

STANDARDS COMMITTEE

Minutes of the meeting held at 5.30 pm on 10 January 2022

Present:

Councillor Nicholas Bennett MA J.P. (Chairman)
Councillor Vanessa Allen (Vice-Chairman)
Dr Simon Davey, Jonathan Farrell, Kath Nicholson,
Councillor Melanie Stevens and Councillor Stephen Wells

Also Present:

Councillor Yvonne Bear and Councillor Alexa Michael

11 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor Tickner and Mr Ken Palmer (Independent Person).

The Chairman welcomed Ms Kath Nicholson (Independent Person), Mr Jonathan Farrell (Independent Person) and Ms Tasnim Shawkat (Director of Corporate Services and Governance and Monitoring Officer) to their first meeting of the Standards Committee.

12 DECLARATIONS OF INTEREST

There were no additional declarations of interest.

13 MINUTES OF THE MEETING HELD ON 15 JULY 2021

The minutes of the meeting held on 15 July 2021, were agreed and signed as a correct record.

Matters Arising

The Committee noted that the Development Control Committee, at its meeting on 11 January 2022, would be considering a recommendation that basic training for all Councillors, before they sit on Planning Committees, be made mandatory.

14 QUESTIONS

There were no questions.

15 MONITORING OFFICER'S GENERAL REPORT
Report CSD21128

The report updated the Committee on a number of standards issues. The Monitoring Officer introduced the report and drew the Committee's attention to changes that had been made to Appendix 5 of the report. The appendix had previously been considered in Part 2 of the meeting, however recent changes that had been implemented meant that an anonymised schedule of complaints would be considered in Part 1 of the meeting. The schedule would provide details of the substance of the complaint and the outcome. Any emerging trends and training requirements would be picked up through the commentary in the Monitoring Officer's General Report. The Monitoring Officer highlighted that the intention was to move towards a position where very few complaints were submitted as Members understood their obligations under the Code of Conduct and members of the public understood the requirements for a valid Code of Conduct complaint.

Declarations of Interest at Meetings

The Chairman raised the issue of whether there should be additional requirements for Members to declare at meetings such as Planning Sub-Committees whether they knew certain individuals socially in order to improve the public perception of decision-making processes. Noting that elected Members were entitled to a private life, a Member suggested that there had to be openness and transparency and there had to be a clear line in terms of where they were meeting someone in a social capacity and where they become involved in their capacity as a Councillor. Further guidance for Members may be helpful as the perception of how well a Member may know a third party involved in a decision was subjective.

An Independent Person highlighted that it was often difficult to define how well a councillor may know someone and that the matter often came down to the perception of the degree of influence. It was therefore beneficial to have openness and transparency.

Another Independent Person suggested that in the context of gifts and hospitality, in addition to the record of hospitality received there could be a further requirement to declare offers and refusal of gifts and hospitality. It was also noted that in terms of the professional relationships and networks developed by elected Members, the "Clapham Omnibus Test" – the perception of the average person on the street – was often a good measure. It was suggested that in order to avoid any sense of suspicion and reduce complaints arising from public perception, it was often better to be open about any professional connections.

A Member noted that for the vast majority of councillor activities it was adequate to declare that someone was known on a social basis. However, there needed to be more robust requirements for Members involved in the quasi-judicial committees – those dealing with Planning and Licensing matters.

There was recognition that it was almost impossible for elected members to fulfil their roles without developing professional networks and getting to know people. However, it was important that Members were transparent about these professional relationships and free from the appearance of bias. There was general consensus across the Standards Committee that when a Member knew a party to a particular decision, this should be declared in order to protect both the Member and the third party.

Feedback from Independent Person

The Standards Committee noted that during the previous summer, some Members of the Committee had held a meeting with Mr Palmer (Independent Person) and the bullet points reflected in the report were a summary of the issues discussed and the outcome.

The Monitoring Officer reported that there had been some more recent email correspondence with Mr Palmer who felt strongly about the changes that had been made to Appendix 5 of the Monitoring Officer's General report. Mr Palmer preferred the previous process of the Committee considering the complaints schedule in Part 2 of the meeting. The Monitoring Officer explained that one of the reasons for introducing the change was to introduce more transparency into the complaints process whilst also complying with requirements to protect personal data. The Standards Committee noted the Monitoring Officer's recommendation that there was no need for personal details to be provided in the report in order to achieve the objectives of the Standards Committee.

An Independent Person highlighted that Mr Palmer's concern had been that there needed to be transparency of complaints for the Independent Persons and the Independent Persons were seeking assurances that they would always have full sight of a complaint.

