value of our work.

**Dr Jane Martin**  
**Local Government Ombudsman**  
**The Oaks No 2**  
**Westwood Way**  
**Westwood Business Park**  
**Coventry**  
**CV4 8JB**

**June 2010**

# Appendix 1: Notes to assist interpretation of the statistics 2009/10

## Table 1. LGO Advice Team: Enquiries and complaints received

This information shows the number of enquiries and complaints received by the LGO, broken down by service area and in total. It also shows how these were dealt with, as follows.

**Premature complaints:** The LGO does not normally consider a complaint unless a council has first had an opportunity to deal with that complaint itself. So if someone complains to the LGO without having taken the matter up with a council, the LGO will either refer it back to the council as a 'premature complaint' to see if the council can itself resolve the matter, or give advice to the enquirer that their complaint is premature.

**Advice given:** These are enquiries where the LGO Advice Team has given advice on why the LGO would not be able to consider the complaint, other than the complaint is premature. For example, the complaint may clearly be outside the LGO's jurisdiction.

**Forwarded to the investigative team (resubmitted premature and new):** These are new cases forwarded to the Investigative Team for further consideration and cases where the complainant has resubmitted their complaint to the LGO after it has been put to the council.

## Table 2. Investigative Team: Decisions

This information records the number of decisions made by the LGO Investigative Team, broken down by outcome, within the period given. **This number will not be the same as the number of complaints forwarded from the LGO Advice Team** because some complaints decided in 2009/10 will already have been in hand at the beginning of the year, and some forwarded to the Investigative Team during 2009/10 will still be in hand at the end of the year. Below we set out a key explaining the outcome categories.

**MI reps:** where the LGO has concluded an investigation and issued a formal report finding maladministration causing injustice.

**LS (local settlements):** decisions by letter discontinuing our investigation because action has been agreed by the authority and accepted by the LGO as a satisfactory outcome for the complainant.

**M reps:** where the LGO has concluded an investigation and issued a formal report finding maladministration but causing no injustice to the complainant.

**NM reps:** where the LGO has concluded an investigation and issued a formal report finding no maladministration by the council.

**No mal:** decisions by letter discontinuing an investigation because we have found no, or insufficient, evidence of maladministration.

**Omb disc:** decisions by letter discontinuing an investigation in which we have exercised the LGO's general discretion not to pursue the complaint. This can be for a variety of reasons, but the most common is that we have found no or insufficient injustice to warrant pursuing the matter further.



**Outside jurisdiction:** these are cases which were outside the LGO's jurisdiction.

### **Table 3. Response times**

These figures record the average time the council takes to respond to our first enquiries on a complaint. We measure this in calendar days from the date we send our letter/fax/email to the date that we receive a substantive response from the council. The council's figures may differ somewhat, since they are likely to be recorded from the date the council receives our letter until the despatch of its response.–

### **Table 4. Average local authority response times 2009/10**

This table gives comparative figures for average response times by authorities in England, by type of authority, within three time bands.

**LGO Advice Team**

Enquiries and complaints received	Adult care services	Children and family services	Education	Housing	Benefits	Public Finance inc. Local Taxation	Planning and building control	Transport and highways	Other	Total
Formal/informal premature complaints	0	3	1	3	0	2	1	2	2	14
Advice given	0	0	3	0	0	0	1	3	3	10
Forwarded to investigative team (resubmitted premature)	0	0	0	1	0	0	1	0	1	3
Forwarded to investigative team (new)	3	0	6	2	2	1	7	2	11	34
<b>Total</b>	<b>3</b>	<b>3</b>	<b>10</b>	<b>6</b>	<b>2</b>	<b>3</b>	<b>10</b>	<b>7</b>	<b>17</b>	<b>61</b>

**Investigative Team**

Decisions	MI reps	LS	M reps	NM reps	No mal	Omb disc	Outside jurisdiction	Total
	2009 / 2010	0	1	0	0	15	4	1

Average local authority resp times 01/04/2009 to 31/03/2010

Response times	FIRST ENQUIRIES	
	No. of First Enquiries	Avg no. of days to respond
1/04/2009 / 31/03/2010	12	29.9

Types of authority	<= 28 days %	29 - 35 days %	> = 36 days %
District Councils	61	22	17
Unitary Authorities	68	26	6
Metropolitan Authorities	70	22	8
County Councils	58	32	10
London Boroughs	52	36	12
National Parks Authorities	60	20	20

**LGO Advice Team**

Enquiries and complaints received	Adult care services	Education	Transport and highways	Total
Advice given	0	0	3	3
Forwarded to investigative team (new)	2	4	0	6
<b>Total</b>	<b>2</b>	<b>4</b>	<b>3</b>	<b>9</b>

**Investigative Team**

Decisions	MI reps	LS	M reps	NM reps	No mal	Omb disc	Outside jurisdiction	Total
2009 / 2010	0	1	0	0	3	1	3	8

**Average local authority resp times 01/04/2009 to 31/03/2010**

Response times	FIRST ENQUIRIES	
	No. of First Enquiries	Avg no. of days to respond
2008 / 2009	9	29.9
2007 / 2008	10	34.9

Types of authority	<= 28 days %	29 - 35 days %	> = 36 days %
District Councils	61	22	17
Unitary Authorities	68	26	6
Metropolitan Authorities	70	22	8
County Councils	58	32	10
London Boroughs	52	36	12
National Parks Authorities	60	20	20

### LGO Advice Team

Enquiries and complaints received	Benefits	Planning and building control	Other	Total
Formal/informal premature complaints	1	1	0	2
Forwarded to investigative team (new)	0	0	1	1
<b>Total</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>3</b>

### Investigative Team

Decisions	MI reps	LS	M reps	NM reps	No mal	Omb disc	Outside jurisdiction	Total
33 2009 / 2010	0	0	0	0	1	1	0	2

### Average local authority resp times 01/04/2009 to 31/03/2010

Response times	FIRST ENQUIRIES	
	No. of First Enquiries	Avg no. of days to respond
2008 / 2009	3	17.7
2007 / 2008	3	21.7

Types of authority	<= 28 days %	29 - 35 days %	> = 36 days %
District Councils	61	22	17
Unitary Authorities	68	26	6
Metropolitan Authorities	70	22	8
County Councils	58	32	10
London Boroughs	52	36	12
National Parks Authorities	60	20	20

LGO Advice Team

Enquiries and complaints received	Other	Total
Advice given	1	1
<b>Total</b>	<b>1</b>	<b>1</b>

**Investigative Team**

Decisions	MI reps	LS	M reps	NM reps	No mal	Omb disc	Outside jurisdiction	Total
2009 / 2010	0	0	0	0	0	0	1	1

**Average local authority resp times 01/04/2009 to 31/03/2010**

Response times	FIRST ENQUIRIES	
	No. of First Enquiries	Avg no. of days to respond
1/04/2009 / 31/03/2010	1	43.0
2008 / 2009	8	26.9
2007 / 2008	7	32.6

Types of authority	<= 28 days %	29 - 35 days %	> = 36 days %
District Councils	61	22	17
Unitary Authorities	68	26	6
Metropolitan Authorities	70	22	8
County Councils	58	32	10
London Boroughs	52	36	12
National Parks Authorities	60	20	20

### LGO Advice Team

Enquiries and complaints received	Planning and building control	Transport and highways	Other	Total
Formal/informal premature complaints	1	0	0	1
Advice given	0	0	1	1
Forwarded to investigative team (resubmitted prematures)	0	1	0	1
Forwarded to investigative team (new)	1	0	0	1
<b>Total</b>	<b>2</b>	<b>1</b>	<b>1</b>	<b>4</b>

### Investigative Team

Decisions	MI reps	LS	M reps	NM reps	No mal	Omb disc	Outside jurisdiction	Total
2009 / 2010	0	2	0	0	1	1	3	7

Average local authority resp times 01/04/2009 to 31/03/2010

Response times	FIRST ENQUIRIES	
	No. of First Enquiries	Avg no. of days to respond
1/04/2009 / 31/03/2010	2	34.5
2008 / 2009	11	44.4
2007 / 2008	6	87.5

Types of authority	<= 28 days %	29 - 35 days %	> = 36 days %
District Councils	61	22	17
Unitary Authorities	68	26	6
Metropolitan Authorities	70	22	8
County Councils	58	32	10
London Boroughs	52	36	12
National Parks Authorities	60	20	20



