

Improving People's Lives

Standards Committee

Date: Tuesday, 12th July, 2022

Time: 5.00 pm

Venue: Kaposvar Room - Guildhall, Bath

To: All Members of the Standards Committee

Independent Members: Dr Axel Palmer, Dr Cyril Davies, Sophie

Sidonio

Parish/Town Councillors: Kathy Thomas

Bath and North East Somerset Councillors: Councillor Sally Davis, Councillor Duncan Hounsell, Councillor Paul Crossley, Councillor

Michelle O'Doherty and Councillor June Player

Independent Person: Tony Drew, Roger Morris

Chief Executive and other appropriate officers

Press and public

The agenda is set out overleaf.



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NOTES

1. Inspection of Papers: Papers are available for inspection as follows:

Council's website: https://democracy.bathnes.gov.uk/ieDocHome.aspx?bcr=1

Paper copies are available for inspection at the Guildhall - Bath.

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.

3. Recording at Meetings:-

The Openness of Local Government Bodies Regulations 2014 now allows filming and recording by anyone attending a meeting. This is not within the Council's control. Some of our meetings are webcast. At the start of the meeting, the Chair will confirm if all or part of the meeting is to be filmed. If you would prefer not to be filmed for the webcast, please make yourself known to the camera operators. We request that those filming/recording meetings avoid filming public seating areas, children, vulnerable people etc; however, the Council cannot guarantee this will happen.

The Council will broadcast the images and sounds live via the internet www.bathnes.gov.uk/webcast. The Council may also use the images/sound recordings on its social media site or share with other organisations, such as broadcasters.

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.

Advance notice is required not less than two full working days before the meeting. This means that for meetings held on Thursdays notice must be received in Democratic Services by 5.00pm the previous Monday.

Further details of the scheme can be found at:

https://democracy.bathnes.gov.uk/ecCatDisplay.aspx?sch=doc&cat=12942

5. 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 signposted. Arrangements are in place for the safe evacuation of disabled people.

6. Supplementary information for meetings

Additional information and Protocols and procedures relating to meetings

https://democracy.bathnes.gov.uk/ecCatDisplay.aspx?sch=doc&cat=13505

Standards Committee - Tuesday, 12th July, 2022

at 5.00 pm in the Kaposvar Room - Guildhall, Bath

AGENDA

- WELCOME AND INTRODUCTIONS
- 2. EMERGENCY EVACUATION PROCEDURE

The Chair will draw attention to the emergency evacuation procedure as set out on the Agenda.

- 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 <u>or</u> 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 or a member of his staff 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 (COMPLAINTS MUST GO THROUGH THE STANDARDS COMPLAINTS PROCEDURE)
- 7. ITEMS FROM COUNCILLORS AND CO-OPTED AND ADDED MEMBERS RELATING TO THE GENERAL BUSINESS OF THE COMMITTEE
- 8. MINUTES OF THE MEETING OF 12TH APRIL 2022 (Pages 5 8)
- 9. UPDATE LOCAL HEARING ON INVESTIGATION INTO COMPLAINT 12-21 STANTON DREW PARISH COUNCIL

There is no report for this item.

10. AUDITOR'S REPORT (Pages 9 - 52)

- 11. REVISION OF ARRANGEMENTS FOR DEALING WITH CODE OF CONDUCT COMPLAINTS (Pages 53 68)
- 12. ANNUAL REPORT OF THE STANDARDS COMMITTEE (Pages 69 108)
- 13. REPORT ON THE ASSESSMENT OF COMPLAINTS (Pages 109 112)
- 14. WORKPLAN FOR THE STANDARDS COMMITTEE (Pages 113 114)

The Committee Administrator for this meeting is Enfys Hughes who can be contacted on 01225 394410.

BATH AND NORTH EAST SOMERSET

STANDARDS COMMITTEE

MINUTES OF THE MEETING OF TUESDAY, 12TH APRIL, 2022

PRESENT:-

Independent Members: Dr Axel Palmer and Dr Cyril Davies

Parish Representatives: none present

Bath and North East Somerset Councillors: Sally Davis, Duncan Hounsell,

Paul Crossley, Michelle O'Doherty and June Player

Officers: Michael Hewitt (Head of Legal and Democratic Services and Monitoring Officer)

and Enfys Hughes (Democratic Services Officer)

Independent Person: Tony Drew

24 WELCOME AND INTRODUCTIONS

The Chair welcomed everyone to the meeting.

25 EMERGENCY EVACUATION PROCEDURE

The Democratic Services Officer read out the emergency evacuation procedure as set out on the agenda.

26 APOLOGIES FOR ABSENCE AND SUBSTITUTION

Apologies were received from Parish Councillor Kathy Thomas.

27 DECLARATIONS OF INTEREST

There were none.

28 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

The Chair informed the meeting that a second Independent Person had been appointed, Roger Morris and another independent member had also been appointed, Sophie Sidonio. He gave a brief resume of their backgrounds. The Monitoring Officer explained that he would undertake an induction with both new members and then they would be invited to future meetings.

29 ITEMS FROM THE PUBLIC - TO RECEIVE DEPUTATIONS, STATEMENTS, PETITIONS OR QUESTIONS (COMPLAINTS MUST GO THROUGH THE STANDARDS COMPLAINTS PROCEDURE)

There were none.

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

The Monitoring Officer explained that meeting times had returned to pre-covid at 6.15pm, whereas they had taken place at 4pm when they were held remotely via Zoom during the height of the pandemic and in lockdowns. He queried whether this was still a suitable time and explained that one of the new members would prefer daytime meetings.

Following discussion Members agreed a new meeting time of 5pm on a Tuesday, six times a year. If there were no agenda items then the meeting would be cancelled.

RESOLVED that future Standards Committee meetings take place at 5pm not 6.15pm.

31 MINUTES OF THE MEETING OF 22ND FEBRUARY 2022 - (PUBLIC AND EXEMPT)

RESOLVED that the minutes of the meeting on 22nd February 2022 were approved as a correct record and signed by the Chair.

32 COMMITTEE ON STANDARDS IN PUBLIC LIFE - A REVIEW OF LOCAL GOVERNMENT ETHICAL STANDARDS AND THE GOVERNMENT RESPONSE

The Monitoring Officer presented the Committee on Standards in Public Life (CSPL) review of local government ethical standards and explained it had taken place in January 2019, over two years ago. The government response had recently been received and overall it was fairly negative. Any changes requiring primary legislation would not happen and some needing secondary legislation may take place. The biggest issue for the Standards Committee was having limited powers to sanction. BANES had already adopted the Model Code of Conduct and changes required.

During discussion the following points arose:

- The requirement for the independent person to have a fixed term post for only two years should be eased to allow a longer time to understand the role
- To require further consultation on the question of sanction by suspension seemed strange, as the CSPL views were that there was a lack of sanction
- BANES had had an Independent Person since the Localism Act in 2011, previously there had just been an Independent Chair
- The Monitoring Officer found it very useful being able to consult on the initial assessment of complaints with the Independent Person and Independent Chair of Standards
- Having a second Independent Person would enable communication with the complainant or subject member in what could be a stressful process
- All levels of democracy should have the same set of standards in BANES all the parish councils were members of ALCA (Avon Local Councils' Association) who recommended adopting the same Code of Conduct
- Failure to disclose an interest when there was police involvement there was a high bar to enforcement action and from practical experience the Police were very pragmatic in their decision making.

RESOLVED to note the review and government response.

33 UPDATE - LOCAL HEARING ON INVESTIGATION INTO COMPLAINT 12-21 STANTON DREW PARISH COUNCIL

The Monitoring Officer presented a verbal report on complaint 12-21. He explained that whilst the investigation was confidential, once the breach was determined it was public record and the Subject Member's name was in the public domain, however the Complainant's name was not. The Subject Member did not make the apology as requested, as a consequence the Parish Council was recommended to consider her removal as Chair. The Monitoring Officer had been informed that the Subject Member had resigned as Chair but the Parish Council had not accepted her resignation. A report would be brought back to the Committee on further action. The Committee could censure and publicise the decision if this was deemed proportionate.

During discussion the following points were raised:

- It was useful to inform parish councils about the issues in the investigation and breaching the code of conduct as matters of good practice
- Once the Parish Council determination was confirmed Members of the Committee would consider the report and decide on next steps if the Parish Council did not comply with the recommendation
- The main sanction was censure which was not applied in this case, this could be considered
- An alternative to publicising the decision was to publish the failure of the Parish Council to comply with the recommendation of the Standards Committee
- You could not make someone apologise if they did not wish to but as mentioned in the investigation, with a retraction the issue would have been concluded before a hearing.

RESOLVED to note the update and wait to hear the confirmation.

34 REPORT ON THE ASSESSMENT OF COMPLAINTS

The Monitoring Officer present the report and gave a brief background on the complaints received.

During discussion the following points were raised:

- There was some misunderstanding from the public about Standards Committee. Once the advert was out for the Independent Person there had been communication on Twitter that Standards Committee no longer existed and had been replaced by an Independent Person. The Monitoring Officer would ensure there was clear communication to clarify this
- The Code of Conduct only applied to a person when acting as a councillor, there was a difference between acting in a personal capacity and as a councillor. Reference the Livingstone v The Adjudication Panel for England (2006) case

- In BANES there were not many who did not follow the Code of Conduct and there were few breaches
- Significant time was spent on dealing with the complaints by the Monitoring Officer who liaised with the Independent Person and the Chair of Standards

RESOLVED

- 1) to note the report on the assessment of complaints; and
- 2) the Monitoring Officer to liaise with BANES Communications and clarify the role of Standards Committee and the Independent Persons.

35 WORKPLAN FOR THE STANDARDS COMMITTEE

The Monitoring Officer added the following items:

- Update on hearing procedures
- Confidentiality on complaints policy

RESOLVED to note the updates to the workplan.

D		
Date Confirmed and Signed		
Chair(person)		
The meeting ended at 7.20 pm		

Prepared by Democratic Services

Bath & North East Somerset Council		
MEETING	Standards Committee	
MEETING	12 July 2022	
TITLE:	Auditor's Report 2020-2021	
WARD:	All	
AN OPEN PUBLIC ITEM		
List of attachments to this report: Appendix (1) BANES Annual Auditor's Report 2020-2021		

1 THE ISSUE

1.1 To consider comment relating to the Members' Register of Interests contained in the BANES Annual Auditor's Report 2020-2021 (Appendix 1)

2 RECOMMENDATION

The Committee is asked to:

- 2.1 Discuss the Auditor's Report and in particular the comment (at page 17) suggesting the Members' Registers of Interests be updated as a matter of routine on a periodic basis.
- 2.2 To ask the Monitoring Officer to develop a protocol for updating the Members' Register of Interests on an annual basis.

3 THE REPORT

- 3.1 The Auditor's Report considered that the Council has appropriate arrangements in place to monitor standards. The report also noted that there is some variation in the timing of updates to the Members' Register of Interests and suggested it would be good practice for updates to become a matter of routine on a periodic basis.
- 3.2 The Monitoring Officer confirms the current position is that annual reminders are sent to Members asking them to update their Register of Interests immediately before budget setting in February each year. The Monitoring Officer proposes that there may be scope to develop a process whereby the annual reminder

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could include a requirement for each member to confirm either 'no change' or require changes to be recorded and dated accordingly.

4 STATUTORY CONSIDERATIONS

- 4.1 The Localism Act 2011 provides the following:
 - (1) The monitoring officer must establish and maintain a register of interests of members of the authority (section 29).
 - (2) Members must notify the monitoring officer of any changes to the register within 28 days of that change (section 30).

5 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)

5.1 No direct implications

6 RISK MANAGEMENT

6.1 Adherence to robust standards of conduct mitigates potential complaints about standards issues.

7. EQUALITIES

6.1 No direct impact

8 CLIMATE CHANGE

8.1 No direct impact

9 OTHER OPTIONS CONSIDERED

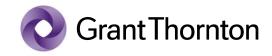
9.1 None

10. CONSULTATION

10.1 The S.151 and Monitoring Officer have been consulted

Contact person	Shaine Lewis Legal Services Manager
	shaine_lewis@bathnes.gov.uk
Background papers	None

Please contact the report author if you need to access this report in an alternative format



Auditor's Annual Report on Bath & North East Somerset Council

2020-21

19 May 2022



Contents



We are required under Section 20(1)(c) of the Local Audit and Accountability Act 2014 to satisfy ourselves that the Council has made proper arrangements for securing economy, efficiency and effectiveness in its use of resources. The Code of Audit Practice issued by the National Audit Office (NAO) requires us to report to you our commentary relating to proper arrangements.

We report if significant matters have come to our attention. We are not required to consider, nor have we considered, whether all aspects of the Council's arrangements for securing economy, efficiency and effectiveness in its use of resources are operating effectively.



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Appendices

- A The responsibilities of the Council
- B Risks of significant weaknesses our procedures and findings
- C An explanatory note on recommendations
- D Use of formal auditors' powers

The contents of this report relate only to the matters which have come to our attention, which we believe need to be reported to you. It is not a comprehensive record of all the relevant matters, which may be subject to change, and in particular we cannot be held responsible to you for reporting all of the risks which may affect the Council or all weaknesses in your internal controls. This report has been prepared solely for your benefit and should not be quoted in whole or in part without our prior written consent. We do not accept any responsibility for any loss occasioned to any third party acting, or refraining from acting on the basis of the content of this report, as this report was not prepared for, nor intended for, any other purpose.

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Executive summary



Value for money arrangements and key recommendation(s)

Under the National Audit Office (NAO) Code of Audit Practice ('the Code'), we are required to consider whether the Authority has put in place proper arrangements to secure economy, efficiency and effectiveness in its use of resources. We are required to report in more detail on the Council's overall arrangements for 2020/21, as well as key recommendations on any significant weaknesses in arrangements identified during the audit.

2020/21 was an unprecedented year in which the Council operated with the majority of its staff home working whilst supporting local businesses and residents through the Covid-19 pandemic.

The nain area of financial impact for the Council in 2020/21 has been reduced revenue in the particularly in respect of the commercial estate and heritage and parking service. The pandemic resulted in the closure of iconic buildings such as the Roman Baths, Fashion Museum and Victoria Art Gallery all resulting in significant reductions to projected income for the year. For example, the Roman Baths were open for only 148 days in year, compared to a planned 363 days and was a major contributor to an overall reduction in heritage income resulting in a loss of £19.7m of income which was mitigated to a net service pressure of £3.5 million after taking account of the government's income compensation scheme and other service cost reductions Other areas particularly hard it were parking, with the Council suffering a £5.8m reduction in income, of which £3.9m was refunded from the Government's compensation scheme.

Council budgets for the year were rebased to recognise the impact of the commercial income loss of £13.2m, with income in Heritage and Parking now forecast to build back to pre-covid levels by 2025/26. The pandemic impacted on almost all Council Services. In response, the Council focused on identifying key operational and strategic risks using the new interim working practices to ensure that service provision could continue during 'lock down'. It approved a Covid-19 financial recovery plan for 2020/21 and this, combined with further government support (a total of £43.7m of Covid-19 Grant Support was received in year) eased some of the financial pressures in year resulting in an outturn £5.7m under budget, with £5.4m transferred to corporate earmarked reserves.

We have not identified any significant weaknesses, but have identified 15 opportunities for improvement which are set out in detail within our report.

Criteria	Risk assessment	Finding
Financial sustainability	No risks of significant weakness identified	No significant weaknesses in arrangements identified, but four improvement recommendations made
Governance	No risks of significant weakness identified	No significant weaknesses in arrangements identified, but six improvement recommendations made
Improving economy, efficiency and effectiveness	No risks of significant weakness identified	No significant weaknesses in arrangements identified, but five improvement recommendations made

	No significant weaknesses in arrangements identified.
No significant weaknesses in arrangements identified, but improve recommendations made.	
	Significant weakness in arrangements identified and key recommendation made.

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Executive summary



Value for money arrangements and key recommendation(s)



Financial sustainability

The Council has a good track record of sound financial management and delivered an underspend in 2020/21, after taking into account central government funding. This was after contributions to reserves, including £4.6m to the Financial Planning & Smoothing Reserve and £4.85m to Covid-19 reserves to support Covid-19 related cost pressures in 2021/22. However, achieving the levels of planned savings will continue to be challenging and, without robust planning and monitoring mechanisms, could be a potential risk to the Council's financial sustainability in the medium to longer term. Overall we are satisfied that the Council had appropriate arrangements in place to manage the risks it faced in respect of its financial sustainability.

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We have not identified any significant weakness but have identified four opportunities for improvement relating to:

- · management of the schools deficit,
- ongoing careful budget management,
- · minor changes in reporting the relationship between revenue and capital, and
- ensuring that vacancies are linked to workforce plans.



Governance

Overall, we found no significant weaknesses in the Council's Governance arrangements for ensuring that it made informed decisions and properly managed its risks. We found that the Council had responded appropriately and pragmatically to the pandemic crisis. Decision making arrangements were adapted quickly and essential services prioritised at the start of the pandemic, with appropriate adjustments made to refocus work later in the year.

Governance (continued)

We have made five improvement recommendations relating to:

- · opportunities to develop risk reporting,
- enhancing the annual reporting of whistleblowing and investigations,
- considering some small changes in the presentation of the complaints and feedback policy,
- treasury management performance reporting, and
- introducing a regular annual update of the register of interests and declarations of gifts and hospitality completed by Members.



Improving Economy, Efficiency and Effectiveness (3Es)

We have not identified any significant weakness in the Council's arrangements for understanding and improving the 3Es, but we have identified areas for improvement. The Council adopted its new four year strategy in February 2020 so the events of the pandemic have, inevitably, impacted on the implementation of its delivery. The Council's Roadmap 2020-2024 clearly identifies an outcomes focused performance management framework as key and the Council's performance management framework (the Integrated Reporting Framework) has progressed since 2020/21, with formal Corporate Performance Updates now scheduled to Cabinet on a quarterly basis.

