

**MINUTES OF A MEETING OF THE  
STANDARDS COMMITTEE  
HELD ON TUESDAY 24 FEBRUARY 2009 FROM 7.00 PM TO 8.25 PM**

*Present:-*

***Wokingham Borough Members:-*** Annette Drake, Malcolm Storry and Bob Wyatt

***Independent Members:-*** David Comben, Eric Davies, Anita H Grosz, and David Soane

***Parish Council representative:-*** Mr J Heggadon, Roy Mantel and Ray Duncan

*Also present:-* Kevin Jacob, Principal Democratic Services Officer,  
Colin Lawley, Principal Solicitor

## **PART I**

### **25. MINUTES**

The Minutes of the meeting of the Committee held on 8 December 2009 were confirmed as a correct record and signed by the Chairman.

Referring to Minute 22 and the decision made by the Committee to undertake visits of Town and Parish Councils, Malcolm Storry summarised a number concerns of expressed by Woodley Town Council regarding the visits and the etiquette in which Woodley Town Council had been informed of them.

Kevin Jacob confirmed that a letter had been received setting out these concerns and commented that he had responded by seeking to clarify the intention of the Committee in undertaking the visits and the role of the Committee in seeking across the Borough as a whole.

### **26. APOLOGIES**

An apology for absence was submitted from John Giles.

### **27. DECLARATIONS OF INTEREST**

There were no declarations of interest.

### **28. PUBLIC QUESTION TIME**

No public questions had been received.

### **29. MEMBER QUESTION TIME**

No Members questions had been received.

### **30. CONFIRMATION OF COMPLETION OF A REGISTER OF INTERESTS FOLLOWING ELECTION**

Kevin Jacob reported that following her election, Councillor Kate Haines had completed a register of interests form as required by the Code of Conduct following her election to Wokingham Borough Council.

John Heggadon raised the issues of whether it was necessary for councillors who were members of more than one authority, (i.e. parish/borough) to complete individual declarations forms for each authority they were members of.

Colin Lawley confirmed that it was necessary for members to complete separate forms.

### **31. STANDARDS BOARD ENGLAND BULLETIN NO:41**

Kevin Jacob referred the Committee to the December edition of the Standards Board for England Bulletin which had been included within the Agenda, (pages 6 to 13) for information and discussion.

Members' attention was drawn to the page 7 of the Bulletin which included an article on governance arrangements for partnerships and research being undertaken by the Standards Board for England on mechanisms to ensure that local authority partners work to high standards of behaviour. This followed on from a question raised at the previous meeting concerning the application of the Code of Conduct and the applications of high standards of ethical governance to partnership arrangements given that local authorities were increasingly working with partners through formal and informal partnerships. The article highlighted some of the practical difficulties of ensuring high standards when organisations worked together, but suggested that as minimum local authorities should agree some shared values and standards of conduct with their partners at the outset of any joint working.

Colin Lawley referred to page 3 of the document and the article relating to the use of alternative action by assessment sub-committees in assessing complaints as part of the local filter arrangements for complaints. The article indicated that it would not be appropriate for the assessment sub-committee to suggest an apology as a satisfactory form of alternative action in preference to the dismissal of the complaint or referral for investigation, as it was felt that it might be implied that a breach of the Code had been committed without an investigation having been undertaken.

Colin Lawley reported that following meetings of the Wokingham Borough Referrals Sub-Committee it had been the decision to refer a number of complaints to the Monitoring Officer for alternative action which had included the councillor concerned being requested to make various expressions of regret. He commented that having discussed the article with Council's Monitoring Officer he was confident that in the specific circumstances of the complaints concerned so far, the decisions taken had been compatible with the sentiments of the Standards Board. It has been made clear to the Referrals Sub-Committee's concerned that in opting for alternative no finding of fact would be made and that that the councillor was not being asked to apologise. He also commented that if one followed the argument put forward by the Standards Board it might also be possible to construe that a decision to require a councillor to undertake further training indicated a finding of fault against that councillor by an assessment committee when such a course of action was within the range of solutions with the definition of alternative action.

