

AGENDA

Meeting: Standards Committee
Place: The Pratchett Room - County Hall, Trowbridge BA14 8JN
Date: Wednesday 24 October 2012
Time: 2.00 pm

Please direct any enquiries on this Agenda to Pam Denton, of Democratic Services, County Hall, Bythesea Road, Trowbridge, direct line 01225 718371 or email pam.denton@wiltshire.gov.uk

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

This Agenda and all the documents referred to within it are available on the Council's website at www.wiltshire.gov.uk

Membership:

Cllr Allison Bucknell	Cllr Jon Hubbard
Cllr Nigel Carter	Cllr Julian Johnson (Chairman)
Cllr Chris Caswill	Cllr Ian McLennan
Cllr Ernie Clark	Cllr Carole Soden
Cllr Brian Dalton	Cllr Roy While
Cllr Peter Fuller (Vice Chairman)	Cllr Christopher Williams
Cllr Howard Greenman	

Substitutes:

Cllr Rosemary Brown	Cllr Nick Fogg
Cllr Trevor Carbin	Cllr Francis Morland
Cllr Christopher Cochrane	Cllr Christopher Newbury
Cllr Mary Douglas	Cllr Ian West
Cllr Peter Doyle	

Part 1

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

1 **Apologies for Absence**

2 **Minutes** (*Pages 1 - 8*)

To confirm the minutes of the meeting held on 30 July 2012 (*copy attached*).

3 **Declarations of Interest**

To receive any declarations of pecuniary or non-pecuniary interests.

4 **Chairman's Announcements**

5 **Public Participation and Questions**

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 Wednesday 17 October 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.

6 **Appointment of non-voting co-opted members.**

To appoint the following as non-voting co-opted members of the committee:

Mr Philip Gill MBE JP
Mr Paul Neale
Mr John Scragg
Miss Pam Turner

- 7 **Implementation of New Standards Framework - Update** (*Pages 9 - 14*)
Report by the Monitoring Officer
- 8 **Procedure for dealing with Code of Conduct Complaints - Assessment Criteria** (*Pages 15 - 20*)
Report of the Monitoring Officer
- 9 **Commission for Local Administration in England and Wales (Local Government Ombudsman) - Annual Report** (*Pages 21 - 26*)
To consider the annual review letter of the Local Government Ombudsman (attached)
- 10 **Status report on complaints** (*Pages 27 - 28*)
Report by the Monitoring Officer for information
- 11 **Minutes of a Hearing sub-committee** (*Pages 29 - 50*)
To receive and note the minutes of a Hearing Sub-committee held on 3 and 4 October 2012.
- 12 **Forward Plan** (*Pages 51 - 52*)
- 13 **Urgent Items**

Part II

Item(s) during consideration of which it is recommended that the public should be excluded because of the likelihood that exempt information would be disclosed

None

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STANDARDS COMMITTEE

MINUTES of the STANDARDS COMMITTEE held at COUNCIL CHAMBER -
COUNCIL OFFICES, BRADLEY ROAD, TROWBRIDGE, BA14 0RD on Monday, 30
July 2012.

PRESENT:

Wiltshire Council Members

Cllr Julian Johnson (Chairman), Cllr Allison Bucknell, Cllr Chris Caswill,
Cllr Ernie Clark, Cllr Christopher Cochrane (Substitute), Cllr Jon Hubbard,
Cllr Julian Johnson (Chairman) and Cllr Ian McLennan

Co-opted Members

Yet to be appointed.

1 **Apologies for Absence**

Apologies for absence were received from the following Councillors Nigel
Carter, Brian Dalton, Peter Fuller, Carole Soden and Christopher Williams.

Cllr Peter Fuller was replaced by Cllr Christopher Cochrane for this meeting
only.

It was noted that the meeting was quorate.

2 **Minutes**

The minutes of the last meeting of the former Standards Committee held on 2
May 2010 were presented. The Committee noted that these minutes had been
presented to Council on 10 July 2012 and therefore did not require to be signed
off by this new Committee.

Resolved:

That the minutes be received and noted.

3 **Declarations of Interest**

No declarations of interests were made.

4 **Chairman's Announcements**

There were no announcements from the Chairman.

5 **Public Participation and Questions**

No requests for public participation at this meeting had been received.

6 **Co-opted Members - update**

The Chairman reminded the Committee that Council had at its last meeting on 10 July 2012, resolved to delegate to the Standards Committee the appointment of 4 non-voting co-opted members of the Committee.

The Chairman suggested that the Committee established a Selection Panel which could then make recommendations on the appointments to the next meeting for final decision by this Committee.

Resolved:

- (a) **That a Selection Panel be established to deal with the appointment of 4 non-voting co-opted members of the Standards Committee for recommendation to the next meeting of this Committee.**
- (b) **That the membership of the Selection Panel be agreed by the Monitoring Officer in consultation with the Chairman and include representatives from those political groups on the Council who wish to be involved in the process.**

7 **Appointment of Sub-Committees and Focus Group**

The Monitoring Officer presented a report which sought the Committee's approval to appoint the Hearing, Review and Dispensation Sub-Committees as allowed for in the Committee's terms of reference, details of which were presented. It was noted that the Sub-Committees would primarily comprise 3 elected members drawn from the Committee according to availability but be politically balanced.

The Committee was also asked to approve the appointment of a Focus Group on the Constitution. This would be along the lines of the Focus Group previously established by the former Standards Committee to carry out the detailed work to review and consider changes to the constitution. Details of the terms of reference and previous membership were presented.

Resolved:

- (a) To appoint the following Sub-Committees of the Standards Committee as provided for in the Committee's terms of reference:**
- **Hearing Sub-Committee**
 - **Review Sub-Committee**
 - **Dispensation Sub-Committee.**
- (b) To appoint the Focus Group on the Constitution with the same terms of reference as previously agreed and with the following membership:**
- **a member from each political group on the Council nominated by Group Leaders;**
 - **a member of the Overview and Scrutiny Management Committee;**
 - **a member of the Audit Committee;**
 - **two co-opted non-voting members of the Standards Committee (one of which to be a town/parish representative);**
 - **the Chairman of the Standards Committee and**
 - **that appropriate Councillors and Officers be invited to attend as and when requested by the Focus Group or its Chairman to assist in its work.**

8 Annual Governance Statement

The Monitoring Officer presented the draft Annual Governance Statement (AGS) for the period 2011/12 for the Committee's consideration and comment. The Monitoring Officer drew specific attention to the parts of the AGS which related to the work of the Standards Committee.

It was noted that the Council was required, as part of its annual review of the effectiveness of its governance arrangements, to produce an AGS. This would be signed by the Leader of the Council and the Corporate Directors after final approval by the Audit Committee on 7 September 2012 and would form part of the Council's Statement of Accounts. The Audit Committee's comments on the initial draft AGS it had considered on 20 June had been incorporated into the draft now presented. The draft AGS had also been supported by Cabinet when it considered it on 24 July 2012.

During discussion, the following comments and suggested changes to the AGS were made:

- Paragraphs 20 and 62 – to update the sections to refer to the implementation of the new standards framework.
- That the Protocol on Councillor/Officer Relations be reviewed to ensure consistency with the recently adopted Code of Conduct.
- Include reference to the Committee’s responsibility for the overview of corporate complaints handling and Ombudsman investigations.
- Paragraph 99 – under the heading of ‘safeguarding and looked after children services’ to correctly identify the scrutiny task group as the ‘Safeguarding Children and Young People’s Task Group’. Reference to the Improvement Board having met twice should be updated to have ‘met a number of times’

Resolved:

- (a) That the draft Annual Governance Statement be amended as detailed above.**
- (b) To note that the draft Annual Governance Statement would be revised in the light of any comments by Cabinet, this Committee and ongoing work by the Governance Assurance Group before final consideration by the Audit Committee on 7 September 2012 and publication by 30 September 2012.**

9 Code of Conduct Complaints - Status Report

The Monitoring Officer presented a report which updated the Committee on the number of Code of Conduct complaints awaiting assessment or determination.

It was noted that a number of complaints brought under the old Code of Conduct that were either under investigation, awaiting a hearing, or awaiting assessment when the new provisions came into force. Progressing these complaints had been delayed pending the coming into force of new Regulations to clarify what would happen with these complaints.

