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13 July 2011

**To: All Members of the Standards Committee**

**Independent Members:** Susan Toland (Chair), Deborah Russell

**Parish Representatives:** Councillor Veronica Packham, 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, 21st July, 2011**

You are invited to attend a meeting of the **Standards Committee** to hear a complaint about the conduct of a councillor, to be held on **Thursday, 21st July, 2011 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, 21st July, 2011  
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 COUNCILLORS AND CO-OPTED AND ADDED MEMBERS RELATING TO THE GENERAL BUSINESS OF THE COMMITTEE

7. MINUTES OF THE MEETING OF THE MEETING OF 23 JUNE 2011 (Pages 5 - 8)

8. STANDARDS COMMITTEE HEARING PROCEDURE (Pages 9 - 10)

The Committee will consider the following complaint using this procedure.

9. CONSIDERATION OF AN INVESTIGATING OFFICER'S REPORT ABOUT ALLEGATIONS OF BREACHES OF THE CODE OF CONDUCT - CASE NO 32-10 B&NES (Pages 11 - 102)

Members are invited to consider the factors for and against disclosure contained in Appendix 1, and to determine whether or not the documents appended to it 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 disclosure 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, the response

received from the member the subject of the complaint and to determine whether or not they accept the Investigation Officer's conclusions.

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

**BATH AND NORTH EAST SOMERSET**

**STANDARDS COMMITTEE**

***DRAFT* MINUTES OF THE MEETING OF THURSDAY, 23RD JUNE, 2011**

PRESENT:-

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

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

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

**Officers:** Amanda Brookes (Corporate and Community Law Manager), Ann Swabey (Democratic Services Officer)

**1 WELCOME AND INTRODUCTIONS**

The Independent Chair, Mrs Sue Toland. Welcomed everyone to the meeting.

**2 EMERGENCY EVACUATION PROCEDURE**

The Clerk drew attention to the emergency evacuation procedure.

**3 APOLOGIES FOR ABSENCE AND SUBSTITUTION**

Apologies were received from Councillor Sally Davis and Dr Cyril Davies.

**4 DECLARATIONS OF INTEREST**

There were no declarations of interest.

**5 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR**

There were no urgent items of business.

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

There were no items from the public.

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

There were no items from councillors or co-opted and added members.

**8 MINUTES OF THE MEETING OF 24TH MARCH 2011**

The minutes of the meeting of 24<sup>th</sup> March 2011 were agreed and signed by the Chair.

**9 STANDARDS: THE FUTURE**

The Corporate and Community Law Manager introduced this report and explained to Members that this was an opportunity to express their views about the proposals

relating to Standards in the Localism Bill. If the Bill becomes law, the current standards framework will cease and Councils will be able to choose whether to adopt a non-statutory code of conduct. If the Council adopts a non-statutory code of conduct, it would have to respond to any written complaints that a member or co-opted had failed to comply with that code.

However, the Bill does not give local authorities the power to impose sanctions on members who fail to comply with a voluntary code. In addition, there is an issue about the position of Independent Members. This is because the current provisions requiring the appointment of Independent Members would be repealed. Councils would still be able to co-opt non-councillors on to a standards committee as Independent Members, but they would not have voting powers. This issue has been raised with the Government. The current standards regime will continue two months after the Bill receives Royal Assent, which is expected to take place towards the end of the year.

Sue Toland asked whether it was proposed that Parish Councils make their own arrangements under the new provisions and was informed that that was the case. Deborah Russell commented that if the Standards Committee could not apply sanctions, then what was their purpose. Several Members agreed with this observation.

Councillor Roberts stated that one of the aims of the Bill was to make the complaints process less bureaucratic. With regard to sanctions, the publication of a breach of the Code of Conduct could be a deterrent, together with the requirements to make a public apology. This would cover the kind of issues raised in the majority of the complaints that the Committee had dealt with in the past 3 years. With regard to the Independent Members, he felt that they provided a very valuable addition to the membership. Councillor Nick Stevens commented that he felt it was contradictory to have independent members and then deny them a vote. Members also voiced concern about the impact of the proposals on Parish Councils and the implications for the Parish Charter.

Councillor Roberts made the following proposals for the consideration of the meeting:

- a) That, after the Localism Bill receives Royal Assent, the Council adopts a non-statutory code of conduct based on the current Model Code and establishes a Standards Committee
- b) That the complaints process is reviewed and streamlined to remove unnecessary bureaucracy
- c) That the Council offers an opt-in provision for Parish Councils to utilise the new complaints process in respect of complaints against their members.

Councillor Jackson said that Independent Members should be included in the future membership of the Standards Committee. This was agreed.

