



STANDARDS COMMITTEE

DATE:	Wednesday, 20 March 2024
TIME:	10.00 am
VENUE:	Committee Room - Town Hall, Station Road, Clacton-on-Sea, CO15 1SE

MEMBERSHIP:

Councillor Talbot (Chairman)	Councillor Land
Councillor Wiggins (Vice-Chairman)	Councillor Newton
Councillor Ferguson	Councillor Oxley
Councillor J Henderson	

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DATE OF PUBLICATION: Tuesday, 12 March 2024

AGENDA

1 Apologies for Absence and Substitutions

The Committee is asked to note any apologies for absence and substitutions received from Members.

2 Minutes of the Last Meeting (Pages 5 - 12)

To confirm and sign as a correct record, the minutes of the meeting of the Standards Committee, held on Wednesday 19 July 2023.

3 Declarations of Interest

Councillors are invited to declare any Disclosable Pecuniary Interests, Other Registerable Interests of Non-Registerable Interests, and the nature of it, in relation to any item on the agenda.

4 Questions on Notice pursuant to Council Procedure Rule 38

Subject to providing two working days' notice, a Member of the Committee may ask the Chairman of the Committee a question on any matter in relation to which the Council has powers or duties which affect the Tendring District **and** which falls within the terms of reference of the Committee.

5 Report of the Assistant Director (Governance) & Monitoring Officer - A.1 - Independent Remuneration Panel and Independent Persons Recruitment (Pages 13 - 16)

To enable the Committee to comment on the Independent Remuneration Panel and Independent Persons' term of office, exploring alternative options and future recruitment, with consideration to recommendations to Full Council.

6 Report of the Monitoring Officer - A.2 - Pre-Election Guidance for Tendring District Council Members and Officers (Pages 17 - 24)

To note the Pre-Election Publicity Guidance produced for elections within the Tendring District ensuring that its contents are clear for Members and Officers in readiness for the May 2024 Police, Fire and Crime Commissioner elections.

7 Quarterly Complaints Update and other general matters (Pages 25 - 26)

The Committee will receive the Monitoring Officer's quarterly update regarding standards complaints together with an update on other pertinent matters.

Date of the Next Scheduled Meeting

The next scheduled meeting of the Standards Committee is to be held in the Committee Room - Town Hall, Station Road, Clacton-on-Sea, CO15 1SE at 10.00 am on Wednesday, 17 April 2024.

Information for Visitors

FIRE EVACUATION PROCEDURE

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Please heed the instructions given by any member of staff and they will assist you in leaving the building and direct you to the assembly point.

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Your calmness and assistance is greatly appreciated.

**MINUTES OF THE MEETING OF THE STANDARDS COMMITTEE,
HELD ON WEDNESDAY, 19TH JULY, 2023 AT 10.00 AM
IN THE COMMITTEE ROOM, TOWN HALL, STATION ROAD, CLACTON-ON-SEA,
CO15 1SE**

Present:	Councillors Talbot (Chairman), Wiggins (Vice-Chairman), Ferguson, J Henderson, Newton and Oxley
In Attendance:	Lisa Hastings (Deputy Chief Executive & Monitoring Officer), Ian Ford (Committee Services Manager), Karen Townshend (Executive Projects Manager (Governance)) and Bethany Jones (Committee Services Officer)
Also in Attendance:	David Irvine and Jane Watts (two of the Council's Independent Persons)

1. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Apologies for absence were submitted on behalf of Councillor Land, Sue Gallone and Clarissa Gosling (two of the Council's Independent Persons).

2. MINUTES OF THE LAST MEETING

It was moved by Councillor J Henderson, duly seconded and:-

RESOLVED that the Minutes of the meeting of the Committee held on Wednesday 15 March 2023 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 - INTRODUCTION TO THE STANDARDS FRAMEWORK AND TERMS OF REFERENCE OF THE STANDARDS COMMITTEE & UPDATE ON MEMBER INDUCTION AND CODE OF CONDUCT TRAINING

The Committee considered a report, which enabled the new membership of the Standards Committee to familiarise themselves with the Council's Standards Framework and to be introduced to the Committee's work plan for the 2023/24 Municipal Year.

Members were reminded that Full Council, at its meeting in November 2022, had adopted the Local Government Association's Model Members' Code of Conduct, for the purposes of Sections 27 and 28 of the Localism Act 2011. This had commenced from the Annual Council meeting in May 2023.

It was reported that Section 28 of the Localism Act 2011 also required the District Council to have in place arrangements under which allegations could be investigated and in November 2013 Full Council had approved, and adopted, the Standards Committee's Terms of Reference and a package of procedures and protocols. Those collectively formed the District Council's Standards Framework.

