

The Council's Vision:

To enable people to live, work and prosper in West Somerset

STANDARDS ADVISORY COMMITTEE

AGENDA

**Tuesday 24 September 2013 at 4.30 pm at the
Council Chamber, West Somerset House, Williton**

1. Apologies for Absence

2. Welcome and Introductions

3. Minutes

To note the minutes of the meeting of the Standards Advisory Committee held on 18 June 2013, which were adopted by the Council at its meeting held on 18 September 2013 – **SEE ATTACHED.**

4. 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.

5. 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.

6. Update on dealing with Complaints – Completed Cases

In accordance with the Council's Complaints Procedure, the outcome of completed cases will be reported to the next formal meeting of the Standards Advisory Committee – a summary of completed cases since the last meeting is provided – **SEE ATTACHED.**

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7. The Localism Act 2011 – Review of Members' Code of Conduct and Arrangements for Dealing with Complaints

To consider Report No. WSC 123/13, to be presented by the Monitoring Officer – **SEE ATTACHED.**

The purpose of the report is to provide the Committee with the opportunity of reviewing the Members' Code of Conduct and associated arrangements for handling complaints that have been operating since 1 July 2012 with a view to making any recommendations to West Somerset Council.

8. Monitoring Officer's Update

To consider a progress report from the Monitoring Officer on activities undertaken during the months of June, July and August 2013 – **SEE ATTACHED.**

9. Dates of Future Meetings

10 December 2013 and 4 March 2014 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

**Minutes of the Meeting of the Standards Advisory Committee
held on 18 June 2013 in the Council Chamber, Williton**

Present:

Mr T Evans Chairman

Councillor J Davis

Councillor J Fulwell

Councillor P Grierson

Councillor P Murphy

Councillor S O de Renzy-Martin

Mr J Gamlin

Mr I Gunn

Councillor D J Westcott

Officers in Attendance:

Monitoring Officer (Bruce Lang)

Meeting Administrator (Elisa Day)

SA1 Apologies for Absence

An apology for absence was received from Mrs L Somerville Williams.

SA2 Welcome and Introductions

The Chairman welcomed everyone to the meeting, especially the new District Council Member, Councillor Peter Murphy.

SA3 Appointment of Chairman

RECOMMENDED that the Committee elect Mr Tim Evans as Chairman of the Committee.

SA4 Appointment of Vice-Chairman

RECOMMENDED that the Committee elect Mr Ivan Gunn as Vice-Chairman of the Committee.

SA5 Minutes

Minutes of the last meeting of the Standards Advisory Committee held 5 March 2013 – circulated with the agenda.

RECOMMENDED that the Minutes of the meeting held on 5 March 2013 be confirmed as a correct record.

SA6 Declarations of Interest

Members present at the meeting declared the following personal interests in their capacity as a Member of a County, Parish or Town Council:

Name	Minute No	Description of Interest	Personal or Prejudicial	Action Taken
Cllr P Grierson	All items	Minehead	Personal	Spoke and voted
Cllr P Murphy	All items	Watchet	Personal	Spoke and voted
Cllr D J Westcott	All items	Watchet	Personal	Spoke and voted

SA7 Public Participation

The Chairman confirmed that no member of the public had requested to speak on any agenda items.

SA8 The Localism Act, 2011 – Register of Interest Forms and Adoption of the Code of Conduct

The Monitoring Officer confirmed that all District Councillors had completed their Register of Interest forms and these were now available on the Council's website.

The Monitoring Officer advised that all Town and Parish Councils in West Somerset had adopted a Code of Conduct and, although the majority of Register of Interest forms had been received, there were still forms outstanding from Brushford, Clatworthy, Exmoor, Kilve, Luccombe, Minehead, Withycombe and Withypool & Hawkridge. He also advised that the Register of Interests forms were currently being added to the website and any outstanding matters would continue to be followed up.

