



Members of the Standards Advisory Committee:

Mr T Evans, Mr J Gamlin, Mr I Gunn,
Cllrs J Davis, Mrs S O de Renzy-Martin, Mrs P Webber,
P H Murphy, N Thwaites and D J Westcott
Independent Person: Louise Somerville

SAC/BL/kk

Mr Lang
Tel: 01984 635200
Email: bdlang@westsomerset.gov.uk

5 June 2017

**THE PRESS AND PUBLIC ARE WELCOME TO ATTEND THE MEETING
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FORMAT OR IN OTHER LANGUAGES ON REQUEST**

Dear Sir/Madam

I hereby give you notice to attend the following meeting:

STANDARDS ADVISORY COMMITTEE

Date: Tuesday 13 June 2017
Time: 4.30 pm
Venue: Council Chamber, West Somerset House, Williton

Please note that this meeting may be recorded. At the start of the meeting the Chairman will confirm if all or part of the meeting is being recorded.

You should be aware that the Council is a Data Controller under the Data Protection Act. Data collected during the recording will be retained in accordance with the Council's policy.

Therefore unless you advise otherwise, by entering the Council Chamber and speaking during Public Participation you are consenting to being recorded and to the possible use of the sound recording for access via the website or for training purposes. If you have any queries regarding this please contact Committee Services on 01643 703704.

Yours faithfully

BRUCE LANG
Proper Officer

RISK SCORING MATRIX

Report writers score risks in reports uses the scoring matrix below

Risk Scoring Matrix							
Likelihood (Probability)	5	Almost Certain	Low (5)	Medium (10)	High (15)	Very High (20)	Very High (25)
	4	Likely	Low (4)	Medium (8)	Medium (12)	High (16)	Very High (20)
	3	Possible	Low (3)	Low (6)	Medium (9)	Medium (12)	High (15)
	2	Unlikely	Low (2)	Low (4)	Low (6)	Medium (8)	Medium (10)
	1	Rare	Low (1)	Low (2)	Low (3)	Low (4)	Low (5)
			1	2	3	4	5
			Negligible	Minor	Moderate	Major	Catastrophic
Impact (Consequences)							

Likelihood of risk occurring	Indicator	Description (chance of occurrence)
1. Very Unlikely	May occur in exceptional circumstances	< 10%
2. Slight	Is unlikely to, but could occur at some time	10 – 25%
3. Feasible	Fairly likely to occur at same time	25 – 50%
4. Likely	Likely to occur within the next 1-2 years, or occurs occasionally	50 – 75%
5. Very Likely	Regular occurrence (daily / weekly / monthly)	> 75%

- Mitigating actions for high ('High' or above) scoring risks are to be reflected in Service Plans, managed by the Group Manager and implemented by Service Lead Officers;
- Lower scoring risks will either be accepted with no mitigating actions or included in work plans with appropriate mitigating actions that are managed by Service Lead Officers.

STANDARDS ADVISORY COMMITTEE

AGENDA

**Tuesday, 13 June 2017 at 4.30 pm in the
Council Chamber, West Somerset House, Williton**

1. **Appointment of Chairman**

2. **Appointment of Vice-Chairman**

3. **Apologies for Absence**

4. **Minutes**

To note the minutes of the meeting of the Standards Advisory Committee held on 14 March 2016 – **SEE ATTACHED**

5. **Declarations of Interest**

To receive and record any declarations of interest in respect of any matters included on the agenda for consideration at this meeting.

6. **Public Participation**

The Chairman to advise the Committee of any items on which members of the public have requested to speak and advise those members of the public present of the details of the Council's public participation scheme.

For those members of the public wishing to speak at this meeting there are a few points you might like to note.

A three-minute time limit applies to each speaker and you will be asked to speak before Councillors debate the issue. There will be no further opportunity for comment at a later stage. Your comments should be addressed to the Chairman and any ruling made by the Chair is not open to discussion. If a response is needed it will be given either orally at the meeting or a written reply made within five working days of the meeting.

7. **Raising Standards : Parish Council Health Checks**

Presentation by Mr Justin Robinson, County Executive Officer of the Somerset Association of Local Councils. To be followed by any questions from Members of the Advisory Committee.

8. **Monitoring Officer's Update**

To consider a verbal update from the Monitoring Officer on activities undertaken since the last meeting of the Committee. One of the topics to be covered will relate to the current Standards Regime – A copy of a letter sent to

the Secretary of State for Communities and Local Government by Sedgemoor District Council – on behalf of many of the local authorities in the South-West - is attached for information.

