

**MINUTES OF THE MEETING OF THE STANDARDS COMMITTEE,
HELD ON MONDAY 22 JANUARY 2018 AT 10.00 AM
IN THE COUNCIL CHAMBER, COUNCIL OFFICES, THORPE ROAD, WEELEY**

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| Present: | Councillors Heaney (Chairman), Honeywood (Vice-Chairman), Bray, J Brown, Nicholls, Scott and Steady |
| In Attendance: | Lisa Hastings (Head of Governance and Legal Services & Monitoring Officer) and Katie Sullivan (Committee Services Officer) |
| Also In Attendance: | John Wolton and Clarissa Gosling (Independent Persons) |

15. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Apologies for absence were received from Councillor Bucke (with Councillor Scott substituting).

16. MINUTES OF THE LAST MEETING

The Monitoring Officer (Lisa Hastings) informed the Committee that the original published draft minutes had stated that Councillor Davis had said in her declaration of interest that she was a 'friend' of Councillor Bennison however this was deleted shortly after publication following representations made by Councillor Davis who had denied using the word 'friend'. The declaration of interest was amended and the draft minutes were re-published.

The Monitoring Officer confirmed that the minutes before the Chairman were the same as those published in the agenda pack and those were the amended re-published minutes.

The minutes of the meeting of the Standards Committee, held on 27 September 2017, were then approved as a correct record and signed by the Chairman.

17. DECLARATIONS OF INTEREST

The Monitoring Officer informed the Committee that she had decided that it was reasonable on this occasion to grant a blanket dispensation to members of the Committee for agenda item 4, as it was reasonable to do so under Section 33 (b) and (e) the Localism Act 2011. The Monitoring Officer considered that without the dispensation the representation of different political groups on the Committee transacting item 4 would be so upset as to alter the likely outcome of any vote relating to the business and therefore, it was appropriate for the dispensation to be granted.

18. REPORT OF THE MONITORING OFFICER - A.1 - FAILURE TO COMPLY WITH THE MEMBERS' CODE OF CONDUCT - DISTRICT COUNCILLOR

There was submitted a report (A.1) by the Council's Monitoring Officer that, in accordance with the District Council's Complaints Procedure, reported the outcome of an investigation to the Committee, where an informal resolution had been reached, in consultation with the Council's Independent Person without the need for a hearing.

The Monitoring Officer reported that two separate complaints had been received in October 2017. One had been received from a member of the public, Mr William Hones

and the other had been received from District Councillor Baker. Their complaints had been received by the Monitoring Officer under the Members' Code of Conduct and Complaints Procedure alleging that the actions of District Councillor Anne Davis had breached the Members' Code of Conduct.

It was alleged in the complaints that Councillor Anne Davis had not had regard for four of the Seven Principles of Public Life namely:

- 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; and
- Honesty - Holders of public office should be truthful.

Members were informed that although not expressly referring to the Rule, it was also alleged that Councillor Davis' actions had contravened Paragraph 10 of the Code of Conduct (*Effect of Other Pecuniary Interests on participation*) by remaining on the Committee after declaring that she had attended court with Councillor Bennison, who was the subject of an agenda item before the Committee on 27 September 2017.

The Monitoring Officer confirmed that on 1 November 2017, she had decided that it was reasonable and appropriate that the complaints merited further investigation and that an external investigator be appointed. All parties had been informed of this decision.

Members were reminded that Section 5 of the Complaints Procedure set out how an investigation was conducted and that under Section 5.6, the investigation report must contain a conclusion as to whether the evidence had supported a finding of failure to comply with the Code of Conduct. Annex E of the Complaints Procedure set out the Investigation Procedure.

The Committee was informed that Mr John Austin had been appointed as the external investigator and that, following a thorough investigation, he had concluded that there was sufficient evidence to show that Councillor Davis had breached Paragraph 10 of the Council's Code of Conduct, in remaining in the meeting and participating in the way that she had. The investigator had not however considered that this was a deliberate or conscious act.

In response to the allegations the external Investigator had provided a Summary of Findings in conclusion to the investigation which were:

- Given her attendance in court to support Councillor Bennison, Councillor Davis was correct in declaring a Non-Pecuniary Interest at the Standards Committee on 27 September 2017;

- There was no conclusive evidence that she had said that she was a friend when declaring the interest;
- Councillor Davis had stated that she would consider the matter with an open mind;
- She had also stated that she applied the public interest test when deciding to stay in the meeting;
- On the evidence in front of me, I am of the view that Councillor Davis made an error of judgement when applying the public interest test and under-estimated the strength of public perception in such matters. The fact that she had attended court would in my view cause people to think that she had an allegiance to Councillor Bennison over and above being a fellow councillor;
- I therefore find that there is sufficient evidence to show that Councillor Davis breached Paragraph 10 of the Council's Code of Conduct in remaining in the meeting and participating in the way that she did;
- I do not however think this was a deliberate or conscious act. She had nothing to gain personally. She took advice beforehand and felt that she followed it. I accept that her actions were borne firstly out of a genuine wish to support a council colleague who she felt needed help and secondly a misunderstanding of how her court attendance would be viewed by others given her role on the Standards Committee for the issue in question; and
- Given the passage of time since Councillor Davis' had had relevant training, and my view that she made an error of judgement partly based on a misunderstanding, I recommend that she be asked to undertake further training on the Council's Code of Conduct.

