

Standards Committee

Date: Tuesday, 4th July, 2023

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 Toby Simon, Councillor Michelle O'Doherty, Councillor Alex Beaumont, Councillor Alan Hale and Councillor Shaun Hughes

Independent Person: Tony Drew, Richard Morris

Chief Executive and other appropriate officers

Press and public

The agenda is set out overleaf.



Enfys Hughes

Democratic Services

Lewis House, Manvers Street, Bath, BA1 1JG

Telephone: 01225 39 4435

Web-site - <http://www.bathnes.gov.uk>

E-mail: Democratic_Services@bathnes.gov.uk

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, 4th July, 2023

at 5.00 pm in the Kaposvar Room - Guildhall, Bath

A G E N D A

1. TO APPOINT CO-CHAIRS OF THE STANDARDS COMMITTEES. APPOINTMENT OF THE INDEPENDENT CHAIR & STATUTORY CHAIR FOR THE PERIOD 2023-2027 (Pages 5 - 8)

2. WELCOME AND INTRODUCTIONS

3. EMERGENCY EVACUATION PROCEDURE

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

4. APOLOGIES FOR ABSENCE AND SUBSTITUTION

5. 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.

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

(b) The nature of their interest.

(c) Whether their interest is a **disclosable pecuniary interest** or an **other interest** (as defined in Part 4.4 Appendix 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.

6. 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.

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

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

9. MINUTES OF THE MEETING OF 12TH JULY 2022 (Pages 9 - 12)

10. ANNUAL REPORT OF STANDARDS COMMITTEE (Pages 13 - 40)

11. REPORT ON THE ASSESSMENT OF COMPLAINTS (Pages 41 - 44)

12. WORKPLAN FOR THE STANDARDS COMMITTEE (Pages 45 - 46)
13. MODEL CODE OF CONDUCT INDUCTION TRAINING - POWERPOINT (Pages 47 - 80)

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

Bath & North East Somerset Council		
MEETING	Standards Committee	
DATE	4 July 2023	EXECUTIVE FORWARD PLAN REFERENCE:
		E 9999
TITLE:	To appoint Co-Chairs of the Standards Committee. Appointment of the Independent Chair & Statutory Chair for the period 2023-2027	
WARD:	All	
AN OPEN PUBLIC ITEM		
List of attachments to this report:		
None		

1 THE ISSUE

1.1 To appoint Co- Chairs of the Standards Committee. An Independent Co-Chair and Statutory Chair.

2 RECOMMENDATION

The Committee is asked to;

2.1 Appoint an Independent Co-Chair of the Standards Committee in compliance with the Terms of Reference for the Standards Committee set out at clause 2.28.3 of the Constitution.

2.2 Appoint a Statutory Co-Chair of the Standards Committee in accordance with the political proportionality rules as determined by Council at the 2023 May AGM.

3 THE REPORT

3.1 The Standards Committee is responsible for the promotion of ethical standards within the Authority, helping to secure adherence to the Members’ Code of Conduct, monitoring the operation of the Code within Bath & North East Somerset Council, conducting hearings following investigation, and determining complaints made against Councillors in respect of alleged breaches of the Code of Conduct.

3.2 The Standards Committee is a committee of the Council and therefore expressly subject to the Political Proportionality requirements of Section 15 of the Local Government & Housing Act 1989. Full Council at the May 2023 AGM made appointments to the Council’s Committees and made Chairing arrangements in

accordance with the requirements of political proportionality, the nominations made by the political groups and confirmed the chairing arrangements for the Standards Committee in accordance with the terms of reference. In particular, that one of the Independent members of the committee should chair the committee.

3.3 The composition of the Standards Committee is as follows

- 5 x elected Members (voting)
- 3 x independent members - one of whom will chair the Committee (non-voting)
- 3 x Parish representatives (non-voting)
- The Independent Persons will be invited to attend the meeting and provide relevant comment.

3.4 The Independent Members are co-opted members of the Standards Committee and the requirements of Section 13 (1) of the Local Government & Housing Act 1989 expressly exclude Independent members from having voting rights.

3.5 In order to preserve the non-political nature of the committee and maintain trust and confidence in its operation, the committee has operated with one of the independent members taking the chair. This works in practice and provides public reassurance that the proceedings of the committee are impartial.

3.6 The lack of voting rights for independent members is not generally problematic because the work of the committee means that it takes decisions by consensus. However, because independent members cannot vote the 5 elected members must, on occasion, take formal decisions and vote. This is particularly the case when undertaking a standards committee hearing when a decision is required about whether the code of conduct has been breached and if so, what sanction should be imposed. The Council's arrangements for dealing with Code of Conduct hearings provides for this at para 7.1.

Voting

7.1 When determining whether the Subject Member has failed to comply with the Code and what sanction should be imposed the standards committee will take an indicative vote of all the Non-Voting Members of the hearing panel. The indicative vote will inform the Voting Members decision which is subject to separate vote by Voting members only. The Voting Members of the panel are limited to the B&NES Councillors.

3.7 The first item of business for the newly formed standards committee is to appoint an Independent Co-Chair for the next 4 years and to appoint the Liberal Democratic group nomination, Cllr Toby Simon as Statutory Co-Chair for matters requiring a formal vote.

4 STATUTORY CONSIDERATIONS

- 4.1 The Standards Committee subject to the Political Proportionality requirements of Section 15 of the Local Government & Housing Act 1989.
- 4.2 The terms of reference of the Standards Committee require that an Independent member chair the committee.