The Committee was informed that Council Procedure Rule 33.3 (Training Members of the Audit, Licensing and Registration, Planning and Standards Committees) stated that:-

- *In addition to specific training required as and when necessary, training shall be provided to all Members appointed to the Audit, Licensing and Registration, Planning and Standards Committees on an annual basis at an appropriate date and time after each annual meeting of the Council and such training shall be mandatory. The Monitoring Officer shall define what is meant by the word "mandatory" and they will also decide whether the training offered/provided is/was sufficient and "fit for purpose".*
- *A Member cannot sit as a member of the Standards Committee unless they have received specific training with regard to the Hearings Procedure and participation in Hearings*

Members of the Standards Committee would receive the relevant hearing procedure training prior to any hearings if scheduled.

The Committee was reminded that the seven elements of the Council's Standards Framework were as follows:

- i. The Members' Code of Conduct
- ii. The Terms of Reference and Delegated Powers for the Standards Committee and the Town and Parish Council's Sub-Committee
- iii. The annual work programme adopted by the Committee
- iv. The Monitoring Officer Protocol
- v. The Independent Person's Protocol
- vi. Member and Officer Relations Protocol
- vii. The Complaints Procedure

With the exception of (iii) above, the Code, Protocols and Complaints Procedure were all contained within Part 6 of the Council's Constitution. The Terms of Reference of the Committee and the Town and Parish Councils' Standards Sub-Committee and the annual work programme were included as Appendices A and B respectively to item A.1 of the Report of the Monitoring Officer.

Members were advised that the overall approach of the arrangements was to seek:

- *Information and training for Members and Officers to increase awareness and support good standards of behaviour*
- *Proportionality – responses to complaints which were proportionate to their seriousness*
- *Timeliness – with clear timescales for the various stages of complaints to be progressed*
- *Checks, balances, reporting requirements and delegation to the Monitoring Officer of key elements of the process to maximise independence from the political process*

- *Early and informal intervention to resolve complaints wherever possible (including an expectation that Group Leaders will play a key role)*

It was suggested that, in order to enable the Committee to focus on promoting high standards of conduct as well as reacting to complaints, Members might reference the annual work programme for the Committee for the 2023/24 Municipal Year. The Committee noted that throughout the year Members received various reports reflecting on good practice in maintaining and upholding high standards of conduct to assist Members in being proactive in the exercise of its statutory duty. Members of the Committee could also make a request to the Chairman of the Committee and/or the Monitoring Officer for items to go on the agenda throughout the year, so long as it they were within the Committee's terms of reference.

The Committee's attention was further drawn to Appendix C, which was an update by the Monitoring Officer to inform the Committee of details of those Members who had attended the new Members' Code of Conduct training; of which various sessions had been held following the election in May 2023. Those District Councillors who were also Town and Parish Councillors could be recorded as attending the mandatory training for both roles as the content was applicable to their dual role. Invitations had been sent to all 27 Town and Parish Councils, offering two training dates, of which 12 had had a selection of Councillors who had attended the training.

It was recommended to the Standards Committee that consideration be given to the communication to the Town and Parish Councils who had adopted the LGA Model Code of Conduct, which stated at Paragraph 8 that all Councillors must attend Code of Conduct training provided.

The Chairman highlighted the number of parish and town councils who had not attended the mandatory code of conduct training and expressed his concern and disappointment at this.

A Member suggested that consideration be given to a more central location in the District for future code of conduct training events as she was aware that some elderly parish/town councillors were reluctant to drive very far in the evenings.

Another Member stated that she was aware that a number of parish councils had been in a state of 'confusion' following the elections in May 2023, which had possibly contributed to the non-attendance. She asked if further code of conduct training events could be offered which could potentially be in the daytime.

The Monitoring Officer informed Members that she would be content to put on another two code of conduct training events either daytime and/or in the evening and that she would also be happy to investigate holding them in a different part(s) of the District.

It was moved by Councillor J Henderson, seconded by Councillor Ferguson and:-

RESOLVED that –

- (a) the contents of both the Officer report and Appendices A and B thereto be noted;

- (b) the one hundred percent achievement of elected Councillors attending the mandatory Code of Conduct training following the elections in May 2023 be welcomed;
- (c) the Monitoring Officer be requested to write to the Town and Parish Councils in the District of Tendring who have adopted the LGA's Model Code of Conduct, to remind them that at Paragraph 8 it is stated that all Councillors must attend the Code of Conduct training provided; and
- (d) the draft of the letter referred to in resolution (c) above be circulated to the members of the Committee for their comment before it is sent out to the Town and Parish Councils.

6. REPORT OF THE MONITORING OFFICER - A.2 - MEMBERS' PLANNING CODE & PROTOCOL

The Committee considered whether a wider review of the Council's 'Members' Planning Code & Protocol' adopted in 2015 (and subsequently updated in 2021), should be undertaken following the request by Cabinet and Council to give further guidance to site visit procedures, reflecting upon whether a revised approach should be taken to produce an easier to understand document.