9. Date of Future Meeting

10 October 2017 at 4.30 pm in the Council Chamber, West Somerset House

Note: other 'meetings' of the Standards Advisory Committee may be convened to act as consultee with the Monitoring Officer when undertaking an initial assessment in response to the receipt of any formal complaints relating to allegations of a breach of a Code of Conduct.

The Council's Corporate Priorities:

- Local Democracy:
Securing local democracy and accountability in West Somerset, based in West Somerset, elected by the people of West Somerset and responsible to the people of West Somerset.

- New Nuclear Development at Hinkley Point:
Maximising opportunities for West Somerset communities and businesses to benefit from the development whilst protecting local communities and the environment.

The Council's Core Values:

- Integrity
- Respect
- Fairness
- Trust

STANDARDS ADVISORY COMMITTEE

MINUTES OF THE MEETING HELD ON 14 MARCH 2016

AT 4.30 PM

IN THE DUNKERY ROOM, WILLITON

Present:

Mr T Evans Chairman

Councillor J Davis

Mr J Gamlin

Councillor P H Murphy

Councillor D J Westcott

Councillor S O de Renzy-Martin

Mr I Gunn

Councillor N Thwaites

Officers in Attendance:

Monitoring Officer (B Lang)

Deputy Monitoring Officer and Meeting Administrator (R Bryant)

SA23 Apology for Absence

Councillor P Webber.

SA24 Welcome and Introductions

The Chairman welcomed everyone to the meeting and Members and Officers introduced themselves.

SA25 Minutes of the Meeting held on 13 October 2015

(Minutes of the Meeting of the Standards Advisory Committee held on 13 October 2015 - circulated with the Agenda.)

RECOMMENDED that the Minutes of the Meeting of the Standards Advisory Committee held on 13 October 2015 be noted and would be confirmed as a correct record at the meeting of Council to be held on 20 April 2016.

SA26 Declarations of Interest

No declarations of interest were declared.

SA27 Public Participation

No member of the public had requested to speak.

SA28 **Protocols between the Monitoring Officer of West Somerset Council and the Avon and Somerset Constabulary**

The Monitoring Officer reported that two protocols between West Somerset Council and the Avon and Somerset Constabulary had recently been drafted. These were intended to cover the reporting of potential criminal offences arising from the failure to register or declare Disclosable Pecuniary Interests (DPI) or from speaking and voting where a Member had a DPI and had not first sought a dispensation.

Although of relevance, one of the protocols covered in some detail the procedures which the Police would be required to follow once a complaint against the non-declaration of a DPI had been received.

The protocol which related most to the Council was generally accepted although several amendments to the wording were suggested and agreed by the Advisory Committee.

RECOMMENDED that:-

- (a) The protocol which detailed the procedures the Police would follow in the future should a complaint be received about the non-declaration of a Disclosable Pecuniary Interest by a Councillor be agreed as submitted; and
- (b) The protocol which related most to West Somerset Council – set out in the Appendix to these Minutes – incorporating the changes agreed by the Standards Advisory Committee be approved.

SA29 **Monitoring Officer's Update**

The Monitoring Officer reported on activities undertaken since the last meeting of the Advisory Committee.

A further Code of Conduct training session for Parish Council representatives had been provided by the Monitoring Officer and Mr I Gunn at Withypool Village Hall on 13 January 2016.

Even though there had only been 10 attendees, the message of the training had been well received.

Three training sessions had now been provided and copies of the 'slides' used had been sent to the Clerks of all Town and Parish Councils. Nevertheless, it was apparent that a significant number of newly elected Parish Councillors had not undertaken the training offered. This continued to be a concern to the Advisory Committee.

With regard to the Police Protocol(s), once these had been approved by Full Council, it was agreed that copies should be placed on the Council's Website and circulated to all District Councillors and the Town and Parish Council Clerks.

Reference Minute No. SA19, the Monitoring Officer provided an update on the receipt of completed Declaration of Interest forms from Town and Parish Councils.

Although 28 of the Parishes had submitted all of their Declarations of Interest forms, details of the outstanding declarations from the other eight Parish Councils were submitted. Further reminders would be sent out shortly in an effort to complete the task and enable the Council's website to be fully updated.

Also reported that since the last meeting one complaint had been received about a Disclosable Pecuniary Interest that had not been declared which had led to the involvement of the Police. A further complaint against a Town Councillor had also very recently been received. An informal meeting of the Standards Advisory Committee would be called shortly to decide the way forward.

RECOMMENDED that the Monitoring Officer's update be noted.

