

**MINUTES OF THE MEETING OF THE STANDARDS COMMITTEE,
HELD ON MONDAY 26 SEPTEMBER 2016 AT 10.00 AM,
IN THE COUNCIL CHAMBER, COUNCIL OFFICES, THORPE ROAD, WEELEY**

Present:	Councillors Heaney (Chairman), Honeywood (Vice-Chairman), Cawthron, Davis, Nicholls, White and Whitmore
Also Present:	John Wolton and Clarissa Gosling (Independent Persons)
In Attendance:	Ian Davidson (Chief Executive), Lisa Hastings (Monitoring Officer) and Katie Sullivan (Committee Services Officer)

10. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Apologies for absence were submitted on behalf of Councillor J Brown (with Councillor Davis substituting) and Councillor Steady (with Councillor White substituting).

11. MINUTES OF THE LAST MEETING

The minutes of the meeting of the Standards Committee, held on 29 June 2016, were approved as a correct record and signed by the Chairman.

12. DECLARATIONS OF INTEREST

Councillor Honeywood declared a Non-Pecuniary Interest in relation to agenda item 5 (A.2) as he was the Complainant and informed Members that he would withdraw from the Committee and sit in the public gallery whilst this item was discussed, however, he reserved his right, as a District Councillor, to address the Committee on this item.

13. REPORT OF THE MONITORING OFFICER - A.1 - ANNUAL UPDATE ON MANDATORY TRAINING FOR MEMBERS

There was submitted a report by the Monitoring Officer which sought to update the Committee, as part of its agreed work programme, on the current position of mandatory training for Members and named substitute Members of the Council's Audit, Licensing & Registration, Planning and Standards Committees.

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

The Monitoring Officer informed Members that Appendix B contained a few small errors in that Councillor Davis and Nicholls had both attended the Habitats session on 27 April 2016 however, Councillor Fairley had not. Although correct, as of the time of printing, Councillor White, who was also the Chairman of the Planning Committee, informed Members that the session with ECC Highways had now taken place and that training was scheduled on 6 October 2016 for 'Enabling Development' The Monitoring Officer confirmed that the amendments and updates would be made to Appendix B (Planning Training Programme). Councillor Heaney informed the Monitoring Officer that she had attended the Determining Planning Applications session on 28 May 2015 and Appeals session on 24 February 2016, but it had not been recorded. The Monitoring Officer

confirmed that the information was taken from the sign-in sheets but the records would be updated.

The Monitoring Officer informed Members that, in the future, the recording of Licensing and Registration Committee training would be produced in the same format as the Planning Committee training for consistency.

The Committee's approval was also sought to a slight amendment to the Planning Code and Protocol and a delegation to Officers, in consultation with the Chairmen of the Planning and Standards Committees, to make minor amendments to the Protocol.

Following discussion by the Committee, it was moved by Councillor Heaney, seconded by Councillor White and **RESOLVED** that the Standards Committee:

- (a) notes the contents of the report and its Appendices;
- (b) encourages Members of the Planning, Licensing & Registration and Audit Committees to attend organised mandatory training to comply with the constitutional requirement; and
- (c) delegates authority to the Monitoring Officer and Head of Planning Services, in consultation with the Chairmen of the Standards and Planning Committees, to make minor amendments to the Planning Code & Protocol.

14. REPORT OF THE MONITORING OFFICER - A.2 - OUTCOME OF A CODE OF CONDUCT INVESTIGATION - COMPLAINT AGAINST A DISTRICT COUNCILLOR

Councillor Honeywood had earlier declared a Non-Pecuniary Interest in relation to agenda item 5 (A.2). Councillor Honeywood withdrew from the Committee and sat in the public gallery whilst this item was discussed, however, he had reserved his right to address the Committee on this item, as a District Councillor.

The Monitoring Officer presented a detailed report to the Committee that, in accordance with the District Council's Complaints Procedure, the outcome of an investigation was being reported to the Committee following on from a Members' Code of Conduct investigation.

The Monitoring Officer reported that a complaint had been received in January 2016 from District Councillor Paul Honeywood regarding the actions of District Councillor Ivan Henderson under the Members' Code of Conduct and Complaints Procedure, which had been adopted by Council on 26 November 2013.