Eric Davies referred to the article within the bulletin setting out feedback received by the Standards Board for England on the adjourning of local assessment decisions to allow for further information to be supplied to the assessment sub-committee. The Committee briefly considered the advantages and disadvantages of deferrals and whilst it was noted that adjournment was permissible and was potential useful in exceptional circumstances, it was felt that it in general it would delay assessment proceedings.

Ray Duncan referred to the provisions within the Local Government and Public Involvement in Health Act 2007 to extend the Code of Conduct to councillor's conduct in their non-official activities where that conduct would constitute a criminal offence resulting in a conviction in a criminal court. He commented that a problem which this arrangement

was the increasing use of fixed penalty notices for quite serious offence which might have previously been considered by the courts. The issue was whether convictions covered by fixed penalty notices could be considered as potential breaches of the Code of Conduct.

Kevin Jacob and David Comben indicated that as part of the Committee's response to the Government's consultation on a revised Code of Conduct it had been indicated that other offences including enforcement action by local authorities should be able to be considered as indicating a potential breach of the Code of Conduct. However, it did not appear that these comments had been accepted.

**RESOLVED:** That the Bulletin be noted.

### **32. DATE OF NEXT MEETING**

Kevin Jacob commented that another meeting of the Committee was not scheduled to take place before the end of the municipal year, but that it would be necessary to call an extra-ordinary meeting in order to consider feedback on the undertaking of visits by members of the committee and Chairman's annual report to the Council.

After discussion it was agreed that Thursday 23 April 2009 at 6.30 pm was the most convenient date for the majority of members of the committee.

**RESOLVED:** That an extra-ordinary meeting be called on Thursday 23 April at 6.30 pm.

### **33. STANDARDS BOARD FOR ENGLAND 8th ANNUAL ASSEMBLY**

The Committee considered a circulated report requesting that approval be given to three members of the Committee and one Officer attending the 8<sup>th</sup> Annual Assembly of the Standards Board for England to be held on 12-13 October 2009.

It was noted that the Chairman had agreed for the report to be considered as an urgent item so that a decision could be taken within the 2008/2009 financial year.

Kevin Jacob commented that the annual assembly did provide a useful training opportunity for members of the Committee and Officers and in addition allowed for discussion and sharing of best practice amongst members of Standards Committee from across the country. He asked that members of the Committee let him know if they were interested in attending, but commented that priority would be given to any members of the Committee who had not attended the conference previously. Eric Davies and Malcolm Storry expressed a preliminary interest.

Bob Wyatt and Annette Drake commented that they did not feel it was appropriate to send any delegates and could not support the proposal given the difficult financial circumstances facing the authority as a whole. Annette Drake commented that personally she had not found the assembly to have been of value, but other members of the committee commented that they had found it very useful and informative, particularly for independent members.

**RESOLVED:** That approval be given to three members of the Committee and one Officer attending the Standards Board for England Conference.

## **34. EXCLUSION OF THE PUBLIC**

**RESOLVED:** That under Section 100A(4) of the Local Government Act 1972, the public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Paragraphs 1 and 2 of Part 1 of Schedule 12A of the Act (as amended) as appropriate.

## **PART II**

### **35. REFERRALS SUB-COMMITTEE DECISIONS AND FEEDBACK**

The Committee considered a report and noted individual feedback from Colin Lawley, Deputy Monitoring Officer in respect of the five Code of Conduct complaints received by the Wokingham Borough Council Monitoring Officer since the introduction of local arrangements for the initial assessment of complaints against councillors.

Members of the Committee stated that they considered it very important to discuss general points arising from the complaints so that any general trends or training needs could be identified and so that the Committee could have confidence that the decisions made by the Referrals Sub-Committee were implemented by the Monitoring Officer and members concerned.

Arising from the discussion a number of points were raised concerning how future complaints might be handled.

