

Democratic Services

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9 September 2015

To: All Members of the Standards Committee

Independent Members: Susan Toland (Chair), Deborah Russell and Dr Cyril Davies

Parish/Town Councillors: Tony Crouch, Veronica Packham and Dr Axel Palmer

Bath and North East Somerset Councillors: Councillor Sally Davis, Councillor Sarah Bevan, Councillor Nigel Roberts, Councillor Geoff Ward and Councillor Brian Simmons

Chief Executive and other appropriate officers

Press and Public

Dear Member

Standards Committee: Thursday, 17th September, 2015

You are invited to attend a meeting of the **Standards Committee**, to be held on **Thursday, 17th September, 2015** at **6.00 pm** in the **Council Chamber - Guildhall, Bath.**

The agenda is set out overleaf.

Yours sincerely



Enfys Hughes
for Chief Executive

If you need to access this Agenda or any of the supporting reports in an alternative accessible format, please contact Democratic Services or the relevant report author whose details are listed at the end of each report

NOTES:

- 1. Inspection of Papers:** Any person wishing to inspect minutes, reports, or a list of the background papers relating to any item on this Agenda should contact Ann Swabey who is available by telephoning Bath (01225) 394416 or by calling at the Riverside Offices, Keynsham (during normal office hours).
- 2. Details of Decisions taken at this meeting** can be found in the minutes which will be circulated with the agenda for the next meeting. In the meantime details can be obtained by contacting as above:-

Public Access points – Reception: Civic Centre - Keynsham, Guildhall - Bath, The Hollies - Midsomer Norton. Bath Central and Midsomer Norton public libraries.

For Councillors and officers papers may be inspected via Political Group Research Assistants and Group Rooms/Members' Libraries.

- 3. Substitutions:** Members are reminded that any substitutions must be made in accordance with the relevant Rule set out in the Council's Constitution and notified in writing to Democratic Services prior to the commencement of the meeting.
- 4. Recording at Meetings:-**

The Openness of Local Government Bodies Regulations 2014 now allows filming and recording by anyone attending a meeting. This is not within the Council's control.

Some of our meetings are webcast. At the start of the meeting, the Chair will confirm if all or part of the meeting is to be filmed. If you would prefer not to be filmed for the webcast, please make yourself known to the camera operators.

To comply with the Data Protection Act 1998, we require the consent of parents or guardians before filming children or young people. For more information, please speak to the camera operator

The Council will broadcast the images and sound live via the internet www.bathnes.gov.uk/webcast An archived recording of the proceedings will also be available for viewing after the meeting. The Council may also use the images/sound recordings on its social media site or share with other organisations, such as broadcasters.

5. Public Speaking at Meetings

The Council has a scheme to encourage the public to make their views known at meetings. They may make a statement relevant to what the meeting has power to do. They may also present a petition or a deputation on behalf of a group. They may ask a question which must be submitted in writing to Democratic Services and to which a written answer will be given. Public and Councillor submissions to the Standards Committee under this scheme must relate to the general business of this Committee. Separate arrangements apply to hearings about individual cases.

Advance notice is required not less than two full working days before the meeting (for instance, this means that for meetings held on Thursdays notice must be received in Democratic Services by 4.30pm the previous Monday).

6. Attendance Register: Members should sign the Register which will be circulated at the meeting.

7. THE APPENDED SUPPORTING DOCUMENTS ARE IDENTIFIED BY AGENDA ITEM NUMBER.

8. Emergency Evacuation Procedure

When the continuous alarm sounds, you must evacuate the building by one of the designated exits and proceed to the named assembly point. The designated exits are sign-posted. Arrangements are in place for the safe evacuation of disabled people

9. Wards (the areas of the Authority which Councillors represent)

Where an item relates to a specific ward within the Authority, the name of that ward is given alongside the item heading. The name of the Ward is also shown on the front page of the associated report. Where no ward is given, this is because the item is a general matter or relates to the whole of the Bath and North East Somerset area.

