



MEETING : STANDARDS COMMITTEE
VENUE : COUNCIL CHAMBER, WALLFIELDS, HERTFORD
DATE : TUESDAY 16 JULY 2024
TIME : 7.00 PM

MEMBERS OF THE COMMITTEE

Councillors V Burt (Chair), R Carter, N Clements, A Parsad-Wyatt, V Smith, T Stowe and R Townsend

SUBSTITUTES

Green Group - Councillors N Cox and G Hill
Liberal Democrat Group - Councillor C Horner
Labour Group - Councillor C Redfern

(Note: Substitution arrangements must be notified by the absent Member to Democratic Services 24 hours before the meeting)

CO-OPTED MEMBERS

Councillor P Furness - Buntingford Town Council
Councillor I Hunt - Much Hadham Parish Council
Councillor J Kenyon - Buckland Parish Council

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A Member, present at a meeting of the Authority, or any committee, sub-committee, joint committee or joint sub-committee of the Authority, with a Disclosable Pecuniary Interest (DPI) in any matter to be considered or being considered at a meeting:

- must not participate in any discussion of the matter at the meeting;
- must not participate in any vote taken on the matter at the meeting;
- must disclose the interest to the meeting, whether registered or not, subject to the provisions of section 32 of the Localism Act 2011;
- if the interest is not registered and is not the subject of a pending notification, must notify the Monitoring Officer of the interest within 28 days;
- must leave the room while any discussion or voting takes place.

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AGENDA

1. Appointment of the Vice-Chair for 2024/25

2. Apologies

To receive apologies for absence.

3. Minutes - 23 January 2024 (Pages 5 - 10)

To confirm the Minutes of the meeting held on 23 January 2024.

4. Chair's Announcements

5. Declarations of Interest

6. Training - Member's Code of Conduct and Standards Update

7. Standards Update and appointment of a Standards Sub-Committee (Pages 11 - 18)

8. Urgent Business

To consider such other business as, in the opinion of the Chairman of the meeting, is of sufficient urgency to warrant consideration.

MINUTES OF A MEETING OF THE
STANDARDS COMMITTEE HELD IN THE
COUNCIL CHAMBER, WALLFIELDS,
HERTFORD ON TUESDAY 23 JANUARY
2024, AT 7.00 PM

PRESENT:

District Council Members:

Councillors V Burt, R Carter, N Clements,
A Parsad-Wyatt, V Smith, T Stowe and
R Townsend

Independent Persons:

N Moss

ALSO PRESENT:

Councillor Furness

OFFICERS IN ATTENDANCE:

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

295 APOLOGIES

Apologies for absence were received from Councillor Ian
Hunt from Much Hadham Parish Council.

296 CHAIRMAN'S ANNOUNCEMENTS

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

297 DECLARATIONS OF INTEREST

There were no declarations of interest.

298 MINUTES - 5 JULY 2023

Councillor Townsend proposed and Councillor Smith seconded, a motion that the Minutes of the meeting held on 5 July 2023 be confirmed as a correct record and signed by the Chairman, subject to the following amendments:

- Minute 83 – Delete in the first line – ‘Stow’ and replace with ‘Stowe’

After being put to the meeting and a vote taken, the motion was declared carried.

RESOLVED – that the Minutes of the meeting held on 5 July 2023 be confirmed as a correct record and signed by the Chairman, subject to the following amendments:

- Minute 83 – Delete in the first line – ‘Stow’ and replace with ‘Stowe’

299 STANDARDS UPDATE

The Head of Legal and Democratic Services presented the report to the committee which provided Members with an update on standards issues over the last six months. He said that he was required to provide an update to the committee at each meeting as set out in the Constitution. Paragraph 2.4 of the report set out the latest complaints received since the last committee which were anonymised but gave Members an idea of the kind of complaints received and how they had been resolved.

Councillor Carter asked for clarification under paragraph 2.4 where complaints were described as “Member not ‘in capacity’ under s.27(2) Localism Act’.