It was reported that, in December 2019, the Local Government Association (LGA) had issued its 'Probity in Planning Guidance – Advice for Councillors and Officers making planning decisions'. This document was included as Appendix A to item A.2 of the Report of the Monitoring Officer. The Standards Committee had subsequently agreed through its work programme to review the Council's Planning Code & Protocol following the LGA publication.

Members were informed that, following the 2020/21 review, no further changes had been suggested as a result of the LGA's guidance. However, additional wording had been recommended to cover situations when it was not possible to undertake Site Visits and to clarify that this would not impact upon the Planning Committee's ability to determine planning applications. The Council's current version of the Council's Planning Code and Protocol was attached as Appendix B to the Officer report.

The Committee was reminded that, following the work of the Constitution Review Working Party (CRWP) in late 2022 and 2023, and consequent recommendations from Cabinet, Full Council had resolved at its meeting on 2nd March 2023 (minute no. 106 referred) that:-

(d) the Monitoring Officer be requested to amend the Council's procedure for Planning Committee Site visits, as set out in the Members' Planning Code and Protocol (in Part 6 of the Constitution) to appropriately reflect the matters raised by the Review of the Constitution Portfolio Holder Working Party; and

(e) the Monitoring Officer be further requested to submit the Site Visit Procedure, as amended, to Full Council for its approval and adoption, following consultation, as appropriate and necessary, with the Planning Committee and the Standards Committee.

The matters raised by the CRWP were contained within the body of the Officer report, in the Background Section, and related to lobbying, site visits, training and links to the

Code of Conduct. The Monitoring Officer felt that a definition of lobbying could easily be included and additional wording provided for site visits. The recent training of the Planning Committee Members and their substitutes (and which had been offered to all Members), had been delivered in May 2023, and had covered site visits. However, it was now proposed by the Monitoring Officer that a wider review of the Council's Protocol be undertaken, not to alter the principles thereof but to produce a more user-friendly document.

The Committee was made aware that through the production of the Planning Probity Protocol for the Tendring Colchester Borders Garden Community Joint Committee in 2022, as set out at Appendix C to the Officer report, a different format had been adopted, and which was considered to be easier to follow.

In addition, the Planning Advisory Service (PAS) through their website outlined some of the best practice they had found to assist Councils in reviewing their own codes of practice. Various examples were suggested for different elements, such as councillor involvement in pre-application advice, interests, lobbying, dealing with petitions, officer member relationships, ward councillor involvement, site visits, referral of delegated applications to Planning Committee, public speaking, training etc.

In respect of lobbying the Monitoring Officer's report had included, for Members' information, the pertinent details of a judgment made by Mr Justice Dove in the High Court in 2020 in relation to the case of *R. (Holborn Studios Ltd) v. London Borough of Hackney [2020] EWHC 1509 (Admin)*.

Members were aware that the CRWP, Cabinet and subsequently, Full Council had requested the Monitoring Officer to provide a definition of Lobbying.

The Monitoring Officer stated in her report that lobbying was when an individual or a group tried to persuade someone to support a particular policy or campaign. Lobbying could be done in person, by the sending of letters and/or emails or via social media.

Lobbying meant, in a professional capacity, **attempting to influence**, or advising those who wished to influence, the UK Government, Parliament, the devolved legislatures or administrations, regional or local government or other public bodies on any matter within their competence.

The LGA's Probity in Planning stated:

"Lobbying is a normal part of the planning process. Those who may be affected by a planning decision, whether through an application, a site allocation in a development plan or an emerging policy, will often seek to influence it through an approach to their ward member or to a member of the planning committee. As the Nolan Committee's 1997 report 13 states: 'It is essential for the proper operation of the planning system that local concerns are adequately ventilated. The most effective and suitable way that this can be done is through the local elected representatives, the councillors themselves'. Lobbying, however, can lead to the impartiality and integrity of a councillor being called into question, and so care and common sense must be exercised by all parties involved."

In addition, Mr Justice Dove had concluded in his Judgement referred to above (at paragraph 79) that:-

“Receiving communications from objectors to an application for planning permission is an important feature of freedom of expression in connection with democratic decision-taking and in undertaking this aspect of local authority business”.

It was therefore recommended by the Monitoring Officer that at this stage, rather than simply add wording to the existing Planning Code & Protocol, a fresh review be undertaken of that document.

It was moved by Councillor J Henderson, seconded by Councillor Newton and:-

RESOLVED that -

- (a) the contents of the Monitoring Officer’s Report and the fact that the Site Visit procedure was included within the recent mandatory training to Planning Committee Members, their substitutes and that this was available to all Members of the Council, be noted;
- (b) the different approach adopted for the Planning Probity Protocol for the Tendring Colchester Borders Garden Community Joint Committee, and that the Planning Advisory Service suggests some best practice for Planning Committee Protocols following the LGA’s Probity in Planning Guidance, be also noted; and
- (c) a review of the Council’s Planning Protocol be carried out to ensure that it is adhering to best practice and easy to follow.

