



WOKINGHAM BOROUGH COUNCIL

A Meeting of the **STANDARDS COMMITTEE** will be held in David Hicks 2 - Civic Offices, Shute End, Wokingham RG40 1BN on **WEDNESDAY 5 JULY 2017 AT 7.00 PM**

A handwritten signature in black ink, appearing to read 'Andy Couldrick', written in a cursive style.

Andy Couldrick
Chief Executive
Published on 27 June 2017

This meeting may be filmed for inclusion on the Council's website.

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WOKINGHAM BOROUGH COUNCIL

Our Vision

A great place to live, an even better place to do business

Our Priorities

Improve educational attainment and focus on every child achieving their potential

Invest in regenerating towns and villages, support social and economic prosperity, whilst encouraging business growth

Ensure strong sustainable communities that are vibrant and supported by well designed development

Tackle traffic congestion in specific areas of the Borough

Improve the customer experience when accessing Council services

The Underpinning Principles

Offer excellent value for your Council Tax

Provide affordable homes

Look after the vulnerable

Improve health, wellbeing and quality of life

Maintain and improve the waste collection, recycling and fuel efficiency

Deliver quality in all that we do

MEMBERSHIP OF THE STANDARDS COMMITTEE

Councillors

UllaKarin Clark (Chairman)	Ken Miall (Vice-Chairman)	Chris Bowring
Prue Bray	Pauline Helliard-Symons	Paul Swaddle

Parish/Town Council Representatives

Sally Gurney	Co-Optee, Wokingham Town Council
Roger Loader	Co-Optee Barkham Parish Council
Roy Mantel	Co-Optee Twyford Parish Council

ITEM NO.	WARD	SUBJECT	PAGE NO.
1.		APOLOGIES To receive any apologies for absence	
2.		MINUTES OF PREVIOUS MEETING To confirm the Minutes of the Meeting held on 14 March 2017.	5 - 8
3.		DECLARATION OF INTEREST To receive any declarations of interest	
4.		PUBLIC QUESTION TIME To answer any public questions A period of 30 minutes will be allowed for members of the public to ask questions submitted under notice. The Council welcomes questions from members of the public about the work of this committee. Subject to meeting certain timescales, questions can relate to general issues concerned with the work of the Committee or an item which is on the Agenda for this meeting. For full details of the procedure for submitting questions please contact the Democratic Services Section on the numbers given below or go to www.wokingham.gov.uk/publicquestions	
5.		MEMBER QUESTION TIME To answer any member questions	
6.		PARISH / TOWN COUNCIL QUESTION TIME To answer any questions from Parish / Town Councillors	
7.	None Specific	UPDATE ON COMPLAINTS AND FEEDBACK To consider an update on Code of Conduct complaints and feedback about the complaints process.	9 - 14

8. None Specific

WHISTLEBLOWING AND CONFIDENTIALITY

15 - 18

To consider a report which sets out the differences between the release of confidential information and whistleblowing.

Any other items which the Chairman decides are urgent.

A Supplementary Agenda will be issued by the Chief Executive if there are any other items to consider under this heading.

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**MINUTES OF A MEETING OF THE
STANDARDS COMMITTEE
HELD ON 14 MARCH 2017 FROM 7.00 PM TO 7.30 PM**

Committee Members Present

Councillors: Ken Miall (Chairman), Pauline Helliard-Symons (Vice-Chairman),
Ulla Karin Clark and Beth Rowland
Parish/Town Council Representatives:- Roy Mantel (Co-Optee Twyford Parish Council)

Officers Present

Andrew Moulton, Monitoring Officer
Mary Severin, Deputy Monitoring Officer
Luciane Bowker, Senior Democratic Services Officer

18. APOLOGIES

Apologies for absence were submitted from Councillors Chris Bowring and Paul Swaddle and Roger Loader.

19. MINUTES OF PREVIOUS MEETING

The Minutes of the meeting of the Committee held on 10 January 2017 were confirmed as a correct record and signed by the Chairman.

20. DECLARATIONS OF INTEREST

There were no declarations of interest submitted.

21. PUBLIC QUESTION TIME

There were no public questions.

22. MEMBER QUESTION TIME

There were no Member questions.