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	Michael Hewitt, Monitoring Officer (Acting) Michael_Hewitt@bathnes.gov.uk
Background papers	None
Please contact the report author if you need to access this report in an alternative format	

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BATH AND NORTH EAST SOMERSET

STANDARDS COMMITTEE

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

PRESENT:-

Independent Members: Dr Axel Palmer, Dr Cyril Davies

Parish Representatives: Kathy Thomas

Bath and North East Somerset Councillors: Sally Davis, Duncan Hounsell, Paul Crossley, Michelle O'Doherty and June Player

Officers: Shaine Lewis (Legal Services Manager & Deputy Monitoring Officer) and Enfys Hughes (Democratic Services Officer)

Independent Persons: Tony Drew and Roger Morris

1 WELCOME AND INTRODUCTIONS

The Chair welcomed everyone to the meeting.

2 EMERGENCY EVACUATION PROCEDURE

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

3 APOLOGIES FOR ABSENCE AND SUBSTITUTION

Apologies were received from Sophie Sidonio (Independent Member) and Michael Hewitt (Monitoring Officer).

4 DECLARATIONS OF INTEREST

There were none.

5 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

There was no urgent business.

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

There were none.

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

There were none.

8 MINUTES OF THE MEETING OF 12TH APRIL 2022

RESOLVED that the minutes of the meeting on 12th April 2022 be confirmed as a correct record and signed by the Chair.

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

The Deputy Monitoring Officer updated the Committee. After the complaint hearing in February 2022, the Committee reached their decision that the parish councillor had breached the Code of Conduct and she was asked to apologise to the complainant. She did not apologise and offered her resignation to the Parish Council, however, they did not accept this.

During discussion the Committee discussed the issue and on a motion from Councillor Michelle O'Doherty, seconded by Councillor Paul Crossley it was

RESOLVED that the Monitoring Officer write to the Parish Council expressing the Committee's disappointment that the Subject Member had not apologised and reminding the Parish Council that it had adopted the Code of Conduct which included Standards Committee process. It was in the public interest that determinations of the Standards Committee are followed in so far as subject members remain in public office.

10 AUDITOR'S REPORT

The Deputy Monitoring Officer presented the report from the Auditor which had been recently received. In respect of the Members' Register of Interests the public were entitled to look at it and know that it was updated.

During discussion the following points were raised:

- An annual reminder to all councillors to update the register of interests, with a follow-up reminder if no response
- To update the register with 'no change' if that was applicable
- When Councillors amend/update the register they should receive an acknowledgement.

The new Independent Person stated that the other comment from the Auditor relating to Standards was the complaints and feedback policy was somewhat long and complex. The Deputy Monitoring Officer said this would be addressed in a forthcoming agenda item.

RESOLVED that the Monitoring Officer develop a protocol for updating the Members' Register of Interests on an annual basis.

11 REVISION OF ARRANGEMENTS FOR DEALING WITH CODE OF CONDUCT COMPLAINTS

The Deputy Monitoring Officer presented the report. After the complaint hearing in February 2022 and following other complaints, feedback had been received that our arrangements were not easy to follow and somewhat confusing. He outlined the changes to the arrangements, having reviewed other local authorities – to only have one procedure not A or B, to be more concise, to be user friendly with step-by-step instructions.

During discussion it was noted that Annex A, Standards membership, should refer to current proportionality arrangements and it should be made clear that an Independent person does not 'take sides' on a matter.

Both Independent Persons had submitted minor amendments on the arrangements which would be included.

RESOLVED

- 1) Members of Standards Committee to notify the Monitoring Officer/Deputy Monitoring Officer of any minor amendments to the complaint arrangements;
- 2) a paragraph setting out the voting procedure to be included in Annex A; and
- 3) to adopt the draft Arrangements for Dealing with Complaints about the Code of Conduct for Members.

12 ANNUAL REPORT OF THE STANDARDS COMMITTEE

The Deputy Monitoring Officer presented the report which once approved would be referred to Council.

During discussion the following points arose:

- The number of parish councillor complaints had decreased
- The number of complaints about BANES councillors that were politically motivated had increased, possibly with local elections next year
- Complaints driven by interpersonal conflicts were unhelpful and implied a lack of respect for the process
- There seemed to be a trend for 'weaponising' the standards process which was not designed for this purpose
- It had been particularly difficult year for complaints which had tested the independence and resilience of the Independent Person and Independent Chair
- There was a need to refer to the Nolan principles in public life more than ever
- When councillors made their response to a complaint there was a tendency for escalation of the complaint, when an informal resolution was a better remedy.

RESOLVED that the Annual Report of Standards Committee be noted and it be referred to Council.

13 REPORT ON THE ASSESSMENT OF COMPLAINTS

During discussion the following points were made:

- Corporate complaints were referred to One West
- In respect of complaints about a BANES officer there was information on the website. The Deputy Monitoring Officer was asked to seek clarification on the mechanism for distinguishing between corporate and code of conduct complaints on the website and how they are dealt with.

RESOLVED to note the report on the assessment of complaints.

14 WORKPLAN FOR THE STANDARDS COMMITTEE

RESOLVED that the Workplan be noted.

