

Democratic Services

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5 December 2012

To: All Members of the Standards Committee

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

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

Bath and North East Somerset Councillors: Councillor Sally Davis, Councillor Sarah Bevan, Councillor Eleanor Jackson, Councillor Nigel Roberts and Councillor Malcolm Lees

Chief Executive and other appropriate officers

Press and Public

Dear Member

Standards Committee: Thursday, 13th December, 2012

You are invited to attend a meeting of the **Standards Committee**, to be held on **Thursday, 13th December, 2012** at **5.30 pm** in the **Brunswick 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, 13th December, 2012
at 5.30 pm in the Brunswick 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

At this point in the meeting declarations of interest are received from Members in any of the agenda items under consideration at the meeting. Members are asked to indicate:

(a) The agenda item number in which they have an interest to declare.

(b) The nature of their interest.

(c) Whether their interest is **a disclosable pecuniary interest** *or* **an other interest**,
(as defined in Part 2, A and B of the Code of Conduct and Rules for Registration of Interests)

Any Member who needs to clarify any matters relating to the declaration of interests is recommended to seek advice from the Council's Monitoring Officer before the meeting to expedite dealing with the item during the 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 20TH SEPTEMBER 2012 (Pages 5 - 8)

To approve the minutes of the meeting of 20th September 2012 as a correct record.

**120920 APPENDIX 1 ARRANGEMENTS FOR DEALING WITH COMPLAINTS
ABOUT THE CODE OF CONDUCT FOR MEMBERS**

9. LOCAL HEARINGS PROCEDURE (Pages 17 - 20)

To agree a procedure for hearings of complaints against Councillors.

10. COMPLAINT AGAINST A COUNCILLOR - 10-12B&NES (Pages 21 - 56)

The Committee is asked to determine the complaint.

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, 20TH SEPTEMBER, 2012

PRESENT:-

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

Parish Representatives: Axel Palmer

Bath and North East Somerset Councillors: Sally Davis, Sarah Bevan, Nigel Roberts and Malcolm Lees

Officers: Vernon Hitchman (Monitoring Officer), Ann Swabey (Democratic Services Officer)

39 WELCOME AND INTRODUCTIONS

The Chair welcomed everyone to the meeting.

40 EMERGENCY EVACUATION PROCEDURE

The Clerk drew attention to the Emergency Evacuation Procedure.

41 APOLOGIES FOR ABSENCE AND SUBSTITUTION

Apologies were received from Cllr Eleanor Jackson (B&NES), Cllr Veronica Packham (Parish Representative), Cllr Tony Marwood (Parish Representative), Cllr Nick Stevens (Parish Representative).

42 DECLARATIONS OF INTEREST

There were none.

43 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

There was none.

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

There were none.

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

There were none.

46 MINUTES OF THE MEETING OF 21ST JUNE 2012

The minutes of the meeting of 21st June 2012 were confirmed as a correct record and signed by the Chair.

47 THE NEW STANDARDS REGIME

The Monitoring Officer, Vernon Hitchman, introduced the report.

Member training

He referred the Members to the issue of training in the new regime and proposed that 2-3 training sessions are held shortly for B&NES Members. The parish and town councils would need separate training. Cllr Nigel Roberts commented that it would be difficult to arrange training events for all 65 Members and suggested that a distance training model is rolled out using a 'Frequently Asked Question' model together with examples of unacceptable behaviour. The Members supported this proposal. The Chair asked whether there were any sanctions available to be used with Members who did not attend training and was informed that it was not a requirement, but that political group leaders would be asked to encourage Members to attend.

