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17 November 2010

To: All Members of the Standards Committee

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

Parish Representatives: Councillor Robert Butt, Councillor Veronica Packham and Councillor Axel Palmer

Bath and North East Somerset Councillors: Councillor Eleanor Jackson, Councillor Nigel Roberts and Councillor Brian Simmons

Chief Executive and other appropriate officers

Press and Public

Dear Member

Standards Committee: Thursday, 25th November, 2010

You are invited to attend a meeting of the **Standards Committee**, to be held on **Thursday, 25th November, 2010 at 5.30 pm** in the **Council Chamber - Keynsham Town Hall**.

The agenda is set out overleaf.

Yours sincerely

Ann Swabey
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 - Guildhall - Bath, Riverside – Keynsham, Hollies - Midsomer Norton, and Bath Central, Keynsham 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 Ann Swabey prior to the commencement of the meeting.
- 4. 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).

- 5. Attendance Register:** Members should sign the Register which will be circulated at the meeting.
- 6. THE APPENDED SUPPORTING DOCUMENTS ARE IDENTIFIED BY AGENDA ITEM NUMBER.**

7. 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

8. 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, 25th November, 2010
at 5.30 pm in the Council Chamber - Keynsham Town Hall**

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

To receive any declarations of interest from Members/Officers in respect of matters for consideration at this 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 AND ADDED MEMBERS RELATING TO THE GENERAL BUSINESS OF THE COMMITTEE

8. MINUTES OF THE MEETING OF 20TH JULY 2010 (Pages 7 - 10)

A. PUBLIC MINUTES

B. EXEMPT MINUTES

9. CONSIDERATION OF AN INVESTIGATING OFFICER'S REPORT ABOUT ALLEGATIONS OF ALLEGED BREACHES OF THE CODE OF CONDUCT BY A COUNCILLOR - CASE NO. 16-10 B&NES (Pages 11 - 22)

The Committee is asked to consider the Investigating Officer's Report and decide whether it agrees with the Investigating Officer's finding that there have been breaches of the Code of Conduct.

Note: *the papers for this item contain Appendices which are considered exempt from publication under Local Government Act 1972 (amended Schedule 12A) because they contain information relating to an individual.*

Before beginning the business relating to this item, the Committee will be asked to consider the Public Interest Test (attached as Appendix 1) and then to determine whether the information is indeed exempt from publication. [Should the

Committee decide that the appendix is not exempt, copies will be provided for the public].

*Should the committee wish to **discuss** the contents of the appendices, the appropriate resolution requiring exclusion of the public will be passed.*

The Committee Administrator for this meeting is Ann Swabey who can be contacted on 01225 394416.

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BATH AND NORTH EAST SOMERSET COUNCIL

STANDARDS COMMITTEE HEARING

DRAFT MINUTES OF THE MEETING OF 20TH JULY 2010

Present:- Cllr Eleanor Jackson, Cllr Axel Palmer, Cllr Veronica Packham, Cllr Nigel Roberts, Sue Toland (Chair), Cllr Gordon Wood (substitute)

Also in attendance: Vernon Hitchman (Council Solicitor), Ann Swabey (Democratic Services Officer)

10 WELCOME AND INTRODUCTIONS

The Chair welcomed everyone to the meeting.

11 EMERGENCY EVACUATION PROCEDURE

The Clerk read out the procedure.

12 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Apologies were received from Dr Cyril Davies, Joy Fraser, Alun Morgan, Cllr. Robert Butt

13 DECLARATIONS OF INTEREST

There were none.

14 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

There was none.

15 ITEMS FROM THE PUBLIC

There were none.

16 ITEMS FROM COUNCILLORS AND CO-OPTED MEMBERS RELATING TO THE

There were none.

17 MINUTES OF PREVIOUS MEETING: 24TH JUNE 2010

The public minutes were approved as a correct record and signed by the Chair.

18 STANDARDS COMMITTEE HEARING PROCEDURE

The Committee considered the following complaint using this procedure.

19 CONSIDERATION OF AN INVESTIGATING OFFICER'S REPORT CONCERNING ALLEGATION OF BREACHES OF THE CODE OF CONDUCT BY A COUNCILLOR – CASE NO 01-10 KTC-B&NES (PAGES 7-70)

The Committee **RESOLVED** that, having been satisfied that the public interest would be better served by not disclosing relevant information and in accordance with the provisions of section 100(A)(4) of the Local Government Act 1972, the

public be excluded from the meeting for this item of business because of the likely disclosure of exempt information as defined in paragraphs 1 and 2 of Part 1 of schedule 12A of Act as amended.

The Investigating Officer summarised his report. The Committee adjourned to consider their decision.

20 RE-ADMISSION OF THE PUBLIC

The Committee re-convened in public session and announced their decision:

They **RESOLVED** that, having carefully considered the Investigating Officer's report: at the meeting of the Norton Radstock Ring and Ride held on 4th March 2009:

- (i) Councillor Simmons did not treat a Council officer with respect and therefore failed to comply with paragraph 3(1) of the Code of Conduct;
- (ii) Councillor Simmons brought Bath & North East Somerset Council and his office into disrepute, in breach of paragraph 5 of the Code;

The Committee further decided that the following sanctions be imposed on Councillor Simmons:

- a) That he writes a letter of apology to the Complainant
- b) That he receives training on the proper conduct of the relationship between officers and Councillors
- c) That he be suspended from his Council duties on any decision-making body for the period of one month from July 21st 2010, with the exception of duties related to his position as a ward councillor.

