

Democratic Services
Riverside, Temple Street, Keynsham, Bristol BS31 1LA
Telephone (01225) 477000 main switchboard
Direct Lines: Tel (01225) 394416
Email: democratic_services@bathnes.gov.uk
Web site: <http://www.bathnes.gov.uk>

8 December 2010

To: All Members of the Standards Committee

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

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, 16th December, 2010

You are invited to attend a meeting of the **Standards Committee**, to be held on **Thursday, 16th December, 2010** at **5.30 pm** in the **Kaposvar Room - Guildhall, Bath**.

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, 16th December, 2010
at 5.30 pm in the Kaposvar Room - 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

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 25 NOVEMBER 2010 (Pages 7 - 10)

A. Public minutes

B. Exempt Minutes

9. DISPENSATION - COMBE HAY PARISH COUNCIL (Pages 11 - 16)

The Committee is asked to consider an application for a dispensation to enable a newly-co-opted member of Combe Hay Parish Council to speak on matters connected with the site and of the former Fullers Earth Works and surrounding fields, hillside and woodland.

10. STANDARDS COMMITTEE - HEARING PROCEDURE

The Committee will consider the following complaint using this procedure.

11. CONSIDERATION OF AN INVESTIGATING OFFICER'S REPORT ABOUT ALLEGATIONS OF BREACHES OF THE CODE OF CONDUCT BY A COUNCILLOR - CASE NO 16-10 B&NES (Pages 17 - 26)

Members are invited to consider the factors for and against disclosure contained in Appendix 1 and to determine whether or not the information in Appendix 2 should be exempt.

Members are then invited to consider whether or not to pass the following resolution:

‘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 disclosures of exempt information as defined in paragraphs 1 and 2 of Part 1 of Schedule 12A of the Act as amended.

Members are then invited to consider the Investigating Officer’s report into the complaint concerning the conduct of Councillor X and to determine how it should be dealt with.

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

STANDARDS COMMITTEE

MINUTES OF THE MEETING OF THURSDAY, 25TH NOVEMBER, 2010

PRESENT:-

Independent Members: Susan Toland (Chair), Deborah Russell (Independent Member) and Alun Morgan (Independent Member)

Parish Representatives: Councillor Veronica Packham and Councillor Nick Stevens

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

Officers: Amanda Brookes (Corporate and Community Law)

10 WELCOME AND INTRODUCTIONS

The Chair (Sue Toland) welcomed everyone to the meeting and introduced Councillor Nick Stevens who had recently been appointed as a Parish Council reserve member.

11 EMERGENCY EVACUATION PROCEDURE

The Chair drew attention to the emergency evacuation procedure as set out in the Agenda.

12 APOLOGIES FOR ABSENCE AND SUBSTITUTION

Apologies were received from Dr Cyril Davies, Councillor Robert Butt and Councillor Axel Palmer.

13 DECLARATIONS OF INTEREST

Councillor Brian Simmons declared a personal interest with respect to Item 8 on the Agenda.

14 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

There was none.

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

There were none.

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

There were none.

17 MINUTES OF THE MEETING OF 20TH JULY 2010

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

18 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

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, that the public should 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 the Act as amended.

After discussion, the Committee **RESOLVED** to refer this complaint to a local hearing to be heard on Thursday 16th December 2010.

The meeting ended at 5.40 pm

Chair(person)

Date Confirmed and Signed

Prepared by Democratic Services

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	AGENDA ITEM NUMBER
MEETING DATE:	16 DECEMBER 2010	
TITLE:	DISPENSATION – COMBE HAY PARISH COUNCIL	
WARD:		
AN OPEN PUBLIC ITEM		
List of attachments to this report:-		
1) Appendix 1 - Letter dated 7th December 2010 and attached application for dispensation		

1 THE ISSUE

- 1.1 To consider an application for a dispensation to enable a newly-co-opted member of Combe Hay Parish Council to speak on matters connected with the site of the former Fullers Earth Works and surrounding fields, hillside and woodland.

2 RECOMMENDATIONS

- 2.1 That the Committee determines the application.

3 FINANCIAL IMPLICATIONS

- 3.1 None.

4 THE REPORT

- 4.1 The Relevant Authorities (Standards Committee) (Dispensations) Regulations 2002 empower Standards Committees to issue dispensations to parish councillors in certain circumstances.
- 4.2 Under the regulations the Committee may grant a dispensation if the transaction of business of the parish council would, on each occasion on which the dispensation would apply, otherwise be impeded by, or as a result of, the mandatory provisions because the number of parish councillors who are prohibited from participating in the business of the parish council exceeds 50% of those councillors who are entitled or required to participate.
- 4.3 In July 2006 the Committee granted a dispensation to all seven members of Combe Hay Parish Council who were members of a single issue protest group in the following terms:-
- (a) At meetings of the Combe Hay Parish Council, you are given a dispensation from requirements to leave the meeting room set out in paragraph 10 of the Code of Conduct to enable you to speak on matters connected with the site of the former Fullers Earth Works and surrounding fields, hillside and woodland (the boundaries of which are shown marked xxxx on the attached plan) on which the Parish Council is being consulted by Bath and North East Somerset Council or another statutory body/agency.

