

Standards Committee

Date: Tuesday, 22nd February, 2022

Time: 2.00 pm

Venue: Brunswick Room - Guildhall, Bath

To: All Members of the Standards Committee

Independent Members: Dr Axel Palmer, Dr Cyril Davies

Parish/Town Councillors: Kathy Thomas

Bath and North East Somerset Councillors: Councillor Sally Davis, Councillor Duncan Hounsell, Councillor Michelle O'Doherty, Councillor June Player and Councillor Rob Appleyard (sub for Councillor Paul Crossley)

Independent Person: Tony Drew

Chief Executive and other appropriate officers

Press and public

The agenda is set out overleaf.



Enfys Hughes

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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, 22nd February, 2022

at 2.00 pm in the Brunswick Room - Guildhall, Bath

A G E N D A

1. WELCOME AND INTRODUCTIONS

2. EMERGENCY EVACUATION PROCEDURE

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

3. APOLOGIES FOR ABSENCE AND SUBSTITUTION

4. DECLARATIONS OF INTEREST

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

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

(b) The nature of their interest.

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

Any Member who needs to clarify any matters relating to the declaration of interests is recommended to seek advice from the Council's Monitoring Officer 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 OCTOBER 2022 (Pages 5 - 10)

9. EXCLUSION OF THE PUBLIC

The Sub-Committee is asked to consider passing the following resolution:

“the Sub-Committee having been satisfied that the public interest would be better served by not disclosing relevant information, in accordance with the

provisions of Section 100(A)(4) of the Local Government Act 1972, **RESOLVES** that the public shall be excluded from the meeting for the following item(s) of business and the reporting of the meeting be prevented under Section 100A(5A), because of the likely disclosure of exempt information as defined in paragraphs 1 and 2 of Part 1 of Schedule 12A of the Act, as amended.

10. LOCAL HEARING ON INVESTIGATION INTO COMPLAINT 12-21 STANTON DREW PARISH COUNCIL (Pages 11 - 66)

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 OCTOBER, 2021

PRESENT:-

Independent Members: Dr Axel Palmer and Dr Cyril Davies

Parish Representatives: not in attendance

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

Officers: Michael Hewitt (Monitoring Officer) and Enfys Hughes (Democratic Services Officer)

Independent Person: Tony Drew

1 WELCOME AND INTRODUCTIONS

The Chair welcomed everyone to the first face-to-face meeting of Standards following virtual meetings during the pandemic. He noted that Councillor Jess David was no longer a member of the Committee and had been replaced by Councillor Paul Crossley who he welcomed.

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 Deborah Russell and Councillor Michelle O'Doherty.

4 DECLARATIONS OF INTEREST

There were none.

5 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

There was none.

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

Statement from Joanna Wright, Green Party Councillor for Lambridge.

“Please will the Standards Committee work with me to establish a new protocol for how B&NES Councillors register and declare any beneficial interests in land.

Presently, all B&NES Councillors have only to declare a proprietary interest, including any property from which they receive rent or which they are a mortgagee, or own on any property located inside of B&NES council’s area.

What Councillors do not have to declare is any proprietary interest on any property located outside of B&NES Council’s area.

It is clear that as Councillors we do represent local residents and we do work to develop better services and deliver local change. We are also all now part of the West of England Combined Authority (WECA), so our present standards are already compromised by our active involvement across the wider region. If we are all to take decisions fairly, openly and transparently, which is a key component of the B&NES constitution then it would now seem time for a change in the Councillors declared property interests.

I propose that every B&NES councillor should declare a proprietary interest, including any property from which they receive rent or which they are a mortgagee, or own anywhere in the world.

It is clear that issues on the cost of living for many across the UK is prohibitive. Homelessness in many forms from sofa surfing to sleeping on the streets is a reality for many due to the high cost of housing. In fact, in the UK there are 1.6 million households on the social housing waiting list.

I would urge all Councillors to read the recent June article by George Monbiot in the Guardian on Second homes and their gross injustice due to the many tax breaks.

In it Monbiot states:

“just as homelessness is the extreme and visible symptom of a much bigger problem, so are second homes. Though we need to build far more social homes, the underlying reason for high house prices is not the lack of supply. The number of dwellings in the UK has been growing faster than the number of households, and there are now more bedrooms per person than ever before. The problem is the grossly unequal distribution of space. Houses are unaffordable because of the purchasing power of landlords and speculators, and their use as investments. Government figures show that even if 300,000 new homes are built every year for 20 years, house prices will be only 6% lower in real terms than they would otherwise have been.”

