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15 June 2011

To: All Members of the Standards Committee

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

Parish Representatives: Councillor Axel Palmer, Councillor Nick Stevens and Councillor Reg Williams

Bath and North East Somerset Councillors: Councillor Sally Davis, Councillor Eleanor Jackson and Councillor Nigel Roberts

Chief Executive and other appropriate officers

Press and Public

Dear Member

Standards Committee: Thursday, 23rd June, 2011

You are invited to attend a meeting of the **Standards Committee**, to be held on **Thursday, 23rd June, 2011 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, 23rd June, 2011
at 5.30 pm in the Kaposvar Room - Guildhall, Bath**

AGENDA

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. 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 petitions or questions from Councillors and where appropriate co-opted and added members.

8. MINUTES OF THE MEETING OF 24TH MARCH 2011 (Pages 5 - 8)

- A. PUBLIC MINUTES
- B. EXEMPT MINUTES

9. STANDARDS: THE FUTURE (Pages 9 - 12)

10. SYSTEM FOR LOCAL ASSESSMENT OF COMPLAINTS ABOUT THE CONDUCT OF MEMBERS (Pages 13 - 16)

11. REPORT CONCERNING ALLEGATIONS OF BREACHES OF THE CODE OF CONDUCT BY A COUNCILLOR - CASE NO: 32-10 B&NES (Pages 17 - 76)

The Committee is asked to consider the Investigating Officer's report and decide whether it agrees with the Investigating Officer's finding about whether there has been a breach of the Code of Conduct.

Note: *the papers for this item contain Appendices which are considered exempt from publication under the 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.

BATH AND NORTH EAST SOMERSET

STANDARDS COMMITTEE

MINUTES OF THE MEETING OF THURSDAY, 24TH MARCH, 2011

PRESENT:-

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

Parish Representatives: Councillor Robert Butt and Councillor Veronica Packham

Bath and North East Somerset Councillors: Eleanor Jackson and Brian Simmons

Officers: Vernon Hitchman (Council Solicitor and Monitoring Officer), Debbie Incedon (Investigating Officer), Ann Swabey (Democratic Services Officer)

30 WELCOME AND INTRODUCTIONS

The Chair welcomed everyone to the meeting.

31 EMERGENCY EVACUATION PROCEDURE

The Clerk read out the Emergency Evacuation Procedure.

32 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Also in attendance: Vernon Hitchman (Monitoring Officer and Council Solicitor), Debbie Incedon (Investigating Officer), Ann Swabey (Democratic Services Officer).

Apologies were received from Alun Morgan and Councillor Axel Palmer.

33 DECLARATIONS OF INTEREST

There were none.

34 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

The Monitoring Officer informed the meeting that, in accordance with the directions of the Referrals Sub-Committee, he had met with Councillor Brian Huggett of Englishcombe Parish Council to remind him of his obligations under the Code of Conduct. The Monitoring Officer declared he was satisfied that Councillor Huggett had understood his obligations under the Code.

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

There were none.

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

There were none.

37 MINUTES OF THE MEETING OF 16TH DECEMBER 2010

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

38 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

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, it was decided that the session be held in private and so the decision was taken to exclude the public.

The Committee therefore **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 the following 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

After submissions from the Investigating Officer and questions from the Members, the Committee **RESOLVED** unanimously to accept the Investigating Officer's finding that there had not been a breach of the Code of Conduct by the subject councillor, therefore the case would not proceed to a hearing.

The meeting closed at 7.05pm.

The meeting ended at 7.05 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.

Document is Restricted

Bath & North East Somerset Council	
MEETING:	Standards Committee
MEETING DATE:	23 June 2011
TITLE:	Standards – the future
WARD:	ALL
AN OPEN PUBLIC ITEM	
List of attachments to this report: none	

1 THE ISSUE

1.1 The Committee is invited to consider the proposals relating to standards in the Localism Bill.

2 RECOMMENDATION

The Committee is asked to:

2.1 Note this report and put forward any views it has at this stage on how the Council should discharge its new duty to discharge to promote high standards of conduct

3 FINANCIAL IMPLICATIONS

3.1 None at this stage.

4 THE REPORT

4.1 Council at its meeting on 19 May 2011 resolved “To ask the Standards Committee to review its procedure for investigation of complaints and report back thereon to the September meeting of Council with the intention of;

- a. Making the system fairer to those who are complained about; and
- b. Making proposals for the implementation of the Localism Bill currently before Parliament.