Chairing the Standards Committee

As a result of the changes in the statutory regime, it is no longer possible for co-opted independent members to have voting rights. However, the Committee had indicated that it valued their participation and wished their membership to continue. The Monitoring Officer proposed that the Committee appoint one of the Councillor Members with voting rights as a Chair, but designate one of the independent members as 'lead independent co-opted member' who would have a role when it came to filtering and assessment of complaints. As the Committee has hitherto worked in a consensual manner, it is not envisaged that this would cause any problems. There followed some discussion about the necessity of avoiding political bias when nominating a chair e.g. the situation that might arise if the Chair was from the same party as the councillor who was the subject of the complaint. It was suggested that the chair could be elected on a rotating basis between the parties. It was felt however, that it was preferable in terms of the public perception of the Committee, that the Chair was independent.

Complaints against Councillors

The Monitoring Officer referred the Members to the proposals as detailed in Appendix 1 to the report and drew their attention to the two suggested procedures (Procedure A and B) which could be adopted. After some discussion, the Members agreed that while serious cases would need to go for investigation, the less serious ones could be dealt with a lighter touch and more swiftly than under the previous regime. The Monitoring Officer advised the Members that a judgement would have to be made as to the seriousness of the allegation and from that, whether it was necessary to hold a local hearing.

It was suggested that the Monitoring Officer's personal email address was not used, but that an individual mailbox was set up for complaints. It was also suggested and agreed by Members that the proposal to allow the Subject Member of a complaint 5 days to respond should be extended to 10 days. It was further agreed that the Monitoring Officer could use his discretion regarding the timing where a Subject Member was on holiday or unwell.

There was further discussion about the progressing of a complaint after a Subject Member had resigned. It was agreed that in those cases the matter would be dropped, but that where it was a particularly serious complaint, the Committee would give the Monitoring Officer discretion as to how it was handled.

With regard the requirement for additional information before coming to a decision about a complaint, it was agreed that the clerk to the Parish Council would only be asked to provide information if they had material that was relevant to the case. It was also agreed that the Chair should be consulted by the Monitoring Officer about whether to grant confidentiality to a complainant.

Register of Interests

The Monitoring Officer informed the Committee that as yet he had had a limited response from Members regarding the completion of the new Register of Interest forms. It was agreed that he would write a letter on behalf of the Chair of the Standards Committee to those Members who had not yet returned their forms.

Parish and Town Councils

Cllr Axel Palmer informed the meeting that most Parish Councils were adopting the B&NES Code of Conduct and were looking to the Monitoring Officer for guidance.

The role of the Independent Person

It was agreed that, in the event of more than one person responding to the advertisement for this position, the Committee would delegate the final decision to the Chair and Monitoring Officer. The successful candidate would be approved by full Council at their November 2012 meeting.

Transitional issues

It was agreed that the main meetings of the Committee would meet quarterly (instead of bi-monthly as now) to deal with general business. The Monitoring Officer would update Members about current issues in between meetings by email. The April meeting of the Committee would suggest items for the Annual Council agenda. Cllr Sarah Bevan asked whether the Committee needed to be aware of the likelihood of more complaints arising in the period leading up to elections. The Chair replied that, if there was the need, the Committee could meet more frequently to deal with increased business. She added that there had not been a problem in the past, but that complaints made just before elections could be pursued afterwards if the Subject Member was re-elected.

48 ANY OTHER BUSINESS

The Monitoring Officer updated the Members on the progress of outstanding complaints.

The meeting ended at 6.45 pm

Chair(person)

Date Confirmed and Signed

Prepared by Democratic Services

**APPENDIX 1
(to the minutes of the meeting on 20th September 2012)**

BATH AND NORTH EAST SOMERSET COUNCIL

**ARRANGEMENTS FOR DEALING WITH COMPLAINTS ABOUT THE
CODE OF CONDUCT FOR MEMBERS**

Introduction

1. This procedure applies when a complaint is received that a Member, Co-opted Member or Town/Parish Member has or may have failed to comply with the relevant Code of Conduct for Members.
2. The person making the complaint will be referred to as “The Complainant” and the person against whom the complaint is made will be referred to as the “Subject Member”.
3. No Member or officer will participate in any stage of the arrangements if he or she has, or may have, any personal conflict of interest in the matter.