The relevant Regulations which had now been made, clarified that all existing cases not determined by 1 July 2012 must be dealt with using the Council’s new procedures for handling Code of Conduct complaints. However, the complaints would be assessed under the old Code of Conduct which was in force at the time and it was noted that the sanctions under the new procedures would apply.

The statistics given were as follows:

- 6 complaints – investigation completed and await a hearing
- 2 complaints – draft report stage

- 1 complaint – referred for investigation
- 9 complaints (new) – was awaiting implementation of new procedures and appointment and training of new Independent Persons.

Cllr Morland considered that any complaints being dealt with under the new procedures should be assessed against the new Code without any reference to the old Code.

Resolved:

That the report be noted.

10 **Frequency of Meetings**

The Monitoring Officer presented a report which asked the Committee to consider and agree the frequency of its committee meetings.

Resolved:

To agree the Standards Committee's timetable of meetings as follows:

2012
24 October

2013
9 January
10 April
10 July
9 October

11 **Forward Plan**

The Chairman invited the Committee to consider areas for inclusion in its future work programme. To assist the Committee, the Monitoring Officer presented a draft work programme as follows:

Implementation of new standards framework

- Review progress on implementation
- Provision of training for Councillors in Wiltshire on new requirements
- Consider and determine what further interests should be subject to registration and disclosure and whether to require withdrawal from meetings where there is a disclosable pecuniary interest
- Review local criteria for assessment of complaint

Review of Constitution

- Scheme of delegation

- Financial Regulations
- Planning Code of Good Practice for Wiltshire Council
- Changes arising from new legislation

Governance

- Annual Governance Statement
- Whistleblowing
- Review of complaints process
- Annual Ombudsman's report on complaints

Cllr Clark questioned the Committee's need of considering whether or not to require Councillors to withdraw from meetings as referred to in the 3rd bullet point above, given there was no longer a specific provision requiring such withdrawal.

Cllr Clark suggested that the Focus Group on the Constitution be asked to examine the Scheme of Delegation to the Strategic Planning Committee in so far as it enabled certain planning applications to be considered by that Committee rather than by the relevant Area Planning Committee. A discussion ensued on the possibility of drawing up a protocol on how Councillors could trigger a review of the constitution. It was suggested that this could be considered by the Committee in due course.

Cllr Morland referred to the Circular letter to local authority Leaders dated 28 June 2012 from Bob Neil MP, Local Government Minister on the introduction of the new standards and conduct arrangements. Cllr Morland drew the Committee's attention to an extract of the Circular which stated 'All councils now have the opportunity to make a clean break from the bureaucratic standards arrangements of the old regime....' Cllr Morland also noted that the Minister intended to publish a guide to members' pecuniary interests.

Resolved:

To note the draft presented which would form the basis of the Committee's future work programme.

12 **Urgent Items**

There were no urgent items.

(Duration of meeting: 2.30pm - 3.45 pm)

The Officer who has produced these minutes is Yamina Rhouati, of Democratic & Members' Services, direct line 01225 718024, e-mail yamina.rhouati@wiltshire.gov.uk

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

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Wiltshire Council

Standards Committee

24 October 2012

Subject: Implementation of New Standards Framework - Update

Purpose of Report

1. To provide members with an update on Wiltshire Council's implementation of the new standards framework.

Background

2. The Localism Act 2011 introduced a new standards framework which came into force on 1 July 2012. Wiltshire Council, as a principal authority, was required under the provisions of the new legislation to make a number of significant changes to its arrangements governing standards of member conduct. This report sets out the Council's progress in implementing the new arrangements.

Main Considerations for the Committee

Code of Conduct

3. The old statutory Code of Conduct for members was abolished by the Localism Act 2011 ("the Act"). Councils were required to adopt new Codes of Conduct with effect from 1 July 2011. These new Codes had to broadly reflect 7 principles of conduct in public life, which are set out in the Act: selflessness, integrity, objectivity, accountability, openness, honesty and leadership. Additionally, new Codes had to provide for the registration of members' interests, which were subject to certain new statutory requirements. Provided councils complied with these minimum statutory requirements, they were free to vary their Codes of Conduct to meet local needs and preferences.
4. At a meeting of Wiltshire Council on 26 June 2012 Wiltshire Council adopted a Code of Conduct which complies with the statutory requirements.

Membership of the Standards Committee

5. The Localism Act 2011 abolished the requirement for principal authorities to have a Standards Committee. However, principal authorities retained a responsibility to put in place arrangements under which allegations that

a member has breached their Code of Conduct can be investigated and determined. As a principal authority, Wiltshire Council's duty in this regard extends to allegations about the conduct of city, town and parish councils in its area, as well as to its own members. The Act also requires authorities to promote and maintain high standards of conduct by members and co-opted members of the authority.

6. Wiltshire Council has decided to discharge these responsibilities by adopting a Standards Committee. This is a committee of the Council and is subject to the rules of political balance. The Council has also determined that in order to provide a degree of continuity, it would appoint 4 of the co-opted members of the old Standards Committee to serve as co-opted members of the new Standards Committee for a period of one year.
7. The process for appointing co-opted members has now been completed, subject to confirmation by the Standards Committee on 24 October 2012.

Independent Persons

8. The Act requires principal authorities to appoint at least one independent person whose views are to be sought, and taken into account, by the authority before it makes its decision on an allegation that it has decided to investigate, and whose views may be sought by members who are the subject of an allegation and by the authority in circumstances other than when it is making a decision on an allegation it has decided to investigate.
9. Interviews for Independent Persons were conducted on 9 July 2012 and the appointment of 3 Independent Persons was approved by Council at their meeting on 10 July 2012. The Council has, therefore, complied with the statutory requirements for the appointment of Independent Persons.

New arrangements for the assessment of complaints

10. The council agreed a new procedure for dealing with member misconduct complaints on 26 June 2012. Since 10 July the Monitoring Officer has sought the views of an Independent Person in relation to 14 allegations that members have breached their local Code of Conduct. Members who were the subject of an allegation have sought the views of an Independent Member 6 times.

An Independent Member has given their views at one hearing to determine an allegation following investigation by the Monitoring Officer.

11. The new procedure for assessing complaints requires the Monitoring Officer to meet an Independent Person and consider the allegation. The old statutory procedure did not permit the subject member to receive a copy of the complaint nor to submit any response before the complaint

was assessed. Under the new local procedure adopted by Wiltshire Council a copy of the complaint is sent to the subject member who is then able to consult an Independent Person and to submit a response before the complaint is assessed. The Monitoring Officer considers this arrangement to be more satisfactory than the old statutory procedure. It provides a more balanced view of a complaint, allowing for a far more informed decision at an early stage. Early indications are that this will result in fewer complaints going forward for investigation than would have been the case under the old standards regime. Of the 14 complaints that have been assessed so far, only 1 has been put forward for investigation.

12. The Monitoring Officer and the Independent Persons who have given their views at the assessment stage have noted that complainants are not generally framing their complaints in relation to local Codes of Conduct. Since each council is free to adopt and vary their own Code and complainants are not providing a copy of the particular Code they believe the subject member has breached, there is a risk that the wrong criteria are being applied. So far this has not been a problem, but it could become an issue in the future.
13. It is too soon to assess the effectiveness of the new investigation procedures because the case that has been referred for investigation has not yet gone through the process.
14. Wiltshire Council's arrangements for the assessment and consideration of complaints are in place and operational. They meet the requirements of the Localism Act 2011.

Registration of Members' Interests

15. The Act requires the Monitoring Officer to establish and maintain a register of interests of members and co-opted members of the authority and of the city, town and parish councils within Wiltshire Council's area. He must secure that the register is available for inspection at a place in the authority's area at all reasonable hours, and that it is published on Wiltshire Council's website.
16. The interests that members are required to register are defined in The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012. Authorities may include in their Code of Conduct such other pecuniary and non-pecuniary interest as they consider appropriate.
17. These regulations were only made available to relevant authorities around 14 working days before they came into force, so the scope for consultation with city, town and parish councils on the arrangements for ensuring compliance with the new statutory requirements was very limited.
18. In view of the large number of city, town and parish councils in Wiltshire Council's area, officers concluded that the only way to collate and

publish the information required by the legislation within the available resources would be to collect the data on-line. Officers in the web-team had to create an application to carry out this collection activity. Opportunities for user acceptance testing and consultation after development were minimal because of the extremely tight deadlines resulting from the delayed publication of the regulations. However, the development work was completed 2 working days before the regulations came into force and each parish council was issued with a unique password and log-on ID – these were sent to parish clerks for transmission to their members. The Monitoring Officer also sent a letter to all the parish clerks outlining the requirements of the new legislation and explained the process for registering interests on line.