23. PARISH / TOWN COUNCIL QUESTION TIME

There were no Parish/ Town questions.

24. UPDATE ON COMPLAINTS AND FEEDBACK

The Committee received an update on complaints and feedback, which was set out in agenda pages 9-12. Andrew Moulton, Head of Governance and Improvement Services and Monitoring Officer went through the report.

The main points raised by Andrew are listed below:

- There had been two new complaints since the last meeting of the Committee. These complaints had concluded at the initial consultation stage as no breach of the Code of Conduct was found;
- The two complaints that were current at the time of the last meeting had now been concluded. A hearing was held on 20 February 2017, at which both Members were found to be in breach of the Code of Conduct. The decision notice was published on the Council's website on 25 February 2017 and a report would be submitted to the Council meeting on 23 March 2017. Additional training would be provided to the Members involved;
- A complaint relating to the alleged conduct of a Member was being investigated and a Hearings Panel was scheduled for later in the month;

- Two further complaints had been received since the production of the report and these were being investigated;
- There had been an increase in Member to Member complaints;
- The Committee may wish to recommend more guidance around confidentiality issues.

Roy Mantel stated that sometimes it was difficult to differentiate whistleblowing and confidentiality. The Chairman explained that there was a whistleblowing policy and he believed the difference was clear. Andrew offered to bring a report explaining the difference to the Committee for further discussion. The Committee felt this would be useful, and asked that it include information about the press interest.

RESOLVED That:

- 1) A 'Confidentiality/ Whistleblowing' report be brought for discussion at the next meeting;
- 2) The report be noted.

25. MEMBER CODE OF CONDUCT PROCEDURES

The Committee considered the Code of Conduct proposed amendment report which was set out in agenda pages 13-16.

The Chairman invited Members to comment on the proposals one at a time.

1. Publishing the Member's name after a formal investigation finds a breach has occurred

Recommendation: That the sentence at para. 9.1.14.2, which states that a subject Member's name will not be disclosed, be amended as follows:

Where there has been a determination by the Monitoring Officer to resolve the matter informally, the Subject Member's name will be disclosed in accordance with Para. 9.1.16.3, except that a formal decision notice will be prepared in consultation with the Chairman of the Standards Committee.

Councillor Helliar-Symons believed that 'naming and shaming' was not conducive to reconciliation and therefore she was not in favour of this proposal.

Councillor Rowland stated that the public had little confidence in politicians globally and locally, therefore in her opinion revealing names would help rebuild confidence in public life. She stated that if someone had done something wrong, he or she should be reprimanded, in her view this process was not about reconciliation, it was about raising standards.

Mary Severin, Borough Solicitor explained that there was an initial decision making process at the very beginning when a complaint was first received where four possible options were considered:

- Take no action;
- Resolve the matter informally;
- Action formally or
- Formal investigation

Councillor Clark was in agreement with Councillor Helliar-Symons and believed that not revealing names would prevent pettiness.

The proposal was put to the vote and the majority agreed **not to go ahead** with option 1.

2. Potential guidelines to support the Monitoring Officer's initial decision

Recommendation: That the guidance for the Monitoring Officer's initial decision, as worded in the report, be added to Para. 9.1.13.4 of the Constitution.

Councillor Helliar-Symons was in favour of this proposal as it was now less ambiguous and clearer.

Councillor Rowland asked that the '*Public Interest*' criterion be re-worded to make it clearer. It was also suggested not to finish with a question mark.

The proposal was put to the vote and the majority agreed **to go ahead** with option 2.

3. Preventing a Member complaining about another Member

Recommendation: That the Code of Conduct complaints process should be open to everyone, including Members.

Councillor Clark felt uncomfortable with the proposal that Members be prevented from complaining about another Member. She felt this would compromise transparency.

Councillor Helliar-Symons believed this issue was covered by proposal 2. She also pointed out that no other Council had this rule and that not all complaints were of political nature.

The proposal was put to the vote and the majority agreed with the **recommendation of keeping the process open to everyone, including Members.**

The Chairman put forward a case scenario to test the system. He asked what would happen if someone complained that a Councillor "*shouted at me on the phone.*"

Andrew explained that he would try to establish the facts and find out if this was substantiated by any witnesses. He would look for patterns, or if this was a one off occurrence. Initially he would seek to resolve it by asking the Councillor to apologize. Depending on the circumstances a different approach may be needed.