One of the key standards set in the B&NES constitution is to lead by example and act in a way that secures public confidence in the role of a councillor. It is quite clear that the situation on housing is not going to be dealt with by the single act of declaring what one owns where, but what it does do is show a commitment to transparency and a recognition that our individual actions on ownership is impacting the many lives of people we do represent.

I therefore ask that the Standards Committee agree to reword the B&NES constitution and that all Councillors must declare all the property interests that they have anywhere in the world.

There were no questions. The Chair reminded members that there was a report on the agenda in response to the statement.

8 MINUTES OF THE MEETING OF 13TH APRIL 2021

RESOLVED that the minutes of the meeting held on 13th April 2021 be confirmed as a correct record and signed by the Chair.

9 DECLARATION OF INTERESTS - SECOND HOMES

The Monitoring Officer presented the report. He stated that the current legislation required a register of the disclosure of pecuniary interests in respect of land and property within the BANES Council area and was to ensure transparency so that councillors would not have a conflict of interests when making decisions. Councillor Wright was requesting that interests be registered for property outside the BANES area. If this was adopted it would mean a breach of the Code of Conduct which had limited sanctions.

He went on to explain that councillors had rights as individuals and this proposal could impinge on their human right to a private and family life. This could be seen as using legislation for an improper purpose.

During discussion the following issues were raised:

- The proposal related to second properties
- whether councillors had second properties elsewhere would not impact on their decision-making as a BANES councillor
- if properties were over the border in a neighbouring authority it could be said that highways decisions could mean a conflict of interest
- members of WECA (West of England Combined Authority) would follow that Code of Conduct
- the legislation referred to a register of interests not assets and members had rights to use them accordingly, for example private schooling, holidays abroad and healthcare
- there were cost implications of implementing this process
- it was unlikely that this would come to the Council's attention
- this appeared to be an argument to influence social policy which was not the purpose of the Code of Conduct and there were other channels to pursue these policy objectives.

On a motion proposed by Councillor Sally Davis, seconded by Councillor Duncan Hounsell it was

RESOLVED that Standards Committee do not recommend to Council to change the Code of Conduct requiring members to register any property interest held outside the Council area, as a pecuniary interest.

(Voting 2 – for, 2 – against, Chair’s casting vote – for)

10 ANNUAL REPORT ON COMMISSION FOR LOCAL ADMINISTRATION IN ENGLAND (LOCAL GOVERNMENT & SOCIAL CARE OMBUDSMAN) COMPLAINTS

The Monitoring Officer stated that the Customer Feedback and Standards Manager would present the report and he was welcomed to the meeting.

He explained that he worked in One West and came under the audit function. The complaints process began with stage 1, where complaints were directed to the service team and there were approximately 2,000 per year. If they were not resolved stage 2 involved an independent team investigating the complaint, of these there were approximately 30 – 40 per year. At that point the council complaints procedure is exhausted and if still dissatisfied they can complain to the ombudsman, last year 3-4 cases. Of the 30 complaints received last year 27 were closed as no fault. The numbers had dipped, perhaps due to Covid but this was against the national trend where complaints had increased.

The Monitoring Officer stated that the reduction in number of complaints was also down to the team’s thoroughness in addressing complaints.

RESOLVED to note the Annual Review.

11 REPORT ON THE ASSESSMENT OF COMPLAINTS

The Monitoring Officer presented the report and updated the meeting on the current position.

He stated that some complaints arose when there was a personality clash between people. The Independent Person stated that it was important to recognise if people were speaking in their role as a councillor or it related to conduct as a private individual. It was noted that councillors were public figures. Councillor Hounsell informed the meeting that Salford Parish Council had a policy for dealing with unreasonable behaviour and vexatious complaints from members of the public. This would be forwarded to members of Standards Committee.

RESOLVED that the Report on the Assessment of Complaints be noted.

12 ANNUAL REPORT OF STANDARDS COMMITTEE TO COUNCIL

The Monitoring Officer presented the report, confirmed it covered the period 1st April 2020 to 31st March 2021 and explained that it was good practice to produce the annual report. One item of significance was the adoption of the new Code of Conduct.

