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Standards Committee

23 July 2018

**MINUTES OF THE MEETING OF THE STANDARDS COMMITTEE,
HELD ON MONDAY, 23RD JULY, 2018 AT 10.00 AM
IN THE COUNCIL CHAMBER, COUNCIL OFFICES, THORPE ROAD, WEELEY,
CO16 9AJ**

Present:	Councillors Heaney (Chairman), P Honeywood, S Honeywood, Nicholls, Steady and Whitmore
In Attendance:	Lisa Hastings (Head of Governance and Legal Services), Linda Trembath (Senior Solicitor (Litigation and Governance)) and Debbie Bunce (Legal and Governance Administration Officer)
Also in Attendance:	John Wolton and Clarissa Gosling (Independent Persons)

28. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Apologies for absence were received from Councillors Bray (with Councillor P B Honeywood substituting) and Bucke (with no substitute).

29. MINUTES OF THE LAST MEETING

The minutes of the meeting of the Standards Committee, held on 19 March 2018, were approved as a correct record and signed by the Chairman.

30. DECLARATIONS OF INTEREST

There were none on this occasion.

31. QUESTIONS ON NOTICE PURSUANT TO COUNCIL PROCEDURE RULE 37

There were none on this occasion.

32. REPORT OF THE MONITORING OFFICER - A.1 - REVIEW OF THE PROTOCOL ON MEMBER/OFFICER RELATIONS

There was submitted a report (A.1) by the Monitoring Officer which sought to undertake a review of the Protocol on Member and Officer Relations, which had been last adopted by the Standards Committee in September 2014 in order to ensure that it was still current and reflected best practice.

The Committee was made aware that the Protocol had initially been reviewed by the Monitoring Officer, in consultation with the Chief Executive and the Management Team, to ensure that the Protocol reflected the current working practices and also enhance the Access to Information provisions. The amendments suggested by the Monitoring Officer for consideration by the Committee when undertaking its review were:

- *to ensure the current wording was consistent with the Constitution;*
- *insert that any appropriate challenges between Members and Officers should be undertaken in a professional and respectful manner;*

- *clarify that Officer conduct would be dealt with in accordance with the Council's Human Resources Policies and Procedures; and*
- *insert provisions on the common law 'need to know' principle.*

It was felt that the success of the Council was greatly dependent upon the positive nature of the working relationship between Members and Officers. Mutual trust and respect between Members and Officers was essential to good local government. To that end in 2014, the Standards Committee had adopted the current Protocol on Member/Officer Relations, which was contained within the Councils' Constitution.

Members were informed that the recent Local Government Association Peer Review feedback in its report had stated that: *"Member and Officer relationships are good. Members are engaged and well briefed on issues. They value the informal "all member briefings" that take place each month as well as the other opportunities to be involved."*

The Committee was advised that the existing Protocol was considered to still represent best practice. However, following an initial review by the Monitoring Officer, in consultation with the Chief Executive and his Management Team, a few minor amendments had been suggested for consideration by the Committee.

The Monitoring Officer reported that it was essential that the wording of all the Council's Codes and Protocols were up to date with its current policy and the legal position. Therefore, it was suggested that the role of Members was updated in order to ensure consistency with Article 2 of the Constitution and that the position of the Chief Executive, as set out in Article 12, was included due to its importance in relation to staffing matters.

An express 'principle' had also been included stating that any appropriate challenges between Members and Officers must be undertaken in a professional and respectful manner.

In addition, a new paragraph 5.3 (as detailed below) was proposed for inclusion under the Access to Information section referring to the common law principle that councillors had the right to access information held by the Council where it was reasonably necessary to enable the Member to properly perform their duties as a councillor. In some instances, it might be necessary for a councillor to demonstrate their 'need to know' and the paragraph provided some explanation on the principle and set out who can request further justification before providing the information.

*"5.3 Members are entitled to receive information from Officers in a timely manner to reasonable requests for the purposes of undertaking their role as Ward Councillors, decision makers and performing functions, such as overview and scrutiny (**this is referred to as the common law 'need to know' principle**). Under common law principles councillors have the right to access information held by their authority where it is reasonably necessary to enable the member to properly perform their duties as a councillor.*

However, if the Member's motive for seeing documents is indirect, improper or ulterior this may be raised as a bar to their entitlement. Members are not, therefore, allowed to go off on 'fishing expedition' through their Council's documents. If a councillor is a member of a particular committee or sub-committee, then they have the right to inspect documents relating to the business of that committee or sub-committee. If not a member of that committee or sub-committee, the councillor would have to show good cause why

sight of them is necessary to perform their duties (See R v. Clerk to Lancashire Police Committee ex parte Hook [1980] Q.B. 603). In such instances, the Chief Executive, Management Team, Section 151 or Monitoring Officers may request a Member to demonstrate their 'need to know'."

The Monitoring Officer advised the Committee that, in a few instances, unreasonable, frivolous and vexatious requests for information were received and the revised Protocol suggested that those matters would be referred to the Chief Executive or the Monitoring Officer to respond to.

Subject to any additional observations the Standards Committee might have in undertaking its review of the Protocol at the meeting, the Monitoring Officer was therefore recommending that the revised protocol as set at Appendix A to her report be approved and adopted for inclusion with the Council's Constitution and circulated separately to all Members and Senior Managers.

Members of the Committee asked questions of the Monitoring Officer as to whether the same protocol applied when dealing with Town and Parish Councils and the Monitoring Officer confirmed that this Protocol was simply between District Councillors and Officers. It was noted that there was a protocol between Town and Parish Councils and the District Council and if Members were minded, the Committee could review this at a later date.

The Monitoring Officer was asked whether one way of avoiding the "need to know" principle would be by submitting a Freedom of Information request to obtain the information and the Monitoring Officer confirmed that this was one way, but that the Councillor would be treated as a member of the public and if any exemptions or exceptions applied to the information then these would be applied in the normal way.

Having considered the contents of the revised Protocol and the advice of the Monitoring Officer:-

It was moved by Councillor Heaney, seconded by Councillor Nicholls and:-

RESOLVED that the revised Protocol on Member/Officer Relations, as set out in Appendix A to item A.1 of the Report of the Monitoring Officer, be approved and adopted.

33. 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.

In relation to the first item of the schedule, the Committee requested the Monitoring Officer to write again to the Parish Council to reiterate the offer of training for the Parish Council's Members.

The Monitoring Officer also referred to Part 4 of Annex E of the Standards Complaints Investigation Procedure and explained that at the present time the report that the

investigator produces does not have to include comments on all of the issues complained of, if for example, the investigator finds only one issue proven. If Members agree that Annex E needs to be amended to reflect this then this will need to go to Council for approval as Annex E is part of the Council's Constitution.

It was therefore moved by Councillor Honeywood, seconded by Councillor Nicholls and:

RESOLVED that the revision to Annex E of the Standards Complaints Investigation Procedure be referred to Council.

General Notes – Matters arising through March to July 2018

Requests for Dispensations

The Committee was advised that no requests for dispensations had been submitted to the Monitoring Officer since the last update to Members.

The meeting was declared closed at 10.40 am

Chairman