19. The response was variable. Around 50% of the city, town and parish council members managed to register their interests with no difficulty. About 30% had some difficulty initially because their passwords did not work – this was remedied relatively easily with a phone call, but did cause some understandable frustration for the users. A minority of councillors or councils complained to the Monitoring Officer about the statutory requirement for the information to be captured and published on-line. There was particular discomfort voiced about the statutory requirement for members' partners' interests to be registered. Initially the web form required the name of the partner to be declared – however, the inclusion of partners' names on the register is not a statutory requirement and has now been removed.
20. Several councils said that they wished their members to be able to register a greater range of interests than those required in the new regulations. This is currently provided for by the inclusion of a free-text box on the web form where additional interests can be added.
21. At its meeting on 26 June 2012 the Council resolved to ask the Standards Committee to develop proposals, in consultation with parish, town and city councils, on any additional pecuniary and non-pecuniary interests that should be declared and registered under the Code of Conduct, and on the question of withdrawal from meetings, and to bring these back to Council for consideration at the earliest opportunity.
22. Examples of the type of interests that could be subject to registration as an additional requirement under the Code of Conduct might include:
 - any body of which the councillor is a member or in a position of general control or management and to which the councillor is appointed or nominated by their authority;
 - any body exercising functions of a public nature of which the councillor is a member or in a position of general control or management;
 - any body directed to charitable purposes of which the councillor is a member or in a position of general control or management;
 - any body one of whose principal purposes includes the influence of public opinion or policy (including any political party

or trade union) of which the councillor is a member or in a position of general control or management;

23. The Council may take the view that it would be appropriate to require councillors to register these interests in order to promote transparency, but that having declared them they may then speak and vote on matters relating to those interests, unless there are other special circumstances where this would not be appropriate.
24. It would be helpful, for the purposes of the assessment and determination of allegations of breach, if the majority of the councils in Wiltshire Council's area were to have similar requirements in terms of any additional interests they require their members to register, although that would, of course, not be compulsory. It is therefore proposed to consult parish, town and city councils from November / December of this year with a view to the results of the consultation and any proposals for amendments to Wiltshire Council's Code of Conduct being brought to the Standards Committee and then to full Council in the spring of 2013 in time for implementation ahead of the elections in May 2013.
25. Wiltshire Council's arrangements for the registration and publication of members' interests are in place and comply with the statutory requirements of the Localism Act and the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012.

Conclusion

26. The Council has put in place a framework and procedures that meet the requirements of the Localism Act 2011 and associated regulations. Monitoring of the effectiveness of these arrangements will allow it to make any adjustments to improve their operational efficiency.

Recommendation

27. Members are asked to note the report, to consider what additional interests may be required to be registered under the Code of Conduct, and to determine the arrangements for consultation with parish, town and city councils on this aspect.

Ian Gibbons
Director of Law & Governance and Monitoring Officer

Report Author:

Nina Wilton, Deputy Monitoring Officer and Head of Governance 01225 713078

Date of report: 11 October 2012

Background Papers

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

Wiltshire Council

Standards Committee

24 October 2012

Procedure for dealing with Code of Conduct Complaints - Assessment Criteria

Purpose of Report

1. To seek the Committee's approval of assessment criteria for the assessment of complaints under the Council's procedure for dealing with Code of Conduct complaints against councillors in Wiltshire.

Background

2. The Council's arrangements for dealing with Code of Conduct complaints under the new standards regime was adopted by the Council on 26 June 2012 and came into effect on 1 July 2012.
3. Paragraph 4 of the procedure deals with the initial assessment of complaints and the review of an assessment decision made by the Monitoring Officer.
4. Paragraph 4.2 provides that in reaching a decision on whether a complaint merits formal investigation the Monitoring Officer will have regard to the Standards Committee's assessment criteria. It is intended that the Review Sub-Committee will apply the same criteria in reviewing an assessment decision.

Main Considerations for the Committee

5. Draft assessment criteria are attached at appendix 1 for consideration by the Committee. These are similar to the assessment criteria used under the former standards regime which proved to be effective in ensuring that assessment decisions were made on a consistent basis. They have been adapted to reflect the new complaints procedure.
6. The draft criteria have been discussed with the three independent persons appointed by the Council, members who attended the training session on review meetings and hearings on 24 September, and with the Members Support in the Locality Task Group on 15 October and their comments have been taken into account.

7. Subject to approval, it is proposed that the assessment criteria will be published on the Council's web site so that complainants and subject members are aware of the basis on which complaints will be initially assessed.

Recommendation

8. The Committee is, therefore, asked to approve the assessment criteria as set out in appendix 1.

Ian Gibbons
Director of Law & Governance and Monitoring Officer

Report Author: Ian Gibbons

Date of report: 15 October 2012

Background Papers

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

Appendix 1

DRAFT

STANDARDS COMPLAINTS ASSESSMENT CRITERIA

The Monitoring Officer will adopt the approach and apply the criteria set out below in the assessment of complaints under locally adopted Codes of Conduct for Members.

The Review Committee will use the same approach and criteria.

Relevance

1. It is likely that complaints will be received which do not relate to local codes of conduct for members. These might include complaints relating to the provision of services by local councils; matters relating to the local council as a corporate body; or matters which should be dealt with under a council's complaints procedure. They may be matters relating to council employees, other authorities or matters relating to a member's private life which do not fall within the remit of the Standards Committee. The Monitoring Officer will advise the complainant in such matters that they cannot proceed under local codes of conduct, but that the complainant should contact the clerk or chairman of the relevant council in order to bring a complaint under the appropriate complaints procedure.

Alternative resolution

2. Investigations are costly and time consuming. The Monitoring Officer will consider first of all whether an alternative means of resolving the complaint would be appropriate.

Initial Tests

3. Before the assessment of a complaint begins, the Monitoring Officer should be satisfied that:
 - a) The complaint is about the conduct of a member of a council within the area of Wiltshire Council;
 - b) That the member was a member at the time of the incident giving rise to the complaint;
 - c) That the member remains a member of the relevant council at the time of the complaint;

- d) That the complainant has provided a copy of the Code of Conduct of the relevant council;
- e) That the matters giving rise to the complaint would, if proven, be capable of breaching that Code.

If the complaint fails one or more of these tests it cannot be investigated and no further action will be taken.

Sufficiency of information

- 4. The complainant must provide sufficient information to enable the subject member and those responsible for assessing the complaint to understand the substance of the complaint. If insufficient information is provided, the Monitoring Officer will not normally proceed with assessment of the complaint.

If the complaint meets the criteria set out in 3. a-e above, and the complainant has provided sufficient information to enable the issues complained of to be understood, the Monitoring Officer will send a copy of the complaint to the subject member and ask for the subject member's comments. When these have been received, the Monitoring Person will assess the complaint, after consulting the Independent Person.

Seriousness of the Complaint

- 5. A complaint will not be referred for investigation if, on the available information, it appears to the Monitoring Officer (or Review Sub-Committee) to be trivial, vexatious, malicious, politically motivated or 'tit for tat'.

A complaint will not normally be referred for investigation if the subject member has offered an apology, a reasonable explanation of the issues, or if the Monitoring Officer takes the view that the complaint can reasonably be addressed by other means.

Bearing in mind the public interest in the efficient use of resources, referral for investigation is generally reserved for serious complaints where alternative options for resolution are not considered by the Monitoring Officer to be appropriate.

Length of Time Elapsed

- 6. A complaint will not be referred for investigation when it is made more than 20 working days from the date upon which the complainant became aware of the matter giving rise to the complaint.

Anonymous Complaints

Anonymous complaints will not be considered unless the Monitoring Officer is satisfied that there would otherwise be a serious risk to the complainant's personal

safety, in which case the Monitoring Officer will decide how the complaint should be taken forward.