- (b) Interests relating to this dispensation must be declared in the usual form at parish council meetings and reference made to this dispensation. Such declarations will then be minuted accordingly and referred to in any response by the Clerk to the Parish Council to consultation by Bath and North East Somerset Council or another statutory body/agency.
- (c) This dispensation will be subject to review by the Standards Committee at its first meeting after the parish council election **in May 2011**.

4.4 The Clerk to the Parish Council has reported that there have been agenda items at each meeting of the Parish Council relating to the use of the land and proposals relating to footpaths on the land. Members attending the meetings have declared prejudicial interests in the usual way and reference has been made to the dispensation.

4.5 One of the parish councillors who had a dispensation is no longer a parish councillor and an application has been received from the following newly co-opted member of Combe Hay Parish Council:-

Mr F Davis

Mr Davis is a member or former member of the Victims of Fullers Earth, a single issue protest group. He considers that circumstances are likely to arise when he would have a prejudicial interest in relation to matters connected with the site of the former Fullers Earth Works and surrounding fields, hillside and woodland, currently in the ownership of Gazelle Properties Limited.

4.6 The Code of Conduct provides that a member has a personal interest in respect of any matter that must be registered, or, where:

- the matter under discussion might reasonably be regarded as affecting the well-being or financial position of the member or any person or body described in paragraph 8 of the Code (personal interests) to a greater extent than the majority of council tax payers, ratepayers or inhabitants of the electoral division or ward affected by the decision. Where there is no electoral division or ward the issue is whether the matter might affect the member to a greater extent than the majority of the council tax payers etc in the authority's area.

The general test as to what comprises a prejudicial interest remains unchanged: namely, that where a member has a personal interest that interest is also a prejudicial interest where it is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice their judgement of the public interest. However, new Code provides that a member does not have a prejudicial interest where:

- the matter under discussion does not affect the financial position of the member, or any person or body described in paragraph 8 of the Code (personal interests)
- the matter does not relate to the determining of any approval, consent, licence, permission or registration in relation to the member, or any person or body described in paragraph 8 of the Code;
- the matter relates to specific exemptions, none of which are likely to arise in this case.

The basic rule on the effect of prejudicial interests on participation is that unless a dispensation has been obtained from the Standards Committee, a member with a prejudicial interest must withdraw from the room in which the meeting is taking place. However, under paragraph 12(2) of the Code, prior to withdrawing a member with a prejudicial interest may make representations, answer questions or give evidence at a meeting open to the public, provided that the public are also allowed to attend the meeting for the same purpose. After speaking the member must immediately withdraw from the room. Paragraph 12(2) is not mandatory for parish councils, but is included in the code adopted by Combe Hay Parish Council.

4.7 Under the Code, parish councillors are be able to attend a parish council meeting for the purpose of making representations, answering questions or giving evidence relating to matters in which they have a prejudicial interest, to the extent that members of the public are allowed to attend the meeting for the same purpose.

4.8 The parish councillor wishes to be granted a dispensation from the requirement to leave the meeting room set out in paragraph 12 of the Code of Conduct to enable him to receive reports, participate in any discussion of the reports and instruct the Clerk to the Parish Council to take appropriate actions such as submitting, on behalf of the Parish Council, letters, emails or speeches supporting or objecting to or commenting on matters connected with land consisting of the former Fullers Earth Works and surrounding fields, hillside and woodland, currently owned by Gazelle Properties Limited, on which the Parish Council is being consulted by Bath and North East Somerset Council or another statutory body/agency.

4.9 The Committee must be satisfied that the parish councillor is eligible to apply for dispensations and, in the light of all the circumstances of the case, that it is appropriate to grant the dispensation. There is little guidance as to how the Committee should exercise its discretion in any particular circumstances and practice elsewhere appears to vary (see Para. 4.2 above).