The Monitoring Officer informed the Committee that Paragraph 10.1 of the Members' Code of Conduct stated: "If you have a non-pecuniary interest in any business of your Authority which a Member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest and you are present at a meeting of the authority at which such business is to be considered or is being considered you must:-

- (a) Disclose the existence and nature of the interest in accordance with paragraph 7.1 (but subject to paragraph 12);
- (b) Withdraw from the room or chamber where the meeting considering the business is being held, immediately after making your representations or in any other case when the business is under consideration, unless you have obtained a dispensation from your authority's Monitoring Officer.

The Monitoring Officer informed Members that all parties had had the opportunity to comment on the investigation report and the findings contained therein. One Complainant and the Council's Independent Person were in agreement with the outcome as appropriate and proportionate responses to the breach. In addition, the Council's Independent Person, John Wolton had been consulted.

The Monitoring Officer confirmed 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 her with the authority to obtain an informal resolution, in consultation with the Independent Person, without the need for a hearing by the Standards Committee.

John Wolton's comments were as follows:

"Cllr Davis duly phoned (on 13th December) and advised me of her concern and the circumstances that she now faced. A lengthy phone call ensued.

Towards the end of our discussion I felt that an apology would be appropriate and Cllr Anne Davis agreed.

My thoughts on the situation are that Cllr. Anne Davis was by naivety incorrect in taking further steps to be present at the confidential meeting of the Standards Committee as rightly noted by the complainants.

It is also noted that the Standards Committee as a whole knew of her previous declaration of interest and could have advised her of the inappropriate attendance at that confidential meeting".

The Monitoring Officer informed Members that upon receipt of the external Investigator's draft report Councillor Davis had provided a written apology accepting that paragraph 10 of the Code of Conduct had been breached.

Councillor Davis' written apology stated the following:

"Dear Mr Austin,

As you are aware, I have read the content of all the papers concerning the complaint against me, and responded to the best of my ability.

Having objectively considered that evidence, I believe and accept that I may have inadvertently and unintentionally breached article 10 of the councillor's code of conduct, and certainly, that I could be perceived to have done so. For that, and the expense caused to the council by that mistake, I am very sorry.

Would you please accept and pass on my apology for so doing, and pass it on to all concerned? Thank you so much.

Yours sincerely, Anne"

The Monitoring Officer informed Members that upon further communication with Councillor Davis, she had agreed to undergo refresher training on the provisions of the Code of Conduct, especially in relation to declarations of interest and the effects on participation. The Monitoring Officer confirmed that a date had been agreed to carry out the training.

The Monitoring Officer further informed Members that she considered that those actions were both appropriate and proportionate responses to the investigator's findings and in the circumstances, had resolved the matter informally without the need for a hearing.

Following discussion, it was moved by Councillor Heaney, seconded by Councillor Nicholls and:

Unanimously **RESOLVED** that the Committee:

- (a) Noted the outcome of the investigation undertaken by Mr Austin on behalf of the Monitoring Officer in respect of Councillor Davis;
- (b) welcomed the acknowledgement by Councillor Davis that the Code of Conduct had been breached;
- (c) noted and endorsed the Informal Resolution reached in respect of:-
 - (i) Councillor Davis's written apology contained within the body of the Report; and
 - (ii) that Councillor Davis should undergo refresher Code of Conduct training; and
- (d) requested that all elected Members should ensure that their declarations of interest are clear and concise at the meeting and that the Monitoring Officer ensures particular care is taken in recording what Members say under the declarations of interest item on the agenda for the purposes of the minutes.

19. CASE REVIEW

The Monitoring Officer provided the Committee with information on external case reviews which included the following:

- (1) Case 1 – East Devon District Council Standards Committee v. Town Council;
- (2) Case 2 – Suspension still permitted in Wales;
- (3) Case 3 – FOI Request of a draft Investigation Report;
- (4) Case 4 – Developer launches JR over Councillor's interest in planning decision;
- (5) Case 5 – Challenge to Standards Procedure;
- (6) Case 6 – Investigation in leaked report;
- (7) Case 7 – Premature Standards Committee decision;
- (8) Case 8 – All members of a political group reported to the Monitoring Officer; and
- (9) Case 9 – Breach of Code of Conduct 12 times.

Following on from the information provided, Members were given the opportunity to ask questions which were responded to by the Monitoring Officer.

20. DISCUSSION TOPICS AND/OR UPDATES FROM THE MONITORING OFFICER

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 them with the Committee.

Requests for Dispensations

The Monitoring Officer informed the Committee that Councillor Bush had requested and had been granted a dispensation which had related to a Local Plan Report, as his land

was referred to in the evidence contained within the appendix, but the land was not the subject of any decisions. The declaration had been properly made at the meeting and recorded in the minutes. Details of the dispensation were also included on the Council's website, as the usual practice.

Lack of Sanctions

At its last meeting the Committee had been informed that two Local Authorities had considered motions to lobby the Government on the lack of sanctions which Councils had been left with since the introduction of the Localism Act 2011. A consultation had also been launched on extending the list of criminal convictions which would restrict an individual standing as a Councillor.

At that meeting, the Monitoring Officer, at the Committee's request, had agreed to bring this item back to the next meeting of the Committee for further consideration.

The Committee was aware that Tendring District Council had recently referred to the lack of sanctions in the consultation document from the DCLG on criminal orders and the eligibility to stand or remain as a Councillor.

The Committee discussed this issue further.

Following discussion, it was **RECOMMENDED** to **COUNCIL**:

That the Government be lobbied directly and via the Local Government Association for a review of the lack of sanctions available to the Standards Committee following criminal convictions of Elected Members.

The meeting was declared closed at 11.45 am

Chairman