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

The Committee considered the appointment of Tendring District Council’s members to serve on the Town and Parish Councils’ Standards Sub-Committee for the 2023/2024 Municipal Year.

Members recalled 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]

Members were reminded 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.

It was reported that the Standards Committee, at its meeting held on 3 August 2022 (Minute 7 referred), had appointed Councillors Dan Casey, Gina Placey and Graham Steady to serve on the Town and Parish Councils' Standards Sub-Committee.

Since that time, Councillors Casey, Placey and Steady had not been re-appointed as members of the Standards Committee, at the Annual Meeting of the Council held on 23 May 2023.

The Committee was informed that Frank Belgrove, Alresford Parish Councillor and the Chairman of TDALC, had emailed the Committee Services Manager on 25 May 2023 as follows:-

"Yesterday, Wednesday 24th May 2023, we held our AGM. I was elected as the new Chairman as Linda had stood down, and Cllr Danny Botterell is the new Vice Chairman.

To confirm the Tendring District Association of Local Councils (TDALC) has approved three appointments to the Standards Committee / Sub Committee as listed below.

- 1. Cllr Frank Belgrove (Chairman TDALC) Alresford PC;*
- 2. Cllr Danny Botterell (Vice Chairman TDALC) Little Clacton PC; and*
- 3. Cllr Linda Belgrove (Member TDALC) - Alresford PC."*

It was moved by Councillor Ferguson, seconded by Councillor J Henderson and:-

RESOLVED that the Standards Committee:-

- (a) hereby appoints Councillors Oxley, Talbot and Wiggins to serve on the Town & Parish Councils' Standards Sub-Committee for the 2023/2024 Municipal Year; and
- (b) notes, welcomes and endorses that the Tendring District Association of Local Councils (TDALC) has appointed Parish Councillors Frank Belgrove, Linda Belgrove and Danny Botterell as their three non-voting, co-opted members of that Sub-Committee.

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 general matters.

TENDRING DISTRICT COUNCIL MONITORING OFFICER UPDATE JULY 2023				
Council	Complainant	Current status	Final outcome	Comments
Existing Cases from last update:				
Council	Complainant	Current status	Final outcome	Comments
DISTRICT	PUBLIC	CLOSED	No further action	Matter related to alleged misconduct whilst acting

				in an official capacity.
DISTRICT	DISTRICT COUNCILLOR	CLOSED	No further action	Matter related to an allegation of not disclosing a pecuniary interest.
DISTRICT	DISTRICT COUNCILLOR	CLOSED	No further action	Matter related to an alleged disclosure of confidential information.
New Cases since last update				
PARISH	PUBLIC	ONGOING		Matter related to an alleged non-declaration of interest.
<u>General Notes – 2023/24 Summary:</u>				
<p>Overall, 3 cases had been received in 2023/24. Two of the previously reported outstanding cases had merited no further action, one due to the Member not being re-elected at the May 2023 elections, the other due to the Member resigning from their position after the election.</p> <p>The Monitoring Officer had delivered Code of Conduct training to all District Members and two sessions had been held for Town and Parish Members and their Clerks.</p>				
Requests for dispensations:				
There had been one request for a dispensation which had been granted.				

In response to a question from an Independent Person, the Executive Projects Manager (Karen Townshend) confirmed that training on the Council's newly adopted Code of Conduct would be offered to the Independent Persons.

The Committee noted the foregoing.

The meeting was declared closed at 10.49 am

Chairman

STANDARDS COMMITTEE

20 MARCH 2024

REPORT OF THE ASSISTANT DIRECTOR (GOVERNANCE) & MONITORING OFFICER

A.1 INDEPENDENT REMUNERATION PANEL AND INDEPENDENT PERSONS RECRUITMENT

(Report prepared by Lisa Hastings)

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To enable the Committee to comment on the Independent Remuneration Panel and Independent Persons' term of office, exploring alternative options and future recruitment, with consideration to recommendations to Full Council.

