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**MINUTES OF THE STANDARDS COMMITTEE  
HELD ON MONDAY 14 OCTOBER 2015 AT 10.00 A.M.  
IN THE COUNCIL CHAMBER, COUNCIL OFFICES, THORPE ROAD, WEELEY**

**Present:** Councillors Heaney (Chairman), Honeywood (Vice-Chairman), Broderick, Nicholls, Steady (In the Chair for item no. 11) and Whitmore

**Also Present:** Councillor J Brown

**In Attendance:** Monitoring Officer (Lisa Hastings), Democratic Services Manager (Colin Sweeney) and Democratic Services Officer (Janey Nice)

**Also in Attendance:** J Wolton (Independent Person), Councillor G V Guglielmi and Mrs Carol Bannister (both in the public gallery)

**6. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

There were none.

**7. MINUTES OF THE MEETING OF THE STANDARDS COMMITTEE HELD ON 22 JUNE 2015**

The minutes of the meeting of the Standards Committee, held on 22 June, were approved as a correct record and signed by the Chairman.

**8. DECLARATIONS OF INTEREST**

Councillor Heaney declared that she would vacate the Chair for item 11 of the Agenda as she was a member of the same political group as Councillor G V Guglielmi and Councillor Nicholls said he would also declare a personal interest as a member of the same political Group of the afore-mentioned Councillor. The Monitoring Officer informed the Committee there was no need to declare a personal interest for item 11 of the Agenda, however, it was acceptable to declare an interest on the grounds of openness and transparency.

**9. MANDATORY TRAINING FOR MEMBERS – ANNUAL UPDATE**

There was submitted a report by the Democratic Services Manager (Colin Sweeney) which sought to update the Committee on the current position with regard to the mandatory training for Members and named substitute Members of the Council's Audit, Licensing, Planning and Standards Committees.

The report reiterated the Council's decision to make mandatory the training undertaken by Members, and their named substitutes, in respect of a number of the Council's Committees and also provided details of training undertaken to date.

Mr Sweeney informed the Committee that it was proposed Democratic Services would continue to maintain the training records and that it would be added to over time as more Members undertook additional training. He said it would serve as a useful document to provide evidence that those Members, and named substitutes, of those Committees had had the appropriate training to allow them to properly undertake the business of those meetings.

Mr Sweeney stated that since the May 2015 District Council elections there were 30 new Members to the Council (50%), that had resulted in a significant number of changes in

terms of members appointed to Committees. He said that this had meant a raft of training had been undertaken by those Members with more scheduled training still to be taken. Mr Sweeney then added that any Member who had not undertaken a form of training relevant to the work of those Committees would not be able to sit on those aforementioned Committees to consider business.

Councillor Broderick informed the Committee that she had been unable to attend any mandatory training for the Audit Committee as the training sessions had clashed with meetings both inside and outside of the Council. The Monitoring Officer informed her that if she spoke with the Finance and Procurement Manager (Richard Barrett) he would arrange training for her prior to the next meeting of the Audit Committee.

After discussion concerning training for Members it was **RESOLVED** that the contents of the training schedule be noted.

## 10. **UPDATE FROM THE MONITORING OFFICER**

### Outcome of Annual Conference

The Monitoring Officer (Lisa Hastings) informed the Committee that she had attended the Annual Conference for Monitoring Officers and apologised that she did not have a detailed note to circulate to the members of the Committee. She said that the Conference actually covered a range of subjects which had included new, and changes to existing, legislation which impacted upon local government.

Mrs Hastings said that the main message from the Conference in relation to standards matters, concerned referrals to the Police for allegations of failure to register and declare Disclosable Pecuniary Interests and how they were being looked at nationally. Mrs Hastings confirmed that the Police across the UK were taking difference stances, with not a general or similar approach, and that some cases were taking up to 12 months before a decision was made about whether to prosecute. Mrs Hastings explained that the Speaker had given several examples of referrals and that one case, which had resulted with the conviction of a Leader of a Council, had related to a Local Plan issue.

Councillor Heaney enquired how the Protocol with the Council and the Police had been agreed and whether this was a national Protocol. The Monitoring Officer confirmed, that the one used with Essex Police had been agreed with all Councils in Essex. Mrs Hastings added that other local authorities in Hertfordshire and Cambridgeshire had a similar protocol. On being asked a question enquiring who had actually set out the protocol, the Monitoring Officer said that a small group consisting of a representative from Essex Police and a selection of Monitoring Officers had written and shared it. The document had come to the Standards Committee in December 2014. The Monitoring Officer referred to a later agenda item and advised the Committee, that as a result of that case, it was necessary for the content to be reviewed, as to post referral communication.

