

MINUTES OF A MEETING OF THE
STANDARDS COMMITTEE HELD IN THE
COUNCIL CHAMBER, WALLFIELDS,
HERTFORD ON THURSDAY 5 JANUARY
2023, AT 7.00 PM

PRESENT:

District Council Members:

Councillors T Stowe, R Bolton,
R Buckmaster, A Huggins and M Pope

Independent Persons:

N Moss

Parish Council Representatives:

Councillor I Hunt

ALSO PRESENT:

Councillor P Ruffles

OFFICERS IN ATTENDANCE:

James Ellis	- Head of Legal and Democratic Services and Monitoring Officer
Katie Mogan	- Democratic Services Manager

281 APOLOGIES

Apologies of absence were received from Parish Councillor Jane Dodson and Parish Councillor Vicky Smith.

282 CHAIRMAN'S ANNOUNCEMENTS

The Chairman reminded Members to use the microphones so they could be heard on the webcast.

283 MINUTES - 6 JULY 2022

Councillor Huggins proposed, and Councillor R Buckmaster seconded a motion that the Minutes of the meeting held on 6 July 2022 be approved as a correct record and be signed by the Chairman. On being put to the meeting and a vote taken, the motion was declared CARRIED.

RESOLVED – that the Minutes of the meeting held on 6 July 2022 be approved as a correct record and signed by the Chairman.

284 DECLARATIONS OF INTEREST

There were no declarations of interest.

285 REVIEW OF COUNCILLOR COMPLAINTS HANDLING PROCEDURE

The Head of Legal and Democratic Services introduced the Review of Councillor Complaints Handling Procedure. He said that the last procedure had been adopted in September 2011 and the complaints procedure needed to

be updated following the new Code of Conduct being adopted in April 2021.

The Head of Legal and Democratic Services referred to paragraph 2.3 of the report which listed the notable changes to the procedure. He said that one important change was the inclusion of local resolution whereby complaints should try to be resolved at a local level before referring to the Monitoring Officer. He said that he hoped this would result in a quicker resolution for the complainant. A further amendment was the inclusion of clearer definitions of each stage of the complaints process to set out clearly what would happen when.

The Head of Legal and Democratic Services said a clearer explanation of the role of the Independent Person had been included instead of the document referring to the Localism Act.

The Independent Person said that the procedure was a vast improvement on the current version. He said that the whole point was to make clear that the complaints procedure was not a mechanism for people to complain about decisions that had been made lawfully by councillors. He said that the sequencing that had been set out for each stage of the process was easy to follow.

Parish Councillor Hunt asked if all complaints fell under Code of Conduct complaints.

The Head of Legal and Democratic Services said there was often some confusion as to what constituted a Code of Conduct complaint. He said he had received complaints about council decisions or that councillors were not responding to correspondence, but these did not fall under

the Code of Conduct.

Parish Councillor Hunt said that parish councils were at the front line of complaints and said that Much Hadham had its own complaints procedure. He asked if parish councils would be informed of that addition of the local resolution stage as they may need to change their own individual policies.

The Head of Legal and Democratic Services said that his role as the Monitoring Officer meant he was responsible for investigating complaints under the Localism Act. He said that the new local resolution stage was intended for a conversation to take place to try and resolve simple misunderstandings. He said he would send the new procedure across to all parish clerks to make them aware that the procedure would encourage complainants to resolve at a local level before being considered by the Monitoring Officer, where required.

The Independent Person said that one area that caused misunderstanding was councillors behaving in ways members of the public don't expect them to behave. He said that the legislation was very careful and specific and said that a councillor needed to be acting 'in capacity'. He said it was an important distinction to make as to whether a councillor was acting as a councillor or doing something not connected to the council.

Councillor Pope referred to page 10 and the second recommendation which allowed delegation to the Head of Legal and Democratic Services and the Chairman of the Standards Committee to make amendments. He asked how the Committee would be advised of any amendments made.

The Head of Legal and Democratic Services said that the recommendation was not intended to substantially change the policy, but it was there in case a term needed amending or a typographical error correcting. He said any substantial changes would be presented to committee for agreement.

The Head of Legal and Democratic Services said the recommendation needed a slight amendment as it referenced Appendix 1 but the new procedure was at Appendix 2.

The Independent Person referred to page 48, point 3. He suggested a slight change to the wording to make the acting in capacity point clearer to reflect the provision in the legislation.

Councillor Stowe said this would be an important distinction to make. He said that he represents a village where they all knew he was a councillor so had to make clear to people when he was acting as a councillor and when he was not.

Councillor Pope asked if there was any case law about the distinction between acting as a councillor and acting as an individual.

The Head of Legal and Democratic Services said that he had previously received a complaint where the complainant had gotten into a disagreement with a Councillor whilst they had been out socialising. The councillor had clearly not been acting in their capacity as a councillor at the time of the disagreement as the complainant had invited them out as a friend. He agreed

that point 3 could be strengthened and proposed that point 3 be amended to include the words "*the Councillor was not acting in their capacity as a Councillor at the time of the alleged incident*" in the middle of the paragraph.

Councillor Bolton said the situation was not helped by modern means of communication where residents think councillors were on duty 24/7.

Councillor Huggins proposed and Councillor Buckmaster seconded a motion supporting the recommendations in the report subject to the amendments agreed. On being put to the meeting and a vote taken, the motion was declared carried.

RESOLVED – That (A) The Standards Committee recommends to Council the adoption of the revised Councillor Complaints Handling Procedure as contained at Appendix 2; and

(B) The Standards Committee delegates to the Head of Legal and Democratic Services the authority to make minor amendments to the Procedure, in consultation with the Chair and Vice Chair of the Standards Committee and Independent Person as required from time to time.

286 STANDARDS UPDATE

The Head of Legal and Democratic Services presented the Standards Update report. He said that it was a requirement to present the committee with a summary of standards complaints that had been raised. The report listed complaints that had been submitted from the end of

2021. He referred to paragraph 2.7 where a complainant referred their complaint to the Local Government and Social Care Ombudsman (LGO) as they were unhappy with its conclusion. The LGO decided that the complaint had been properly dealt with and did not take it any further.

Councillor Huggins asked why complaint 08/21 was not listed.

The Head of Legal and Democratic Services referred to paragraph 2.6 and said that complaints that were withdrawn were not included in the table.

Councillor Buckmaster referred to complaints 05/22 and 07/22 and asked if they had been resolved yet.

The Head of Legal and Democratic Services said complaint 05/22 was being dealt with by the Deputy Monitoring Officer and was very close to being resolved. Complaint 07/22 was submitted at the end of 2022 and required further information which had now been received so the initial assessment could continue.

Councillor Stowe said the report provided good information as to why some complaints were not accepted especially the relationships between councillors which did not constitute a breach.

The Head of Legal and Democratic Services said that councillors who put themselves up for election put themselves forward for healthy debate and disagreement which was factored into any complaints made between councillors, as a certain level of robust disagreement was to be expected. He said interactions with members of the public had a lower bar as they do not put themselves

forward for the same level of robustness.

Councillor Stowe asked if the investigation into a complaint would continue if the councillor concerned resigned.

The Head of Legal and Democratic Services said that the complaints procedure only applied to councillors so if they resigned, the investigation stopped. However, he said that if Members returned to the Council within 14 months, the complaint could be resurrected.

RESOLVED – That the report be received.

287 URGENT BUSINESS

There was no urgent business.

The meeting closed at 7.35 pm

Chairman

Date