

**MINUTES OF THE MEETING OF THE STANDARDS COMMITTEE,
HELD ON WEDNESDAY 27 SEPTEMBER 2017 AT 10.00 AM
IN THE ESSEX HALL, TOWN HALL, CLACTON-ON-SEA, CO15 1SE**

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

8. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

There were none.

9. MINUTES OF THE LAST MEETING

The minutes of the meeting of the Standards Committee, held on 28 June 2017, were approved as a correct record and signed by the Chairman.

10. DECLARATIONS OF INTEREST

Councillor Heaney declared a non-pecuniary interest in that she was on the Planning Committee with Councillor Bennison.

Councillor Whitmore declared a non-pecuniary interest in that he was in the same political group as Councillor Bennison and also a friend.

Councillor Davis declared a non-pecuniary interest in that she had attended the Court Hearing in respect of Councillor Bennison but that she was present at the Standards Committee with an open mind.

11. REPORT OF THE MONITORING OFFICER - A.1 - FAILURE TO COMPLY WITH THE MEMBERS' CODE OF CONDUCT - DISTRICT COUNCILLOR

There was submitted a report (A.1) by the Council's Monitoring Officer (Lisa Hastings) in respect of a failure to comply with the Members' Code of Conduct.

It was reported that on 1 August 2017, District Councillor Jack Parsons had enquired with the Council's Monitoring Officer whether he could refer himself to the Standards Committee following his criminal conviction on 27 July 2017, which he acknowledged had brought the Council into disrepute. The Monitoring Officer had advised him that due to the seriousness of the conviction, the matter would be reported to the next meeting of the Committee in any event.

Members were informed that one complaint had been received by the Monitoring Officer under the Members' Code of Conduct and Complaints Procedure following the actions of Councillor Parsons as reported in the media. The complaint had been submitted by Mr William Hones, a member of the public. Mr Hones' complaint had made reference to the fact that it had been reported on the on-line version of the Clacton Gazette that Councillor Parsons had pleaded guilty to a charge of possession of a bladed article and

was handed a twelve month Community Order and to carry out seventy hours of unpaid work. The second part to Mr Hones' complaint had made reference to Councillor Parsons had allegedly failed to represent his residents by not belonging to a political group, in particular one of the non-aligned groups on the Council and was consequently not allocated any Committee seats. The complaint was attached to the report as Appendix 2.

Members recalled that at the Council meeting in March 2017, it had been considered whether it wished to allocate Committee seats to Councillors who were not part of a group and decided it would not do so.

Members were informed that the complaint had alleged that Councillor Parsons had breached the Tendring District Council Members' Code of Conduct. The alleged breaches had related to paragraphs 3.1 and 3.4(a) of the Code.

The Monitoring Officer confirmed that the second part of Mr Hones' complaint did not fall within the remit of the Standards Committee.

It was reported that Councillor Parsons had acknowledged that his conviction had brought the Council into disrepute and therefore, in breach of the Members' Code of Conduct and a written apology had been received and was contained within the body of the Monitoring Officer's report. Due to Councillor Parson's acceptance, an investigation into the matter had not been required. Under the Complaints Procedure once there was a finding that evidence existed of a failure to comply with the Code of Conduct, there were two options available, namely:

The first option was to consider an informal resolution (paragraph 7.1.1 of the Complaints Procedure). In this matter the Monitoring Officer did not consider that informal resolution was appropriate. It was noted that a formal apology had been given by Councillor Parsons, however, it was considered necessary and in the public interest for a referral to the Committee due to the seriousness of the conviction and upon the specific request.

The second option available (paragraph 7.1.2) was for the Monitoring Officer to report the outcome of any investigation to the Standards Committee to enable it to conduct a hearing before deciding whether the Member had failed to comply with the Code of Conduct and if so, whether to take any action in respect of the Member. In this case, Councillor Parsons had already admitted that he had failed to comply with the Code of Conduct and therefore the Standards Committee had the power to take action in respect of individual Members as may be relevant and proportionate, and necessary to promote and maintain high standards of conduct. Accordingly, the Standards Committee could consider the sanctions set out in paragraph 8 of the Complaints Procedure.