A Member highlighted that the key issues for the Standards Committee should be the substance of the complaint, any training that may be required, and any lessons that could be learnt. It was not important for the Standards Committee to know the identity of either the complainant or the subject member. Providing an anonymised schedule of complaints increased transparency around the procedure for handling Code of Conduct complaints.

The Chairman proposed that the Standards Committee should receive an anonymised schedule of complaints with the relevant Independent Person, the relevant Group Leader and the Chairman of the Standards Committee copied into any responses to complaints that were sent.

Members of the Committee noted that the current complaints procedure required that the relevant group leader be copied into any response however, Members questioned why the Chairman of the Standards Committee would also need to receive a copy. It was noted that in the past Independent Persons had been able to approach the Chairman of the Standards

Committee and the Monitoring Officer concerning issues where necessary and this informal facility would remain.

The Standards Committee noted that if multiple complaints against the same councillor were received this would be highlighted through the Monitoring Officers report, equally if a complaint from an individual previously deemed vexatious had been received this could also be highlighted. The Standards Committee would then be in a position to consider a specific issue in more detail if necessary.

An Independent Person highlighted that in order to fulfil the role and have full clarity about complaints, Independent Persons would need to have access to the complete schedule of complaints. The Monitoring Officer explained that when complaints were received, an Independent Person would be consulted. If it was the second, third or fourth complaint that had been received the Independent Person would be advised of this and provided with the relevant history. It was further highlighted that where it was deemed that there was evidence of a breach of the Code of Conduct, the matter would be referred to the Standards Committee for further consideration and investigation and at this point the parties to the complaint would no longer be anonymised.

It was therefore AGREED that an anonymised schedule of complaints be provided to future meetings of the Standards Committee.

Turning to the issues arising from the meeting with Mr Palmer during the summer, the Monitoring Officer highlighted that many of the suggestions/recommendations were already in place and the Committee considered each of the points in turn:

- *The Monitoring Officer should be encouraged to give “words of advice” to councillors in appropriate cases where there is no formal breach of the Code of Conduct.*

The Committee noted that in specific cases words of advice had been given. In addition, there had been some circumstances where group leaders had been asked to offer words of advice to Members subject to complaints.

- *Complaints that are obviously vexatious should be closed down at an early stage.*

An Independent Member urged caution with respect to vexation complaints advising that care needed to be taken with respect to what was considered to be an “obviously vexatious” complaint. In respect of ethical standards, the bar for vexatious should be set very high as whilst a complainant may have been deemed vexatious, there may be some substance to the complaint which merited consideration.

- *Anonymous complaints should not be accepted (although in some cases it may be appropriate to withhold the complainant’s details from the councillor they are complaining about.)*

An Independent Member highlighted that there may be some circumstances where an anonymous complaint should be considered. Consequently, the Committee agreed that the recommendation to be amended to:

Anonymous complaints should not *normally* be accepted (although in some cases it may be appropriate to withhold the complainant's details from the councillor they are complaining about.)

- *All complaints should be submitted via a complaints form (currently complaints are accepted via the form, letter or email).*

The Standards Committee noted that a web form was already in place for submission of complaints to the Council, although complaints were routinely accepted by letter or more usually by email. An Independent Person highlighted that in certain circumstances, requiring a complainant to complete a form could be onerous. What was important was that the complainant was able to provide the necessary information and evidence to substantiate the complaint.

It was therefore agreed that the recommendation should be amended to: Complaints should *normally* be submitted via a complaints form.

- *There should be a rota for Independent Persons to look at complaints.*

The Committee noted that a rota had been in place since February 2020 and had now been extended to include the two newly appointed Independent Persons.

- *Where there is a disagreement between the Monitoring Officer and an Independent Person about a complaint, another Independent Person, the Chairman and a Minority Group Member should be asked to look at the complaint.*

An Independent Person highlighted that in the rare instances where there was disagreement, the Standards Committee or a Sub-Committee of the Standards Committee should arbitrate.

The Monitoring Officer highlighted that instances of disagreement were rare. If there happened to be a disagreement during the course of an investigation the usual procedure would be for the Monitoring Officer to produce a report reflecting both the view of the Monitoring Officer and the relevant Independent Person.

- *All decision letters should be copied to the Chairman and a Minority Group Councillor.*

This issue had been considered earlier in the meeting when it has been agreed that there would be no changes to the current procedure.

- *There should be an induction process for new Independent Persons.*

Arrangements would be put in place for the induction of new Independent Persons and the Monitoring Officer would be in touch to offer dates in due course.

- *There should be compulsory induction (as with Planning and Licensing) for all Members on standards, probity and the complaints procedure.*

The Induction Process for ethical standards would be one of the first induction sessions to be delivered following the election.

An Independent Person queried whether it would be possible for details to be provided of the number of councillors attended any training.