The meeting ended at 6.10 pm

Chair(person)

Date Confirmed and Signed

Prepared by Democratic Services

Bath & North East Somerset Council		
MEETING	Standards Committee	
MEETING	4 July 2023	EXECUTIVE FORWARD PLAN REFERENCE:
		E 9999
TITLE:	Standards Committee Annual Report 2022-2023	
WARD:	All	
AN OPEN PUBLIC ITEM		
List of attachments to this report:		
Appendix 1 Standards Committee Annual report 2022-2023		

1 THE ISSUE

1.1 To consider the Standards Committee Annual report

2 RECOMMENDATION

The Committee is asked to;

2.1 Note the work of the Standards Committee as set out in the Annual report (Appendix 1).

3 THE REPORT

3.1 The Standards Committee is responsible for the promotion of ethical standards within the Authority, helping to secure adherence to the Members' Code of Conduct, monitoring the operation of the Code within Bath & North East Somerset Council, conducting hearings following investigation, and determining complaints made against Councillors in respect of alleged breaches of the Code of Conduct.

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.

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	

Standards Committee Annual Report 2022 - 2023

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 15 matters raised: of which 7 initial assessments required 'no further action' to be undertaken. Of the remaining matters 5 were 'rejected and 3 'no breach'. To put these figures in context it should be noted that the Standards Committee has within its purview the unitary authority and 45 Parish and Town Councils: in total over 500 councillors.

To give greater understanding of the work of the Standards Committee following the adoption of the new Model Code in July 2021 we have started to capture statistics directly linked to the 10 obligations from the Model Code. Whilst these cannot be cross referenced retrospectively they will be categorised going forwards to further contextualise the work to the Standards Committee.

As a result of a suggestion from the Council's External Auditors all Councillors are reminded to update their Register of Interest regularly. The Monitoring Officer implemented an annual check in November 2022 and can report a near 100% compliance. The one Member who did not respond, stood down as a Councillor at the Election in May 2023.

In Bath & North East Somerset, the Standards Committee has three Independent Members: Dr Cyril Davies, Sophie Sidonio and myself and in this authority the Committee is chaired by an Independent Member. I am most grateful to all my colleagues for their help and support and wish to highlight the exceptional commitment of the Independent Persons Tony Drew and Roger Morris who are of equal status and provide an invaluable service to the standards regime. A virtue of having two 'Independent Persons' is that while one is available to assess a complaint, the other can be able to give support to the Subject Member.

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 which included a revision of the Arrangements for Dealing with Code of Conduct Complaints.

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 2022 to 31 March 2023, together with background information regarding the standards regime established within Bath & North East Somerset Council. All references to 2022-23 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 updated in 2022. 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

In 2022/23 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).

Following elections on 4 May 2023 the Standards Committee is comprised as follows:

Councillor Toby Simon
Councillor Michelle O'Doherty
Councillor Alex Beaumont
Councillor Alan Hale
Councillor Shaun Hughes

Independent Members – Axel Palmer, Sophie Sidonio, Dr Cyril Davies
Parish Councillors – Kathy Thomas, Richard Robertson and one vacancy

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.

Half day training sessions, to be held jointly with Avon Fire Authority, on the Local Government Association Model Code of Conduct for Members (adopted by BANES in 2021) have been arranged for:

- 30 October 2023 between 10:00 -12:30 in person at Keynsham Civic Centre
- 10 November 2023 between 14:00 – 16:30 in person at Avonmouth

- 15 November 2023 between 17:00 – 19:30 online via Zoom/Teams

Registration and joining instructions to follow.

A training session for Standards Committee Members on Holding Effective Hearings is to be arranged and delivered by the Monitoring Officer and the Legal Services Manager later this year.

5. Review of Standards Committee Work Programme and Action Plan for 2022/23

The Standards Committee's Work Programme/Action Plan for 2022/23 is attached at Annex 1. The Committee met on 2 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:

- 12 April 2022
- 12 July 2022

Revision of Arrangements for Dealing with Code of Conduct Complaints

Following a Complaint hearing in February 2022 the opportunity was taken to reflect and learn lessons from the practical application of Standards Committee arrangements and procedures.

The Deputy Monitoring Officer undertook a review and in consultation with the Standards Committee a streamlined, more concise and user friendly set of Arrangements for Dealing with Code of Conduct Complaints was produced .

The Arrangements are at Annex 2

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	2018/19	2019/20	2020/21	2021/22	2022/23	Total
BaNES Councillor	0	0	1	4	4	9
Parish / Town Councillor	1	2	1	0	0	4
Member of the public	15	5	13	13	11	57
Council Officer	1	0	0	1	0	2
Parish Clerk	3	0	1	0	0	4
Total	20	7	16	18	15	76

ii. Complaints by subject member

Subject of the complaint	2018/19	2019/20	2020/21	2021/22	2022/23	Total
BANES Councillor	13	0	5	13	14	45
Parish / Town Councillor	7	7	11	5	1	31
Total	20	7	16	18	15	76

iii. Complaints by type

Obligation	Categorisation	22/23 Total**
Respect	10/22, 15/22, 18/22, 3/23*, 4/23*, 6/23*	6
Bullying Harassment, discrimination	11/22, 12/22*, 16/22, 3/23*, 4/23*, 06/23*	6

Compromising Impartiality		0
Dealing with Information		0
Disrepute	14/22, 2/23, 3/23*, 6/23* 05/23	5
Improper use of position		0
Improper use of resources		0
Co-operating with Code of Conduct		0
Registering/disclosing Interests	12/22*, 13/22, 17/22	3
Gifts & Hospitality		0
		20*