The Committee was made aware that all parties had had the opportunity to comment on the Monitoring Officer's decision to refer the matter to the Standards Committee to determine the sanction in respect of Councillor Parsons.

In addition, the Council's Independent Persons, Clarissa Gosling and John Wolton had both been consulted.

Clarissa Gosling's comments were as follows:

“On the complaint that Councillor Parsons is not a member of any committees. I understand that it is the council’s decision that only members of a group may serve on committees, and I cannot comment on that. I do not believe that a councillor should be forced to join a group which he feels does not reflect his values or the values of those who elected him.

All things being equal, I imagine a councillor would prefer to be on a committee, which comes with influence and a financial allowance, though does have a time commitment. I believe a councillor should be allowed to follow his conscience in whether or not to join a group, and that this part of the complaint is not justified.

Councillor Parsons has admitted that his actions, resulting in a conviction, have brought the council into disrepute and I do not believe that there is any doubt about this.

However, having made this appalling mistake it appears that he is making every possible effort to address the situation. His apology acknowledges the offence very openly and shows he has understood and deeply regrets his actions – it does not appear to be not just formal words. It takes courage to do that. He has received a sentence and will have to serve his punishment. He has taken steps to address his medical problems and is undertaking ongoing therapy.

If he carries out these actions fully, and is able to rehabilitate himself, then I think that that would be an example to others that it is possible, and the council would no longer be in disrepute.

I do not read the newspaper reports, not living locally, nor do I know the personalities of councillors. I came to these views having read the papers provided.”

John Wolton’s comments were as follows:

“it is unfortunate that Councillor Parsons created the situation he finds himself in, however it is acknowledged that in his response he is fairly remorseful for his actions and receiving professional advice and treatment. The residents choose Councillor Parsons to be the elected member for their ward and assume would stand by their selection.

We have to accept the Magistrates’ Court decision and the sentence he has received, but Councillor Parsons should also be reminded of his obligations to Tendring District Council and the Code of Conduct. I trust that Councillor Parsons will stick to his treatment and prove himself to be a good councillor. I am aware that the Committee is unable to remove Councillor Parsons from any committees, as he does not sit on any and he must not be prevented from undertaking ward work as an elected member.”

In summary the Monitoring Officer’s conclusions were as follows:

“Councillor Parsons is not just an individual, he has been elected to represent the residents of St. Paul’s Ward and sit on Tendring District Council. This is not the standard of behaviour an elected member should be exhibiting to the general public, and knife crime is very serious and under no circumstances, was this acceptable. It is abundantly clear that Councillor Parsons’ actions have breached the Code of Conduct which Councillors sign up to upon their election as members of Tendring District Council. The

Code exists to ensure Councillors fulfil the statutory duty to promote and maintain high standards of conduct in public life.

The Leadership Principle of Public Life requires holders of public office to exhibit the other principles in their own behaviour and actively promote and robustly support the principles.

Although not referred to in the complaint, Councillor Parsons has also failed to comply with the law and consequently, has contravened paragraph 3.7(a) of the Code of Conduct.

It is necessary for the Standards Committee to determine the breach as against the Principles of Public Life and Code of Conduct and their power to take action in respect of individual Members as may be relevant and proportionate, and necessary to promote and maintain high standards of conduct.”

The Committee, then retired to deliberate and reach its decision. The Monitoring Officer also accompanied them to advise on any legal points raised and to record the decision. The Independent Persons also accompanied the Committee during its retirement to comment upon any sanctions being considered by the Committee.

Following such deliberations the meeting resumed.