EXECUTIVE SUMMARY

Current Position

- At the meeting on 27 November 2018, Council 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.
- Mr David Irvine, Mrs Clarissa Gosling, Ms Jane Watts and Ms Sue Gallone were also confirmed as the Council's Independent Persons for the purposes of standards arrangements.
- The roles of Independent Remuneration Panel and Independent Persons are still separate but the same individuals have been appointed to both and are in place until Annual Council in April 2024. Each role is covered by separate legislation and are different in their nature, the statutory provisions regarding these roles are set out below, although due to economies dual appointments were previously made.
- The appointments as Independent Persons (IPs) were extended for a year from May 23 – 24, at Full Council in on 22nd November 2022 (Minute no. 52) and as Independent Remuneration Panel (IRP) members at Full Council on 2nd March 2023 (Minute no. 108).
- There was a requirement, following the decision at Full Council on 22nd November 2022, that alternative arrangements for the IRP be 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.
- During last year, Braintree District Council (BDC) expressed an interest in joint working on the role of the IRP (not IP) and recently advertised to recruit to their IRP role and included reference to working with other Essex Councils (although Tendring District Council was not specifically named).
- The Assistant Director (Governance) & Monitoring Officer took part in the BDC interview process and each candidate confirmed they would be interested in joint working with TDC, if this was approved locally as an approach going forward.
- Following the decision of Full Council in November 2022, the Monitoring Officer can report there is interest in a joint working arrangement whereby a pool of IRPs could be appointed to undertake reviews of Members' Allowance Schemes for different Councils and the successful candidates through the BDC process could be recommended for appointment by Tendring.
- The advertisement of vacancies for the position 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 is delegated to the Chief Executive (Part 3.9).

- It is recommended that this delegation is amended to include the Monitoring Officer together with the Chief Executive, so that the administrative process for Tending can be undertaken and recommendations made to Full Council in July 2024. Currently, there is no requirement for a review of Tending's Members' Allowances Scheme through the interim period.
- It is recommended that in light of the proposed joint working arrangements for IRPs, the automatic appointment to both roles at Tending ceases to allow different arrangements to be implemented.
- It is recommended that the existing appointments to IPs are extended, to those who express a wish to continue, to ensure we comply with the requirements of the Localism Act 2011. The current appointments are working well and there are a few standards cases in the pipeline whereby consistency and continuity would be beneficial.

Recruitment and alternative options

- With regard to the roles of Independent Persons for the Ethical Standard arrangements, a pool of Independent Persons are available through the Public Law Partnership (covering Essex, Hertfordshire and Suffolk) that can be called on by any authority, subject to the necessary approvals through formal appointments. These arrangements are considered appropriate to use where capacity or conflicts of interest are an issue. Whilst the Council has previously approved and adopted this flexibility, using the pool has not been required due to having four Independent Persons. Therefore, it is still considered prudent for Tending District Council to continue appointing its own Independent Persons whilst retaining the flexibility of a wider pool to call upon if necessary.
- The IP and the IRP could continue as joint appointments or be separated.
- The term of office for IRP and IPs were currently aligned to the term of office for District Councillors and consideration should be given to alternative approaches such as staggering and overlap of terms, providing consistency and effective use of resources, preventing regular recruitments.
- Since the recruitment last undertaken in 2018, the Committee on Standards in Public Life published its report in January 2019, which with regards to the role of the Independent Persons and their recommendations were responded to by Government in March 2022. Therefore, it is timely for Tending District Council to review its own approach and give consideration to different options.

Statutory and Constitutional Requirements

- Section 28(6) and (7) of the Localism Act 2011 requires 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 requires that an Independent Remuneration Panel shall be established in respect of each authority and that the Panel shall consist of at least three people.
- In the Council'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, are delegated to the Chief Executive. However, as both of these independent roles do have strong engagement with Councillors it is considered appropriate that the views of the Committee are sought. It is recommended that the existing Independent Persons term of office be extended for a year to allow the joint working opportunities for the Independent Remuneration Panel to be implemented.

RECOMMENDATION(S)

It is recommended that the Standards Committee:-

(a) notes the contents of this Report;

(b) recommends to Full Council that:

- (i) the previous local arrangements for joint appointments to both roles, being the Independent Remuneration Panel and Independent Persons ceases;**
- (ii) future arrangements continue to be explored for a joint Independent Remuneration Panel with other Councils, and the delegation for recruitment be extended to the Chief Executive and Monitoring Officer for recommendations to be made to a future meeting of Full Council;**
- (iii) for the purposes of (b)(ii) the term of office of future Independent Remuneration Panel members be for a period of up to 7 years, being staggered if appropriate, to cover the Review of the Members' Allowances Scheme required for 2026/27 and into the next term of office for District Councillors; and**
- (iv) 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, to allow a separate recruitment exercise to be undertaken for the sole role of Independent Person.**

BACKGROUND

The following recruitment process was undertaken for the roles in 2018/19:-

- o up to four people were to be appointed to serve as both the Independent Remuneration Panel and Independent Persons;
- o an allowance of £600 per annum was allocated for payment to each person;
- o a Recruitment Pack be produced incorporating comments from the Standards Committee;
- o the posts were advertised locally;
- o interviews be undertaken by a Joint Member / Officer panel;
- o the recommended appointments by the Panel be submitted directly to Full Council for approval.

The Committee on Standards in Public Life (CSPL) reported the outcome of their national review in a Report published in January 2019, which included a number of recommendations relating to Local Government Ethical Standards. The Report also includes a number of Best Practice recommendations, those which relate 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, the following did not translate into the formal recommendation or within the list of best practice, the CSPL report stated (page 56) *“The terms of multiple Independent Persons should ideally overlap, to ensure a level of continuity and institutional memory”*.