### LGO Advice Team

Enquiries and complaints received	Children and family services	Public Finance inc. Local Taxation	Planning and building control	Other	Total
Formal/informal premature complaints	1	0	0	0	1
Forwarded to investigative team (resubmitted premature)	0	0	0	1	1
Forwarded to investigative team (new)	0	1	1	0	2
<b>Total</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>4</b>

### Investigative Team

Decisions	MI reps	LS	M reps	NM reps	No mal	Omb disc	Outside jurisdiction	Total
2009 / 2010	0	1	0	0	1	0	2	4

### Average local authority resp times 01/04/2009 to 31/03/2010

Response times	FIRST ENQUIRIES	
	No. of First Enquiries	Avg no. of days to respond
1/04/2009 / 31/03/2010	2	33.5
2008 / 2009	2	37.0
2007 / 2008	10	46.7

Types of authority	<= 28 days %	29 - 35 days %	> = 36 days %
District Councils	61	22	17
Unitary Authorities	68	26	6
Metropolitan Authorities	70	22	8
County Councils	58	32	10
London Boroughs	52	36	12
National Parks Authorities	60	20	20

This page is intentionally left blank

## WILTSHIRE COUNCIL

## STANDARDS COMMITTEE

22 SEPTEMBER 2010

---

### Outcome of Standards Hearing Sub-Committee

#### Purpose of Report

1. To report the outcome of the Standards Hearing Sub-Committee which was held on 5 July 2010 to consider an allegation of a breach of the Code of Conduct for Members.

#### Background

2. On 15 October 2009 the Monitoring Officer of Wiltshire Council received a complaint from Mr Edward Whiting regarding the alleged conduct of Councillor Maurice Flanagan, a member of Dilton Marsh Parish Council. The complainant alleged that Councillor Flanagan had failed to comply with the statutory requirement to register his interests within 28 days of assuming office as a member of Dilton Marsh Parish Council.
3. On 19 November 2009, the Standards Assessment Sub-Committee of Wiltshire Council considered the complaint regarding Councillor Flanagan. In accordance with section 57A(2) of the Local Government Act 2000 as amended, the Assessment Sub-Committee decided that the complaint should be referred to the Monitoring Officer for investigation.
4. The Monitoring Officer delegated his investigatory powers to Mrs Marie Lindsay, Ethical Governance Officer, pursuant to section 82A of the Local Government Act 2000. The Investigator's report found that there had been a breach of the following paragraph of the Code of Conduct:
  - 13(1) – Subject to paragraph 14, you must, within 28 days of –
    - a. this Code being adopted by or applied to your authority; or
    - b. 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.
5. On 15 April 2010 the Investigator's report went before the Standards Consideration Sub-Committee. The Sub-Committee considered the alleged breach of paragraph 13(1) of the Code of Conduct. The Sub-Committee agreed that the matter should be referred to a Standards Committee Hearing

for determination, pursuant to paragraph 17 (1) (b) of the Standards Committee (England) Regulations 2008.

6. The Standards Committee is advised that Mr Whiting's original complaint also contained additional allegations of potential breaches of the Code of Conduct. These allegations were also referred for investigation by the Assessment Sub-Committee on 19 November 2009 and the Investigating Officer made a finding of no breach. The Consideration Sub-Committee which met on 15 April 2010 upheld the Investigating Officer's finding and it was decided that no further action should be taken. Accordingly, the report which was considered by the Hearing Sub-Committee contained no reference to these other allegations.
7. The Standards Hearing Sub-Committee met on 5 July 2010 and the minutes of the meeting, together with the decision notice, are attached at **Appendix A**.
8. The Chairman and members of the Sub-Committee may wish to comment on the hearing orally at the meeting.

### **Main considerations for the Committee**

9. The Standards Committee has set a target time of 6 months from the Assessment Sub-Committee's referral of a complaint for investigation to the completion of the investigation and issuing of a final report. In this case, the complaint was referred for investigation on 19 November 2009 and the final report was completed on 9 March 2010, within the 6 month deadline.
11. The Standards Committee has set a target time of 3 months from the issuing of the final report to the conclusion of a Determination Sub-Committee hearing. The Investigator issued her report on 9 March 2010 and the Standards Hearing Sub-Committee met on 5 July 2010, outside the 3 month deadline. The reason for the target not being met is largely due to constraints on officer time and the need to organise both officer and member availability for Consideration Sub-Committee, pre-hearing and Hearing Sub-Committee meetings. In addition, there are procedural timescales which need to be factored in to the process.
12. In accordance with the Standards Committee's request that local determination hearings should be held in the Wiltshire Council "hub" office most local to the subject member's division or ward, the Hearing Sub-Committee met at Wiltshire Council offices in Bythesea Road.
13. The Standards Committee will note the decision of the Hearing Sub-Committee which refers to the degree of confusion surrounding the submission of Register of Interest forms by the Clerk to Dilton Marsh Parish Council. At the time of Councillor Flanagan's submission of his Register of Interests form, the Clerk mistakenly held onto such forms rather than passing them to the Monitoring Officer for signature and retention. The Sub-Committee recommends to the Standards Committee that it undertakes a review of the procedures surrounding register of interest submissions and highlights the importance of registering personal interests.

## **Proposals**

14. The Standards Committee is asked to note the outcome of this matter and the recommendations of the Hearing Sub-Committee.

## **Training and Communications Issues Arising**

15. There are no general training or communications issues arising from the proposals made in this report that would require the formation of a task and finish group of the Standards Committee.

## **Risks**

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

Ian Gibbons  
Monitoring Officer

Report Author: Marie Lindsay – Ethical Governance Officer

---

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

This page is intentionally left blank

## STANDARDS HEARING SUB-COMMITTEE

---

MINUTES of the STANDARDS HEARING SUB-COMMITTEE held at COUNTY HALL, BYTHESEA ROAD, TROWBRIDGE on Monday, 5 July 2010.

### PRESENT:

Wiltshire Council Member

Cllr Malcolm Hewson

Parish Council Co-opted Member

Mr Paul Neale

Independent co-opted Member

Mr Gerry Robson OBE

---

### ALSO PRESENT:

Subject Member

Cllr Maurice Flanagan, Dilton Marsh Parish Council,

Representative

Mr Francis Morland

Officers

Mr Ian Gibbons, Monitoring Officer

Mrs Marie Lindsay, Investigating Officer

Mr Liam Paul, Democratic Services Officer, Clerk to the Sub-committee

### 5. Election of Chairman

In accordance with the requirement that the hearing is chaired by an Independent Member, it was

#### Resolved:

**To confirm Mr G Robson as Chairman for one meeting only.**

**Mr G Robson in the Chair**

The Chairman introduced those present, and ran through the procedure, as outlined in the Agenda.

6. **Declarations of Interest**

There were no declarations of interest by the members of the Sub-committee.

Mr Francis Morland, in attendance as a representative of Cllr Maurice Flanagan, the subject member, wished to declare for the record that although he was himself a member of Dilton Marsh Parish Council, and also Wiltshire Council, he had taken no active part in the events preceding the complaint.

7. **Exclusion of the Press and Public**

The Chairman explained that following the pre-hearing meeting the members of the Sub-committee were minded to hear the complaint in public, subject to any representations from those present advising or requesting otherwise. In the absence of such representations and in the interests of transparency the Sub-Committee agreed that the matter should be heard in public.

8. **Standards Committee Hearing regarding the alleged conduct of Cllr Maurice Flanagan, Dilton Marsh Parish Council**

The Chairman asked the investigating officer to summarise the complaint and the relevant facts, as set out in her report. The complaint alleged that Councillor Flanagan had failed to comply with the statutory requirement, in paragraph 13 (1) of the Code of Conduct, to register his interests within 28 days of his appointment as a member of Dilton Marsh Parish Council.

In accordance with the Council's procedure for determination hearings, circulated with the agenda, the hearing was conducted in three stages, addressing firstly findings of fact, secondly the question of whether there had been a breach of the Code and finally the matter of sanctions.

At each stage the Investigator and the Subject Member, through his representative, were given the opportunity to address the Sub-Committee, and each Member of the Sub-Committee had the opportunity to question them. The Legal Adviser gave advice as and when required.

The Sub-Committee adjourned the meeting to consider its decision at each stage of the hearing process and each time the meeting was reconvened the Chairman delivered the Sub-Committee's findings as detailed in the attached Decision Notice.

The Clerk attended the Sub-Committee's deliberations to record their decision at each stage, and the Legal Adviser was present to advise and assist on matters of law and procedure.

