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18 April 2012

To: All Members of the Standards Committee

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

Parish/Town Councillors: Tony Crouch, Veronica Packham and Axel Palmer

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, 26th April, 2012

You are invited to attend a meeting of the **Standards Committee**, to be held on **Thursday, 26th April, 2012 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, 26th April, 2012
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 21 JULY 2011 (Pages 5 - 8)

9. UPDATE ON THE INTRODUCTION OF THE NEW STANDARDS REGIME (Pages 9 - 18)

Paper to follow.

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, 21ST JULY, 2011

PRESENT:-

Independent Members: Susan Toland (Chair),

Parish Representatives: Councillor Nick Stevens and Councillor Reg Williams

Bath and North East Somerset Councillors: Sally Davis and Nigel Roberts

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

12 WELCOME AND INTRODUCTIONS

The Chair welcomed everyone to the hearing.

13 EMERGENCY EVACUATION PROCEDURE

The Clerk drew attention to the Emergency Evacuation Procedure.

14 APOLOGIES FOR ABSENCE AND SUBSTITUTION

Apologies were received from Councillor Veronica Packham, Councillor Eleanor Jackson, Dr Cyril Davies and Deborah Russell.

15 DECLARATIONS OF INTEREST

There were no declarations of interest.

16 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

There was none.

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

There were none.

18 MINUTES OF THE MEETING OF THE MEETING OF 23 JUNE 2011

The minutes were agreed as a correct record with the exception of a minor amendment asked for by Councillor Williams who had asked about the cost of hearings.

19 STANDARDS COMMITTEE HEARING PROCEDURE

The Chair explained the procedure for the conduct of hearings.

20 CONSIDERATION OF AN INVESTIGATING OFFICER'S REPORT ABOUT ALLEGATIONS OF BREACHES OF THE CODE OF CONDUCT - CASE NO 32-10 B&NES

The Chair introduced this item and asked the Members to decide whether they wished to move into private session in order to consider the complaint.

The Members **RESOLVED** unanimously to consider the report in public session.

The Chair drew the Members' attention to the additional information which had been submitted by former Councillor Willcox and informed the meeting that the Complainant (Councillor Tony Marwood) had requested the opportunity to respond to this information. The Members decided that Councillor Marwood should be allowed to speak as a witness.

The Investigating Officer introduced the report and informed the Members that she had found that former Councillor, Mr Stephen Willcox, had breached Section 3(1) of the Code of Conduct in that, at the Clutton Parish Council meeting of 20th December, he had failed to treat Parish Councillors with respect and that he had also breached Section 3(2)(b) of the Code in that, at the same meeting, he exhibited bullying behaviour.

The Chair asked Mr Willcox whether he needed any clarification of the Investigating Officer's report as presented. Mr Willcox queried the inclusion of information in the report that referred to events after the 20th December meeting. The Investigating Officer replied that both Mr Willcox and Councillor Marwood had themselves raised issues about events which happened after 20th December. Nevertheless, she stood by her report and conclusions, which were based on events at the 20th December Parish Council meeting. Mr Willcox accepted the Chair's invitation to comment further, following Councillor Marwood's evidence.

Councillor Marwood commented that the report and the statements within it were accurate in his opinion. He added that a meeting called by Barratts (the developers), was attended by 160 people from Clutton. These unprecedented numbers showed clearly the views of the villagers.

The Members of the Standards Committee then withdrew to consider the evidence in private. After their adjournment, they reconvened in public and announced their decision.

Decision

The Standards Committee has carefully considered the complaint in the light of the evidence before it concerning the events of the Clutton Parish Council meeting on 20th December 2010. In making its decision, the Committee has disregarded events and information after the 20th December.

It has concluded that on the night of 20th December 2010, former Councillor Willcox failed to treat Parish Councillors with respect and that his behaviour was insulting and humiliating. As a result, he attempted to undermine them. The Committee has concluded that Mr Willcox breached Section 3.1 and 3(2)(b) of the Code of Conduct. The Committee records that it censures Mr Willcox.