SA30

Exclusion of the Press and Public

RESOLVED that the press and public be excluded for the following item on the grounds that, if the press and public were present during that item, there would be likely to be a disclosure to them of exempt information of the class specified in Paragraph 2 of Part 1 of Schedule 12A of the Local Government Act 1972 as amended as follows:-

The item (Minute No SA31) contained information that could release confidential information relating to the identities of individuals. It was therefore agreed that after consideration of all the circumstances of the case, the public interest in maintaining the exemption outweighed the public interest in disclosing the information.

SA31

Member Code of Conduct

The Monitoring Officer provided details to the Members present of the recent incident where a member had taken part in an issue despite having a Disclosable Pecuniary Interest in the matter. As required by legislation, the matter had been referred to the Police who had undertaken an investigation. The outcome of the matter was reported together with details of a change to the Council's Planning call in procedure which had been made as a result.

Members were also provided with details of the complaint made against a Town Councillor. Full details had been requested and these were awaited.

RECOMMENDED that:-

(1) The report be noted; and

(2) The learning points that had emerged from the Disclosable Pecuniary Interest issue be highlighted with both the District Councillors and the Parish Councils in West Somerset.

SA32 Date of Future Meeting

- 7 June 2016 at 4.30 pm in the Council Chamber, West Somerset House.

The meeting closed at 5.49 pm

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Appendix to the Minutes

PROTOCOL BETWEEN THE MONITORING OFFICER OF WEST SOMERSET COUNCIL AND THE AVON AND SOMERSET CONSTABULARY

Purpose

To agree a protocol for the reporting of potential criminal offences arising from the failure to register or declare disclosable pecuniary interests or from speaking and voting where a member has a disclosable pecuniary interest and has not first sought a dispensation.

References to the Monitoring Officer also include the Deputy Monitoring Officer where the Monitoring Officer is absent or unable to act. In these circumstances the Deputy Monitoring Officer has full power to undertake the Monitoring Officer role.

Introduction

Section 34 of The Localism Act 2011 created a criminal offence where a Member or co-opted Member fails, without reasonable excuse, to comply with the requirements of the Act to register or declare disclosable pecuniary interests (DPIs) or takes part in council business at meetings or when acting alone when prevented from doing so. If found guilty of such an offence the penalty can be a fine (under the current levels) of up to £5,000 and a disqualification from holding office for up to 5 years.

The Code of Conduct

West Somerset Council adopted a new Code of Conduct at full council on 27th June, 2012. The Code incorporates the legislation and provides, at Appendix 3, that it is a criminal offence to;

- Fail to notify the Monitoring Officer of any disclosable pecuniary interest within 28 days of election,
- Fail to disclose a pecuniary interest at a meeting if it is not on the Register,
- Fail to notify the Monitoring Officer within 28 days of a disclosable pecuniary interest that is not on the register that you have disclosed at a meeting,
- Participate in any discussion or vote on a matter in which you have a disclosable pecuniary interest,
- As a Cabinet member discharging a function acting alone, and having a disclosable pecuniary interest in such a matter, failing to notify the Monitoring Officer of the disclosable pecuniary interest within 28 days of the interest,

- Knowingly or recklessly providing information that is false or misleading in notifying the Monitoring Officer of a disclosable pecuniary interest or in disclosing such interest to a meeting.

The Process

If the Monitoring Officer becomes aware, either via a complaint made under the Council Arrangements, or via any other means he/she will first gather together all relevant documentation for consideration. Having ascertained that no dispensations have been granted, if he/she is of the opinion that there is evidence of such a breach of the Code he/she will then consult the Chairman or Vice-Chairman of the Standards Advisory Committee confidentially for his / her opinion. No contact will be made with the subject member against whom the complaint is made as this may prejudice any investigation the Police may wish to undertake or subsequent prosecution. In addition the Monitoring Officer and the Chairman or Vice-Chairman will be unable to assist or advise the subject member against whom the complaint is made.

If the Monitoring Officer concludes that there is evidence of a breach he/she must report the matter to the police and send all relevant documentation to them. The Monitoring Officer does not have any discretion in this instance and it will be for the Police to conduct whatever investigation they consider appropriate. The Monitoring Officer must contact the Police to inform them of the situation before sending the documentation.

Similarly if the Police receive a complaint from a member of the public they will inform the Monitoring Officer of the receipt of that complaint.

The Monitoring Officer and/or the Chairman or Vice-Chairman will make themselves available for interview as witnesses in any subsequent court processes should this be required by the Police or Crown Prosecution Service (CPS).

The Monitoring Officer will maintain regular contact with the Police to obtain updates on the progress of their investigation.

The Monitoring Officer will report the matter and any progress in the investigation confidentially to the Standards Advisory Committee, unless the matter concerns a member of that Committee when only the Chairman will be informed. If the matter concerns the Chairman of that Committee no report will be made until after the police have interviewed the Chairman and the CPS have agreed for the matter to be disclosed.