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

RESOLVED that the Committee:

- (a) notes that Councillor Parsons has received a criminal conviction for possession of a bladed article, namely a Carving knife, contrary to section 139(1) and (6) of the Criminal Justice Act 1988;
- (b) notes in addition to the Monitoring Officer reporting this matter to the Standards Committee, a formal complaint concerning the conduct of Councillor Parsons has also been received;
- (c) welcomes the acknowledgement by Councillor Parsons that he has breached the Code of Conduct;
- (d) notes Councillor Parsons written apology sent to the Monitoring Officer;
- (e) notes the comments of both Independent Persons;
- (f) endorses the referral to the Committee to consider the sanctions; and
- (g) (i) acknowledges that Councillor Parsons is suffering from personal health problems;
- (ii) encourages Councillor Parsons to review his position as an elected Member due to the circumstances surrounding his conviction and whether he is able to effectively represent his Ward and residents;

- (iii) strongly encourages Councillor Parsons to continue with the professional advice and medical treatment he now has access to and that;
- (iv) requests the Monitoring Officer to publish the findings in respect of the Councillor Parsons conduct be published on the Council's website and the Committee's findings be reported to Council for information.

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

Councillor Heaney had earlier declared a non-pecuniary interest in that she was on the Planning Committee with Councillor Bennison.

Councillor Whitmore had earlier declared a non-pecuniary interest in that he was in the same political group as Councillor Bennison and also a friend.

Councillor Davis had earlier declared a non-pecuniary interest in that she had attended the Court hearing in respect of Councillor Bennison but that she was present at the Standards Committee with an open mind.

There was submitted a report (A.2) by the Council's Monitoring Officer 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 two separate complaints had been received from Mr Anthony Chandler and Mr William Hones, who were members of the public. Their complaints had been received by the Monitoring Officer under the Members' Code of Conduct and Complaints Procedure alleging that the behaviour of District Councillor Lis Bennison had breached the Members' Code of Conduct.

The alleged breaches related to:

- (i) Paragraph 3.1: The Leadership Principle of Public Life;
- (ii) Paragraphs 3.2: In fulfilling the Duties and Responsibilities, a Councillor must not:
 - (b) disrespect others; and
 - (c) bully or harass any person.
- (iii) Paragraph 3.4(a): A Councillor must not conduct themselves in a manner which could reasonably be regarded as bringing their office or the Council into disrepute; and
- (iv) Paragraph 3.7(a): A Councillor must comply and observe the law.

Members were informed that the Complaint Form that had been completed by Mr Chandler had referred to initial contact that had been made with the Monitoring Officer in 2016, regarding the alleged assault by Councillor Bennison, however, no further action could be taken at that time, under the Members' Code of Conduct, whilst criminal proceedings against Councillor Bennison were being considered by Essex Police. The incident had occurred at the Clacton Airshow in August 2016, whereby Councillor Bennison whilst acting as a steward on behalf of the District Council had assaulted Mr Chandler, a member of the public.

Members were further informed that Mr Chandler had contacted the Council's Monitoring Officer and had confirmed that Councillor Bennison had been convicted of assault at Southend Magistrates Court on 13 July 2017. Subsequently, a Complaint Form was completed and received on 19 July 2017. A second Complaint Form concerning the same incident was received from Mr William Hones on 25 July 2017.

The Monitoring Officer confirmed that on 23 August 2017, all parties were notified of her decision, that due to the criminal conviction it was not appropriate to take 'no further action' or seek informal resolution or mediation. However, it was not considered that a detailed investigation would be required as the conviction was the outcome of criminal proceedings before the Magistrates Court. Therefore, a light touch investigation had been undertaken and referred to the Standards Committee. To carry out a detailed investigation would have been an unnecessary use of resources, in both cost and time and prolong determination of this matter.

Members were informed that through the light touch investigation, a written apology had been received from Councillor Bennison, which is contained within the report, the apology did not accept that the Code of Conduct had been breached.

It was reported that in accordance with paragraph 5.5 of the Council's Complaints Procedure, at the end of the investigation, the Investigating Officer (in this case the Monitoring Officer) would produce a draft report ("the Investigation Report") and would, in all cases, send copies of that draft report, in confidence, to the Complainants and to the Member concerned, to give all parties an opportunity to identify any matters in that draft report which they may disagree with or which they considered required more consideration.