**Standards Committee – Thursday, 17th September, 2015
at 6.00 pm in the Council Chamber - Guildhall, Bath**

A G E N D A

1. WELCOME AND INTRODUCTIONS

2. EMERGENCY EVACUATION PROCEDURE

The Chair will draw attention to the emergency evacuation procedure as set out on the Agenda.

3. APOLOGIES FOR ABSENCE AND SUBSTITUTION

4. DECLARATIONS OF INTEREST

At this point in the meeting declarations of interest are received from Members in any of the agenda items under consideration at the meeting. Members are asked to indicate:

(a) The agenda item number in which they have an interest to declare.

(b) The nature of their interest.

(c) Whether their interest is **a disclosable pecuniary interest** *or* **an other interest**, (as defined in Part 2, A and B of the Code of Conduct and Rules for Registration of Interests)

Any Member who needs to clarify any matters relating to the declaration of interests is recommended to seek advice from the Council's Monitoring Officer or a member of his staff before the meeting to expedite dealing with the item during the meeting.

5. TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

The Chair will announce any items of urgent business accepted since the agenda was prepared under the Access to Information provisions.

6. ITEMS FROM THE PUBLIC - TO RECEIVE DEPUTATIONS, STATEMENTS, PETITIONS OR QUESTIONS

7. ITEMS FROM COUNCILLORS AND CO-OPTED MEMBERS RELATING TO THE GENERAL BUSINESS OF THE COMMITTEE

8. MINUTES OF THE MEETING OF 23RD APRIL 2015 (Pages 7 - 12)

9. REPORT ON THE STATUS OF CO-OPTED MEMBERS ON STANDARDS COMMITTEE (Pages 13 - 16)

10. AGENDA FOR STANDARDS COMMITTEE

To discuss standard items on the agenda for the Standards Committee.

11. REPORT ON ASSESSMENT OF COMPLAINTS (Pages 17 - 20)

12. WORKPLAN FOR THE STANDARDS COMMITTEE

To discuss the work plan for the Standards Committee.

13. HOUSEKEEPING FOR STANDARDS COMMITTEE

To discuss the followings 'housekeeping' issues:

- Timetable for Standards Committee, including scheduling bi-monthly meetings in case of hearings
- Start time of the meeting
- Electronic copies for independent members

The Committee Administrator for this meeting is Enfys Hughes who can be contacted on 01225 394410.

Protocol for Decision-making

Guidance for Members when making decisions

When making decisions, the Cabinet/Committee must ensure it has regard only to relevant considerations and disregards those that are not material.

The Cabinet/Committee must ensure that it bears in mind the following legal duties when making its decisions:

- Equalities considerations
- Risk Management considerations
- Crime and Disorder considerations
- Sustainability considerations
- Natural Environment considerations
- Planning Act 2008 considerations
- Human Rights Act 1998 considerations
- Children Act 2004 considerations
- Public Health & Inequalities considerations

Whilst it is the responsibility of the report author and the Council's Monitoring Officer and Chief Financial Officer to assess the applicability of the legal requirements, decision makers should ensure they are satisfied that the information presented to them is consistent with and takes due regard of them.

BATH AND NORTH EAST SOMERSET

STANDARDS COMMITTEE

MINUTES OF THE MEETING OF THURSDAY, 23RD APRIL, 2015

PRESENT:-

Independent Members: Susan Toland (Chair), Dr Cyril Davies (Independent Member)

Parish Representatives: Tony Crouch

Bath and North East Somerset Councillors: Sally Davis, Sarah Bevan and Malcolm Lees

Officers: Vernon Hitchman (Divisional Director, Legal and Democratic Services), Simon Barnes (Principal Solicitor) and Sean O'Neill (Democratic Services Officer)

21 WELCOME AND INTRODUCTIONS

The Chair welcomed everyone to the meeting.

22 EMERGENCY EVACUATION PROCEDURE

The Democratic Services Officer read out the procedure.

23 APOLOGIES FOR ABSENCE AND SUBSTITUTION

Apologies were received from Councillor Eleanor Jackson, Councillor Nigel Roberts, Deborah Russell and Veronica Packham.