4. Making a complaint

A complaint must be made in writing by post or email to:-

The Monitoring Officer
Bath and North East Somerset Council
Riverside
Temple Street
Keynsham
BS31 1LA

OR

Dedicated email address for complaints TBA

The standard complaint form should be used. This can be obtained from the Monitoring Officer or downloaded from the Council’s website [insert ref] in order that all required information is included.

The Monitoring Officer will normally acknowledge receipt of the complaint within 5 working days of receiving it and, at the same time, write to the Subject Member with details of the allegations (subject to any representations from the Complainant on confidentiality, which are accepted as valid by the Monitoring Officer). The Subject Member may, within 10 working days of receipt, make written representations to the Monitoring Officer which must be taken into account when deciding how the complaint will be dealt with. Representations received after this time may be taken into account, at the discretion of the Monitoring Officer, but will in any event not be considered after the Monitoring Officer has issued his Complaint Initial Assessment.

5. Complaint Initial Assessment

The Monitoring Officer will review the complaint and, after consultation with the Independent Person and the lead independent co-opted member, take a decision (a Complaint Initial Assessment) as to whether it merits further consideration, or another course of action. This decision will normally be taken within 20 working days of receipt of a complaint.

A complaint will be rejected if:

- It is not against one or more named Members or co-opted Members of the Council or a Town/Parish Council within the Council's area;
- The Subject Member was not in office at the time of the alleged conduct/or a Code of Conduct was not in force at the time;
- The complaint, if proven, would not be a breach of the Code of Conduct under which the Subject Member was operating at the time of the alleged misconduct.

If appropriate, the Monitoring Officer will then go on to apply the following criteria in deciding whether a complaint should be investigated, dealt with informally, or rejected:

- Whether a substantially similar allegation has previously been made by the Complainant to Standards for England, or the Standards Committee, or the complaint has been subject of an investigation by another regulatory authority;
- Whether the complaint is about something that happened so long ago that those involved are unlikely to remember it clearly enough to provide credible evidence, or where the lapse of time means there would be little benefit or point in taking action now;
- Whether the allegation is anonymous;
- Whether the allegation discloses a potential breach of the Code of Conduct, but the complaint is not serious enough to merit any action and:-
 - (i) The resources needed to investigate and determine the complaint are wholly disproportionate to the allegations;

- (ii) Whether, in all the circumstances, there is no overriding public benefit in carrying out an investigation;
- Whether the complaint appears to be malicious, vexatious, politically motivated or tit-for-tat;
- Whether the complaint suggests that there is a wider problem throughout the authority;
- Whether it is apparent that the subject of the allegation is relatively inexperienced as a Member, or has admitted making an error and the matter would not warrant a more serious sanction;

6. Additional Information

The Monitoring Officer may require additional information to come to a decision and may request information from the Subject Member. Where the complaint relates to Town/Parish Councillor, the Monitoring Officer may seek the views of the Clerk of the Town/Parish Council on factual matters before deciding whether the complaint merits formal consideration or other action. In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally, without the need for an investigation. Such informal resolution may involve the Subject Member accepting that his/her conduct was unacceptable and offering an apology, or taking other steps. Where the Subject Member (in appropriate cases) make a reasonable offer of local resolution, but it is rejected by the Complainant, the Monitoring Officer will take account of this in deciding whether the complaint merits further consideration.

7. Confidentiality

If a Complainant has asked for their identity to be withheld, this request will be considered by the Monitoring Officer at the Complaint Initial Assessment stage.

As a matter of fairness and natural justice, the Subject Member should usually be told who has complained about them and receive details of the complaint. However, in exceptional circumstances, the Monitoring Officer may withhold the Complainant's identity if on request from the Complainant, or otherwise, they are satisfied that the Complainant has reasonable grounds for believing that they or any witness relevant to the complaint may be at risk of physical harm, or his or her employment may be jeopardised if their identity is disclosed, or where there are medical risks (supported by medical evidence) associated with the Complainant's identity being disclosed.

