

AGENDA

Meeting: **STANDARDS COMMITTEE**
Place: **Council Chamber - Council Offices, Monkton Park,
Chippenham, SN15 1ER**
Date: **Wednesday 18 April 2012**
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

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

Membership:

Wiltshire Council Members

Cllr Nigel Carter, Cllr Ernie Clark, Cllr Peter Fuller, Cllr Julian Johnson, Cllr Howard Marshall 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 Stuart Middleton and Mr Gerry Robson OBE (Vice Chairman)

Part 1

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

1. **Apologies**

2. **Declarations of Interest**

To receive any declarations of personal or prejudicial interests.

3. **Chairman's announcements**

4. **Public Participation and Questions from Committee Members.**

The Council welcomes contributions from members of the public.

Statements

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

Questions

To receive any questions from members of the public or members of the Council received in accordance with the constitution. Those wishing to ask questions are required to give notice of any such questions in writing to the officer named on the front of the agenda no later than 5pm on 11 April 2012. Please contact the officer named on the front of this agenda for further advice. Questions may be asked without notice if the Chairman decides that the matter is urgent.

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

5. **New Standards Framework - Further Update** (*Pages 1 - 28*)

To consider the report of the Monitoring Officer

6. **Draft Standards Committee Annual Report 2011/12** (*Pages 29 - 40*)

To consider the committee's draft annual report

7. **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.

Part II

Item during whose consideration it is recommended that the public should be excluded because of the likelihood that exempt information would be disclosed

None

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Wiltshire Council

Standards Committee

18 April 2012

NEW STANDARDS FRAMEWORK

Purpose of Report

1. (1) To ask the Committee to approve the final version of the documents set out in the appendices to this report and to recommend these to the Council for approval on 15 May 2012.

- (2) To consider the template code of conduct produced by the LGA.

Background

2. At its last meeting on 7 March 2012 the Committee agreed to recommend Council as follows:
 - (1) To establish a standards committee in accordance with the terms of reference at appendix 1, subject to further revision by the Standards Task and Finish Group to reflect the Committee's wishes.
 - (2) To adopt the arrangements for dealing with code of conduct complaints as set out in appendices 2 and 3, subject to further revision by the Standards Task and Finish Group to reflect the Committee's wishes.
 - (3) To approve the job description and person specification for the independent person as set out in Appendix 4, subject to further revision by the Standards Task and Finish Group to reflect the Committee's wishes.
 - (4) To authorise the Monitoring Officer, in consultation with the chairman of the new standards committee and/or the Chairman of the existing Standards Committee, to take the necessary steps to secure the appointment of 2 independent persons and one reserve by the Council.
 - (5) To agree an appropriate rate of remuneration for the independent person, having regard to arrangements being made by other authorities and the advice of the Independent Remuneration Panel.
 - (6) Pending the issue of the regulations on interests and the emergence of any national template code of conduct, to use the existing code of conduct as the

basis for a new code of conduct, amended as necessary to meet the requirements of the new legislation.

- (7) To support parish, town and city councils in Wiltshire in preparing for the new standards framework and to consult them as far as possible on the proposed arrangements for Wiltshire Council.
3. Following the meeting of the Standards Committee on 7 March the Standards Task and Finish Group met on 13 March to review the draft documentation further in the light of the Committee's wishes. Revisions were made which were then considered by the Focus Group on the Review of the Constitution on 30 March. Further changes were agreed by the Focus Group.

MAIN ISSUES FOR CONSIDERATION

4. Revised versions of the draft documents reflecting these changes are attached for the Committee's approval as follows:
 - (1) Arrangements for dealing with Code of Conduct Complaints (including a revised flow-chart as Appendix A to the Arrangements) - Appendix 1
 - (2) Terms of reference for a new standards committee - Appendix 2
 - (3) Job description and person specification for the independent person - Appendix 3

Arrangements for dealing with Misconduct Complaints

5. Key points to note are as follows:
 - Paragraph 3.1 requires complaints to be submitted 'within 12 weeks of the date on which the complainant became aware of the matter giving rise to the complaint'.
 - The right of review is now included at paragraphs 4.7 and 4.8 (initial assessment stage) and paragraphs 6.5 and 6.6 (consideration of investigation report stage), with the relevant procedural requirements set out at paragraph 12.
 - The provisions on sanctions (at paragraph 9) have been moved to a separate Annex A, which sets out a suggested range of sanctions for the Council to consider. The Committee's view is that this is a matter for the Council to decide and is making no particular recommendation in this respect. This part has been re-ordered to set out the possible sanctions more clearly and in ascending order of seriousness. Provision for one or more of the sanctions to be imposed has been added.