The meeting ended at 6.23 pm

Chair(person)

Date Confirmed and Signed

Prepared by Democratic Services

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Bath & North East Somerset Council	
MEETING:	Standards Committee
MEETING DATE:	26 April 2012
TITLE:	Update on the new Standards Regime - Update
WARD:	ALL
AN OPEN PUBLIC ITEM	
List of attachments to this report:	
1. Extract from minutes of Council meeting on 15 September 2011	
2. LGA draft code of conduct	
3. DCLG illustrative code of conduct	

1 THE ISSUE

To update members on the introduction of the new standards regime

2 RECOMMENDATION

The Standards Committee is asked to:

2.1 Consider the report and comment on the issues contained in it.

3 FINANCIAL IMPLICATIONS

3.1 It is intended that the new regime will be managed within current resources although there may be one additional cost, and that is the remuneration of the duly appointed Independent Person(s).

4 THE REPORT

4.1 Members previously received a report on proposed changes to the Standards Regime in June 2011 and the Council later considered a report in September 2011. The Council minutes relating to that report are set out in appendix 1 to this report.

4.2 The Localism Bill received Royal Assent on 15 November 2011.

4.3 The Localism Act makes fundamental changes to the system of the regulation of standards of conduct for elected and co-opted councillors. The date for the implementation of these changes was initially proposed to be 1 April 2012 but is now 1 July 2012.

Code of Conduct

- 4.4 The Council is placed under a statutory duty to promote and maintain high standards of conduct for its elected and co-opted members.
- 4.5 The current general principles and Model code of conduct will no longer apply. The Council is required to adopt a new code of conduct governing elected and co-opted members conduct when acting in that capacity. The Council's new code of conduct must, viewed as a whole, be consistent with the following seven principles:
- selflessness
 - integrity
 - objectivity
 - accountability
 - openness
 - honesty
 - leadership
- 4.6 The Council has discretion as to what it includes in its new code, provided that it is consistent with the seven principles. The LGA has recently produced a model code (see appendix 2 to this report) and the DCLG has produced an illustrative list of what a local authority code of conduct might look like (see out in appendix 3 to this report). Neither code is considered to be satisfactory, and work is being done by the West of England authorities to produce a revised model code for adoption by each authority.

Pecuniary Interests

- 4.7 Regulations, still to be made under the Localism Act, will require the registration and disclosure of "Disclosable Personal interests" (DPI's).
- The Act also requires an authority's code to contain arrangements it considers appropriate for the registration and disclosure of other pecuniary interests and non- pecuniary interests.
- 4.8 The Act makes it a criminal offence to fail to register a DPI and prohibits members with a DPI from participating in authority business. A person found guilty of an offence is liable on summary conviction to a fine not exceeding level 5 on the standard scale, which is currently £5,000. In addition on conviction the Court may also disqualify the member in question, for a period not exceeding 5 years from being or becoming a member or co-opted member of an authority. Prosecutions will only be able to be instituted by or on behalf of the Director of Public Prosecutions.

Dealing with Misconduct complaints

- 4.9 The Act requires the Council to adopt arrangements under which allegations of a breach can be investigated and a decision made regarding the allegations. Such

complaints can only be dealt with in accordance with such arrangements. Therefore the arrangements must set out in some detail the process for dealing with complaints and actions which may be taken against a member who is found to have failed to comply with the relevant Code of conduct.

4.10 The Act repeals the requirements for separate referral and review sub-committees. As the statutory provisions will no longer give the Standards Committee or Monitoring Officer special powers to deal with complaints, it would be necessary for Council to delegate appropriate powers to any Standards Committee which may be set up and to the Monitoring Officer to deal with such matters under the new Code.