We have included five improvement recommendations which relate to:

- the continuing development of the Council's performance management reporting framework and Key Performance Indicators (KPIs),
- strengthening the existing benchmarking processes,
- raising the profile of work completed in response to external regulators such as Ofsted.
- · ensuring that the Council commissioned review of Aeguus is implemented, and
- strengthening contract management arrangements.



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Opinion on the financial statements

Under International Standards of Audit (UK) (ISAs) and the National Audit Office (NAO) Code of Audit Practice ('the Code'), we are required to report whether, in our opinion:

 the group and Council's financial statements give a true and fair view of the financial position of the group and Council and the group and Council's income and expenditure for the year; and

have been properly prepared in accordance with the CIPFA/LASAAC code of practice on local authority accounting and prepared in accordance with the Local Audit and Accountability Act 2014.

We are also required to report whether other information published together with the audited financial statements (including the Annual Governance Statement (AGS) and Narrative Report, is materially inconsistent with the financial statements or our knowledge obtained in the audit or otherwise appears to be materially misstated.

Our audit work was completed remotely during August to December 2021. Full details of our findings from the audit are detailed in our Audit Findings Report dated 7 December 2021.

Our audit identified no individually material errors or adjustments to the financial statements but identified errors that cumulatively materially impacted on the draft statements presented to audit. Officers agreed to correct these, the most significant of which are:

- Improper componentisation of seven assets
- Two assets included in the valuation report for which valuations were not performed

In addition, we raised a number of recommendations for management as a result of our audit work.

We provided an unqualified audit opinion on 16 December 2021.



Commentary on the Council's arrangements to secure economy, efficiency and effectiveness in its use of resources

All Councils are responsible for putting in place proper arrangements to secure economy, efficiency and effectiveness from their resources. This includes taking properly informed decisions and managing key operational and financial risks so that they can deliver their objectives and safeguard public money. The Council's responsibilities are set out in Appendix A.

Councils report on their arrangements, and the effectiveness of these arrangements as part of their annual governance statement.

Under the Local Audit and Accountability Act 2014, we are required to be satisfied whether the Council has made proper arrangements for securing economy, efficiency and effectiveness in its use of resources.

The National Audit Office's Auditor Guidance Note (AGN) 03, requires us to assess arrangements under three areas:



Financial sustainability

Arrangements for ensuring the Council can continue to deliver services. This includes planning resources to ensure adequate finances and maintain sustainable levels of spending over the medium term (3-5 years).



Governance

Arrangements for ensuring that the Council makes appropriate decisions in the right way. This includes arrangements for budget setting and management, risk management, and ensuring the Council makes decisions based on appropriate information.



Improving economy, efficiency and effectiveness

Arrangements for improving the way the Council delivers its services. This includes arrangements for understanding costs and delivering efficiencies and improving outcomes for service users.





Our commentary on each of these three areas, as well as the impact of Covid-19, is set out on pages 7 to 30. Further detail on how we approached our work is included in Appendix B.

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Financial sustainability



We considered how the Council:

- identifies all the significant financial pressures it is facing and builds these into its plans
- plans to bridge its funding gaps and identify achievable savings
- plans its finances to support the sustainable delivery of services in accordance with strategic and statutory priorities
- ensures its financial plan is consistent with other plans such as workforce, capital, investment and other operational planning
- identifies and manages risk to financial resilience, such as unplanned changes in demand and assumptions underlying its plans.

Outturn 2020/21 and Covid-19 arrangements

The Council reported a large underspend against original budget for 2020/21. At the start of 2020/21 during the early stages of the pandemic officers were predicting the full year impact of Covid-19 to be a cost pressure of £42.1m before mitigations and government support. The financial recovery plan approved by Cabinet in July 2020 approved £20.7m of cost saving measures which combined with an estimated £10m (actual as at July £13.2m) of government support would result in a £11.4m deficit, if fully implemented. This shortfall was to be funded from a combination of earmarked reserves and balances.

The implementation of some of these measures, combined with the refinements to the 2020/21 forecast as further grant allocations to mitigate income loss provided by central government resulted in continued improvements in the in year forecast. The Council first projected a return to an on budget position and then following further government support late in the year an underspend. The final outturn report to Cabinet in July 2021 reported a £5.7m underspend against budget.

The Council has received a total of £43.69 million of Covid-19 support grants from MHCLG which were held corporately and helped achieve the underspent budget for 2020/21. It also enabled transfers to earmarked reserves of £5.42m, in the main to the Financial Planning & Smoothing Reserve (£4.6m which is planned to be used to support the MTFS "smoothed savings approach").

In line with many other authorities the Council overspent on its Direct Schools Grant outturn in year by £4.2m. This added to the overspend from prior years resulted in a the total DSG carried forward deficit of f.5.4m.

Budget 2021/22

The budget for 2021/22 and beyond, presented at Cabinet in February 2021, included an analysis of risks including the impact of Covid-19. Commercial income loss is reported as in excess of £13m for 2021/22, with Heritage & Parking income forecast to build back to pre-covid levels by 2025/26.

The 2021/22 net revenue budget was set at £130.07m based on the funding announced in the local government finance settlement and the balanced forecast outturn for 2020/21, as at December 2020. The budget funding excludes any Covid-19 support from Government, which is a prudent approach and ensures that such funding is not being applied to support service delivery plans and is available to meet any potential shortfall arising from the pandemic.

However, the starting point for the budget was a funding gap of around £20m due to a combination of ongoing service cost pressures and the impact of the pandemic (around 15% of net budget). The budget proposal included an £8.48m savings plan and use of £11.31m from reserves (as a one-off, £8.5m from revenue and £2.81m from business rates). Repayment of the revenue reserves is then budgeted over the five year financial planning period.

As at February 2022 delivery of 93% of the savings plans is reported with a further 5% mitigated by one off underspends during the year and the Council is forecasting that the 2021/22 revenue outturn will come in just below budget (£0.06m). This represents a good outcome from the Council given the huge financial and service delivery pressures it has faced over the last 2 years.

A revenue contingency of £1.65m was included in the 2021/22 budget and the planned level of unearmarked reserves were £12.59m, which is considered adequate for the medium term. A Covid-19 risk reserve of £5m was also set up for unplanned Covid-19 related budget pressures.

Budget 2022/23 and beyond

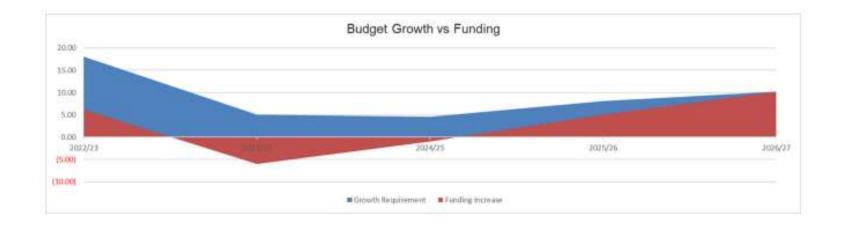
Projecting forward during the 2021/22 budgeting round, a shortfall of £12.5m for 2022/23 was identified, reducing in 2023/24 and beyond to around £3m (Source: Budget and Council Tax 2021/22 and Financial Outlook). The budget proposal highlights that plans will need to be finalised as soon as possible to fund this gap.

The proposed 2022/23 budget, dated February 2022 is predicated on the delivery of £11.8m of savings plans (see below). However, looking ahead to 2023/24 the savings gap forecast has increased to £11.1m, compared with the £3m predicted the previous year. We note that the Medium Term Financial Strategy 2022/23 highlights the ongoing challenging savings targets of around 10% of net budget.

Whilst the Council has a good track record of delivering its savings plans, the continued delivery of this level of savings will become increasingly challenging. The need for effective project management and monitoring of the savings programme combined with effective working with partners to leaver in savings whilst not compromising service delivery will become increasingly important.

and the second of the second o	Future years assumptions £m					
Budget Planning	2022/23	2023/24	2024/25	2025/26	2026/27	Total
Growth Requirement	18.01	5.11	4.62	8.07	10.21	46.01
Funding Increase	6.14	(5.99)	(0.93)	5.05	10.17	14.44
Annual Funding gap	11.87	11.10	5.55	3.02	0.04	31.58
Savings Proposals	11.87	2.32	0.23	0.00	0.00	14.42
©Remaining Funding Gap	0.00	8.78	5.32	3.02	0.04	17.16

Source: Budget and Medium-Term Financial Outlook 2022/23 (15/16th February 2022 Budget and Council Tax 2021/22 and Financial Outlook)



Budget development process

Annual budgets are developed with the service areas through a process to review cost pressures and priorities, savings, demographic pressures, inflation, contractual obligations and income generation. The Finance team work with Directors and their staff to plan a balanced budget and to bridge savings gaps and identify feasible savings plans which are then monitored and risk assessed on at least a quarterly basis. An exception reporting process is in place if needed. Contingencies, whose stated purpose is to meet the risks of non-delivery of budget savings, have been included in the 2020/21, 2021/22 and 2022/23 budgets.

Capital budgets are presented and considered alongside the revenue budgets. Capital financing requirements are included in the revenue budget (£2m in 21/22 and £1m per year to 2025/26). The capital strategy, programme, receipts, financing, spending etc. are included throughout the Budget and Council Tax 2021/22 and Financial Outlook document, but it is not straightforward to identify the relationship between the capital and revenue budgets. There is no explicit reference to the impact on revenue for future costs, such as repairs and maintenance.

The Council's Corporate Strategy sets out the 'golden thread' connecting the Council's Courpose with a set of components which together are planned to deliver the Council's Council's Courpose of 'Improving People's Lives'. Two of the key components supporting this courpose of 'Improving People's Lives'. Two of the key components supporting this courporate Delivery Financial Strategy and the People Strategy. The Council has a Corporate Delivery Programme (CDP) which provides the framework for delivering services up to 2024. Progress is planned to be monitored and communicated publicly via the CDP.

Budget monitoring is completed by the Corporate Management Team, comprising all Directors. The timing of financial monitoring reporting at both a officer and member level has improved significantly over the last 12 months and now ensures decision makers have timely financial information on which to take corrective action, when necessary.

Cabinet have access to this via the Corporate Performance Update and there is also a monthly "exception" reporting mechanism enabling decision makers to focus on the areas of greatest financial risk.

We reviewed an example from Children's Services (April - November) 2020/21. This shows a dashboard which includes:

- · Actuals to date and comparison with prior year
- 2020/21 Forecast Outturn Vs Budget
- Covid-19 19 Recovery Plan savings
- Medium Term Financial Strategy savings
- RAG ratings, activity insight and a brief commentary.

We noted that one element of underspend in the budget forecast (Learning and inclusion) is mainly as a result of "holding vacancies across the service". This approach to savings should be considered in the context of the People Strategy and the ongoing viability of staff vacancies.

The Local Government Act 2003 requires that, when a local authority is agreeing its annual budget and precept, the S151 Officer reports on the robustness of the estimates made for the purposes of the calculations and the adequacy of the proposed financial reserves. No separate s25 report is completed; the requirement is met through a specific section in the report (Budget and Council Tax 2021/22 and Financial Outlook). The report links the corporate strategy and objectives with the revenue budget and medium term financial outlook, cost pressures and assumptions, the Government settlement, business rates, council tax, reserves and balances. The budget is supported by comprehensive documentation which, in our opinion, demonstrates a properly considered and thorough budget planning process. It includes the following:

- Efficiency Strategy, including Flexible Use of Capital Receipts
- Capital Programme and Capital & Investment Strategy
- CIPFA Financial Resilience Indicators
- Risk assessment
- Budget savings and income generation proposals
- Treasury Management Strategy Statement 2022/23
- Evidence of consultation on spending plans

The key expenditure drivers such as demographic growth, pay and pensions, contract inflation, are included as part of the Medium-Term Financial outlook in the budget. However, the formal Medium Term Financial Strategy also recognises the key expenditure drivers as adult and children's social care demand, and the impact of the pandemic on heritage, car parking and commercial estate income.

Overall we identified no significant weaknesses in the Council's approach to budgeting.



1	Recommendation	The Council needs to explore and take appropriate actions to ensure that the DSG deficit is eliminated at the earliest practicable time.
	Why/impact	School funding is unsustainable in the medium term.
_	Summary findings	In common with many local authorities, the schools budget is not balanced, and is carrying forward a deficit of $\pounds 5.4 \text{m}$.
age 20	Management comment	The Council is taking forward discussion with the Education and Skills Funding Agency as part of the "Safety Valve Intervention" programme. A DSG management plan is being developed which will set out plans for moving forward towards a balanced budget.



The range of recommendations that external auditors can make is explained in Appendix C.

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2	Recommendation	The Council must continue with its range of activities and mechanisms to deliver balanced budgets and ensure that risks to delivery are identified at an early stage so that appropriate, and where possible, timely, action can be taken. In particular to ensure that demand led services, as far as possible, model and plan for future changes.
Why/impact To continue to ensure the financial sustainability of the Council in the current challe financial environment against the increasing levels of demand.		
Page 21	Summary findings	We noted that the Medium Term Financial Strategy 2022/23 highlights the ongoing challenging savings targets of around 10% of net budget. Whilst the Council has a good track record of delivering its savings plans, to continue to achieve these levels of savings will be increasingly challenging and, without appropriate planning, could potentially present a risk to the Council's financial sustainability in the medium to longer term.
	Management comment	The Councils 2022/23 budget undertook extensive budget rebasing to ensure that current activity and cost has been aligned with budget performance and future budget funding requirements. Detailed demand modelling is in place for many services such as adult social care and is critical to service planning and also savings delivery.



The range of recommendations that external auditors can make is explained in Appendix C.



3	Recommendation	Reference to the relationship between capital and revenue budgets should be included in the budget proposal, for example, the impact on revenue for future costs, such as repairs and maintenance.
	Why/impact	We believe that this would enhance understanding for readers.
Page	Summary findings	The capital strategy, programme, receipts, financing, spending etc are included throughout the Budget and Council Tax 2021/22 and Financial Outlook document, it is not straightforward to identify the relationship between the capital and revenue budgets.
e 22	Management comment	The Council's gateway process for approval of new capital schemes requires estimated annual revenue implication to be defined at the point of approval to inform revenue budget planning. In addition, the annual cost of maintaining the Councils road and building infrastructure is regularly reviewed which has resulted in corporately funded borrowing being added to both Highways and Property capital maintenance budgets.



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4 Recommendation Using vacancies to deliver savings should be kept to a minimum and changes in staffir should be supported by service delivery model and workforce planning.		
	Why/impact	Without a clear link to workforce planning and the People Strategy, using staff vacancies to deliver savings will impact on service delivery and may not be viable in the longer term.
Pa	Summary findings	One element of the underspend reported in the budget forecast for Children's Services (April - November) 2020/21 relates to "holding vacancies across the service".
ge 23	Management comment	The Council, on a temporary basis, put in vacancy control measures during the Covid pandemic to support the Council's financial recovery plan in 2020/21. These controls were lifted in April 2021 to enable timely recruitment across all services.



The range of recommendations that external auditors can make is explained in Appendix C.

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Governance



We considered how the Council:

- monitors and assesses risk and gains assurance over the effective operation of internal controls, including arrangements to prevent and detect fraud
- approaches and carries out its annual budget setting process
- ensures effectiveness processes and systems are in place to ensure budgetary control
- ensures it makes properly informed decisions, supported by appropriate evidence and allowing for challenge and transparency
- monitors and ensures appropriate standards.

Covid-19 arrangements

From the 16th March 2020 the Council put business continuity arrangements into place, including establishing formal links into the region through the Local Resilience Forum (LRF). A major incident was declared by the Council on 23rd March 2020 and delegated all decision making to the CEO, as Head of Paid Service. The Council relied on the emergency processes in Part 4 of the Constitution (up to the Cabinet meeting on 29th May 2020), which also requires that the action taken is recorded and reported to the first available meeting of the Council. An appropriate operational decision making structure was implemented using three workstreams reporting into the Strategic Group led by the CEO (and the LRF).

- The Tactical Group (and Business Continuity) focussed on delivery of business-critical services
- Business Support Workstream provide support to local businesses, divided into four project areas
- Community Support Workstream support and help protect the area's most vulnerable residents

Additionally, Cabinet Members were included in various ways.

- Remote informal Cabinet meetings with the SLT were held weekly to discuss key issues
- The CEO provided daily briefings for the Leader, Deputy Leader and Housing, Planning and Economic Development portfolio holder
- Group Leaders met remotely on a weekly basis to be briefed on and discuss key issues.

The Council's response and decision making were reviewed by the Corporate Policy Development & Scrutiny Panel and Cabinet in May 2020 when the Council published a Position Statement explaining the work which had been done and the emergency arrangements used.

AO ne Council refocussed its work in three themes - Reopening, enewal and Resilience - to support local businesses and services to reopen safely, to tackle long term issues such as climate change and diversifying the local economy and to develop local partnership working with volunteers and charities.

We consider that appropriate governance structures were established with a decision making structure which supported the prioritisation of essential services and the establishment of new services needed to respond to the pandemic (e.g. Wellbeing Hub, with staff redeployed to staff it). Our view is that the Council was also suitably adaptable in its approach to staffing arrangements, IT, service delivery flexibility, online meetings and working, business grant support, etc. This was evident across all the documentation we reviewed and in our discussions with officers. We consider that the Council's approach was a pragmatic and proactive response to the crisis situation.

How the Council monitors and assesses risk

The Council maintains a Corporate Risk Register (CRR) which evolved during the pandemic, shifting focus to Covid-19 related risks. During 2020/21 the CRR was very actively used and as most strategic risks related to the impact of the pandemic, it was presented as the Covid-19 Risk Register. The Risk Management Steering Group Terms of Reference show that they have oversight of the Council's risk management activities on behalf of the CMT, to which the group reports. The Covid-19 Risk Register (and a more recent version of the CRR) use a Red/Amber/Green scoring methodology and report on key actions and current risk status, with each risk having a sponsor or sponsors. The Covid-19 Risk Register and the more recent CRR do not link explicitly with the Corporate Strategic Policies or Principles.