The reference to the Court of Appeal decision in R v Broadland District Council ex parte Lashley as the basis for imposing measures to secure the efficient and effective discharge of the Council's functions has been revised to reflect the true ambit of this decision. This remains available as an option for the Hearing Sub-Committee to consider in the particular circumstances, subject to legal advice, but has been removed as a substantive sanction.

- The flow chart has been revised to reflect the changes and link it to the relevant paragraphs in the Arrangements.

Terms of Reference for New Standards Committee

6. Key points to note:

- Paragraph 3 sets out the arrangements for staggering the appointment of co-opted members to provide for continuity of knowledge and experience.
- Paragraph 10 has been added to make it clear that decisions of the sub-committees are made by a simple majority of the elected members present.

Appointment of Independent Persons

7. Key points to note:

- Previous references to equal opportunities have been updated to refer to the Council's Equality and Diversity Policy.
- A new section has been added setting out the statutory requirements on eligibility for appointment as an independent person.
- It is proposed that 3 independent persons are appointed to facilitate the allocation of two independent persons for each complaint, taking into account availability, conflicts of interest etc.
- A 4 year term of appointment is now proposed, with the staggering of initial appointments to provide for continuity of knowledge and experience.

Code of Conduct

8. We are still awaiting details of the rules on disclosable pecuniary interests. However, the Local Government Association (LGA) has today circulated a template code with the following covering note:

The LGA has worked with a range of stakeholder organisations to produce the template code that I am circulating to you today. This short outcome-focused code is accompanied by a one-page guidance note to highlight some of the conduct that is consistent with the code.

These documents are provided to assist authorities in thinking about how their new code of conduct should look and it remains the LGA's view that it is for each council's locally elected members to decide what the right code will look like in their area. I hope that these documents provide useful food for thought as you start those local discussions.

9. A copy of the template code and guidance is attached at Appendix 4. I have not had an opportunity to review this in detail before circulation of this report, but will prepare a supplementary report on the template code to assist the Committee's discussions at the meeting.

Updates to Parish Councils

10. Parish, town and city councils are being kept informed of progress on these matters, primarily through the Parish Newsletter. The latest update for April is attached at Appendix 5 for information.
11. I am also writing to parish, town and city clerks with an update on the Council's proposed arrangements.
12. It is proposed to hold briefing sessions for all councillors when we are in a position to put forward a draft code of conduct.

Recommendation

13. To ask the Committee:
 - (1) To approve the final version of the documents set out in appendices 1-3 of this report and to recommend these to the Council for approval on 15 May 2012.
 - (2) To consider the template code of conduct produced by the LGA, as attached at appendix 4, and to agree the next steps for preparing a code of conduct for adoption by Wiltshire Council.
 - (3) To note the steps being taken to update parish, town and city councillors on the new standards framework.

IAN GIBBONS

SOLICITOR TO THE COUNCIL AND MONITORING OFFICER

Report Author: Ian Gibbons

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Wiltshire Council

Arrangements for dealing with Code of Conduct Complaints under the Localism Act 2011

1 Context

- 1.1 These arrangements are made under Section 28 of the Localism Act 2011. They set out the process for dealing with a complaint that an elected or co-opted member of Wiltshire Council or of a parish, town or city council within its area has failed to comply with their Code of Conduct.
- 1.2 An overview of the complaints process is attached at Appendix A.
- 1.3 These arrangements are subject to the Council's Procedure for dealing with vexatious complaints.

2 Interpretation

- 2.1 'Member' means a member or a co-opted member of Wiltshire Council, or of a parish, town or city council within its area, against whom a complaint has been made under the Code of Conduct.
- 2.2 'Council' means Wiltshire Council.
- 2.3 'Investigating Officer' means the person appointed by the Monitoring Officer to undertake an investigation of an allegation of misconduct by a Member.
- 2.4 'The Monitoring Officer' is a senior officer of the authority who has statutory responsibility for maintaining the register of members' interests and who is responsible for administering the arrangements for dealing with complaints of member misconduct. It includes any officer nominated by the Monitoring Officer to act on his or her behalf in that capacity.
- 2.5 'Independent Person' means a person appointed under Section 28(7) of the Localism Act:
 - a. whose views must be sought and taken into account before a decision is made on an allegation of member misconduct under these arrangements;
 - b. who may be consulted by the Member about the complaint.

