

**MINUTES OF THE MEETING OF THE STANDARDS COMMITTEE,
HELD ON WEDNESDAY, 3RD AUGUST, 2022 AT 10.00 AM
IN THE COMMITTEE ROOM - TOWN HALL, STATION ROAD, CLACTON-ON-SEA,
CO15 1SE**

Present:	Councillors Land (Chairman), Steady (Vice-Chairman), Casey and Placey
In Attendance:	Lisa Hastings (Deputy Chief Executive & Monitoring Officer), Linda Trembath (Head of Legal Services & Deputy Monitoring Officer), Karen Townshend (Executive Projects Manager (Governance)), Keith Durran (Committee Services Officer) and Debbie Bunce (Legal and Governance Administration Officer)
Also in Attendance:	The following Independent Persons: Clarissa Gosling, David Irvine and Jane Watts

1. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Apologies for absence were submitted on behalf of Councillors V E Guglielmi (with no substitute), J Henderson (with no substitute) and Skeels (with no substitute) and Sue Gallone (one of the Council's four Independent Persons).

2. MINUTES OF THE LAST MEETING

It was moved by Councillor Land, seconded by Councillor Steady and:-

RESOLVED that the Minutes of the meeting of the Committee held on Wednesday 6 April 2022 be approved as a correct record and be signed by the Chairman.

3. DECLARATIONS OF INTEREST

There were no Declarations of Interest made by Members at this time.

4. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 38

No Questions on Notice had been submitted by Members pursuant to Council Procedure Rule 38 on this occasion.

5. REPORT OF THE MONITORING OFFICER - A.1 - LOCAL GOVERNMENT ASSOCIATION MODEL MEMBERS' CODE OF CONDUCT - EXPLORATION OF THE DIFFERENCES BETWEEN DECLARING INTERESTS

Further to Minute 30 (6.4.22) the Committee continued its review of the elected Members' Model Code of Conduct ("the Model Code") as authored by the Local Government Association (LGA), in comparison to Tendring District Council's Members' Code of Conduct ("the TDC Code"), for eventual determination as to whether to recommend the Model Code to Full Council for adoption.

The current adopted Members' Code of Conduct, as detailed within Part 6 of the Council's Constitution was attached as Appendix A to the Monitoring Officer's report. The Code set out the standards, values and rules of conduct that elected Members of Tendring District Council were expected to abide by.

The LGA's Model Code was attached at Appendix B to the Monitoring Officer's report. The aim of the Model Code was to provide consistency for Members across Parish, Town, District and County Councils, especially for those Members representing two or more electorates (also known as 'dual or triple hatters'). Guidance issued by the LGA on the Model Code was attached at Appendix C to the Monitoring Officer's report.

The Committee recalled that, at its last meeting held on 6 April 2022 (Minute 30 referred), it had been appraised of the differences between the Rules of Conduct within the TDC Code compared with the Model Code and that the provisions relating to interests would be considered separately at this meeting.

To that end it was reported that the TDC Code had two types of Members' Interests namely Disclosable Pecuniary Interests (DPI) and Personal Interests. The Model Code referred to those as Disclosable Pecuniary Interests, Other Registrable Interests and Non-Registrable Interests. It could appear from first glance that the Model Code either covered interests in more detail or had introduced an additional type; however in essence they were broadly similar as the TDC Code, albeit condensed under its two headings.

Under both the TDC Code and the Model Code, it remained the responsibility of the individual Member to keep their registration of interests complete, up to date and accurate.

The TDC Code stated that Members were required to register details of their Disclosable Pecuniary Interests and their Personal Interests (that a Member was aware of at the time) within 28 days of becoming a Member (or being re-elected or reappointed) or a change in those details, in the Authority's Register of Interests. The Model Code required DPIs and only those personal interests which fell within the categories set out in Table 2, defined as Other Registrable Interests, to be registered.

Within the "Current Position" section of her report, the Monitoring Officer had endeavoured to explain (as summarised below), the differences between the interest provisions within the Codes. Upon review, the main difference to highlight was the impact of Paragraph 9 within the TDC Code being withdrawn from all types of Personal Interests although a test was still applied to those Non-Registrable Interests within the Model Code which 'affected' the interest.