A0 Please can we clarify which is the Recovery Group. The arrangements shown here are from the Council's Covid Position Statement.

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During 2020/21 the number of Corporate Audit Committee meetings was reduced from four to three and we identified that attendance by Members was good (only one member missed a meeting and a substitute attended instead) and that constructive questions are asked. This is supported by our own observations from attending these meetings. Membership of the Corporate Audit Committee is stable, with only limited changes in membership between 2019 and 2021. However, our review of the minutes does not highlight any specific reporting on risk management, nor formal and public sharing of the Corporate Risk Register.

A Risk Management Strategy 2019-2024 is in place and due to be refreshed and updated during 2022/23, once other risk management priorities have been completed.

Internal Audit

The Council's Internal Audit service is delivered by One West, a trading arm of Bath and North East Somerset Council. A revised Internal Audit Plan for 2020/21 was agreed by the Corporate Audit Committee in November 2020 (reducing coverage from 35 to 26 audits) as part of the response to the pandemic. The Audit and Assurance Annual Report 2020/21 (as at 31st March 2021) reports that 80% of the revised audit plan had been delivered. Of the Audit Assurance Reports issued as at the end of March 2021 the opinions given were:

82% Excellent or Good

% 9% Satisfactory

9% Weak.

However, Internal Audit subsequently revised the final position for 2020/21 to the following:

- 55% Excellent or Good
- 25% Satisfactory
- 20% Weak

This suggests an appropriate focus on areas of greatest risk given the final mix of audit outcomes.

The nature of the audit work which was able to be done was impacted due to Covid-19 restrictions and changes were made in the plans to adapt and be flexible to respond to the current risks and to accommodate these new challenges.

The implementation rate of 92% for high risk Internal Audit recommendations is excellent. We note the good practice that when serious weaknesses were identified in Property Services, the Chief Operating Officer as the senior manager responsible, presented to the Corporate Audit Committee on the report findings and actions taken in response. Further updates to Committee on progress are also planned going forward.

The final Head of Internal Audit Opinion for 2020/21 was 'reasonable assurance' indicating generally satisfactory internal controls in place.

For planning purposes corporate risk is factored into the organisational context under the reasonable assurance model being used and a risk scoring methodology has been applied

The Audit and Assurance Annual Report refers to Whistleblowing and Investigations. Although it detailed numbers of incidents, it does not provide details on trends, learning and subsequent action, if appropriate, taken by the Council in response to concerns raised by stakeholders.

The last Internal Audit External Quality Assessment was completed five years ago, so will be due again in 2022 and is expected to be completed late in the calendar year.

Overall, we have concluded that Internal Audit is discharging its role effectively and provides management with independence assurance over the risk, governance and internal control arrangements operating within the Council.

Budget setting and management

We have reviewed the Council's processes and procedures for monitoring the 2020/21 budget, noting the following elements of good practice.

The Council subjected its budget proposals to appropriate risk and sensitivity analysis through a process of review meetings. Revenue and capital budgets were presented together and capital financing was included alongside other budget pressures and funding requirements such as pay and inflation, demographic growth, etc. The capital programme and its financing looks ahead to 2025/26. The budget is supported in its development by the Medium Term Financial Strategy (MTFS), which is considered by Members during the autumn, and which is used as reference throughout the budget planning process. The budget process also includes the following consultation activities:

- Scrutiny meetings, with feedback to Cabinet and consideration as part of the budget preparation for Council
- Public webinars
- · Consultation web page

Cabinet Members also have the opportunity to challenge the budget proposals during fortnightly 'informal' meetings with senior managers.

The Council monitored and reported on trends during the 2020/21 financial year, particularly with regard to the impact of Covid-19. BANES faced a very high risk due to the extent of the reliance on commercial income from heritage sites (such as the Roman Baths and museums), the commercial estate and parking. In response, the Council developed scenario planning in May 2020 based on varying assumptions about the level of funding anticipated from Government and the financial impact to FY 2024/25. The forecasts and pressures were revised during the course of the year as the situation became clearer and government support better understood.

The budget was monitored on a quarterly basis by Senior Leadership Team, the Corporate Management Team (CMT) which includes all Council Directors, and Cabinet. Cabinet reporting was completed on a timely basis after the quarter end, with outturn reporting presented to Cabinet between three and six weeks after quarter end. This is much more timely than we observe in other similar sized councils.

Financial monitoring reports presented to Cabinet demonstrate that in year forecast variances are being picked up promptly and budget holders are held to account for delivering their budget or developing mitigating action.

As the year progressed forecasts moved from a potential £50m overspend to a balanced position by Q3 reporting to achieve a £5.7m underspend at year end. In addition, the Council transferred £5.42m to the corporate earmarked reserves used to support the Medium Term Financial Strategy smoothed savings approach and £4.85m of Covid-19 Grant support received in 2020/21 was transferred to Covid-19 Reserves to be used in 2021/22. The 2020/21 Capital Programme outturn was £62.2m, a variance of £36m compared with budget (£98.2m). This is mainly as a result of work being re-phased or rolled forward into future years.

The Treasury Management Strategy Statement is considered annually by the Corporate Audit Committee, Cabinet and full Council. Treasury management performance is reported to Corporate Audit Committee and Cabinet. Cabinet reporting for 2020/21 took place in October 2020, November 2020, February 2021 and July 2021. The reports include narrative on both borrowing and investment and confirms that activity is within policu limits and prudential indicators. Investments are compared with the previous quarter and rates of return over the year to date are included.

The quarterly reports also include an extract from Treasury Management Risk Register. We noted that the reports forecast an underspend and that it is unlikely that further borrowing will be required during the year. However, these comments are included in the narrative of the report and not quick and easy to identify and we believe that a small change in the presentation of the information could be helpful for readers.

Decision making

Formal decision making structures and arrangements are set out in the Council's Constitution (available on the Council's website) and supported by a fortnightly 'informal' Cabinet meeting, attended by the CEO and Director of Finance plus any other senior officers relevant to the topics being reviewed. The meeting is used to brief Members and for discussions prior to any formal decision making at Cabinet. This seems an appropriate arrangement, in common with other local authorities.

There are three Policy Development and Scrutiny Panels, two Joint Health Scrutiny Committees (with other local authorities) and a Scrutiny Inquiry Day. The three Policy Development and Scrutinu Panels review the performance and decision making of the Council, including the Policy Development and Scrutiny Panel, which looks at the Council's financial plans, both revenue and capital, and met 8 times during 20-21.

We noted that the Constitution is being refreshed in 2021/22 to improve accessibility, ease of use, digital compatibility, links to other Council information, and to remove duplication and clarify responsibility for decision making. We noted that the Constitution can be complicated to navigate and we endorse these proposed improvements.

There is evidence that the Council seeks out feedback through public consultations and surveys. For example, a residents' survey was completed in November 2020 and reported to Cabinet in May 2021 which aimed to identify residents' satisfaction with Council services and their local area.

The Council makes links between its plans and priorities through its Vision, Corporate Strategy 2020-2024, Covid-19 recovery, budget and treasury management plans, the People Strategy and the Medium Term Financial Strategy. The Vision sets out a Roadmap to 2024. Priorities over the next 12 months are identified, together with the medium term vision including a balanced budget with no unplanned use of reserves. These, in our view, provide an appropriate framework for strategic decision making.

We noted that there is no specific corporate risk reporting in any of the public documentation at either Council or Scrutiny Committee (in addition to our comments on the Corporate Audit Committee above on page 15).

Complaint rates are monitored and the Council's 'stage 2' and Ombudsman complainants are included for standard review at the quarterly meetings of the Risk Management Group which reports to the Corporate Management Team. Although retrospective, this demonstrates a willingness to be open and to learn from third party feedback and any mistakes. Support for transparency and openness is evidenced through our discussions with Council staff and in the information provided.

We consider that the Council has sound decision making processes in place, which allow for both challenge and transparency.

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Monitoring standards

The Council has a range of policies to ensure that standards are upheld, including a whistleblowing policy with a reporting link available on the website, a complaints and feedback policy and an Anti Bribery Policy (which applies to both staff and Members) with links to the Code of Conduct (published online and is an adoption of the Local Government Association's Model Code 2020), the Counter Fraud Strategy, the Register of Gifts and Hospitality and a declaration of interest form for staff.

We noted that the complaints and feedback policy is rather long and complex, running to 16 pages, which may be suitable for a significant complaint but does not appear to be very customer friendly. For example, the information about how to make a complaint is found on page 9. The complexity of the policy is mitigated by the availability of a "Have your say" button on the Council website home page. This also offers the possibility for local residents to make a suggestion, give a compliment or nominate an employee for an award, all of which demonstrate good practice. However, there is no button for whistleblowing on this page (as this is included under the "Report it" button)

The Members' Registers of Interests are published on line and accessible from individual Member profiles. We reviewed some examples (from Members on the Standards Committee, Cabinet and Corporate Policy Development and Scrutiny Committee) and found that there is some variation in the timing of the most recent updates, with most dated 2019, one dated 2018. Updates are required only within 28 days of a change requiring an update to be made but good practice would be to update these as a matter of routine on a periodic basis, such as annually. The register shows that Members record "None" when a section or question does not apply and this is good practice. Overall we consider that the Council has appropriate arrangements in place to monitor standards.



5	Recommendation	The highest ranked corporate risks should be included annually in the Corporate Audit Committee agenda and include links to the Council's Corporate Strategic Policies and Principles.
	Why/impact	This would enhance Members and local residents understanding of the nature of the risks, the control environment, and the coverage of internal audit.
Page 29	Summary findings	Our review of the Corporate Audit Committee minutes did not highlight any specific reporting on risk management. We noted, however, that the Head of Internal Audit's Annual report refers to the Council's decision-making risk management guidance and corporate risks are factored into the internal audit planning.
	Management comment	An annual report on risk management arrangements will be presented to the Audit Committee as part of its ongoing agenda.



The range of recommendations that external auditors can make is explained in Appendix C.

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6	Recommendation	The Audit and Assurance Annual Report refers to Whistleblowing and Investigations. Although it detailed numbers of incidents, it does not provide details on trends, learning and subsequent action, if appropriate, taken by the Council in response to concerns raised by stakeholders.
	Why/impact	This would enable local residents and Members to more easily identify and monitor the numbers and types of cases.
Page	Summary findings	The Audit and Assurance Annual Report refers to Whistleblowing and Investigations but it is not straightforward to understand the number of investigations and whistleblowing cases, nor what the outcomes have been.
30	Management comment	An annual report on Counter Fraud & Corruption, including Whistleblowing will be included with the Corporate Audit Committee agenda



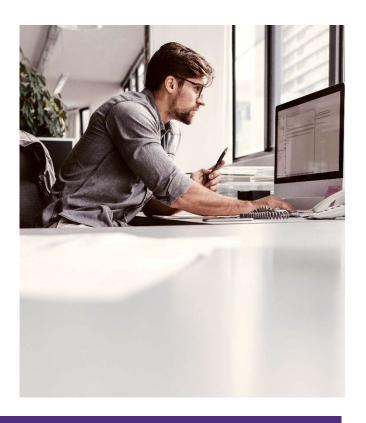
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7 Page 31	Recommendation	During the next review of the complaints and feedback policy, consider making some small presentational changes. For example, the initial Stage One process and what is expected from the complainant could be described with links provided to next steps and the commentary about how to give feedback or make a complaint could be included at the start of the document.
	Why/impact	We believe that these small changes could help make the policy and process more user friendly and help encourage feedback from local residents.
	Summary findings	The current published policy is rather complex. Whilst this may be suitable for a significant complaint, we consider that there is a risk that 16 pages of policy may hinder residents providing useful feedback or deter service users from raising legitimate issues. This is however mitigated by the availability of the "Have your say" and "Report it" buttons on the Council's website.
	Management comment	This will be part of the next periodic review of the Complaints policy



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Recommendation

Treasury management performance reporting could be enhanced by

- bringing together the information on the overall impact (i.e. no further borrowing forecast in year, the budget implications with more detail about the "re-phasing of capital spend") with the existing summary
- including the overall score (RAG rated) and some trend information in the Risk Register extract.

The Council should also consider whether some further trend information on investment returns and borrowing would provide some context and further improve reporting.

Why/impact

We believe that this would enhance transparency and understanding for Members and local residents.

Summary findings

Investment totals are compared with prior quarter (using 2 pie charts) and rates of return over the year are included in a table. No comparison with earlier periods, nor trends are given. A snapshot of the current external borrowing value and portfolio is given but no changes or repayments are highlighted.

In the narrative of the reports we reviewed reference is made to the fact that that it is unlikely that further borrowing will be required during the year and a separate paragraph covers budget implications with the detail contained in an Appendix and forecasting an underspend. The quarterly reports include an extract from Treasury Management Risk Register with Impact and Likelihood scored from 1 - 5 and mitigating actions.

Management comment The overall impact is covered in the "Budget Implications" section of the performance reports, this can also be added to the "summary section" of the report. The focus on changes to total investments is linked to the previous quarter because the report is providing a quarterly update. Changes in borrowing are already covered in the narrative of the report, but the borrowing Appendix can be expanded to also include changes or repayments.

The highlighting of movements in the Risk Register will be incorporated in future reports.

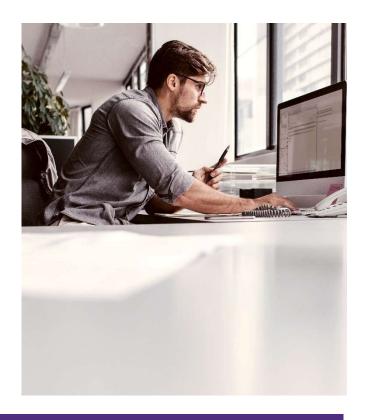


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9	Recommendation	The register of interests and declarations of gifts and hospitality completed by Members should be routinely updated annually.
	Why/impact	To demonstrate that the Council operates to the highest levels of integrity in line with the Nolan principles.
Page	Summary findings	There is some variation in the timing of updates to the Registers of Interest. Updates are required only within 28 days of a change requiring an update to be made but good practice would be to update these as a matter of routine on a periodic basis, such as annually.
33	Management comment	The Monitoring Officer will continue to keep this under consideration as part of their annual review and update routines with regard to gifts and hospitality.



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Improving economy, efficiency and effectiveness



We considered how the Council:

- uses financial and performance information to assess performance to identify areas for improvement
- evaluates the services it provides to assess performance and identify areas for improvement
- ensures it delivers its role within significant partnerships, engages with stakeholders, monitors performance against expectations and ensures action is taken where necessary to improve
- ensures that it commissions or procures services in accordance with relevant legislation, professional standards and internal policies, and assesses whether it is realising the expected benefits.

Covid-19 arrangements

The Council's Corporate Strategy and the Delivery Programme were impacted by the pandemic and progress was hindered by the need to divert staff and resources.

The Council adopted a new four-year Corporate Strategy in February 2020. The document sets out the overriding purpose "to improve people's lives", two core policies "tackling the climate and nature emergency and giving people a bigger say" and three principles "to prepare for the future, deliver for residents and focus on prevention". The Strategy was adopted alongside the Corporate Delivery Programme, which set out the detailed actions to be taken in service areas during 2020/21, and the budget with the aim of ensuring that the links between strategy, delivery and financial plans are clear and comprehensive. However, the events of 2020 required a change of focus to manage the pandemic response and subsequent impacts so delivery of the strategy was revisited in July 2020 and an update outlined the impacts of Covid-19 and provided narrative case studies on how the strategy had been "kickstarted" during the period. It also set out how three external workstreams (Re-opening, Renewal and Resilience) were set up to focus on delivery of the Strategy, but through the lens of the pandemic. The next formal update to Cabinet took place in May 2021 and reports "successes and achievements" against the two core policies and the three Corporate Principles.

Performance management

The Council's Roadmap 2020–2024 clearly identifies an outcomes focused performance management framework as a key element of the organisational framework.

At officer level the Council has a range of performance assessment mechanisms in place. These include budgetary planning, quarterly SLT and CMT budget monitoring (with exception reporting as needed), monthly CMT monitoring of savings schemes, risk management processes and regular, informal meetings with Cabinet although detailed performance reporting to Members is still under development. It has improved since 2020/21.

More recently a Corporate Performance Update has been provided quarterly to Cabinet (since September 2021) and includes a selection of indicators from the Council's Integrated Reporting Framework. This takes information mainly from business systems across the Council and reports values against targets (where these are set, such as % of household waste recycled) or activity levels (e.g. average speed on roads). They are grouped to follow the three 3 key principles in the Corporate Strategy, but it is not possible to identify if there is a direct link between the indicators and the Council's plans and objectives. The indicators appear to be interactive but the reports we saw did not have this functionality. There is no trend or risk analysis and the commentary is focussed on interpreting the indicator and future plans. We consider that the information is sufficient to enable Members to raise questions and explore issues further. However, the Council would benefit from further development of KPIs to provide a more sophisticated and joined up performance management framework. We noted for example that an Internal Audit report dated December 2021 on Property Compliance refers to inadequate reporting to management and oversight groups; this is noted as being addressed through measures to ensure that senior management and the HSWB Steering Committee are well sighted on current gaps in compliance, whilst steps are being taken to develop a dashboard from a "multitude of data sets".

Benchmarking and learning from others

Benchmarking is an effective tool that enables an organisation to compare and analyse its performance with others. It can identify areas for improvement and also provide targets to work towards.