**Resolved:**



**To determine the complaint as set out in the attached Decision Notice.**

(Duration of meeting: 9.35 am - 12.30 pm)

The Officer who has produced these minutes is Liam Paul, of Democratic & Members' Services, direct line (01225) 718376, e-mail [liam.paul@wiltshire.gov.uk](mailto:liam.paul@wiltshire.gov.uk)

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

This page is intentionally left blank

## WILTSHIRE COUNCIL

### STANDARDS COMMITTEE DETERMINATION

#### SUMMARY DECISION NOTICE

<b>Date of Determination</b>	05 <sup>th</sup> July 2010
<b>Member</b>	Councillor Maurice Flanagan
<b>Authority</b>	Dilton Marsh Parish Council
<b>Reference</b>	WC 38/09

On 05 July 2010 the Hearing Sub-Committee of Wiltshire Council's Standards Committee met to consider an investigation report on a complaint that Councillor Maurice Flanagan had failed to comply with the Model Code of Conduct for Members, adopted by the Dilton Marsh Parish Council.

The complaint alleged that Councillor Flanagan has failed to comply with the statutory requirement, in paragraph 13 (1) of the Code of Conduct, to register his interests within 28 days of his appointment as a member of Dilton Marsh Parish Council.

#### **Findings of Fact (Stage 1)**

The Standards Hearing Sub-Committee made the following findings of fact:

- 1) Cllr Maurice Flanagan was co-opted to Dilton Marsh Parish Council on 16<sup>th</sup> October 2008 and signed the Declaration of Acceptance of Office form, which included an undertaking to abide by the Code of Conduct from that date onwards.
- 2) He submitted a Register of Interests form to the Monitoring officer of West Wiltshire District Council in March/April 2009.
- 3) A degree of confusion surrounded the process for submitting Register of Interests at to town and parish councils at the material time.
- 4) Councillor Flanagan submitted a fresh Register of Interests of his own volition on 15 March 2010.

## **Decision on a possible breach of the Code of Conduct (Stage 2)**

The sub-Committee found:

- 1) That upon his appointment as a Parish Councillor on the 16<sup>th</sup> October 2008 to Dilton Marsh Parish Council, Councillor Flanagan was subject to the Council's Code of Conduct.
- 2) On the basis of the above findings of fact, Cllr Flanagan failed to submit a written notification of his registerable interests to the Monitoring officer within 28 days of his appointment, in breach of the Council's Code of Conduct, specifically paragraph 13 (1).

## **Sanction (Stage 3)**

- 1) The Sub-Committee wished to be clear that compliance with the Code of Conduct is important to members at all levels.
- 2) The Sub-Committee took into account the facts of the case, the investigation process, which is stressful for all who are involved, and the arguments presented in mitigation and concluded that as this is a technical breach of the code, no further action will be taken.
- 3) The sub-Committee recommended that the Standards Committee notes the investigator's report with regard to the procedures surrounding Register of Interests submissions, and undertakes a review of these, highlighting the importance of the Code of Conduct and, in particular, the importance of registering personal interests.

A copy of the full decision may be obtained from the Clerk to the standards Sub-Committee, Liam Paul, Democratic Services, Wiltshire Council, BA14 8JN.

## WILTSHIRE COUNCIL

### STANDARDS COMMITTEE

22<sup>nd</sup> SEPTEMBER 2010

---

## LOCAL STANDARDS FRAMEWORK - REVIEW OF PROCESS

### Purpose of Report

1. To ask the Committee to consider proposals for streamlining the process for dealing with complaints under the Code of Conduct following a review of the Council's procedures under the local standards framework.

### Background

2. The Committee agreed as part of its plan to review proportionality in the operation of its procedures under the local standards framework and to report to the September meeting on the outcome. The review was to have regard to a research report commissioned by Standards for England 'How proportionate is the standards framework?' issued earlier this year.
3. A copy of the executive summary of the research report is attached as Appendix 1. The full report may be obtained from Standards for England web-site:  
  
<http://www.standardsforengland.gov.uk/resources/research/>
4. The Standards Committee has previously agreed timescales for the various stages of the complaints process, as summarised in the table in Appendix 2. These incorporate the statutory time limits and those prescribed in statutory guidance issued by Standards for England. These should be borne in mind in the context of this review.
5. The Council's Procedure for the Local Determination of Complaints under the Code of Conduct was reviewed in July 2009 as part of the review of the Constitution in the transition to unitary status. The procedure closely reflects the model contained in Standards for England guidance and incorporates the requirements of the Standards Committee (England) Regulations 2008. Consequently there is little scope for making changes to this that might make the process more efficient.

### Main Considerations for the Council

6. Members will note the overall findings of the research report on the proportionality of the standards framework, and the suggested steps that could be taken to streamline the system and make it more effective (see in particular paragraph 2.8 of the executive summary). A number of these proposals would require a change in the legislation. This has, of course, been overtaken to a large extent by the Coalition Government's proposals to abolish Standards for England. The Government's proposals will form part of the Localism Bill, which is due to be developed from November 2010 with a view to

becoming law in November 2011.

7. It is expected that a consultation paper will be issued outlining the Government's proposals for standards but the precise timing of this is as yet unknown. It is, however, proposed to bring a report to the next meeting of Standards to give members the opportunity to discuss possible options for an alternative standards regime.
8. So far as current procedures are concerned these will remain effective until the implementation of any new legislation. As already indicated, the process for dealing with complaints is largely determined by regulations and statutory guidance, so that the scope for making changes to streamline it are fairly limited. The following paragraphs contain some suggestions on the steps that may be taken to improve efficiency in the conduct of complaints.

### **Local Resolution Before Complaints are Lodged**

9. The Standards Committee's Local Assessment Criteria recognise the importance of exploring the possibility of an early resolution prior to a formal complaint being made. Paragraph 2 provides:

*The Standards Committee is mindful that investigations are costly and time consuming. Complaints can often be dealt with more effectively if an early resolution of the matter can be achieved. The Monitoring officer may therefore encourage complainants to explore whether the matter can be resolved locally prior to a formal written complaint being made to the Standards Committee.*

10. This is already being applied. Members of the team who deal with initial enquiries from persons who are thinking of making a complaint are aware of the benefit of seeking an informal resolution and will actively explore this possibility with them where this is appropriate. The use of mediation may be a suitable option to suggest at this stage. Members strongly supported the use of mediation in resolving Code of Conduct matters, both at the pre-complaint stage and as 'other action' when this was considered at the last meeting.

### **Assessment and Review Stage**

11. This is clearly a critical stage for determining which cases should properly go forward for investigation. The Committee has already reviewed its approach at this stage and members have received training in the conduct of assessments and reviews. This has resulted in a more robust line being taken with fewer complaints overall being referred to the Monitoring Officer for investigation or other action. The use of 'other action' as an alternative to investigation is always given full consideration by assessment and review sub-committees, though the guidance from Standards for England on 'other action' tends to limit the scope of its use. Mediation as 'other action' is, again, another tool which can be used at this stage in suitable cases.
12. Amendment of the complaint form to indicate whether the complainant would be prepared to agree to mediation as an alternative to formal investigation may assist in encouraging complainants down this route, though it has to be recognised that the availability of mediation will always be subject to the willingness of the parties to agree to this.

13. The Committee has a sufficient pool of members with relevant knowledge and expertise to undertake assessment and reviews, bearing in mind that the membership of the sub-committee at each stage has to be different. This needs to be kept in mind when the size and composition of the Committee is reviewed in November.
14. The time limits for assessments and reviews are consistently met.

### **Investigation Stage**

15. The Standards Committee has agreed a target time of 6 months for investigations to be carried out from the date of the assessment or review decision to refer. This is consistent with the national average time for investigations. However, we are seeking to improve upon this target by:
  - identifying the key issues and areas of dispute at an early stage;
  - ensuring that the investigation is robust and proportionate to the issues involved;
  - interviewing key witnesses to obtain evidence relevant to the issues;
  - efficient timetabling of interviews with witnesses;
  - securing documentation which is material to the issues;
  - use of standard forms, including witness statements;

### **Consideration Stage**

16. Currently the Committee's policy is to have different members for the Consideration Sub-Committee and the Hearing Sub-Committee. This approach was agreed by the Committee in July 2009. The intention was to avoid any risk of legal challenge on the grounds of bias or pre-determination that may arise from a member being involved at both stages. In practice the risk of a successful challenge on this basis is considered to be small, bearing in mind that the task of the sub-committee is different at each stage.
17. Furthermore, Standards for England guidance suggests that there is no problem with having the same membership at the consideration and determination stages.
18. Having reviewed the position and discussed it with members who serve on both consideration and hearing sub-committees I consider that there are significant advantages to be gained from having the same membership at both stages. This will save unnecessary duplication of member time and effort in reading the papers and preparation and, where the case is referred for determination, will provide continuity of knowledge and awareness of the issues through the pre-hearing review to the final hearing.
19. Delays can arise following completion of the investigation report because of problems of availability of members and officers. Having the same three members should enable dates to be fixed in advance more easily for the consideration meeting, and any subsequent pre-hearing review and hearing. The intended use of the Deputy Monitoring Officer, Barbara Mills, Head of Legal for consideration and determination hearings will also help to ease the situation regarding availability.