Members enquired if it would be possible to find out the number of 'hits' on the page of the website where the Register of Interest forms were held and the Monitoring Officer confirmed that he would forward any relevant information on to committee members.

RECOMMENDED that the update be noted.

SA9 Update on Dealing with Complaints

(a) Report on Completed Cases

The Monitoring Officer advised the Committee that the new system had been in place for nearly a year and up until March no complaints had been received.

He advised that, in accordance with the Council's Complaint Procedure, a summary of the outcome of completed cases must be reported to a normal meeting of the Standards Advisory Committee and this had been sent out with the agenda. The Monitoring Officer invited the Committee to comment on the amount of detail in the summary, taking into consideration that the summary would be a public document.

Members suggested that the summary report should not name the subject Member and that sufficient information should be provided to give a clear indication of the process that was followed, including the involvement of the Standards Advisory Committee, to demonstrate that all complaints are taken seriously. It would also be ideal, where possible, to give an indication of the key issues and rationale that led to the decision taken.

The Committee acknowledged that, if it was found that there was a case to answer, the complaint could go to a hearing which would be held in public and be likely to be reported in the media.

(b) General Update

The Monitoring Officer reported on the latest position in regard to dealing with complaints under the procedures implemented as a result of the Localism Act 2011.

He advised that, as of May 2013, the number of complaints received in the five Districts in Somerset were as follows:

Sedgemoor District	-	0
Taunton Deane Borough Council	-	1 (no investigation)
West Somerset Council	-	6 (no investigations)
South Somerset District Council	-	10 (no investigations)
Mendip District Council	-	27 (no investigations)

The Monitoring Officer reminded the Committee that at its next meeting to be held in September 2013, a review of the operation of the new Code of Conduct and Complaints process would be undertaken with a view to making any recommendations to the Council.

RECOMMENDED that that future public summaries of completed complaint cases should be prepared having regard to the views expressed by the committee and the progress report be noted.

SA10 Probity in Planning Guide

The Committee considered endorsing the Probity in Planning Guide produced by the Local Government Association.

The Monitoring Officer confirmed that the Council's Planning Manager had been consulted and confirmed that, broadly speaking, the authority's current processes for dealing with planning applications complied with undertake the guidance.

The Committee felt that the document was very good as it was clear and made sense.

RECOMMENDED that the Probity in Planning Guide be endorsed and that the Council be encouraged to use this guidance material when providing training for its Planning Committee members.

SA11 Monitoring Officer's Update

The Monitoring Officer submitted a progress report on activities undertaken since the last meeting. He confirmed that he was still receiving requests for advice on a regular basis and that dealing with formal complaints did generate more work.

RECOMMENDED that the report be noted.

SA12 Dates of Future Meetings

It was confirmed that future meetings of the Committee had been scheduled for Tuesday 24 September 2013, Tuesday 10 December 2013 and Tuesday 4 March 2014 all commencing at 4.30pm.

The meeting closed at 5.50pm

Code of Conduct Complaints Update for September 2013

There have been four further complaints that have been fully dealt with under the new procedure since the last update to the Committee. A summary of these complaints is set out below:

Case WSC6 – Minehead Town Council, complaint dated 22 March 2013 – that the Town Councillor had allegedly failed to treat others with respect. The Monitoring Officer gathered further information from the complainant including a witness statement and sought the views of the subject Member.

The Standards Advisory Committee were consulted on the complaint on 18 June 2013 following which the decision was that, subject to the subject Member making a written apology to the complainant – the wording of which to be approved by the Monitoring Officer, that no further action be taken in this matter. An appropriate written apology was duly sent dated 10 July 2013.