Benchmarking was undertaken as part of our VfM work. We used our management tool 'CFO Insights' and compared the units costs for a range of services. The tool uses information from the 'RO' returns to central government and population data to determine the number of people using the service to calculate a unit cost. The unit cost is assigned a score which ranges from 'very high' (in the top 20% of comparable authorities) to 'very low' (in the bottom 20%). Individual service line unit costs are in the range from very low to very high in cultural and related services and environmental and regulatory services, in line with expectations in an authority with such significant commercial activity related to tourism and culture. High waste disposal costs identified in the tool are a known issue.

We also reviewed the recently published CIPFA Resilience Index 2022. In the CIPFA Index the method has been risk indicator for BANES is shown as the "Reserves Sustainability Measure". However, we Council is in line with 15 of the 16 authorities in the comparator group. We noted that warmarked reserves have increased from £37.8m in 19/20 to £46m in 20/21 (back in 2015/16 granked reserves were £57m). BANES ranks 35th out of 89 comparator authorities for the level of earmarked reserves as a % of annual net expenditure. Reserves level as a percentage of annual net expenditure was 17.49% for 20/21 which is broadly consistent with prior years where levels have fluctuated between 15% and 21%. Unallocated reserves have remained broadly static at c.£12m. Overall we consider that reserves levels are in line with expectations, but in common with other local authorities, a sustained focus on the measured and planned use of reserves should continue.

Borrowing increased significantly between 2016/17 and 2018/19 (from £80m to £196m) but the Treasury Management Outturn Report 2020/21 shows that borrowing remains well within the prudential indicators set out in the Council's Treasury Management Strategy Statement under the CIPFA Treasury Management Code.

We have seen evidence that BANES uses comparative information, from its CIPFA nearest neighbours and south west authorities, to benchmark its performance against other organisations. For example, council tax levels are benchmarked against other unitary authorities in the south west as part of 2021/22 budgeting and the Covid-19 Recovery Plan included a comparison of unearmarked reserves with other unitary authorities. Comprehensive benchmarking was also observed in the procurement process of mental health care and support for adults. The Head of Corporate Governance and Business Insight leads a small team of two analysts who provide a corporate benchmarking function using CIPFA, Local Government Association, NHS Digital and the Local Authority Interactive Tool (LAIT) benchmarking tools.

Annual VFM reports with heatmaps are generated and sent to Directors to support the annual budget and savings process. However, it is not clear to what extent systematic benchmarking is undertaken across the Council, as the Council's new Integrated Reporting Framework does not provide any benchmarked comparisons in the reports we have reviewed.

Another opportunity to identify improvement opportunities is to use reports from external regulators, such as Ofsted and the Care Quality Commission. The pandemic has necessarily impacted such reports but we observed that such reports and learning are handled at Service levels and by one of the (relevant) Scrutiny Panels (for example, Children, Adults, Health & Wellbeing Policy Development & Scrutiny Panel) which have the authority to refer matters to either Council or Cabinet if required. This can make it tricky to identify the reports and the Council's responses.

Overall we consider that the Council has sound arrangements in place to make good use of the opportunities to learn from benchmarking and external reports.

Partnership and stakeholder working

The Council works and engages with significant partners across multiple service areas including homelessness prevention, drug and alcohol services and other local public bodies such as Parish Councils. The Council has developed a Roadmap 2020–2024 to support the Corporate Strategy and partnerships are identified as a key element of this. Work with partner organisations is also identified within the Procurement and Commissioning Strategy.

Whilst there is no formal definition of a significant partner, the Roadmap identifies six key partnerships (CCG, Virgin, WECA – transport, Western Gateway, Universities, RUH). As expected, the Council's Constitution also sets out the arrangements for Members to sit as part of the governing bodies of various partner organisations. The officers and Members we interviewed were consistent in their confirmation of the importance of partnership working as key to achieving and delivering objectives. In particular, the strength of and improvements to partnership working relationships were commented on, as a result of the response to the pandemic. We identified multiple examples during our work of the Council working effectively with partners, the most notable of which is the Adult Social Care contract with Virgin Care (now HCRG Care Group) and we consider that the formal shared governance arrangements in place are strong.

ADL (Aeguus Developments Ltd) is the Council's Local Authority Controlled Company and parent company of ACL (Aeguus Construction Ltd). The Business Plan 2020 to 2023 states that "The current governance arrangements include a Council Client Group which oversees the performance and delivery of the company, together with provisions for regular Council Scrutiny Panel updates." The Council appoints the Board of Directors and commissioned a review of governance arrangements which was completed by KPMG in 2020/21. The report makes seven recommendations to improve the governance arrangements, clarity of roles and responsibilities and to ensure that the Council is able to drive the maximum benefit from ADL in achieving its strategic objectives.

In response to this report the Council, in March 2022, has already approved changes to the structure and governance arrangements in place for oversight of ADL/ACL.

Other examples which demonstrate that the Council considers the impacts on partners include the Covid-19 Recovery Plan and the consultation work around the Clear Air Zone.

The arrangements appear appropriate and operate across different service areas, using a ariety of engagement methods i.e. panels, public consultations, residents survey, etc. However, oversight of contract delivery is considered to be a service area role. Whilst local Reams are often best placed to manage those relationships on a day to day basis, this also Freates a risk of variability in relationships and a need for assurance that the Council is engaging appropriately and effectively with significant partners and key stakeholders.

Procurement

The Council has an up to date Procurement and Commissioning Strategy, published on its website. Its update in October 21 was delayed by Covid-19 but we consider that this is reasonable. The policy refers to the new public procurement rules which are to be adopted in 2022 (published in June 2021) and is structured around the Corporate Strategy policies and principles. Six key considerations and challenges are set out:

- Brexit
- the Covid-19 pandemic
- Costs vs Sustainability
- Culture change
- Modern slavery and
- Social Value (To consider how the services being commissioned and procured might improve the economic, social and environmental well-being of the area.)

We identified no procurement issues in online searches of local media and our review of the contracts register for contracts awarded during 2020/21 showed no repeated commissioning or unusual patterns of activity, nor any extensive or unexplained use of consultants.

The procurement of services through partners continues to be increasingly important for local authorities and therefore managing contractual relationships is a key competence to ensure that quality, service and cost outcomes are met or exceeded. Oversight of contract delivery at BANES is a service area role and is based on management reporting lines, the skills and experience of individual managers (who may be subject specialists, but without training or expertise in contract management), the nature of working relationships and the service being delivered. As a result there is a risk of inconsistencies in the effectiveness of contract monitoring and management. We understand that for significant suppliers service areas have established special oversight/management groups and we have confirmed that this is in place for the Virgin Care contract. However, there is no formal definition of a significant partner (see above page 25) and the robustness of contract management for other service providers is less clear and is reflected in the Maturity Model Report dated October 2021, which identified some weaknesses in contract and relationship management. The Council's Strategic Procurement Team are available to support service area staff with procurement activities and Contract Standing Orders are made available to businesses wishing to sell to the Council. Significant procurements are reviewed by the Contracts Panel. In the event of the Council entering into any complex or unusual activities appropriate advice is available through a consultancy or neutral vendor arrangement.

Overall we conclude that appropriate procurement arrangements are in place but there is an opportunity to further support and strengthen contract management across the service areas. This would help to ensure that service delivery is in line with expectations and provide a framework to support managers in cases where delivery falls below requirements. (We note that a plan to introduce a contract management framework was paused by the pandemic).



Improving economy, efficiency and effectiveness

10	Recommendation	The Integrated Reporting Framework should continue to be developed to provide a more sophisticated and joined up performance management framework. The Key Performance Indicators (KPIs) should be better aligned to objectives.
Pa	Why/impact	This will assist the Council in assessing and demonstrating progress towards a objectives and enable resources to be more effectively targeted. It will help to ensure that resource planning and service delivery are aligned with policy and increase transparency for elected Members and local residents.
Page 37	Summary findings	The Council Roadmap 2020 – 2024 includes a performance framework as part of the organisational framework required going forward. The Council would benefit from further development of KPIs. For example, the internal audit report on Property Compliance refers to developing a dashboard from a "multitude of data sets". The Council's Integrated Reporting Framework takes information mainly from existing business systems across the Council and reports values against targets (where these are set, such as % of household waste recycled) or activity levels (e.g. average speed on roads). They are grouped to follow the three key principles in the Corporate Strategy, but it is not possible to identify if there is a direct link between the indicators and the Council's plans and objectives. There is no trend or risk analysis and the commentary is limited and focussed on interpreting the indicator and future plans.
	Management comment	The Council is undertaking a longer-term programme of work to improve its strategic performance management. This is to be delivered through the Council's Data Strategy (2021) and includes greater alignment of performance data with service plan and personal objectives for officer leadership to provide member and public scrutiny; planned for the 2022/23 financial year.



The range of recommendations that external auditors can make is explained in Appendix C.

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Improving economy, efficiency and effectiveness

11	Recommendation	Strengthen the existing benchmarking processes by developing and formalising a structured framework to ensure that the information in the annual VFM heatmaps is acted on and that benchmarks are incorporated into the Integrated Reporting Framework.
	Why/impact	Systematic benchmarking may identify areas for improvement and provide targets to work towards.
Page 38	Summary findings	Annual VFM reports with heatmaps are generated and sent to Directors to support the annual budget and savings process. However, it is not clear to what extent systematic benchmarking is undertaken across the Council, as the Council's new Integrated Reporting Framework does not provide any benchmarked comparisons in the reports we have reviewed.
	Management comment	The Council is subscribed to LG inform plus, providing a range of benchmarking data and in-built reports that are used on a case-by-case basis as part of performance management processes where benchmarking data is relevant to business need.



The range of recommendations that external auditors can make is explained in Appendix C.



Improving economy, efficiency and effectiveness

12	Recommendation	Consider raising the profile of action planning and lessons learned from external inspection reports, such as Ofsted and the CQC by including an annual summary report to Council or Cabinet.
	Why/impact	We believe that this would enhance transparency for both local residents and Members, and would publicly demonstrate the Council's commitment to development and improvement.
Page 39	Summary findings	We observed that reports from external regulators, such as Ofsted and the Care Quality Commission are handled at Service levels and by one of the (relevant) Scrutiny Panels (for example, Children, Adults, Health & Wellbeing Policy Development & Scrutiny Panel) which have the authority to refer matters to either Council or Cabinet if required.
	Management comment	Issues would be included as part of the Council's Annual Governance statement processes and where necessary broader statements would included as part of the new Annual Report to Cabinet



The range of recommendations that external auditors can make is explained in Appendix C.

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This a suggestion which could improve information to local residents and demonstrate the amount and quality of the work being done by the Council. The suggestion is for a periodic (annual) summary to enhance transparency, not a comment that Members do not see such information.

Author, 2022-04-27T13:29:03.472



Improving economy, efficiency and effectiveness

13 Recommendation Ensure that an appropriate response and action plan to the Aequus governo delivered on a timely basis.		Ensure that an appropriate response and action plan to the Aequus governance review is delivered on a timely basis.
	Why/impact	We believe that this would help to ensure that the Council is able to make the most effective use of the skills and resources available in its subsidiary.
Page 4	Summary findings	The Aequus report makes seven recommendations to improve the governance arrangements, clarity of roles and responsibilities and to ensure that the Council is able to drive the maximum benefit from ADL in achieving its strategic objectives. Changes to the structure and governance arrangements were approved by the Council in March 2022
	Management comment	THIS ACTION IS COMPLETED, SEE RECENT COUNCIL REPORTS



The range of recommendations that external auditors can make is explained in Appendix C.

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Improving economy, efficiency and effectiveness

14	Recommendation	 The Council should develop its contract management arrangements further. i. It should ensure that staff have the appropriate skills and knowledge to manage contractual relationships with partners appropriately and consistently, using an agreed contract management framework. ii. The approach to monitoring, reporting and challenging service delivery, should be proportionate in line with the nature of the contract and the importance of the partner (perhaps through clearly identifying its key/significant partners). 	
0000	Why/impact	To ensure that all partnership working arrangements are managed to appropriate standards, in line with Council policies.	
ฉิ	Summary findings	Oversight of contract delivery is a service area role and is based on management reporting lines the skills and experience of individual managers (who may be subject specialists, but without training or expertise in contract management), the nature of working relationships and the service being delivered. As a result there is a risk of inconsistencies in the effectiveness of contract monitoring and management. However, there is no formal definition of a significant partner and the robustness of contract management for other service providers is less clear, as identified in the Maturity Model Report dated October 2021.	
	Management comment	The Council has established a Procurement Steering Group and this will feature as part of their ongoing agenda	



The range of recommendations that external auditors can make is explained in Appendix C.

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This view is based on a discussion and receipt of documentation from the Head of Strategic Procurement officer where we discussed at length arrangements at the council. Author, 2022-04-27T15:51:12.465

Opinion on the financial statements



Audit opinion on the financial statements

We gave an unqualified opinion on the financial statements on 16 December 2021.

Audit Findings Report

More detailed findings can be found in our Audit Findings TReport, which was published and reported to the Council's Corporate Audit Committee on 15 December 2021.

Whole of Government Accounts

To support the audit of the Whole of Government Accounts (WGA), we are required to review and report on the WGA return prepared by the Council. This work includes performing specified procedures under group audit instructions issued by the NAO.

Our work has not yet been completed as we are awaiting the final instructions to be issued by the NAO.

Issues arising from the accounts:

Our audit identified no individually material errors or adjustments to the financial statements but identified errors that cumulatively materially impacted on the draft statements presented to audit. Officers agreed to correct these, the most significant of which are:

- Improper componentisation of seven assets
- Two assets included in the valuation report for which valuations were not performed

Grant Thornton provides an independent opinion on whether the accounts are:

- True and fair
- Prepared in accordance with relevant accounting standards
- Prepared in accordance with relevant UK legislation.



Appendices

Appendix A - Responsibilities of the Council



Role of the Chief Financial Officer (or equivalent):

Preparation of the statement of accounts

Assessing the Council's ability to continue to operate as a going concern

Public bodies spending taxpayers' money are accountable for their stewardship of the resources entrusted to them. They should account properly for their use of resources and manage themselves well so that the public can be confident.

Financial statements are the main way in which local public bodies account for how they use their resources. Local public bodies are required to prepare and publish financial statements setting out their financial performance for the year. To do this, bodies need to maintain proper accounting records and ensure they have effective systems of internal control.

All local public bodies are responsible for putting in place proper arrangements to secure economy, efficiency and effectiveness from their resources. This includes taking properly informed decisions and managing key operational and financial risks so that they can deliver their objectives and safeguard public money. Local public bodies report on their arrangements, and the effectiveness with which the arrangements are operating, as part of their annual governance statement.

The Chief Financial Officer (or equivalent) is responsible for the preparation of the financial statements and for being satisfied that they give a true and fair view, and for such internal control as the Chief Financial Officer (or equivalent) determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

The Chief Financial Officer (or equivalent) or equivalent is required to prepare the financial statements in accordance with proper practices as set out in the CIPFA/LASAAC code of practice on local authority accounting in the United Kingdom. In preparing the financial statements, the Chief Financial Officer (or equivalent) is responsible for assessing the Council's ability to continue as a going concern and use the going concern basis of accounting unless there is an intention by government that the services provided by the Council will no longer be provided.

The Council is responsible for putting in place proper arrangements to secure economy, efficiency and effectiveness in its use of resources, to ensure proper stewardship and governance, and to review regularly the adequacy and effectiveness of these arrangements.



Appendix B - Risks of significant weaknesses - our procedures and findings

As part of our planning and assessment work, we considered whether there were any risks of significant weakness in the Council's arrangements for securing economy, efficiency and effectiveness in its use of resources that we needed to perform further procedures on. The risks we identified are detailed in the table below, along with the further procedures we performed, our findings and the final outcome of our work:

Risk of significant weakness	Procedures undertaken	Findings	Outcome
Tinancial sustainability was not dentified as a potential significant oweakness, see pages 7 - 9 for more delatails.	As part of our review we reviewed the processes in place relating to savings planning, budget delivery, and the impact of Covid-19 19.	No significant weaknesses identified	Appropriate arrangements were in place, four improvement recommendations raised.
Governance was not identified as a potential significant weakness, see pages 14 -17 for more details.	No additional procedures undertaken	No significant weaknesses identified	Appropriate arrangements were in place, five improvement recommendations raised.
Improving economy, efficiency and effectiveness was not identified as a significant weakness, a more detailed review was undertaken see pages 23-25 for further information	No additional procedures undertaken	No significant weaknesses identified	Appropriate arrangements were in place, five improvement recommendations raised.

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Appendix C - An explanatory note on recommendations

A range of different recommendations can be raised by the Council's auditors as follows:

Type of recommendation	Background	Raised within this report	Page reference
FStatutory age 449	Written recommendations to the Council under Section 24 (Schedule 7) of the Local Audit and Accountability Act 2014. A recommendation under schedule 7 requires the Council to discuss and respond publicly to the report.	No	-
Key	The NAO Code of Audit Practice requires that where auditors identify significant weaknesses as part of their arrangements to secure value for money they should make recommendations setting out the actions that should be taken by the Council. We have defined these recommendations as 'key recommendations'.	No	-
Improvement	These recommendations, if implemented should improve the arrangements in place at the Council, but are not a result of identifying significant weaknesses in the Council's arrangements.	Yes	10 - 13, 18 - 23, 26 - 30

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Appendix D - Use of formal auditor's powers

We bring the following matters to your attention:

Under Schedule 7 of the Local Audit and Accountability Act 2014, auditors can make written recommendations to the audited body which need to be considered by the body and responded to publicly

We have not issued any statutory recommendations.

Public interest report

Under Schedule 7 of the Local Audit and Accountability Act 2014, auditors have the power to make a report if they consider a matter is sufficiently important to be brought to the attention of the audited body or the public as a matter of urgency, including matters which may already be known to the public, but where it is in the public interest for the auditor to publish other independent view.

We have not issued a public interest report.

Application to the Court

Under Section 28 of the Local Audit and Accountability Act 2014, if auditors think that an item of account is contrary to law, they may apply to the court for a declaration to that effect.