- 2.6 In order to avoid any conflict of interest two Independent Persons will be allocated to each complaint, one to advise and assist the Monitoring Officer and the Hearing Sub-Committee, and the other to be available for consultation by the Member.
- 2.7 'Parish Council' means a parish, town or city council within the area of Wiltshire Council.
- 2.8 'Code of Conduct' means the code of conduct for members which the Council and Parish Councils are required to adopt under Section 27 of the Localism Act 2011.
- 2.9 'Days' means working days.
- 2.10 'Parties' includes the Complainant, Member and the Investigating Officer.
- 2.11 The 'Hearing Sub-Committee' is a sub-committee of the Council's Standards Committee appointed to determine complaints of member misconduct under these arrangements.
- 2.12 The 'Review Sub-Committee' is a sub-committee of the Council's Standards Committee appointed to review a decision of the Monitoring Officer under sections 4 and 6 of these arrangements.
- 2.13 Where a complaint is made against a member of a Parish Council the Clerk to the Parish Council will be notified of the complaint and kept informed of the progress and outcome of the matter.

3 Making a Complaint

- 3.1 A complaint against a Member under the Code of Conduct must be made in writing on the Council's standard form (*available from the Council's web-site and offices*) and addressed to the Monitoring Officer [*address / e-mail*] within 12 weeks of the date on which the complainant became aware of the matter giving rise to the complaint.
- 3.2 The Monitoring Officer will acknowledge receipt of the complaint within 5 days of receiving it, and will send a copy to the Member.
- 3.3 The Member will be invited to submit a written response to the complaint within 10 days of the date on which it is sent to them.
- 3.4 The Member may seek advice and assistance in connection with the complaint from a friend or professional legal adviser, in confidence, and may at any time during the process consult the Independent Person designated for that purpose.

4. Initial Assessment

- 4.1 The Monitoring Officer will review the complaint within 5 days of receiving the Member's response and, after consultation with the Independent Person, will decide whether it merits formal investigation.
- 4.2 In reaching this decision the Monitoring Officer will have regard to the Standards Committee's assessment criteria.
- 4.3 The Monitoring Officer will inform the Parties of his or her decision and the reasons for it in writing.
- 4.4 The Monitoring Officer may seek to resolve the complaint informally, without the need for a formal investigation. This may involve mediation or other suitable action, including training or an apology by the Member.
- 4.5 Where the Member or the Council make a reasonable offer of local resolution, but the Complainant is not willing to accept that offer, the Monitoring Officer may take this into account in deciding whether the complaint merits formal investigation.
- 4.6 If the complaint identifies potential criminal conduct by any person, the Monitoring Officer may call in the Police or other regulatory agencies.
- 4.7 The Complainant or the Member may request a review of the Monitoring Officer's decision at the initial assessment stage.
- 4.8 A review will be determined by a Review Sub-Committee who may decide:
 - a. to take no further action on the complaint;
 - b. to refer the complaint to the Monitoring Officer for investigation or other suitable action, including mediation.

5 Investigation

- 5.1 If the Monitoring Officer decides that a complaint merits formal investigation, he/she will appoint an Investigating Officer within 2 days of the decision to investigate and inform the Parties of the appointment.
- 5.2 The Investigating Officer will investigate the complaint in accordance with guidelines produced by the Monitoring Officer and will send a copy of the investigation report to the Parties, in confidence, within 30 days of the notification of the Investigating Officer's appointment.
- 5.3 The Parties will be invited to submit any written comments on the report to the Monitoring Officer within 10 days of the date on which the report is sent to them.

6 Consideration of Investigating Officer's Report

- 6.1 The Monitoring Officer will, as soon as reasonably practicable, review the Investigating Officer's report and any comments submitted by the Parties, in consultation with the Independent Person.
- 6.2 Where the Investigating Officer concludes that there is no evidence of a failure to comply with the Code of Conduct and the Monitoring Officer is satisfied that the Investigating Officer's report is sufficient, the Monitoring Officer will, after consultation with the Independent Person, inform the Parties that no further action is required.
- 6.3 If the Monitoring Officer is not satisfied that the investigation has been conducted properly, he/she may ask the Investigating Officer to reconsider his/her report and findings.
- 6.4 Where the Investigating Officer concludes that there is evidence of a failure to comply with the Code of Conduct the Monitoring Officer will, after consulting the Independent Person, either refer the matter for hearing before the Hearing Sub-Committee or seek an alternative resolution.
- 6.5 The Complainant may request a review of a decision by the Monitoring Officer, following consideration of the Investigating Officer's report, to dismiss the complaint.
- 6.6 A review will be determined by the Review Sub-Committee who may decide:
 - a. to dismiss the complaint;
 - b. to refer the complaint for hearing by the Hearing Sub-Committee
 - c. To refer the complaint to the Monitoring Officer to seek alternative resolution.

