
**MINUTES OF THE STANDARDS COMMITTEE
HELD ON MONDAY 27 MARCH 2017 AT 10.00 A.M.
IN THE COUNCIL CHAMBER, COUNCIL OFFICES, THORPE ROAD, WEELEY**

Present: Councillors Heaney (Chairman), Cawthron, Nicholls, Steady and Whitmore

In Attendance: Monitoring Officer (Lisa Hastings) and Committee Services Manager (Ian Ford)

Also in Attendance: John Wolton (Independent Person)

18. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Apologies for absence were submitted on behalf of Councillor J A Brown (with no substitute) and Councillor Honeywood (with no substitute).

19. MINUTES OF THE MEETING OF THE STANDARDS COMMITTEE HELD ON 26 SEPTEMBER 2016

The minutes of the meeting of the Standards Committee, held on 26 September 2016, were approved as a correct record and signed by the Chairman.

20. DECLARATIONS OF INTEREST

There were no declarations of interest received.

21. COMPLAINTS PROCEDURE – REFERENCE BACK FROM COUNCIL

There was submitted a report (A.1) by the Monitoring Officer which, at the request of full Council, asked the Committee to reconsider its previous recommendation to amend the Complaints Procedure.

The Committee was aware that the Standards Framework included the Complaints Procedure (contained within the Members' Constitution Booklet) and that Section 5 of the Complaints Procedure set out how an investigation was to be conducted and under Section 5.6, that the investigation report must contain a conclusion as to whether the evidence supported a finding of failure to comply with the Code of Conduct. Annex E of the Complaints Procedure set out the Investigation Procedure.

Members were also aware 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 no further action was required. In such circumstances, the Monitoring Officer would notify the Standards Committee.

At the meeting of the Committee held on 26 September 2016 (minute no. 14 referred) Members had been made aware that the current procedure, which had been adopted by full Council in November 2013, did not provide the Monitoring Officer with any discretion to refer a matter to the Standards Committee, if they considered an investigation was finely balanced. In most cases, an investigator would have a clear conclusion as to whether any evidence existed of a failure to comply with the Code of Conduct but, in rare circumstances, this might not be the case. The Monitoring Officer, in consulting colleagues in other authorities, had found that their Councils had provided them with a discretion to refer to the Standards Committee, if they personally felt it was necessary to do so.

Therefore, at that meeting and following discussion, the Standards Committee had decided, inter alia, to:

“(f) Recommend 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.”

The Committee was reminded that, at the meeting of Council held on 22 November 2016, when that recommendation was being considered (minute 83 referred) Councillor Calver had moved an amendment, which was seconded by Councillor Bray, that to have the ongoing confidence of the entire Council it required the possibility of any political interference to be removed and that the recommendation would be safer and stronger if any consultation was between the Chief Executive and the Monitoring Officer with no involvement of the Chairman of the Standards Committee.

Following those concerns raised by Members with respect to the original recommendation of the Standards Committee and pursuant to Council Procedure Rule 16.6 (Alteration of Motion), Councillor Stock, with the consent of both the meeting and his seconder, (Councillor Heaney), indicated that he was prepared to alter his motion so that it read as follows:

- (a) that the minutes of the meeting of the Standards Committee held on 26 September 2016, as circulated, be received and noted; and*
- (b) that consideration of the recommendation to Council, as contained in Minute No.14 (resolution (f)) of the Standards Committee of 26 September 2016 be deferred and that the matter be referred back to the Standards Committee for reconsideration.*

Councillor Calver and Councillor Bray had both then agreed to withdraw their amendment and Councillor Stock's altered motion was then approved.

The Standards Committee were therefore requested to reconsider their proposed amendment to the Complaints Procedure taking into account the concerns raised at the meeting of full Council on 22 November 2016.

Having discussed the matter, it was moved by Councillor Heaney, seconded by Councillor Nicholls and:

RECOMMENDED TO COUNCIL that the Complaints Procedure, as set out in the Constitution, be amended to allow the Monitoring Officer, at their own discretion and, in exceptional cases, following consultation with the Chief Executive, 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.

22. REVIEW OF MONITORING OFFICER PROTOCOL

The Committee was requested to review the Monitoring Officer Protocol and suggest any proposed amendments to that Protocol for consideration by full Council.

Having considered the contents of the current Monitoring Officer Protocol it was moved by Councillor Whitmore, seconded by Councillor Steady and:

RESOLVED that the Committee is satisfied with the current Monitoring Officer Protocol and therefore has no amendments that it wishes at the present time.

23. **DISCLOSURE OF INFORMATION – NON-PAYMENT OF COUNCIL TAX BY COUNCILLORS**

There was submitted a report (A.3) by the Monitoring Officer which requested the Committee to discuss whether it agreed to add the matter of processes and procedures involving Councillors and the payment of Council Tax to its work programme, or that a guidance note be issued for Members following on from case-law, concerning the public interest and fairness in disclosing information of non-payment of council tax by councillors.

The Committee was reminded that, at the meeting of full Council held on 22 November 2016, Councillor Everett had asked a supplementary question to the former Portfolio Holder for Finance (minute no. 81 referred) concerning the general matter of processes and procedures involving councillors and the payment of council tax. As this matter fell within the remit of the Standards Committee, the Monitoring Officer had agreed to take this matter to the next meeting for a discussion as to whether the Committee wanted to include it within their work programme.

Members were informed that in March 2016 an Upper Tier Tribunal (Administrative Appeals Chamber) had decided that it was fair and reasonable to identify a councillor who had defaulted in the payment of council tax, due to being a serious matter of public concern, both as to the ability if the councillor to perform their key functions and in terms of public confidence and accountability.

