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16 March 2011

To: All Members of the Standards Committee

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

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

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, 24th March, 2011

You are invited to attend a meeting of the **Standards Committee**, to be held on **Thursday, 24th March, 2011** at **6.00 pm** in the **Council Chamber - Keynsham Town Hall**.

Please note later start time.

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, 24th March, 2011
at 6.00 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 SUBSTITUTIONS

4. DECLARATIONS OF INTEREST

To receive any declarations of interest from Members/Officers in respect of matters for consideration at this meeting.

Members who have an interest to declare are asked to:

- a) State the Item Number in which they have the interest;
- b) The nature of the interest;
- c) Whether the interest is personal or personal and prejudicial

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

At the time of publication, no items had been submitted.

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

To deal with any petitions or questions from Councillors and where appropriate co-opted and added members.

8. MINUTES OF THE MEETING OF 16TH DECEMBER 2010 (Pages 7 - 10)

A. PUBLIC MINUTES

B. EXEMPT MINUTES

9. REFERENCE TO COMMITTEE OF INVESTIGATING OFFICER'S REPORT CONCERNING ALLEGATIONS OF BREACHES OF THE CODE OF CONDUCT BY A COUNCILLOR - CASE NO. 19-10 B&NES (Pages 11 - 16)

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 no breach 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 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.

Standards Committee hearing – Case No. 16-10B&NES

Meeting date: Thursday 16th December 2010

Present : Sue Toland (Chair), Alun Morgan, Deborah Russell, Cllr Eleanor Jackson, Cllr Nigel Roberts. Cllr Brian Simmons, Cllr Axel Palmer, Cllr. Veronica Packham,

Apologies: Cyril Davies, Cllr Robert Butt.

Officers: Amanda Brookes, Shaine Lewis, Ann Swabey

4. Declarations of Interest

Cllr Eleanor Jackson declared a personal interest in that the complainant in this case was a fellow member of the Labour Party and a personal friend.

5. Urgent business

On a point of information, the Chair informed the meeting of the changes to the Standards regime that were being proposed by the government as part of the Localism Bill. It was noted however, that should these changes take place, the bill would not become law until late 2011. In the meantime, the Standards Committee would continue to operate under the current Local Standards Framework.

6. Items from the public etc.

There were none

7. Items from Councillors etc.

There were none

8. Minutes of the meeting of 25th November 2010

- A. Public Minutes
- B. Exempt minutes

Following a proposal by Cllr Jackson, seconded by Cllr. Roberts, both the public and exempt minutes of the meeting of 25th November were agreed as a correct record and signed by the Chair.

9. Dispensation – Combe Hay Parish Council.

The Corporate and Community Law Manager drew the Committee's attention to an error in Paragraph 4.3(c) of the report. It should be noted that the relevant date was

May 2007, not 2011. A further dispensation had been granted by the Standards Committee to six members of the Parish Council on 24th May 2007. If the Committee decided to grant the current application, the wording should be agreed as in May 2007.

The Committee had received an application for a dispensation by Councillor Frank Davis of Combe Hay Parish Council to enable him to speak on matters connected with the site of the former Fullers Earth works and surrounding fields, hillside and woodland. The Chair invited the Clerk to Combe Hay Parish Council, Mr Duppa-Miller, to inform the Committee of the reasons for the request for dispensation.

Mr Duppa-Miller explained that, of the present 7 members of the Parish Council, 5 have dispensation. Due to the nature of their occupations, many of the parish councillors had to send apologies for attendance at short notice. This caused meetings to be cancelled or postponed on a regular basis due to the fact that the agenda at meetings could typically involve up to 11 items relating to the Fullers Earth site and so it was difficult to attain quoracy. Therefore, in order for parish business not to be impeded, it was important that the dispensation for the latest member, Mr F Davis, was granted.

Following a proposal by Cllr Roberts, seconded by Cllr. Palmer, it was agreed to grant the dispensation to Cllr Frank Davis of Combe Hay Parish Council; the dispensation to run until the next parish elections in May 2011.

10. Standards Committee Hearing Procedure

The Chair informed the meeting that the hearing would be conducted using this procedure.