7. Alternative Resolution

- 7.1 Where the Monitoring Officer, in consultation with the Independent Person, considers that the matter can reasonably be resolved without the need for a hearing, he/she will consult with the Parties to seek to agree a fair resolution which also helps to ensure higher standards of conduct for the future.
- 7.2 Alternative resolution may involve mediation and may include the Member accepting that their conduct was unacceptable and offering an apology, and/or other remedial action by the Council or the Parish Council as the case may be. If the Member complies with the suggested resolution, the Monitoring Officer will report the matter to the Standards Committee, and the relevant Parish Council where appropriate, for information, but will take no further action.

8. Hearing

- 8.1 If the Monitoring Officer, after consultation with the Independent Person, considers that alternative resolution is not appropriate or, after exploring the possibility, concludes that it is unlikely to be achieved he/she will refer the matter to the Hearing Sub-Committee to conduct a local hearing to determine the complaint.
- 8.2 The Hearing Sub-Committee, supported by the Monitoring Officer, will conduct a pre-hearing review to identify the issues, areas of agreement and disagreement, and to give directions for the efficient conduct of the hearing. This may either be conducted in writing or by a meeting with the Parties.
- 8.3 The Monitoring Officer will notify the Parties in writing of the directions for the hearing.
- 8.4 The Sub-Committee may exclude the press and public from the hearing where it appears likely that confidential or exempt information will be disclosed and the public interest in withholding the information outweighs the public interest in disclosing the information to the public.
- 8.5 At the hearing, the Investigating Officer will present their report, call such witnesses as they consider necessary and make representations to substantiate their conclusion that the Member has failed to comply with the Code of Conduct.
- 8.6 The Complainant will have the right to make a statement in support of their complaint.
- 8.7 The Members of the Hearing Sub-Committee and the Member may ask questions of the Investigating Officer and any witnesses called.
- 8.8 The Member will have an opportunity to give their evidence, to call witnesses and to make representations as to why they consider that they did not fail to comply with the Code of Conduct.
- 8.9 The Members of the Hearing Sub-Committee and the Investigating Officer will have the opportunity to ask questions of the Member and any witnesses called.
- 8.10 The Investigating Officer and the Member may each make a concluding statement.
- 8.11 The Members of the Hearing Sub-Committee will then withdraw, with the Independent Person, to consider the case, taking advice from the Independent Person and, where necessary, from the Monitoring Officer on law and procedure.
- 8.12 The Hearing Sub-Committee may conclude that the Member did not fail to comply with the Code of Conduct, and so dismiss the complaint.
- 8.13 If the Hearing Sub-Committee concludes that the Member did fail to comply with the Code of Conduct, the Chairman will inform the Parties of this finding and the Hearing Sub-Committee will then consider what action, if any, should

be taken as a result of the breach.

- 8.14 The Investigating Officer and the Member will be invited to make representations on the question of sanctions.
- 8.15 The Hearing Sub-Committee will, after consulting the Independent Person, determine what action, if any, to take (or recommend in the case of a parish councillor) in respect of the matter.

9. Sanctions

These are to be determined by the Council. A suggested range of sanctions is included at Annex 1.

In the case of parish, town and city councils these will be in the form of recommendations from the Hearing Sub-Committee.

10. Decision

- 10.1 At the end of the hearing, the Chairman will announce the decision of the Hearing Sub-Committee in summary form.
- 10.2 The Monitoring Officer will send the Parties, and where appropriate the relevant Parish Council, a formal decision notice, which will be published on the Council's web-site and made available for public inspection.

11. Revision of these arrangements

- 11.1 The Council may by resolution agree to amend these arrangements, and has delegated to the Monitoring Officer and the Hearing Sub-Committee the right to depart from these arrangements where they consider that it is expedient to do so in order to secure the effective and fair consideration of any matter.

12. Reviews

- 12.1 Any request for a review must be made in writing to the Monitoring Officer within 5 days of the date of his/her decision and must set out the grounds for the review.
- 12.2 A review request will be determined by the Review Sub-Committee, after consulting the Independent Person, within 14 days of receipt of the request.

13. Appeals

- 13.1 There is no right of appeal for the Complainant or the Member against a decision of the Hearing Sub-Committee.