If the Monitoring Officer decides to refuse a request by a Complainant for confidentiality, he will offer the Complainant the option to withdraw the complaint, rather than proceed with his or her identity being disclosed. The Monitoring Officer will balance whether the public interest in taking

action on a complaint will outweigh the Complainant's wish to have his or her identity withheld from the Subject Member.

8. Further consideration

In the event that it is concluded that the complaint merits further consideration, the matter will be dealt with in one of two ways; procedure A or procedure B. The decision as to how to proceed will be made by the Monitoring Officer following consultation and will be final.

9. Procedure A

9.1 This will be the procedure that will normally be followed unless the complaint is particularly complex or contentious.

9.2 Under this procedure, the complaint and the comments made by the member complained of will be collated into a report for Local Hearing. The parties will be informed of the hearing date and the complaint, together with supporting evidence/witnesses and the subject members' comments and supporting evidence/witnesses will be presented to the hearing.

10. Local Resolution

If the Monitoring Officer considers that the matter can reasonably be resolved without the need for a hearing, he will consult with the Independent Person, the Chair and the Complainant and seek to agree a fair resolution. Such resolution may include the Member accepting that their conduct was unacceptable and offering an apology, and/or other remedial action. Training or conciliation might be an appropriate response;

If the Member accepts the suggested resolution, the Monitoring Officer will report the outcome to the Standards Committee and the Clerk to the Town/Parish Council (if appropriate) for information, but will take no further action. If the Complainant or the Subject Member refuses Local Resolution in principle or to comply with the agreed outcome, the Monitoring Officer will refer the matter for a Local Hearing without further reference to the Complainant or the Subject Member.

11. Local Hearing

Where, in the opinion of the Monitoring Officer, Local Resolution is not appropriate or the Complainant and /or Subject Member refuse to cooperate, the Monitoring Officer will report on the complaint to the Standards Committee which will conduct a Local Hearing before deciding whether the Member has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the Member.

The Standards Committee will need to agree a procedure for local hearings in due course.

12. Procedure B

The Monitoring Officer will appoint an Investigating Officer where a complaint merits formal investigation. The Investigating Officer may be a Council officer, an officer of another Council, or an external investigator.

The Investigating Officer will follow guidance issued by the Monitoring Officer on the investigation of complaints. The guidance will follow the principles of proportionality and the cost-effective use of Council resources and shall be interpreted in line with these principles.

The Investigating Officer will ensure that the Subject Member receives a copy of the complaint – subject to a Monitoring Officer decision on Confidentiality.

At the end of their investigation, the Investigating Officer will produce a draft report and will send copies of that draft report to the Complainant and to the Subject Member, for comments. The Investigating Officer will take such comments into account, before issuing their final report to the Monitoring Officer.

The Standards Committee will need to agree a procedure for local hearings in due course.

13. Investigating Officer finding of insufficient evidence of failure to comply with the Code of Conduct

The Monitoring Officer will review the Investigating Officer's report and, if he is satisfied that the Investigating Officer's report is satisfactory, will make a Confirmation Decision to confirm the finding of no failure to comply with the Code of Conduct and will consult the Independent Person.

The Monitoring Officer will write to the Complainant and the Subject Member with a copy of the Confirmation Decision and the Investigating Officer's final report.

If the Monitoring Officer is not satisfied that the investigation has been conducted satisfactorily, the Investigating Officer may be asked to reconsider their report and conclusion.

14. Investigating Officer finding of sufficient evidence of failure to comply with the Code of Conduct

The Monitoring Officer and the Independent Member will review the Investigating Officer's report and will then either send the matter for Local Hearing before the Standards Committee or, after consulting the

Independent Person, seek Local Resolution.