Independent Person

4.11 The arrangements to be adopted by Council must include provision for the appointment by Council of at least one Independent Person. The Independent Person must be appointed through a process of public advertisement, application and appointment by a positive vote of a majority of all members of the Council (i.e. not just of those who are present and voting).

4.12 A person is considered not to be independent if he/she is or has been within the last 5 years, an elected or co-opted member or officer of the Council; or has been within the last 5 years, an elected or co-opted member of any committee or sub-committee of the Council or a relative or close friend of a current elected or co-opted member of the Council or of any elected or co-opted member of any committee or sub-committee of the Council.

4.13 The functions of the Independent Person(s) are –

*Their views must be sought and taken into account where the Authority has decided to investigate an alleged breach, before it makes a finding as to whether a member has failed to comply with the Code of Conduct or decides on action to be taken in respect of that member where this relates to an allegation that it has decided to investigate – but not before the Council makes a decision to investigate

* they may be consulted by the Authority in respect of a standards complaint at any other stage

*they may be consulted by a member or co-opted member of the Council against whom a complaint has been made.

4.14 As the Independent Person is not a member of the Council or of its Committees or sub-committees, the remuneration of the Independent Person is a matter for the Council

4.15 The West of England authorities are currently considering placing a joint advertisement for Independent Persons and having a joint interview panel. It is considered that it would be appropriate for there to be two Independent Persons for this council with possibly another as a reserve.

Members' interests

4.16 The Localism Act abolishes the concepts of personal and prejudicial interests. Instead regulations will define Disclosable Pecuniary Interests (DPI's). The Monitoring Officer is required to maintain a register of interests, which must be

available for inspection and available on the Council's website. Each elected or co-opted member must register all DPI's within 28 days of becoming a member. Failure to register is made a criminal offence. There is no continuing requirement for a member to keep the register up to date except on re-election or re-appointment. However there is a requirement to update the register within 28 days of a meeting at which the member was present and an unregistered DPI arose.

4.17 Arrangements are in place to update the register of interests page on the Council's website and guidance will be provided to members when the DPI's are known.

Parish and Town Councils

4.18 Parish and Town Councils are required to adopt a code of conduct. This Council is required to have arrangements in place to deal with complaints against parish councillors including arrangements under which decisions on allegations can be made.

4.19 Parish and Town Councillors are required to register their interests. The Monitoring Officer is required to ensure that every Parish and Town Council's register is available on this Council's website and if the Parish/Town Council has a website it must ensure that its register is accessible on that website.

4.20 Arrangements are being put in place to publish Parish and Town Councils' registers of interest on the Council's website. Guidance on interests will also be made available to Parish and Town Councils.

5 EQUALITIES

5.1 There are no specific equalities impacts arising from this report

6 CONSULTATION

6.1 The Government has undertaken various consultations as part of the introduction of the Localism Act. However, there was no specific consultation on the form of the provisions relating to the code of conduct or other standards provisions which form part of the Act.

7 ISSUES TO CONSIDER IN REACHING THE DECISION

7.1 There are set out in the body of the report.

8 ADVICE SOUGHT

8.1 The Council's Monitoring Officer (Divisional Director – Legal and Democratic Services) is the author of this report.

Contact person	Vernon Hitchman 01225 395171
Background papers	<i>List here any background papers not included with this report because they are already in the public domain</i>
Please contact the report author if you need to access this report in an	

alternative format

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38 PROPOSED CHANGES TO THE STANDARDS REGIME

In May, Council asked the Standards Committee to review its procedures for investigation of complaints with the intention of submitting proposals for the implementation of the Localism Bill currently before Parliament (in respect of the Member conduct aspects of the Bill), and making the system fairer to those people who are the subject of a complaint. This is the report of the Standards Committee. On a motion from Councillor Nigel Roberts, seconded by Councillor Sally Davis, it
Was

RESOLVED to agree that:

1. The Council adopts a non-statutory Code of Conduct based on paragraphs 3 - 7 of the current model or a model to be issued by the Local Government Association;
2. A Standards Committee is established;
3. The Committee's membership includes Independent Members and an Independent Member chairs the Committee;
4. Parish/Town Councils within the Council's area which adopt a non-statutory Code of Conduct should, if possible, be offered an opt-in to deal with complaints against Parish/Town Councillors;
5. The current Local Standards Framework should be reviewed with the aim of making the system fairer and streamlining the current processes and procedures, in the following respects:
 - i. The Monitoring Officer or his/her deputy should assess complaints to decide whether the alleged conduct breaches the Code in consultation with the Chair of the Standards Committee;
 - ii. Subject councillors should be given details of the complaint, including the name of the complainant and which parts of the Code they are alleged to have breached. They would be invited to submit comments before the allegation is considered by the Committee;
 - iii. If the Committee considers that there has been a breach which is trivial or has been corrected, it would be dealt with at the meeting. Only serious breaches would be referred for investigation;
 - iv. The complainant should also have the right to address the Committee concerning their grievance in order to respond to the investigating officer's report;
 - v. The pre-hearing meeting should be abandoned;
 - vi. The notice could be posted in the complainant's local free newspaper or other local media, or in the case of a Town Council complaint, the Town Council's noticeboard; and
 - vii. The Standards Committee should agree with the Monitoring Officer a time line for responses since it is unacceptable to have cases drag on for over a year, as at present. A decision should normally be made within 13 weeks of the initial complaint.

[Note; 1) The above resolution was agreed unanimously. The underlined wording was suggested by Councillor Eleanor Jackson and accepted by the mover and seconder of the original motion.]

Template Code of Conduct

As a member or co-opted member of *[X authority]* I have a responsibility to represent the community and work constructively with our staff and partner organisations to secure better social, economic and environmental outcomes for all.

In accordance with the Localism Act provisions, when acting in this capacity I am committed to behaving in a manner that is consistent with the following principles to achieve best value for our residents and maintain public confidence in this authority.

SELFLESSNESS: Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

INTEGRITY: Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

OBJECTIVITY: In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

ACCOUNTABILITY: Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

OPENNESS: Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

HONESTY: Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

LEADERSHIP: Holders of public office should promote and support these principles by leadership and example.

The Act further provides for registration and disclosure of interests and in *[X authority]* this will be done as follows: *[to be completed by individual authorities]*

As a Member of [X authority], my conduct will in particular address the statutory principles of the code of conduct by:

- Championing the needs of residents – the whole community and in a special way my constituents, including those who did not vote for me - and putting their interests first.
- Dealing with representations or enquiries from residents, members of our communities and visitors fairly, appropriately and impartially.
- Not allowing other pressures, including the financial interests of myself or others connected to me, to deter me from pursuing constituents' casework, the interests of the [county][borough][Authority's area] or the good governance of the authority in a proper manner.
- Exercising independent judgement and not compromising my position by placing myself under obligations to outside individuals or organisations who might seek to influence the way I perform my duties as a member/co-opted member of this authority.
- Listening to the interests of all parties, including relevant advice from statutory and other professional officers, taking all relevant information into consideration, remaining objective and making decisions on merit.
- Being accountable for my decisions and co-operating when scrutinised internally and externally, including by local residents.
- Contributing to making this authority's decision-making processes as open and transparent as possible to enable residents to understand the reasoning behind those decisions and to be informed when holding me and other members to account but restricting access to information when the wider public interest or the law requires it
- Behaving in accordance with all our legal obligations, alongside any requirements contained within this authority's policies, protocols and procedures, including on the use of the Authority's resources.
- Valuing my colleagues and staff and engaging with them in an appropriate manner and one that underpins the mutual respect between us that is essential to good local government.
- Always treating people with respect, including the organisations and public I engage with and those I work alongside.
- Providing leadership through behaving in accordance with these principles when championing the interests of the community with other organisations as well as within this authority.