20. The timescale for these final stages may be kept to a minimum by fixing the date for the consideration sub-committee when the draft investigation report is circulated to the complainant and the subject member rather than wait until it is completed as is currently the case. Further time could be saved by finalising the minutes of the Consideration Sub-committee immediately after the meeting. This would enable the pre-hearing process (which has set time limits) to begin sooner.

### **Hearings**

21. The hearings which have been held to date have proceeded efficiently and effectively and there are no recommended changes to the practice and procedure.
22. We are taking steps to ensure that the written decision and other post-hearing formalities are completed in an efficient and timely manner.

### **Environmental Impact**

23. None.

### **Equalities Impact**

24. None.

### **Financial Implications**

25. None arising directly from this report.

### **Legal Implications**

25. The proposals in this report are consistent with the requirements of the relevant legislation and guidance.

### **Proposal**

24. The Committee is asked to:

- (1) Note the outcome of the review of the Council's procedures under the local standards framework and the steps that are suggested to streamline the process;
- (2) Agree that the possibility of informal resolution at the pre-complaint stage is actively explored where this is appropriate and that the merits of 'other action' at the assessment and review stages is fully considered;
- (3) Agree that the same members are appointed to the consideration and hearing sub-committees, save where this is not reasonably practicable.

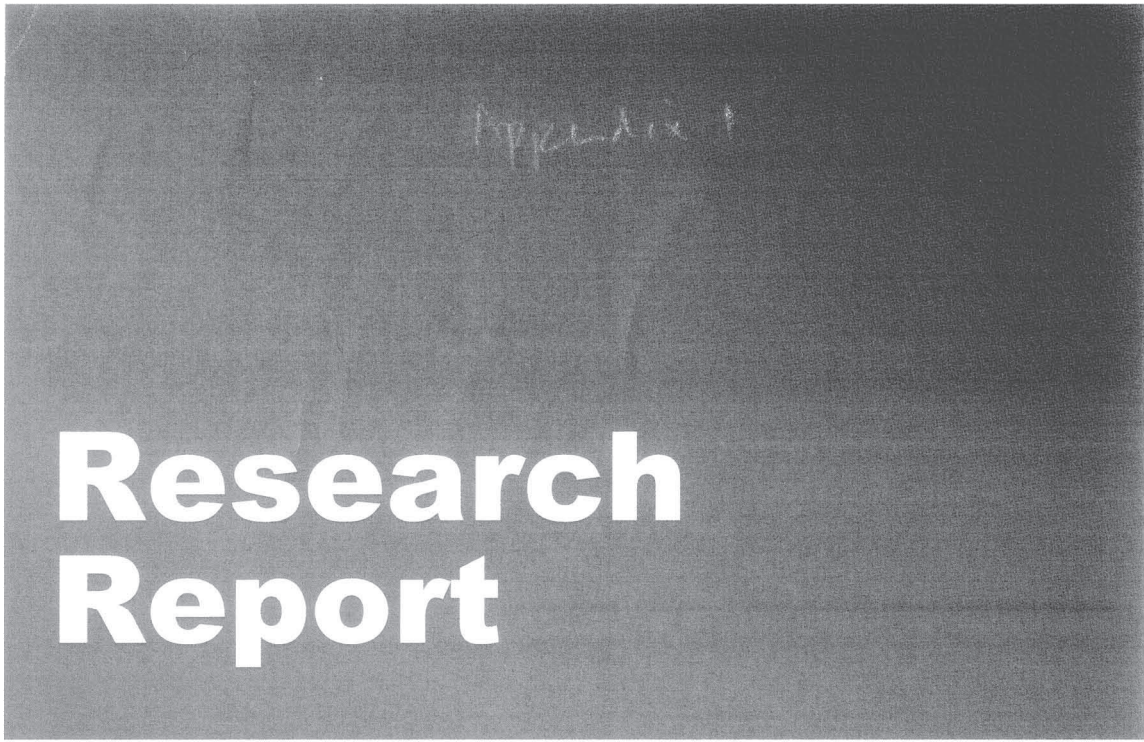
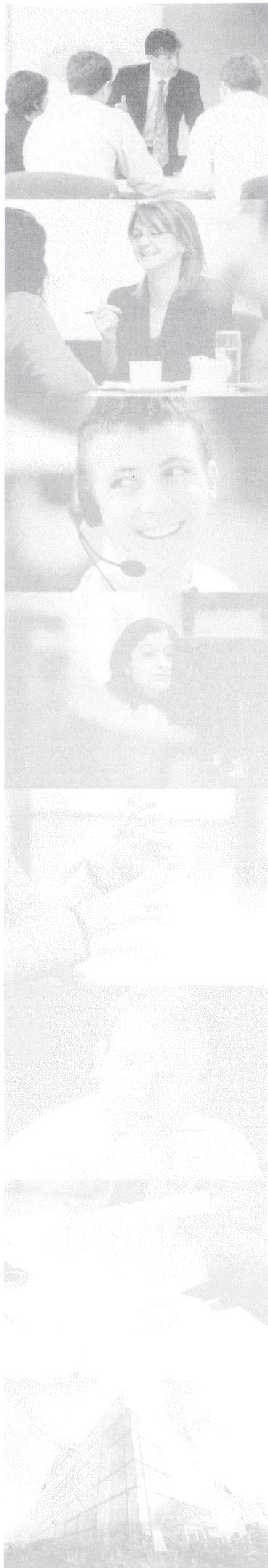
**Ian Gibbons**  
**Monitoring Officer**

Report Author: Ian Gibbons

---

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





# Research Report



## How proportionate is the standards framework?

Prepared for: Standards for England





---

## How proportionate is the standards framework?

Prepared for: Standards for England

Prepared by: Sarah Robinson; Qualitative Research Manager

2009

---



Produced by BMG Research

© Bostock Marketing Group Ltd, 2009

[www.bmgresearch.co.uk](http://www.bmgresearch.co.uk)

Project: 7478

Registered in England No. 2841970

Registered office:

7 Holt Court North  
Heneage Street West  
Aston Science Park  
Birmingham  
B7 4AX  
UK

Tel: +44 [0] 121 3336006

UK VAT Registration No. 580 6606 32

Birmingham Chamber of Commerce Member No. B4626

Market Research Society Company Partner

ESOMAR Member [The World Association of Research Professionals]

British Quality Foundation Member

Market Research Quality Standards Association [British Standards Institute] BS7911 for Market Research -  
Certificate No. FS76713

Investors in People Standard - Certificate No. WMQC 0614

Interviewer Quality Control Scheme [IQCS] Member Company

Registered under the Data Protection Act - Registration No. Z5081943



## Table of Contents

1	Introduction .....	1
2	Executive Summary .....	3
3	How workable and easy to comply with is the Code? .....	7
4	Acceptable and unacceptable behaviour.....	12
5	Dealing with unacceptable behaviour.....	15
6	Sanctions .....	19
7	Does the framework provide value for money? .....	21
8	How proportionate is the framework?.....	24
9	Taking the framework forward.....	27

## 1 Introduction

This report provides the results from the qualitative research conducted for Standards for England [SfE] that was commissioned to evaluate how proportionate the framework is. There is an accompanying 'Research Appendices' report to this one that outlines the full background and methodology, as well as the topic guides and stimulus material used within the groups.

There are a number of considerations that need to be realised prior to reading this report:

1. As different questions were asked to each group and respondents had various levels of knowledge, not all sections have responses by all groups. Additionally, for the majority of subject areas, there is consensus across groups; in these instances the group opinions have been collated and reported as such.
2. Whilst we appreciate that Monitoring Officers [MOs] are also stakeholders for SfE, for the purposes of this report, when we refer to 'stakeholders' we are not including MOs; this group is often reported separately.
3. In the report, all quotations are marked in italics along with an indication of whether the respondent was a member of a public, stakeholder or MOs group, and the type of authority in which the group was held. With quotations from members, where possible, their status is also provided as follows:

EM	Elected member
EM, SC	Elected member and member of Standards Committee
LOC	Leader of Council
IM	Independent member of Standards Committee
IM, CSC	Independent member and chair of Standards Committee
FA	Member of Fire Authority
PA	Member of Police Authority
NP	Member of National Park Authority

Where it is not possible to identify a particular respondent from the transcription, elected or independent members are referred to only as 'Member'.