He referred to an error in the appendix in the table ‘V Outcome of complaints’ in section 6, for 20/21 breach stated 1 and this should be 0. No breach in the row beneath should be 11.

RESOLVED that the work of Standards Committee as set out in the annual report be noted.

13 WORKPLAN FOR THE STANDARDS COMMITTEE

The Monitoring Officer commented that the outstanding item was training for members on oral hearings. He said if a future meeting was cancelled due to no business then the training would take place as a private session for members.

RESOLVED to note the workplan.

The meeting ended at 5.08 pm

Chair(person)

Date Confirmed and Signed

Prepared by Democratic Services

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Bath & North East Somerset Council		
MEETING	Standards Committee	
MEETING DATE	22 February 2022	EXECUTIVE FORWARD PLAN REFERENCE:
TITLE:	Local Hearing on Investigation into Complaint 12-21 STANTON DREW PARISH COUNCIL	
WARD:	All	
LIKELY TO BE TAKEN IN EXEMPT SESSION		
List of attachments to this report: Appendix 1 - Hearing Procedure (open) Appendix 2 - Public Interest Test (Open) Appendix 3 - Report of Investigation Officer (Exempt)		

1 THE ISSUE

- 1.1 The Committee is asked to consider the report of the Investigating Officer; agree the facts of the complaint; decide whether there has been any breach of the Code and make any recommendations arising from their conclusions.

2 RECOMMENDATION

- 2.1 The Committee is asked to consider the report and recommendations of the Investigating Officer's report.

3 THE REPORT

- 3.1 Following receipt of the complaint and consideration by the Monitoring Officer and Independent Person, an Investigating Officer was appointed to report on the concerns raised
- 3.2 The Investigating Officer has completed their enquiries and their report is attached at Appendix 3 as an exempt item.

3.3 The Committee is asked to consider the report under the procedure attached at Appendix 1.

4 STATUTORY CONSIDERATIONS

4.1 A relevant authority must promote and maintain high standards of conduct by members and co-opted members of the authority. Pursuant to section 28(6) Localism Act 2011 a relevant authority other than a parish council must have in place arrangements under which decisions on allegations can be made. The Standards Committee is the mechanism by which decisions on allegations are made for itself and Parish Councils in its area.

5 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)

5.1 None

6 RISK MANAGEMENT

6.1 No risk assessment related to the issue and recommendations has been undertaken.

7 EQUALITIES

7.1 There are no equalities issues arising directly from this report.

8 CLIMATE CHANGE

8.1 There are no climate change issues arising directly from this report.

9 OTHER OPTIONS CONSIDERED

9.1 None

10 CONSULTATION

10.1 The Independent Person and Chair of the Standards' Committee have been consulted.

Contact person	Michael Hewitt, Monitoring Officer & Head of Legal & Democratic Services (01225) 395125
Background papers	None
Please contact the report author if you need to access this report in an alternative format	

BATH AND NORTH EAST SOMERSET COUNCIL STANDARDS COMMITTEE HEARING PROCEDURE

Members should bear in mind that a Standards Committee Hearing is a formal meeting of the Authority and is not a Court of law. It does not hear evidence under oath, but it does decide factual evidence on the balance of probabilities.

The Standards Committee should work at all times in a fair, independent and politically impartial way. This helps to ensure that members of the public and Members of the Authority have confidence in its procedures and findings. The Chair and the Committee have the ability to amend the procedures as necessary from time to time as circumstances of individual cases to ensure the procedures fair and independent

The Committee will follow the following stages:-

- (1) Formal introductions
- (2) Making Findings of Fact
- (3) Did the Subject Member fail to follow the Code of Conduct?
- (4) Any sanctions if the Subject Member has been found to have breached the Code of Conduct
- (5) Decision.

Stage 1 Formal introductions.

The Chair will outline how the Committee will be run and deal with any preliminary procedural issues. For example, determine whether the matter should be held in private and the reasons for this.

Stage 2 Making Findings of Fact

The Committee will consider whether there are any significant disputed facts contained within the Investigation Report.

If there are no disputed facts, the Committee will move onto the next stage.

If there is a dispute, the Investigator will be invited to make representations to support the relevant findings of fact in the Report.