Notes:

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

** This Annual report is the first full year for reporting against the type of complaint set out in the LGA Model Code which was adopted by the Council on the 21 July 2021.

iv. Initial Assessments

Local Assessment Decisions	2018/19	2019/20	2020/21	2021/22	2022/23	Total
No Further Action/no breach	17	5	11	11	10	54
Informal Resolution	2	1	2	2	0	7
Referred for Investigation	1	0	0	1	0	2
Ongoing	0	0	0	1	0	1
Withdrawn/rejected	0	1	3	3	5	12
Total	20	7	16	18	15	76

v. Outcome of complaints

Outcomes	2018/19	2019/20	2020/21	2021/22	2022/23	Total
Other Action	0	2	1	0	0	3
Ongoing	0	0	0	0	0	0
Apology	0	0	1	0	0	1
No Action Required	0	5	0	0	7	12
Withdrawn/rejected	2	0	3	0	5	10
Breach	5	0	0	0	0	5
No Breach	13	0	11	18	3	45
Total	20	7	16	18	15	76

A case tracker in spreadsheet format can be found at Annex 3

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 WORKPLAN 2022-2023

Report title	Report author
<i>Tuesday 12th April 2022 4pm</i>	
Committee on Standards in Public Life – a review of Local Government ethical standards and the Government response Update – local hearing on Investigation	Michael Hewitt Michael Hewitt
<i>Tuesday 12th July 2022 4pm</i>	
Update – local hearing on investigation into complaint Auditors report Revision of arrangements for dealing with Code of Conduct complaints Annual report of the Standards Committee	Michael Hewitt Shaine Lewis Shaine Lewis Shaine Lewis
<i>Tuesday 11th October 2022 4pm</i>	
CANCELLED	
<i>Tuesday 24th January 2023 5pm</i>	
CANCELLED	

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

Every meeting – Report on the assessment of complaints

Workplan

BATH AND NORTH EAST SOMERSET COUNCIL

ARRANGEMENTS FOR DEALING WITH COMPLAINTS ABOUT THE CODE OF CONDUCT FOR MEMBERS –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 Principal councils such as Bath and North East Somerset Council are also required by law to have arrangements in place to investigate and determine code of conduct complaints against councillors of a town or parish council in the district in relation to any allegation of a breach of the code adopted by that body.
- 1.3 These “Arrangements” set out how you may make a complaint that an elected or co-opted member of the Council or a Town or Parish Council has failed to comply with the Code and sets out how the Council will deal with such allegations.
- 1.4 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”.
- 1.5 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.
- 1.6 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.
- 2.2 Each Parish/Town Council is also required to adopt a Code of Conduct, which can be requested from the Parish/Town Council Clerk, or which may be available via their website if they have one.

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 will, where possible, have access to an Independent Person to offer an impartial view to assist them in responding to the complaint. That Independent Person will not be the same Independent Person assisting the Monitoring Officer.
- 3.5 The Subject Member may, within 10 working days of receipt, make written representations to the Monitoring Officer which must be considered when deciding how the complaint will be dealt with. Representations received after this time may be considered, 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 Whilst complainants must be confident that complaints are taken seriously and dealt with appropriately, investigating a complaint involves spending public money as well as the cost of officer and Member time. The Council, therefore, adopts a proportionate approach 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, 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 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 acting 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: -
 - 5.5.4.1 The resources needed to investigate and determine the complaint are wholly disproportionate to the allegations.
 - 5.5.4.2 Whether, in all the circumstances, there is no overriding public benefit in carrying out an investigation.
 - 5.5.5 Whether the complaint appears to be malicious, vexatious, politically motivated, or tit-for-tat.

5.5.6 Whether the complaint suggests that there is a wider problem throughout the authority.

5.5.7 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.

5.5.8 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 that 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 in confidence 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 following consultation with the Independent Person, 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 next scheduled 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).
- 9.3 At the local resolution stage it is essential that the Monitoring Officer receives Independent, candid and uncensored advice from the Independent Person and Independent Chair to assist the Monitoring Officer in their decision making. It is necessary also to receive a Complainant's candid views on a suitable resolution. Accordingly, in reliance upon section 36 Freedom of Information Act 2000, all advice and views will be treated in confidence and therefore not subject to disclosure to avoid the risk of inhibition and to maintain the effectiveness of the Council's complaint

process and the prospect of early local resolution that might otherwise be undermined.

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 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 act 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.
 - 10.4.7. Recommend to Council (or recommend to the Town/Parish Council) that the Member be removed from all outside body appointments to which they have been appointed or nominated by the Council (or by the Town/Parish Council).
 - 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.

INFORMATION ABOUT THE STANDARDS COMMITTEE

1. Membership of the Standards Committee

- 3 Independent Members (elected every 4 years) (Non-Voting Members)
- 5 B&NES Councillors (Appointments will be made having regard to rules on political proportionality) (Voting Members)
- 3 Parish/Town Councillors (nominated by the B&NES Local Councils group) (Non-Voting Members)

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 Standards Committee is chaired by an Independent Member until voting when the Chair will be taken by the B&NES Councillor allocated as Chair at Council (see Para 7.1 in annex b).

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.