4. Quotes are for illustrative purposes only; not all available quotes are represented within the report.
5. Please note that to aid discussion scenarios based on past cases that have been through the framework were provided to the stakeholder and public groups. The details of these scenarios are not mentioned in the findings as they were to aid discussion as opposed to evaluating past cases. As such findings are provided in view of opinions expressed from analysing those scenarios, in the case of the public and many stakeholders [except MOs and SC members] the scenarios are the only example and knowledge base they

How proportionate is the framework?

have to refer to in matters regarding SfE. Therefore, their answers cannot be assumed to express tacit knowledge of SfE or the framework.

## 2 Executive Summary

### 2.1 Introduction

In May 2009 Standards for England [SfE] commissioned BMG Research to undertake research that would determine the extent to which the general public, stakeholders and officers view the standards framework as proportionate.

Qualitative research, using a focus groups format, was commissioned as a way of obtaining detailed, contextual and discursive information from residents and stakeholders, in an informal setting. It provided an opportunity to ascertain awareness and perceptions as well as suggestions for future change.

In total, 13 focus groups were undertaken with three different audiences: general public, monitoring officers [MOs] and other stakeholders [elected members; Standards Committee independent members and members of Standards Committees for the Police; Fire and National Parks].

Because of their disparate locations, an on-line group was convened for the monitoring officers.

With stakeholders and the general public, research took place in six different areas, with a stakeholder and public group undertaken in each locality. The six locations were selected to reflect a range of types of authority [1 London, 1 Unitary, 1 County Authority, 1 Parish Authority and 2 District Authorities], political control and also geography [north, midlands, south, London]. Stakeholders and MOs were given assurances that in the research report, geographical locations would be anonymised.

### 2.2 How workable and easy to comply with is the Code?

Both MOs and other stakeholders are broadly in agreement that the Code is reasonably easy to comply with and much is based on 'common sense', with the notable exception of the sections on the registration of interests. There are several reasons for this:

1. The definition of personal and prejudicial interests can be a problem amongst District and Parish Councillors because of the small and tight-knit nature of the communities;
2. There are issues with the dual role of twin-hatters and more generally issues which fall across the tiers of local government, particularly planning; and
3. Councillors feel that the declaration of interests affects their ability to speak in meetings, stifling the democratic process.

MOs widely stressed that the workability of the Code depends, to a considerable degree, on members' willingness to undergo the necessary training.

Stakeholders [with the exception of MOs] raise further concerns to do with issues around procedures and application, these include:

1. The belief that the Code is open to interpretation both on procedure and content;

## How proportionate is the framework?

2. That there is a view that there is a widespread 'variability in toughness' of individual Standards Committees [SC];
3. There is also considered to be a variability in the frequency of the application of the Code;
4. There is deemed to be a lack of clarity in the terminology, particularly in regards to vexation litigants; bringing the Council into disrepute and prejudicial interests;
5. The Code is too long, as is the detail – they expressed a need for clarity and a more succinct Code;
6. The constant fear that the Code is creating 'a legal investigation machine' that curtails democracy; and
7. There are mixed views about the Code applying to the private, as well as the public life of Councillors.

### 2.3 Acceptable and unacceptable behaviour

Generally, all groups agreed that Councillors should display behaviour that was seen to be 'beyond reproach'; gaining the trust of the public and conducting their actions with integrity; honesty and common sense. There is a division between Councillors and the public as to whether Councillors should be accountable to the Code in their private as well as their public lives; something the public feels very strongly about but that many Councillors abjectly disagree with.

However, all groups were very clear on what was deemed to be unacceptable behaviour, which was behaving in any of the following ways:

1. Failing to declare a personal and/or prejudicial interest;
2. Displaying personality or behavioural traits that showed poor judgement and did not display common sense; particularly if such behaviour brought the Council or another person's reputation into unnecessary disrepute;
3. Compromising another authority or organisation's work, particularly the police or fire department's;
4. Instances where the public [a 'normal person'] would have suffered a severe penalty for conducting the same action; and
5. Anything that displayed intention to, or did, provide a false or misleading impression to the public.

### 2.4 Dealing with unacceptable behaviour

In broad terms, the majority of respondents addressed discipline issues under the following three categories:

1. If the behaviour did not fall under the aforementioned 'unacceptable behaviour list' and did not cause harm to an individual or organisation, then that situation should be dealt with 'internally' outside of the framework [by Leaders; Chief Executives, mediation and training etc]. For example, dealing with instances of



petty, trivial and childish behaviour that many considered to be ‘the cut and thrust’ of politics;

2. If the behaviour was on the list **and** did not cause any harm to an individual, then it should be dealt with by the framework; and finally
3. If the behaviour harmed an individual then it should be dealt with by the police.

#### 2.4.1 Issues within the framework

There were two main issues with the framework, aside from the issues around disproportionality [detailed later]. The first was that many stakeholders felt that the Code makes it too easy for complainants to trigger an action; there are too many complaints and this is costly. MOs felt that by providing a local determination of cases alongside the ease of triggering an action, there have been more, not less cases. It was felt that alternative courses of action were needed such as providing them with the ability to review the complaint in the first instance.

The second issue was that not all respondents were convinced about the objectivity of Standards Committees given the perception that duty to party politics over-rode common sense and objectivity. Further, a few mentioned how hard it can be to find suitably qualified, able and interested independent members for committees.

## 2.5 Sanctions

Generally MOs and Standard Committee members view sanctions available to the framework as fair. However, public respondents and elected members view investigation to be fair or not according to whether the outcome and sanction meet with their own judgement on the case. There is agreement amongst the public, and many stakeholders, that in the cases and examples which they judged as serious, the Code is too lenient and the sanctions inadequate.

The public want to see far tougher sanctions and there is support for a more graduated sanctions regime from ‘real’ sanctions for more minor breaches of the Code [such as mediation and training as opposed to providing an apology] to really serious ones at the other end of the scale [e.g. ban for life as serving as a Councillor or a criminal sentence or community service].

## 2.6 Does the framework provide Value for Money?

Amongst all three groups there is broad agreement on the general principle that it is important to spend time and money ‘policing’ the Code. However, when considering costs of specific cases many are shocked by the costs and do not feel that they represent value for money. Further, for stakeholders and MOs, the commitment to accountability is weighed against the conviction that local determination has significantly increased costs for local authorities and that these are now often disproportionate to the severity of the alleged breach and the frequency with which significant breaches occur. As such, many find it hard to justify the costs of the required permanent infrastructure – despite it still being ‘early days’.

In order to evaluate and provide value for money, it was suggested that the following be implemented:

## How proportionate is the framework?

1. Public access to detailed breakdowns of costs for cases to be provided;
2. Wherever possible alternative approaches to using the framework should be used;
3. The use of external legal representation should be limited; and
4. More information about SfE should be made available to the public, for example, its remit and the costs it incurs.