The Investigator may call any necessary supporting witnesses to give evidence.

The Subject Member will then have an opportunity to challenge any evidence put forward.

The Subject Member will make representations to support their version of facts and call evidence as necessary.

The Investigator will be given the opportunity to challenge any evidence put forward by the Member.

The Committee can at any time ask any questions or seek clarification from either party via the Chair.

The Committee will retire, along with the Monitoring Officer, to deliberate on the representations and evidence.

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

Stage 3 Did the Subject Member fail to follow the Code of Conduct?

The Subject Member will be invited to make representations why the Committee should decide that they have not breached the Code of Conduct.

The Committee will invite the Investigator to make any verbal or written representations.

The Committee will raise /clarify issues. The views of the Independent Person will be sought.

The Subject Member should be invited to make any final, relevant points as to whether there has been a breach of the Code of Conduct.

The Committee will retire, along with the Monitoring Officer, to determine whether there has been a breach of the Code of Conduct.

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

If the Committee decides that the Subject Member has not failed to follow the Code, the Committee can move onto consider whether it should make any recommendations to the Authority or the Monitoring Officer following the investigation, to promote high standards of behaviour.

Stage 4 If the Subject Member has been found to have breached the Code of Conduct

The Committee will consider any verbal or written representations from the Investigator and the Subject Member as to:-

- Whether the Committee should apply a sanction;
- What form any sanction should take.

The Committee will raise /clarify issues. The views of the Independent Person will be sought.

The Committee will retire, along with the Monitoring Officer, to determine whether to impose a sanction and if so, what it should be.

Stage 5 Decision

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

After considering any verbal or written representations from the Investigator, the Committee will decide whether it should make any recommendations to the relevant Authority with a view to promoting high standards of conduct.

A full written decision will be provided to all parties as soon as reasonably practicable after the Hearing.

There is no formal right of appeal.

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Access to Information Arrangements

Exclusion of access by the public to Council meetings

Information Compliance Ref: LGA 675437

Meeting / Decision: Standards Committee

Date: 20th January 2022

Author: Michael Hewitt

Report Title: Local Hearing on Investigation into Complaint

Appendix 1 - Hearing Procedure

Appendix 2 - Public Interest Test

Exempt Appendix 3 - Report of Investigation Officer

The Report contains exempt information, according to the categories set out in the Local Government Act 1972 (amended Schedule 12A). The relevant exemption is set out below.

Stating the exemption:

1. Information relating to any individual
2. Information which is likely to reveal the identity of an individual

The public interest test has been applied, and it is concluded that the public interest in maintaining the exemption outweighs the public interest in disclosure at this time. It is therefore recommended that the Exempt Appendix be withheld from publication on the Council website. The paragraphs below set out the relevant public interest issues in this case.

PUBLIC INTEREST TEST

If the Committee wishes to consider a matter with press and public excluded, it must be satisfied on two matters.

Firstly, it must be satisfied that the information likely to be disclosed falls within one of the accepted categories of exempt information under the Local Government Act 1972.

The officer responsible for this item believes that this information falls within the following exemptions and this has been confirmed by the Council's Information Compliance Manager.

The following exemptions are engaged in respect to this report:

1. Information relating to any individual
2. Information which is likely to reveal the identity of an individual

Exemptions 1 and 2 above must be considered in conjunction with the Principles of the Data Protection Act 1998 (DPA). It is considered that disclosure of the information in this appendix would breach the first principle of the DPA, which requires personal data to be fairly and lawfully processed.

Secondly, it is necessary to weigh up the arguments for and against disclosure on public interest grounds.

Factors in favour of disclosure include:

- furthering public understanding of the issues involved;
- furthering public participation in the public debate of issues, in that disclosure would allow a more informed debate;
- promoting accountability and transparency by the Council for the decisions it takes;
- allowing individuals and companies to understand decisions made by the Council affecting their lives and assist individuals to challenge those decisions.

However, there is a real risk that the first Principle of the DPA will be breached by this disclosure, and that any individual/s identified could bring a successful action against the Council if the disclosure occurred. Therefore, it is recommended that exemptions 1 and 2 in Schedule 12A stand, that the report be discussed in exempt session and that any reporting on the meeting is prevented in accordance with Section 100A(5A)

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

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