RESOLVED That the recommendations agreed above be submitted to the Constitution Review Working Group for approval.

26. ANNUAL REPORT

The Committee considered the Standards Committee Annual Report which was set out in agenda pages 17-22.

Members were content with the report and recommended its submission to the Council meeting.

RESOLVED That the report be noted and submitted to the Council meeting.

Agenda Item 7.

ITEM NO:

TITLE	Update on Complaints and Feedback
FOR CONSIDERATION BY	Standards Committee on 5 July 2017
WARD	None Specific
DIRECTOR	Andrew Moulton, Assistant Director, Governance and Monitoring Officer

OUTCOME/BENEFIT TO THE COMMUNITY

To inform and feedback results of the Member Complaints process. This information provides assurance to residents that elected Members are acting in line with the relevant Codes of Conduct and best practice.

RECOMMENDATION

To note the report and consider any issues relating to training or communication.

SUMMARY OF REPORT

Since the last meeting of the Committee, on 14 March 2017, there have been five new complaints received. Appendix A2 provides a summary of each complaint.

An update on the other case that was previously reported as outstanding is shown at Appendix A1.

A verbal update will be given at the meeting on any specific patterns/trends or other matters that the Committee may need to consider. Also, the Committee is asked to consider any broader training issues that arise from these and previous complaints.

Background

Under Section 9.1.13.5 of the Council's Constitution, the Monitoring Officer provides a report to the Standards Committee, on a quarterly basis, which contains the following:

- the number and nature of complaints received;
- progress on any investigations and associated costs;
- identification of areas where training or other action might avoid further complaints.

The names of the Members involved in the complaints are not disclosed in the report.

Since the last meeting of the Committee, on 14 March 2017, there have been five new Code of Conduct complaints.

Under the Council's adopted policy for the consideration of Code of Conduct Complaints, the Monitoring Officer has delegated authority to decide whether the complaint:

- a) can be resolved informally i.e. by mediation with the two parties before making a decision on whether the complaint merits formal investigation;
- b) requires investigation;
- c) should be referred to the Standards Committee;
- d) requires that no further action should be taken.

Reasons for considering the report in Part 2
If the Committee decides to discuss the specifics of individual cases it may be necessary to consider excluding the public if that discussion would involve the disclosure of exempt information

List of Background Papers
None.

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Date 19 June 2017	Version No. 1

Appendix A - Code of Conduct Complaints – Outcome of Complaints

A1 - Previously reported

Date Received	Council	Summary of Complaint	Conclusion	Date Concluded
25/11/16	WBC	The complaint related to the alleged conduct of a Member. A Hearings Panel met on 22 March 2017 and concluded that there was no breach of the Code of Conduct.	No breach	22/3/17

A2 - New Complaints since 6 March 2017

Date Received	Council	Summary of Complaint	Conclusion	Date Concluded
7/03/17	WBC	This complaint was received from a member of the public and related to the alleged conduct of a Member with regard to how they dealt with a residents' concern.	No breach	07/4/17
11/3/17	WBC	This complaint was received from a member of the public and related to the alleged conduct of a Member with regard to a planning matter.	No breach	06/4/17
13/03/17	WBC	The complaint was received from a Councillor and related to the alleged conduct of a Member with regard to an article in a local paper.	The Matter was resolved informally under section 9.1.13.4b of the Code of Conduct whereby the Member made a written apology to the complainant.	19/4/17

27/3/17	WBC	This complaint was received from 17 members of the public and related to the alleged conduct of three Members with regard to a planning matter.	No breach	06/4/17
28/3/17	WBC	This complaint was received from a member of the public and related to delays in responding to correspondence. The Member concerned was ill at the time and the complainant was contacted and their query dealt with by another Member.	No breach	10/4/17

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Agenda Item 8.

TITLE	Whistleblowing and Confidentiality
FOR CONSIDERATION BY	Standards Committee on 5 th July 2017
WARD	None Specific
LEAD OFFICER	Andrew Moulton, Head of Governance and Improvement Services and Monitoring Officer

OUTCOME / BENEFITS TO THE COMMUNITY

To inform Members on differences between the Whistleblowing Policy, and the Code of Conduct rule about breach of Confidentiality.