We have not made an application to the Courts.

Advisory notice

Under Section 29 of the Local Audit and Accountability Act 2014, auditors may issue an advisory notice if the auditor thinks that the authority or an officer of the authority:

- is about to make or has made a decision which involves or would involve the authority incurring unlawful expenditure,
- is about to take or has begun to take a course of action which, if followed to its conclusion, would be unlawful and likely to cause a loss or deficiency, or
- is about to enter an item of account, the entry of which is unlawful.

We have not issued any advisory notices.

Judicial review

Under Section 31 of the Local Audit and Accountability Act 2014, auditors may make an application for judicial review of a decision of an authority, or of a failure by an authority to act, which it is reasonable to believe would have an effect on the accounts of that body.

We have not applied for a judicial review.

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Bath & North East Somerset Council		
MEETING	Standards Committee	
MEETING	12 July 2022	
TITLE: Revision of Arrangements for dealing with Code of Conduct complaints		
WARD: All		
AN OPEN PUBLIC ITEM		
List of attachments to this report:		

Appendix (1) draft Arrangements for dealing with complaints about the Code of Conduct for Members

1 THE ISSUE

1.1 To consider adopting the revisions to the Arrangements for Dealing with Complaints about the Code of Conduct for Members

2 RECOMMENDATION

The Standards Committee is asked to;

2.1 Adopt the draft Arrangements for Dealing with Complaints about the Code of Conduct for Members (Appendix 1)

3 THE REPORT

- 3.1 The Bath and North East Somerset Arrangements for Dealing with Complaints about the Code of Conduct for Members ("the Arrangements") were last revised in 2013 (see background paper). In the last 12 months the Monitoring Officer has received feedback from users of and subject to Code of Conduct complaints. In summary the feedback was the Arrangements are not easy to follow for those who are unfamiliar with the process, can be confusing and don't really give a clear account of what to expect during a Local Hearing.
- 3.2 The Monitoring Officer therefore undertook a review of the Arrangements and looked at neighbouring councils and other councils arrangement's. What emerged was that whilst the 2013 Arrangements were not dissimilar to others when taking account of the feedback the Arrangements could be refreshed to provide clarity and make them more accessible to users.

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3.3 The 2013 Arrangements has been provided as a background paper to aid comparison with the revised draft Arrangements.

4 STATUTORY CONSIDERATIONS

4.1 Under the Localism Act 2011 the council is under a duty to promote and maintain high standards. Refreshing the Arrangements clarifies the Standards procedure.

5 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)

5.1 No direct implications

6 RISK MANAGEMENT

6.1 Adherence to robust standards of conduct mitigates potential complaints about standards issues.

7. EQUALITIES

6.1 No direct impact

8 CLIMATE CHANGE

8.1 No direct impact

9 OTHER OPTIONS CONSIDERED

9.1 None

10. CONSULTATION

10.1 The S.151 and Monitoring Officer have been consulted

Contact person	Shaine Lewis Legal Services Manager shaine_lewis@bathnes.gov.uk	
Background papers	Arrangements for Dealing with Complaints about the Code of Conduct for Members	
Please contact the report author if you need to access this report in an alternative format		

BATH AND NORTH EAST SOMERSET COUNCIL

ARRANGEMENTS FOR DEALING WITH COMPLAINTS ABOUT THE CODE OF CONDUCT FOR MEMBERS - REVISED JULY 2022

1. Introduction

- 1.1 Under the Localism Act 2011, the Bath and North East Somerset Council ("the Council") must have in place "Arrangements" under which allegations that a member or co-opted member of the Council, or of a Committee or Sub-Committee of the Council, has failed to comply with the Code of Conduct for Members ("the Code") can be investigated and decisions made on such allegations.
- 1.2 These "Arrangements" set out how you may make a complaint that an elected or co-opted member of the Council has failed to comply with the Code and sets out how the Council will deal with such allegations.
- 1.3 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".
- 1.4 No Member or officer will participate in any stage of the Arrangements if they have, or may have, any personal conflict of interest in the matter.
- 1.5 These Arrangements provide for the Council to appoint at least one Independent Person, whose views must be sought before it takes a decision on an allegation which it has decided shall be investigated, and whose views can be sought by the Council at any other stage, or by a member or co-opted member against whom an allegation has been made.

2. The Code

2.1 The Code was adopted by the Council in May 2021 and is available on the Council's website. A paper copy of the Code is available on written request to the Standards Committee Clerk, Bath and North East Somerset Council, Lewis House, Manvers Street, Bath BA1 1JG.

3. Making a complaint

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

The Monitoring Officer
Bath and North East Somerset Council
Guildhall
High Street
Bath
BA1 5AW

OR

Councillor-Complaints@bathnes.gov.uk

- 3.2 The standard complaint form should be used. This can be obtained from the Monitoring Officer or downloaded from the Council's website in order that all required information is included.
- 3.3 The Monitoring Officer is a senior officer of the Council who has statutory responsibility for maintaining the register of members' interests and who is responsible for administering these arrangements.
- 3.4 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 the Complaint Initial Assessment.

4. Confidentiality

- 4.1 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.
- 4.2 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. In exceptional circumstances, however, the Monitoring Officer may, at the request of the Complainant and supported by evidence, withhold the Complainant's identity provided the Monitoring Officer is satisfied that the Complainant has reasonable grounds for believing that they (or any witness to the facts of the complaint) may be at real risk of physical harm. Further, that their employment may be at risk or medical evidence suggests there are medical risks associated should their identity be disclosed.
- 4.3 If the Monitoring Officer decides to refuse a request by a Complainant for confidentiality, the Complainant will be offered the option to withdraw the complaint rather than proceed with his or her identity being disclosed.

5. Will the complaint be investigated?

- 5.1 At this stage a proportionate approach will be adopted having regard to all the circumstances and bearing in mind the sanctions which can be imposed if a Subject Member is found to be in breach of the Code. Ultimately the performance of Members in terms of how they represent their Wards is a matter for the electorate to decide should a Subject Member seek re-election.
- 5.2 The Monitoring Officer will review the complaint and, after consultation with the Independent Person and Independent Chair and take one of three decisions:
 - 5.2.1 Take no action
 - 5.2.2 Seek to resolve the complaint informally

- 5.2.3 Refer the complaint for investigation.
- 5.3 A decision will normally be taken within 20 working days of receipt of a complaint.
- 5.4 A complaint will normally be rejected if:
 - 5.4.1 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;
 - 5.4.2 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;
 - 5.4.3 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.
- 5.5 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 take no action:
 - 5.5.1 Whether a substantially similar allegation has previously been made by the Complainant to the Standards Committee, or the complaint has been subject of an investigation by another regulatory authority;
 - 5.5.2 Whether the complaint is about something that happened over 6 months ago as 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;
 - 5.5.3 Whether the allegation is anonymous;
 - 5.5.4 Whether the allegation discloses a potential breach of the Code of Conduct, but the complaint is not serious enough to merit any action and:-
 - 5.5.5 The resources needed to investigate and determine the complaint are wholly disproportionate to the allegations;
 - 5.5.6 Whether, in all the circumstances, there is no overriding public benefit in carrying out an investigation;
 - 5.5.7 Whether the complaint appears to be malicious, vexatious, politically motivated or tit-for-tat;
 - 5.5.8 Whether the complaint suggests that there is a wider problem throughout the authority;
 - 5.5.9 Whether it is apparent that the subject of the allegation has apologised for making an error and the matter would not warrant a more serious sanction;
 - 5.5.10 Whether training or conciliation would be the appropriate response;

- 5.6 The Monitoring Officer may require additional information to assist them in reaching a decision and may request additional information from the Subject Member. Where the complaint relates to Town/Parish Councillor, the Monitoring Officer will inform and may also seek information from the Clerk of the Town/Parish Council.
- 5.7 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 their conduct was unacceptable and offering an apology or taking other steps. Where the Subject Member or the authority (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 investigation.
- 5.8 If the complaint identifies criminal conduct or breach of other regulation by any person, the Monitoring Officer will refer the matter to the police and other regulatory agencies.
- 5.9 Both the Complainant and Subject Member will be notified by way of an Initial Assessment Notice.

6. Further Investigation

- 6.1 If the Monitoring Officer decides a complaint merits further investigation they may conduct the investigation themselves although an investigating officer will normally be appointed who may be another senior officer of the Council, an officer of another Council or an external investigator ("the Investigating Officer").
- 6.2 The Investigating Officer will write to the Subject Member and Complainant to provide them with a copy of the complaint and ask them to provide their explanation of events and details of any supporting documentation or witness they may wish to rely on. The Investigating Officer will decide whether they wish to interview the parties and what, if any, supporting information is taken in to account.
- 6.3 Where the Monitoring Officer has decided to keep an identity confidential the names and addresses will be redacted from the papers disclosed to the Subject Member.
- 6.4 Prior to concluding an investigation the Investigating Officer may discuss the matter with the Independent Person and Independent Chair before producing a draft report ("the Investigation Report"). Copies of the draft Investigation Report will be circulated to the Subject Member and Complainant in confidence giving them both the opportunity to correct any factual inaccuracies.
- 6.5 Having received and taken account of any comments on the draft Investigation Report the Investigating Officer will send the finalised report to the Monitoring Officer.

7. What happens if the Investigation Report concludes there is no evidence of a failure to comply with the Code?

7.1 The Monitoring Officer will review the Investigation Report and, if satisfied that the Investigation Report is satisfactory, will within 10 working days confirm by way of Decision Notice the finding of no failure to comply with the Code.

- 7.2 The Monitoring Officer will write to the Complainant and the Subject Member (and to the Clerk of the Town/Parish Council, where the complaint relates to a Town/Parish Councillor), with a copy of the Decision Notice including the Investigating Officer's final report (target timescale 10 working days).
- 7.3 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. (This should be done within 10 working days).

8. What happens if the Investigation Report concludes there is evidence of a failure to comply with the Code?

- 8.1 The Monitoring Officer will review the Investigation Report and will then either send the matter for a hearing before the Standards Committee or after consulting the Independent Person seek a Local Resolution.
- 8.2 The decision as to how to proceed will be made by the Monitoring Officer following consultation with the Independent Person and Independent Chair and will be final.

9. Local Resolution

- 9.1 If the Monitoring Officer considers that the matter can reasonably be resolved without the need for a hearing the Independent Person, Independent Chair and the Complainant will be consulted in order to seek agreement on what is considered to be a fair resolution which also helps to ensure higher standards of conduct in the future. Such resolution may include the Subject Member accepting that their conduct was unacceptable and offering an apology and/or other remedial action. If the Subject 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. No further action will be taken. (Timescale: 10 working days of Complaint Initial Assessment).
- 9.2 If the Complainant or the Subject Member refuse Local Resolution in principle, refuse to engage with an agreed outcome or the Monitoring Officer concludes a Local Resolution cannot be reached the complaint will be referred for a Local Hearing to determine whether or not the Code was breached without further reference to the Complainant or Subject Member. (Target Timescale: 15 working days).

10. Local Hearing

- 10.1 A Local Hearing is not a Court process but in order to be fair to everyone there is a procedure to be followed. Information about the Standards Committee can be found at Annex A and information on the Hearing Procedure for the Standards Committee can be found at Annex B
- 10.2 If after a Local Hearing the Standards Committee conclude the Subject Member did not fail to comply with the Code the complaint will be dismissed. That will be an end to the matter.
- 10.3 If after a Local Hearing the Standards Committee concludes the Subject Member failed to comply with the Code the Chair will inform the Subject Member of this finding and the Standards Committee will then consider what action, if any, should

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- be taken as a result of the failure to comply with the Code. In doing this, the Subject Member will have an opportunity to make representations and the Independent Person(s) will be consulted.
- 10.4 The Council has delegated to the Standards Committee the power 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
 - 10.4.1. Publish its findings in respect of the Member's conduct;
 - 10.4.2. Report its findings to Council (or to the Town/Parish Council) for information;
 - 10.4.3. Recommend to Council that the Member be censured;
 - 10.4.4. 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:
 - 10.4.5. Recommend to the Leader of the Council that the Member be removed from the Cabinet, or removed from their Portfolio responsibilities;
 - 10.4.6. Instruct the Monitoring Officer to (or recommend that the Town/Parish Council) arrange training for the Member;
 - 10.4.7Recommend 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);
 - 10.4.8. Withdraw (or recommend to the Town/Parish Council that it withdraws) facilities provided to the Member by the Council for a specified period, such as a computer, website and /or email and Internet access;
 - 10.4.9. 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.
 - 10.4.10. Require an apology in suitable terms to the Complainant/the Council.
- 10.5 The Standards Committee has no power to suspend or disqualify the Subject Member.
- 10.6 Within 10 working days the Monitoring Officer will prepare a formal Decision Notice and send a copy to the Complainant, to the Subject Member (and to the Parish/Town Council if appropriate).
- 10.7 The Decision Notice will be published as part of the minutes of the Standards Committee meeting and placed on the Council's website unless the Monitoring Officer determines that it should remain confidential or it contains exempt information.

11. Appeals

- 11.1 There is no right of appeal against a decision of the Monitoring Officer or of the Standards Committee.
- 11.2 If a Complainant feels that the Council has failed to deal with their complaint properly, they may make a complaint to the Local Government Ombudsman. The Local Government Ombudsman will not, however, consider complaints made by people in their capacity as councillors (against other councillors) and complaints about failures to disclose disclosable pecuniary interests as these may be criminal matters for the police to investigate.

12. Revision of these arrangements

12.1 The Committee may by resolution agree to amend these arrangements and delegate 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; following consultation by the Chair with the Monitoring Officer and the Independent Persons.

ANNEX A

INFORMATION ABOUT THE STANDARDS COMMITTEE

1. Membership of the Standards Committee

- 3 Independent Members (elected every 4 years)
- 5 B&NES Councillors (2 Lib Dem, 1 Conservative, 1 Labour, 1 Independent,
- 3 Parish/Town Councillors (nominated by the B&NES Local Councils group)

2. 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 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.

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.

3. 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:

- 3.1. 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;
- 3.2. 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
- 3.3. Are a relative or close friend, of a person within paragraph above. For this purpose, "relative" means –
- 3.4. Spouse or civil partner;
 - 3.4.1. Living with the other person as husband and wife or as if they were civil partners;
 - 3.4.2. Grandparent of the other person;
 - 3.4.3. A lineal descendent of a grandparent of the other person;

- 3.4.4. A parent, sibling or child of a person within paragraphs or;
- 3.4.5. A spouse or civil partner of a person within paragraphs
- 3.4.6. Living with a person within paragraphs as husband and wife or as if they were civil partners.

ANNEX B

LOCAL HEARING PROCEDURE OF THE STANDARDS' COMMITTEE

1. Interpretation

The Code of Conduct for Members		
Complainant(s)	omplainant(s) The person/people making the complaint	
Subject Member	The councillor, co-optee, parish or town councillor against whom an allegation has been made	
Appointed The Subject Member may be represented or accompand during the meeting by a Solicitor, Counsel or, with permission of the Standards Committee, another person.		
Independent Person	An Independent Person will be invited by the Monitoring Officer to attend the Standards Committee and their views are sought and taken into consideration before any decision on whether the Subject Member's conduct constitutes a failure to comply with the Code and any action to be taken following a finding of failure to comply with the Code	
Investigating Officer The person appointed by the Monitoring Officer to undertal formal investigation. The Investigating Officer may be and officer of the Council, an officer of another council of external investigator.		
Legal Advisor	The officer responsible for providing legal advice to the Standards Committee. This may be the Monitoring Officer, another legally qualified officer, or someone appointed for this purpose from outside the Council.	
Committee	The Standards Committee.	

2. Pre-Local Hearing process

The Monitoring Officer will invite the Subject Member to give their written response to the Investigation Report and identify any agreed or disputed facts. This will assist in narrowing the issues in dispute at the Local Hearing.

The Subject Member will be required to identify any witnesses they wish to call.

The Subject Member will be required to provide the dates upon which both they and their witnesses will be unable to attend a Local Hearing.

The Committee, taking account of the advice of the Monitoring Officer, may issue directions for the Local Hearing including timetabling and witness attendance. Directions may be finalised by way of correspondence and issued beforehand or at a Local Hearing.

Any Committee meeting dealing with pre-hearing processes will be held in private without the Complainant or Subject Member present.

3. Documentation

Local Hearings of the Committee are subject to the normal rules for publication of Council agendas and access to information.

The agenda papers for the Local Hearing will include:

- Monitoring Officer report
- o Complaint form and documentation
- Investigator's report
- Subject Councillor's written response
- For reference: Code of Conduct, Arrangements for Dealing with Complaints about the Code of Conduct and the Local Hearing Procedure for the Standards Committee

The agenda and documents will be published under the Council's rules for exempt information. Prior to the Local Hearing, any documentation issued or exchanged during the process must be treated by all recipients as confidential unless and until the Committee agrees that the press and public should not be excluded from the meeting at which the allegations are going to be heard.

If the Committee agrees that the meeting should be held in public the Investigation Report will be made available to the press and public in attendance at the meeting.

4. At the Local Hearing

4.1. Representation

The Subject Member may be represented or accompanied during the meeting by a Solicitor, Counsel or, with the permission of the Committee, another person. The Monitoring Officer should be given prior notification where a Subject Members is to be represented

4.2. Legal Advice

The Committee may take legal advice, in private if necessary, from its legal adviser at any time during the hearing or while they are considering the outcome. The substance of any legal advice given to the committee should be shared with the Subject Member and the Investigating Officer if they are present.

4.3. Procedural Issues

After all members of the Committee and others present have been introduced the chair will explain how the Committee is to proceed.

A Local Hearing will ordinarily follow normal Council meeting procedures. For example introductions, apologies, declaration of interests and a request that the Monitoring Officer/Investigating Officer introduce the matter to be determined.