Multiple Complaints

7. A single event may give rise to similar complaints from a number of complainants. Where possible these complaints will be considered by the Monitoring Officer at the same time. Each complaint will, however, be considered separately. If an investigation is deemed to be appropriate the Monitoring Officer may determine that, in the interests of efficiency, only one complaint should go forward for investigation, with the other complainants being treated as potential witnesses in that investigation.

Confidentiality

8. All information regarding the complaint will remain confidential until determined otherwise by the Monitoring Officer or Hearing Sub-Committee.

Withdrawing Complaints

9. A complainant may ask to withdraw their complaint before it has been assessed. In deciding whether to agree the request the Monitoring Officer will consider:
 - (a) the complainant's reasons for withdrawal;
 - (b) whether the public interest in taking some action on the complaint outweighs the complainant's wish to withdraw it;
 - (c) whether action, such as an investigation, may be taken without the complainant's participation.

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Wiltshire Council

Standards Committee

24 October 2012

Subject: Commission for Local Administration in England and Wales (Local Government Ombudsman) – Annual Report

Purpose of Report

1. To provide the Standards Committee with a copy of the Ombudsman's Annual Report for Wiltshire Council.

Background

2. The Local Government Ombudsman issues an annual report for each local authority within her jurisdiction. The handling of complaints to the Ombudsman falls within the council's wider arrangements for complaints management, oversight of which is the constitutional responsibility of the Standards Committee.
3. Operational responsibility for responding to complaints made to the Local Government Ombudsman lies with the Governance Service.
4. The 2011/12 Annual Report for Wiltshire Council is attached at Appendix One.

Main Considerations for the Committee

5. In her covering letter accompanying her Annual Report the Ombudsman says: "I am pleased to say that I have no concerns about your authority's response times and there are no issues arising from the complaints that I want to bring to your attention". This opinion is welcome, but officers are not complacent about the position regarding complaints handling.
6. In May 2012 a restructure of the council's complaints management arrangements was completed. The restructure was conducted in order to reduce the direct costs of the complaints handling function and to introduce operational efficiencies. The service was centralised in the Governance Service in a newly constituted complaints response team.
7. The anticipated savings have been achieved as a result of the restructure. Recruitment to the posts within the structure has now been completed,

and work is beginning to design and embed new working practices across the organisation.

8. As with any change of this nature, it will take time to realise the benefits of the new structure and processes for complaints management. However, the intention is that the changes, once they have been implemented and embedded, will deliver increased oversight of complaints across the council, better quality responses to complaints, and improved accountability.

Proposal

4. Members of the Standards Committee are asked to note this report.

Ian Gibbons
Monitoring Officer, Director of Law & Governance

Report Author:

Nina Wilton, Deputy Monitoring Officer and Head of Governance 01225 713078

Date of report: 12 October 2012

Background Papers

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

22 June 2012

By email

Mr A Kerr
Chief Executive
Wiltshire Council

Dear Mr Kerr

Annual Review Letter

I am writing with our annual summary of statistics on the complaints made to me about your authority for the year ended 31 March 2012. I hope the information set out in the enclosed tables will be useful to you.

The statistics include the number of enquiries and complaints received by our Advice Team, the number forwarded by the Advice Team to my office, and decisions made on complaints about your authority. The decision descriptions have been changed to more closely follow the wording in our legislation and to give greater precision. Our guidance on statistics provides further explanation ([see our website](#)).

The statistics also show the time taken by your authority to respond to written enquiries.

I am pleased to say that I have no concerns about your authority's response times and there are no issues arising from the complaints that I want to bring to your attention.

Changes to our role

I am also pleased to have this opportunity to update you on changes to our role. Since April 2010 we have been exercising jurisdiction over the internal management of schools on a pilot basis in 14 local authority areas. This was repealed in the Education Act 2011 and the power restored to the Secretary of State for Education. During the short period of the pilot we believe we have had a positive impact on the way in which schools handle complaints. This was endorsed by independent research commissioned by the Department for Education which is available [on their website](#).

Our jurisdiction will end in July 2012 and all complaints about internal school matters will be completed by 31 January 2013.

From April 2013, as a result of the Localism Act 2011, local authority tenants will take complaints about their landlord to the Independent Housing Ombudsman (IHO). We are working with the IHO to ensure a smooth transition that will include information for local authority officers and members.

Supporting good local public administration

We launched a new series of Focus reports during 2011/12 to develop our role in supporting good local public administration and service improvement. They draw on the learning arising from our

casework in specific service areas. Subjects have included school admissions, children out of school, homelessness and use of bankruptcy powers. The reports describe good practice and highlight what can go wrong and the injustice caused. They also make recommendations on priority areas for improvement.

We were pleased that a survey of local government revenue officers provided positive feedback on the bankruptcy focus report. Some 85% said they found it useful.

In July 2011, we also published a report with the Centre for Public Scrutiny about how complaints can feed into local authority scrutiny and business planning arrangements.

We support local complaint resolution as the most speedy route to remedy. Our training programme on effective complaint handling is an important part of our work in this area. In 2011/12 we delivered 76 courses to councils, reaching 1,230 individual learners.

We have developed our course evaluation to measure the impact of our training more effectively. It has shown that 87% of learners gained new skills and knowledge to help them improve complaint-handling practice, 83% made changes to complaint-handling practice after training, and 73% said the improvements they made resulted in greater efficiency.

Further details of publications and training opportunities are on [our website](#).

Publishing decisions

Following consultation with councils, we are planning to launch an open publication scheme during the next year where we will be publishing on our website the final decision statements on all complaints. Making more information publicly available will increase our openness and transparency, and enhance our accountability.

Our aim is to provide a comprehensive picture of complaint decisions and reasons for councils and the public. This will help inform citizens about local services and create a new source of information on maladministration, service failure and injustice.

We will publish a copy of this annual review with those of all other English local authorities on our website on 12 July 2012. This will be the same day as publication of our Annual Report 2011/12 where you will find further information about our work.

We always welcome feedback from councils and would be pleased to receive your views. If it would be helpful, I should be pleased to arrange a meeting for myself or a senior manager to discuss our work in more detail.

Yours sincerely

A handwritten signature in black ink, appearing to read 'J Martin', with a horizontal line underneath.

Dr Jane Martin
Local Government Ombudsman

LGO advice team

Enquiries and complaints received	Adult Care Services	Benefits & Tax	Corporate & Other Services	Education & Childrens Services	Environmental Services & Public Protection & Regulation	Highways & Transport	Housing	Planning & Development	Total
Advice given	3	1	2	6	1	0	1	4	18
Premature complaints	8	1	0	4	3	3	3	3	25
Forwarded to Investigative team (resubmitted)	1	0	1	1	4	1	0	5	13
Forwarded to Investigative team (new)	5	0	4	8	2	4	3	12	38
Total	17	2	7	19	10	8	7	24	94

Investigative team - Decisions

Not investigated			Investigated			Report	Total
No power to investigate	No reason to use exceptional power to investigate	Investigation not justified & Other	Not enough evidence of fault	No or minor injustice & Other	Injustice remedied during enquiries		
2	7	5	28	9	7	0	58

	No of first enquiries	Avg no of days to respond
Response times to first enquiries	21	38.9

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Code of Conduct Complaints - Status Report

Complaints received and progressed under new arrangements

2012	Cases received	Cases open (cumulative)	Assessed investigation	Assessed no investigation	Assessed alternative resolution	Pending assessment	Cases closed	Appeals received
May	3	3	0	3	0	0	0	0
June	3	6	1	2	0	0	0	0
July	5	11	0	3	0	2	0	0
August	3	14	0	3	0	0	0	0
September 27	0	8	0	0	0	0	6	3 2 from complainants against decision not to investigate. 1 from subject member appealing decision to investigate. None upheld.
October	3	11	0	0	0	3	0	0
Totals	17	n/a	1	11	0	5	6	3

Investigations open at 1 July 2012 - being dealt with under new arrangements

Case reference	Date of Assessment hearing	Progress	Estimated date of final report
WC 39/11	13/07/11	Standards Determination Sub-Committee 4/10/12 – breach found	N/A
WC 47/11	09/08/11	Determination Sub-Committee being rearranged	N/A
WC 48/11	09/08/11	Determination Sub-Committee being rearranged	N/A
WC 49/11	09/08/11	Determination Sub-Committee being rearranged	N/A
WC 53/11	09/08/11	Determination Sub-Committee being rearranged	N/A
WC 58/11	07/11/11	Determination Sub-Committee being arranged	N/A
WC 03/12	23/02/12	Awaiting subject member's comments on draft report	October 2012
WC 06/12	17/04/12	Final report considered by MO & IP 5/10/12	N/A
WC 08/12	29/05/12	Subject member's comments on draft report received 14/10/12.	October 2012

Complaints referred for investigation since 1 July 2012

Case reference	Date of Assessment	Progress	Estimated date of final report
WC 14/12	05/09/12	Review requested by subject member. Review sub-committee 8/10/12 – assessment decision upheld and investigation commenced	Early November 2012

STANDARDS HEARING SUB-COMMITTEE

MINUTES of the STANDARDS HEARING SUB-COMMITTEE held at COUNCIL CHAMBER - COUNCIL OFFICES, MONKTON PARK, CHIPPENHAM, SN15 1ER on Wednesday, 3 October 2012.

