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Standards Committee

26 October 2022

**MINUTES OF THE MEETING OF THE STANDARDS COMMITTEE,
HELD ON WEDNESDAY, 26TH OCTOBER, 2022 AT 10.00 AM
IN THE COMMITTEE ROOM - TOWN HALL, STATION ROAD, CLACTON-ON-SEA,
CO15 1SE**

Present:	Councillors Land (Chairman), Steady (Vice-Chairman), Casey, V E Guglielmi, Placey and Skeels
In Attendance:	Lisa Hastings (Deputy Chief Executive & Monitoring Officer), Linda Trembath (Head of Legal Services & Deputy Monitoring Officer), Ian Ford (Committee Services Manager) and Debbie Bunce (Legal and Governance Administration Officer)
Also in Attendance:	The following Independent Persons: David Irvine and Jane Watts

9. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

An apology for absence was submitted on behalf of Councillor J Henderson.

10. MINUTES OF THE LAST MEETING

It was moved by Councillor Casey, seconded by Councillor Placey and:-

RESOLVED that the Minutes of the meeting of the Committee held on Wednesday 3 August 2022 be approved as a correct record and be signed by the Chairman.

11. DECLARATIONS OF INTEREST

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

12. 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.

13. REPORT OF THE MONITORING OFFICER - A.1 REVIEW OF THE MONITORING OFFICER PROTOCOL

The Committee was reminded that, in March 2017, it had reviewed the Monitoring Officer's Protocol and having considered its contents, it had resolved that it was satisfied and therefore it did not wish to make any amendments at that time.

As part of its work programme for 2022-23, the Standards Committee had agreed to review the Monitoring Officer's Protocol and, if any changes were felt to be required, to recommend those to Full Council for formal approval and adoption.

Members were aware that the Protocol only covered dealing with matters arising from the Standards Framework relating to Members' interests and complaints, and did not cover the wider responsibilities of the Council's Monitoring Officer as detailed within the Constitution.

As highlighted in the overarching principles of the Protocol, the Monitoring Officer was not the legal adviser for, or to, Town and Parish Councils and the role only extended to those councils in relation to the promotion and maintenance of high standards of conduct. If a complaint identified criminal conduct or breach of other regulation by any person, the Monitoring Officer was under an obligation to notify and/or refer the matter to the Police or other regulatory agencies.

The Committee recalled that this Protocol operated in conjunction with the terms of reference of the Standards Committee, its Sub-Committee, the Complaints Procedure and the Independent Person's Protocol. The Complaints Procedure provided an in depth compulsory process in which alleged breach of Members' Code of Conduct complaints were dealt with and included a number of actions to be carried out by the Monitoring Officer.

The Complaint Procedure was a staged process and the initial stage of determination of a complaint was delegated to the Monitoring Officer. The Monitoring Officer would then take various factors into consideration, as detailed within the Complaints Procedure including, when reaching a decision in respect of how to progress the complaint, taking account of the following factors where appropriate:-

- *Was the Member acting in their official capacity?*
- *Was the Member in office at the time of the alleged misconduct?*
- *Is the complaint of a very minor or trivial nature?*
- *Is the complaint vexatious or malicious?*
- *Are there historical matters?*
- *Is there a potential breach of the Code?*
- *Assessment of public interest?*
- *Is additional information required prior to making a decision?*

Following consideration of a complaint, the Monitoring Officer would issue a Decision Notice setting out the matters taken into account and the reasons for their decision. The Monitoring Officer provided anonymised updates regarding complaints to the Standards Committee at each of its scheduled meetings.

Although, the Protocol referred to the Complaints Procedure and had its own overarching principles, the Monitoring Officer felt that the Protocol could be strengthened, thus further reflecting and supporting the Complaints Procedure, by expanding some of the actions in some instances.