It was suggested that the standard letter used to inform councillors that a complaint had been received against them should be amended to make it clearer that a councillor could discuss the fact that a complaint had been received against them with close relatives or partners, although absolutely no attempt should be made to contact the complainant. Although the letter was based upon a Standards Board for England template, the change was felt reasonable given that knowledge of receipt of a complaint would be a stressful and difficult time for the councillor concerned and that it would be unfair to expect a councillor not to mention the situation to anyone. Colin Lawley agreed to look at the detailed wording of the letter.

Eric Davies commented on the process used to agree the detailed wording of the decision notice giving the outcome of Referral Sub-Committee meeting. He suggested that given the sensitivity and importance of the subject matter each member of the Referrals Sub-Committee should formally agree the notice so as to ensure it was completely accurate.

Colin Lawley commented that whilst he accepted and understood the sentiment behind the suggestion he had concerns that such a requirement would in practice delay the dispatch of the decision notice. In his opinion, adequate assurance was provided by the Chairman of the Referral Sub-Committee's agreement to the text of the notice. However, the importance of getting the details of the decision notice correct was accepted and he commented that the best opportunity for agreement to be reached was at the Referrals Sub-Committee itself.

Members also expressed concern that in general if a Member did not complete a course of action specified by the Referrals Sub-Committee under the 'alternative action' provision it was not possible under regulations for the matter to be reconsidered. Colin Lawley commented that all those involved in the local complaints process were still learning, but

that lessons learnt from the consideration of the initial complaints had been taken into account when considering the most recently received complaints.

**RESOLVED:** That the report be noted.

*These are the Minutes of a meeting of the Standards Committee*

*If you need help in understanding this document or if you would like a copy of it in large print please contact one of our Team Support Officers.*

<b>TITLE</b>	<b>Feedback from Attendance by Members of the Standards Committee to Town and Parish Councils</b>
<b>FOR CONSIDERATION BY</b>	Standards Committee on Monday 18 May 2009
<b>WARD</b>	None Specific
<b>LEAD OFFICER</b>	Susanne Nelson-Wehrmeyer, Head of Governance and Democratic Services

**PURPOSE OF REPORT**

At its meeting of the 8 December 2008, the Standards Committee decided that individual visits should be undertaken by members of the Committee to town and parish council meetings across Wokingham Borough and that members of the committee should also seek to view those council's Registers of Councillor interests.

This report sets out a number of general observations arising from the visits and invites the Committee to have a discussion regarding their experiences of the visits.

**RECOMMENDATIONS**

That the Committee discuss the outcomes of the visits.

**SUPPORTING INFORMATION****Background**

The Committee at its meeting held on 8 December 2008 considered the report of the Standards Committee Working Group on the Future Role of the Standards Committee.

Arising from the consideration of the report, it was agreed that informal visits should be undertaken individually by members of the Committee to town and parish council meetings across the borough and that members of the Committee should seek to view parish and town council's Registers of Members' Interests. The purpose of the visits was to not to conduct inspections of individual councils, but to raise the profile of the Standards Committee amongst and town and parish councils generally and to give members of the Standards Committee some practical experience and knowledge of the operation of town and parish meetings.

Following the meeting, members of the Committee were allocated to the 17 parish/town councils within the Borough. In the case of Wokingham Borough Council elected Members and Parish/Town Council representatives on the Committee, they were asked to visit councils outside of their home areas.

The majority of visits have now been undertaken and therefore it is timely for the Committee to discuss the general observations of members of the Committee arising from the visits.

**Analysis of Issues**General Observations

Members of the Committee will be able to discuss the outcomes of their own visits at

the meeting, but from feedback provided so far members of the committee found the town and parish meetings they attended to be well run and that correct procedure was being followed.