Annex 1

Possible Sanctions

1. The Council has delegated to the Hearing Sub-Committee such of its powers to take action in respect of individual members of the Council as may be necessary to promote and maintain high standards of conduct. The Hearing Sub-Committee may therefore impose (or, in the case of a parish, town or city councillor, recommend) one or more of the following sanctions:

Removal from Committees, Sub-Committees, Cabinet and Outside Bodies

- 1.1 Recommend to the Member's Group Leader (or in the case of un-grouped members, recommend to Council or to Committees) that the Member is removed from any or all Committees or Sub-Committees of the Council;
- 1.2 Recommend to the Leader of the Council that the Member is removed from the Cabinet, or removed from particular portfolio responsibilities;
- 1.3 Remove the Member from all outside appointments to which he/she has been appointed or nominated by the Council.

Training

- 1.4 Instruct the Monitoring Officer to arrange training for the Member.

Report to Council

- 1.5 Report its findings to Council.

Publish

- 1.6 Publish its findings in respect of the Member's conduct in such manner as the Standards Committee determines appropriate;

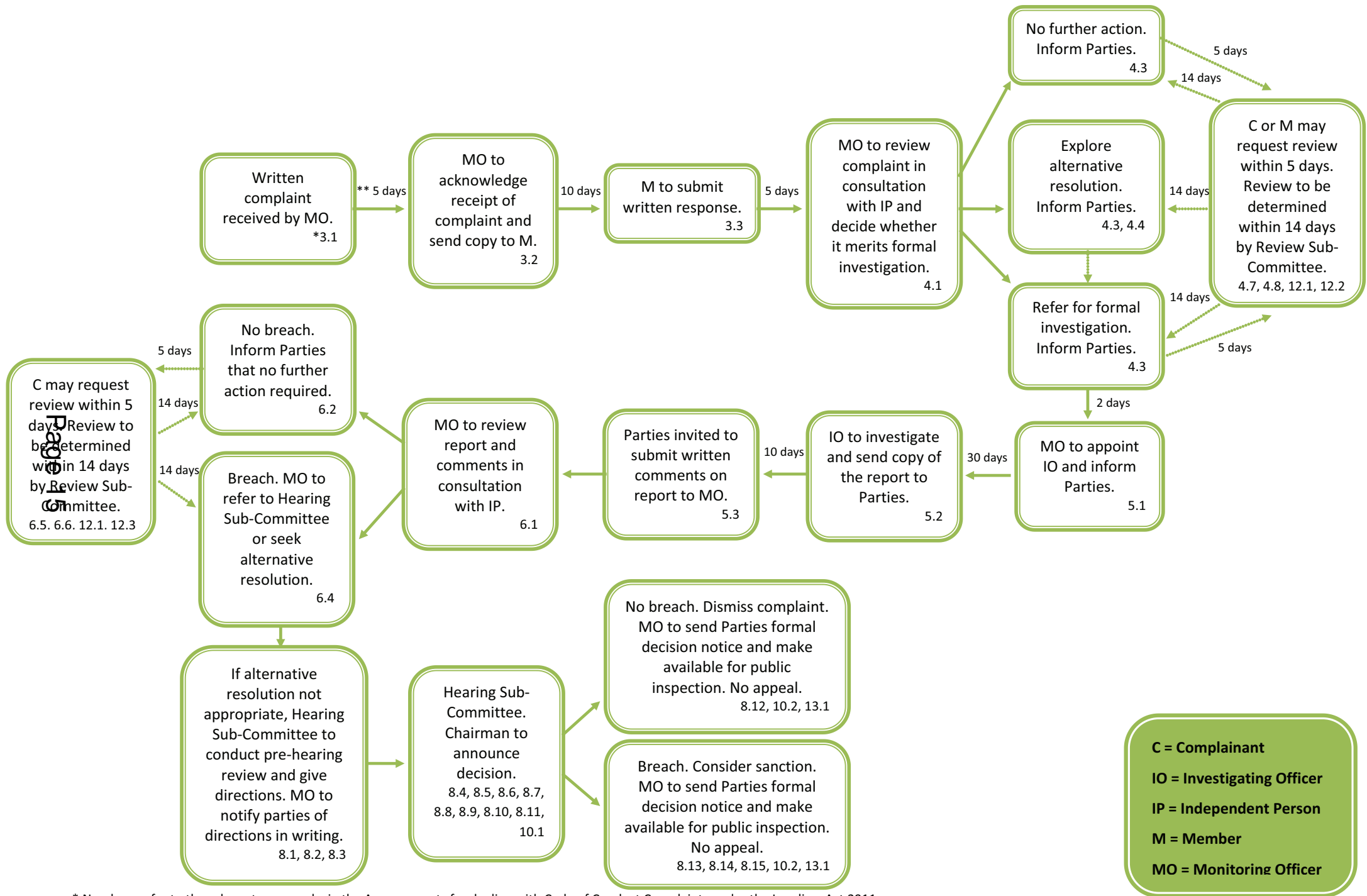
Note:

In the case of *R v Broadland District Council ex parte Lashley* the Court of Appeal recognised that it was within the Council's powers to take action that was calculated to facilitate and was conducive or incidental to, the council's functions (1) of maintaining its administration and internal workings in a state of efficiency and (2) of maintaining and furthering the welfare of its employees.