4.2 The Localism Bill will place a new duty on local authorities in England to promote and maintain high standards of conduct among elected and co-opted members of the authority but remove the present means of discharging this duty by abolishing the General Principles, the Model Code of Conduct, Standards for England and

standards committees. There will be a new statutory Register of Members' Interests with criminal penalties for failure to comply.

- 4.3 The Bill envisages that authorities may wish to adopt their own non-statutory Code of Conduct. The simplest course would be to re-adopt the general conduct provisions in paragraphs 3-7 of the Model Code, as these are the parts which will not be replaced by the new statutory interests regime. However, the Bill also provides that, where a local authority adopts a non-statutory Code of Conduct, it must then respond to any written complaints that a member or co-opted member has failed to comply with that Code by considering whether the matter should be investigated and, if satisfied by the investigation that a member or co-opted member has failed to comply, decide what action if any to take. The Bill does not give the local authority an express power to impose sanctions on members who fail to comply with a voluntary code. There would, however, be considerable freedom to delegate more of the process, enable speedier investigation and resolution of simple matters than is the case with the current system.
- 4.4 There is an issue regarding the position of independent members. This is because the current provisions requiring the appointment of independent members to standards committees will be repealed along with the other requirements of the current standards system. Section 102(3) of the Local Government Act would enable the co-option of non-councillors on to a new standards committee, but section 13 of the Local Government and Housing Act 1989 prevents them from having a vote on the committee unless it is purely advisory. It would therefore appear to be necessary for a new standards committee to recommend any matter on to the full Council for decision, if co-opted independent members are to have vote. This issue has been raised with the Government which could, if it considers it to be appropriate, introduce an amendment to the Localism Bill or regulations to allow co-opted members full voting rights on non-statutory standards committees
- 4.5 The Bill provides that the Secretary of State may make regulations requiring the Monitoring Officer to establish and maintain a Register of Members' Interests of members and co-opted members. These regulations may make provision for i) specifying the financial and other interests be registered, ii) requiring disclosure of interests, iii) preventing or restricting the participation of a member or co-opted member with a disclosed interest in any business of the Council to which the interest relates, iv) enabling the Council grant dispensations in specified circumstances from a prohibition imposed in accordance with iii) above, v) enabling the Council to impose sanctions on a member or co-opted member for failure to comply with the regulations, and vi) requiring the Council to make copies of the register available to the public.
- 4.6 It is anticipated that the Bill will receive Royal Assent in late 2011. The current standards regime will continue to function until a fixed date, probably two months after the Bill receives Royal Assent.

5 RISK MANAGEMENT

- 5.1 The Council is currently required by law to put in place and operate a system for the local assessment of complaints about the conduct of members and to operate that system in accordance with the relevant regulations. When the Localism Bill becomes law the Council will be required to comply with its requirements.

6 EQUALITIES

6.1 There are no implications for equality.

7 CONSULTATION

7.1 None

8 ISSUES TO CONSIDER IN REACHING THE DECISION

8.1 None other than the information set out in this report.

9 ADVICE SOUGHT

9.1 This report has been prepared by the Council's Monitoring Officer.

Contact person	Vernon Hitchman 01225 395171
Background papers	None
Please contact the report author if you need to access this report in an alternative format	

Bath & North East Somerset Council	
MEETING:	Standards Committee
MEETING DATE:	23 June 2011
TITLE:	System for local assessment of complaints about the conduct of members
WARD:	ALL
AN OPEN PUBLIC ITEM	
List of attachments to this report: none	

1 THE ISSUE

- 1.1 The Committee is invited to consider whether it wishes to amend the system for the local assessment of complaints about the conduct of members.

2 RECOMMENDATION

The Committee is asked to decide:

- 2.1 whether it wishes to amend the system for the local assessment of complaints about the conduct of members by notifying the subject member of a complaint that a complaint has been made about them before the complaint is considered by the Referrals Sub-Committee.

3 FINANCIAL IMPLICATIONS

- 3.1 None at this stage.