11. Consideration of an Investigating Officer's Report about Allegations of Breaches of the Code of Conduct by a Councillor

The Committee considered the factors for and against disclosure as contained in Appendix 1 to the report in order to determine whether the information contained in Appendix 2 should be exempt. Following discussions, the Chair put the issue to the vote. It was decided by a majority that the session be held in private and so the decision was taken to exclude the public.

After submissions from the Investigating Officer and the subject councillor and questions from the Committee, the Committee members withdrew to consider their decision.

The Committee re-convened and the Chair announced their findings as follows:

FINDINGS

The Standards Committee has considered the Investigating Officer's report and the discussion preceding these deliberations. It has concluded that on 22nd April 2010, Councillor Cray has breached Paragraph 4 (a) of the Code of Conduct by revealing the identity of the complainant who had been granted anonymity by the Standards Committee at their meeting on 30th March 2010.

SANCTIONS

The subject councillor must apologise in writing to the Standards Committee.

He must also undertake training in the Code of Conduct; both actions to be undertaken within three months of the date of this hearing.

The Committee wishes the Monitoring Officer to report when the training has taken place to his satisfaction.

The Chair added that it would be timely to remind all councillors of their responsibility to observe confidentiality when required and asked that the Monitoring Officer examine that way that information about the Standards Committee decisions is disseminated.

She thanked everyone for their contributions.

The meeting closed at 6.48pm.

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| Bath & North East Somerset Council | | |
|---|--|--------------------|
| MEETING: | Standards Committee | |
| MEETING DATE: | 24 th March 2011 | AGENDA ITEM NUMBER |
| TITLE: | Reference to Committee of Investigating Officer's Report concerning an allegation of a breach of the code of conduct by a Parish Councillor | |
| WARD: | ALL | |
| LIKELY TO BE TAKEN IN EXEMPT SESSION | | |
| List of attachments to this report: | | |
| <ol style="list-style-type: none"> 1. Appendix 1 – Access to Information Arrangements – Public Interest Test 2. Appendix 2 – Exempt - Investigating Officer's report into complaint concerning Cllr X – 19-10 B&NES | | |

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 not been a breach of the Code of Conduct.

2 RECOMMENDATION

That the Committee considers the Investigating Officer's Report and decides whether:-

- 2.1 it accepts the Investigating Officer's finding that there has not been a breach of the Code of Conduct, or;
- 2.2 it believes that there is a case to answer.

3 FINANCIAL IMPLICATIONS

- 3.1 Irrelevant

4 THE REPORT

- 4.1 This report is presented by the Council's Monitoring Officer to enable the Committee to consider the Investigating Officer's Report which is attached at Appendix 1.

- 4.2 The investigation has been carried out in accordance with the Council's approved procedure. A copy of the Investigating Officer's Report, and the agenda for this meeting has been sent to the Councillor against whom the allegation was made, the person who made the complaint and the Clerk to the relevant Parish Council.
- 4.3 The Committee's role at this stage is to decide whether, based on the facts set out in the report, it agrees with the Investigating Officer's finding that there has been no breach of the Code or believes there is a case to answer. The Committee should simply consider the report; it should not seek to interview witnesses or take representations from the parties.
- 4.4 If the Committee agrees that the Code of Conduct has not been breached, arrangements will be made for a notice to be published. The notice will state the Committee's findings and give reasons for it. The councillor involved is entitled to ask that the notice not be passed to local newspapers.
- 4.5 If the Committee decides that there is case to answer, it will be necessary to hold a hearing to make the final determination on whether the Code of Conduct was breached.

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.

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|--|--|
| 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 | |

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Appendix 1

Access to Information Arrangements

Exclusion of access by the public to Council meetings

Information Compliance Ref: LGA-11-005

Meeting / Decision: Standards Committee

Date: 24th March 2011

Author: Vernon Hitchman

Report: Reference to Committee of Investigating Officer's Report concerning an allegation of a breach of the code of conduct by a Parish Councillor

Appendix: Monitoring Officer's Report into Complaint Concerning Councillor X – 19-10 B&NES

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.