Once the police have completed their investigation and a decision has been made by the CPS the process will be as follows;

- If a prosecution proceeds the Monitoring Officer will take no further action apart from updating the Standards Advisory Committee on its progress,
- If the CPS decides not to proceed with a prosecution the Monitoring Officer will then process the complaint through the Council's Arrangements for dealing with such complaints. It is accepted that the CPS require a higher standard of proof (beyond reasonable doubt) for criminal prosecution whereas the local process need only consider the balance of probabilities and therefore whilst there may not be a criminal offence there still may be a breach of the Code of Conduct.

In the event that the Council pursues the matter further in terms of a Code of Conduct breach, it will inform the Police of their decision.

DRAFT

Secretary of State for Communities and
Local Government
Eland House
Bressenden Place
LONDON SW1E 5DU

Legal Services

Reference: MW/JP

Contact: Councillor John Woodman

Direct Line: 01278 435734

Fax: 01278 435500

E-mail: john.woodman@sedgemoor.gov.uk

Date: Tuesday, 2 May 2017

Dear Sir

Local Authorities and the Standards regime

I am writing to you to relay some concerns raised by Standards Committees across the South West about the current Standards regime.

The concern is in relation to the limits on sanctions that Councils can now apply against councillors. The Committee finds it disappointing that there is no middle ground between the criminal sanctions for Disclosable Pecuniary Interest transgressions and the relatively tame sanctions available to the council for other transgressions. The Standards Committee do not consider the latter to provide a sufficient deterrent to poor behaviour by councillors.

The Committee would welcome the availability of sanctions with some teeth such as suspension. These are sanctions that were available to the committee before 2012 and as you will recall, the First Tier Tribunal also had the ability to disqualify members where their poor behaviour was sufficiently serious.

An example of the lack of teeth is demonstrated by a scenario where a member carries out a serious pattern of bullying against a Council officer within two months of being elected. Even if they are found to be in breach of the Code of Conduct, no action can be taken to suspend or disqualify them. It is recognised that the public can vote with their feet through the ballot box. However, where, as in this scenario, a Councillor makes a serious transgression early in their term of office, the public have to wait almost four years to vote them out at the next election.

It is considered that the ability to suspend councillors for short periods for more serious transgressions would provide an effective local deterrent to poor conduct together with the ability to defer the suspension subject to good behaviour. The Committee would ask, therefore, that you increase the range of sanctions available to local standards committees.

Another issue of concern is the fact that criminal acts in a Members personal life cannot be taken into account. For example, where a member committed benefit fraud, his Council, a District Council responsible for administering benefits, was unable to suspend or disqualify him. It is therefore felt appropriate for a Standards Committee to be able to take into account behaviour of a councillor in his private life where this amounts to criminal behaviour. The Committee would therefore ask that you amend the legislation so that criminal activity in a member's personal life can be taken into account.

We are also disappointed by the inability for the Independent Person to be a co-opted member of the Committee. Similarly, the Committee are disappointed that in order to co-opt a Parish Representative onto the Committee as a voting member, a Joint Committee has to be set up with Town and Parish Councils. In our experience this is something that Towns and Parishes do not wish to pursue. We see

the role of co-opted members of committees as providing effective balance to the councillor representation on the committee in wider discussions on matters such as member conduct and member /officer relations. The Committee would ask, therefore, that Standards Committees be given the power to co-opt Independent Persons and Parish Representatives on to the Committee as full voting members of the Committee.

I hope you will give serious consideration to these suggestions and I look forward to receiving your reply which I will pass on to the Standards Committees across Somerset.

Yours sincerely



Cllr John Woodman, Standards Committee Chair, Sedgemoor District Council

Cllr Jeremy Christopher, Leader, Teignbridge District Council

Cllr Anna Groskop, Standards Committee Chair, South Somerset District Council

Cllr Alan Gloak, Standards Committee Chair, Somerset County Council

Cllr Peter Bradshaw, Standards Committee Chair, Mendip District Council

Cllr David Thomas, Standards Committee Chair, Torbay District Council

Cllr Anne Elder, Standards Advisory Committee Chair, Taunton Deane Borough Council

Cllr Tim Evans, Standards Committee Chair, West Somerset Council

Cllr Anthony Leech, Chair, West Devon Borough Council Standards Committee & South Hams District Council

Cllr Loveday Jenkin, Standards Committee Chair, Cornwall County Council

Cllr Walter White, Chair, Ethics Committee, North Devon Council

Cllr Ken Carroll, Standards Committee Chair, Torridge District Council



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IN PEOPLE** | Gold