The Chair thanked everyone for their contributions.

The meeting closed at 7.05pm.

Chair's signature

Date confirmed and signed.....

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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Bath & North East Somerset Council		
MEETING:	Standards Committee	
MEETING DATE:	25 th November 2010	AGENDA ITEM NUMBER
TITLE:	Reference to Committee of Monitoring Officer Report	
WARD:	ALL	
LIKELY TO BE TAKEN IN EXEMPT SESSION		
<p>List of attachments to this report:</p> <ol style="list-style-type: none"> 1. Public Interest Test – Appendix 1 2. Monitoring Officer Report into complaint concerning Cllr X – 16-10 B&NES – Appendix 2 		

1 THE ISSUE

- 1.1 To receive the Report of the Monitoring Officer into a complaint concerning the conduct of Councillor X and determine how it should be dealt with.

2 RECOMMENDATION

That the Committee

- 2.1 Determines that the public interest is best served by excluding the public during consideration of the report and resolves accordingly
- 2.2 Agrees the matter is suitable for local determination, rather than reference to the Adjudication Panel for England
- 2.3 Authorises the holding of a hearing into the complaint and
- 2.4 Authorises the Monitoring Officer to make the necessary arrangements for such purpose

3 FINANCIAL IMPLICATIONS

- 3.1 The financial implications of the holding of this hearing is contained within the budget held by the Monitoring Officer.

4 THE REPORT

- 4.1 The Regulations made under the Act require the committee to take a preliminary view on the investigation report. This initial consideration can have two

purposes:-

a. In the event that the report concludes that there has been no breach, that the matter should nevertheless be referred for a hearing or

b. In the event that the report concludes that there has been a breach whether or not the matter should be referred to the Adjudication Panel for England.

4.2 The only role the committee has in the light of the conclusions reached in the investigation Officer's report is whether or not to refer the matter for determination elsewhere. The Officer's recommendation is that the matter is not serious enough as to warrant the attention of the Adjudication Panel for England and accordingly the committee should merely note the report and indicate that a hearing should be held as required.

4.3 The Committee will note that it is recommended in the Public Interest Test that the report should at this stage be treated as exempt. The arguments for and against disclosure are contained in that test and the Committee will need to decide whether it agrees with the recommendations.

5 RISK MANAGEMENT

5.1 Not applicable.

6 EQUALITIES

It is intended that any hearings conducted will be conducted in accordance with the principles of fairness and natural justice.

Contact person	<i>Vernon Hitchman Monitoring Officer (01225) 395171</i>
Background papers	<i>Standards Board Guidance</i>
Please contact the report author if you need to access this report in an alternative format	

Access to Information Arrangements

Exclusion of access by the public to Council meetings

Information Compliance Ref: LGA-10-017

Meeting / Decision: Standards Committee

Date: 25 November 2010

Author: Vernon Hitchman

Report: Monitoring Officer's Report into Complaint Concerning Councillor X

The Report contains exempt information, according to the categories set out in the Local Government Act 1972 (amended Schedule 12A). The relevant exemption is set out below.

Stating the exemption:

1. *Information relating to any individual*
2. *Information which is likely to reveal the identity of an individual*

The public interest test has been applied, and it is concluded that the public interest in maintaining the exemption outweighs the public interest in disclosure at this time. It is therefore recommended that the Report be withheld from publication on the Council website. The paragraphs below set out the relevant public interest issues in this case.

Factors for withholding:

- The appendix takes the form of documents compiled on behalf of the Monitoring Officer in a form required by law. They contain confidential details of allegations made against the Councillor concerned, the evidence of those whom the Investigating Officer has spoken to and the conclusion of the Investigating Officer as to whether or not the Code of Conduct for Members has been breached. It is, however, no more than the opinion of the Investigating Officer. The only stage at which it will be known definitively whether or not the Code of Conduct has been breached is when a hearing takes place into the report. Such a hearing will not take place until after the meeting to which this report is presented - in other words, some weeks into the future. The role of

the Committee at this stage is merely to consider whether or not the matter should be determined conclusively by another body, namely the Adjudication Panel for England. At this stage, there is no apparent public interest in disclosing details of the allegations and the conclusions about them, since there is no competent body at this stage to reach a definitive view of the facts as presented.

- If the Committee conclude that there was no breach of the Code there is an entitlement of the Member who has been exonerated by the investigation to prohibit any publication of information about the complaint if he or she so wishes. This right is contained in Regulation 17(4) of the Standards Committee (England) Regulations 2008, an absolute right for the Member where there has been a finding of no breach to prohibit publication either of the details of the allegations against him or her and the fact that it has not been proven. In such cases, public consideration of the report containing the allegations would render redundant the power of the Member concerned to prohibit publication of the unfounded allegation made against them.

Factors for disclosure:

- The Standards Board for England guidance states as follows:-

'Despite the ability of the subject Member to prohibit the publication of a notice, the decision as to whether to maintain an exemption does not always have to result in the public being excluded from a meeting. It also does not always have to result in excluding details of the complaint for the report sent out in advance of the meeting. In most cases, the public interest and transparent decision making by the Standards Committee will outweigh the subject Members interest in limiting obligation or an unproven allegation that has not yet been determined'.

Reasons why the public interest favours withholding the information:

- It is considered that the prejudice to the interests of the complainant and the member the subject of the complaint were the report to be discharged outweigh any benefit by way of openness.
- It is considered that the public interest is not served by having possible unfounded allegations entered into the public domain until such time as there is a body that is competent to deal with and decide on the allegations made.

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By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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