However, a number of observations have been made that the Committee may wish to discuss further

**a) Knowledge of the Role and Remit of the Wokingham Borough Council Standards Committee**

There appeared to be a lack of awareness amongst some parish councillors of the role and remit of the Standards Committee with regard to town and parish councils, particularly with regard to promoting high standards of councillor conduct across the Borough;

**b) Training on the Declaration of Interests**

One committee member reported that at the meeting they attended there was some confusion around the circumstances whereby personal or prejudicial interest should be declared;

**c) Differences in style between Parishes**

One members of the committee has reported that there are significant differences in style between parish councils with political party majorities and apolitical parish councils which the Standards Committee needed to be cognitive of;

**d) Registers of Councillors Interests**

A number of committee members reported that when they had checked copies of Parish Council Registers of Councillor Interests held by the Borough Council there appeared to be a significant minority not present.

It was also noted a proportion of the forms were more than three years old.

**Corporate Implications**

None

**Reasons for Decision**

No decision required

**Alternative Options considered, if any**

None.

**Reasons for considering the report in Part 2**

Not applicable

**List of Background Papers**

None

**Contact** Kevin Jacob

**Service** Governance and Democratic Services

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**Date** Friday, 08 May 2009

**Version No.** 1.00

<b>TITLE</b>	<b>Monitoring Officer Protocol – Notification to Councillors Subject of a Code of Conduct Complaint</b>
<b>FOR CONSIDERATION BY</b>	Standards Committee on 18 May 2009
<b>WARD</b>	None
<b>LEAD OFFICER</b>	Susanne Nelson-Wehrmeyer, Head of Governance and Democratic Services

**PURPOSE OF REPORT**

For the Committee to review the process by which councillors subject of a Code of Conduct complaint are notified.

**RECOMMENDATIONS**

- 1) That the Committee consider whether or not to continue with the practice of written notification to councillors that a Code of Conduct complaint has been received against them on receipt of a complaint;
- 2) That if a decision is made in 1) above to continue with written notification, the amended template in Appendix 2 be approved;
- 3) That if a decision is made in 1) above to continue with written notification, details of the paragraph/s of the Code of the Conduct that are alleged to have been broken and the name of the complainant/s be included within notification letters unless:
  - a) the complainant has requested anonymity;
  - b) in the opinion of the Monitoring Officer, disclosure of details of the allegation would be contrary to the public interest or would prejudice any future investigation.

**SUPPORTING INFORMATION****Background**

1) The Committee at its meeting of 16 June 2008 approved the protocol to be followed by the Monitoring Officer of Wokingham Borough Council in administering the local assessment of Code of Conduct complaints against councillors.

Paragraph 9.1.38.1 of the protocol sets out the administrative process to be followed by the Monitoring Officer following receipt of an allegation and is set out below:

**“9.1.38.1**

*Following receipt of the allegation, and where the allegation does appear to be a complaint of misconduct against a relevant member, the Monitoring Officer will promptly, and in any case in advance of the relevant meeting:*



- a) *acknowledge to the complainant receipt of the allegation and confirm that the allegation will be assessed by the Referrals Sub-Committee at its next convenient meeting;*
- b) *notify the member against whom the allegation is made of receipt of the complaint and state that the allegation will be assessed at the next convenient meeting of the Referrals Sub-Committee. However, where the Monitoring Officer is of the opinion that such notification would be contrary to the public interest or would prejudice any person's ability to investigate the allegation, he/she shall consult the Chairman of the Standards Committee or in his/her absence the Vice-Chairman of the Standards Committee, and may then decide that no such advance notification shall be given";*

2) Although it is the local agreed practice to notify councillors in writing that a complaint has been received against them it is not a statutory requirement. The guide on the Local Standards Framework produced by the Standards Board for England indicates that Monitoring Officers have discretion to notify the councillor and may include within the notification a summary of the complaint and name of the person making the complaint. However, under Section 57C(2) of the Local Government Act 2000, only the Standards Committee itself has the power to give a written summary of allegation to a subject member. There is then some tension in the advice available and statute law.

3) The Standards Board itself recommends that local standards committee's set their own procedures with regard to withholding summaries.

4) Concerns have been expressed to the Monitoring Officer from a number of Members of the Borough Council that the current letter used to notify members is insensitive and does not contain enough information. A number of Members have also expressed the view that they would prefer not to receive any notification of receipt of a complaint until after the Referrals Sub-Committee has met and made its decision on whether an allegation should be investigated or not.

