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**MINUTES OF THE STANDARDS COMMITTEE  
HELD ON MONDAY 29 SEPTEMBER 2014 AT 10.00 A.M. IN THE COUNCIL CHAMBER,  
COUNCIL OFFICES, THORPE ROAD, WEELEY**

**Present:** Councillors N Stock (Chairman), R Heaney (Vice-Chairman), J Hawkins, I Johnson, N Turner and J White

**In Attendance:** Monitoring Officer (Lisa Hastings), Democratic Services Manager (Colin Sweeney) and Senior Democratic Services Officer (Ian Ford)

**6. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

An apology for absence was received on behalf of Councillor Nicholls (with Councillor Turner substituting).

**7. MINUTES OF THE LAST MEETING**

The minutes of the last meeting of the Standards Committee, held on 25 June 2014, were approved as a correct record and signed by the Chairman.

**8. DECLARATIONS OF INTEREST**

There were no declarations of interest recorded at this time.

**9. MANDATORY TRAINING FOR MEMBERS**

There was submitted a report (A.1) by the Corporate Director (Corporate Services) which reported on the current position with regard to mandatory training for members (and named substitute members) of the Council's Licensing and Planning Committees.

Members were reminded that at its meeting held on 3 June 2014, the Council had decided, as part of the review of the Constitution, that site visits, briefings and specific training be mandatory for members (and named substitutes) of the Council's planning and licensing committees (Council Procedure Rule 37.1).

The Committee recalled that, at its meeting held on 25 June 2014, it had decided that as part of its work programme it would receive a report on the current position regarding Members' training and how mandatory training would be delivered to ensure compliance with the Council's decision.

It was reported that Members had undertaken previous training in respect of Planning and Licensing matters and details of Member attendance at those sessions were before the Committee as Appendices A and B to the Report of the Corporate Director (Corporate Services). Those records highlighted that there were gaps in the training which current members of those Committees had received, which was mainly due to changes in membership and the new requirement for named substitutes. Therefore, further training sessions were being organised for the Licensing Committee and its Sub-Committees to be delivered in the Autumn. In the meantime, any Member who had not undertaken a form of training relevant to the work of the sub-committees would not be able to sit on the sub-committee to consider business. If there was an urgent need, Officers could offer a short session however, it was not considered an effective and efficient use of resources to deliver those on a one-to-one basis.

The Committee was informed that all members and named substitutes of the Licensing and Planning Committees would be required to attend future organised sessions and that relevant Group Leaders would be notified if their Members did not undertake the training.

In order to ensure that the training was successful and that the application of the principles was understood by Members, it was suggested that each session would have a workshop style question session at the end. That approach had been adopted for the Planning Committee's training sessions and had worked well for both Members and Officers.

The Committee was made aware that not all training had to be delivered separately from the committee meeting and at its last meeting, the Monitoring Officer had suggested that the training for Standards Committee members would be delivered through the consideration of a number of reports on procedures and best practice, examples of which included the hearing procedures and a review of the current complaints process. In addition, a pre-hearing session had been organised for the Town and Parish Councils Standards Sub-Committee before its hearing held on 22 September 2014.

It was proposed that training records be maintained by the Democratic Services Section, which would serve as a useful document to provide evidence that those Members (and named substitutes) who had been appointed to the Licensing and Planning Committees had had the appropriate training to allow them to properly undertake the business of their meetings. It was also proposed that record-keeping of this nature be extended to other committees of the Council and, in particular, to the Audit Committee and this Committee.

The Committee discussed what actions, if any, could be taken in the event that a Member could not or would not attend training sessions. The Committee was also firmly of the view that it was important that all Members of the Council should have the freedom to attend all training sessions, as this would be helpful to their personal development as a Councillor and also helpful given the fact that a Member could be called upon to sit on the relevant Committee in the future.

A Member suggested that the number of planning appeals won or lost in respect of planning application decisions taken by the Planning Committee would be a good indicator of the effectiveness of that Committee and the quality of training its Members had received.

It was moved by **RESOLVED**, that

1. Details of all mandatory and other relevant training undertaken by Members be recorded and maintained by the Democratic Services Section;
2. A programme of relevant training be drafted for approval and implementation by the Audit Committee;
3. An annual report be presented to the Standards Committee, giving details of all training provided and details of attendance (and non-attendance) by Members. Such report should also include details of number of planning appeals won or lost in respect of planning application decisions taken by the Planning Committee; and
4. This Committee recommends to Group Leaders that, where appropriate, they should take into consideration the training record and suitability of their Group's Members when deciding who they nominate to serve on the Audit, Licensing, Planning and Standards Committees.

## 10. MEMBER AND OFFICER RELATIONS PROTOCOL

There was submitted a report (A.2) by the Monitoring Officer, which sought approval of the proposed Member and Officer Relations Protocol.