24 DECLARATIONS OF INTEREST

Councillors Sarah Bevan, Sally Davis and Malcolm Lees declared that they are Members of the Development Control Committee.

25 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

The Chair announced that this would be the last meeting of the Committee to be attended by the current Monitoring Officer, as he was retiring at the end of May. Members thanked him for his support to the Committee.

26 ITEMS FROM THE PUBLIC - TO RECEIVE DEPUTATIONS, STATEMENTS, PETITIONS OR QUESTIONS

There were none.

27 ITEMS FROM COUNCILLORS AND CO-OPTED AND ADDED MEMBERS RELATING TO THE GENERAL BUSINESS OF THE COMMITTEE

There were none.

28 MINUTES OF THE MEETING OF 23 OCTOBER 2014

These were approved as a correct record and signed by the Chair.

29 REVISED PLANNING CODE OF CONDUCT

The Principal Solicitor presented the report. He explained that the current Code required revision because it was old (dating from 1998) and there had been important changes in the law since it was adopted. The most significant of these was that the courts and the Localism Act had taken a more relaxed view of the role of members of planning committees. It was now understood that members of planning committees did not operate in a vacuum, but were politicians who had been elected to represent their constituents and were entitled to have and express views on matters that affected those they represented. It was therefore recognised that it was proper for members to have a degree of involvement in pre-application discussions, so long as they maintained an open mind when they came to consider the application at committee. The new Code was intended to be simpler than the current Code. It had the twin aims of protecting members by giving them straightforward guidance on avoiding potential pitfalls and of protecting the Council from the possibility of legal challenges.

The draft Code would be considered by the Development Control Committee the following week, and presented to the new Council for formal adoption. He invited Members to comment on it.

In reply to questions from a Member he stated that:

- the revised Code was based on the model Code of Conduct produced by Lawyers in Local Government
- the revised Code was being submitted now, so close to the Council elections, in order that it would be in place before the new Development Control Committee was nominated after the elections – this would assist with member training

Members commented on the draft Code.

Page 2 (Agenda page 14)

“Fettering of Discretion in the Planning Process”

A Member said that many people might be puzzled by the meaning of *“fettering”* in this context. The Monitoring Officer agreed that it was legalese and should be removed.

Page 3 (Agenda page 15) and Page 4 (Agenda page 16)

“Do make written notes of any conversations with Applicants, Developers and Objectors and pass them to officers for inclusion on the planning file. The same applies to emails and letters.”

A Member said that there was so much lobbying of members of the Development Control Committee that strict compliance with this provision would be very difficult. The Principal Solicitor responded that the draft Code did make a distinction between 'everyday' contact and 'significant' contact. The Chair, however, pointed out that this provision did say "any conversations" and suggested that this needed to be qualified in some way.

"Don't agree to any meeting with applicants, developers or groups of objectors without first consulting with officers. Where you feel that a formal meeting would be useful in clarifying issues, you should seek to arrange that meeting yourself through a request to the Group Manager, Development Management who will organise it. He will ensure that an officer attends."

"Don't attend a planning presentation without requesting an officer to be present"

A Member said that new councillors might have difficulty in interpreting these provisions in relation to parish council meetings, at which presentations and representations about planning applications were sometimes made, whereas more experienced councillors had a better sense of what was appropriate and what was not. She also wondered to what extent the Code applied to parish councils themselves. The Principal Solicitor replied that the Code applied primarily to members of the Development Control Committee, who actually determined applications. A Member said that Keynsham Town Council had adopted a Code for relations with major developers, who often approached the Town Council to discuss their plans.

A Member said that it could be difficult for a member to turn down an invitation to visit a site in their ward. The Principal Solicitor acknowledged this, but said that if members visited sites without officers present then they needed to be cautious. Another Member suggested that invitations to visit sites were most frequently received from objectors; impartiality required that the member should also speak to the applicant.

A Member suggested that Councillors should be provided with a form of words that they could use when meeting applicants or objectors to make it clear that they could not express an opinion about the merits of the application.