15. Constitution of the Standards Committee when considering a Local Hearing

When the Standards Committee is conducting a Local Hearing, the quorum for the Committee will comprise of at least 5 members. At least one member will be an independent member and where the Local Hearing relates to the conduct of a Town/Parish Council member, one member must be a town/parish council representative.

16. The Independent Person

The Independent Person must be a person who has applied for the post following advertisement of a vacancy for the post, and appointed by a positive vote from a majority of all the Members of Council at a meeting of the Full Council.

A person is not eligible for appointment if they:

- 16.1 Are, or have been within the past 5 years, a Member, co-opted Member or officer of the Council, with the exception that former Independent Members of Standards Committees can be appointed as Independent Persons;
- 16.2 Are or have been within the past 5 years, a member, co-opted Member or officer of a town/parish council within the Council's area, or
- 16.3 Are a relative or close friend, of a person within paragraph 14 above. For this purpose, "relative" means –
 - 16.3.1 Spouse or civil partner;
 - 16.3.2 Living with the other person as husband and wife or as if they were civil partners;
 - 16.3.3 Grandparent of the other person;
 - 16.3.4 A lineal descendent of a grandparent of the other person;
 - 16.3.5 A parent, sibling or child of a person within paragraphs 14.3.1 or 14.3.2;
 - 16.3.6 A spouse or civil partner of a person within paragraphs 14.3.3, 14.3.4 or 14.3.5;
 - 16.3.7 Living with a person within paragraphs 14.3.3, 14.3.4 or 14.3.5 as husband and wife or as if they were civil partners.

The Independent Person is invited to attend all meetings of the Standards Committee and their views must be sought and taken into consideration before the Committee takes any decision on whether the Member's conduct constitutes a failure to comply with the Code of Conduct and as to any action to be taken following a finding of failure to comply with the Code of Conduct.

17. Action the Standards Committee may take where a Member has failed to comply with the Code of Conduct

Where the Standards Committee finds that a Member has failed to comply with the Code of Conduct, the Council has delegated to the Standards Committee such of its powers to take action in respect of individual Members as may be necessary to promote and maintain high standards of conduct. Accordingly the Standards Committee may –

- 17.1 Publish its findings in respect of the Member's conduct on the Council website and in the local press;
- 17.2 Report its findings to Council (or to the Town/Parish Council) for information;
- 17.3 Recommend to Council that the Member be censured;
- 17.4 Recommend to the Member's Group Leader (or in the case of un-grouped Members, recommend to Council) that he/she be removed from any or all Committees or Sub-Committees of the Council;
- 17.5 Recommend to the Leader of the Council that the Member be removed from the Cabinet, or removed from their Portfolio responsibilities;
- 17.6 Instruct the Monitoring Officer to (or recommend that the Town/Parish Council) arrange training for the Member;
- 17.7 Recommend to Council (or recommend to the Town/Parish Council that the Member be removed) from all outside body appointments to which they have been appointed or nominated by the Council (or by the Town/Parish Council);
- 17.8 Withdraw (or recommend to the Town/Parish Council that it withdraws) facilities provided to the Member by the Council, such as a computer, website and /or email and Internet access;
- 17.9 Exclude (or recommend that the Town/Parish Council exclude) the Member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.

18. Revision of these arrangements

The Council may by resolution or delegation to the Monitoring Officer agree to amend these arrangements and has delegated to the Chair of the Standards Committee the right to depart from these arrangements where they consider that it is expedient to do so in order to secure the effective and fair consideration of any matter.

19. Appeals

There is no right of appeal against a decision of the Monitoring Officer in consultation with the Independent Person or of the Standards Committee.

If a complainant feels that the Council has failed to deal with his or her complaint properly, he or she may make a complaint to the Local Government Ombudsman.