The Committee agreed that a record of attendees at training should be taken, especially for those training sessions deemed mandatory. In addition, it was suggested that newly elected councillors should be encouraged to attend all available training. It was further suggested that where possible training sessions should be recorded and made available for elected members to view online.

The Monitoring Officer confirmed that every effort would be made to provide plenty of opportunities for Members to attend training. It was highlighted that failure to attend training could be taken into consideration in the event that a complaint against a member was received.

- *Advertisements for the Independent Person role should be targeted at a wider range of potential candidates, and up to three Independent Persons should be appointed if there are suitable candidates.*

The Chairman noted that following a successful advertising campaign, two new Independent Persons had been appointed.

Consideration of Appeals Process for Members subject to complaints

The Chairman noted that this issue had been scheduled for debate at the next meeting.

LGA Guide for Councillors on Handling Intimidation (including online intimidation)

In relation to the issue of publishing the home addresses of councillors online, the Monitoring Officer confirmed that over time the position had changed. If

councillors did not want their home addresses published, they were encouraged to contact the Monitoring Officer who would take action to unpublish the information.

It was noted that in the event that an issue affecting the street on which a councillor lived was discussed at committee the councillor would be required to declare the interest.

It was agreed that the LGA document should be circulated to all Councillors and provided to newly elected councillors following the election.

Social Media Guidance for Councillors

The Standards Committee agreed that training should be provided to all councillors on the use of social media.

It was noted that the document provided was a draft, once further work had been completed it could be presented to the Standards Committee and circulated to all councillors for information.

In drawing the discussion to a close, the Chairman raised the issue of the way in which a councillor at a recent meeting of the Development Control Committee had addressed a member of the public. It was suggested that some guidance should be provided to Members to remind them that they needed to be polite at all times when attending committee meetings. It would be helpful to remind councillors that when they were at committee meetings, they were in a position of authority compared to the members of the public present and therefore councillors should behave accordingly.

It was also suggested that Chairmen of committees should also be reminded that they had a responsibility to require Committee Members to apologise where necessary.

An Independent Person suggested that it may be helpful to have a mechanism in place to refer low level unacceptable behaviour to the Monitoring Officer for informal review.

16 PROBITY IN PLANNING **Report CSD21133**

At its last meeting on 15 July 2021, the Standards Committee discussed the review undertaken by the Planning Advisory Service and the Council's recently implemented Planning Protocol with the Chairman of the Development Control Committee. At the conclusion of the discussion the Committee resolved that issues of probity of planning be further considered by the Standards Committee at its next meeting in December 2021.

The Chairman welcomed the Chairman and Vice-Chairman of the Development Control Committee and the Assistant Director for Planning to the meeting.

The Chairman of the Development Control Committee reported that she was pleased to confirm that all the recommendations made by the Standards Committee in July 2021, were on the agenda for the Development Control Committee on 11 January 2022, and were all recommended for approval.

One of the recommendations from the Planning Advisory Service (PAS) was that all Members involved in planning decision making should have basic training. The Chairman of the Development Control Committee set out the scope of the training and noted that there was support amongst Members that any councillor sitting on planning committees must undertake basic training. It was noted that training would take place early after the May 2022 elections. The general view was that there would not be a Member of the Council who was not involved in planning one way or another, due to the nature of the role of local ward members. Consequently, all Members of the Council would be strongly encouraged to engage with and undertake the planning training provided, however the training would be mandatory for members sitting on Planning Committees.

The Standards Committee noted that on 11 January 2022, the Development Control Committee would consider and vote on the 19 recommendations from the PAS and this would include the issue of training. Members further noted that PAS recommendation 13 called for impartial substitutions at Planning meeting and once agreed, this would be added to the Local Planning Protocol with no more than two Members from one ward being permitted on a 9 member Plans Sub-Committee. The Standards Committee noted that the 2 ward member restriction would also needed to be taken into consideration at the start of the municipal year when committee memberships were proposed and agreed.

The Vice-Chairman of the Development Control Committee highlighted that the Local Planning Protocol was a continuously evolving document and policies and procedures could be updated as learning occurred. Members sitting on Planning Committees would also be required to formally confirm that they had read the Local Planning Protocol and would comply with all the provisions within.

The Standards Committee noted that once considered by the Development Control Committee on 11 January 2022, a report with recommendations for approval would be presented to Full Council in February 2022.

The Chairman thanked the Chairman and Vice-Chairman of the Development Control Committee and the Assistant Director for their attendance at and participation in the meeting.

RESOLVED: That the Standards Committee endorse the recommendations of the Planning Advisory Service in respect of ethical standards.

The Meeting ended at 7.30 pm

Chairman