Case WSC7 – Minehead Town Council, complaint dated 6 June 2013 – that the Town Councillor had allegedly breached the Code of Conduct by bringing the Council in to disrepute and not showing respect to a member of the public. The Monitoring Officer gathered further information from the complainant and subject Member – a considerable amount of documentation needed to be assessed as the matter started in July 2012. The Monitoring Officer consulted with the Standards Advisory Committee on this complaint on 13 August 2013. Whilst the majority of matters raised fell outside the remit of the standards regime there was one matter that the Monitoring Officer and Committee were concerned about and, following the consultation process, the decision was that given that the particular action in question was considered to have been inadvisable, a written apology should be sent by the subject Member to the complainant on this one aspect, and in the event of this happening that no further action be taken in this matter. The subject Member was advised of this decision in a letter dated 2 September 2013 and at the time of writing this update the subject Member has not responded to the letter.

Case WSC8 – West Somerset Council, complaint dated 1 July 2013 – that the District Councillor had allegedly breached the Code of Conduct by not treating others with respect. The Monitoring Officer sought the views of the subject Member together with obtaining the views of a witness of the incident concerned and also listening to an audio recording of the meeting at which the alleged incident occurred.

The Monitoring Officer then consulted with the Standards Advisory Committee on 13 August 2013 and taking into account particularly the evidence provided by the audio recording, made the decision to take no further action in this matter as there was no evidence whatsoever of a breach of the code of conduct.

Case WSC9 – West Somerset Council, complaint dated 1 July 2013 – that the District Councillor had allegedly breached the Code of Conduct by not treating others with respect. The Monitoring Officer sought the views of the subject Member and obtained factual information from the Clerk of the Town Council at which the alleged incident occurred. The Standards Advisory Committee were consulted on 13 August 2013 regarding this complaint following which the decision was made to recommend

that the subject Member attend training on how to separate roles when acting as a Member. This was based on the view that Members do need to be sensitive when addressing comments in their capacity as a Councillor to members of the public.

The training was duly carried out by the Monitoring Officer with the subject Member on 10 September 2013.

Report Number: WSC 123/13
Presented by: Bruce Lang, Monitoring Officer
Author of the Report: Bruce Lang
Contact Details:
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Report to a Meeting of: Standards Advisory Committee
To be Held on: 24 September 2013
Date Entered on Executive Forward Plan Or Agreement for Urgency Granted: n/a

LOCALISM ACT 2011 – REVIEW OF MEMBERS’ CODE OF CONDUCT AND ARRANGEMENTS FOR DEALING WITH COMPLAINTS

1. PURPOSE OF REPORT

- 1.1 The purpose of the report is to provide the Committee with the opportunity of reviewing the Members’ Code of Conduct arrangements for handling complaints that have been operating since 1 July 2012 with a view to making any recommendations to West Somerset Council.

2. CONTRIBUTION TO CORPORATE PRIORITIES

- 2.1 Whilst the subject of this report does not specifically relate to either of the Council’s corporate priorities, the Council has a duty to comply with the requirements of the Localism Act 2011 and by promoting good ethics the Council is demonstrating its core values of integrity, fairness, respect and trust.

3. RECOMMENDATIONS

- 3.1 That the Council be recommended to amend the existing West Somerset Council Member Code of Conduct, as follows:
- a) To replace the existing definitions of the seven principles of public life in Appendix 1 by the wording set out in Appendix A to this report; and
 - b) By the inclusion of being a member of a national park authority as being an additional exception under Clause 2.9 (1) (a) relating to prejudicial interests.
- 3.2 That the Council be recommended to continue with the existing arrangements for dealing with complaints in relation to allegations of the breaches of Code of Conduct for district, town and parish councils in West Somerset, subject to the process being kept under regular review.
- 3.3 That in order to support the process referred to in recommendation 3.2 above, the appointments of Louise Somerville Williams as the Council’s Independent Person and Mike

Hillman as the reserve Independent Person be extended for a further period to run from 1 October 2013 to 31 March 2015.

- 3.4 That any further comments/recommendations be made to the Council as a result of discussions that occur at the meeting.