If the Subject Member (or appointed representative) is not present the Committee will consider whether to hear the case in absence or defer to another time or date. If the Subject Member has indicated the hearing should continue in absence this will normally happen.

The Committee will resolve any outstanding issues or disagreements about the conduct of the Local Hearing that were not resolved during the pre-hearing process.

4.4. Findings of Fact

If there is no disagreement about the facts the Committee will move on to establish whether or not the Subject Member failed to follow the Code

If the Subject Member disagrees with any fact in the Investigation Report without having given notice under the pre-Local Hearing process they must give good reason why it has been raised at this late stage. After considering the Subject Member's representation the Committee may:

- Continue with the Local Hearing on the facts as presented in the Investigation Report.
- Allow the Subject Member to make representations on the issue and invite the Investigation Officer to respond with or without witnesses.
- Defer the Local Hearing in the public interest to enable witnesses and or the Investigation Officer to attend should they be absent.

If there is disagreement on the facts the Investigating Officer will be invited to make any representations and with the Committee's permission call witnesses. The Committee may give the Subject Member an opportunity to challenge any witness evidence put forward by the Investigating Officer.

The Subject Member will have the opportunity to make representations in support of their version of the facts and call witnesses with the Committee's permission. The Investigating Officer may challenge any witness evidence put forward by the Subject Member.

The Committee may at any time question those involved including witnesses and the Investigating Officer.

The Committee, together with the Legal Advisor, will usually move to a private room to consider the representations and evidence.

On their return, the chair will announce the Committee's findings of fact.

4.5. Deciding whether the Subject Member failed to follow the Code

The Subject Member will be invited to give a statement as to why the Committee should conclude they have not failed to follow the code.

The Committee will ask the Investigating Officer for any verbal or written representations.

At any time the Committee may question those making representation.

The Subject Member will be invited to make any relevant closing remarks.

The Committee, together with the Legal Advisor, will usually move to a private room to consider the representations.

On their return, the chair will announce the Committee's decision as to whether the Subject Member failed to follow the Code.

4.6. If the subject member has not failed to follow the Code of Conduct

If the Committee concludes that the Subject Member did not fail to comply with the Code it will dismiss the complaint and no further action will be taken.

In that event, the Committee may still make general recommendations to the Council, Town or Parish Council on any remedial actions if considers necessary to address the issues raised in all the circumstances.

4.7. If the subject member has failed to follow the Code of Conduct

If the Committee determines that the Subject Member has failed to comply with the Code the Chair will inform the Subject Member of this finding. The Independent Person will be invited to give their views on the matter and these views will be recorded in the minutes of the meeting. The Chair of the Committee will also explain the reasons why any advice from the Independent Person has or has not been followed in reaching its decision.

The Committee will then consider what action, if any, should be taken as a result of a finding of failure. The Committee will give the Subject Member an opportunity to make representations on any action and the Independent Person will also be consulted in deciding what action, if any, to take.

The Committee will then deliberate in private to consider what if any sanction to impose and if so what that sanction should be.

On their return the Chair will announce the Committee's decision.

4.8. Recommendations

The Committee will consider whether it should make any recommendations to the Council, Town or Parish Council with a view to promoting high standards of conduct among Members.

4.9. The Written Decision

The Committee will announce its decision on the day and a Decision Notice will be issued within 10 working days of the Committee.

4.10. Departure from this procedure

The Chair of the Committee has the right to depart from this procedure, in consultation with the Monitoring Officer or Legal Advisor, at any hearing where it is considered appropriate to deal with the case fairly and effectively.

Bath & North East Somerset Council		
MEETING	Standards Committee	
MEETING	12 July 2022	
TITLE:	Annual report 2021-2022	
WARD:	All	
AN OPEN PUBLIC ITEM		
List of attachments to this report:		
Appendix (1) Standards Committee Annual report 2021-2022		

1 THE ISSUE

1.1 To consider the Standards Committee Annual report

2 RECOMMENDATION

The Standards Committee is asked to;

2.1 Note the Annual report (Appendix 1) and recommend its referral to Council.

3 THE REPORT

3.1 The Annual report summarises the work undertaken by the Standards Committee in the previous 12 months and provides information on the number, type and determination of Code of Conduct complaints received during that period.

4 STATUTORY CONSIDERATIONS

4.1 The Standards Committee is not required to produce an annual report; however, it is good practice to do so.

5 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)

5.1 No direct implications

6 RISK MANAGEMENT

6.1 Adherence to robust standards of conduct mitigates potential complaints about standards issues.

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7. EQUALITIES

6.1 No direct impact

8 CLIMATE CHANGE

8.1 No direct impact

9 OTHER OPTIONS CONSIDERED

9.1 None

10. CONSULTATION

10.1 The S.151 and Monitoring Officer have been consulted

Contact person	Shaine Lewis Legal Services Manager shaine_lewis@bathnes.gov.uk
Background papers	None

Please contact the report author if you need to access this report in an alternative format



APPENDIX 1

Standards Committee Annual Report 2021 - 2022

Chair's Foreword

The Standards Committee fulfils a most important role for Bath & North East Somerset Council and for the Parish and Town Councils within its area. The Committee members are all volunteers: some are Unitary Councillors; some are Parish or Town Councillors drawn from Parish or Town Councils in the Bath and North East Somerset Council area, whose nominations are facilitated by Avon Local Councils Association, and some are Independent Members, being independent members of the public. In addition, as legally required, the Authority appoints an 'Independent Person', to work alongside the Standards Committee and Monitoring Officer.

All committee members have given willingly and generously of their time and talents in approaching issues most thoughtfully and constructively. We are most grateful to them all.

The following detailed report shows the range of matters within the scope of the Standards Committee. In the past year, there have been some 18 matters raised: of which 13 initial assessments required 'no further action' to be undertaken. Of the remaining matters 1 dealt with by informal resolution; 3 matters were withdrawn. 1 matter was referred for investigation and a hearing concluded with a finding of breach. To put these figures in context, the Standards Committee has within its purview, the unitary authority and 45 Parish and Town Councils: in total over 500 councillors.

To ensure the Council has proper arrangements for securing economy, efficiency and effectiveness the Council's External Auditors, Grant Thornton LLP, undertake an annual review. In terms of Standards, and the Register of Interests, the 2020-21 Annual Report concluded that 'overall we consider that the Council has appropriate arrangements in place to monitor standards.' However, the Auditors found that there is some variation in the timing of updates and it would be good practice to update these routinely on an annual basis.

In Bath & North East Somerset, the Standards Committee has three Independent Members: Dr Cyril Davies, Deborah Russell and myself and in this authority the Committee is chaired by an Independent Member. During the year, Deborah Russell retired from her role: we are most appreciative of Deborah's service and wise counsel. After advertisement and interviews, Sophie Sidonio was appointed an Independent Member: she is very welcome and we look forward to working with her in the future. I am most grateful to all my colleagues for their help and support and wish to highlight the exceptional commitment of the Independent Person, Tony Drew who provides such valuable service to the standards regime. The Standards Committee has recognised the burden of being an Independent Member but, also, the opportunity to provide further independent support by appointing another (equal status) Independent Person. Roger Morris was appointed after open advertisement and interview. He is most welcome and we look forward to working closely with him in the future.

Finally, I commend the Monitoring Officer, Michael Hewitt and Legal Services Manager, Shaine Lewis, and their colleagues for their most professional and successful operation of the Standards regime.

Dr Axel Palmer
Chair of the Standards Committee

1. Introduction

The Standards Committee has agreed that it will submit an annual report summarising the work the Committee has carried out during the previous year for the consideration of Council. This report comprises the Annual Review covering the period 1 April 2021 to 31 March 2022, together with background information regarding the standards regime established within Bath & North East Somerset Council. All references to 2021-22 in the report refer to this time period.

The Standards Committee

The Standards Committee is responsible for the promotion of ethical standards within the Council, helping to secure adherence to the Code; monitoring the operation of the Code; conducting hearings following investigation and determining complaints made under the Code. The Standards Committee's terms of reference are set out in the Council's Constitution in Part 2, Responsibility for Functions. The Committee conducts proceedings using the Authority's Local Arrangements for dealing with complaints under the Code of Conduct for Members. The Committee is also responsible for granting dispensations to Members.

Where a Final Report from an Investigating Officer recommends a finding that there has been a breach of the Code, the Committee undertakes a hearing in accordance with the Council's Local Arrangements for dealing with complaints under the Code. The Committee will determine the facts, whether there has been a breach and if so any sanction. It can also make recommendations to Council.

The Monitoring Officer

The Monitoring Officer is responsible for promoting and maintaining high standards of conduct and for reporting any actual or potential breaches of the law and maladministration to the full Council and/or to the Cabinet (as set out in s.5 (1) of the Local Government and Housing Act 1989).

The Monitoring Officer and their team administer the local arrangements for addressing complaints made under the Code of Conduct. This includes the assessment of every complaint received under the Code of Conduct. Following consideration and consultation with the Authority's Independent Person and Chair of the Standards Committee, the Monitoring Officer decides whether the complaint will be investigated. The decision will be based on whether the allegation, if proved, would constitute a failure to observe the Code of Conduct and the application of the Council's adopted assessment criteria. The Monitoring Officer may also consider that a complaint can be reasonably resolved informally and will discuss this option with the complainant and subject member where appropriate.

Independent Persons

The Council has appointed two Independent Persons who are invited to attend all meetings of the Standards Committee. The Independent Persons must be consulted by the Council before it decides on a matter that has been referred to it for investigation; they can also be consulted by the Council in respect of a code of conduct complaint at any other stage; and

can also be consulted by a member or co-opted member of the Council against whom a complaint has been made. It has been emphasised that the involvement and consultation of the Independent Person is important at all stages.

Standards Committee Membership 2021-22

In 2021/22 the Standards Committee comprised the following Members:

Councillors Paul Crossley, Sally Davis, Duncan Hounsell, Michelle O'Doherty, June Player.

Parish Councillors Kathy Thomas (plus 2 vacancies).

Independent Members Dr Axel Palmer (Chair), Dr Cyril Davies, Sophie Sidonio (appointed March 2022) Deborah Russell served part of the year).

Observers Independent Person Tony Drew, Roger Morris (appointed March 2022).

2. The Authority's Independent Persons

The Authority's Independent Persons are Tony Drew and Roger Morris who are non-voting observers for Standards Committee. The Council also has access to a reserve Independent Person through informal arrangements with neighbouring local authorities.

3. Training for Standards Committee Members and Independent Persons

Initial and refresher training on the duties and responsibilities of members serving on the Standards Committee of the Authority is important to ensure the probity and credibility of the Authority's decision making processes. Members are required to undertake basic training through the Authority's member induction programme, on election or re-election, and this is refreshed annually, before they can serve on the Standards Committee. Training is also provided for the Independent Persons appointed by the Authority in order to ensure they are able to carry out their role.

A training session for Members on Effective Hearings was delivered by the Monitoring Officer and the Legal Services Manager on 11 January 2022 followed by a Q&A session. The slides for this session can be found at Annex A.

Induction training was undertaken by the Monitoring Officer for Sophie Sidonio and Roger Morris following Council approval of their appointment on 24 March 2022.

5. Review of Standards Committee Work Programme and Action Plan for 2021/22

The Standards Committee's Work Programme/Action Plan for 2021/22 is attached at Annex B. The Committee met on 3 occasions during the year and at each meeting the Committee monitored its Work Plan and noted the current position with complaints using the Complaints Tracker.

6. Committee Meetings and foremost workstreams

At the start of each year the Standards Committee agrees its Work Programme/Action Plan for the year, which is then monitored at meetings throughout the year. Standard Committee sessions are scheduled every 2 months in advance. If not required, these are cancelled. The Standards Committee met on:

- 13 April 2021
- 12 October 2021
- 22 February 2022

Adoption of the new Model Code of Conduct

A report was presented to the Standards Committee 13 April 2021 with a recommendation that the Local Government Association Model Councillor Code of Conduct 2020 be adopted to achieve consistency across the country and avoid any confusion. All were in agreement that the Model Councillor Code of Conduct 2020 be adopted with the following additions:

- (1) That there be an obligation for Members to have regard to advice from the Monitoring Officer and the Section 151 Finance Officer;
- (2) that reasons for decisions be provided;
- (3) that the threshold for gifts and hospitality remain at £25;
- (4) that the cumulative impact of gifts and hospitality be addressed; and
- (5) that the Standards Committee undertake an annual review after the LGA review.

Local Hearing

On 22 February 2022 the Monitoring Officer presented a report into an alleged breach of the Stanton Drew Parish Council Code of Conduct. Following careful consideration of the facts contained in the Investigating Officer's report, representations from relevant parties at the meeting and the independent view provided by the Independent Person all agreed there had been a breach of the Code of Conduct. The Standards Committee then decided the appropriate sanction. Following consideration of the material facts and representations all agreed that the Standards Committee recommend that the Parish Council require Councillor Richardson to make an apology to the complainant and, in the absence of an apology consider, removing Councillor Richardson as chair of the Parish Council.

The Committee on Standards in Public Life – Review of Local Government Ethical Standards and the Government Response

The report of the Committee on Standards in Public Life 'Local Government Ethical Standards - A Review by the Committee in Public Life was published on 30 January 2019 and in March 2022 the government published its response. Whilst a limited number of changes may be

made, where only amendments to secondary legislation are required, changes that need primary legislation would not. The government's published response can be found at Annex C and a note of these as presented to the Standards Committee on 12 April 2022 is found at Annex D.

The following points were noted from discussion:

- The requirement for the independent person to have a fixed term post for only two years should be eased to allow a longer time to understand the role
- To require further consultation on the question of sanction by suspension seemed strange, as the CSPL views were that there was a lack of sanction
- BANES had had an Independent Person since the Localism Act in 2011, previously there had just been an Independent Chair
- The Monitoring Officer found it very useful being able to consult on the initial assessment of complaints with the Independent Person and Independent Chair of Standards
- Having a second Independent Person would enable communication with the complainant or subject member in what could be a stressful process
- All levels of democracy should have the same set of standards in BANES all the parish councils were members of ALCA (Avon Local Councils' Association) who recommended adopting the same Code of Conduct
- Failure to disclose an interest when there was police involvement there was a high bar to enforcement action and from practical experience the Police were very pragmatic in their decision making.

Mediation

In June 2019 a complaint (09-19 PwPPC) was received alleging breaches of the Code of Conduct at a Parish Council and this attracted a counter claim. In consultation with the Chair and Independent Person the Monitoring Officer commissioned an independent investigation which in February 2020 suggested the matter could benefit from mediation.

With Covid-19 lockdowns and the appointment of a new Monitoring Officer the mediation process did not commence until March 2022. The outcome of mediation is an agreement that PC business should be conducted in accordance with Standing Orders and best practice, communications needed to be civil, focused and in line with the Code of Conduct and any concerns associated with employees should be addressed through the Staff Committee rather than in public.

7. Complaints under the Code of Conduct for Members and Co-opted Members for the last 5 years

i. Complaints by complainant

Type of complainant	2017/18	2018/19	2019/20	2020/21	2021/22	Total
BaNES Councillor	1	0	0	1	4	6
Parish / Town Councillor	0	1	2	1	0	4
Member of the public	13	15	5	13	13	59
Council Officer	1	1	0	0	1	3
Parish Clerk	0	3	0	1	0	4
Total	15	20	7	16	18	76

76

ii. Complaints by subject member

Subject of the complaint	2017/18	2018/19	2019/20	2020/21	2021/22	Total
BANES Councillor	11	13	0	5	13	42
Parish / Town Councillor	4	7	7	11	5	34
Total	15	20	7	16	18	76

iii. Complaints by type

Type of complaint	2017/18	2018/19	2019/20	2020/21	2021/22	Total
Failure to declare an interest	6	5	0	3	2	16
Bullying/failure to treat with respect	4	3	0	0	0	7

Bringing Council into disrepute	5	11	7	9	16	48
Improperly conferring advantage	0	0	0	0	0	0
Disclosure of confidential information	0	0	0	0	0	0
Lack of respect	0	1	0	4	0	5
Total	15	20	7	16	18	76

Note: A complainant may make several types of complaint about a councillor.

iv. Initial Assessments

Local Assessment Decisions	2017/18	2018/19	2019/20	2020/21	2021/22	Total
No Further Action	4	17	5	11	11	48
Informal Resolution	10	2	1	2	2	17
Referred for Investigation	1	1	0	0	1	3
Ongoing	0	0	0	0	1	1
Withdrawn	0	0	1	3	3	7
Total	15	20	7	16	18	76

v. Outcome of complaints

Outcomes	2017/18	2018/19	2019/20	2020/21	2021/22	Total
Other Action	0	0	2	1	0	3
Ongoing	2	0	0	0	0	2
Apology	0	0	0	1	0	1

No Action Required	1	0	5	0	0	6
Withdrawn	1	2	0	3	0	6
Breach	2	5	0	0	0	7
No Breach	9	13	0	11	18	51
Total	15	20	7	16	18	76

A case tracker in spreadsheet format can be found at Annex E

8. Conclusion

The Committee has dealt with a variety of matters in the past year and aims to continue to develop and maintain the Council's ethical governance framework for the benefit of the Authority and ultimately local people. The Committee is looking forward to the next year.