A Member expressed concern about residents in single-member wards, who would not be able to make representations about planning applications to their ward councillor if he or she was a member of the Development Control Committee and adhered strictly to these provisions.

Page 5 (Agenda page 17)

"Do copy or pass on any lobbying correspondence you receive to the Group Manager and Case Officer at the earliest opportunity..."

A Member again referred to the sheer volume of lobbying correspondence received by members of the Development Control Committee. Another Member pointed out the burden on the Group Manager and the Case Officer arising from a strict

implementation of this provision. The Principal Solicitor said the intention was to ensure that Planning Officers were aware that lobbying was taking place. The Monitoring Officer suggested that it would help members to apply the Code if the purpose of this provision were clearly stated; Members might then be able to make decisions to pass on correspondence based on the size of the application or the nature of the lobbyist etc.

Page 6 (Agenda Page 18)

“Don’t request a site visit unless you are available to attend it....”

A Member suggested that the Code should also provide for a substitute to attend as Members sometimes felt it was important that the committee visited the site, even if that Member was unable to attend.

“Don’t enter a site which is subject to a proposal other than as part of an official site visit....”

A Member stated that in rural areas it was common for objectors and applicants to ask local Members to view sites and it was sometimes difficult to say no without appearing unhelpful. The Principal Solicitor suggested that this could be changed to “Be cautious about entering a site...”.

Page 7 (Agenda page 19)

“Do comply with section 38 of the Planning and Compulsory Purchase Act 2004 and make decisions in accordance with the Development Plan...”

Members suggested that the provisions of section 38 of the PCP Act 2004 should either be explained, or the reference to section 38 should be omitted, if “*make decisions in accordance with the Development Plan...*” was legally complete.

“Don’t vote or take part in the meeting’s discussion on a proposal unless you have been present to hear the entire debate, including the officer’s introduction to the matter.”

A Member pointed out that comfort breaks were sometimes necessary, and might occur during the discussion of an application. He himself never went to a meeting without having thoroughly studied the papers and his decision was not simply based on the discussion at the meeting. A Member suggested that the Chair could highlight to a member returning from a short comfort break any significant issues that had been discussed during their absence. She added that members of the public would not necessarily know how thoroughly members had prepared for the meeting, and that their perception of the process would be strongly influenced by what they observed members do at the meeting. The Monitoring Officer agreed that a distinction should be made between a short absence, after which a member could be updated, and a longer absence, which would disqualify them from voting on that item.

A Member asked whether the Code applied to all planning applications, or only to those which came to Committee. The Principal Solicitor said that it applied to all applications, but particularly to those which came to Committee.

A Member asked about the position of members in relation to applications on which they had commented when they had first come before the Committee and which then came to Committee again. The Principal Solicitor said that this would be unlikely to amount to pre-determination, unless the member had expressed total opposition to the application under all circumstances. A Member said applications could change a great deal before they returned to Committee and that members must look at the resubmitted application as it then was, and approach it with an open mind.

A Member suggested that it might be helpful to include a provision that Members should exercise caution when dealing with people who were involved in, or had threatened, legal proceedings against the Council.

The Monitoring Officer suggested it would be helpful to number the paragraphs of the revised Code. Members agreed.

The meeting ended at 6.38 pm

Chair(person)

Date Confirmed and Signed

Prepared by Democratic Services

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Bath & North East Somerset Council	
MEETING	Standards' Committee
MEETING	17th September 2015
TITLE:	Status of Co-opted Members of the Standards Committee
WARD:	All
AN OPEN PUBLIC ITEM	
List of attachments to this report: None	

1 THE ISSUE

1.1 The Committee is requested to consider the voting rights and entitlement of Independent Members who are co-opted to stand as Chair or Deputy Chair. Under Section 13 of the Local Government and Housing Act 1989 Co-opted Members of this Committee are treated as non-voting Members, however it would be permissible to adopt a system of informal voting as set out in this report. There is nothing to prevent a Co-opted Member being elected as Chair or Deputy Chair.