The complainant alleged that Councillor I. Henderson had breached the Tendring District Council Members' Code of Conduct. The basis of the complaint concerned the alleged circulation of inaccurate and misleading information on the subject of the Careline Lifting Service along with quotes attributed to Councillor I Henderson appearing in national and local media. It had been alleged that inaccurate information had also been promoted by Cllr I. Henderson through his own Twitter account. The alleged breaches related to:

- (i) Not having regard to three of the Seven Principles of Public Life:
 - Selflessness
 - Objectivity

- Honesty

- (ii) Paragraph 3.4(a) of the Members' Code of Conduct: by conducting himself in a manner which could reasonably be regarded as bringing his office, or the authority, into disrepute.

The Monitoring Officer informed the Committee that, on 4 March 2016, having considered the responses received from both parties, she had decided that it would be reasonable and appropriate that the complaint merited further investigation. There had been a fairly wide difference of opinion between whether information shared on social media was incorrect and misleading and if so, the impact of the media reporting and subsequent use of social media on the proposed Careline Lifting Service.

Members were informed that if there were a potential breach of the Code of Conduct and informal resolution, or mediation, had not been appropriate, the Monitoring Officer must consider an investigation. The Monitoring Officer stated that it was important to point out that the investigation had not looked into any policy decision.

It was reported that politically motivated complaints were not referred for investigation. Consideration of whether the policy for introducing a lifting service and the ability to charge for it was right or wrong had not been the subject of the investigation. The investigation had been commissioned to look at the evidence of how information had been used, whether it was correct or not, and if not, if it had been used intentionally to mislead the public and bring the Council into disrepute.

Members were informed that the parties involved were advised of the Monitoring Officer's decision and that an external investigator would be appointed. Section 5 of the Complaints Procedure set out how an investigation was conducted and under Section 5.6, the investigation report must contain a conclusion as to whether the evidence supported a finding of failure to comply with the Code of Conduct.

The Monitoring Officer confirmed that all parties had had the opportunity to comment on the investigation report in its draft form and the findings contained therein. Consultation had been undertaken with the Independent Person. The final investigation report had been received by the Monitoring Officer on 1 September 2016, which had concluded that Councillor I. Henderson had not breached the Members' Code of Conduct.

The Monitoring Officer reminded the Committee, that if an investigation concluded that there was no evidence of a failure to comply with the Code of Conduct, the Council's Complaints Procedure at Section 6.1 provided the Monitoring Officer with the authority in consultation with the Independent Person, to decide that no further action was required. In such circumstances, the Monitoring Officer would then notify the Standards Committee. The Council's Complaints procedure did not provide the Monitoring Officer with any discretion to refer the matter to the Standards Committee for determination.

The Monitoring Officer had agreed with the outcome of the investigation which was as follows:

- Councillor I. Henderson was found to have been acting in his capacity as a councillor (official) when posting on social media and engaging with the press in the circumstances of this case. The Members' Code of Conduct was therefore relevant.

- A finding that he failed to comply with the Members' Code would be a disproportionate restriction on his freedom of expression and, therefore, it was recommended that Councillor I. Henderson was found not to have breached the Code.
- There were concerns that *“some of Councillor I. Henderson’s posts on Twitter demonstrated a lack of good judgement on his part. The way in which councillors use social media is increasingly becoming an issue for councils across the country. It is therefore recommended that a summary of the investigation findings are provided to the Council’s Standards Committee”*.
- It was recommended that guidance be made available to all councillors on the appropriate use of social media.

John Wolton, one of the Council's Independent Persons had responded as set out below that this case clearly involved political differences from the time of the Cabinet meeting, the subsequent use of social media and submission of the complaint:

“The investigation although necessary, had involved individuals’ time and expense for the authority, and it had been unfortunate that this had started with a Cabinet Report, which, when questions were asked, the responses and details had been unclear. Details of the Policy introducing the charges should have been known and considered first, especially when the service users would be vulnerable people.

However, Councillor I. Henderson ‘jumped on’ what he saw as a political opportunity but with his vast experience he should have also considered the impact of the way in which he shared the information and used the media attention, especially after the Council’s press release”.

John Wolton had noted the reliance on freedom of expression and agreed with the Investigator's findings and looking at it from a member of the public's viewpoint he had concurred with the concerns raised.

Members discussed the report and raised a number of concerns which included not being able to determine the matter themselves, especially if they disagreed with the findings of the Investigator and the Monitoring Officer and not having the opportunity to view the Investigator's Report. The Monitoring Officer confirmed that the Investigator's report had not been made available in previous instances where an outcome was being reported rather than the Committee holding a hearing. Upon the Committee raising further questions on the Investigator's findings, the Chief Executive (Ian Davidson) reminded the Committee that the meeting was not for a Hearing, a copy of the Investigator's report had not been distributed to the Committee due to that reason and that the Monitoring Officer's report was for information only and not for further judgement.