### Quarterly complaints update

The Monitoring Officer circulated to the Committee the quarterly schedule, which gave general details of complaints received, without providing any names, and went through it with the Committee. The Monitoring Officer highlighted a number of issues which included:

- The need to look at themes proactively to try and prevent complaints being received;
- An awareness session for Code of Conduct had been provided for District Councillors at an all Member Briefing, and although not all Members attended, the session had been well attended;

- The importance of Councillors undertaking necessary training, all Members must be aware of requirements and considerations;
- The robustness of Parish Clerks recording their minutes was important, not all had realised the importance of recording whether a Councillor had declared or considered declaration of an interest for any item on their Parish Council agenda;
- The Monitoring Officer had attended a specific Parish Council at the request of the Chairman and Clerks for dedicated training. Mrs Hastings confirmed that she would be attending another Parish within the next month;
- The Monitoring Officer had received a number of emails and phone calls from the public, and although requests had been made for complaint forms, not all were returned.

#### Update on Enforcement Policies and the Role of Ward Councillors

The Monitoring Officer reported that at the last meeting, the Committee had agreed with Councillor Broderick's request for guidance on dealing with planning enforcement cases. The Monitoring Officer had made enquiries and it was confirmed that the Council did have a Planning Enforcement Policy which had been adopted in 2010 which did make reference to Councillors but did not go as far as explaining the Ward Councillor's role. Mrs Hastings added that the current Planning Enforcement Policy was out of date and Planning Services had confirmed that it was due to be updated. The Monitoring Officer would ensure that the wishes of the Standards Committee were included within the updated Policy and if the revised document was not ready, the proposed wording relating to Councillors' involvement would be presented to the next meeting of the Committee to comment on.

#### Current Practice in Respect of Officers' Declarations of Interest

The Monitoring Officer informed the Committee that she had carried out some research with the Manager of Human Resources and stated that the Staff Handbook, which was issued to employees, did refer to conduct expected of staff but it was accepted that the Handbook needed to be more robust or specific in respect of declarations of interest. The Monitoring Officer confirmed that work had commenced on revised guidance notes which would need to be presented to the Management Team and the Human Resources Committee whose Terms of Reference covered staff related matters.

When Councillor Honeywood asked when this would be ready Mrs Hastings said that she hoped it would be ready for the next scheduled Committee meeting. When asked if an Officer who had an interest, what were they required to do. Mrs Hastings confirmed that currently an Officer should declare an interest and was required to complete a form. The enhanced procedure being proposed was that an Officer would be under an obligation to declare an interest and that the Line Manager would need to make a decision on the impact of the interest, for this to be recorded and if considered appropriate in the particular circumstances, another Officer would have to take over the work.

#### **11. OUTCOME OF INVESTIGATION – FAILURE TO COMPLY WITH THE MEMBERS' CODE OF CONDUCT**

Councillor Heaney vacated the Chair by virtue of the fact she was a member of the same political group as Councillor G V Guglielmi. It was moved and seconded and **RESOLVED** that Councillor Steady took the Chair for this item.

The Monitoring Officer presented a detailed report to the Committee, that, in accordance with the Council's Complaints Procedure, the outcome of an investigation was being reported to the Committee, where an informal resolution had been reached, in consultation with the Council's Independent Person and without the need for a hearing.

The Monitoring Officer reported that a complaint had been received from a member of the public, Mrs Carol Bannister (“the Complainant”) concerning the actions of Councillors Giancarlo Guglielmi and Alan Coley under the Members’ Code of Conduct and Complaints Procedure which had been adopted by Council on 26 November 2013.

The Complainant alleged that Councillors G V Guglielmi and A Coley had breached the Tendring District Council Members’ Code of Conduct. The alleged breaches related to:

- (i) Paragraph 7.1: Disclosure of Interests at meetings of the Council;
- (ii) Paragraphs 11.1 and 11.2: Registration of Members’ Interests – Disclosable Pecuniary Interests;
- (iii) Paragraph 8.1: Disclosure of interests generally; and
- (iv) Paragraphs 9(a) and (b): Effect of Disclosable Pecuniary Interests on Participation.