4. RISK ASSESSMENT (IF APPLICABLE)

Risk Matrix

Description	Likelihood	Impact	Overall
The arrangements that the Council put in place to meet the requirements of the Localism Act 2011 in respect of the new standards regime are not effective and fit for purpose.	Possible (3)	Major (4)	Medium (12)
<i>To keep the arrangements under review and make any modifications as and when considered appropriate</i>	Rare (1)	Major (4)	Low (4)

The scoring of the risks identified in the above table has been based on the scoring matrix. Each risk has been assessed and scored both before the mitigation measures have been actioned and after they have.

5. BACKGROUND INFORMATION

- 5.1 At the meeting of the Council held on 27 June 2012 when the Council adopted the new Code of Conduct in accordance with the requirements of the Localism Act 2011 together with adopting arrangements for dealing with complaints in relation to Code of Conduct in respect of Councillors in West Somerset, it was agreed that the Code and the complaints process should be the subject of an annual review by the Standards Advisory Committee.
- 5.2 The process has now been in place since 1 July 2012 and as such would be appropriate to undertake such a review with a view to making any recommendations to the West Somerset Council.
- 5.3 In terms of the operation of the Code of Conduct itself, there are two matters which should be put forward for possible recommendation to the Council. The first item relates to amending the definition of the seven Nolan principles of public life set out in Appendix 1 to the current Code.
- 5.4 The Committee on Standards in Public Life recently undertook a review into the key lessons that had been learnt since the Nolan Committee's first report was published in 1995 about how to improve ethical standards in public life. In January 2013 the Committee published its Fourteenth Report entitled 'A review of best practice in promoting good behaviour in public life'.
- 5.5 The report found that whilst standards of behaviour had improved in many areas of public life as a consequence there was evidence to show that there were still areas for concern. These were that inappropriate behaviour continued to be revealed, leaders were yet to internalise the principles of public life fully, there were deliberate attempts to get around Codes of Conduct, new situations continued to arise which raised new standards issues, responses to standards issues often came too late and there was a significant decline in levels of public trust.
- 5.6 The Committee considered the seven principles of public life and concluded that, whilst there were views expressed that the principles should be reformulated, it was felt that this would be pointless and unnecessary.

- 5.7 The Committee felt that the seven principles should be retained as they had been an influential example of the values with which organisations seek to underpin their ethical framework and there had been a substantial increase in awareness of the importance of standards issues.
- 5.8 However the Committee also felt that since the principles were first formulated its understanding of the meaning of certain words had developed and therefore the descriptions of the seven principles could usefully be brought up to date to reflect current understanding.
- 5.9 **Objectivity.** The Committee considered the importance of public office holders making decisions on merit and felt these tended more frequently to refer to impartiality rather than to objectivity. Accordingly it was considered helpful to include impartiality in the description of the meaning of objectivity.
- 5.10 As equality of opportunity has become even more of a central tenet of thinking about ethics and values in the period since the principles were first established the Committee felt it would be helpful to make it clearer that objectivity requires giving full regard to the importance of equality of opportunity and fair treatment, irrespective of individual characteristics such as disability, race, gender or sexual orientation.
- 5.11 **Honesty.** In relation to the description of honesty, the Committee took the view that the current description refers to holders of public office having a duty to declare any conflicts of interest whereas the avoidance of conflict of interest fitted more obviously into the current understanding of integrity.
- 5.12 The Committee felt that most people today would expect honesty to have a much broader meaning focusing on truthfulness. This was particularly so given the number of issues of current concern that have involved allegations of inappropriate behaviour being covered up.
- 5.13 **Leadership.** The Committee felt that public office holders sometimes needed to show courage in speaking up about difficult issues, speaking ‘truth to power’ and making or sticking to difficult decisions. This was seen as a key element of ethical leadership and the description of leadership amended accordingly.
- 5.14 The Committee accordingly provided new definitions of the seven principles and these are as set out in Appendix A of this report.
- 5.15 It is duly recommended that the new wording be substituted into the Code of Conduct accordingly.
- 5.16 The second point relates to the definition of prejudicial interest as set out in Clause 2.9 of the existing Code of Conduct. At present, specific provision is made for where a Councillor is a member of another town, parish, district or county council to provide an exemption from such an interest becoming prejudicial. There were occasions during the period of operation of the new Code when those members of West Somerset Council who are also members of the Exmoor National Park Authority were prevented from taking part in discussions by virtue of such membership. Given that the national park authority is a public body exercising functions in a similar way to local authorities, it is recommended that the membership of a national park authority should be treated in the same way as being a member of another town, parish, district or county council. It is therefore recommended that clause 2.9 (1) (a) be amended to read: “affects your financial position or the financial position of a significant person or a body described in paragraphs 2.8 (1)(a)(i) and (ii) (other than another town, parish, district or county council or national park authority of which you are also a member)”.