This may enable a Hearing Sub-Committee to impose restrictions on a member for the purpose of securing the efficient and effective discharge of the Council's functions. These might, for instance, include the withdrawal of certain facilities, such as a computer, e-mail and/or internet access, or exclusion from certain parts of the council's premises, provided that the measures do not interfere with the democratic process. However, this may not be used as a punitive measure nor, in particular, to justify the suspension or disqualification of a member.

Legal advice will need to be taken on the extent to which this potential option may be available in the particular circumstances of each case.

Appendix A – Arrangements for dealing with Code of Conduct Complaints under the Localism Act 2011 – Overview



C = Complainant
IO = Investigating Officer
IP = Independent Person
M = Member
MO = Monitoring Officer

* Numbers refer to the relevant paragraphs in the Arrangements for dealing with Code of Conduct Complaints under the Localism Act 2011

** Days refer to working days

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STANDARDS COMMITTEE
DRAFT TERMS OF REFERENCE

Composition

1. This Committee will comprise 13 elected councillors, other than the Leader or any other member of the Cabinet, and up to 8 co-opted non-voting members, 50% of whom shall be serving town, parish or city councillors from within the Council's area who are not councillors or officers of the Council.
2. Appointments to the Committee will be made annually by the Council having regard to the rules on political proportionality.
3. The term of office for co-opted non-voting members will normally be 4 years. However, in order to ensure continuity of knowledge and experience, initial appointments will be made as follows, to be determined by ballot if necessary:

2 town, parish or city council representatives	3 years
2 independent co-opted members	3 years
2 town, parish or city council representatives	4 years
2 independent co-opted members	4 years
4. Co-opted non-voting members will be eligible for re-appointment for a second term.
5. Substitutes will be permitted in accordance with Part 4 of the Constitution.

Role and Function

6. The Standards Committee is responsible for:
 - promoting and maintaining high standards of conduct by elected and co-opted members and officers.
 - assisting the elected and co-opted members to observe the members' code of conduct.
 - advising the Council on the adoption or revision of the members' code of conduct and the arrangements for dealing with member complaints of misconduct which the Council is required to make under Section 28 of the Localism Act 2011.
 - monitoring and advising the Council about the operation of its code of conduct in the light of best practice and any changes in the law.
 - advising, and, through the Member Development Group, arranging to train elected and co-opted members on matters relating to the members' code of conduct and ensuring that members are aware of the standards expected of them under the code

- granting dispensations to elected and co-opted members from requirements relating to interests.
 - overseeing the operation of the Council's arrangements for dealing with misconduct complaints against members and co-opted members of Wiltshire Council, and parish, town and city councillors in Wiltshire.
 - overview of the whistle blowing policy.
 - overview of corporate complaints handling and Ombudsman investigations.
 - reviewing the implementation of recommendations made by the Ombudsman.
 - oversight of the constitution.
7. The Standards Committee has the power to appoint such sub-committees as may from time to time be necessary for the efficient discharge of its functions. In particular, the Committee will appoint:
- a. a Hearing Sub-Committee to determine member misconduct complaints under the Council's arrangements.
 - b. a Review Sub-Committee to determine requests for review under the Council's arrangements.
 - c. A Dispensation Sub-Committee to determine requests for dispensation from the requirements relating to interests.
8. In each case the Sub-Committee shall comprise 3 elected members from whom a chairman will be elected. The Sub-Committee may include 2 non-voting co-opted members of the Standards Committee, one of whom shall be a parish, town or city council representative where the complaint concerns a parish, town or city councillor.
9. The above Sub-Committees are not subject to the requirements of political balance. The composition of any sub-committee will be determined by the Monitoring Officer in consultation with the Chairman of the Standards Committee on the basis of member availability, drawing from the membership of the Committee and their substitutes and seeking to ensure cross party representation as far as possible.
10. For the avoidance of doubt decisions of the Sub-Committees will be made by a simple majority of the elected members present.