LOCAL HEARING PROCEDURE OF THE STANDARDS' COMMITTEE**1. Interpretation**

The Code	The Code of Conduct for Members
Complainant(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 Representative	The Subject Member may be represented or accompanied during the meeting by a Solicitor, Counsel or, with the 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. The Independent Person remains independent of the standards process.
Investigating Officer	The person appointed by the Monitoring Officer to undertake a formal investigation. The Investigating Officer may be another officer of the Council, an officer of another council or an 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

- 2.1 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.
- 2.2 The Subject Member will be required to identify any witnesses they wish to call.
- 2.3 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.
- 2.4 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.

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

3. Documentation

- 3.1 Local Hearings of the Committee are subject to the normal rules for publication of Council agendas and access to information.
- 3.2 The agenda papers for the Local Hearing will include:
- Monitoring Officer report
 - 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
- 3.3 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.
- 3.4 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

Representation

- 4.1 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

Legal Advice

- 4.2 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.

Procedural Issues

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

- 4.4 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.
- 4.5 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.
- 4.6 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.

Findings of Fact

- 4.7 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
- 4.8 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.
- 4.9 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.
- 4.10 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.
- 4.11 The Committee may at any time question those involved including witnesses and the Investigating Officer.
- 4.12 The Committee, together with the Legal Advisor, will usually move to a private room to consider the representations and evidence.
- 4.13 On their return, the chair will announce the Committee's findings of fact.

Deciding whether the Subject Member failed to follow the Code

- 5.1 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.
- 5.2 The Committee will ask the Investigating Officer for any verbal or written representations.
- 5.3 At any time the Committee may question those making representation.
- 5.4 The Subject Member will be invited to make any relevant closing remarks.
- 5.5 The Committee, together with the Legal Advisor, will usually move to a private room to consider the representations.
- 5.6 On their return, the chair will announce the Committee's decision as to whether the Subject Member failed to follow the Code.

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

- 6.1 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.

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

- 6.2 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.
- 6.3 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 Independent Person will not act in the capacity of advocate for any party to the proceedings.
- 6.4 The Committee will then deliberate in private to consider what if any sanction to impose and if so, what that sanction should be.
- 6.5 On their return the Chair will announce the Committee's decision.

Voting

- 7.1 When determining whether the Subject Member has failed to comply with the Code and what sanction should be imposed the standards committee will take an indicative vote of all the Non-Voting Members of the hearing panel. The indicative vote will inform the Voting Members decision which is subject to separate vote by Voting members only. The Voting Members of the panel are limited to the B&NES Councillors.

Recommendations

- 8.1 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.

The Written Decision

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

Departure from this procedure

- 10.1 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.

Complaint Number	Date Received	Complainant	Subject	Relevant provision of Code	Assessment	Date / Decision	Decision	Current Position
2022								
10-22 BANES	10.04.22	MoP	Cllr	1	Initial assessment by MO and IP	03.05.22	No Breach	Complete
11-22 BANES	07.04.22	Cllr	Cllr	2	Initial assessment by MO and IP	17.06.22	NFA	Complete
12-22 BANES	12.05.22	Cllr	Cllr	2 & 9	Initial assessment by MO and IP	17.06.22	No Breach	Complete
13-22 BANES	13.06.22	MoP	Cllr	9	Initial assessment by MO and IP	30.06.22	No Breach	Complete
14-22 RTC	02.08.22	MoP	Cllr	5	Initial assessment by MO and IP	12.10.22	NFA	Complete
15-22 BANES	10.08.22	MoP	Cllr	1	Initial assessment by MO and IP	12.10.22	NFA	Complete
16-22 BANES	20.08.22	Cllr	Cllr	2	Initial assessment by MO and IP	11.10.22	NFA	Complete
17-22 BANES	09.12.22	MoP	Cllr	9	Initial assessment by MO and IP	08.02.23	NFA	Complete
18-22 BANES	27.12.22	MoP	PCllr	1	Initial assessment by MO and IP	08.02.23	Take no action/rejected	Complete
2023								
01-23 A & B BANES	11.01.23	MoP	Cllr	No response so not being investigated	Initial assessment by DMO and IP	16.03.2023	Take no action/rejected	Complete
02-23 BANES	12.01.23	MoP	Cllr	5	Initial assessment by DMO and IP	15.03.23	Take no action/rejected	Complete
03-23 BANES	23.02.23	MoP	Cllr	1 & 2 & 5	Initial assessment by DMO and IP	24.03.23	Take no action/rejected	Complete
04-23 BANES	24.02.23	MoP	Cllr	1 & 2	Initial assessment by MO and IP	09.03.23	NFA	Complete
05-23 BANES	01.03.23	MoP	Cllr	5	Initial assessment by MO and IP		Take no action/rejected	Complete
06-23 BANES	07.03.23	Cllr	Cllr	1 & 2 & 5	Initial assessment by MO and IP	24.03.23	NFA	Complete

KEY

P Cllr - Parish Councillor. MoP - Member of the Public. Cllr - BANES Councillor
O - Officer

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Bath & North East Somerset Council		
MEETING	Standards' Committee	
MEETING	4th July 2023	EXECUTIVE FORWARD PLAN REFERENCE:
TITLE:	Report on Assessment of Complaints	
WARD:	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 January 2023 is attached as Appendix 1 for the consideration of the Committee.