5) A copy of the current notification letter template is attached as Appendix 1 and is a copy of a letter template suggested by the Standards Board for England in their guidance. However, in light of the concerns expressed to the Monitoring Officer, an amended version of the letter has been drafted by Officers in consultation with the Chairman of the Standards Committee and is attached as Appendix 2.

6) It should be noted that the exact wording of any letter will be dependent on the individual circumstances of the complaint received.

### **Analysis of Issues**

7) It is a matter for the Standards Committee to determine its own administrative arrangements and procedures in undertaking the local assessment of Code of Conduct Complaints, taking into account any comments made to it, relevant legislation and guidance.

**Corporate Implications (this must include Financial Implications)**

None.

**Reasons for Decision**

To consider a revised notification process.

**Alternative Options considered, if any**

As set out in the background information.

**Reasons for considering the report in Part 2**

None

**List of Background Papers**

Monitoring Officer Protocol – Chapter 9 of the Wokingham Borough Council Constitution

**Contact** Kevin Jacob**Service** Governance and Democratic Services**Telephone No** 0118 974 6058**Email** kevin.jacob@wokingham.gov.uk**Date** Friday, 08 May 2009**Version No.** 1.00

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 My ref **Error! Bookmark not defined.**  
 Your ref



**WOKINGHAM  
 BOROUGH COUNCIL**

Date 08 May 2009

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Dear **Error! Bookmark not defined.**

### NOTICE OF RECEIPT OF ALLEGATION

I am writing to tell you that the Standards Committee has received an allegation on **Error! Bookmark not defined.** that you have failed or may have failed to comply with your authority's Code of Conduct.

**Error! Bookmark not defined.**

The next step will be that the Referrals sub-committee of the Standards Committee will meet on **Error! Bookmark not defined.** to consider this allegation. At this stage all that will happen is that the allegation will be considered based solely on the information provided by the complainant along with any relevant information readily available such as minutes of Council meetings. The Referrals sub-committee will not meet in public and only committee members and officers advising them will be present.

The Referrals sub-committee can decide that no action needs to be taken or that the matter should be referred to the monitoring officer of the authority for an investigation or other action, or referred to the Standards Board for England.

At this stage the Referrals sub-committee is not required to decide if the Code of Conduct has been breached. It is only considering if there is enough information which shows a potential breach of the Code of Conduct that warrants referral for investigation or other action.

It is unlikely that you or anyone else will be contacted before the Referrals sub-committee meets unless some form of clarification is needed. The Referrals sub-committee cannot conduct an investigation into the matter itself.

Once the Referrals sub-committee has made a decision, you and the complainant will be told about the outcome and what will happen next.

At this stage you are advised not to contact the complainant as this could compromise you, or the fairness of the process. However, you may wish to seek some independent advice on this. You should also be aware that any written request for information made to the authority about this matter will have to be dealt with in accordance with the requirements of the law.

Please contact me if you need this letter in a different format



This includes any obligations imposed on the authority under the Data Protection Act 1998, the Freedom of Information Act 2000 and the Human Rights Act 1998. If any request for information is received before the Referrals sub-committee meets, you will be contacted where it is considered appropriate or necessary to do so.

If you have any queries about the process please contact **Error! Bookmark not defined.** If you need additional support in relation to this or future contact please let me know as soon as possible. If you have difficulty reading this letter **Error! Bookmark not defined.**

Yours sincerely

*The following form letter may be used to advise Members that an allegation has been received by Wokingham Borough Standards Committee and to advise what steps will be taken in response to the allegation. This letter is an information letter and is not statutorily required. This form letter may be adapted at the discretion of the Monitoring Officer or Standards Committee and Democratic Services. At the discretion of the Monitoring Officer, there may be situations where this letter will not be issued.*

### **NOTIFICATION OF RECEIPT OF COMPLAINT AND NEXT STEPS**

As a courtesy, I am writing to let you know that on [insert date], the Wokingham Borough Standards Committee received an allegation that you have failed or may have failed to comply with Wokingham Borough Council's Code of Conduct as set out within Chapter 9 of the Constitution.