2 RECOMMENDATION

2.1 **That the Standards' Committee note this report.**

3 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)

3.1 There are no direct resource implications arising from this report.

4 STATUTORY CONSIDERATIONS AND BASIS FOR PROPOSAL

4.1 Until 1 July 2012, section 53 of the Local Government Act 2000 required the Council to establish a Standards' Committee, with a membership including at least one person who was not a Member, or an officer, of that or any other relevant authority – in this report referred to as an "Independent Member". Section 53 specifically provided that the Standards' Committee must be chaired by an Independent Member and that Independent Members were entitled to vote at meetings of the Standards' Committee. There were provisions removed by the Localism Act 2011.

- 4.2 In establishing the new arrangement to be in force from 1 July 2012, under the provisions of the Localism Act 2011 the Council decided to retain a non-statutory Standards' Committee. This was done under the general power to discharge functions by Committee contained in section 101 of the Local Government Act 1972. The Council decided to include the former Independent Members within the revised membership of the Standards' Committee to preserve a greater degree of independence and objectivity. It was specifically stated in the Council report that any Co-opted Members would not have voting rights. However the Council considered that Co-opted Members could nevertheless carry out a valuable role in influencing the views of this Committee.
- 4.3 The general power in section 102 of the Local Government Act 1972 to appoint a Committee including persons who are not Members of the Council was used to appoint the Co-opted Members of this Committee. However, by virtue of section 13 of the Local Government and Housing Act 1989 Co-opted Members are treated as non-voting Members.

5 THE REPORT

BACKGROUND

- 5.1 The Standards' Committee consists of 5 Councillors; 3 Independent Members and 3 Parish Representatives – these last 2 categories are referred to in this report as “Co-opted Members”.
- 5.2 The Council has also appointed an Independent Person and Deputy Independent Person under the provisions of the Localism Act 2011, who have a statutory role under the standards regime. The Independent Persons are invited to attend meetings of this Committee, but are not Members of this Committee. They cannot vote on any business of the Committee and are not entitled to stand as Chair or Deputy Chair.
- 5.3 As under the Local Government and Housing Act 1989 Co-opted Members cannot vote, it is suggested that it would be permissible to adopt a system of informal voting or where a vote is required, the Chair would first put the matter to an informal vote by all Members of the Committee. This would allow the Co-opted Members to clearly demonstrate their views to all present and the result would be minuted. The matter would then need to be put a second vote of elected Members only and this vote would stand as the formal decision of the Committee. It would be open to an elected Member to vote differently in each vote should they so wish. In cases where the Committee is making recommendations to the Council then the outcome to the informal and formal votes will be clearly communicated to the Council in the report.
- 5.4 There is nothing to prevent a Co-opted Member being elected as Chair or Deputy Chair – although as discussed above they could not exercise a Chair's second or casting vote.
- 5.5 The Committee is therefore recommended to adopt a system of informal voting to allow the views of Co-opted Members to be taken into account.

6 RATIONALE

6.1 Co-opted Members can carry out a valuable role in influencing the views of the Committee, and can be elected as Chair or Deputy Chair. Under the current law it is not possible to grant them formal voting rights, but it would be permissible to adopt a system of informal voting if this Committee wishes to do so.

7 OTHER OPTIONS CONSIDERED

7.1 The legislation has been carefully considered and there appears to be no other option.

8 CONSULTATION

8.1 No formal consultation.

9 RISK MANAGEMENT

9.1 A risk assessment related to the issue and recommendations has been undertaken, in compliance with the Council's decision making risk management guidance.

Contact person	<i>Maria Lucas, Head of Legal & Democratic Services, Monitoring Officer & Council Solicitor (01225) 395171</i>
Background papers	<i>List here any background papers not included with this report, and where/how they are available for inspection.</i>
Please contact the report author if you need to access this report in an alternative format	

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Bath & North East Somerset Council		
MEETING	Standards' Committee	
MEETING	17th September 2015	EXECUTIVE FORWARD PLAN REFERENCE:
TITLE:	Report on Assessment of Complaints	
WARD:	All	
AN OPEN PUBLIC ITEM		
List of attachments to this report:		
Annex 1 – Report on assessment of complaints		

1 THE ISSUE

- 1.1 The Committee is asked to consider Annex 1 (report on assessment of complaints) and discuss any issues arising.

