

## STANDARDS COMMITTEE

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### MINUTES OF THE STANDARDS COMMITTEE MEETING HELD ON 16 SEPTEMBER 2015 AT KENNET ROOM - COUNTY HALL, TROWBRIDGE BA14 8JN.

#### Present:

Cllr Julian Johnson (Chairman), Cllr Paul Oatway (Vice Chairman), Cllr Desna Allen, Cllr Allison Bucknell, Cllr Rosemary Brown, Cllr Trevor Carbin, Cllr Sheila Parker, Cllr Jerry Wickham, Mr Philip Gill MBE JP, Mr John Scragg and Miss Pam Turner

#### Also Present:

Mrs Caroline Baynes (Independent Person), Cllr Tony Deane, Stuart Middleton (Independent Person) and Cllr Christopher Newbury

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#### 23 **Apologies**

Apologies were received from Mr Paul Neale and Councillors Terry Chivers and Howard Greenman.

#### 24 **Minutes**

The minutes of the Standards Committee meeting held on 24 July 2015, and the Standards Review Sub-Committee meetings held on 8 July, 9 July and 24 August 2015 were presented for consideration.

#### Resolved:

**To APPROVE and sign the minutes of the meeting held on 24 July 2015 as a true and correct record. And;**

**To receive the minutes of the Review Sub-Committee meetings held on 8 July, 9 July and 24 August 2015.**

#### 25 **Declarations of Interest**

There were no declarations.

## 26 **Chairman's Announcements**

Through the Chairman, the Committee endorsed the following announcement::

*Nina Wilton, Head of Governance and Deputy Monitoring Officer left the council in August having decided she wishes to spend time pursuing her academic interests. Nina worked as Head of Governance from the creation of the unitary council in 2009 and previously worked for Wiltshire County Council in various roles from 2000. During this time Nina was involved in many aspects of the council's business ensuring that the council's governance arrangements are sound, including overseeing the implementation of the corporate complaints process, information legislation and the standards regime for councillors. Nina was closely involved in the work of the Standards Committee.*

*I am sure you will wish to join me in thanking Nina for her valuable contribution to the work of the Committee and to the Council and to wish her every success in the future.*

## 27 **Public Participation and Questions**

There were no questions submitted.

A statement from Mr Francis Morland in relation to Minute no.29 was received under that item.

## 28 **Status Report on Complaints**

The Monitoring Officer presented an update on the status of Code of Conduct complaints received under the arrangements provided in the council's constitution, as well as a summary of the types of complaints that had been received, and how many had been dismissed, investigated, withdrawn or concluded due to alternate resolutions.

It was noted that the council was on course to receive significantly fewer complaints against unitary, town and parish councillors than the previous year, and it was stated a partial explanation was that a high number had been submitted from multiple individuals in relation to a single or a few incidents, which may have inflated the figures, although the number for the current year was still above the years preceding 2014.

### **Resolved:**

**To note the update.**

## 29 **Review of Part 13 of the Constitution: Code of Conduct**

### Public Participation

Councillors Christopher Newbury and Tony Deane and Mr Francis Morland addressed the Committee regarding the proposed potential Code of Conduct changes.

### Background

The Chairman and the Monitoring Officer introduced a report on the review of Part 13 of the Constitution: Code of Conduct for Members. It was detailed that the new standards regime as required under the Localism Act 2011, including the current Code of Conduct, had been approved by Council on 26 June 2012. On 24 April 2014 and following more than 18 months of the new procedure and Code being in operation, the Committee received an update on the arrangements and operation since the beginning of the new regime and resolved:

*To arrange a seminar as soon as possible for Members of the Committee and any other Wiltshire Councillors who wish to attend, together with the council's three Independent Persons and Mr Paul Hoey of Hoey Ainscough Associates Ltd. to review the operation and effectiveness of the standards regime and consider whether any changes to the current system are appropriate.*

That seminar, open to all Members, was held on 23 July 2014. At the following meeting on 8 October 2014 the Committee received a further update and resolved:

*To task the Monitoring Officer with investigating the effectiveness of the Code of Conduct Complaints Procedure by collecting and analysing evidence on complaints received by Wiltshire Council, and to examine the Codes and procedures at other local authorities, and to bring a set of recommendations on any proposed changes to the Committee at its meeting on 21 January 2015.*

On 21 January 2015 the Committee received that report reviewing the effectiveness of the Council's Code of Conduct, determining that improvements could be made to address concerns as detailed in that report, and it was resolved:

*That the Monitoring Officer: 1) Draft proposals to strengthen the Code of Conduct, 2) Draft proposals for enabling the recording of gifts and hospitality at an appropriate level, and 3) Continue efforts to work with other Authorities to lobby central government to increase the level of sanctions available to councils, as soon as appropriate.*

Prior to the consideration by the Standards Committee the potential amendments to the Code had been assessed by the Constitution Focus Group at its meeting on 2 September 2015, with its comments included with the agenda papers.

### General Debate

Before discussing the specific potential amendments referred on by the Constitution Focus Group for further debate and determination, the Committee discussed the present Code and complaints procedure and assessed whether they considered changes proposed to be necessary to improve its effectiveness, where points including the following were raised:

- Members discussed the previous standards regime which had been abolished by the Coalition government, and the stated intentions of the new regime which included a recommended 'light-touch' Code which after consideration Wiltshire Council had adopted. It was stated most authorities had since adopted variations of different levels of detail from that Code, and the Committee considered whether they felt the evidence in Wiltshire was that adoption of similar additional provisions, some of which had been included under previous Codes, would enhance the current regime as they had requested at the meeting on 21 January 2015.
- Dissatisfaction with the old standards regime was raised by some Members in relation to bureaucratic delays and perceived lack of fairness toward subject Members, as well as a perceived excess of trivial complaints being referred for investigation not being in the public interest.

It was debated whether the new procedure for processing complaints, as detailed in [Protocol 12 of the Constitution](#), was sufficient in preventing trivial, or vexatious complaints from proceeding to costly investigations not in the public interest, such that even were additional provisions in the Code utilized for trivial matters, they would not cause any significant burden on resources of officers or Members.

- The language of the potential amendments was considered, and if compared to the current Code they offered further clarity and definition of behaviours that should be regarded as unacceptable.
- It was discussed if the perception of councillors being appropriately held to account for unacceptable behaviour would be improved by the potential amendments, and if so if they would be actually effective in moderating inappropriate behaviour.

The Committee also received comments on the current procedure and Code from two of the council's Independent Persons.

### Consideration of potential amendments

After general discussion on whether there would be a benefit to amending the Code, as detailed above, the Committee went through each potential amendment in turn as follows:

- *You must treat others with respect*

The Committee considered that as respect for other was fundamental to the role of being an elected representative, the specific provision requiring Members must treat others with respect should be included within the Code.

- *You must not: (a) do anything which may cause your authority to breach the Equality Act 2010 or other relevant equality enactments. (b) bully or intimidate any person; (c) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of your authority.*

In relation to point (a) above, the Committee determined that as it was already a legislative requirement to take account of relevant Equalities enactments, there was no further benefit to be obtained by including the requirement within the Code.

In relation to point (b) above, the Committee discussed if the provision on respect was sufficient to also cover allegations of bullying and intimidation, the definition of bullying in respect of complaints against councillors given the often robust nature of political debate and representative work, and at the conclusion of debate determined the provision should be included within the Code.

In relation to point (c) above, the Committee discussed the circumstances in which a Member might be regarded as compromising the impartiality of someone working for or on behalf of their authority, and if other provisions were sufficient to cover such behaviour, or if the inclusion might discourage Members from appropriate communications of their views and those of their electors to an officer. After debate, the Committee determined the provision should be included within the Code.