Section 1(j) of the Protocol stated: "The Monitoring Officer will consult with one of the Independent Persons on complaints received and throughout the process in accordance with the Complaints Procedure". The Monitoring Officer felt that this could be enhanced with the following inclusion from the Complaints Procedure:

"Section 4.1 – The Monitoring Officer will review every complaint received and, may consult with one of the Independent Persons before taking a decision as to whether the complaint:

4.1.1 Merits no further action

4.1.2 Merits early informal resolution or mediation

4.1.3 Merits further investigation"

The decision as to how the complaint was to be progressed would normally be taken within 15 working days of receipt of the complaint and would be considered in accordance with the Assessment Criteria included at Annex D of the Complaints Procedure. There was no right of appeal for a complainant or Member against a decision of the Monitoring Officer or of the Standards Committee, but a complaint could be made to the Local Government and Social Care Ombudsman. The Monitoring Officer considered that this paragraph from the Complaints Procedure could be included within the Protocol and, in addition, the Monitoring Officer suggested that the Protocol should make reference to a Decision Notice being issued to publicly record the outcome.

Members were informed that the Overarching Principles of the Protocol at paragraph 1(m) currently referred to, in providing information, in any manner at any stage in the process, that the Monitoring Officer must be satisfied that they had the legal power to do so and that the requirements of the Data Protection Act 1998 and Freedom of Information Act 2000 had been considered, as reflected in the Council's Constitution.

The legislation had since changed and the Monitoring Officer recommended that the above should be now amended to read:-

“(m) In providing information, in any manner at any stage in the process, the Monitoring Officer must be satisfied that they have the legal power to do so and the requirements of the Data Protection Act 2018 and the UK General Data Protection Regulation (GDPR), and Freedom of Information Act 2000 have been considered, as reflected in the Council's Constitution.”

In addition, the Monitoring Officer proposed an amendment to paragraph 4(d) of the Protocol, which referred to the “Deputy Chief Executive”. In this instance, as this would now also be undertaken by the Deputy Monitoring Officer, in the Monitoring Officer's absence, the Monitoring Officer proposed replacing “Deputy Chief Executive” with “Deputy Monitoring Officer” within the aforementioned paragraph 4(d).

The Committee then duly considered and discussed this matter. During that discussion Members complimented the Monitoring Officer and her Team for all of the work that they undertook in the course of their duties.

It was moved by Councillor V E Guglielmi, seconded by Councillor Skeels and:-

RESOLVED that, having reviewed the Monitoring Officer's Protocol, the Committee agrees that the suggested proposed amendments to that Protocol, as set out in the Monitoring Officer's report, be submitted to Full Council for formal approval and adoption.

14. CASE REVIEW AND GUIDANCE UPDATE FOR THE COMMITTEE ON DECISIONS AND ACTIONS TAKEN NATIONALLY

The Monitoring Officer presented a guidance update on conduct complaint decisions and actions taken nationally.

The Monitoring Officer's external case review covered the following:-

“Clear frustration” within Councils on limited powers remaining

- The Committee on Standards in Public Life (CSPL) had called upon the Government to reconsider its position on the powers of local authorities to sanction councillors for poor behaviour.
- The Chair of the CSPL, Lord Evans had written to then Levelling Up Secretary of State, Simon Clarke, stating that he was very disappointed that many of its careful recommendations had not been accepted.
- The local government sector had backed the call to strengthen the arrangements in place to support high ethical standards.

Common factors in recent auditor interventions nationally

- Grant Thornton in its update report September “Lessons from Public Interest Reports” had found weaknesses in council cultures (e.g. poor behaviours, lack of transparency); and weaknesses in governance (e.g. a circumvention of governance procedures, poor quality review and decision making).
- Failure to address and resolve relationships difficulties between senior officers and Members.
- Intimidating cultures, culture of secrecy and in some cases, an overuse of confidential or delegated action reports, which reduced openness and trust in leadership and corporate culture.
- Limited understanding of declarations of interest and of gifts and hospitality registers, not being monitored.
- Lack of appreciation of the Nolan principles and the requirements of the Members’ Code of Conduct.
- Lack of understanding in how complaints against Members should be handled.
- Failure to adequately support whistle-blowers also suggested a council that is not open to challenge, Grant Thornton argued.
- Number of recommendations suggested in relation to culture and governance.