The Committee was informed that the purpose of this Protocol was to provide a guide to good working relationships between Members and Officers, defining their respective roles and outlining the principles that underpinned their relationship, including that of mutual respect. The Protocol also built on the Council's good governance arrangements and respective Codes of Conduct for both Members and Officers and through this promoted the maintenance of integrity, both real and perceived, of the Council as well as very high standards of personal conduct.

Members were made aware that the Monitoring Officer also considered that it would be good practice for the Members' and Officers' Codes of Conduct and the Protocol to sit together within the Constitution however, the delegated power to review and approve the Protocol would still rest with this Committee, in accordance with its terms of reference.

The Monitoring Officer circulated to the Committee an updated Protocol which took account of some minor textual amendments.

Having considered the Protocol and discussed matters including:

- Members' preference to the word 'presentation' of Council policy, as opposed to 'promotion' taking into account the position of opposition groups;
- that Members' public criticism of Officers at meetings or otherwise, was not appropriate and if there were concerns about individual performances these should be raised through alternative routes, as set out in the Protocol;
- the role of Officers in writing reports for Cabinet delivering the Administration's policies reflecting within the Protocol a clearer distinction between Cabinet and Council/Committee reports; and
- the actions of both Members and Officers during the period known as 'Purdah'; it was:

**RESOLVED** that the revised Member and Officer Relations Protocol, as amended at the meeting and as set out in the Appendix to these Minutes, be approved and adopted.

**RECOMMENDED TO COUNCIL** that the Member and Officer Relations Protocol, together with the Officers' Code of Conduct, be reinstated within Part 6 of the Constitution.

## 11. **UPDATES FROM THE MONITORING OFFICER**

### (1) Quarterly Update on Complaints

The Monitoring Officer circulated to the Committee a written quarterly update, the contents of which, following discussion, was noted. Members of the Committee were pleased to note the recommendation of the Town and Parish Councils Standards Sub-Committee for the Monitoring Officer to provide a declaration of interests and Code of Conduct guidance session to the Clerks and Chairmen of Town and Parish Councils to assist them in their roles.

### (2) Standards Conference 2014

The Monitoring Officer informed the Committee that generally the national position was that the framework under the Localism Act 2011 was working well but that there was a feeling of the lack of sanctions and issues surrounding Councillors acting in a 'Official v Private capacity' had caused concerns.

The Monitoring Officer submitted to the Committee written feedback under the following headings:

- (a) Official v Private capacity;
- (b) Procedural Issues;
- (c) Codes of Conduct;
- (d) Guidance;
- (e) Independent Person Protocol;
- (f) Freedom of Information Act requests and applying the Act versus the Data Protection Act;
- (g) Article 6 of the European Convention of Human Rights (ECHR) – Right to a Fair Trial; and
- (h) Article 10 of the ECHR – Freedom of Expression.

The Monitoring Officer undertook to circulate to Members the Committee on Standards in Public Life's document entitled "Ethics in Practice: Promoting Ethical Conduct in Public Life" and to bring the Independent Person Protocol to the December meeting of the Committee for revision as it was important to keep it up-to-date.

The Chairman suggested that the issue of 'third party' Freedom of Information Act requests for information held by the Monitoring Officer in respect of a standards complaint and its relationship to the Data Protection Act be further discussed by the Committee at its next meeting. In the meantime the Committee endorsed the approach that was currently being taken by the Monitoring Officer in relation to such 'third party' requests.

The Committee noted that the Council had improved its arrangements and was in line with the good practice recommended at the Conference.

The Chairman also stated to the Committee that if any Members would like an item raised or discussed as an agenda item at the Committee, they were free to do so and he suggested that they contacted both himself and the Monitoring Officer to discuss the request. It was noted that, during the debate on the Member/Officer protocol, it had been agreed that a guidance note on 'Purdah' would be an agenda item for the December meeting of the Committee.

The meeting was declared closed at 12.02 p.m.

Chairman

## **PROTOCOL ON MEMBER/OFFICER RELATIONS**

### **INTRODUCTION:**

The success of the Council is greatly dependent upon the positive nature of the working relationship between Members and Officers. Mutual trust and respect between both Members and Officers is essential to good local government.

The purpose of this protocol is to provide a guide to good working relationships between Members and Officers, defining their respective roles and outlining the principles that underpin their relationship.

The protocol also builds on the respective Codes of Conduct for both Members and Officers and through this promotes the maintenance of integrity, both real and perceived, of the Council as well as very high standards of personal conduct.