1. DPI provisions within each Code

Whilst the Codes were worded and formatted differently, the requirements therein were based on the Localism Act 2011 and the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 and, therefore, the Monitoring Officer considered that the Model Code did provide additional guidance and if adopted would not change the requirements of the TDC Code.

2. Personal Interests / Other Disclosable Interests

The “Other Registerable Interests” within the Model Code were almost identical to TDC’s definition of Personal Interests however, the TDC Code gave further flexibility to speak on an item subject to the assessment of the Public Interest test, without seeking a dispensation from the Monitoring Officer. The Model Code prohibited a Member possessing an Other Registerable Interest from speaking at the meeting unless the public was permitted to speak at the meeting and if a dispensation had been granted. The Monitoring Officer foresaw that this would have an impact for those Members who were appointed to outside bodies by the Council.

3. Model Code Non-Registerable Interests and TDC Personal Interests

Paragraphs 7-9 of the Model Code were again very similar to Paragraph 5(f) of the TDC Code, but made very slight distinctions between ‘*directly relating to*’ and ‘*affecting*’, and it was important to highlight the impact of Paragraph 9 within the TDC Code compared with the Model Code:

The TDC Code: 9. Effect of Personal Interests on participation

“9.1 If a Member has a personal interest (not a Disclosable Pecuniary Interest) in any business of the 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 the Members’ judgement of the public interest and they are present at a meeting of the Authority at which such business is to be considered or is being considered the Member must:-

(a) Declare 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 representations or in any other case when the business is under consideration, unless they have obtained a dispensation from the Authority’s Monitoring Officer.”

Therefore, under the Model Code, if adopted, a Member possessing a Non-Registerable Interest as defined in Paragraph 7, which directly related to their financial interest or well-being or a financial interest or well-being of a relative or close associate, could ONLY speak on the matter IF members of the public were also allowed to speak at the meeting but otherwise that Member must not take part in any discussion or vote on the matter and must not remain in the room unless a dispensation had been granted.

If the Member possessed a Non-Registrable Interest which affected the financial interest or well-being etc. a similar test in TDC Paragraph 9 was applied.

4. Register of Gifts & Hospitality

The value of the gift or hospitality was the same. However, the Model Code did provide further text and guidance which was similar to the TDC Guidance Note, which had been issued separately. Therefore bringing both of those together could be helpful for Members, rather than them having to look at two different documents.

The Committee was made aware that from further conversations between Monitoring Officers across the County, there was still an appetite to adopt the Model Code subject to approval from respective Full Councils. The following Essex local authorities had either recommended the adoption of the Model Code or had adopted the Model Code: Essex County Council, Southend-on-Sea City Council, Basildon Council, Maldon District Council and Castle Point Borough Council.

In addition, Members were advised that, when the current TDC Code had been adopted in 2018, the majority of Town and Parish Councils within the District had adopted the revised Code, to align with TDC. A number of Town and Parish Councils were now adopting or considering adopting the LGA Model Code, and were therefore seeking advice and guidance from this Authority on its position.

The Committee was informed that there was no particular risk to this Authority in terms of the conduct and standards of its Members whether the Committee decided to recommend the adoption of the LGA Model Code or to retain and update the current TDC Code. There was the potential of an element of reputational risk if the LGA Model Code was not adopted i.e. questions would be asked as to why it had not been adopted by TDC when many authorities across the county, along with Town and Parish Councils, had adopted it or were considering doing so. Additionally, the streamlining of authorities would not be in place with differing codes being applicable to individual authorities, which could lead to some confusion, however those risks were minimal and would not affect the day-to-day practice of this Authority.

Should the Model Code be adopted then training would be required for all Members which could be delivered by Officers through dedicated sessions.