Civility and Respect Pledge launched for Local Councils by the NALC

- “There were growing concerns about the impact of bullying, harassment and intimidation on local councils, councillors, clerks and council staff and the effectiveness of local councils. By signing the pledge the relevant Council “agrees that the council will treat councillors, clerks, employees, members of the public, and representatives of partner organisations and volunteers with civility and respect in their roles” ... with a package of actions.”

Council meetings & the passing of HM Queen Elizabeth II

- National Mourning Guidance
- Did local government legislation prevent councils holding meetings or affect the ability to give notice of meetings?
- The period of public mourning was declared by the Earl Marshall, the Duke of Norfolk
- A day could be declared as a bank holiday, by the King by proclamation, but only the day of the funeral was so declared
- NALC took a different view to the LGA as to the notice period and holding of meetings during the period of National Mourning

Pre-action protocol letter (for a potential Judicial Review) contesting breach finding

- A Councillor alleged that a District Council's Code of Conduct assessments regarding comments he had made online amounted to a "clear serious breaching" of his human rights.
- Eden Council found that the Councillor had breached the Code of Conduct over posts on Twitter & his blog.
- However, the Councillor had argued that the content of the Twitter post was: "not aligned to my role as a councillor and was a personal expression of a view and opinion".

Welsh Councillor disqualified from holding office for 3 years

- Found to have breached the code of conduct; 5 separate incidents concerning false accusations and posting misinformation online about fellow Councillors.
- A tribunal, convened by the adjudicator for Wales, had found no basis for the statements and that they had wilfully misinformed people and discredited colleagues in a harmful way.
- Wales has a different sanctions regime to England.

Welsh Councillor disqualified for 2 years

- Town Councillor barred from holding office for two years after he declared he was eligible to stand for election even though he had a criminal record, which disqualified him from running under the Local Government Act 1972.
- The Ombudsman's report alleged that the former Councillor (he had resigned once a national newspaper had published a news story referencing the conviction) had misled the council as to his eligibility to be a councillor and that his dishonesty, both when signing the declaration of acceptance of office and during the time he acted as councillor (a period of two years), was a serious abuse of office.

The Committee thanked the Monitoring Officer for her presentation and duly noted the foregoing.

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

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

TENDRING DISTRICT COUNCIL MONITORING OFFICER UPDATE OCTOBER 2022				
Council	Complainant	Current status	Final outcome	Comments
Existing Cases from last update:				
TOWN	PUBLIC 2 x TOWN COUNCILLORS	CLOSED	Informal resolution	Matter related to claims of bullying. Informal resolution and governance review with an external company conducted. All Members within Town Council engaged to positive working

				arrangements going forward. Final action outstanding as at last meeting now actioned to conclude the matter.
DISTRICT	PUBLIC	CLOSED	No further action	Matter related to conduct within the Council's Committee Room. Reflective assurances provided to MO. Independent Person was consulted.
DISTRICT	PUBLIC	PENDING	PENDING	Further information has been sought from the Complainant, matters raised may not relate of acting in official capacity and within the remit of the Code. No response received since the last meeting. Will be closed as no further action to be taken.
New Cases since last update:				
Council	Complainant	Current status	Final outcome	Comments
DISTRICT	PUBLIC	CLOSED	No further action	Matters raised do not relate to acting in official capacity and within the remit of the code.
<p><u>General Notes – 2022/23 Summary:</u></p> <p>Overall, 3 cases had been received in 2022/23. The Monitoring Officer had attended the All Member Briefing in September 2022 to present an introduction to the report to Full Council regarding the Standards Committee's recommendation to adopt the LGA Model Code.</p>				
<p>Requests for dispensations:</p> <p>There had not been any requests for dispensation since the last meeting of the Committee.</p>				

The Committee noted the foregoing.

The meeting was declared closed at 10.51 am

Chairman

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