### **1. THE ROLES OF MEMBERS AND OFFICERS:**

1.1 In fulfilling their roles, the elected Members and Officers are both jointly responsible for:

- (a) acting honestly, with integrity and in the public interest; and
- (b) open and transparent objective decision making;

1.2 In addition, the elected Members are both responsible for:

- (a) the initiation and direction of policy;
- (b) democratic accountability to the electorate for their actions and service delivery;
- (c) the scrutiny of Council services;
- (d) community leadership;
- (e) the promotion of partnership working; and
- (f) the presentation of Council policy.

1.3 The Officers are responsible for:

- (a) providing the professional and technical advice that Members must have before them when formulating policy and when taking decisions;
- (b) lawfully implementing Members' decisions;

- (c) day-to-day administration, including staffing matters;
- (d) taking managerial and operational decisions in accordance with the Council's Scheme of Delegation;
- (e) the provision of information regarding Council services; and
- (f) undertaking public consultation.

**(c) WORKING RELATIONSHIPS - UNDERPINNING PRINCIPLES:**

To be followed by both Members and Officers in fulfilling their duties:

- mutual respect and courtesy between Officers and Members;
- an awareness of each other's responsibilities and duties;
- no inappropriate criticism, intimidating behaviour or the creation of a threatening work environment of any kind from either Members or Officers;
- equal treatment, regardless of personal or political opinions (actual or perceived);
- an adherence to the law and the lawful instructions and advice of others;
- an avoidance of close personal familiarity.

The above principles are designed to foster the good working relationships between Officers and Members that are essential to effective decision making and the delivery of services.

Alleged breaches of the Members' Code of Conduct are dealt with through the Council's Standards Committee and in relation to the Officer Code, by the Head of Paid Service. If an Officer is concerned about the conduct of a Member, they should report this to their senior manager, who will notify both the Head of Paid Service and Monitoring Officer. These concerns could include public criticism of an Officer by a Member.

**3. OFFICER APPOINTMENTS, PERFORMANCE & POLITICAL NEUTRALITY:**

- 3.1 The appointment of the Chief Executive is made at full Council and the appointments of Corporate Directors are made in consultation with the Leader of the Council, Deputy Leader and Group Leaders. The appointment of a Head of Department is made in consultation with the relevant Portfolio Holder. All other appointments are made at officer level.

- 3.2 Staffing matters (including discipline, training, setting and monitoring targets) are dealt with by the relevant managers, although the relevant Portfolio Holders/Cabinet Members will agree to targets in the case of the Chief Executive. All other targets are set at Officer level.
- 3.3 Members wishing to comment on an individual Officer's performance and/or deficiencies are usually expected to raise the matter with the relevant Corporate Director in the first instance. Thereafter to the Chief Executive if unresolved.
- 3.4 Officers are politically neutral, serve the whole Council and must avoid being identified with any political group. In order to safeguard this neutrality, Officers must avoid involvement in party political matters, such as campaigns in the political arena. This assumes particular significance in the run up to District Council and General Elections. In their lives outside work, all politically restricted posts, which includes, the Chief Executive, Corporate Directors and many Senior Officers are prevented from active political involvement.

### **3.5 OFFICER ATTENDANCE AND ADVICE TO PARTY GROUPS**

- 3.5.1 The political parties represented on the Council hold regular group meetings. Officers do not usually advise these meetings, but may be invited to give information. All invitations should be routed through the Chief Executive.
- 3.5.2 There is statutory recognition for party groups and it is common practice for such groups to give preliminary consideration to matters of Council business in advance of such items being considered by the relevant Council decision-making body. The support provided by Officers can take many forms, ranging from a briefing meeting with a Cabinet Member, Chairman or spokesperson (either jointly or individually) prior to a meeting, to a presentation to a full party group meeting. Whilst in practice such Officer support is likely to be in most demand from whichever party group is for the time being in control of the Council, such support is available to all party groups.
- 3.5.3 The parameters for support to party groups and individuals must be clearly understood, and to assist in this the following applies:-
- (g) The Chief Executive will inform all party groups of the facility for an Officer to attend a party group meeting for a specific purpose and will decide, on request, which Officer may attend.
  - (ii) Support must not extend beyond providing information and advice in relation to Council business. Officers must not be involved in advising on matters of party business and should not, therefore, be present at group meetings when such issues are being discussed.
  - (iii) Party group meetings are not empowered to make decisions on behalf of the Council and therefore any conclusions reached at group meetings do

not rank as a Council decision and cannot be interpreted or acted upon as such.

- (iv) Advice provided to party groups on an issue does not act as a substitute for providing all the necessary information and advice to Members at meetings when that issue is being considered.
- (v) The attendance of Officers at a party group meeting does not confer any official standing to that meeting.
- (vi) Special care will be exercised when non-Members are in attendance at a group meeting.
- (vii) The provisions of the Code of Conduct do not apply to non-Members and therefore the nature of advice, guidance and information given by Officers may not be the same as that given to a Members-only meeting.
- (viii) Officers must respect the confidentiality of discussions at party group meetings and must not relay the content of these discussions to any other party group.