The Monitoring Officer explained in detail the view of the Tribunal in *Haslam v Information Commissioner and Bolton Council [2016]* and drew Members' attention to several sections of the judgement handed down by Judge Markus QC. This included how the Tribunal had taken into account the legal aspects of Section 106 of the Local Government and Finance Act 1992, Sections 1(1) and 40(2) of the Freedom of Information Act 2000 and Section 1 of the Data Protection Act 1998.

The Monitoring Officer also reported that it was alleged that Leeds City Council were to challenge the Information Commissioner's decision (Reference: FS50635609 Dated: 3 November 2016) that it must release the names of four councillors who were in arrears, to a newspaper. The Information Commissioner had told the Council to release the names of Members who had been sent court summons over unpaid council tax to the Yorkshire Post. It was understood that Leeds Council believed that there were mitigating circumstances and in all of the cases, one instalment had been accidentally missed and reasonable explanations had been given as to why and all outstanding debts had not immediately been paid.

Having considered the detail of the Upper Tribunal's ruling together with the legal advice provided by the Monitoring Officer it was moved by Councillor Whitmore, seconded by Councillor Nicholls and:

RESOLVED that a Guidance Note be issued by the Monitoring Officer to all Councillors informing them of the outcome of the Upper Tribunal case and that, in response to any Freedom of Information request concerning non-payment of Council Tax, information may be disclosed.

24. **ANNUAL REPORT DECLARATIONS OF INTEREST AND ASSOCIATED MATTERS**

There was submitted a report (A.4) by the Monitoring Officer which provided the Committee with an overview on the register of, and declarations of interests by, Members.

The Committee recalled that, at its meeting held on 29 June 2016 (Minute 8 referred), it had agreed that, as part of its annual work programme, the Committee would receive an

annual report on declarations of interest and associated matters. The report before Members covered the period from 1 August 2016 to 10 March 2017.

Having considered the information submitted it was moved by Councillor Steady, seconded by Councillor Whitmore and:

RESOLVED that:

- (a) the contents of the report be noted; and
- (b) the Monitoring Officer be requested to ensure that any declarations of offers/receipt of gifts and hospitality made by District Councillors be published on the Council's website.

25. STANDARDS COMMITTEE – ANNUAL WORK PROGRAMME

There was submitted a report (A.5) by the Monitoring Officer which sought to agree the Committee's work plan for the 2017/2018 Municipal Year.

The Monitoring Officer reminded Members that the elements of the Standards Framework were:

- The Members' Code of Conduct (contained within the Members' Constitution Booklet);
- The Monitoring Officer Protocol (contained within the Members' Constitution Booklet);
- The Independent Persons' Protocol (contained within the Members' Constitution Booklet);
- Member and Officer Relations Protocol (contained within the Members' Constitution Booklet); and
- The Complaints Procedure (contained within the Members' Constitution Booklet).

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

The Monitoring Officer further reminded Members that the arrangements had been adopted by full Council in November 2013, and that elements had been reviewed in 2014, 2015, 2016 and 2017 in order to ensure that the procedures and protocols were robust, up to date and fit for purpose. The Members' Code of Conduct was currently being reviewed.

To enable the Committee to focus on promoting high standards of conduct as well as reacting to complaints it was considered appropriate to discuss and agree a work plan for the Committee for 2017/18. Members referred to Appendix 1 of the Monitoring Officer's report.

It was moved by Councillor Nicholls, seconded by Councillor Steady and **RESOLVED** that:

- (a) the contents of the report be noted; and
- (b) the Annual Work Plan for 2017/2018, as set out in Appendix 1 to the Monitoring Officer's report, be approved.

26. 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 it with the Committee. The Monitoring Officer also highlighted a number of other matters which included:

Advice sought by Clerks to Parish/Town Councils

There had been an increase in the number of occasions when Clerk to Parish/Town Councils had sought advice on matters which did fall within the remit of the Monitoring Office, such as on constitutional matters or on-going complaints or actions taken by the Council. In each instance, the Clerk had been advised that this Council's legal department was not the legal adviser to the parish/town council.

There had also been an increase in the number of requests for advice with regard to declarations of interest at Parish/Town Council level and queries being raised as to whether declarations should have been made.

Politically Motivated Queries

The Monitoring Officer reported that queries were being raised by members of the public and councillors concerning the actions of others and, in most instances, it was clear that those were politically motivated, especially with the County Council Elections pending.

'No Further Action' Cases

The Monitoring Officer reiterated that even in cases where 'no further action' was decided, detailed reasons were provided to both the complainant and the respondent to explain that decision.

Training Session for new Councillors

The Monitoring Officer informed the Committee that a training session would shortly be arranged for both the newly elected Councillor Bush and also for the Councillor who would be elected following the by-election in the St James Ward on 6 April 2017.

Requests for Dispensations

No requests for dispensations had been submitted since the last meeting of the Committee.

27. EXCLUSION OF PRESS AND PUBLIC

It was moved by Councillor Nicholls, seconded by Councillor Steady and:

RESOLVED that under Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting during consideration of the item detailed below on the grounds that it involves the likely disclosure of exempt information as defined in the relevant paragraphs of Part 1 of Schedule 12A, as amended, of the Act.

28. EXEMPT MINUTE OF THE MEETING OF THE STANDARDS COMMITTEE HELD ON 26 SEPTEMBER 2016

The exempt minute of the meeting of the Standards Committee, held on 26 September 2016, was approved as a correct record and signed by the Chairman.

The meeting closed at 11.01 a.m.

Chairman