Present:

Cllr Chris Caswill, Cllr Julian Johnson and Cllr Roy White

Also present:

Caroline Baynes – Independent Person

Mr Ian Gibbons – Monitoring Officer

Mr Frank Cain – representing the Investigating Officer
Mrs Marie Lindsay – Investigating Officer

Cllr Christopher Humphries – subject member
Mr Peter Keith-Lucas – representing subject member

Ms Julie Densham – complainant
Ms Tanya Palmer – Ms Densham’s Union Representative
Mr Lance Harris – representing the complainant

Mr Martin Cook – witness
Cllr Jemima Milton - witness
Mr Dave Roberts – witness

[Mr Colin Malcolm was available as the Independent Person for Councillor Humphries to consult if he wished]

1 **Election of Chairman**

Nominations for a Chairman of the Standards Hearing Sub-Committee were sought, and it was,

Resolved:

To elect Councillor Julian Johnson as Chairman for this meeting only.

2 **Chairman's Welcome, Introduction and Announcements**

The Chairman welcomed everyone to the meeting and introduced the sub-committee members and others present at the meeting.

3 **Declarations of Interest**

Councillor Caswill advised the sub-committee that he serves on the Police Authority with Councillor Humphries.

Councillors Johnson and While advised that they are members of the Conservative Group alongside Councillor Humphries.

The sub-committee were satisfied in each case that this did not affect their ability to hear the case fairly and impartially.

4 **Exclusion of the Press and Public**

Each party having confirmed that they had no objection to the matter being heard in public, the sub-committee agreed that in the interests of transparency the matter should be heard in public.

Following submissions from the subject member's solicitor the sub-committee were provided with an unredacted copy of the agenda papers in case it became necessary to refer to these during the hearing, in which event consideration would be given to dealing with that part in closed session.

5 **Standards Committee Hearing Complaint regarding the alleged conduct of Councillor Christopher Humphries of Wiltshire Council**

As the parties had previously been advised, the first part of the meeting was set aside to deal with preliminary procedural issues.

Mr Keith-Lucas submitted that he and the subject member had received late notification on the previous day that the complainant would be a party to the proceedings and would be legally represented by counsel. He objected strongly on both points on the grounds that this was unfair to Cllr Humphries and a gross breach of natural justice as he would be facing challenge on two fronts - by the council and by the complainant. He submitted further that if the sub-committee decided to proceed on that basis he and Cllr Humphries would withdraw and take no further part in the proceedings.

After hearing representations from Mr Cain and Mr Harris the sub-committee left the meeting at 10.30am to consider these matters.

The sub-committee returned to the meeting at 11.10am and the Chairman announced the sub-committee's decision as follows:

1. The sub-committee is a sub-committee of the Council and as such were following the procedure adopted by the Council on 26 June 2012, which came into effect on 1 July 2012. The sub-committee were satisfied that the procedure was fair and lawful.
2. In that procedure, at paragraph 2.10, the complainant is included as a party and the procedure sets out their right of participation. This procedure had been available to the subject member since its adoption.
3. No decision had been made on the question of legal representation for Ms Densham in advance of the hearing, but it was made clear in an e-mail to Mr Keith-Lucas and his client on 2 October that it would be considered as a preliminary issue at the hearing.
4. The complainant was entitled to legal representation to ensure fairness, bearing in mind the other parties were legally represented.
5. The sub-committee had examined the e-mail correspondence referred to by Mr Keith-Lucas and could find nothing to contradict the conclusion reached by the sub-committee. .

At this point Mr Keith-Lucas reiterated that he and his client would take no further part in the proceedings. They were invited to reconsider their position but did not wish to do so. They were also given the opportunity to address the sub-committee on how the hearing should proceed in their absence.

At 11.15am the sub-committee withdrew to consider the position reached.

During this recess informal discussions took place between all three parties' legal representatives and the Monitoring Officer about how the hearing should proceed in the absence of the subject member. Mr Keith-Lucas indicated that he would still expect the sub-committee to consider the three preliminary points that had been raised in Cllr Humphries e-mail dated 24 May 2012. He was given the opportunity to make oral or written submissions to the sub-committee on the future conduct of the hearing but declined to take this up and then left with Cllr Humphries.

The sub-committee were advised of the position. They consulted the Independent Person, Caroline Baynes, who confirmed her view that it was reasonable in the circumstances to proceed with the hearing in the absence of the subject member.

The sub-committee, therefore, determined that the hearing should proceed in the absence of Cllr Humphries and his legal representative, and that it should first of all deal with the three preliminary points that had been raised.

The meeting resumed at 12.15pm.

The Monitoring Officer summarised the position reached, as set out above, for the record.

The Chairman then read out the three issues raised in the e-mail dated 24 May 2012 from Cllr Humphries and the sub-committee then heard submissions from Mr Cain and Mr Harris on behalf of the investigating officer and complainant respectively on these issues.

After hearing these submissions the Chairman advised the meeting that the sub-committee would withdraw to consider the preliminary issues and would announce their decision on them when the meeting resumed at 9.30am the following day.

Before withdrawing, the sub-committee considered an earlier request from Mr Keith-Lucas that Mr Steve Milton, should attend as a witness to give evidence. After hearing representations on this point the sub-committee decided that his written statement in the agenda was sufficient for their purposes and that it was not necessary for Mr Milton to attend the following day.

Meeting closed at 12.45pm

The meeting resumed at 9.30am on Thursday 4 October 2012. Cllr Humphries and his legal adviser were not present.

The Chairman opened the meeting by announcing the decision arrived at by the sub-committee regarding the points raised in the e-mail of 24 May 2012.

Having taken into account Cllr Humphries' submissions in support of those points, as set out in the e-mail, the oral submissions made by Mr Cain on behalf of the Investigating Officer and Mr Lance Harris on behalf of the complainant, and on advice from the Monitoring Officer, the sub-committee decided:

1. Not to agree the subject member's request that all complaints relating to matters which were more than 12 months old at the date of the complaint should be dismissed as individual complaints and admissible merely as 'similar fact' evidence.

Reasons:

- a) There was only one allegation older than 12 months – allegation 1 (e-mail dated 10 December 2009 referring to 'bovine effluent').
- b) There is no set time limit for bringing a complaint under the previous standards legislation. The Standards Board guidance recognises that an assessment sub-committee may decide to take no further action

due to the historical nature of the complaint but no time limits are specified.

- c) Both the Assessment sub-committee and the Consideration sub-committee determined that this allegation should go forward.
 - d) The sub-committee did not wish to limit its consideration of all the relevant circumstances, including whether a pattern of conduct was established, by the removal of any of the allegations at this stage.
2. Not to agree the request that all findings under paragraph 3(2)(a) of the Code of Conduct (relating to breach of equality enactments) should be dismissed on the grounds contended by Cllr Humphries.