Standards Committee: holding an effective hearing

- Michael Hewitt: Head of Legal & Democratic Services & Monitoring Officer
 - Michael_Hewitt@bathnes.gov.uk
 - 01225395125
 - Shaine Lewis: Legal Services Manager
 - Shaine lewis@bathnes.gov.uk
 - 01225 395279

Bath & North East Somerset Council

INTRODUCTION

- Legal Framework
- Pre-Hearing & Formalities
- Hearing
- Sanctions
- Things to do & to avoid
- Questions



Legal Framework

- Committee on Standards in Public Life.
 - Report published in January 2019 with recommendations
 - No formal response
 - Covid
- Legislation
- Localism Act 2011
 - Duty to promote and maintain high standards in public life (s27)
 - Adopt Code of Conduct 'consistent with the Seven Principles of Public Life (s28) the Nolan Principals))
- Local Government Act 1972
 - Meetings in person & public unless excluded by resolution (s100A).
- Common Law Principals
 - Rules of natural justice
 - Procedural fairness
 - Bias actual/apparent

Bath & North East Somerset Council

Pre –Hearing & Formalities

Pre-hearing

- conducted by Monitoring Officer
- identify contentious/agreed issues
- necessity for witnesses
- evidence

Hearing

- Minimum 5 Members (including at least 1x Independent Person and 1x Parish Councillor)
- Legal Advisor
- Subject Member with/without representation
- Witnesses/evidence
- Investigator

Introductions - formalities

- Committee/Legal Advisor
- court of law -v- administrative
- cross examination -v- discussion
- rules of evidence/ambush

Procedural matters

Address if raised - guidelines not tramlines – your process



Hearing

Fact finding

- Areas of significant disagreement
- Investigator invited to present report questions
- Subject Member makes representation questions/deferral
- Deliberation/determination of facts legal advice
- Standard of Proof

Did the Subject Member fail to follow the Code of Conduct

- Member makes representations
- Investigator points of clarification
- Independent Person consulted
- Final word from Subject Member
- Human Rights Art -10 comes with responsibilities
- Deliberation breach/no breach

Reasons

- R v Brent LBC ex p Baruwa [1997] proper, adequate & intelligible
 - · Refer to procedural points addressed
 - · Refer to both disregard issues & relevant facts considered
 - Summarise who said what and identify facts upon which the decision is based



Sanctions

- Parties to comment
 - Investigator
 - Independent Person
 - Subject Member
- The Localism Act 2011 does not give the Standards Committee any power to impose sanctions for breach of its Code, for example:
 - · Disqualification from office.
 - Withdrawal of monetary allowances payable under the Local Authorities (Members' Allowances) (England) Regulations 2003 (SI 2003/1021).
- The following sanctions are possible:
 - Formal censure/recommend formal censure.
 - Recommend/Removal of the member from committee(s) and or appointment(s)
 - Recommend the member attend training
 - Recommend the withdrawal of facilities/exclusion from premises for a specified period
- NB <u>Robinson v Buckinghamshire CC [2021]</u> Art 10 a qualified right and interference must be grounded on findings and proportionate

Bath & North East Somerset Council

Things to do & avoid

- Be inquisitive not a rubber stamp
- Let people have their say but not control proceedings
- Don't give a platform for political/personal attacks
- Disregard the irrelevant
- Attach appropriate weight to the relevant
- Stop any duplication
- It is your procedure act fairly and take ownership

Bath & North East Somerset Council

Questions?



Bath & North East Somerset Council



STANDARDS COMMITTEE WORKPLAN

Report title	Report author
Tuesday 19 th Ja	nuary 2021 4pm
CANCELLED	
Tuesday 13 th /	l April 2021 4pm
New model Councillor of Code of Conduct	Michael Hewitt
Tuesday 13 th .	l July 2021 4pm
raddady 10	
Annual Review of the Code of Conduct	Michael Hewitt
Tuesday 12 th Oo	tober 2021 4pm
1 4 5 5 4 5 5	, , , , , , , , , , , , , , , , , , ,
Annual Report on Local Government	Michael Hewitt
Ombudsman complaints	
Annual report of the Standards Committee	
·	
Tuesdav 11 th Ja	nuary 2022 4pm
	,
CANCELLED	
	April 2022 4pm

Government Response to Committee on Standards in Public Life	Michael Hewitt
Update on Local Hearing 12-2 SDPC	
Tuesday 12 th	July 2022 4pm
Annual Review of the Code of Conduct	Shaine Lewis
Tuesday 11 th Oc	ctober 2022 4pm
Annual Report on Local Government Ombudsman complaints	Michael Hewitt
Annual report of the Standards Committee	

Every meeting – Report on the assessment of complaints Workplan



Department for Levelling Up, Housing & Communities

Kemi Badenoch MP

Minister of State for Equalities and Levelling Up Communities

Department for Levelling up, Housing and Communities

Fry Building 2 Marsham Street London SW1P 4DF

Lord Evans of Weardale, KCB, DL Chair Committee on Standards in Public Life Room G07 1 Horse Guards Road London SW1A 2HQ

Email: kemi.badenoch@levellingup.gov.uk

www.gov.uk/dluhc

Dear Lord Evans,

On behalf of the Government, I would like to thank the Committee on Standards in Public Life for its report and the recommendations arising from its review of Local Government Ethical Standards, and to all those who engaged with the Committee's work. Attached is the Government response to the Committee's individual recommendations that were directed at Government.

Vibrant local democracies flourish where the reputation of the local authority is held in high regard, where councillors' decision-making is transparent, valued and trusted by the communities they serve, and where people are willing and confident to put themselves forward as potential candidates. The standards and conduct framework within which local authorities operate must drive out corruption and promote commitment to the principles on standards in public life, and tolerance to the differing views of others. In responding to the review, the Government has taken into account the importance of protecting free speech and freedom of association within the law.

The Government is committed to working with local authorities and their representative organisations to ensure that local government is supported in reinforcing its reputation for ethical local standards.

The fact that this review had been conducted in such a collaborative way with the sector has been apparent from the outset and is borne out in the final report. I am keen that Government builds on the sector-wide enthusiasm for improvement.

The Government agrees with the Committee's conclusion that there have been benefits from local authorities being responsible for ethical standards, including the flexibility and

discretion to resolve standards issues informally. However, we also recognise the role of Government in ensuring that the system is robust.

The number of requests for legislation in the Committee's recommendations to strengthen the standards and conduct framework and its safeguards is considerable. As indicated in this response, the Government believes that some of these suggestions do not need a legislative response but can be more appropriately, effectively, and swiftly taken forward by local authorities as best practice. The Committee will recognise that the Government and Parliament has taken a different view on these matters when it legislated for the Localism Act 2011.

I thank the Committee for their work on the review and for their patience whilst Government carefully considered their recommendations, and I personally look forward to continuing to work with you as Government progresses the commitments made in this response with the sector.

Yours sincerely,

KEMI BADENOCH MP

Minister of State for Equalities and Levelling Up Communities

Government response to the Committee on Standards in Public Life review of local government ethical standards

This Government response confines itself to the Committee's recommendations directed at Government, other than with regards to the first recommendation. The response to recommendations 10, 12, 13, 14 and 16 have been grouped together and therefore appear out of numerical order below.

Recommendation 1

The Local Government Association should create an updated model code of conduct, in consultation with representative bodies of councillors and officers of all tiers of local government.

The Localism Act 2011 states that relevant authorities must promote and maintain high standards of conduct by members and co-opted members. It requires these authorities to adopt a code of conduct for their councillors. Authorities can determine the content of their own code of conduct. However, codes must conform to the seven 'Nolan' principles of standards in public life: selflessness, integrity, objectivity, accountability, openness, honesty, and leadership. Relevant authorities for the purposes of these requirements include local authorities in England, namely county councils, district councils, London borough councils and parish and town councils.

It is for individual councils to set their own local code, in line with the Act. The Government has previously published a light-touch illustrative code of conduct.

The Local Government Association has worked with sector representative bodies to update its own suggested code of conduct, with the intention that this new suggested code could establish a consistent benchmark that local authorities can amend or add to as they see fit to reflect local circumstances and priorities. The Local Government Association published the <u>updated code of conduct</u> in January 2021. However, it remains a local decision on whether this model code is adopted.

Recommendation 2

The government should ensure that candidates standing for or accepting public offices are not required publicly to disclose their home address. The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 should be amended to clarify that a councillor does not need to register their home address on an authority's register of interests.

¹ References to councillors in this document also should be deemed to include elected mayors.

This issue was brought up in the Committee's work on intimidation in public life, and the Government has already taken forward several steps in this regard. The Government is open and receptive to further steps to help prevent intimidation.

The Government agrees with the principle behind this recommendation – which safeguards elected representatives - and considers amending the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 would be an option to achieve it.

The Government will engage with interested parties on the best means to ensure that candidates and councillors are not required publicly to disclose their home address.

Notwithstanding, it is important that home addresses are internally registered with monitoring officers, to help avoid conflicts of interest.

Recommendation 3

Councillors should be presumed to be acting in an official capacity in their public conduct, including statements on publicly accessible social media. Section 27(2) of the Localism Act 2011 should be amended to permit local authorities to presume so when deciding upon code of conduct breaches.

The Government's view is that it is for individual local authorities to consider if their code of conduct is adequate in addressing the issue of inappropriate use of social media.

As the Government outlined to Parliament in March 2021 on tackling intimidation in public life: 'It is important to distinguish between strongly felt political debate on the one hand, and unacceptable acts of abuse, intimidation and violence on the other. British democracy has always been robust and oppositional. Free speech within the law can sometimes involve the expression of political views that some may find offensive': a point that the Government has recognised in a Department for Education policy paper². But a line is crossed when disagreement mutates into intimidation, which refuses to tolerate other opinions and seeks to deprive others from exercising their free speech and freedom of association.'

It is important to recognise that there is a boundary between an elected representative's public life and their private or personal life. Automatically presuming (irrespective of the context and circumstances) that any comment is in an official capacity risks conflating the two.

² Higher education: free speech and academic freedom Feb 2021 https://www.gov.uk/government/publications/higher-education-free-speech-and-academic-freedom

Section 27(2) of the Localism Act 2011 should be amended to state that a local authority's code of conduct applies to a member when they claim to act, or give the impression they are acting, in their capacity as a member or as a representative of the local authority.

The Government agrees that local authority elected representatives should act in good faith in the public interest and not seek to influence decisions for personal gain, for malicious intent or to further the interests of any business or any other organisations which they may be affiliated with.

The Local Government Association have updated their <u>own suggested code of conduct</u> to state that the code applies when "[a member's] actions could give the impression to a reasonable member of the public with knowledge of all the facts that [they] are acting as a [member]".

It is for individual local authorities to ensure that their codes of conducts are regularly updated, comprehensive and fit for purpose. Elected members receive the necessary training to make them aware of their personal responsibilities in upholding the code.

The Government will keep this matter under review but has no immediate plans to amend the regulations.

Recommendation 5

The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 should be amended to include: unpaid directorships; trusteeships; management roles in a charity or a body of a public nature; and membership of any organisations that seek to influence opinion or public policy.

The electorate must have confidence that the decisions of their elected representatives are being made in the best interests of the community they have been elected to serve. Unpaid roles may need to be declared if it is relevant to council business, and councillors should recuse themselves if necessary if discussions relate to private bodies, they are involved in.

The Government is mindful that councillors have a right to a private life, and rights of freedom of association outside their role as a councillor. It is frequently the case that people in public life have a complex pattern of interests and play a variety of roles with different types of organisations, including community interest groups and charities.

The Government will keep this matter under review but has no immediate plans to amend the regulations.

Local authorities should be required to establish a register of gifts and hospitality, with councillors required to record gifts and hospitality received over a value of £50 or totalling £100 over a year from a single source. This requirement should be included in an updated model code of conduct.

The Local Government Association's suggested code of conduct published in January 2021 includes a requirement for members to "register... any gift or hospitality with an estimated value of at least £50". However, it did not contain any requirements relating to the total value of gifts or hospitality received from the same source over a sustained period.

Local authorities have the autonomy to set gifts and hospitality requirements in their own codes of conduct. The Government accepts that there is merit in best practice guidance on the thresholds for gifts and hospitality and agrees that a register of gifts and hospitality should be publicly available.

Recommendation 7

Section 31 of the Localism Act 2011 should be repealed, and replaced with a requirement that councils include in their code of conduct that a councillor must not participate in a discussion or vote in a matter to be considered at a meeting if they have any interest, whether registered or not, "if a member of the public, with knowledge of the relevant facts, would reasonably regard the interest as so significant that it is likely to prejudice your consideration or decision-making in relation to the matter".

Section 31 of the Localism Act 2011 requires that a councillor must not participate in a discussion or vote on a matter where they have a disclosable pecuniary interest in any matter to be considered at the meeting. Section 30(3) of the Localism Act 2011 further provides that any relevant pecuniary interests of a councillor's spouse or partner are considered as a disclosable pecuniary interest of the councillor.

The Committee's report reflects concerns that the disclosable pecuniary interest arrangements infringe on the privacy of a councillor's spouse or partner. Where there would be a potential conflict of interest, the principle of integrity requires that any such interests should nevertheless be declared and resolved.

The Government will keep this matter under review but has no immediate plans to repeal Section 31 of the Localism Act 2011.

The Localism Act 2011 should be amended to require that Independent Persons are appointed for a fixed term of two years, renewable once.

The Government does not accept this recommendation as appropriate for legislation on the basis that it would be likely to be unworkable. The Government's view is that it would be more appropriately implemented as a best practice recommendation for local authorities.

In principle, it may be attractive to limit the terms Independent Persons serve to keep their role and contribution "fresh" and avoid them becoming too closely affiliated with the overriding organisational culture. However, discussions with Monitoring Officers indicate that in practice most local authorities would likely find servicing this rate of turnover unachievable. There is frequently a small pool of people capable and willing to undertake the role, who also fit the stringent specifications of being amongst the electorate, having no political affiliation, no current or previous association with the council, and no friends or family members associated with the council.

When local authorities have found effective Independent Persons who demonstrate the capability, judgement and integrity required for this quite demanding yet unpaid role, it is understandable that they may be reluctant to place limitations on the appointment.

Recommendation 9

The Local Government Transparency Code should be updated to provide that the view of the Independent Person in relation to a decision on which they are consulted should be formally recorded in any decision notice or minutes.

The Government does not agree with this. The Local Government Transparency Code is a statutory requirement to publish information; it does not regulate the content of councils' minutes or decision notices.

The substantive policy suggestion has merit but will depend on circumstances. In cases where there is no case to answer from an unfounded complaint, it should not necessarily be a legal requirement to publish details of that unfounded complaint.

Recommendation 10

A local authority should only be able to suspend a councillor where the authority's Independent Person agrees both with the finding or a breach and that suspending the councillor would be a proportionate sanction.

Local authorities should be given the discretionary power to establish a decisionmaking standards committee with voting independent members and voting members from dependent parishes, to decide on allegations and impose sanctions.

Recommendation 13

Councillors should be given the right to appeal to the Local Government Ombudsman if their local authority imposes a period of suspension for breaching the code of conduct.

Recommendation 14

The Local Government Ombudsman should be given the power to investigate and decide upon an allegation of a code of conduct breach by a councillor, and the appropriate sanction, an appeal by a councillor who has had a suspension imposed. The Ombudsman's decision should be binding on the local authority.

Recommendation 16

Local authorities should be given the power to suspend councillors, without allowances, for up to six months.

There is no provision in current legislation for a sanction to suspend a councillor found to have breached the code of conduct, and this was a deliberate policy decision by the Coalition Government at the time of the Localism Act 2011 to differentiate from the previous, failed Standards Board regime. The Standards Board regime allowed politically motivated and vexatious complaints and had a chilling effect on free speech within local government. These proposals would effectively reinstate that flawed regime.

It would be undesirable to have a government quango to police the free speech of councillors; it would be equally undesirable to have a council body (appointed by councillors, and/or made up of councillors) sitting in judgment on the political comments of fellow councillors.

On the rare occasions where notable breaches of the code of conduct have occurred, local authorities are not without sanctions under the current regime. Councillors can be barred from Cabinet, Committees, or representative roles, and may be publicly criticised. If the elected member is a member of a political group, they would also expect to be subject to party discipline, including being removed from that group or their party. Political parties are unlikely to reselect councillors who have brought their group or party into disrepute. All councillors are ultimately held to account via the ballot box.

As part of the Government's response to the Committee's report on intimidation in public life, the Government recommended that every political party establish their own code of conduct for party members, including elected representatives.

The Government will engage with sector representative bodies of councillors and officers of all tiers of local government to seek views on options to strengthen sanctions to address breaches of the code which fall below the bar of criminal activity and related sanctions but involve serious incidents of bullying and harassment or disruptive behaviour.

Recommendation 11

Local authorities should provide legal indemnity to Independent Persons if their views or advice are disclosed. The government should require this through secondary legislation if needed.

The Government agrees in principle.

Initial soundings with the sector indicate that some local authorities already provide legal indemnity for Independent Persons.

The Government endorses providing legal indemnity for Independent Person as local authority best practice but does not currently see the need to require this through secondary legislation.

Recommendation 15

The Local Government Transparency Code should be updated to require councils to publish annually: the number of code of conduct complaints they receive; what the complaints broadly relate to (e.g., bullying; conflict of interest); the outcome of those complaints, including if they are rejected as trivial or vexatious; and any sanctions applied.

The Government believes that this is better addressed through the sector adopting as best practice a regular pattern of annual reporting by Standard Committees of the cases and complaints handled and would encourage this as best practice by the sector.

The Government does not believe that there is a requirement to prescribe to local authorities the form and content of such Standard Committee annual reports.

Recommendation 17

The government should clarify if councils may lawfully bar councillors from council premises or withdraw facilities as sanctions. These powers should be put beyond doubt in legislation if necessary.

The criminal law, overseen by the police and courts, provides for more appropriate and effective action against breaches of public order, for anti-social behaviour, and against harassment.

The occasion where councils would seek to bar councillors from council premises are thought to be extremely rare. We will consider this further.

Recommendation 18

The criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished.

It is a criminal offence to fail to declare pecuniary interests, which acts as a strong deterrent against corruption.

The Government does not agree with this recommendation, but rather believes the criminal offence of a non-disclosure of pecuniary interest to be a necessary and proportionate safeguard and deterrent against corruption.

The high bar of police involvement has served to discourage politically motivated and unfounded complaints.