In the Letter from Kemi Badenoch MP (Minister of State for Equalities and Levelling Up Communities) to Lord Evans, Chair, Committee on Standards in Public Life dated 18th March 2022, 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.

APPENDICES

None

STANDARDS COMMITTEE

20 MARCH 2024

REPORT OF THE MONITORING OFFICER

A.2 PRE-ELECTION GUIDANCE FOR TENDRING DISTRICT COUNCIL MEMBERS AND OFFICERS

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To note the Pre-Election Publicity Guidance produced for elections within the Tendring District ensuring that its contents are clear for Members and Officers in readiness for the May 2024 Police, Fire and Crime Commissioner elections.

EXECUTIVE SUMMARY

A Guidance Note concerning publicity and resources has been routinely issued, to all District Council Members and Officers, in the run up to the elections since 2014, in the format as shown in Appendix A to this report. In readiness for the May 2024 Police, Fire and Crime Commissioner election, the Standards Committee is requested to provide any comments or seek clarification on the content of the guidance to ensure that it is clear, concise and easily understood. The Standards Committee feedback will be considered by the Chief Executive (who is also the Local Returning Officer for the election in the District of Tendring) when issuing the revised guidance in March 2024.

In preparing the guidance now presented, due regard has been given to the LGA's published advice set out in the 'Use of Resources and Value for Money' Section below about the applicability of pre-election restrictions and the need for caution to avoid doing anything which offers undue influence or advantage that might affect the forthcoming election.

RECOMMENDATION(S)

It is recommended that the Standards Committee:

- a) notes the contents of this report, subject to any comments or recommendations that the Committee may wish to make following its consideration of the report;**
- b) endorses the Guidance being circulated to all Tendring District Councillors together with a reminder of paragraph 7 of the Members' Code of Conduct; and**
- c) supports the Guidance being circulated to all Town and Parish Councils in the District.**

REASON(S) FOR THE RECOMMENDATION(S)

To request any feedback on the Guidance to be issued by the Chief Executive in a timely manner in readiness for the 2024 May Election and the upcoming Pre-Election Period due to commence on 22nd March 2024.

ALTERNATIVE OPTIONS CONSIDERED

An alternative option could have been not to consult the Standards Committee on the content of the Pre-Election Guidance however, this would have gone against previous decisions to do so, without justification.

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

The Guidance builds on the Council's good governance arrangements and reputation during pre-election periods and forms part of effective and positive governance.

LEGAL REQUIREMENTS (including legislation & constitutional powers)

Paragraph 7 of the Council's Members' Code of Conduct (LGA Model Code) refers to the use of local authority resources and facilities and states:

As a councillor:

7.1 I do not misuse council resources.

7.2 I will, when using the resources of the local authority or authorising their use by others:

- a. act in accordance with the local authority's requirements; and
- b. ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which I have been elected or appointed.

The Secretary of State for Communities and Local Government issued the Code of Recommended Practice on Local Authority Publicity, under the Local Government Act 1986 (as amended) ("the Act") which came into force on 31 March 2011. The Code is recognised as the statutory guidance for local authorities to have regard to, at all times, ensuring their publicity complies with all applicable requirements. The principle to ensure that special care is taken during periods of heightened sensitivity is of particular relevance during the period just before elections.

Local authorities are required by section 4(1) of the Act to have regard to the contents of the Code in coming to any decision on publicity. Section 6 of the Act defines publicity as "any communication in whatever form, addressed to the public at large or a section of the public". The Code therefore applies in relation to all decisions by local authorities relating to paid advertising and leaflet campaigns, publication of free newspapers and newsheets and maintenance of websites – including the hosting of material, which is created by third parties. Nothing in the Code overrides the prohibition by Section 2 of the Act on the publication by local authorities of material which in whole or in part appears to be designed to affect public support for a political party. Paragraphs 21 to 24 of the Publicity Code offer some guidance for local authorities on the management of publicity, which may contain or have links to party political material.

Tendring District Council's Guidance follows best practice and assists the Council to fulfil its statutory duty to have regard to national guidance for pre-election periods. The Local Government Association's latest guide to publicity during the pre-election period and associated frequently asked questions and answers has been reviewed and its contents

have taken into account.

FINANCE AND OTHER RESOURCE IMPLICATIONS

There are no finance or resource implications associated with this report.

USE OF RESOURCES AND VALUE FOR MONEY

The following are submitted in respect of the indicated use of resources and value for money indicators:

A) Financial sustainability: how the body plans and manages its resources to ensure it can continue to deliver its services;

B) Governance: how the body ensures that it makes informed decisions and properly manages its risks, including; and

C) Improving economy, efficiency and effectiveness: how the body uses information about its costs and performance to improve the way it manages and delivers its services.