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WILTSHIRE COUNCIL

JOB DESCRIPTION AND PERSON SPECIFICATION

INDEPENDENT PERSON APPOINTED UNDER SECTION 28(7) LOCALISM ACT 2012

Job Purpose

To undertake the statutory role of the Independent Person appointed under section 28(6) of the Localism Act 2011 and to assist the Council generally in discharging its duty to promote and maintain high standards of conduct by members and co-opted members of Wiltshire Council.

Contacts

- Elected and co-opted members of Wiltshire Council and of Parish, Town and City Councils in Wiltshire
- Wiltshire Council officers
- Members of the Public

Key tasks

- Advising and assisting Wiltshire Council in discharging its duty to promote and maintain high standards of conduct by elected and co-opted members of Wiltshire Council.
- Advising elected and co-opted members of Wiltshire Council and of Parish, Town and City Councils in Wiltshire in connection with complaints made against them under their Code of Conduct.
- Advising the Monitoring Officer in connection with the initial assessment of member misconduct complaints in accordance with the Council's arrangements made under section 28(6) of the Localism Act 2011.
- Advising the Hearing Sub-Committee in connection with the determination of member misconduct complaints in accordance with the Council's arrangements made under section 28(6) of the Localism Act 2011.

Person specification

- The post holder must have personal integrity and a commitment to equality and diversity.
- They must be fair and able to take an objective view of sometimes emotive situations.
- They must act with independence and tenacity, and demonstrate skills of persuasion and influence.
- They must be able to exercise sound judgement, and must be able to analyse and solve complex problems.
- They must be able to express their ideas and point of view effectively, while being an excellent listener.
- They must have excellent inter-personal skills.

Equality and Diversity

The Independent Person is obliged to demonstrate and promote a commitment to the Council's Equality and Diversity Policy.

Eligibility

Under section 28(8) and (10) Localism Act 2011 the following persons are not eligible for appointment as an independent person:

- current members, co-opted members and officers of Wiltshire Council or of any parish, town or city council within its area, or their relatives or close friends;
- any person who has at any time during the 5 years ending with the appointment been a member, co-opted member or officer of the council or any of the parish, town or city councils in its area;

For these purposes a person is a relative of another person if they are -

- a. the other person's spouse or civil partner;
- b. living with the other person as husband and wife or as if they were civil partners;

- c. a grandparent of the other person
- d. a lineal descendant of a grandparent of the other person;
- e. a parent, sibling, or child of a person within a. or b. above;
- f. the spouse or civil partner of a person within c., d. or e. above; or
- g. living with a person within c., d., or e. above as husband and wife or as if they were civil partners.

Term of Appointment

The Council plans to appoint 3 independent persons. These will normally be appointed for a period of 4 years. However, in order to ensure continuity of knowledge and experience the initial appointments will be staggered - one for 2 years, one for 3 years and the other for 4 years.

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Template Code of Conduct

As a member or co-opted member of *[X authority]* I have a responsibility to represent the community and work constructively with our staff and partner organisations to secure better social, economic and environmental outcomes for all.

In accordance with the Localism Act provisions, when acting in this capacity I am committed to behaving in a manner that is consistent with the following principles to achieve best value for our residents and maintain public confidence in this authority.

SELFLESSNESS: Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

INTEGRITY: Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

OBJECTIVITY: In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

ACCOUNTABILITY: Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

OPENNESS: Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

HONESTY: Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

LEADERSHIP: Holders of public office should promote and support these principles by leadership and example.

The Act further provides for registration and disclosure of interests and in *[X authority]* this will be done as follows: *[to be completed by individual authorities]*

As a Member of [X authority], my conduct will in particular address the statutory principles of the code of conduct by:

- Championing the needs of residents – the whole community and in a special way my constituents, including those who did not vote for me - and putting their interests first.
- Dealing with representations or enquiries from residents, members of our communities and visitors fairly, appropriately and impartially.
- Not allowing other pressures, including the financial interests of myself or others connected to me, to deter me from pursuing constituents' casework, the interests of the [county][borough][Authority's area] or the good governance of the authority in a proper manner.
- Exercising independent judgement and not compromising my position by placing myself under obligations to outside individuals or organisations who might seek to influence the way I perform my duties as a member/co-opted member of this authority.
- Listening to the interests of all parties, including relevant advice from statutory and other professional officers, taking all relevant information into consideration, remaining objective and making decisions on merit.
- Being accountable for my decisions and co-operating when scrutinised internally and externally, including by local residents.
- Contributing to making this authority's decision-making processes as open and transparent as possible to enable residents to understand the reasoning behind those decisions and to be informed when holding me and other members to account but restricting access to information when the wider public interest or the law requires it
- Behaving in accordance with all our legal obligations, alongside any requirements contained within this authority's policies, protocols and procedures, including on the use of the Authority's resources.
- Valuing my colleagues and staff and engaging with them in an appropriate manner and one that underpins the mutual respect between us that is essential to good local government.
- Always treating people with respect, including the organisations and public I engage with and those I work alongside.
- Providing leadership through behaving in accordance with these principles when championing the interests of the community with other organisations as well as within this authority.