Recommendation 20

Section 27(3) of the Localism Act 2011 should be amended to state that parish councils must adopt the code of conduct of their principal authority, with the necessary amendments, or the new model code.

The Government does not agree that this is necessary and has no plans to repeal Section 27(3) of the Localism Act 2011.

The Government considers that the adoption of the principal authority's code or the new model code is a matter for local determination.

There are merits in achieving consistency within principal authority areas to eliminate potential confusion amongst constituents and elected members but there may be instances where a parish council may want to add to the code of their principal authority to reflect local circumstances.

Section 28 (11) of the Localism Act 2011 should be amended to state that any sanction imposed on a parish councillor following the finding of a breach is to be determined by the relevant principal authority.

The Government has no current plans to repeal Section 28 (11) of the Localism Act 2011 but will give this matter further consideration.

Recommendation 22

The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 should be amended to provide that disciplinary protections for statutory officers extend to all disciplinary action, not just dismissal.

The three statutory officers in local government are the Monitoring Officer, the Head of Paid Service (Chief Executive) and the Chief Finance Officer (often referred to as the Section 151 Officer).

Under the current disciplinary arrangements for statutory officers, any decision to dismiss a statutory officer must be taken by full council, following a hearing by a panel that must include at least two Independent Persons. The Committee consider that the disciplinary protections for statutory officers should be enhanced, by extending disciplinary protections to all disciplinary actions (such as suspension or formal warnings), not just dismissal.

The Government agrees in principle with this recommendation and recognises this will be pertinent to Monitoring Officers who may not necessarily be afforded the same seniority in the organisational hierarchy of a local authority as the two other statutory officers (Head of Paid Service and the Section 151 Officer), and who may be subject to personal pressures when conducting high profile breach of conduct investigations.

The Government will engage with sector representative bodies of all tiers of local government to seek views on amending the Local Authorities (Standing Orders) (England)(Amendment) Regulations to provide disciplinary protections for statutory officers.

Recommendation 23

The Local Government Transparency Code should be updated to provide that local authorities must ensure that their whistleblowing policy specifies a named contact for the external auditor alongside their contact details, which should be available on the authority's website.

The Government agrees with the principle that openness is essential.

Most local authorities already publish their whistleblowing policy, procedures and a named contact on their websites, and Government is recommending that this is adopted as a best practice recommendation.

The Government published the UK National Action Plan for Open Government 2021 – 2023 in January 2022. This includes a commitment on local transparency.³ The Department for Levelling Up Housing and Communities (DLUHC) will work with the local government community to develop a set of specific actions to advance transparency in the sector. DLUHC will support local government to solidify their transparency policies and processes and encourage proactive publication of open data across councils.

Recommendation 24

Councillors should be listed as 'prescribed persons' for the purposes of the Public Interest Disclosure Act 1998.

Prescribed persons are individuals or organisations that a worker may approach outside their workplace to report suspected or known wrongdoing and still be protected by the rights afforded to them under whistleblowing legislation. They are prescribed by an order made by the Secretary of State (for Business, Energy and Industrial Strategy) for this purpose. A complete list of prescribed persons is available here: https://www.gov.uk/government/publications/blowing-the-whistle-list-of-prescribed-people-and-bodies--2.

Local councillors would not meet the criteria of being external to an individual's workplace in relation to matters affecting the council and could therefore not be considered as a 'prescribed person' for the purposes of the Public Interest Disclosure Act 1998. Disclosures relating to local authorities can be made to the external auditor of the relevant authority, the Comptroller and Auditor General (National Audit Office), or a Member of Parliament.

However, the Government recognises that this may provide a further check and balance against council corruption or wrongdoing and is open to further representations on the matter on how local accountability can be strengthened in this regard.

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³ https://www.gov.uk/government/publications/uk-national-action-plan-for-open-government-2021-2023/uk-national-action-plan-for-open-government-2021-2023#local-transparency

NOTE ON GOVERNMENT RESPONSE TO THE COMMITTEE ON STANDARDS IN PUBLIC LIFE REVIEW.

1. The Local Government Association should create an updated model code of conduct, in consultation with representative bodies of councillors and officers of all tiers of local government.

For individual councils to set their own codes. Government has previously published a light-touch illustrative code.

2. The government should ensure that candidates standing for or accepting public offices are not required publicly to disclose their home address. The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 should be amended to clarify that a councillor does not need to register their home address on an authority's register of interests.

Agree in general and considering amendments to the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2021. Will engage with interested parties although important to note home addresses should be registered with MOs to avoid conflicts of interest.

3. Councillors should be presumed to be acting in an official capacity in their public conduct, including statements on publicly accessible social media. Section 27(2) of the Localism Act 2011 should be amended to permit local authorities to presume so when deciding upon code of conduct breaches.

For individual authorities to consider whether their code is adequate. Important to recognise boundary between public and private life. Presumption risks conflating the two.

4. Section 27(2) of the Localism Act 2011 should be amended to state that a local authority's code of conduct applies to a member when they claim to act, or give the impression they are acting, in their capacity as a member or as a representative of the local authority.

Agree in general. Important that individual authorities ensure codes are regularly updated, comprehensive and fit for purpose

5. The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 should be amended to include: unpaid directorships; trusteeships; management roles in a charity or a body of a public nature; and membership of any organisations that seek to influence opinion or public policy.

No immediate plans to amend. Confidence in decision making should be maintained and councillors have the right to a private life. People in public life often have complex patterns of interests.

6. Local authorities should be required to establish a register of gifts and hospitality, with councillors required to record gifts and hospitality received over a value of £50 or totalling £100 over a year from a single source. This requirement should be included in an updated model code of conduct.

Has merit although local authorities have autonomy to set gift/hospitality levels. The LGA code goes some way towards this.

7. Section 31 of the Localism Act 2011 should be repealed, and replaced with a requirement that councils include in their code of conduct that a councillor must not participate in a discussion or vote in a matter to be considered at a meeting if they have any interest, whether registered or not, "if a member of the public, with knowledge of the relevant facts, would reasonably regard the interest as so significant that it is likely to prejudice your consideration or decision-making in relation to the matter".

No plans to amend and keep watching brief.

8. The Localism Act 2011 should be amended to require that Independent Persons are appointed for a fixed term of two years, renewable once.

Not accepted and may be unworkable. Matter of best practice.

9. The Local Government Transparency Code should be updated to provide that the view of the Independent Person in relation to a decision on which they are consulted should be formally recorded in any decision notice or minutes.

No plans to regulate content of council's minutes or decision notices. Any policy will depend on the circumstances.

10. – no comment

11. <u>Local authorities should provide legal indemnity to Independent Persons if their views or advice are disclosed. The government should require this through secondary legislation if needed.</u>

Agree in general although no plan to require this. Matter of best practice.

12. – no comment

13. – no comment

14. – no comment

15. The Local Government Transparency Code should be updated to require councils to publish annually: the number of code of conduct complaints they receive; what the complaints broadly relate to (e.g., bullying; conflict of interest); the outcome of those complaints, including if they are rejected as trivial or vexatious; and any sanctions applied.

Annual reporting locally a matter of best practice. No plans.

16. <u>Local authorities should be given the power to suspend councillors, without allowances, for up to six months.</u>

Will engage with representative bodies. Councillors are held to account via the ballot box. No wish to reinstate a previous flawed regime.

17. The government should clarify if councils may lawfully bar councillors from council premises or withdraw facilities as sanctions. These powers should be put beyond doubt in legislation if necessary.

Will consider further although police and courts are best placed to tackle this.

18. The criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished.

Section a strong deterrent against corruption. Not supportive of the proposal.

- 19. no comment
- 20. Section 27(3) of the Localism Act 2011 should be amended to state that parish councils must adopt the code of conduct of their principal authority, with the necessary amendments, or the new model code

No plans to repeal and not agreed.

21. Section 28 (11) of the Localism Act 2011 should be amended to state that any sanction imposed on a parish councillor following the finding of a breach is to be determined by the relevant principal authority.

No plans to repeal. Watching brief.

22. The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 should be amended to provide that disciplinary protections for statutory officers extend to all disciplinary action, not just dismissal.

Agree in general and will engage with representative bodies for views

23. The Local Government Transparency Code should be updated to provide that local authorities must ensure that their whistleblowing policy specifies a named contact for the external auditor alongside their contact details, which should be available on the authority's website.

Agree in general and recommend adoption as best practice.

24. <u>Councillors should be listed as 'prescribed persons' for the purposes of the</u> Public Interest Disclosure Act 1998.

Councillors do not meet the criterial of "external." Government open to representation.

06.04.2022
Shaine Lewis
Legal Services Manager
& Deputy Monitoring Officer

Standards Committee - Assessment of Complaints September 2019

	Date		1			Date /		
Complaint Number	Received	Complainant	Subject	Relevant provision of Code	Assessment	Decision	Decision	Current Position
2021		·	1					
05-21 (a) & (b) BANES	30.04.21	Cllr	Cllr	disrepute (Inappropriate behaviour)	Initial assessment by MO and IP		No Breach	Complete
06-21 (a)(b)(c) KTC	29.03.21	MoP	P Cllrs	disrepute (Inappropriate behaviour)	Initial assessment by MO and IP	12.05.21	No Breach	Complete
07-21 BANES	30.03.21	MoP	Cllr	disrepute (Inappropriate behaviour)	Initial assessment by MO and IP	12.05.21	No Breach	Complete
08-21 (a)	09.04.21	MoP	Cllr	disrepute (Inappropriate behaviour)	Initial assessment by MO and IP	28.05.21	No Breach/NFA	Complete
08-21 (b)		MoP	Cllr					WITHDRAWN
09-21 BANES	30.04.21	Cllr	Cllr	disrepute (Inappropriate behaviour)	Initial assessment by MO and IP	03.06.21	No Breach/NFA	Complete
10-21 SPC	25.05.21	MoP	P Cllr	disrepute (Inappropriate behaviour)	Initial assessment by MO and IP	16.07.21	No Breach	Complete
11-21 BANES	04.08.21	Cllr	Cllr	disrepute (Inappropriate behaviour)	Initial assessment by MO and IP	09.09.21	No Breach	Complete
12-21 SDPC	18.08.21	MofBANESStaff	PCIIr	disrepute (Inappropriate behaviour)	Initial assessment by MO and IP		Breach	Complete
13-21 BANES	27.09.21	MoP	Cllr	disrepute (Inappropriate behaviour)	Initial assessment by MO and IP	03.11.21	Breach/NFA	Complete
14-21 BANES	25.10.21	MoP	Cllr	disrepute (Inappropriate behaviour)	Initial assessment by MO and IP	10.01.22	No Breach	Complete
15-21(a) & (b(BANES	12.11.21	MoP	Cllr	disrepute (Inappropriate behaviour)	Initial assessment by MO and IP	10.01.22	No Breach	Complete
								Withdrawn and closed (no
01-22 PPC	15.01.22	MoP	PCIIr	disrepute (Inappropriate behaviour)				response)
02-22 (a) & (b) &								
(c)BANES	14.022.22	MoP	PCIIrs	disrepute (Inappropriate behaviour)	Initial assessment by MO and IP	22.03.22	No Breach	Complete
03-22 BANES	19.02.22	MoP	Cllr	disrepute (Inappropriate behaviour)				On hold
04-22 (a) & (b)BANES	26.02.22	MoP	Cllr	Non disclosure of interest	Initial assessment by MO and IP	18.03.22	No Breach	Complete
05-22 WPC	21.02.22	MoP	PCIIrs	disrepute (Inappropriate behaviour)	Initial assessment by MO and IP			Withdrawn
		NUMBER NOT						
06-22 BANES		USED						
								Being treated as a
07-22 BANES	03.03.22	MoP	Cllr	disrepute (Inappropriate behaviour)				corporate complaint
08-22 BANES	10.03.22	MoP	Cllr	Non disclosure of interest	Initial assessment by MO and IP	24.03.22	No Breach	Complete
09-22 BANES	13.03.22	Cllr	Cllr	disrepute (Inappropriate behaviour)	Initial assessment by MO and IP	12.04.22	No Breach	Complete

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	Bath & North East Somerset Council						
MEETING	Standards' Committee						
MEETING	12 th July 2022	EXECUTIVE FORWARD PLAN REFERENCE:					
TITLE:	TITLE: Report on Assessment of Complaints						
WARD:	ARD: All						
AN OPEN PUBLIC ITEM							
List of attachments to this report: Annex 1 – Report on assessment of complaints							

1 THE ISSUE

1.1 The Committee is asked to consider Annex 1 (Report on assessment of complaints) and discuss any issues arising.

2 RECOMMENDATION

2.1 That the Committee consider the report and make any recommendations required.

3 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)

3.1 None.

4 STATUTORY CONSIDERATIONS AND BASIS FOR PROPOSAL

4.1 The Council is required to have in place adequate arrangements to assess complaints and deal with any further actions required.

5 THE REPORT

5.1 An up-dated table providing information on the complaints received since the last report was sent to the Standards Committee in April 2022 is attached as Appendix 1 for the consideration of the Committee.

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6 RATIONALE

6.1 To update the Standards' Committee on complaints received since April 2022.

7 OTHER OPTIONS CONSIDERED

7.1 None.

8 CONSULTATION

8.1 Not applicable.

9 RISK MANAGEMENT

9.1 A risk assessment related to the issue and recommendations has been undertaken, in compliance with the Council's decision making risk management guidance.

Contact person	Michael Hewitt, Legal Services Manager of Legal & Democratic Services, Monitoring Officer & Council Solicitor (01225) 395124
Background papers	None

Please contact the report author if you need to access this report in an alternative format

Standards Committee - Assessment of Complaints September 2019

	Date					Date /		
Complaint Number	Received	Complainant	Subject	Relevant provision of Code	Assessment	Decision	Decision	Current Position
2021		•		·				
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08-21 (b)		MoP	Cllr	, , , , , ,	·			WITHDRAWN
09-21 BANES	30.04.21	Cllr	Cllr	disrepute (Inappropriate behaviour)	Initial assessment by MO and IP	03.06.21	No Breach/NFA	Complete
10-21 SPC	25.05.21	MoP	P Cllr	disrepute (Inappropriate behaviour)	Initial assessment by MO and IP	16.07.21	No Breach	Complete
11-21 BANES	04.08.21	Cllr	Cllr	disrepute (Inappropriate behaviour)	Initial assessment by MO and IP	09.09.21	No Breach	Complete
12-21 SDPC	18.08.21	MofBANESStaff	PCIIr	disrepute (Inappropriate behaviour)	Initial assessment by MO and IP		Breach	Complete
13-21 BANES	27.09.21	MoP	Cllr	disrepute (Inappropriate behaviour)	Initial assessment by MO and IP	03.11.21	Breach/NFA	Complete
14-21 BANES	25.10.21	MoP	Cllr	disrepute (Inappropriate behaviour)	Initial assessment by MO and IP	10.01.22	No Breach	Complete
15-21(a) & (b(BANES	12.11.21	MoP	Cllr	disrepute (Inappropriate behaviour)	Initial assessment by MO and IP	10.01.22	No Breach	Complete
								Withdrawn and closed (no
01-22 PPC	15.01.22	MoP	PCIIr	disrepute (Inappropriate behaviour)				response)
02-22 (a) & (b) &								
(c)BANES	14.022.22	MoP	PCllrs	disrepute (Inappropriate behaviour)	Initial assessment by MO and IP	22.03.22	No Breach	Complete
03-22 BANES	19.02.22	MoP	Cllr	disrepute (Inappropriate behaviour)				On hold
04-22 (a) & (b)BANES	26.02.22	MoP	Cllr	Non disclosure of interest	Initial assessment by MO and IP	18.03.22	No Breach	Complete
05-22 WPC	21.02.22	MoP	PCllrs	disrepute (Inappropriate behaviour)	Initial assessment by MO and IP			Withdrawn
		NUMBER NOT						
06-22 BANES		USED						
								Being treated as a
07-22 BANES	03.03.22	MoP	Cllr	disrepute (Inappropriate behaviour)				corporate complaint
08-22 BANES	10.03.22	MoP	Cllr	Non disclosure of interest	Initial assessment by MO and IP	24.03.22	No Breach	Complete
09-22 BANES	13.03.22	Cllr	Cllr	disrepute (Inappropriate behaviour)	Initial assessment by MO and IP	12.04.22	No Breach	Complete
10-22 BANES	10.04.22	MoP	Cllr	disrepute (Inappropriate behaviour)	Initial assessment by MO and IP	03.05.22	No Breach	Complete
11-22 BANES	07.04.22	Cllr	Cllr	disrepute (Inappropriate behaviour)	Initial assessment by MO and IP	17.06.22	NFA	Complete
12-22 BANES	12.05.22	Cllr	Cllr	Non disclosure of interest	Initial assessment by MO and IP	17.06.22	No Breach	Complete
13-22 BANES	13.06.22	MoP	Cllr	Non disclosure of interest	Initial assessment by MO and IP	30.06.22	No Breach	Complete

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Improving People's Lives

STANDARDS COMMITTEE WORKPLAN

Report title	Report author							
Tuesday 12 th July 2022 5pm								
Annual report of the Standards Committee	Michael Hewitt							
Revision of Arrangements for dealing with Code of Conduct complaints (including an update on hearing procedures)	Michael Hewitt							
Tuesday 11 th October 2022 5pm								
Annual Report on Local Government Ombudsman complaints	Michael Hewitt							
Annual Review of the Code of Conduct	Michael Hewitt							
Tuesday 24th January 2023 5pm								
Tuesday 25 th April 2023 5pm								
Tuesday 4 th July 2023 5pm								
Annual Review of the Code of Conduct	Michael Hewitt							
Tuesday 17 th October 2023 5pm								

Annual Report on Local Government Ombudsman complaints	Michael Hewitt
Annual report of the Standards Committee	

To be considered - Councillors Model Code of Conduct LGA training resource pack

Every meeting - Report on the assessment of complaints Workplan