- 5.17 The Monitoring Officer is not aware of any other issues relating to the content of the current West Somerset Council Code of Conduct that require the possibility of further amendment though Members of the Committee are invited to raise any additional matters for discussion and debate at the meeting for possible consideration by the West Somerset Council.
- 5.18 Since the inception of the new regime, nine formal complaints have been submitted and processed to the initial assessment stage whereby the Monitoring Officer has consulted with the Standards Advisory Committee on what action to take. To date, all nine complaints have been processed without the need to resort to a formal investigation with the outcomes being reported to the Committee so that issues can be kept under review.
- 5.19 Obviously, neither the Monitoring Officer or the Committee is in control of the number and/or nature of complaints submitted; nevertheless it is the view of the Monitoring Officer that the process has to date worked quite well and as such this paper does not include any specific recommendations to amend the process. Nevertheless, the Monitoring Officer would welcome any views and comments from members of the Committee on how it is perceived the process is working so far.
- 5.20 One of the requirements of the new process is for a council to have an appointed Independent Person to help deal with complaints, particularly if they reach a full investigation stage and in this respect Louise Somerville Williams was appointed as the Council's Independent Person for an initial period until 30 September 2013 and Mike Hillman was appointed as the reserve Independent Person until 30 September 2013. It was agreed that these arrangements would be reviewed as part of the initial annual review of the new Ethical Standards Regime.
- 5.21 Whilst to date there has been limited opportunity for these persons to take an active role, the Independent Person has contributed to help set up clarity on the nature of the role and protocol for operation and has been supportive of the Monitoring Officer and Committee as a whole.
- 5.22 It is therefore suggested that the Council be recommended to extend these two appointments for a further period from 1 October 2013 until 31 March 2015. This particular period is suggested as by March 2015 the picture should be clearer as to the nature of West Somerset Council's partnership working with Taunton Deane Borough Council.

6. FINANCIAL/RESOURCE IMPLICATIONS

- 6.1 There are no direct financial implications in respect of undertaking this review and recommendations put forward.

7. SECTION 151 OFFICER COMMENTS

- 7.1 The Council is required to undertake an annual review of its governance arrangements and therefore by undertaking this review in respect of the new standards regime reflects good practice and should underpin sound governance in relation to matters of propriety.

8. EQUALITY & DIVERSITY IMPLICATIONS

Members need to demonstrate that they have consciously thought about the three aims of the Public Sector Equality Duty as part of the decision making process.

The three aims the authority **must** have due regard for:

- Eliminate discrimination, harassment, victimisation
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it

- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it

8.1 The retention of the principle of requiring a Code of Conduct and retaining a statutory duty to promote and maintain high standards of conduct for its elected councillors and co-opted members should be welcomed in terms of fair and yet equitable governance. The taking into account of equality principles in updating the definitions of the seven principles of public life is to be welcomed.

9. CRIME AND DISORDER IMPLICATIONS

9.1 None in respect of this report.

10. CONSULTATION IMPLICATIONS

10.1 This report has reflected certain comments that have been made to the Monitoring Officer in relation to the operation of the new Code of Conduct and complaints regime.