## 2.7 How proportionate is the framework?

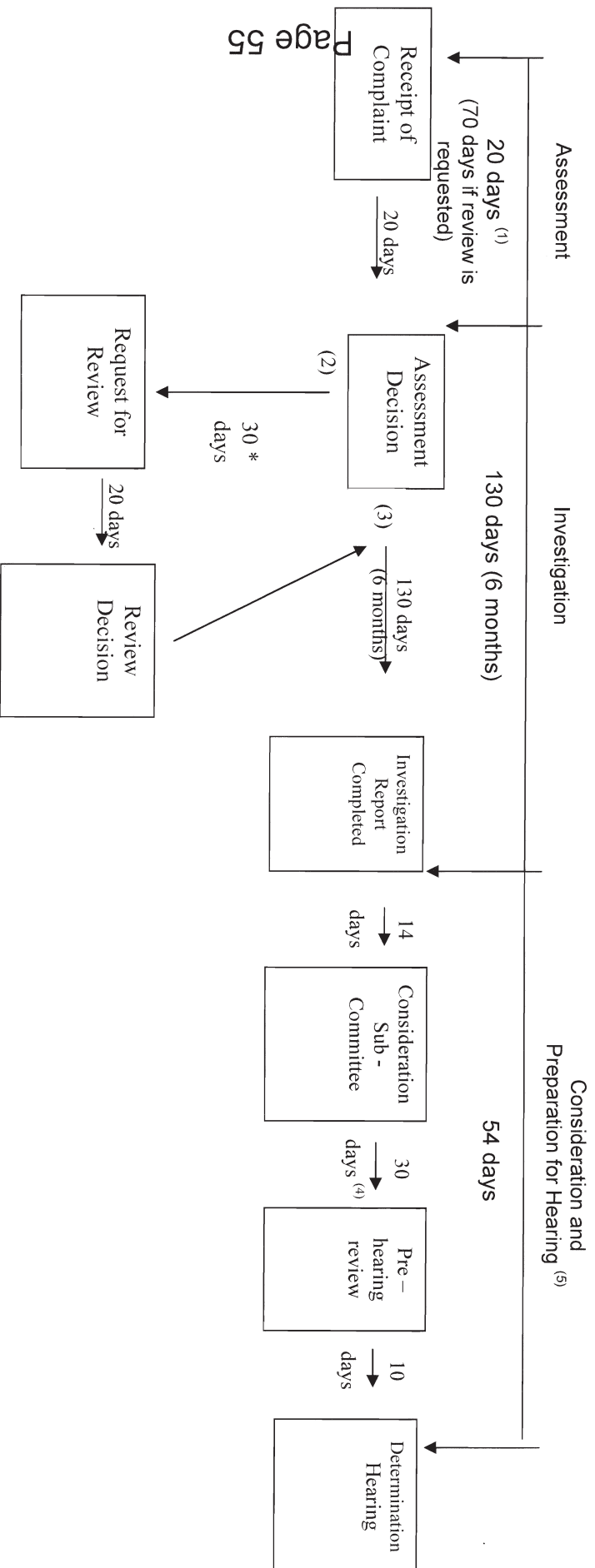
Overall, all respondents clearly believe that the standards framework is worthwhile. They all see it as an important 'safeguard' which is vital to public accountability. However, they feel the framework is out of all proportion to the number and severity of the cases that arise in their areas. Many stressed the need to see the system be made more robust and streamlined. Additionally, respondents often felt that the sanctions applied were disproportionate to the error or mistake made and that the timescales for conducting a case were inexcusably long.

## 2.8 Taking the framework forward

As respondents generally believe that the framework is worthwhile but that it needs improving, they suggested a number of tactics to streamline the system and make it more effective in their view:

1. Someone needs to play a more significant role in vetting and filtering trivial or minor cases so that they do not reach Standards Committees;
2. There needs to be a greater codification of the standards to make them clearer so there would be less need for investigation;
3. More issues should be dealt with by group leaders or whips;
4. Standards Committees should invite another, more experienced Standards Committee to investigate the allegation [unpopular with some, particularly independent members];
5. The imposition of sanctions for bringing vexatious complaints;
6. SfE should provide more guidance on how they reach their decisions/sanctions;
7. Some would like to see Standards Committees be able to hand out harsher sanctions rather than having to go to SfE or the Adjudication Panel for England; and
8. Standards Committees should examine their Council's protocols before passing an issue up to SfE.

Timescales for Assessment, Review, Consideration  
And Determination of Complaints under the  
Code of Conduct for Members



Page 55

**Notes**

- (1) 'Days' means working days except where otherwise indicated (\*)
- (2) Assessment Sub-Committee decides to take no action on complaint
- (3) Assessment Sub-Committee or Review Sub committee decides to refer complaint for investigation
- (4) Pre-hearing process – see paragraph 6 of Wiltshire Council's Procedure for Determination of Referred Complaints by the Standards Committee.
- (5) Governed by the Standards Committee (England) Regulations 2008 and Wiltshire Council's Procedures for Determination of Referred Complaints by the Standards Committee

This page is intentionally left blank

## Code of Conduct Complaints Status Report

Month 2009	Cases received	Cases open (cumulative)	Assessed by Committee – investigation	Assessed by Committee – no investigation	To be assessed by Committee/other	Cases closed
April	12	12	8 & 1*	1	2**	0
May	2	14	0	1	1***	0
June	13	25	4	0	7** & 2***	2
July	3	26	1	0	2**	2
August	1	13	0	1	0	14
September	1	14	0	1	0	0
October	5	18	2	3	0	1
November	7	24	2	3	2****	1
December	0	23	0	0	0	1
Month 2010						
January	0	18	0	0	0	5
February	1	16	0	1	0	3
March	3	19	0	3	0	0
April	4	19	0	4	0	4
May	3	19	2	1	0	3
June	0	14	0	0	0	5
July	6	19	1	5	0	1
August	2	21	0	0	2	0
Totals	63	n/a	21	24	18	42

Appeals received
0
0
0
0
0
0
0
0
0
0
1 (overturned)
2 (upheld)
0
0
1 (upheld)
1 (upheld)
0
0
0
5

- \* complaint presented to an Assessment Sub-Committee at Salisbury District Council and transferred to Wiltshire Council for investigation 01/04/09  
 \*\* further and better particulars requested but not received – complaint closed  
 \*\*\* not code of conduct complaint – complaint closed  
 \*\*\*\* complaint withdrawn

N.B. Two additional Appeals have been received but these relate to carried over complaints from former district councils and are not recorded in these figures

## Hearings

2009	Number of hearings	Date(s) and type(s) of hearing	Outcome	Appeal (Y/N)
April	0			
May	4	13/05/09 – 4 x Assessment Sub-Committee	3 investigations & 1 alternative action by MO	No
June	4	23/06/09 – 4 x Assessment Sub-Committee	3 investigations & 1 no breach	No
July	4	07/07/09 – 4 x Assessment Sub-committee	4 investigations	No
August	2	10/08/09 & 27/08/09 – 2 Assessment Sub-Committees	1 investigation & 1 no further action	No
September	0			n/a
October	1	15/10/09 – 1 x Assessment Sub-Committee	No further action	No
November	5	19/11/09 - 5 x Assessment Sub-Committee	1 investigation & 4 no further action	Yes (1)
December	7	02/12/09 – 4 x Assessment Sub-Committee 10/12/09 – 3 x Assessment Sub-Committee	2 investigations & 2 no further action 1 referral to MO & 2 adjournments (complaints now withdrawn and closed)	Yes (2)

<b>2010</b>	<b>Number of hearings</b>	<b>Date(s) and type(s) of hearing</b>	<b>Outcome</b>	<b>Appeal (Y/N)</b>
January	0			n/a
February	5	03/02/10 – 1 x Assessment Sub-Committee (referred back following death of subject member (original decision – investigation)) 03/02/10 – 3 x Review Sub-Committee 09/02/10 – 1 x Consideration Sub-Committee	No further action  2 decisions upheld and 1 overturned – investigation Referral to Determination Sub-Committee	No
March	4	02/03/10 – 1 x Consideration Sub-Committee 30/03/10 – 3 x Assessment Sub-Committee	Referral to Determination Sub-Committee 1 referral to MO & 2 no further action	Yes (1)
April	4	12/04/10 – 1 x Determination Sub-Committee 15/04/10 - 3 x Consideration Sub-Committee	Failure to comply – sanction: censure 2 no failure to comply – closed 1 referral to Determination Sub-Committee	n/a
May	10	11/05/10 – 5 x Assessment Sub-Committee 13/05/10 – 1 x Determination Sub-Committee 25/05/10 – 3 x Assessment Sub-Committee 25/05/10 – 1 x Review Sub-Committee	2 no further action, 1 referral to MO and 2 referrals to SfE * Failure to comply – sanction: training 2 investigations & 1 no further action Decision upheld	n/a
June	1	17/06/10 – 1 x Review Sub-Committee	Decision upheld	n/a
July	4	05/07/10 – 1 x Determination Sub-Committee 27/07/10 - 3 x Consideration Sub-Committee	Failure to comply – no further action 3 referrals to Determination Sub-Committee	n/a
August	6	19/08/10 - 6 x Assessment Sub-Committee	1 investigation & 5 no further action	n/a