Bath & North East Somerset Council	
MEETING:	Standards Committee
MEETING DATE:	6 th December 2012
TITLE:	Local Hearings Procedure
WARD:	ALL
AN OPEN PUBLIC ITEM	
List of attachments to this report:	
Draft Procedure	

1 THE ISSUE

1.1 To agree a procedure for Hearings.

2 RECOMMENDATION

The Committee is asked to agree the procedure attached at Appendix 1.

3 FINANCIAL IMPLICATIONS

3.1 None.

Contact person	<i>Vernon Hitchman Monitoring Officer & Divisional Director (Legal & Democratic Services)</i>
Background papers	<i>None</i>
Please contact the report author if you need to access this report in an alternative format	

APPENDIX 1

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 identify the relevant facts and provisions of the Code of Conduct.

3. Procedure

In attendance:-

Committee Members, Committee Administrator, Legal Adviser (who will be the Monitoring Officer or his representative), Complainant and/or his representative, any 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 or the complainant.
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 complainant (or representative) explains why it is considered the Code has been breached.
 - (iii) the Monitoring Officer presents the report prepared.
 - (iv) the complainant explains why it is considered the Code has been breached.
 - (v) the Committee seeks clarification of any points if necessary.
 - (vi) Councillor X is asked whether he has any queries and, if so and subject to the agreement of the Chair, such queries are put to the complainant.
 - (vii) Councillor X presents his case.
 - (viii) the Committee seeks any necessary clarification.

- (ix) the complainant Councillor X is asked whether he has any queries and, if so and subject to the agreement of the Chair, such queries are put to the complainant.
- (x) the complainant may sum up.
- (xi) Councillor X may sum up.
- (xii) the Committee retire to consider decision.
- (xiii) wherever possible, any necessary legal advice will be given publicly but the Committee reserve the right to seek it privately in exceptional circumstances.
- (xiiii) Decision with brief reasons announced by the Chairman.
- (xv) Minutes of meeting are prepared and published in accordance with the usual Committee requirements.

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.

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Bath & North East Somerset Council	
MEETING:	Standards Committee
MEETING DATE:	13 th December 2012
TITLE:	Complaint about a Councillor
WARD:	ALL
LIKELY TO BE TAKEN IN EXEMPT SESSION	
<p>List of attachments to this report: Appendix 1 – Public Interest Test Appendix 2 – Summary report on complaint</p>	

THE ISSUE

To ask the Committee to determine the complaint.

RECOMMENDATION

The Committee is asked

Consider whether the press and public should be excluded and

Determine the complaint.

FINANCIAL IMPLICATIONS

None.

Contact person	<i>Vernon Hitchman Monitoring Officer & Divisional Director (Legal & Democratic Services)</i>
Background papers	<i>None</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: LGA-12-014

Meeting: Standards Committee

Date: 13th December 2012

Author: Vernon Hitchman Monitoring Officer & Divisional Director (Legal & Democratic Services)

Report: Complaint concerning Councillor X

Indicate which of the following categories the report / appendix falls in to;

1. The report/appendix constitutes confidential information, and the meeting must therefore resolve to exclude the public.

Confidential information is defined as:

- (i) Information furnished to the Council by a Government department upon terms which forbid the disclosure of the information to the public;
- (ii) Information the disclosure of which to the public is prohibited by or under any enactment or by the order of a court.

2. The report/appendix constitutes 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 meeting resolve to exclude the public. The paragraphs below sets out the relevant public interest issues in this case.

Factors for withholding:

- The report contains what are, at this stage, unproven allegations. The stage at which there is a significant public interest in openness is when a view has been taken by the Committee on whether the allegations are true or false.

Factors for disclosure:

- There is a general presumption in favour of openness.

Reasons why the public interest favours withholding:

- It is considered that the prejudice to the interests of the member the subject of the complaint were the report to be made public at this stage outweigh any benefit 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 a body that is competent has dealt with and decided on the allegations made.

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By virtue of paragraph(s) 1, 2 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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