RECOMMENDATION

The Committee is requested to note the report and consider any issues arising.

SUMMARY OF REPORT

At its meeting on 14th March 2017 the Committee considered a report giving an Update on Complaints, as well as providing feedback. A Member stated that sometimes it was difficult to differentiate between whistleblowing and confidentiality. It was resolved therefore to bring to the next meeting a confidentiality and whistleblowing report.

Background

Whistleblowing Policy (Chapter 9.2 of the Constitution) and Confidentiality in the Code of Conduct (Paragraph 9.2.8.5 of the Constitution).

Confidential Information

As Members will be aware, the Code of Conduct states that Councillors must not knowingly disclose information which they believe, or ought reasonably be aware, is confidential, or where the information is prohibited by law (such as personal information under the Data Protection Act 1998), unless it is with good cause or they have the consent of the person authorised to give it, or they are required to disclose it by law.

If a Councillor believes that confidential information should be released because he or she has good cause to do so, then that 'good cause' should be reasonable and proportional. This means that it shouldn't be released solely for the Councillors benefit or for political reasons only. A balancing exercise needs to be made in terms of the harm caused by the release of the confidential information, versus the harm caused by keeping it confidential.

Whistleblowing

The Whistleblowing Policy and Guidance in Chapter 9.5 of the Constitution is designed to allow Council staff and it's contractors to make a 'protected' disclosure in respect of specific types of malpractice being carried out within the Council without fear of being victimised or dismissed. These are listed, as follows:

- that a criminal offence has been committed, is being committed or is likely to be committed;
- that a person has failed, is failing or is likely to fail to comply with any legal obligation to which he is subject;
- that a miscarriage of justice has occurred, is occurring or is likely to occur;
- that the health or safety of any individual has been, is being or is likely to be endangered;
- that the environment has been, is being or is likely to be damaged; or
- that information tending to show any matter falling within any one of the preceding paragraphs has been, is being or is likely to be deliberately concealed.

The Policy also explains that whistleblowing occurs when a concern is raised about danger or illegality that affects, for example, clients, members of the public or the Council itself. Examples of whistleblowing concerns are listed in Para. 9.5.2 of the Policy, as follows:

- fraud in, on or by the Council;
- offering, taking or soliciting bribes;
- unauthorised use of public funds;
- financial maladministration;
- the physical, emotional or sexual abuse of clients;
- failure to comply with legal obligations;
- endangering of an individual's health and safety;
- damage to the environment;

- a criminal offence;
- failure to follow financial and contract procedure rules;
- showing undue favour to a contractor or a job applicant;
- misreporting performance data; or
- neglect of people in care.

The Whistleblowing Policy is designed for staff and contractors, past and present, only. However, the Policy is useful for Members in that, if they are concerned about any aspect of malpractice within the Council, they can contact the same dedicated Whistleblowing hotline number or e-mail address, or the Monitoring officer or one of the Investigation Team.

If a Member makes the disclosure in good faith, it's unlikely to be viewed as a disclosure of confidentiality which would put them at risk of breaching the Code of Conduct. If Members are unsure about their position, they may wish to seek advice from the Monitoring Officer, or from the Borough Solicitor.

FINANCIAL IMPLICATIONS OF THE RECOMMENDATION

The Council faces severe financial challenges over the coming years as a result of the austerity measures implemented by the Government and subsequent reductions to public sector funding. It is estimated that Wokingham Borough Council will be required to make budget reductions in excess of £20m over the next three years and all Executive decisions should be made in this context.

	How much will it Cost/ (Save)	Is there sufficient funding – if not quantify the Shortfall	Revenue or Capital?
Current Financial Year (Year 1)	N/A	N/A	N/A
Next Financial Year (Year 2)	N/A	N/A	N/A
Following Financial Year (Year 3)	N/A	N/A	N/A

Other financial information relevant to the Recommendation/Decision
None

Cross-Council Implications
Promoting high standards of conduct for elected Members across the Borough.

List of Background Papers
None

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Date 26 th June 2017	Version No. 1

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