6 RATIONALE

6.1 To update the Standards' Committee on complaints received since January 2023.

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 July 2023 for period January to July 2023

Complaint Number	Date Received	Complainant	Subject	Relevant provision of Code	Assessment	Date / Decision	Decision	Current Position
2023								
02-23 BANES	12.01.23	MoP	Cllr	5	Initial assessment by DMO and IP	15.03.23	Take no action/rejected	Complete
03-23 BANES	23.02.23	MoP	Cllr	1 & 2 & 5	Initial assessment by DMO and IP	24.03.23	Take no action/rejected	Complete
04-23 BANES	24.02.23	MoP	Cllr	1 & 2	Initial assessment by MO and IP	09.03.23	NFA	Complete
05-23 BANES	01.03.23	MoP	Cllr	5	Initial assessment by DMO and IP		Take no action/rejected	Complete
06-23 BANES	07.03.23	Cllr	Cllr	1 & 2 & 5	Initial assessment by MO and IP	24.03.23	NFA	Complete
07-23 (a)	13.04.23	MoP	PCllr	N/A	Initial assessment by DMO and IP		PCllr not re-elected	Closed
07-23(b)	13.04.23	MoP	PCllr	To be allocated	Initial assessment by DMO and IP		Awaiting response to letter sent to complainant	Ongoing
08-23 BANES	24.04.23	MoP	Cllr	N/A	Initial assessment by DMO and IP	07.06.23	Take no action/rejected	Complete
09-23 PPPC	15.06.23	MoP	PCllr	6				Ongoing

KEY

P Cllr - Parish Councillor. MoP - Member of the Public. Cllr - BANES Councillor
O - Officer

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STANDARDS COMMITTEE WORKPLAN

Report title	Report author
<i>Tuesday 4th July 2023 5pm</i>	
Co-Chair report Members training (presentation) Annual report of the Standards Committee	Michael Hewitt Michael Hewitt Shaine Lewis
<i>Tuesday 17th October 2023 5pm</i>	
Annual Report on Local Government Ombudsman complaints Annual Review of the Code of Conduct (or later pending LGA survey)	Michael Hewitt Michael Hewitt

To be considered -

- Every meeting** – Report on the assessment of complaints
 Workplan

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The Local Government Association Model Code of Conduct for Councillors

Induction Training

LGA Prepared this training material

- To ensure consistency of training across England
- The only changes to the Model code by B&NES relate to:
 - Gifts & Hospitality Threshold to declare reduced to £25 instead of £50
 - Also added a requirement that Councillors take into account advice from the Monitoring Officer and the Section 151 Finance Officer

LGA Guidance on the Code & training material

- The LGA has prepared Guidance on the Model Code
- [LGA Guidance link](#)
- Councillor e-learning module on the Councillor code of Conduct
- [LGA e-learning link](#)

4 Parts to the training

- Part 1 - we will reflect on the importance of standards in public life
- Part 2 - I will outline the provisions of the B&NES code of conduct including the general and specific requirements of conduct for councillors
- Part 3 - we will explore interests, bias and predetermination
- Part 4 - I will explain Roles & Process of complaints

Overall aim of the training

To allow you to gain a basic understanding of the provisions of the code.

Part 1: The importance of standards in public life

“Local government impacts the lives of citizens every day, providing essential services to those it serves. Its decisions directly affect the quality of life of local people. High standards of conduct in local government are needed to demonstrate that those decisions are taken in the public interest and to maintain public confidence”

The Committee on Standards in Public Life

Introduction and welcome
from Lord Evans of
Weardale
Chair of the Committee on
Standards in Public Life

[You Tube link](#)

Part 2 Provisions of B&NES Code of Conduct



Principles & Obligations

- Everyone in public office at all levels who serve the public or deliver public services should uphold the **Seven Principles** of Public Life, also known as the Nolan Principles
- The Model Code also includes **general obligations** which were developed specifically for the role of councillor **10 Obligations**

The Nolan Principles

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- Selflessness
- Integrity
- Objectivity
- Accountability
- Openness
- Honesty
- Leadership

General obligations under the code of conduct

Page 57

1. Treating others with respect
2. Not bullying, harassing or discriminating
3. Not compromising the impartiality of officers
4. Dealing properly with information
5. Not bringing the council or your office into disrepute
6. Improper use of your position
7. Improper use of resources
8. Cooperating with code of conduct issues
9. Registering and disclosing interests
10. Dealing properly with gifts and hospitality

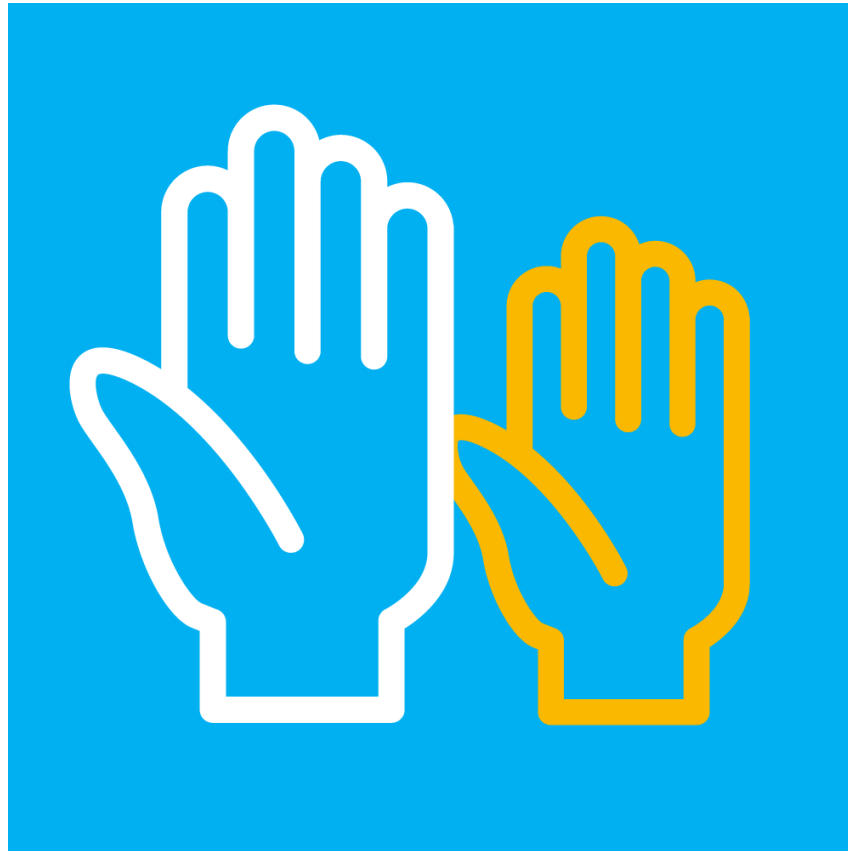
Which gives rise to most complaints- straw poll/show of hands clue column 1 only