The Council must ensure that any guidance issued to Councillors and Officers is up to date with current policy, legislation, good practice and national guidance. It is also important to ensure that the contents are clear and concise and easily understood. The Local Government Association's short guide to publicity during the pre-election period, re-issued on 26 January 2024, provides advice and guidance on the publicity restrictions that should be observed by local authorities during the pre-election period. The LGA Guide and its Frequently Asked Questions has been taken into account in the production of the Council's Guidance.

The FAQ includes: "*What happens when there are no elections to my council, but there are elections in the area to another body – for example, a police and crime commissioner?*"

- Your council is not subject to the pre-election period restrictions. However, you should be mindful when issuing any communications, or engaging in other activities, to avoid doing anything which offers undue influence or advantage that might affect the other election. An example would be a local issue your council is involved in, which is also a subject of debate in the other election.

The Council believes that due to the need to be cautious and mindful, guidance should still be issued to Officers and Members.

MILESTONES AND DELIVERY

The Local Returning Officer is due to publish the Notice of Election for the office of Police, Fire and Crime Commissioner for Essex Police Area on 22nd March 2024, which commences the formal Pre-Election Period for Tendring District Council.

ASSOCIATED RISKS AND MITIGATION

Not presenting this Guidance could have a detrimental impact on the Council's reputation and a risk of inadvertently attempting to use Council resources inappropriately.

OUTCOME OF CONSULTATION AND ENGAGEMENT

The Standards Committee has been consulted with on the format of the Guidance for previous elections.	
EQUALITIES	
There are no equalities implications for the purposes of this report and guidance.	
SOCIAL VALUE CONSIDERATIONS	
There are no social value implications for the purposes of this report and guidance.	
IMPLICATIONS FOR THE COUNCIL'S AIM TO BE NET ZERO BY 2030	
There are no implications for the Council aim to be net zero by 2030, all future correspondence and communication will be undertaken electronically.	
OTHER RELEVANT IMPLICATIONS	
Consideration has been given to the implications of the proposed decision in respect of the following and any significant issues are set out below.	
Crime and Disorder	None identified
Health Inequalities	None identified
Area or Ward affected	All Wards could be affected
ANY OTHER RELEVANT INFORMATION	
None	

PART 3 – SUPPORTING INFORMATION

BACKGROUND
<p>The period just before local elections when there are restrictions on local authority publicity and rules concerning media reporting of the election campaign, is now known as the Pre-election Period, with the publication of notice of the election triggering the commencement of that period.</p> <p>At all times, local authorities should ensure that publicity complies with all applicable statutory provisions, including the Code of Recommended Practice on Local Authority Publicity 2011, and the principle to ensure that special care is taken during periods of heightened sensitivity is of particular relevance during the pre-election period. The Council will refrain from taking decisions or making policy announcements, which are significant and may be politically contentious. As with central government, 'business as usual' will always continue, but on certain issues a local authority may act cautiously and delay decision-making until after the election has concluded.</p> <p>The Code of Practice makes reference to the period before elections in paragraphs 33-35 (see below). Each local authority is able to adopt their own version of the convention in the period leading up to local elections. Paragraph 4 of the Code sets out the principles, which local authorities should follow:</p> <ul style="list-style-type: none"> • be lawful • be cost effective • be objective • be even-handed • be appropriate • have regard to equality and diversity • be issued with care during periods of heightened sensitivity

Care during periods of heightened sensitivity:

33. Local authorities should pay particular regard to the legislation governing publicity during the period of heightened sensitivity before elections and referendums – see paragraphs 7 to 9 of this code. It may be necessary to suspend the hosting of material produced by third parties, or to close public forums during this period to avoid breaching any legal restrictions.
34. **During the period between the notice of an election and the election itself, local authorities should not publish any publicity on controversial issues or report views or proposals in such a way that identifies them with any individual members or groups of members. Publicity relating to individuals involved directly in the election should not be published by local authorities during this period unless expressly authorised by or under statute. It is permissible for local authorities to publish factual information which identifies the names, wards and parties of candidates at elections.**
35. In general, local authorities should not issue any publicity which seeks to influence voters. However this general principle is subject to any statutory provision which authorises expenditure being incurred on the publication of material designed to influence the public as to whether to support or oppose a question put at a referendum. It is acceptable to publish material relating to the subject matter of a referendum, for example to correct any factual inaccuracies which have appeared in publicity produced by third parties, so long as this is even-handed and objective and does not support or oppose any of the options which are the subject of the vote.

The Local Government Association's short guide to publicity during the pre-election period summarises the essential points from the Code as:

- In general you should not issue any publicity which seeks to influence voters (an exception being situations covered by legislation or regulations directing publication of information for explanatory purposes).
- Particular care should be taken between the time of publication of a notice of an election and polling day.
- Consider suspending the hosting of third party material or closing public forums if these are likely to breach the code of practice.
- Do not publish any publicity on controversial issues or report views on proposals in a way which identifies them with candidates or parties.
- Publicity relating to individuals involved directly in the election should not be published unless expressly authorised by statute.
- You are allowed to publish factual information which identifies the names, constituencies and parties of candidates at elections.