\* SfE decisions – no further action

## Investigations

Case reference	Date of Assessment hearing	Progress	Estimated date of final report
WC 06/09	13/05/09	Determination Sub-Committee 13 May 2010 – failure to comply (sanction – training) - closed	N/A
WC 14/09	23/06/09	Consideration Sub-Committee 15 April 2010 – no failure to comply – closed	N/A
WC 15/09	23/06/09	Consideration Sub-Committee 15 April 2010 – no failure to comply – closed	N/A
WC 18/09	13/05/09	Determination Sub-Committee 6 October 2010	N/A
WC 19/09	13/05/09	Determination Sub-Committee 6 October 2010	N/A
WC 20/09	23/06/09	Draft report issued – comments received from subject member	September 2010
WC 24/09	07/07/09	Determination Sub-Committee 12 April 2010 – failure to comply (sanction- censure) - closed	N/A
WC 30/09	07/07/09	Report being drafted - complex case involving deeds of easement	September 2010
WC 31/09	07/07/09	Report being drafted – complex case involving deeds of easement	September 2010
WC 32/09	07/07/09	Report being drafted – complex case involving deeds of easement	September 2010
WC 33/09	07/07/09	Determination Sub-Committee 14 October 2010	N/A
WC 38/09	19/11/09	Determination Sub-Committee 5 July 2010 – failure to comply (no further action) closed	N/A
WC 43/09	02/12/09	Report being drafted – outstanding in order to clear backlog on older cases	September 2010
WC 45/09	02/12/09	Report being drafted – outstanding in order to clear backlog on older cases	September 2010
WC 42/09	03/02/10 (Review Sub-Ctte)	Consideration Sub-Committee 7 September 2010 – no failure to comply	N/A
WC 09/10	25/05/10	Interviews in progress	Autumn 2010
WC 10/10	25/05/10	Interviews in progress	Autumn 2010
WC 12/10	19/08/10	Investigating Officer to be appointed	



**WILTSHIRE COUNCIL**

**STANDARDS COMMITTEE**

**22 September 2010**

---

## **Dispensations - Dual-Hatted Members of Area Boards**

### **Purpose of Report**

1. To invite the Committee to agree a policy on the granting of dispensations to dual-hatted members of area boards in relation to their consideration of applications by their parish, town or city councils ('parish councils') for grant or transfer of community assets.

### **Background**

2. At its meeting on 19 May 2010 the Committee considered a report reviewing the grant of dispensations to dual-hatted members of area boards under the Standards Committee (Further Provisions) (England) Regulations 2009.
3. Under the 2009 regulations a member with a prejudicial interest may apply to the Standards Committee for a dispensation to enable them to take part and vote on a matter without breaching the Code of Conduct. The regulations provide that a dispensation may be granted where the transaction of the Council's business would otherwise be impeded by, or as a result of, the Code of Conduct because:
  - a. more than 50% of the members who would be entitled to vote at a meeting are prohibited from voting; or
  - b. the number of members prohibited from voting at a meeting would upset the political balance of the meeting to such an extent as to prejudice the outcome of voting in that meeting;

Sub-paragraph b. above is not relevant to area boards as they are not politically balanced.

4. It is not legally possible to grant a blanket dispensation to all dual-hatted members of area boards. In accordance with Standards for England's guidance, applications must be made on an individual basis and considered on their own merits. Dispensations may only be granted if the legal criteria referred to in paragraph 14 above are met.
5. The regulations do not permit the grant of a dispensation for a period of more than 4 years.

6. At its meeting on 21 July 2010 the Committee expressed concern that there was inconsistency between different dispensation sub-committees as to the duration of dispensations granted to dual-hatted members of area boards. I was asked to look into the situation and report back to the next meeting with proposals for a policy that would, so far as possible, ensure consistency of approach in these cases.

### **Main Considerations for the Council**

7. Appendix 1 provides a summary of the numbers of dual-hatted members on each of the 18 area boards and gives details of the dispensations which have been granted to dual-hatted members to date.
8. Until May 2010 the practice of the Dispensation Sub-Committee was generally to grant dispensations to dual-hatted members for the remainder of their term as unitary councillors, to 30 April 2013, subject to any material change of circumstances. On 11 May 2010 the members of the Dispensation Sub-Committee for that occasion decided that a more limited approach was appropriate to enable the position to be reviewed by the Standards Committee in the light of developments in the functioning of area boards. The Sub-Committee also had reservations as to whether the regulations permitted the granting of a dispensation subject to any change of material circumstances and questioned the basis on which a dispensation once granted could be withdrawn subsequently. The Sub-Committee, therefore, granted the dispensations requested on that occasion for a period of about a year, until 30 April 2011. The Sub-Committee also proposed, and it was subsequently agreed, that the Standards Committee should review all dispensations granted on an annual basis.
9. On 17 June 2010, a differently constituted Dispensation Sub-Committee reverted to the original practice of granting dispensations for a longer term, until April 2013, as the members of the Sub-Committee were concerned that the granting of shorter periods of time would involve unnecessary and disproportionate administrative time and cost in bringing cases back for reconsideration.
10. On 19 August 2010 the Dispensation Sub-Committee followed the same approach and granted dispensations to run until the next election in May 2013, subject to there being no material change in the circumstances under which the dispensation was granted. It is relevant to note that that case involved Westbury dual-hatted members submitting a fresh application for a dispensation because the circumstances under which their dispensations were originally granted had changed.
11. In the interests of fairness and consistency of treatment it is desirable for the Standards Committee to agree a policy on the duration of a dispensation that will normally be applied in cases of this kind. Even where a policy is in place, the Dispensation Sub-Committee will be required to consider each case on its merits and may depart from the policy where exceptional circumstances warrant this.

12. On balance, I consider that the most suitable policy would be to grant such dispensations for a period until the end of the unitary councillor's term of office in May 2013, subject to any material change in the circumstances under which the dispensation is granted. This is on the understanding that each case will be considered on its facts and exceptions will be made in exceptional circumstances. This will provide certainty and consistency for councillors and avoid the unnecessary burden of re-applying. It will also avoid the extra administrative time and cost for the Council of reconsidering cases, except where there is a material change of circumstances.
13. I have considered the legality of making a dispensation subject to a material change of circumstances. In the absence of any case law determining the point I am of the view that this is permissible under the regulations. Further, it seems to me to be appropriate to review the grant of a dispensation when the circumstances under which it was granted no longer apply or have materially changed.
14. In order to provide further consistency the Committee may wish to consider having a fixed membership for the Dispensation Sub-Committee. The disadvantage of this, however, is that it is likely to be more difficult to arrange meetings within the timescales required under the Council's arrangements.
15. The Standards Committee will continue to monitor the grant of dispensations through the minutes of the Dispensation Sub-Committee and on an annual basis, as agreed previously.

### **Environmental Impact**

16. None.

### **Equalities Impact**

17. None

### **Financial Implications**

18. None.

### **Legal Implications**

19. The legal criteria for granting dispensations are contained in the Standards Committee (Further Provisions) (England) Regulations 2009 and are incorporated in the Standards Committee's procedure.

### **Proposal**

20. The Committee is, therefore, invited to agree a policy for the duration of dispensations granted to dual-hatted members of area boards as set out in paragraph 12 above, with effect from the date of this meeting.

**Ian Gibbons**  
**Monitoring Officer**

Report Author: Ian Gibbons

---

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

**Appendix 1**

**DUAL HATTED MEMBERS ON AREA BOARDS**

<b>Name of Area Board</b>	<b>No. of Dual Hatted Members</b>	<b>Dispensations Granted</b>
Amesbury	5 out of 6, but different town and parish councils	None
Bradford on Avon	1 out of 4 25%	None
Calne	3 out of 5 60%	Cllrs Hill, Marshall and Trotman granted dispensations for one specific grant application considered on 25 Sept 09
Chippenham	5 out of 10 50%	None
Corsham	3 out of 4, but different town and parish councils	None
Devizes	2 out of 7 29%	None
Malmesbury	1 out of 4 25%	None
Marlborough	2 out of 4 50%	None
Melksham	4 out of 6 67%	Cllr Eaton has been granted a dispensation to speak and vote on grant applications and transfer of community assets relating to Melksham Town Council to run until 30 April 2011.
Pewsey	0	None
Salisbury	2 out of 8 25%	None
South West Wiltshire	2 out of 8 20%	None
Southern Wiltshire	1 out of 5 20%	None
Trowbridge	7 out of 9 78%	Cllr Fuller has been granted a dispensation to speak and vote on any item of business relating to Trowbridge Town Council, which affects its financial position or concerns the determination of any approval, consent, licence, permission or registration in relation to the Town Council. This dispensation is effective until 30 April 2013 but is subject to