New standards framework

The council is continuing to develop proposals for the new standards regime, which is due to be implemented from 1 July 2012. The latest position is summarised below.

Work has been undertaken in drafting some of the documentation that will underpin the new arrangements. These include:

1. Arrangements for dealing with Code of Conduct Complaints
2. Terms of reference for a new standards committee for Wiltshire Council
3. Job description and person specification for the independent person

The current draft documents are available to see on the town and parish council page of the Wiltshire [council website](#). The Standards Committee will consider these again on 18 April 2012 with a view to recommending them to Full Council for approval on 15 May 2012.

We are still awaiting details of the rules on disclosable pecuniary interests and, as yet, no agreement has been reached by the Local Government Association (LGA), National Association of Local Councils (NALC) and the Association of Council Secretaries and Solicitors (ACSeS) on the content of a recommended national model code of conduct. Consequently we have not been able to progress work on the draft code of conduct at this stage.

It is understood that progress is being made by the LGA on a model code and it is hoped that a draft will be available for review in the near future.

In the meantime the Standards Committee has agreed as a fall-back position to use the existing code of conduct as the basis for a new code of conduct, amended as necessary to meet the requirements of the new legislation.

It is proposed to issue further guidance, including briefing sessions for all councillors when we are in a position to put forward a draft code of conduct.

Please address any queries on the new standards regime to Ian Gibbons, Solicitor to the Council and Monitoring Officer on 01225 713052 or email ian.gibbons@wiltshire.gov.uk or Nina Wilton, Deputy Monitoring Officer on 01225 713078 or email nina.wilton@wiltshire.gov.uk

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Wiltshire Council
Standards Committee
Annual Report 2011/12

Foreword by the Chairman

Once again I am delighted to present the Wiltshire Council Standards Committee Report for 2011/2012. It explains who sits on the committee, what it does, its achievements over the last year and the issues it will face in the future. I am reassured that Wiltshire Council take seriously the need for good governance and high standards of behaviour and am confident this will continue to be the case in the future under the new arrangements coming into force as a result of the Localism Act 2012.

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

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

Discussion at all our meetings has always been open and constructive and I welcome any members of the public who wish to attend and contribute to our discussions. I would like to thank my fellow members and our officers for their hard work and valuable contributions both in committee and at the many other times when they support the committee's work. We have developed sound proposals for the new standards framework using our knowledge and experience of delivering the current local assessment process. This has not been easy for either the Committee or its officers due to the number of changes introduced to the proposed Act during its parliamentary stages and the current lack of regulations governing the new rules on interests and transitional arrangements. We have not yet completed our proposals on a new Code of Conduct as there are signs that there may be a national template code developed by the Local Government Association (LGA) which we should consider in any proposal we put to Wiltshire Council.

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

Isabel McCord
Independent Member and Chairman of the Wiltshire Council Standards Committee

Introduction

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

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

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

Members of Wiltshire Council Standards Committee



Independent co-opted members (eight)

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

Wiltshire Council members (six)

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

Town/parish council co-opted members (eight)

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

The Monitoring Officer

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

Meetings

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

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

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

How does local assessment work?

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

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

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

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

Complaints 2011/12

Number of complaints received

51 complaints were received between April 2011 and March 2012

The outcome of the complaints that were assessed was:

Action	Numbers
Investigated/under investigation	20
No investigation	28

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

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

Breakdown of Code of Conduct Complaints

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

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

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

Localism Act 2011

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

The committee has developed proposals for Council to consider on:

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

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

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

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

Local assessment

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

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

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

Review of Wiltshire Council's Constitution

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

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

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

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

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

Politically Restricted Posts – Applications for Exemption

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

Local Government Ombudsman

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

Standards Committee Plan

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

Acceptable Usage policy – for email, internet and computer use

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

Annual Governance Statement

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

Wiltshire Council Behaviours Framework

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

Wiltshire Council Website

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

Issues for 2012/13

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

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

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

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

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

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

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

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

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

[http://cms.wiltshire.gov.uk/standards committee](http://cms.wiltshire.gov.uk/standards_committee)

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

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