4.10 If the Committee is minded to grant the application it is suggested that it be granted in the following terms:-

- (a) at meetings of the Combe Hay Parish Council, you are given a dispensation from the requirement to leave the meeting room set out in paragraph 12 of the Code of Conduct to enable you to receive reports, participate in any discussion of the reports and instruct the Clerk to the Parish Council to take appropriate actions such as submitting, on behalf of the Parish Council, letters, emails or speeches supporting or objecting to or commenting on matters connected with land consisting of the former Fullers Earth Works and surrounding fields, hillside and woodland, currently owned by Gazelle Properties Limited, on which the Parish Council is being consulted by Bath and North East Somerset Council or another statutory body/agency
- (b) interests relating to this dispensation must be declared in the usual form at meetings and reference made to this dispensation. Such declarations will then be minuted accordingly and referred to in any response to consultation by Bath and North East Somerset Council or another statutory body/agency.

5 RISK MANAGEMENT

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

6 CONSULTATION

6.1 A copy of this report has been provided to the Clerk to the Parish Council and any comments will be reported to the meeting.

7 ISSUES TO CONSIDER IN REACHING THE DECISION

7.1 These are set out in section 4 of the report.

8 ADVICE SOUGHT

8.1 This report has been prepared on behalf of the Council's Monitoring Officer.

Contact person	Amanda Brookes, Corporate & Community Law Manager Tel:01225 395172
Background papers	None
Please contact the report author if you need to access this report in an alternative format	

From: **The Clerk to COMBE HAY PARISH COUNCIL**

**Beechcroft
Combe Hay
Bath
BA2 7EG**

Tel: 01225-837271

E-mail: clerk.combe-hay@virgin.net

Reference: G2968

7 December 2010

Bath & North East Somerset Council
Riverside
Temple Street
Keynsham
Bristol BS31 1LA

For the attention of Ms Amanda Brookes.

COMBE HAY PARISH COUNCILLOR - DISPENSATION.

I attach a letter, signed by Mr Frank Davis, a recently co-opted Combe Hay Parish Councillor, seeking a Dispensation from the Bath & North East Somerset Standards Committee.

I should be grateful if you would place this item of business on the agenda for the meeting of the Standards Committee to be held on 16 December 2010.

I should be grateful for an early sight of the report to the Standards Committee concerning this matter.

Yours sincerely,

Peter DUPPA-MILLER

Attachment to the Clerk to Combe Hay Parish Council's letter reference G2968 dated 7 December 2010.

Bath & North East Somerset Council
Riverside
Temple Street
Keynsham
Bristol BS31 1LA

For the attention of Ms Amanda Brookes.

Dear Ms Brookes,

1. I, the undersigned, refer to:
 - a. The Dispensations granted to the relevant persons, who were at that time Combe Hay Parish Councillors, by the Deputy Monitoring Officer's letters AKB/MP dated 4 June 2007.
 - b. The Model Code of Conduct for Parish and Town Councils (see Local Authorities (Model Code of Conduct) Order 2007 No. 1159), in particular paragraphs 8 (1) (a) (ii) (cc), 9 (1), 10 (1), 12 (1) (a), 12 (1) (b) and 12 (2).
 - c. Combe Hay Parish Council's Standing Orders 58 and 59.

2. I seek formal confirmation that I (having declared my personal and prejudicial interests) may, when matters relating to the land currently owned by Gazelle Properties Limited are to be reported to a meeting of Combe Hay Parish Council,
 - a. Remain in the meeting room.
 - b. Receive the reports.
 - c. Participate in any discussion of the reports.

3. The reason I seek a Dispensation is that, without such a Dispensation, transaction of the business of Combe Hay Parish Council might be significantly impeded, in that planned and advertised meetings might otherwise become, at the last moment, inquorate.

Yours sincerely,

Frank Davis

Bath & North East Somerset Council		
MEETING:	Standards Committee	
MEETING DATE:	16 th December 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 The Committee is asked to consider the Investigating Officer's report and decide whether it agrees with the Investigating Officer's finding that there has been a breach of the Code of Conduct by Councillor X.

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 Considers the Investigating Officer's report and decide whether it agrees with the Investigating Officer's finding that there has been a breach of the Code of Conduct by Councillor X.

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:

Meeting: Standards Committee

Date: 16th December 2010

Author: Vernon Hitchman, Monitoring Officer

Report / Appendix Title/s:

Monitoring Officer's Report into Complaint Concerning Councillor X

Appendix 2 of the report contains exempt information, according to the categories set out in the Local Government Act 1972 (amended Schedule 12A). The relevant exemptions are set out below.

Stating the exemptions:

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

The public interest test has been applied, and it is concluded that the public interest in maintaining the exemptions outweighs the public interest in disclosure at this time. It is therefore recommended that the meeting resolve to exclude the public. The paragraphs below set out the relevant public interest issues in this case.

Factors for withholding:

- 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.
- The complainant in this case has requested anonymity as he/she feared physical harm might ensue if his/her identity was disclosed. The Referrals Sub Committee agreed to respect the complainant's request for anonymity as far as was practically possible.

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.

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

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