		<p>review in the event of any material change of circumstances. for 4 years.</p> <p>Cllrs Helen Osborne and Jeff Osborne have been granted a dispensation to speak and vote on grant applications and transfer of community assets relating to Trowbridge Town Council to run until 30 April 2011.</p>
Tidworth	3 out of 3 100%	None
Warminster	3 out of 5 60%	Cllrs P. Ridout, K. Humphries and A. Davis have been granted dispensations to speak and vote on any item of business of Warminster Area Board concerning the consideration of grant applications and community asset transfer requests by Warminster Town Council, such dispensations to be effective until 30 April 2013
Westbury	Originally 2 out of 4 50% but from August 3 out of 4, 75%	In November 2009 Cllrs R. Hawker and M. Cuthbert-Murray were granted a dispensation to enable them to participate and vote at meetings of Westbury Area Board on matters pertaining to grant applications from Westbury Town Council, but only where one of the remaining voting members of Westbury Area Board, who is not also a member of Westbury Town Council, was absent from the meeting. This was to apply until 30 April 2013, subject to review in the event of any material change of circumstances. In August fresh applications were

		submitted because another member of the Area Board became a member of Westbury Town Council giving a proportion of 75% meeting the required legal threshold. Dispensations were granted to speak and vote on matters pertaining to grant applications from Westbury Town Council and community asset transfers from Wiltshire Council to Westbury Town Council. These dispensations are to run until the next election in May 2013, subject to there being no material change in the circumstances under which the dispensation is granted.
Wootton Bassett and Cricklade	3 out of 6 50% (but for different town and parish councils)	None

This page is intentionally left blank



## COMMITTEE'S WORK PLAN

<u>Meeting Date and Time</u>	<u>Name of Report</u>	<u>Scope of Report</u>
Wednesday 13 October 2010	Review of the Constitution	
Wednesday 24 November 2010	Status Report on Complaints made under the Code of Conduct	
	Size and composition of the Standards Committee	
	Wiltshire Association of Local Councils (WALC) training and partnership working.	
Wednesday 12 January 2011	Status Report on Complaints made under the Code of Conduct	
Wednesday 9 March 2011	Standards Committee Plan 2010-2014	
	Status Report on Complaints made under the Code of Conduct	
May 2011 Date tbc	Annual report on dispensations granted.	

This page is intentionally left blank



## Introduction

This Bulletin comes at a time of big change for us following the Government's announcement of its intention 'to abolish the Standards Board regime'. Whilst we still await the detail of this policy, we will share with you what we know about what is proposed, and outline the timetable for our closure.

Although we have had to modify our work programme in light of this proposal, we remain 'open for business' and set out in this Bulletin our schedule of activities for the coming year. We are committed to continuing to work with you and support you in operating the standards framework successfully.

This is a sad month for us as we say goodbye to many valued staff leaving the organisation in our first wave of redundancies. We are losing people who have contributed much to this organisation, and many of whom have worked for us for some time. They will be much missed. We wish them all well in their future endeavours and thank them sincerely for their hard work.

## The Future of Standards for England and the Standards Framework

The Government's 'Programme for Government' of 20 May 2010 contained the commitment to "abolish the Standards Board regime". Primary legislation is needed to abolish Standards for England, and we expect the provisions to be included in the planned Decentralisation and Localism Bill which is due to be presented in late 2010, with Royal Assent anticipated between July and October 2011. This is likely to lead to final closure of this organisation sometime between 31 December 2011 and 31 March 2012. We have not seen any transitional provisions at this stage but will provide an update in a later Bulletin, when we know more.

In the light of these circumstances we have reviewed our business plan for this year and next. Our current priorities are to fulfil our statutory duties, to support local authorities in maintaining high standards and to assist the government in developing and implementing any new arrangements they may choose to put in place.

In the meantime, the local standards framework still exists and standards committees and monitoring officers have an obligation to keep the system operating.

### In order to assist you we will:

- Continue to provide advice and information to those who phone or write to us with queries about the standards regime via our enquiries helpline, monitoring officer helpline or press helpline. We will respond immediately where we can by telephone or in writing by post or email.
- Update our guidance on the framework to make it easier to use.

There will be changes to the content of the guidance where sections may be out of date, inaccurate or incorrect. We have received several suggestions from stakeholders and will incorporate these in the guidance where appropriate.

The format of the guidance is changing to make it easier to use and more helpful. It will highlight all statutory requirements and provide a link to the relevant legislation.

We are not proposing to produce any other new guidance products, unless a specific need is identified. All revised guidance will only be available via our website.

- Produce an updated case review.

As a result of a request from the Association of Council Secretaries and Solicitors, and to assist the standards community as a whole, we are updating the Case Review 2007 to reflect cases decided by the First Tier and Upper Tribunals since the Case Review was last updated in 2008.

- Continue to carry out investigations referred to us by standards committees.

See the article towards the end of this bulletin on the factors we take into account when deciding whether to accept cases for investigation

- Maintain existing relationships with key stakeholder organisations.

Standards for England will continue to provide support to those in the regulated and standards community who have requested our help with ethical issues.

- Meet requests for staff to give presentations or attend training events.

We will continue to provide staff and material for presentations and training events where we are requested to attend and where it fits in with our current business plan.

- Maintain our web site as a resource to support standards committees.

We will carry out routine maintenance of our website and the guidance we provide on it. We have published our Annual Report and Annual Accounts online but we will not be printing these publications.

## **An update on monitoring returns**

In June 2010 we sent out an email to all monitoring officers explaining that we had decided to postpone the return for the April to June quarter. As part of the review of the Business Plan we considered our requests for local authorities to complete quarterly monitoring. There will be no further requests for the submission of quarterly or annual returns. We do not anticipate re-establishing these procedures, unless a specific monitoring need arises in which we have to play a part.

The online questionnaires have been removed from our website and are now inaccessible. However, the information submitted by local authorities is available on request. If any authority wishes to obtain a copy we can provide them with pdf versions of any of the following:

- The standards committee composition details, correct as of the last date of monitoring (31 March 2010)
- Two years of case information, listed in chronological order by date received
- Annual Return 2008/09
- Annual Return 2009/10

Please email requests to [authorityreturns@standardsforengland.gov.uk](mailto:authorityreturns@standardsforengland.gov.uk)

Aggregated summary statistics of the quarterly return information are still available online at

<http://www.standardsforengland.gov.uk/CaseinformationReporting/Localstatistics/>

We will shortly be publishing an online report of the annual return information collected for 2009/10. This includes an introduction to the data, a key figures page, a summary of the findings and a full list of all the most common responses to each question.

## Acceptance of Complaints by SfE

We have reviewed the factors we take into account when assessing if we will accept cases in the public interest, referred to us by local standards committees, for investigation. We reviewed the factors to see whether they were still appropriate taking into account the Government's stated policy, its localist approach to regulation of local government and our reduced budget.

We concluded that both the underlying criterion of public interest and the relating factors are consistent with our statutory purpose and continue to be valid while the current standards framework remains in place. Therefore we have not made any changes to the factors or criterion. However, when considering whether to accept cases we will have to have regard to the resources we have available and take account of the relative importance of cases.

## Reappointment of Independent members

We have been asked if an authority has to follow our recommendation that independent members serve no more than two terms of four years after which new members should be recruited. Some authorities are concerned that, given the current uncertainty regarding the future of the standards regime, it may be preferable to retain those who have been trained and understand their role rather than to try to recruit and appoint new members. In light of the uncertain future of the standards framework we advise that, as long as the original appointment was carried out in accordance with all the correct legal requirements at the time (e.g. approved by full council, after being openly advertised and having assessed the suitability of all the applicants) an authority can extend that term for a further period. This can only be done during the term of office of an existing independent member and by approval from full council. Once the independent member's term has expired the full recruitment procedures must be followed again.

## Tell us how it should be done

The Standards Forum now has more than 1,100 users and over 200 posts on almost 70 different topics. The subjects of vexatious complaints, informing the subject member about a complaint and promoting ethical behaviour continue to be popular. More recently posts about subject members resigning before an election and discussions about the future of the standards regime have been generating interest.

If you have anything to say about these issues or if you want to share good practice, seek advice from your peers or simply draw attention to something you think might be relevant to others, do it on the Forum. To have your say, visit:

[www.standardsforengland.gov.uk/resources/TheStandardsForum/](http://www.standardsforengland.gov.uk/resources/TheStandardsForum/)

The Forum is open to members of standards committees, monitoring officers and other relevant council officers. If you are not currently registered for the Forum and would like to have access, please email: [forum@standardsforengland.gov.uk](mailto:forum@standardsforengland.gov.uk)