11. ASSET MANAGEMENT IMPLICATIONS

11.1 None in respect of this report.

12. ENVIRONMENTAL IMPACT IMPLICATIONS

12.1 None in respect of this report.

13. LEGAL IMPLICATIONS

13.1 This report reflects the need to maintain processes to ensure that the Council complies with the requirements prescribed by the Localism Act 2011 in relation to the Ethical Standards Regime.

THE SEVEN PRINCIPLES OF PUBLIC LIFE

SELFLESSNESS

Holders of public office should act solely in terms of the public interest.

INTEGRITY

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family or their friends. They must declare and resolve any interests and relationships.

OBJECTIVITY

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

ACCOUNTABILITY

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

OPENNESS

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

HONESTY

Holders of public office should be truthful.

LEADERSHIP

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

13
Monitoring Officer's Activities – June, July and August 2013

Date	Activities
11 June 2013	Work on complaints
13 June 2013	Work on complaints
14 June 2013	Preparation for Committee
14 June 2013	Advice to Parish Clerk
15 June 2013	Advice to District Councillor
16 June 2013	Advice to Parish Clerk
18 June 2013	Advice to Parish Clerk
18 June 2013	Advice to Parish Councillor
19 June 2013	Work arising from Committee meeting
19 June 2013	Work on complaints
21 June 2013	Advice to Parish Councillor
24 June 2013	Advice to District Councillor
26 June 2013	Attended Monitoring Officer meeting
26 June 2013	Work on complaints
26 June 2013	Work arising from Committee
27 June 2013	Work on complaints
1 July 2013	Advice to District Councillor
1 July 2013	Advice to Parish Clerk
1 July 2013	Working on complaints
2 July 2013	Working on complaints
2 July 2013	Working on complaints
2 July 2013	Working on complaints
2 July 2013	Advice to Councillor
2 July 2013	Advice to Parish Clerk
4 July 2013	Advice to District Councillor
5 July 2013	Advice to Parish Clerk
5 July 2013	Work on complaint
5 July 2013	Work on complaint
5 July 2013	Work on complaint
8 July 2013	Dealing with complaint
9 July 2013	Dealing with complaint
11 July 2013	Work on complaint
11 July 2013	Advice to Parish Councillor
12 July 2013	Work on complaint
12 July 2013	Work on complaint
12 July 2013	Advice to Councillor
15 July 2013	Advice to Parish Clerk
16 July 2013	Advice to District Councillor

18 July 2013	Advice to Parish Councillor ¹⁴
19 July 2013	Advice to colleague
19 July 2013	Work on complaints
22 July 2013	Advice to District Councillor
22 July 2013	Advice to District Councillor
23 July 2013	Advice to Parish Councillor
24 July 2013	Advice to Parish Clerk
29 July 2013	Preparing for complaints meeting
30 July 2013	Preparing for complaints meeting
1 August 2013	Advice to member of public
2 August 2013	Advice to District Councillor
2 August 2013	Advice to District Councillor
7 August 2013	Work on new Constitution
9 August 2013	Advice to Parish Councillor and Parish Clerk
12 August 2013	Advice to District Councillor
12 August 2013	Preparation for complaints meeting
13 August 2013	Consulted Standards Advisory Committee on complaints
14 August 2013	Work on complaints
15 August 2013	Work on complaints
15 August 2013	Drafted Constitution report
16 August 2013	Work on Constitution report
27 August 2013	Work on complaints
27 August 2013	Advice to Parish Clerk
28 August 2013	Advice to District Councillor
31 August 2013	Prepared draft report for Standards Advisory Committee
Note:	<p>During this period also attended the following formal meetings in role as Monitoring Officer:</p> <ul style="list-style-type: none"> • Scrutiny – 17 June • Standards Advisory Committee – 18 June • Council – 26 June • Cabinet – 3 July • Scrutiny – 15 July • Extraordinary Council – 22 July • Cabinet – 7 August • Council – 14 August