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Standards Committee

19 July 2023

**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*

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- *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