B&NES Statistics- Last 5 years For All Councils

Subject of the complaint	17/18	18/19	19/20	20/21	21/22	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

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/Harassment/Discrimination	4	3	0	0	0	7
Bringing Council into disrepute	5	11	7	9	16	48
Improperly conferring advantage/disadvantage	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

When does the Code Apply



The code applies...

- When you are acting in your capacity as a councillor which includes when.....
 - You misuse your position as a councillor or
 - Your actions would give the impression to a reasonable member of public aware of all the facts that you are acting as a councillor

The code applies...

- Face-to-face meetings
- Online or telephone meetings
- Written communication
- Verbal communication
- Non-verbal communication
- Electronic and social media communication, posts, statements and comments

Examples from the Guidance

- An argument with your neighbour ?
- A councillor and an officer having a personal relationship ?
- Writing on **council notepaper** using **council e mail**, **using councillor business** cards or **wearing council regalia** ?
- An argument with a taxi driver and a threat to their licence ?

Social Media

- It is **Now** explicitly covered by the code
- Can be the main source of code of conduct complaints **much more prevalent in B&NES, recently**
- Useful guidance from the LGA on dealing with social media
- [Social Media Guidance link](#)

Examples from the Guidance

- Calling yourself a councillor (or not doing so) is not conclusive
- There must be a link within the posting or thread to your role as a councillor or to local authority business
- Councillor posted on Facebook (as a member of the public) that an officer should be sacked – covered by the code or not ?
- Councillor made insulting remarks about the Prime Minister – covered by the code or not ?

Part 3 interests



Interests -3 Types- DPI, ORI & NRI

Page 66

If something **directly relates** to

- your DPIs
- the financial interest or well-being of an ORI
- your financial interest or well-being (which is not a DPI) or
- the financial interest/well-being of a relative or close associate ...

You must

- **Disclose** the interest, not participate in any discussion and leave the room
- You can **only** speak on a matter if you have a dispensation
- You can **only** speak on the matter if members of the public are also allowed to speak at the meeting (**except** if it relates to a **DPI**)

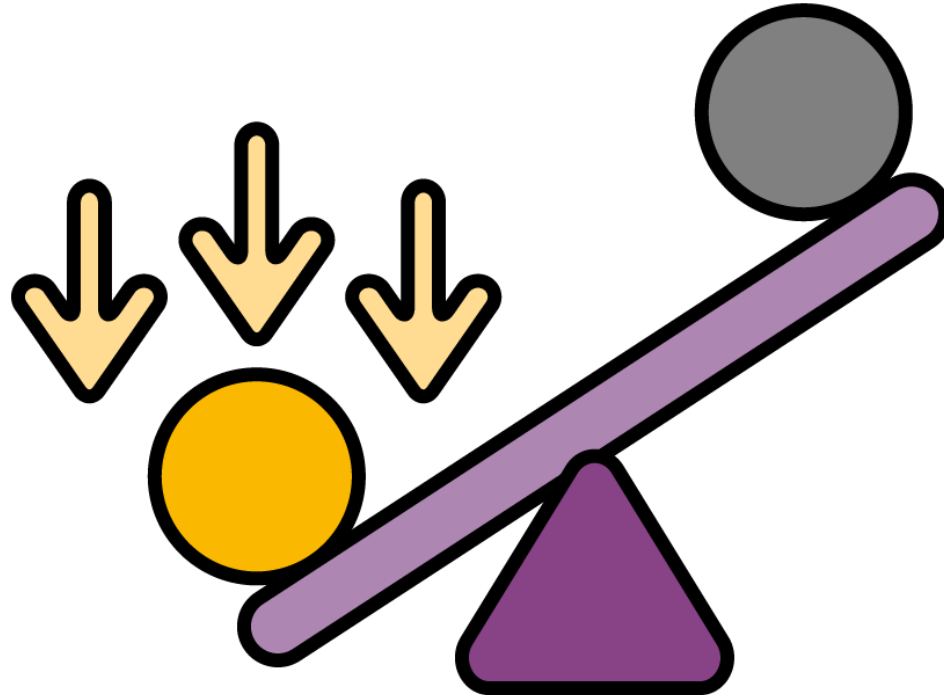
If something **affects**

- your financial interest or well-being
- the financial interest or well-being of a relative or close associate or
- the financial interest or well-being of an ORI ...