The Complainant had alleged that Councillors Guglielmi and Coley had failed to disclose their interest regarding their directorship of a private limited company, Lawford Housing Enterprise Trust which had been incorporated on 30 July 2014 with the two aforementioned Councillors being registered as Directors. The Monitoring Officer had stated that the Complainant, had included in her complaint that the two Councillors, Guglielmi and Coley had taken part in the Planning Committee meeting of 11 November 2014 when an application at Coxs Hill had been considered but that neither Councillor had declared an interest in that application.

The Monitoring Officer informed the Committee that the Police had investigated the allegation of a failure to register a Disclosable Pecuniary Interest (DPI) and had confirmed their decision to take no further action and gave the reasons for that course of action.

The Monitoring Officer had informed the parties on 7 August 2015 that it was appropriate and reasonable to undertake a further investigation of the complaint as it appeared that Councillors Guglielmi and Coley had not disclosed the existence of an interest with regards to their Directorships of the Company at a meeting, and that this may have been a breach of the Members’ Code of Conduct. The Parties had been advised that the Monitoring Officer would undertake the investigation herself.

The Monitoring Officer notified the Committee that during her investigation she had made enquiries with the Lawford Parish Council’s Clerk who had not initially responded, but since the Report had been published further information had been supplied. It was still necessary to undertake further work with the Town and Parish Council and the Clerk’s decision making and declarations of interests procedures.

The Monitoring Officer confirmed that all parties had had the opportunity to comment on the investigation report and the findings contained therein. Consultation had been undertaken with the Independent Person. The report had been finalised on 5 October 2015, which had concluded that there was evidence to support the finding that the Members’ Code of Conduct had been breached by both Councillors.

The Monitoring Officer reminded the Committee, that if an investigation concluded that there was evidence of a failure to comply with the Code of Conduct, the Council’s Complaints Procedure at Section 7.1 provided the Monitoring Officer with the authority to obtain an informal resolution, in consultation with the Independent Person, without the need for a hearing by the Standards Committee. Consultation had also been undertaken with the Leader of the Council/Conservative Group Leader on suitable sanctions, as those were within their discretion (as per Section 8 of the Complaints Procedure).

Whilst the investigation was taking place, the Monitoring Officer confirmed that Councillors Guglielmi and Coley had both submitted written apologies accepting that

breaches of the Code of Conduct had occurred. Both of those apologies were contained within the body of the Report. In addition, the Leader of the Council, in exercising his power in respect of determining Portfolio Holder responsibilities, had decided that Councillor Guglielmi would not resume the Planning Portfolio for at least one year from the date of his initial removal. The Monitoring Officer added that the Council's Independent Person had agreed with the informal resolution as an appropriate and proportionate response to the breaches.

The Monitoring Officer took the Committee through the detailed Report referring to the Investigation Report outlining the background and findings. In reaching her conclusions, the Monitoring Officer highlighted that planning decisions were an emotive subject for all involved, whether it was the public objecting to an application, a developer promoting their scheme, or a Councillor seeking to influence a decision by speaking in favour or against. The importance of public perception could not be underestimated and every Councillor was under an obligation to ensure that each decision was made in an open and transparent manner.

Councillor Guglielmi had been elected as a District Councillor for 9 years and a Parish Councillor for over 25 years. Councillor Coley had been elected as a District Councillor fairly recently (July 2014) before the Planning Committee in November 2014, albeit speaking in favour of an application in his capacity as a Parish Councillor (a position which he had held for over 10 years). Whilst attending meetings of either the District or Parish Council, they were under a duty to disclose the existence and nature of any interests in the business of that meeting. Holding a directorship of a company directed to charitable purposes, which would benefit from the planning permission being granted was significant in the Monitoring Officer's opinion. In addition, the role of the Planning Portfolio Holder sitting with the Planning Committee gave a strong perception of a position of influence in the decision making.

The Monitoring Officer had concluded that it was reasonable to believe that a member of the public with knowledge of the facts could reasonably regard the interest as so significant that it was likely to affect both Councillors' judgement. Therefore they were under a duty to disclose the Non-Pecuniary Interest in accordance with Paragraph 8.1 and in failing to do so they had contravened the Code of Conduct.

In addition, to the allegations contained within the Complaint, the Monitoring Officer also referred to the following obligations and responsibilities, within the investigation report:

Both Councillors should have disclosed the existence and nature of the Non-Pecuniary Interest in accordance with Paragraph 7.1 of the Code of Conduct and after giving representations and speaking on the planning application, should have removed themselves from the Council Chamber, unless a dispensation had been obtained.