- *You must not:*

*(a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:*

*(i) you have the consent of a person authorised to give it;*

*(ii) you are required by law to do so;*

*(iii) the disclosure is:*

*(aa) reasonable and in the public interest; and  
(bb) made in good faith and in compliance with the reasonable requirements of your authority.*

*(b) prevent another person from gaining access to information to which that person is entitled by law.*

The Committee discussed whether it was necessary to include the provisions on breach of confidentiality, and determined that they should be included within the Code.

- *You must not conduct yourself in a manner which may reasonably be regarded as bringing your office or authority into disrepute.*

The Committee determined that the wording of the potential amendment was overly vague and open to misuse and that including provisions on bullying, intimidation, financial impropriety and more sufficiently defined specific behaviours to regulate Members to not bring their office or authority into disrepute. They therefore did not recommend the provision be included within the Code.

- *In addition, you must, within 28 days of taking office as a Member or co-opted Member, notify your authority's monitoring officer of any disclosable pecuniary or non-pecuniary interests which your authority has decided should be included in the register, including:*
  - (a) 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 the authority;*
  - (b) any body exercising functions of a public nature of which you are a Member or in a position of general control or management;*
  - (c) any body directed to charitable purposes of which you are a Member or in a position of general control or management;*
  - (d) any body 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.*

The Committee discussed at length whether additional non-pecuniary interests should be required to be included on a Members' Register of Interests, taking account that the Localism Act 2011 had defined specific pecuniary interests and no interests as statutorily necessary to be declared, which had been approved by Council when adopting the new regime in 2012.

It was also noted, however, that the Act had allowed discretion to Authorities to include non-pecuniary interests they felt should be required to be registered. A debate arose regarding on whether the current simple encouragement of Members to declare relevant non-pecuniary interests was, after several years of operation, seen as adequate, and whether it

would protect Members and their authority if further interests were required to be included on a register of interests form.

Members debated whether simple membership of a charitable organisation should be required to be declared, and if this would be considered onerous in particular to any Town or Parish Councils that might consider adopting Wiltshire's Code.

Members also discussed how new interests not present when a Member first took office needed to be registered, and emphasised the requirements of paragraph 11 of the Code, to declare any relevant pecuniary or non-pecuniary private interest that related to their public duties, and strongly felt that even where an interest was included on their register of interests, a Member should publicly declare that interest at a meeting if relevant to the business to be determined to be open, transparent, and protect the Member and Authority from any allegations or challenges.

At the conclusion of debate the Committee determined that the provisions above should be included within the Code.

- *You must within 28 days of receipt, notify the monitoring officer in writing of any gift, benefit or hospitality with a value in excess of £50 which you have accepted as a Member from any person or body other than the authority. The monitoring officer will record your notification on your register of interests*

The Committee, having determined at its 21 January 2015 meeting to reintroduce a requirement to register gifts and hospitality, accepted the proposed wording with the removal of the final sentence as an administrative detail not a Member Code of Conduct matter.

Following final consideration of the proposed changes, it was stated that although there would not be a full consultation, the proposed amendments would be circulated to all Town and Parish Councils in Wiltshire for their attention, should they wish to comment or consider adopting the proposed revised Code themselves.

**Resolved:**

**To recommend at its meeting on 24 November 2015 that Council approve the amendments to the Code of Conduct for Members as detailed above and attached to these minutes.**

*Mr John Scragg left the meeting at 1505.*

30 **Forward Plan**

The Forward Work Programme was presented for consideration

**Resolved:**

**To approve the Forward Work Programme subject to the addition of items in relation to the Annual Letter on Complaints from the Local Government Ombudsman, and Review of the Council's Whistleblowing Policy.**

31 **Urgent Items**

There were no urgent items.

(Duration of meeting: 2.00 - 4.15 pm)

The Officer who has produced these minutes is Kieran Elliott, of Democratic Services, direct line 01225 718504, e-mail [kieran.elliott@wiltshire.gov.uk](mailto:kieran.elliott@wiltshire.gov.uk)

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