The Committee then duly considered and discussed this matter. That discussion included the following:-

- (i) Which local District Councils and Parish/Town Councils had considered adopting the Model Code;
- (ii) The Monitoring Officer's professional opinion on whether to adopt the Model Code or remain with the Tending Code;
- (iii) The flexibility within the TDC Code of speaking at a Committee meeting if a Member had a personal interest whereas this flexibility to speak was removed within the Model Code;
- (iv) The benefits of adopting the Model Code;
- (v) The frequency of applications from Members for dispensations under the current code with regards to speaking at meetings where they had a personal interest;
- (vi) Gifts & Hospitality – the guidance given to Members;

It was moved by Councillor Land, seconded by Councillor Steady and unanimously:-

RESOLVED that the Standards Committee:

- (a) notes the contents of the Monitoring Officer's report and its Appendices;

- (b) confirms its satisfaction of the comparison of the Tendring District Council's Members' Code of Conduct and the LGA's Model Code of Conduct; and
- (c) recommends to Full Council that the LGA Model Code be approved and adopted.

6. REPORT OF THE DEPUTY CHIEF EXECUTIVE & MONITORING OFFICER - A.2 - INDEPENDENT REMUNERATION PANEL AND INDEPENDENT PERSONS RECRUITMENT

The Committee considered the Independent Remuneration Panel's and Independent Persons' terms of office, with the aim of exploring alternative options as to future recruitment, with a view to making recommendations to full Council on this matter.

Members were reminded that, at its meeting held on 27 November 2018, full Council had agreed the appointment of Mr David Irvine, Mrs Clarissa Gosling, Mrs Jane Watts and Mrs Sue Gallone as the Council's Independent Remuneration Panel for the purposes of making recommendations to Council on Members' allowances. Those four persons had been also confirmed as the Council's Independent Persons for the purposes of standards arrangements. Those appointments were in place until the Annual Meeting of the Council in May 2023.

The Committee was advised that Full Council had last considered the Members' Allowances Scheme in September 2020 together with the related recommendations from the Independent Remuneration Panel (IRP). It had been highlighted that, if the Council approved a Scheme of Allowances for the following two financial years (being 2021/22 and 2022/23) the next scheduled time for the IRP to review the Allowances Scheme for this Council would be prior to the start of 2023/24 and that therefore this would concern the Scheme of Allowances to be paid following the scheduled elections to this Council in May 2023.

Therefore, without alternative arrangements in place, there would be a need to recruit a new Independent Remuneration Panel and new Independent Persons in time to make new formal appointments at Annual Council in May 2023, whilst simultaneously undertaking a review on the Members' Allowance Scheme, with the support of officers in the late Autumn/early Winter 2022.

Recruitment and alternative options

It was reported that with regard to the roles of Independent Persons for the Ethical Standards arrangements, a pool of Independent Persons was available through the Public Law Partnership (which covered Essex, Hertfordshire and Suffolk) that could be called on by any authority, subject to the necessary approvals through formal appointments. Those arrangements were considered to be appropriate to use where capacity or conflicts of interest were an issue. Whilst this Council (TDC) had approved and adopted this flexibility, using the pool had not yet been required due to TDC having four Independent Persons. Therefore, it was still considered prudent for TDC to continue appointing its own Independent Persons whilst retaining the flexibility of a wider pool to call upon if necessary.

It was noted that the Independent Persons and the Independent Remuneration Panel could continue as joint appointments or be separated.

It was suggested that this Council could also look to alternative arrangements such as joint Independent Remuneration Panels with other Councils, either on a flexible or a formal basis. Early research had indicated that a small number of Councils might be interested in a joint approach, but no commitments could be made at this time, therefore, any recruitment undertaken by TDC, would have to reflect some flexibility within its recommendations to Full Council.

Since the previous recruitment undertaken in 2018, the Committee on Standards in Public Life (CSPL) had published its report in January 2019, on the role of the Independent Persons and their recommendations had been responded to by the Government in March 2022. Therefore, it was timely for TDC to review its own approach and give consideration to different options.

The CSPL reported the outcome of their national review in a report published in January 2019, which had included a number of recommendations relating to Local Government Ethical Standards. The report had also included a number of Best Practice recommendations. Those which had related to the role and responsibilities of the Independent Person were:

Recommendation 8: The Localism Act 2011 should be amended to require that Independent Persons are appointed for a fixed term of two years, renewable once.