4 THE REPORT

- 4.1 Council at its meeting on 19 May 2011 resolved "To ask the Standards Committee to review its procedure for investigation of complaints and report back thereon to the September meeting of Council with the intention of;

- a. Making the system fairer to those who are complained about; and
- b. Making proposals for the implementation of the Localism Bill currently before Parliament.

- 4.2 The current system for the local assessment of complaints has been in place since May 2008. On receipt of a complaint it is acknowledged and referred to the Standards Referrals Sub-Committee which assesses the complaint and decides whether to a) refer the complaint to the monitoring officer for investigation or other

action, b) refer the complaint to Standards for England, or, c) that no action should be taken. The Monitoring Officer sends the decision notice to the complainant and the member who is the subject of the complaint. The member who is the subject of the complaint does not know about it until he/she receives a copy of the decision notice.

- 4.3 The Monitoring Officer is required to comply with the Standards Committee (England) Regulations 2008. Under regulation 11(4) the Monitoring Officer can notify the member the subject of a complaint that a complaint has been received but is not able to supply a copy of the complaint. The Standards Committee is required to take reasonable steps to give a written summary of the complaint to the relevant member when it receives the allegation. This is the date when the Referrals Sub-Committee considers the complaint and not the date when it is reviewed by the Monitoring Officer.
- 4.4 Guidance issued by Standards for England, to which the Standards Committee is obliged to have regard is that “the Monitoring Officer has the discretion to take the administrative step of acknowledging receipt of a complaint and telling the subject member of the complaint that a complaint has been made about them. The notification can say that a complaint has been made and state the name of the complainant (unless the complainant has requested confidentiality and the standards committee has not yet considered whether or not to grant it) and the relevant paragraphs of the Code of Conduct that may have been breached. It should also state that a written summary of the allegation will only be provided to the subject member once the assessment sub-committee has met to consider the complaint and the date of this meeting if known. Only the Standards Committee has the power under section 57C(2) of the Local Government Act 2000, as amended, to give a written summary of the allegation to a subject member. ”
- 4.5 The Localism Bill contains proposals to abolish the Standards for England regime. If the proposals are approved by Parliament, Standards for England will cease to operate, councils will no longer be required to have a standards committee, the national code of conduct for members will be revoked and councils will be able to adopt voluntary codes of conduct. It is anticipated that the Bill will receive Royal assent in late 2011. The current standards regime will continue to function until a fixed date, probably two months after the Bill receives Royal Assent.
- 4.6 The Chief Executive and the Group Leaders have been consulted in connection with this matter. Their view is that there should be advance notification to any member who is the subject of a complaint in a way that enables them to understand what is being alleged and give them the opportunity to comment.
- 4.7 The Committee is invited to consider whether it wishes to amend the system for the local assessment of complaints so that the subject member may be notified that that a complaint has been made about them and if they do, whether they wish the notification to contain the name of the complainant and the relevant paragraph(s) of the code of conduct that may have been breached and in what respect.

5 RISK MANAGEMENT

- 5.1 The Council is required by law to put in place and operate a system for the local assessment of complaints about the conduct of members and to operate that system in accordance with the regulations

6 EQUALITIES

6.1 There are no implications for equality.

7 CONSULTATION

7.1 The Chief Executive and Group Leaders have been consulted on this issue and their views are set out in the main body of this report.

8 ISSUES TO CONSIDER IN REACHING THE DECISION

8.1 None other than the information set out in this report.

9 ADVICE SOUGHT

9.1 This report has been prepared by the Council's Monitoring Officer.

Contact person	Vernon Hitchman 01225 395171
Background papers	None
Please contact the report author if you need to access this report in an alternative format	

Bath & North East Somerset Council		
MEETING:	Standards Committee	
MEETING DATE:	23 rd June 2011	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 – 32-10 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	

Appendix 1

Access to Information Arrangements

Exclusion of access by the public to Council meetings

Information Compliance Ref:

Meeting / Decision: Standards Committee
Date: 23 rd June 2011

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: <ol style="list-style-type: none"><i>1. Information relating to any individual</i><i>2. Information which is likely to reveal the identity of an individual</i>
--

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.

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

Document is Restricted

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
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