You Must

- **Disclose** the interest.
- You can **stay, speak and vote unless** you/they are affected to a greater extent than most people and the Public would think your judgment might be clouded
- If so, you must not participate in any discussion and leave the room (though you can speak if you have a dispensation or if the public are allowed to)

Bias and predetermination



Bias and predetermination

- Not explicitly covered in the code of conduct
- But important legal concepts to ensure that decisions are taken solely in the public interest and not to further any private interest.

Bias and predetermination

- Bias – where a decision maker's connections make it **appear** that there is a real danger of bias when s/he makes the decision **Relates to Interests**
- Pre-determination – where a decision maker has completely made up his/her mind before the decision is taken. **Relates to decisions**

Bias and predetermination

Page 73

- The risk in both cases is that the decision maker does not approach the decision with an objective, open mind
- This makes the local authority's decision challengeable
- **B&NES addition to the Model Code**
- **Take account of MO or CFO advice**

Section 25 Localism Act 2011

Predisposition

Page 74

- An elected or co-opted member is not to be taken to have had, or to appear to have had a closed mind when making a decision just because the decision-maker had previously done anything that directly or indirectly indicated what view the decision maker took or would or might take in relation to a matter and the matter was relevant to the decision

Example from the guidance (1)

A councillor said publicly that he was “inclined to go along with” a barrister’s recommendation in relation to a TVG application. He then voted on the decision making committee. **Predetermination or Not ?**

Example from the guidance (2)

- A district councillor also belongs to a parish council that has complained about the conduct of an officer of the district council. The officer has been disciplined. The officer has appealed to a councillor panel and the councillor seeks to sit on the panel hearing the appeal
- Bias or Not?

Roles and process for dealing with code of conduct complaints

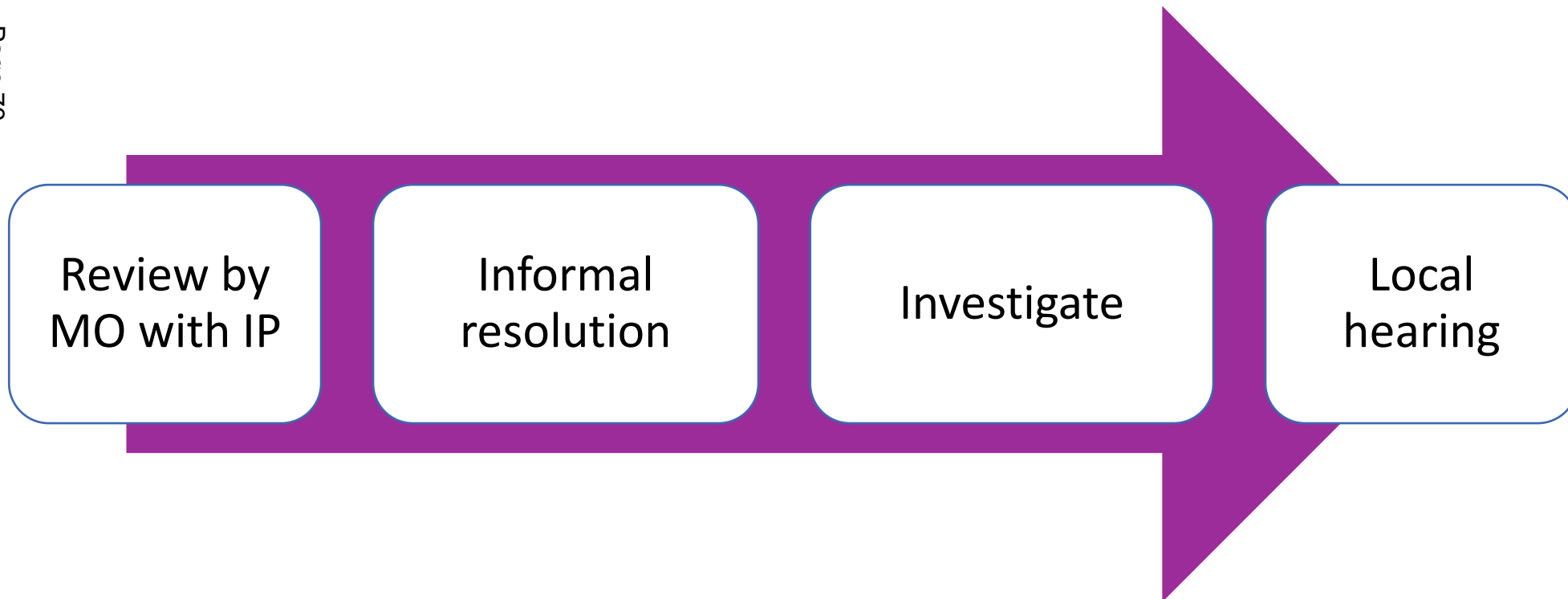


Part 4 Role of the Monitoring Officer re: standards

- Page 78
- Ensure the investigation of complaints
 - Maintain the registers of interests
 - Supporting councillors and complainants

Usual arrangements for dealing with standards complaints

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Conclusions and close

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Register for October/November Half day training
Joint Training with Avon Fire Authority

Dates

30 Oct	10:00-12:30	Keynsham in person
10 Nov	2:00- 4:30	Avonmouth in person
15 Nov	5:00- 7:30	via zoom/Teams online