It was further reported that having received and taken account of any comments on the draft Investigation Report, the report would be finalised. The Investigation Report was attached as Appendix 2 and included the comments received back from both Councillor Bennison and Mr Chandler, nothing further had been received from Mr Hones.

Members were informed that Section 9 of the Report had contained the conclusions on each allegation of the complaints received. This included a recommendation that evidence existed of Paragraphs 3.4(a) and 3.7(a) and the Leadership principle being compromised and in breach of the Code of Conduct. Therefore, the matter was referred to the Standards Committee to decide upon the sanctions.

One of the Council's Independent Persons, Clarissa Gosling, had been consulted and her comments were as follows:

"Thank you for sending the details about this case which you had told me earlier might arise. I would like to make the point that living near Bury St Edmunds I had not seen any newspaper reports in your local paper that are referred to.

There is a great deal of detail involved and justifications given for actions by both sides, but I have tried to boil it down to the actual action complained of: that Councillor Bennison slapped Mr Chandler in the face when he swore at her.

She describes this as 'my hand accidentally touched his face' and her statement blurs over whether he hit her first. He states that 'she slapped me over the right side of my

face'. The Magistrate's summing-up said that she slapped him and this was seen by two of the staff. Because of this she received the conviction.

It is my view, acting as an Independent Person, that initiating any violent action is not justified unless it is to prevent imminent harm to another. It appears from the papers I read that Councillor Bennison's action in slapping Mr Chandler was not the only way to prevent driving that endangered the public, but happened because she was angered by being sworn at.

Councillor Bennison requested that the judge's comments be included, but I have not commented on Mr Chandler's actions in general. I do not believe my sympathies on either side on the driving and general behaviour issues are relevant, as in every circumstance adults should have the self-control to keep dispute verbal not resort to the physical. This should be demonstrated particularly by leaders in the public eye setting an example of dignity and restraint.

Councillor Bennison was clearly acting in her official capacity, wearing a badge and t-shirt, there seems to be no dispute about this, this would have been plain to Mr Chandler and members of the public who witnessed these events. It does not appear however that Mr Chandler was intimidated by her official position. Thus though she did initiate a violent action by slapping him, 'bully or harass' would imply an attack on a weaker from the stronger, and this does not seem to be the case either physically or emotionally.

When acting in an official capacity, Councillor Bennison used physical aggressive action in response to verbal abuse, this is not edifying and in my view does bring her and the Council she represents into disrepute. The force of the action is not important it is a precedent no one would wish followed privately or publically.

The fact that this led to a criminal conviction has drawn more public attention to the unfortunate event, confirming the facts. I am not sure that a criminal conviction per se brings a councillor into disrepute: though 'a councillor must comply and observe the law' seems to imply that. There are many laws on the statute book and motives for breaking them and the public might consider some more reputable than others.

From the papers I have read, I do not believe it was necessary to use physical violent action in response to the bad language and 'dangerous driving behaviour' Councillor Bennison reported. I am sorry that her apology did not acknowledge this crucial point, even in retrospect, and in my view this lack regret about her actions reflects badly upon her."

The Committee, then retired to deliberate and reach its decision. As the Monitoring Officer had undertaken the investigation in this matter, she did not accompany the Committee until they had reached their verdict, initially the Senior Solicitor was in support to advise on any legal points. The Monitoring Officer was requested to join the Committee to advise on the wording of the decision. Then Clarissa Gosling the Independent Person who had been consulted in this case, also accompanied the Committee during its retirement to comment upon any sanctions being considered by the Committee.

Following such deliberations the meeting resumed.