Accordingly, as you are aware, any allegations about breaches to the Code of Conduct must be referred to the Standards Committee for consideration. This is a statutory process laid down by the Standards Board for England, pursuant to the law. The next step will be that the Referrals Sub-Committee of the Standards Committee will meet on **[insert date]** to consider this allegation.

I would like to remind you that at this stage all that will happen is that the allegation will be considered based solely on the information provided by the complainant along with any relevant information readily and publicly available such as minutes of Council meetings. The Referrals Sub-Committee will not meet in public and only committee members and officers advising them will be present. Its role is not to investigate the allegations or make any judgement on whether the Code of Conduct had been breached. It is only to determine whether any action should be taken on the complaint, it makes no findings of fact.

The options available to the Referrals Sub-Committee are to:

- refer the complaint to Monitoring Officer either for an investigation or any other action.
- decide that no action needs to be taken;
- refer the complaint to the Standards Board for England for consideration;

Consistent with the process for considering complaint against Members, it is unlikely that you or anyone else will be contacted before the Referrals Sub-Committee meets unless some form of clarification is needed. The Referrals Sub-Committee cannot conduct an investigation into the matter itself.

Once the Referrals Sub-Committee has made a decision, you and the complainant will be informed by letter about the outcome and what will happen next.

You may wish to seek some independent advice regarding the consideration of Code of Conduct Complaints. You should also be aware that any written request for information made to the authority about this matter will have to be dealt with in accordance with the requirements of the law. This includes any obligations imposed on the authority under the Data Protection Act 1998, the Freedom of Information Act 2000 and the Human Rights Act 1998. If any request for information is received before the Referrals Sub-Committee meets, you will be contacted only if it is considered appropriate or necessary to do so.

Further information on the process can be found at [www.wokingham.gov.uk/councillorcomplaints](http://www.wokingham.gov.uk/councillorcomplaints) , within Chapter 9 of the Constitution and in the enclosed leaflet. If you have any queries do not hesitate to contact me. If you need additional support in relation to this or future contact please let me know as soon as possible.

<b>TITLE</b>	<b>Establishment of a Protocols and Procedures Informal Working Group</b>
<b>FOR CONSIDERATION BY</b>	Standards Committee on 18 May 2009
<b>WARD</b>	None Specific
<b>LEAD OFFICER</b>	Susanne Nelson-Wehrmeyer, Head of Governance and Democratic Services.

**PURPOSE OF REPORT**

To request that the Committee establish an informal Protocols and Procedures Working Group.

**RECOMMENDATIONS**

- 1) That an informal working group be established to consider draft local procedures and protocols comprising, one elected Wokingham Borough Councillor, one independent members and one representative from a town or parish council.
- 2) That the working group recommend any proposed changes or adoption of new procedures or protocols to the Standards Committee.

**SUPPORTING INFORMATION****Background**

It is a matter for the Standards Committee to determine its own administrative arrangements and procedures in undertaking the local assessment of Code of Conduct Complaints, taking into account any comments made to it, relevant legislation and guidance. Such procedures include matters such as the Monitoring Officer protocol, standard letters and other local protocols such a press protocol.

The purpose of the working group would be to have seek input from members of the Committee in the drafting of protocols and procedures at an early stage, but without the need to call a full committee meeting.

**Analysis of Issues**

Although

**Corporate Implications**

None

**Reasons for Decision**

To consider the request to establish the working group.

**Alternative Options considered, if any**

To not establish a working group and bring matters straight to full committee.

<b>Reasons for considering the report in Part 2</b>
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None
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<b>List of Background Papers</b>
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None.
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<b>Contact:</b> Kevin Jacob
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<b>Date</b> Friday, 08 May 2009
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<b>Version No.</b> 1.00
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