Reasons:

- a) Paragraph 3(2)(a) of the Code of Conduct requires that the conduct may cause the authority to breach any of the equality enactments; it does not require that the conduct caused the authority to breach them, as Cllr Humphries suggests.
 - b) Section 149 of the Equality Act 2010 imposes a positive duty on all public authorities, in the exercise of their functions, to have due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct prohibited by the Act and to advance equality of opportunity and foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
 - c) A councillor acting in their official capacity, or in particular, chairing or participating in an area board meeting, is carrying out a public function on behalf of the Council. Therefore, if they act in a discriminatory way in breach of equality legislation they may prevent the Council from fulfilling its public law duty under Section 149.
 - d) The Council may be liable for any discriminatory acts committed by a councillor acting in their official capacity.
 - e) The nature of the allegations and findings of the Investigating Officer are such that they should be tested as part of the substantive hearing; it would be premature to dismiss them at this stage.
3. Not to agree the request to dismiss allegation 2 (relating to information disappearing down a 'black hole') on the grounds submitted – that it was not part of the original complaint and is, therefore, outside the jurisdiction of the Standards Committee.

Reasons:

- a) It was open to the Investigating Officer to include further allegations arising in the course of the investigation of the complaint.
- b) This is supported by the decision of the Adjudication Panel for England Case APE 0401 in respect of an appeal from Milton Keynes Council's Standards Committee. The Panel held:

The Original complaint did not fix the scope of the investigation. Rather it was, as with any such investigation, simply the initiating act. It was therefore perfectly legitimate for the investigating officer ultimately to allege a breach of the Code not identified by Mrs G... in her original complaint.

Having, therefore, concluded the determination of the preliminary issues the Chairman explained that the substantive part of the hearing would proceed in accordance with the procedure previously circulated. He then invited Mr Cain, on behalf of the Investigation Officer, to present the investigation report.

Mr Cain introduced the case and presented the investigating officer's report, highlighting the relevant law and matters to be determined, including the weight to be given to Cllr Humphries' evidence in the light of his decision to withdraw. He submitted, and it was agreed, that he should proceed by formal proof in these circumstances. Mr Cain emphasised the need for the sub-committee to formally receive and consider Cllr Humphries' statement (at paragraph 103 of the agenda). The sub-committee agreed that this should be read out by Mr Cain at the relevant stage of the procedure.

Mr Harris made an opening statement on behalf of the complainant which included submissions on the following:

- The impact that this had had on the complainant's professional and personal life.
- The daunting prospect of complaining against a member of the council and the fact that this was the first time Ms Densham had ever raised a complaint. She was not an overly sensitive person and this had been borne out of necessity.
- The investigating officer's report was fully reasoned, impartial and justifiable.
- Having chosen to leave the hearing Cllr Humphries had deprived the sub-committee of the opportunity of testing his evidence. Ms Densham was present and was prepared to be questioned. Her evidence should be given greater weight than hearsay statements from Cllr Humphries

that could not be tested.

- If Cllr Humphries saw fit to use the language in his e-mail dated 24 September 2010 'who is the good looking bird at the bottom? ...' (at page 96 of the agenda) when referring to the complainant it was likely that he did the other things referred to in the complaint.

Ms Densham was called to give her evidence. She read out her complaint (pages 54 -58 of the agenda) in full and was referred to various documents in support. She also read out her statement (from pages 82 – 87 of the agenda).The remaining pages (up to page 92 of the agenda) were taken as read. Ms Densham confirmed the truth of her evidence.

Members of the sub-committee questioned Ms Densham on her evidence.

Cllr Jemima Milton, Mr Martin Cook and Mr Dave Roberts each read out and confirmed their statements and were asked questions by the members of the sub-committee.

Mr Cain drew attention to the other 8 witness statements in the investigation report and the sub-committee asked for clarification on some points within these.

Mr Cain read out Cllr Humphries' statement.

Ms Densham was asked some further questions by members of the sub-committee on matters arising from Cllr Humphries' statement.

Mr Harris and Mr Cain made concluding submissions.

At 2.45 pm the sub-committee adjourned to consider the case. During this time the views of the Independent Person were obtained.

The meeting resumed at 5.35pm

The views of the Independent Person, Caroline Baynes, were summarised as follows:

- a. Given that Cllr Humphries had withdrawn from the process at an early stage, the process was fair in that;
 - due regard was given by the sub-committee to his position and members had fairly put to the complainant challenges which he had made to her evidence;

- the report prepared by the Investigating Officer was comprehensive and exhaustive;
 - witnesses were available to Cllr Humphries, albeit that in the event he chose not to partake of the opportunity to question them.
- b. The difficulty for the complainant, given the nature of the complaint, was appreciated. The sub-committee should not underestimate the effect of the behaviour complained of and of participating in the process of hearing the complaint.
- c. A number of witnesses were available, some of whom corroborated the complainant's evidence and some who supported Cllr Humphries, and the sub-committee was taken through each allegation of breach and the evidence in respect of each in a full and fair way.
- d. No inference should be taken from the failure by Cllr Humphries to join in the process per se. He is legally advised and it was perfectly reasonable for him to follow such advice as he has been given. His failure to participate, however, did mean that his evidence was prevented from carrying the same weight as that of the complainant which had been able to be tested. That was of course his choice.
- e. Although the reasons why this matter had taken so long to be heard were understood it was disappointing that this was the case.
- f. It was also disappointing that the behaviour was not dealt with earlier, particularly as the sub-committee heard Cllr Humphries' behaviour and general demeanour was well known, but apparently not challenged formally prior to the complainant doing so. It was also a matter of regret that the complainant's line manager was not able to take the matter forward once it was brought to their attention.
- g. It was clear from the proceedings that a more appropriate forum is needed for early and sensitive resolution of employee / councillor complaints and whilst this may be beyond the remit of the role of both the Independent Person, and the sub- committee, it is hoped that this will be noted and taken forward by the Council.

DECISION

Having considered carefully all the evidence before them, the submissions made on behalf of the parties, and the views of the Independent Person, the sub-committee decided as follows:

These matters were to be determined under Wiltshire Council's previous Code of Conduct (as set out at paragraphs 67 -75 of the agenda) as this was the code of conduct in force at all material times and was the basis on which the allegations were investigated.

Cllr Humphries was at all material times acting in his official capacity as a member of Wiltshire Council and, therefore, the above Code of Conduct applied – paragraph 2(1).

All uncontested findings of fact set out in the schedule in Appendix A of the Investigating Officer's report, as appended to these minutes, were accepted.

The sub-committee had regard to the relevant law and Standards for England guidance, as set out at pages 173-178 of the agenda.

They were mindful of the fact that Cllr Humphries had chosen to withdraw from the hearing, which meant that it had not been possible to test his evidence in the same way as the evidence given by Ms Densham and the other witnesses, all of whom had presented their evidence and answered questions from members of the sub-committee. In these circumstances the sub-committee considered that they should necessarily give less weight to Cllr Humphries' evidence in determining the allegations.

In relation to the 7 allegations before them the sub-committee found:

Allegation 1 10 December 2009 – e-mail from Cllr Humphries to Ms Densham in which Cllr Humphries states: 'Well done, I could not have thought of such bovine effluent as this!!'

The comments in Cllr Humphries' e-mail related to the e-mail Ms Densham had sent to an applicant for grant from the area board. These comments were unwise, given particularly the fact that Ms Densham had only just taken on the role of temporary Marlborough Community Area Manager, but the sub-committee did not consider that they amounted to a failure to treat Ms Densham with respect at that stage, nor a breach of any other provisions of the Code.

No breach.

Allegation 2 Late 2009 or early 2010 – Marlborough Area Board briefing meeting – Alleged Cllr Humphries made reference to information provided to a particular individual as having disappeared down a black hole

In making this remark Cllr Humphries intended to refer to matters not being dealt with and was not directing this to the individual. Whilst it was an unwise choice of language it did not give rise to any breach of the Code.

No Breach

Allegation 3 24 September 2010– e-mail from Cllr Humphries to Ms Densham which states ‘Also, who is the good looking bird at the bottom? I did not realise that colour photography had been around so long.’

The sub-committee felt that this use of language towards a female officer was unacceptable and inappropriate. They concluded that this conduct amounted to a failure to treat Ms Densham with respect and further was such as may cause the Council to breach the equality enactments, for the reasons set out in the investigating officer’s report, in particular at paragraphs 8.19 – 8.21 and 8.47.

Breach: paragraphs 3(1) – failure to treat with respect and 3(2)(a)-conduct which may cause the authority to breach any of the equality enactments.

Allegation 4 28 September 2010 – Marlborough and Villages Community Area Partnership briefing meeting – Following the meeting Cllr Humphries and Ms Densham continued a discussion in Cllr Humphries’ car, during which it is alleged he used offensive language, stroked Ms Densham’s arm and enquired about her daughters.