What this means in practice?

Publicity is defined as **'any communication, in whatever form, addressed to the public at large or to a section of the public'**.

The first question to ask is 'could a reasonable person conclude that you are spending public money to influence the outcome of the election?' In other words it must pass the 'is it reasonable' test. When making your decision, you should consider the following:

You should **not**:

- produce publicity on matters which are politically controversial
- make references to individual candidates or parties in press releases
- arrange proactive media or events involving candidates
- issue photographs which include candidates
- supply council photographs or other materials to political group staff unless you have verified that they will not be used for campaigning purposes
- continue hosting third party blogs or e-communications
- help with national political visits (as this would involve using public money to support a particular candidate or party). These should be organised by political parties with no cost or resource implications for the council.

You should also **think carefully** before you:

- Continue to run campaign material to support your own local campaigns. If the campaign is already running and is non-controversial (for example, on issues like recruitment, recycling or foster care) and would be a waste of public money to cancel or postpone them, then continue. However, you should always think carefully if a campaign could be deemed likely to influence the outcome of the election. In such cases you should stop or defer them. An example might be a campaign on an issue which has been subject of local political debate and/or disagreement
- Launch any new consultations. Unless it is a statutory duty or considered normal council business, such as budget consultations. Councils should consider carefully before starting any new consultations or publish report findings from consultation exercises, which could be politically sensitive.

You **are allowed** to:

- continue to discharge normal council business (including budget consultations or determining planning applications, even if they are controversial)
- publish factual information to counteract misleading, controversial or extreme (for example, racist/sexist) information.

If you are in any doubt, seek advice from your (Local) Returning Officer and/or Monitoring Officer, legal or communications colleagues.

Ultimately, you must always be guided by the principle of fairness. It is crucial that any decision you take would be seen as fair and reasonable by the public and those standing for office.

PREVIOUS RELEVANT DECISIONS TAKEN BY COUNCIL/CABINET/COMMITTEE ETC.

Standards Committee February 2023 – Minute 22

*“**RESOLVED**, that the Committee, notes the contents of the Monitoring Officer’s report; endorses the Pre-Election Guidance for Tendring District Council Members and Officers be circulated to all Tendring District Councillors, together with a reminder of paragraph 3.8(b) of the Members’ Code of Conduct; and supports the Guidance being circulated to all Town and Parish Councils in the District.”*

BACKGROUND PAPERS AND PUBLISHED REFERENCE MATERIAL

There are no background papers associated with this report.

APPENDICES

Appendix A: PRE-ELECTION GUIDANCE FOR TENDRING DISTRICT COUNCIL MEMBERS AND OFFICERS – to follow

REPORT CONTACT OFFICER(S)	
Name	Lisa Hastings
Job Title	Assistant Director (Governance) and Monitoring Officer
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TENDRING DISTRICT COUNCIL MONITORING OFFICER UPDATE MARCH 2024				
Council	Complainant	Current status	Final outcome	Comments
Existing Cases from last update:				
Council	Complainant	Current status	Final outcome	Comments
PARISH	PUBLIC	CLOSED	NO FURTHER ACTION	Matter did not constitute a non-declaration of interest
DISTRICT	PUBLIC	CLOSED	NO FURTHER ACTION	Matter did not relate to acting in an official capacity
PARISH	PARISH COUNCILLOR	CLOSED		Member resigned
DISTRICT	METROPOLITAN BOROUGH COUNCILLOR	ONGOING		Matter relates to behaviour whilst acting in an official capacity
DISTRICT	PUBLIC	ONGOING		Matter relates to behaviour whilst acting in an official capacity and misuse of Council resources
New Cases since last update				
TOWN	PUBLIC	ONGOING		Matter relates to behaviour whilst acting in an official capacity
<u>General Notes – 2023/24 Summary:</u>				
<p>Overall 8 cases have been received in 2023/24. Five of the cases merited no further action, one due to the Member not being re-elected at the May 2023 elections, two due to the Member resigning from their position, one which did not constitute a non-declaration of interest and one which did not relate to acting in an official capacity.</p> <p>The other three cases remain ongoing.</p> <p>Code of Conduct training session for Town and Parish Members are required at suitable venues across the District. Dates will be determined taking into consideration Officer and venue availability.</p>				
Requests for dispensations:				
<p>A dispensation for all District Members was granted by the Monitoring Officer for the purpose of the report of the Assistant Director (Finance & IT) – Formal Confirmation of Council Tax Amounts for 2024/25 Following the Notification of the Precepts from the Major Precepting Authorities, heard at the meeting of the Human Resources and Council Tax Committee on 26 February 2024.</p> <p>There have not been any further requests for dispensations during this period.</p>				

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