In addition both Councillors were directors of a company and it could have been perceived that they could have influenced the Planning Committee's decision. However, investigation had shown that this had not been the case as all of the Councillors on the Committee had been in favour of the application. The Monitoring Officer reported it was important to recognise the difference between a decision maker, sitting with the Committee and a Councillor giving representations 'from the floor'. Councillor Coley was speaking from the floor and was doing so in order to persuade the Committee to grant the application, whereas even though Councillor G V Guglielmi was not entitled to vote at the Planning Committee, he was seen to be in a strong position of influence. The position of the Portfolio Holder for Planning should only address the Committee on strategic planning matters.

The Monitoring Officer informed the Committee that, whilst investigating the complaint and considering information received from the Councillors, she had learnt that the Parish

Council had not delivered or organised any formal training on the obligations of the Code of Conduct, which they had adopted. Consequently, it was necessary that the Monitoring Officer continued to work with the Parish Council on declarations of interest and decision making. This on-going work would include encouraging the Parish Council to make a public statement, the contents of which should be agreed by the Council, confirming their involvement with the Lawford Housing Enterprise Trust.

Mrs Hastings said that both of the Councillors' apologies were published in full on Page 11 of the Committee report and that when the draft report was sent to all parties, the complainant had wished to respond on Councillor Coley's comments, however, this had mistakenly been omitted from the final report. Mrs Bannister had said she had not been vindictive but felt the public had the right to know of her concerns.

The Monitoring Officer stated that it was not possible to enforce parties keeping the details of a complaint confidential even though this would always be encouraged by the Monitoring Officer. Even though the Independent Person (Mrs Gosling) had not spoken to any of the parties concerned, Mrs Gosling had raised the issue of confidentiality. The Monitoring Officer assured the Committee that no communication had been sent out by the Council, without prior consent of Essex Police, as it was their decision as to what could be communicated publicly, but accepted that without any guidance from the Police it was difficult for all concerned on what could be communicated and by whom. This information would assist Councillors and a Complainant.

The Members discussed the report and raised a number of issues, which included:

1. As the Monitoring Officer worked with the Police there should be a procedure for all to follow which should be robust;
2. Trial by the media did not help matters especially inappropriate headlines and a matter could be pre-judged by the media and could become more serious;
3. That the Monitoring Officer receives more support from the Standards Committee in this area, for any future cases; and
4. Whether the suspension for a year from the Planning Portfolio was severe enough, and if the suspension should run for the whole term of the Council.

Whilst the matters above were being discussed, Councillor Broderick moved and Councillor Whitmore seconded in the interest of public scrutiny that Councillor G V Guglielmi be suspended from the role of Portfolio Holder for Planning for the full term of the Council. On being put to the vote, this motion was declared **LOST**.

Referring back to the communication with the Police, the Monitoring Officer commented that the complainant had not been happy with the way the Police had handled matters and that as Monitoring Officer, it would assist all parties if guidance was produced for future cases and on the basis of the debate suggested wording to be included within the recommendation to add the wording after Essex Police "include guidance for all parties".

It was moved by Councillor Steady and seconded by Councillor Heaney and **RESOLVED** that the Standards Committee:

- (a) Noted the outcome of the investigations undertaken by the Monitoring Officer in respect of both Councillors G V Guglielmi and Coley;
- (b) Welcomed the acknowledgement by both Councillors G V Guglielmi and Coley that they had breached the Code of Conduct;
- (c) Noted and endorsed the Informal Resolution reached in respect of:

- i. Councillor Guglielmi's written apology contained within the body of the Report of the Monitoring Officer;
  - ii. The Leader of the Council's decision that Councillor G V Guglielmi will not resume the Planning Portfolio for a period of at least one year from the date of his initial removal; and
  - iii. Councillor Coley's written apology contained within the body of the aforementioned report.
- (d) Agreed that the Monitoring Officer continued to work with Lawford Parish Council and its Clerk, undertaking training regarding declarations of interest and decisions in connection with Lawford Housing Enterprise Trust; and
- (e) Agreed that the Monitoring Officer sought a review of the Protocol with the Essex Police to include guidance for all parties in order to maintain confidence in the referral process to them and to ensure that information was properly communicated.

NOTE:

In accordance with the provisions of Council Procedure Rule 18.5, Councillors Broderick and Whitmore each required that that they be recorded in the minutes as having voted against the above motion.

The meeting closed at 11.40 a.m.

Chairman