The Monitoring Officer agreed that it would be appropriate in exceptional cases to have some discretion to refer cases to the Standards Committee to determine whether a breach of the Code of Conduct had occurred. In such matters, the Monitoring Officer would wish to consult the Chief Executive and the Chairman of the Standards Committee. The Committee was also reminded that the recommendations as set out in the report could be altered by the Committee to reflect their concerns.

The Chairman of the Committee invited Councillor Honeywood to address them and as he wished to raise matters which would identify individuals and refer to the Monitoring

Officer, the Chairman decided to exclude the Public and Press pursuant to paragraphs 1 and 2 of Schedule 12A of the Local Government Act 1972.

The Monitoring Officer, Committee Services Officer and the Independent Persons withdrew from the meeting. Following the Committee's consideration of the matters reported in Minute 17 below, the Monitoring Officer, Committee Services Officer and the Independent Persons were readmitted to the meeting.

Following discussion, it was moved by Councillor Heaney, seconded by Councillor Nicholls and **RESOLVED** that the Standards Committee:

- (a) Notes the outcome of an external investigation undertaken on behalf of the Monitoring Officer in respect of Councillor Ivan Henderson.

Following further discussion, it was moved by Councillor Heaney, seconded by Councillor White and **RESOLVED** that the Standards Committee:

- (b) Notes the Monitoring Officer's report that the Investigator raised concerns that the behaviour demonstrated a lack of good judgement on Councillor Ivan Henderson's part when using social media and the Committee strongly recommend Councillor Ivan Henderson undertakes Social Media training.

Following further discussion, it was moved by Councillor White, seconded by Councillor Nicholls and **RESOLVED** that the Standards Committee:

- (c) Was unhappy that, despite the concerns raised by the Investigator, as set out in (b) above that Councillor Ivan Henderson had been found not to have breached the Code of Conduct and that subject to reporting this to the Committee, no further action would be taken in respect of Councillor Ivan Henderson.

Following further discussion, it was moved by Councillor Heaney, seconded by Councillor White and **RESOLVED** that the Standards Committee:

- (d) Notes that the basis of the finding to this particular case is on the right of freedom of expression, notwithstanding there is still an expectation of high standards of behaviour for all Councillors in accordance with the Code of Conduct and Principles of Public Life.

Following further discussion, it was moved by Councillor Heaney, seconded by Councillor White and **RESOLVED** that the Standards Committee:

- (e) Agrees to a review of the Council's Social Media Policy to provide all Councillors with guidance and training on the parameters on appropriate use of social media.

Following further discussion, it was moved by Councillor Nicholls, seconded by Councillor White and **RESOLVED** that the Standards Committee:

- (f) Recommends to Council to amend the Complaints Procedure, as set out in the Constitution to allow the Monitoring Officer, at their own discretion and, in exceptional cases, following consultation with the Chief Executive and the

Chairman of the Standards Committee, to decide to refer cases to the Committee for determination where the outcome of an investigation was to recommend no breach of the Code of Conduct.

15. REPORT OF THE MONITORING OFFICER - A.3 - REVIEW OF THE CODE OF CONDUCT

The Committee reviewed the Members' Code of Conduct, with particular attention paid to the definitions of interests.

The Monitoring Officer made some suggestions on potential changes and additions to the Code, to provide clarity, each of which were discussed with Members. Some of the suggestions were in relation to:

- Separating the Rules of Conduct and General Obligations from the introduction and interpretation part of the Code;
- Merge Other Pecuniary Interests with Non-Pecuniary Interests;
- Effect of Other or Non-Pecuniary Interests on participation;
- Including a Councillor Recall Scheme; and
- Including Voluntary Sanctions.

It was agreed that the Monitoring Officer would produce a revised draft Code of Conduct for further discussion to take place at the next meeting so that the Committee could work towards recommending minor changes to the Members' Code of Conduct to full Council in early 2017.

16. REPORT OF THE MONITORING OFFICER - A.4 - QUARTERLY ORAL UPDATE FROM THE MONITORING OFFICER

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

- (1) A couple of incidents had occurred which had involved contact between the Police and the Council involving Councillors, but in both instances it had been appropriate and correct for the Police to resolve the same as they were related to alleged criminal activity or acting within their private capacity.
- (2) There had been one Parish Council in which several contacts had been made but no formal complaints received. The Monitoring Officer intended to visit a Parish Council meeting to view the proceedings and, if necessary, report back to the Clerk.
- (3) There had been no requests received for a dispensation.

The meeting was declared closed at 1.26 pm

Chairman