#### **4. DECISION MAKING – PROVIDING AND CONSIDERING ADVICE**

- 4.1 Decision-making by local authorities is closely regulated by law. The taking of a decision by the wrong person/body or in the wrong way can invalidate the decision from the beginning or leave it vulnerable to being challenged and overturned by a court.
- 4.2 In the event of challenge, attention may also be focussed on the information, professional advice and options made available to the decision-making body or individual prior to that decision being made. Reports and/or other papers placed before decision-making bodies or individuals must therefore contain the relevant facts, correct and complete professional advice and alternative options that may be open to the Council. Officers have the duty to ensure that all of the information on an issue for decision by Members is available, subject to the provisions in this protocol and the Constitution on access to information.
- 4.3 The Officers are responsible for providing those reports and/or papers, and the Monitoring Officer and Chief Financial Officer are required to ensure that their proper advice is placed before decision-makers.
- 4.4 Officers preparing reports for consideration by Council or its Committees do so in the best interests of the Council and not to promote the viewpoint of a particular Member or group of Members.
- 4.5 Reports to Cabinet are drafted by Officers but submitted in the name of the relevant Cabinet Member and will be prepared with their input. Members must recognise that Officers drafting reports on behalf of the Cabinet, delivering the administration's policies, must include all the relevant information, various



options and highlighting financial considerations and legal powers, ensuring informed decisions are made, as a whole through the Head of Paid Service.

- 4.6 Officers have a duty to give advice to the Council and its Members using their professional technical knowledge and experience. This will be provided within the report and or papers and at the meeting, if required.
- 4.7 Members are entitled to expect Officer attendance at meetings at an appropriate level of expertise to ensure adequate knowledge and advice on the subject matter under discussion. Officers in attendance at meetings will always be fully briefed as far as is practical on the issues under discussion on an Agenda.
- 4.8 Such advice is given in good faith and will be in line with and reflect legislation, good practice, Council procedures, experience, professional and technical knowledge, and the Council's formally adopted policies.
- 4.9 Members are entitled to expect clear, concise and unambiguous information from Officers at all times to assist them in the decision making process. Officer's advice must be given in accordance with the Council's instructions through the decision making and review process set out in the Council's Constitution and should be taken into account by Members when considering an action or making a decision.
- 4.10 Officers are also expected to faithfully and conscientiously to implement the lawful decisions of Councillors and properly take decisions delegated to them.
- 4.11 Officers and Members must ensure that the Council's responsibilities regarding notification of and publication of decisions are complied with, as set out in the Access to Information Rules of Procedure as set out in Part 5 of the Council's Constitution.
- 4.12 In addition to legal challenges and implications, failure to follow the decision making principles may amount to breaches of both Members' and Officers' Code of Conduct and lead respectively to action under the Standards Framework or to disciplinary proceedings.

## **5. ACCESS TO CONFIDENTIAL INFORMATION**

- 5.1 Both Members and Officers must adhere to the Access to Information provisions concerning confidential information set in Part 5 of the Council's Constitution.
- 5.2 Disclosure of confidential information by either a Member or Officer will constitute a breach of their relevant Code of Conduct and the appropriate action will be taken. In addition, the Council could be exposed to a damages or compensation claim as a result of the disclosure.

## 6. SCRUTINY

The rules and procedures governing Officer and Member responsibilities in support of the Council's overview and scrutiny function are set out in Part 5 of the Constitution.

## 7. WORKING WITH THE MEDIA

7.1 Information provided to the media is governed by the Local Government Act 1986 and the Code of Practice on Local Authority Publicity. In particular,

information should be:-

- Objective, factual and informative
- Non- party political or designed to affect public support for a political party

7.2 The functions of the Council are discharged corporately and it is not, therefore, appropriate for public resources to be used to promote the views of individual Members. This does not preclude, in the interests of public accountability, publicity of the views of individual Members when they are representing the Council.

7.3 Press releases containing comments by individual Members are similarly acceptable practice. The Communications & Public Relations Manager will provide the press with factual information but comment will only be provided by the Officers with the prior consent of the Chief Executive and/or the relevant Portfolio Holder/Cabinet Member or the relevant Committee Chairman.

7.4 The principle that the Council cannot use public resources at anytime to promote the views or policies of a particular party is heightened during **election periods**. During the period just before elections there are restrictions on local authority publicity and rules concerning media reporting of the election campaign, the so-called 'purdah' period, is defined as beginning with the last date for publication of notice of the election. Prior to this period, Guidance will be issued to both Members and Officers setting out the Council's own version of the convention in the period leading up to the elections.