The sub-committee concluded on a balance of probabilities that Cllr Humphries did on this occasion use the expression ‘rod-ing’ in the context described in the complaint and that a conversation took place about Ms Densham’s children. The sub-committee were unable to make any finding in relation to the allegation that he stroked Ms Densham’s arm as the evidence on this aspect was inconclusive.

Use of the expression 'rod-ing' in this context was, in the sub-committee's view, offensive and highly inappropriate. It was disrespectful and degrading to women and was regarded as conduct that could cause the authority to breach its statutory equality obligations.

Breach: paragraphs 3(1) – failure to treat with respect and 3(2)(a) – conduct that may cause the authority to breach the equality enactments

Allegation 5

7 October 2010 – Marlborough Community Area Transport Group meeting – Alleged that at the meeting Cllr Humphries made comments about the fact that Ms Densham had been to his house and he also stated ' Julia enjoys a nibble'. Additionally that he used sexual innuendo to explain how the telescopic poles of the projector fit together.

The sub-committee were satisfied that during the introductions at the start of the meeting on 7 October 2010 Cllr Humphries did make a comment about the fact that Ms Densham had been to his house. At the end of the meeting, after thanking Ms Densham for providing the biscuits for the meeting, Cllr Humphries added that 'Julia enjoys a nibble'. The fact that this comment was made with reference to a specific individual, namely Ms Densham, led the sub-committee to conclude that it was accompanied by sexual innuendo. The sub-committee further concluded that Cllr Humphries had used inappropriate actions and sexual innuendo to explain how the telescopic poles of the projection screen fit together.

This conduct had the effect of violating the complainant's dignity and created a humiliating and offensive environment, having regard particularly to the fact that Ms Densham was new in her role and that other persons were present. The sub-committee, therefore, determined that these actions showed a lack of respect, that they were such as may cause the authority to breach the equality enactments, and they were of a nature that amounted to bullying.

Breach: paragraphs 3(1) – failure to treat with respect; 3(2)(a) – conduct that may cause the authority to breach the equality enactments; 3(2)(b)-bullying

Allegation 6

– 25 January 2011 - Marlborough Community Area Transport Group – Alleged that prior to the start of the meeting Cllr Humphries grabbed Ms Densham's scarf and made a playful gesture as if to strangle her with it.

The sub-committee were satisfied on a balance of probabilities that the incident with the scarf did take place, as summarised at paragraph 40 of the investigating officer's findings of fact at Appendix A. This was inappropriate behaviour, especially when viewed in the light of the previous challenge Ms Densham had made against Cllr Humphries on 7 October 2010. It was disrespectful and such as may cause the authority to breach the equality enactments.

Breach: paragraphs 3(1) – failure to treat with respect and 3(2) (a) conduct that may cause the authority to breach the equality enactments

Allegation 7

7 June 2011 – Marlborough Area Board briefing meeting – Alleged that during the meeting Cllr Humphries stated that 'Steve Milton can go to hell'. He also commented that Ms Densham was rubbish at her job and was overly harsh to Mr D Roberts, using a dismissive hand gesture.

The sub-committee found that Cllr Humphries did speak to Mr Roberts using words to the effect that Ms Densham was rubbish at her job. This was inappropriate, undermining and showed a lack of respect. Having regard to the cumulative effect of Cllr Humphries' behaviour towards Ms Densham the sub-committee felt that it also amounted to bullying.

Breach: paragraphs 3(1) – failure to treat with respect and 3(2)(b) bullying.

Taking into account all the circumstances the sub-committee further concluded that the actions of Cllr Humphries over the period in question established a pattern of inappropriate and unacceptable conduct, the cumulative effect of which supported the findings of bullying in relations to allegations 5 and 7 above, and impacted adversely on the complainant.

Having determined the above breaches of the Code the sub-committee heard submissions from Mr Cain on the question of sanctions and then withdrew to consider this part of the case.

Upon returning the Chairman reported that the sub-committee had decided to impose the following sanctions in accordance with paragraph 9 and Annex 1 of the Procedure:

1. To censure Cllr Humphries in respect of his conduct, such censure to be communicated by letter from the Monitoring Officer.
2. To publish the minutes of the sub-committee's meeting recording the decision on the Council's web-site noting that the minutes will be reported to the Standards Committee on 24 October 2011 and full Council on 15 November 2011.
3. To recommend the Leader to request the Marlborough Area Board to consider the appropriateness of Cllr Humphries continuing as chairman of the Area Board in the light of these findings.

(Duration of meeting: 3 October – 9.30 – 12.45
4 October – 9.30 – 18.10)

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

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

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Appendix A

Schedule of findings of fact

Case No: WC 39/11

	Investigating Officer's findings of fact	Councillor Humphries' comments
	General	
1.	Councillor Christopher Humphries was at the relevant time a member of Wiltshire Council.	
2.	Councillor Humphries is the Chairman of the Marlborough Area Board.	
3.	Ms Densham was from 1 April 2009 to November 2009 the Senior Democratic Services Officer to the Marlborough Area Board.	
4.	From December 2009 to February 2010 Ms Densham took on the role of temporary Marlborough Community Area Manager, before returning to her substantive role in Democratic Services.	
5.	In June 2010 Ms Densham was offered the post of Marlborough Community Area Manager on a permanent basis. Towards the end of her three month notice period she began to take on some of her new responsibilities.	
	1 December 2009	
6.	On 1 December 2009 Councillor Humphries sent an email to Ms Densham in which he states 'Well done, I could not have thought of such bovine effluent as this!!'	
7.	Councillor Humphries sent his email in response to an email from Ms Densham an applicant for a grant from the Area Board, and which had been copied to him.	

<p>8. Councillor Humphries' email of 1 December 2009 expresses his view that he considers Ms Densham's initial email to contain a load of bullshit.</p>	<p>I intended my email to be a compliment to Ms Densham and it was made in a humorous form. (Ms Densham uses terms such as "crap" and "bullshit".) The applicant to whom Ms Densham was responding was being turned down for a grant. It wasn't an easy message to give but Ms Densham did it very well. I am sorry if my comment offended her but I fail to see how Codes 3(1) and 3(2)(b) were breached.</p>	
<p>9. Late 2009 or early 2010 A briefing meeting of the Marlborough Area Board was held in late 2009 or early 2010 at which Ms Densham, Councillor Humphries and Councillor Milton were present.</p>	<p>Confusion regarding the meeting dates.</p> <ul style="list-style-type: none"> Investigating officer states late 2009 or early 2010 Ms Densham and Councillor Milton state late 2010 or early 2011 <p>The investigation can only relate to the original Complaint; this matter appeared afterwards, therefore the Hearing Panel has no jurisdiction over this matter.</p>	
<p>10. At that meeting Councillor Humphries made reference to information having disappeared down a black hole in connection with [REDACTED]</p>	<p>I would never use the term "black hole" in connection with [REDACTED] or any other person. Minutes of all four meetings referred to in 9. above do not reflect any reference to [REDACTED]. It is clear in Ms Densham's version that 'black hole' is a reference to instructions not being followed rather than [REDACTED].</p>	
<p>11. 26 August 2010 On 26 August 2010 a briefing meeting of the Marlborough Area Board was held. The meeting was attended by Councillor Humphries, Ms Densham, Ms K Scott and Councillor N Fogg.</p>		
<p>12. No objections were raised at the meeting to any bad language that had been used by anyone present.</p>		
<p>13. At the meeting Councillor Humphries used the term 'abortion of a mess'.</p>		