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

RESOLVED that the Committee:

- (a) Notes the outcome of the investigation undertaken by the Monitoring Officer in respect of Councillor Lis Bennison;
- (b) Agrees with the findings of the Monitoring Officer that evidence exists that there has been a breach of the Members' Code of Conduct;
- (c) Notes the written apology contained within the body of the Report;
- (d) Notes the comments of both Independent Persons;
- (e) Endorses the referral to the Committee to consider the sanctions; and
- (f) Upon finding that Councillor Bennison had breached the Code of Conduct resolves that:-
 - (i) its findings are published on the Council's website;
 - (ii) its findings are reported to Council for information;
 - (iii) the Group Leader acknowledges that Councillor Bennison has breached the Code of Conduct and in response it is suggested that Councillor Bennison is removed from any Committees and Sub-Committees of the Council for one month;
 - (iv) it is disappointed that Councillor Bennison failed to acknowledge that the Code of Conduct was breached and would request that training with the Monitoring Officer is organised for Councillor Bennison on the Code of Conduct.

13. REPORT OF THE MONITORING OFFICER - A.3 - REVIEW OF THE MEMBERS' CODE OF CONDUCT (TO REPORT TO FULL COUNCIL)

There was submitted a report (A.3) by the Council's Monitoring Officer which had requested the Committee to complete the review of the Members' Code of Conduct and consider the proposed changes made following the suggested revisions made at its meeting in June 2017 for recommendation to Council for adoption.

As part of its annual work programme, the Committee had commenced a review of the Members' Code of Conduct and had paid particular attention to the definitions of interests.

The Committee recalled that, at its meeting on 29 June 2016, the Monitoring Officer had informed Members that there would be some merit in undertaking a light touch review of the Code of Conduct and to consider removing the distinction between "Other and Non Pecuniary Interests" by joining them together and reviewing the definitions. The Monitoring Officer had also informed Members that the three different types of interest had caused confusion with Members and the public and could be made simpler. In addition, it had been raised whether the provisions on declarations of interests had gone far enough and questions had been asked whether the Council should be retaining a register of interests. Matters such as membership of various groups or organisations had caused concerns with elected Members and the public that those were not

registered, and whilst this was not required on a statutory basis, provisions could be included within the local Code. Members had discussed the advantages of a register of interests, beyond the statutory minimum which was required by the legislation and had welcomed further exploration in this area.

At that meeting the Monitoring Officer had informed Members that, nationally, a number of Councils had reviewed their codes since adoption, some in response to feedback on definitions or areas which were missing, or due to the lack of sanctions available if the obligations were compromised. New ideas such as a voluntary acceptance of suspension and a recall scheme were emerging and information on those could be presented to the Committee for information through the review of the Code.

The Committee recalled that, at its meeting in September 2016, potential changes and additions to the Code had been discussed in order to provide clarity 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; and
- Effect of Other or Non-Pecuniary Interests on participation.

At that meeting it had been 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.

The Committee recalled that, at its meeting in June 2017 the Monitoring Officer had produced a revised draft Code of Conduct showing tracked changes and went through it stage by stage. A clean copy had also been provided for further consideration by the Committee.

At that meeting the Monitoring Officer had confirmed that she would action the amendments suggested by the Committee and provide a further amended version of the Members' Code of Conduct at its next meeting before going to full Council.

Members now had before them a revised draft Members' Code of Conduct showing changes in Appendix A for their consideration.

Members raised questions which were responded to by the Monitoring Officer.

The Independent Persons (John Wolton and Clarissa Gosling) were given the opportunity to make comments and ask questions.

Having discussed the revised draft Code of Conduct, it was moved by Councillor Heaney, seconded by Councillor Nicholls and **RESOLVED:-**

that the revised draft Members' Code of Conduct be recommended for adoption to Council with a commencement date of April 2018, to allow training to be undertaken by all Councillors between adoption and implementation.

14. 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 a complaint received, without providing any names, and went through it with the Committee. The Monitoring Officer also highlighted a number of other matters which included:

Two Local Authorities have considered motions to lobby the Government on the lack of sanctions which Councils have been left with since the introduction of the Localism Act 2011. A consultation has also been launched on extending the list of criminal convictions which would restrict an individual standing as a Councillor.

The Monitoring Officer at the Committee's request agreed to bring this item back to the next meeting of the Committee for further consideration.

The meeting was declared closed at 1.23 pm

Chairman