Whilst, it had not translated into a formal recommendation or within the list of best practice, the CSPL report had also stated on page 56 that: *“The terms of multiple Independent Persons should ideally overlap, to ensure a level of continuity and institutional memory”.*

In a letter dated 18th March 2022, from Kemi Badenoch MP (then Minister of State for Equalities and Levelling Up Communities) to Lord Evans, Chair of the Committee on Standards in Public Life, in response to this recommendation it was stated:-

“The government does not accept this recommendation as appropriate for legislation on the basis that it would be likely to be unworkable. The government’s view is that it would be more appropriately implemented as a best practice recommendation for local authorities.

In principle, it may be attractive to limit the terms Independent Persons serve to keep their role and contribution “fresh” and avoid them becoming too closely affiliated with the overriding organisational culture. However, discussions with Monitoring Officers indicate that in practice most local authorities would likely find servicing this rate of turnover unachievable. There is frequently a small pool of people capable and willing to undertake the role, who also fit the stringent specifications of being amongst the electorate, having no political affiliation, no current or previous association with the council, and no friends or family members associated with the council.

When local authorities have found effective Independent Persons who demonstrate the capability, judgement and integrity required for this quite demanding yet unpaid role, it is understandable that they may be reluctant to place limitations on the appointment.”

CSPL Best Practice 7: *Local authorities should have access to at least two independent Persons.*

CSPL Best Practice 8: *An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation, and should be given the option to review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious or trivial.*

Statutory and Constitutional Requirements

Members were reminded that Section 28(6) and (7) of the Localism Act 2011 required the Council to appoint at least one Independent Person to work with the Monitoring Officer within the Standards Framework.

Section 20 of The Local Authorities (Members' Allowances) England Regulations 2003 required that an Independent Remuneration Panel be established in respect of each local authority and that the Panel would consist of at least three people.

The Committee was advised that within TDC's Constitution, the advertisement of vacancies of Independent Person(s) and the Independent Remuneration Panel, the review of applications received, the interview of suitable candidates and the making of recommendations to Council as to who should be appointed, were delegated to the Chief Executive or the Monitoring Officer. However, as both of those independent roles did have strong engagement with Councillors it was considered appropriate that a representative from this Committee was involved in the recruitment process. It was recommended by Officers that the existing Independent Persons' term of office be extended for a year in order to allow the joint working opportunities for the Independent Remuneration Panel to be explored further.

The Committee then duly considered and discussed this matter. That discussion included the following:-

- (i) Keeping the role of Independent Persons and the Independent Remuneration Panel separate as different skills were needed for each role;
- (ii) The idea of a pool of Independent Persons;
- (iii) What would happen to the roles in the event of Local Government Reorganisation?;
- (iv) The advantages of joint working with other Local Councils.

It was moved by Councillor Land, seconded by Councillor Placey and unanimously:-

RESOLVED that the Standards Committee:-

- (a) notes the contents of the Deputy Chief Executive's report;
- (b) recommends to Full Council that alternative arrangements for the Independent Remuneration Panel are explored further in order to maximise options available with other Councils within Essex and to give consideration to the outcome prior to any future recruitment; and

- (c) recommends further to Full Council that the term of office for those Independent Persons, who express an interest in doing so, be extended for a further year without an application process, in order to allow the review within resolution (b) above to be undertaken.

7. REPORT OF THE HEAD OF DEMOCRATIC SERVICES & ELECTIONS - A.3 - TOWN & PARISH COUNCILS' STANDARDS SUB-COMMITTEE: APPOINTMENT OF TENDRING DISTRICT COUNCIL MEMBERS

The Committee was reminded that Article 9 (Standards Committee and Town & Parish Councils' Standards Sub-Committee) of the Council's Constitution stated that the Council would have, in place, a Town & Parish Councils' Standards Sub-Committee with the following terms of reference:-

"To advise and assist Town and Parish Councils and Councillors to maintain high standards of conduct and to make recommendations to Parish and Town Councils on improving standards or actions following a finding of a failure by a Parish Councillor to comply with its Code of Conduct." [Article 9.05]

It was reported that Article 9.05 also required the Sub-Committee to consist of three members of the Standards Committee and three non-voting co-opted Town & Parish Council members nominated by the Tendring District Association of Local Councils (TDALC). In addition, the nominated Town & Parish Council members would be of an independent standing and they would not have served as a District Councillor or as a County Councillor for a period of four years prior to their nomination.