2 RECOMMENDATION

- 2.1 That the Committee consider the report.**

3 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)

- 3.1 None.

4 STATUTORY CONSIDERATIONS AND BASIS FOR PROPOSAL

- 4.1 The Council is required to have in place adequate arrangements to assess complaints and deal with any further actions required.

5 THE REPORT

- 5.1 A table providing information on the complaints received since Maria Lucas, Head of Legal & Democratic Services, Monitoring Officer & Council Solicitor joined Bath & North East Somerset Council, is attached as Appendix 1.

6 RATIONALE

- 6.1 To update the Standards' Committee on complaints received since June 2015.

7 OTHER OPTIONS CONSIDERED

- 7.1 None.

8 CONSULTATION

8.1 Not applicable.

9 RISK MANAGEMENT

9.1 A risk assessment related to the issue and recommendations has been undertaken, in compliance with the Council's decision making risk management guidance.

Contact person	<i>Maria Lucas, Head of Legal & Democratic Services, Monitoring Officer & Council Solicitor (01225) 395171</i>
Background papers	<i>List here any background papers not included with this report, and where/how they are available for inspection.</i>
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ANNEX 1 - LOCAL ASSESSMENT CASES - CURRENT POSITION - 8th SEPTEMBER 2015

Complaint Number	Date Received / Complainant	Against	Relevant provision of Code	Assessment	Decision reached	Current position
04-15 Dunkerton PC	18.05.15 P Cllr A	P Cllr B	1. Bullying/intimidation 2. Improperly conferring a disadvantage	Initial assessment by MO and IP – investigation	Currently being investigated together with 05a, 5b and 5c.15	ongoing
05a-15 Dunkerton PC	29.05.15 P Cllr C	P Cllr A	1. Bullying/intimidation 2. Improperly conferring a disadvantage 3. Disrespectful behaviour	Initial assessment by MO and IP - investigation	Currently being investigated together with 04, 5b and 5c.15	ongoing
05b-15 Dunkerton PC	29.05.15 P Cllr B	P Cllr A	1. Bullying/intimidation 2. Improperly conferring a disadvantage 3. Disrespectful behaviour	Initial assessment by MO and IP - investigation	Currently being investigated together with 04, 5a and 5c.15 as all relate to the same incident	ongoing
05c-15 Dunkerton PC	31.07.15 P Cllr A	P Cllr C	1. Bullying/intimidation 2. Confidential information disclosed 3. Improperly conferring a disadvantage – potential criminal offence 4. Disrespectful behaviour	Initial assessment by MO and IP - investigation	Currently being investigated together with 04, 5a and 5b.15. Delay caused by receipt of further complaint 05c.15.	ongoing

06-15 BANES	17.05.15 MoP	Cllr	Disrespectful behaviour	Initial assessment by MO and IP	Complainant requested to provide further information	Awaiting complainant's response
07-15 BANES	01.06.15 MoP	Cllr	Disrespectful behaviour	Initial assessment by MO and IP	No breach - too trivial to warrant further investigation	Decision 07.07.15
08-15 BANES	23.06.15 O	Cllr	Improper use of Council resources	Initial assessment by MO and IP	Breach - apology to be sent by Cllr	Decision Apology sent on 13.07.15
09-15 Chew Stoke PC	20.07.15 P Cllr	Cllr	Participated and voted at meeting despite having a DPI in the matter	Potential criminal offence	Referred to police	Police investigating
10-15 Paulton PC	18.08.15 P Cllr	P Cllr	Non-disclosure of DPI	Potential criminal offence	Referred to police	Police investigating
11-15 BANES	28.08.15 MoP	Cllr	Disrespectful behaviour	Awaiting assessment		Awaiting initial response from Cllr

Key –

P Cllr	Parish Councillor
MoP	Member of the Public
Cllr	BANES Councillor
O	Officer