The Corporate and Community Law Manager informed the meeting that these proposals would be incorporated in the report to full Council in September.

## 10 **SYSTEM FOR LOCAL ASSESSMENT OF COMPLAINTS ABOUT THE CONDUCT OF MEMBERS**

The Corporate and Community Law Manager introduced this report which asks the Committee to decide 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 against them before the complaint is considered by the Referrals Sub-Committee.

Members felt that there should be some kind of vetting process applied to complaints to assess whether the alleged conduct does breach the Code before they are referred to committee. They also agreed that the amount of correspondence could be reduced without disadvantage to the parties involved. Following further discussion, there was unanimous support for notifying the subject of the complaint prior to the sub-committee meeting and for the notification to include the name of the complainant and the relevant paragraphs of the code of conduct that have been breached.

The meeting asked the Corporate and Community Law Manager and the clerk to the Standards Committee to incorporate the Members' comments on the complaints process in a report which would be presented to full Council in September.

**11 REPORT CONCERNING ALLEGATIONS OF BREACHES OF THE CODE OF CONDUCT BY A COUNCILLOR - CASE NO: 32-10 B&NES**

Following a proposal by Councillor Roberts, seconded by Councillor Jackson, 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. It was decided unanimously 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.

The Members agreed unanimously that this case should be heard by the local Standards Committee. The hearing date was set for Thursday 21<sup>st</sup> July.

The meeting ended at 6.45 pm

Chair(person) .....

Date Confirmed and Signed .....

**Prepared by Democratic Services**

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## STANDARDS COMMITTEE HEARING PROCEDURE

### 1. Purpose of hearing

To consider the report concerning the allegation made about the conduct of Councillor X.

### 2. Material to be provided to the hearing

The Monitoring Officer/his representative will provide a report which will include:-

1. The Investigating Officer's report.
2. Any material and information provided by Councillor X.
3. The hearing procedure

### 3. Procedure

In attendance:-

Committee Members, Committee Administrator, Legal Adviser (who will be the Monitoring Officer or his representative), Investigating Officer and/or his representative, any other witnesses, Councillor X, his or her representative (if any) and his or her witness(es).

1. The Chairman introduces the Committee, its advisers, checks quorum. Any declarations of interest? If relevant should the Committee proceed in the absence of councillor the subject of the complaint?
2. The Chairman indicates what material the Committee has before it.
3. The Chairman explains the procedure to be followed:-
  - (i) Should the Committee exclude the press/public?
  - (ii) The Investigating Officer/his representative introduces his report and explains the conclusions he/the Investigating Officer has reached. The presenter of the report may call witnesses to give evidence although it is hoped in the majority of cases this will not be necessary and should be avoided.
  - (iii) The Committee to ask Councillor X if he/she requires clarification of any points in the report. If so, and the Committee feels this is relevant and reasonable, the Committee to seek such clarification.
  - (iv) The Committee will seek clarification of any points to help it form a view on whether the allegation has been properly investigated and whether it has sufficient information to enable it to make a properly informed judgement.
  - (v) Councillor X says what he/she wishes to say.
  - (vi) The Committee may then question Councillor X.

- (vii) Councillor X calls any witnesses who have information to give relevant to the issue before the Committee and necessary to establish the true factual position.
- (viii) The Committee may then ask questions of those witnesses.
- (ix) The Committee retire to consider decision.
- (x) Wherever possible, any necessary legal advice will be given publicly but the Committee reserve the right to seek it privately in exceptional circumstances.
- (xiii) Decision with brief reasons announced by the Chairman.
- (xiv) Minutes of meeting are prepared and published in accordance with the usual Committee requirements. Decision published in local newspaper.

Notes:

- (1) The Committee, subject to the above, will regulate its own procedure having regard to the principles of natural justice and the law.
- (2) Issues such as relevance of material before the Committee, objections and so on will be determined by the Chairman.
- (3) The Committee will consider carefully the position covering public/private business in accordance with the requirements of the Local Government Act 1972 (as amended), the Freedom of Information Act and relevant regulations.

## Appendix 1

### Access to Information Arrangements

#### Exclusion of access by the public to Council meetings

Information Compliance Ref: LGA-11-008
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Meeting / Decision: Standards Committee
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Date: 23 <sup>rd</sup> June 2011
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Author: Vernon Hitchman
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Report: Monitoring Officer's Report into Complaint Concerning Councillor X
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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:
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- |   |
|---|
| <ol style="list-style-type: none"> <li>1. <i>Information relating to any individual</i></li> <li>2. <i>Information which is likely to reveal the identity of an individual</i></li> </ol> |
|---|

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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of the Local Government Act 1972.

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