Members recalled that the Standards Committee, at its meeting held on 9 July 2019 (Minute 9 referred), had appointed Councillors Nicola Overton, Graham Steady and Ann Wiggins to serve on the Town and Parish Councils' Standards Sub-Committee.

However, since that time, Nicola Overton had ceased to be a member of Tendring District Council and Ann Wiggins had not been re-appointed as a member of the Standards Committee at the Annual Meeting of the Council held on 26 April 2022.

Members were informed that the Committee Services Manager (Ian Ford) had contacted TDALC with a view to them confirming their nominations for the Sub-Committee. Dr Benjamin Newman Wright, Lawford Parish Councillor and the Secretary of TDALC, had responded by email on 16 June 2022 as follows:-

"Two Representatives were unanimously approved by TDALC Representatives at our Annual General Meeting on Wednesday 25th May 2022, namely:

*Councillor Linda Belgrove (Chair, TDALC) (Representative: Alresford Parish Council);
and*

Councillor Frank Belgrove (Vice Chair, TDALC) (Representative: Alresford Parish Council.

The only Representative on your [previous] list serving with the Tendring District Association of Local Councils is Councillor Robert Taylor. He was unable to participate

in our AGM. I understand that we will consider formally adding a Third Representative at our next TDALC Meeting.”

In the light of the above, the Committee was requested to now appoint Tendring District Council's members to serve on the Town and Parish Councils' Standards Sub-Committee for the 2022/2023 Municipal Year.

It was moved by Councillor Land, seconded by Councillor Steady and:-

RESOLVED that the Standards Committee:-

- (a) appoints Councillors Casey, Placey and Steady to serve on the Town and Parish Councils' Standards Sub-Committee for the 2022/2023 Municipal Year;
- (b) notes, welcomes and endorses that the Tendring District Association of Local Councils (TDALC) has appointed Parish Councillors Frank Belgrove and Linda Belgrove as two of their three non-voting, co-opted members of that Sub-Committee; and
- (c) further notes that TDALC will notify the Council of its third non-voting, co-opted member of that Sub-Committee in due course.

8. **QUARTERLY COMPLAINTS UPDATE AND OTHER GENERAL MATTERS**

The Committee had before it the Monitoring Officer's quarterly schedule, which updated it on existing and new conduct complaint cases, along with other matters.

TENDRING DISTRICT COUNCIL MONITORING OFFICER UPDATE JULY 2022				
Council	Complainant	Current status	Final outcome	Comments
Existing Cases from last update:				
TOWN	PUBLIC 2 x TOWN COUNCILLORS	ONGOING	Informal resolution	Matter related to claims of bullying. Informal resolution and governance review with an external company conducted. All Members within Town Council engaged to positive working arrangements going forward. One action outstanding to conclude the matter.
PARISH	PUBLIC	CLOSED	Informal resolution	Complaint related to conduct in a public

			was recommended by the Monitoring Officer; however the complainant withdrew their complaint	meeting. As it was a second complaint of this nature, the complaint was reviewed by Independent Person.
TOWN	PUBLIC	CLOSED	No further action	Matter related to various areas which needed to be identified more clearly. The substance of the complaint did not relate to the Councillor's actions. Independent Person consulted.
New Cases since last update:				
Council	Complainant	Current status	Final outcome	Comments
DISTRICT	PUBLIC	PENDING	PENDING	Further information has been sought from the Complainant. Matters raised may not relate to acting in official capacity and within the remit of the Code.
DISTRICT	PUBLIC	CLOSED	No further action	Matter related to conduct within the Council's Committee Room. Reflective assurances provided to MO. Independent Person was consulted.
<u>General Notes – 2022/23 Summary:</u>				
2 new cases had been received in 2022/23.				
1 Town Council matter was still on-going from March 2021 but only one action was outstanding and was anticipated to be concluded shortly.				
Requests for dispensations:				
2 sought which related to a personal interest on the same subject matter impacting a				

large area outside of the personal interest and the wider interests of the community and residents who were also impacted upon. The matter was a non-statutory consultation and the role of a District Councillor was to voice the views of persons living in the area.

The Committee noted the foregoing.

The meeting was declared closed at 10.49 am

Chairman