14.	Later the same day Ms Scott sent an email to Mr Steve Milton expressing her views about the meeting.	
15.	<p>24 September 2010</p> <p>On 24 September 2010 Ms Densham sent an email to Councillor Humphries asking him to approve new Marlborough Area Board agenda covers.</p>	
16.	Councillor Humphries replied to Ms Densham by email on the same day. His email included the phrase 'Also who is the good looking bird at the bottom? I did not realise that colour photography had been around so long'. These comments were directed towards Ms Densham.	
	28 September 2010	
17.	On 28 September 2010 a meeting of the Marlborough and Villages Community Area Partnership was held at Marlborough Town Hall. Councillor Humphries and Ms Densham were both present at the meeting.	Please explain which of the alleged events listed in para.17 to 23 are alleged to be a breach of Codes 3(1), 3(2)a and, 3(2)b. It is not apparent in the Schedule of Findings of Fact.
18.	After the meeting had finished Councillor Humphries and Ms Densham were having a discussion outside Marlborough Town Hall when it started to rain.	
19.	Councillor Humphries invited Ms Densham to finish the conversation in his car, to which she agreed. The conversation turned towards the allegations surrounding [REDACTED]	
20.	The conversation about [REDACTED] arose as a result of discussions about [REDACTED] and [REDACTED] [REDACTED] (Amended since the draft report as a result of Councillor Humphries' additional comments – see Appendix C1.1, page 179)	

21.	Councillor Humphries made reference to the specifics of the allegations about [redacted] and, in doing so, used the expression 'rod-ing'.	I did not use that form of vulgar language; it is not in my vocabulary.
22.	Councillor Humphries did not stroke Ms Densham's arm.	
23.	A conversation took place between Ms Densham and Councillor Humphries about Ms Densham's children although it is unclear what questions were asked by Councillor Humphries and exactly what information was exchanged.	This alleged conversation did not take place. I knew that Ms Densham was married with children but had no idea of their sex or ages.
	7 October 2010	
24.	On 7 October 2010 a meeting of the Marlborough Community Area Transport Group meeting was held. Present at that meeting were, amongst others, Ms Densham, Councillor Humphries, Councillor P Dow, Councillor A Kirk Wilson and Mr M Cook, Highways Engineer.	Please explain which of the three separate alleged events listed in para. 24 to 31 are alleged to be a breach of Codes 3(1), 3(2)a and, 3(2)b. It is not apparent in the Schedule of Findings of Fact.
25.	Prior to the meeting Ms Densham and Mr Rogers had attended a meeting at Councillor Humphries' house.	
26.	At the meeting on 7 October 2010 Councillor Humphries made a comment about the fact that Ms Densham had been to his house	
27.	At the meeting Councillor Humphries made a comment about Ms Densham liking/enjoying a nibble. The only comments made at the meeting to nibbling were those made by Councillor Humphries. Councillor Humphries' comments were challenged by Ms Densham and Councillor Dow at the time. (Amended since the draft report as a result of Ms Densham's additional comments – see Appendix D1.1, page 183)	Mr Stansby thanked Ms Densham stating that he "enjoyed a nibble during the meeting". I made my comments to reinforce his thanks for providing biscuits and my comment meant that she also liked biscuits, an entirely altruistic gesture on her part. I was not aware of and did not intend any sexual innuendo. I was surprised that she found such innuendo when she commented to me privately after the meeting. I apologised for any unintended offence. I was so upset that I may have caused her offence that I sent Ms Densham an email that evening. I was not challenged by anyone else attending this meeting

28.	At the meeting Councillor Humphries used inappropriate actions and sexual innuendo to explain how the telescopic poles of the projection screen fit together. (Amended since the draft report as a result of Ms Densham's additional comments – see Appendix D1.1, page 183)	I did not use inappropriate actions and sexual innuendo. I tried to help Ms Densham dismantle the screen but walked away when somebody else, (I believe Martin Cook) offered to help her as I was unable to assist.
29.	Immediately after the meeting Ms Densham challenged Councillor Humphries about comments made by him at the meeting that she likes/enjoys a nibble'. (Amended since the draft report as a result of both Councillor Humphries' and Ms Densham's additional comments – see Appendices C1.1, page 179 and D1.1, page 183)	
30.	Later that same day Councillor Humphries sent an email to Ms Densham in which he writes 'Thank you for your advice today, it will be heeded'.	
31.	Ms Densham forwarded this email to Mr Rogers and Mr Milton on 8 October 2010, adding her comments about what took place at the Transport Group meeting the previous day.	
32.	20 October 2010 On 20 October 2010 Ms Densham sent an email to Councillor Humphries enclosing a new photograph of him that had been taken for area board purposes, asking him 'hope you like the attached'.	
33.	Councillor Humphries replied that same day saying 'Thank you, more to the point do you?'	
34.	18 November 2010 On 18 November 2010 a meeting of the Marlborough Area Board was held. Present at that meeting were Ms Densham, Councillor Humphries, Mr Fielding and Councillor Milton.	

<p>35. Councillor Humphries made reference at that meeting to specific allegations against [redacted] regarding [redacted] alleged behaviour at [redacted] and about some prior allegations made against [redacted]</p>	<p>I only referred to [redacted] association with [redacted] I did not go into any detail. All details were available, [redacted] and therefore the public domain. <i>(Investigating Officer's note: the Consideration Sub-Committee accepted a finding of no breach in respect of this alleged incident)</i></p>
<p>36. No suggestion was made at the meeting that the information being discussed was of a confidential nature.</p>	
<p>37. Councillor Humphries was not challenged about these comments at the time. End of 2010</p>	
<p>38. Councillor Humphries did not ask Ms Densham about her domestic arrangements on two occasions towards the end of 2010. 25 January 2011</p>	
<p>39. On 25 January 2011 a meeting of the Marlborough Community Area Transport Group was held. Ms Densham and Councillor Humphries both attended the meeting.</p>	
<p>40. As Councillor Humphries entered the room he walked towards Ms Densham and grabbed her scarf, making a playful gesture as if to strangle her with it. As he did so the back of his hand was in contact with her body. He picked up the knot of her scarf and moved it upwards towards her chin. He then let go and sat down. 6 June 2011</p>	<p>This alleged incident did not take place.</p>
<p>41. On 6 June 2011 Councillor Humphries sent Ms Densham an email in response to a mix up over the timings of briefing meetings. In his email Councillor Humphries asks Ms Densham 'If you have brought forward the briefing time then please advise me'.</p>	

7 June 2011	
42.	On 7 June 2011 a briefing meeting of the Marlborough Area Board was held. Ms Densham, Councillor Humphries and Mr Dave Roberts attended the meeting.
43.	At the time there were issues concerning the Area Board's relationship with MaVCAP. (Amended since the draft report as a result of Councillor Humphries' additional comments – see Appendix C1.1, page 179)
44.	At the meeting Councillor Humphries made it clear that he would not be taking into account the advice of Steve Milton but he did not express this in terms of 'Steve Milton can fuck off' or 'Steve Milton can go to hell'.
45.	Councillor Humphries' comments about Mr Milton were said in a forceful manner.
46.	At the meeting Councillor Humphries referred to Ms Densham's performance in a negative manner and used the word 'crap'.
47.	Later on in the meeting Councillor Humphries silenced Mr Roberts with a dismissive hand gesture.
48.	On 8 June 2011 Ms Densham sent an email to Councillor Milton about the briefing meeting that had been held on 7 June 2011 and which Councillor Milton had missed.

	17 August 2011	
49.	<p>On 17 August 2011 Councillor Humphries sent an email to Ms Densham asking her whether she would be able to deal with a request to organise a visit to the Compton Bassett recycling plant. Councillor Humphries' email was also copied to Mr James Hazelwood, Senior Democratic Services Officer. (Amended since the draft report as a result of Councillor Humphries' additional comments – see Appendix C1.1, page 179)</p>	
50.	<p>Ms Densham did not respond and on 21 August 2011 Councillor Humphries forwarded the original request to Mr A Conn, Head of Waste Management, asking how best to progress the matter. Mr Conn replied on 22 August 2011. (Amended since the draft report as a result of Councillor Humphries' additional comments – see Appendix C1.1, page 179)</p>	
51.	<p>At the time that Councillor Humphries sent his email to Ms Densham on 17 August 2011 about the visit to the Compton Bassett Recycling Plant, he had not been advised to have no further email correspondence with her. He was advised of the new contact arrangements on 18 August 2011. (Amended since the draft report as a result of both Councillor Humphries' and Ms Densham's additional comments – see Appendices C1.1, page 179, and D1.1, page 183)</p>	

COMMITTEE'S WORK PLAN

<u>Meeting Date and Time</u>	<u>Name of Report</u>	<u>Scope of Report</u>
9 January 2013	Status report on complaints	
10 April 2013	Status report on complaints	
10 July 2013	Annual Governance Statement	
9 October 2013	Annual Report of the Local Government Ombudsman	

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