The Head of Legal and Democratic Services explained that the Localism Act recognised that councillors were not acting as councillors at all times and so any complaint against a councillor must have happened when a councillor was undertaking council business or involved with an issue that was relevant to the council. He said that this was the first test for a complaint before it could be further assessed.

The Independent Person said that the legislation provided for this specific test and must be applied first to any complaint.

The Head of Legal and Democratic Services said that there were examples of cases across the country which pointed to certain scenarios where a member had behaved in a certain way and determined whether they were in capacity or not. He said if the complaint did not meet this first test, then the complaint went no further.

Councillor Stowe asked if it was correct that if a councillor resigned whilst the subject of a complaint then the complaint falls once they were no longer in office. He also asked how much information would be available if the complaints were subject to a Freedom of Information request.

The Head of Legal and Democratic Services confirmed that if a councillor resigned whilst being the subject of a complaint then the matter would fall away. He said however that if that Member came back into an elected position within a certain timeframe, then the complaint was reopened. He said this was to stop Members resigning to ensure the complaint was closed and then get themselves co-opted back onto the Council. In response to the Freedom of Information question, the

Head of Legal and Democratic Services said that it would have to be determined on a case-by-case basis depending on how sensitive the complaint was.

Councillor Furness referred to the table at paragraph 2.4 and asked why case number 11 was missing.

The Head of Legal and Democratic Services said that paragraph 2.5 explained that if a complaint had been withdrawn by the complainant, then they were not listed. He said he would be happy to include withdrawn complaints in the table if the committee would find this useful.

Councillor Townsend felt that the list should be presented in numerical order with the withdrawn complaints included for clarity. The Committee agreed with this suggestion.

Councillor Parsad-Wyatt asked if the 13 complaints received in 2023 were in line with previous years and asked how long it took for a complaint to be resolved.

The Head of Legal and Democratic Services said that in 2022 there were six complaints which was less than average and 2021 and 2023 there was 11 and 14 complaints. He said that in the complaints handling procedure, there was a three-month limit on the complaint process and he tried to ensure that complaints were assessed as quick as possible and they took about a month on average.

The Independent Person said that East Herts had a lot of parishes compared to the other local authorities in Hertfordshire which in turn generated more complaints. He said the aim of the complaints process was fairness both to the complainant and the member complained of. He added that it was common for members of the public to submit complaints as a result of a decision having been made that they did not agree with.

Councillor Clements asked if complaints were distributed

across the parishes or if there were repeat offenders.

The Head of Legal and Democratic Services said that certain individuals and parish councils appeared in complaints more often than others.

Councillor Townsend referred to the table in paragraph 2.4 and suggested amending the wording in the last column which referred to complaints being dismissed. He said it could be mistaken as the councillor had been dismissed instead of the complaint.

The Head of Legal and Democratic Services said he could see why it could be confusing and said he would put 'complaint dismissed' in future reports.

Councillor Smith referred to the changes to the complaint handing procedure and the local resolution stage. She asked if this was working within the parish councils.

The Head of Legal and Democratic Services said if the complaint had been resolved by the parish council, it would be unlikely that he would find out about it. He said if he received a complaint that was deemed trivial, he often referred it back to the parish to see if they could resolve it themselves.

Councillor Stowe said he felt that complaints from councillor to councillor was often just the result of a robust discussion.

The Head of Legal and Democratic Services said that he took the view that elected members voluntarily put themselves forward to engage in the political process and in debates. He said it was a different situation when a member of the public was being subjected to the same behaviour.

It was moved by Councillor Stowe and seconded by Councillor Townsend, that the recommendation be approved. After being put to the meeting and a vote

taken, this motion was declared CARRIED.

RESOLVED – that (A) the Committee receive the report and provide any observations to the Head of Legal and Democratic Services and Monitoring Officer.

300 URGENT BUSINESS

There was no urgent business.

The meeting closed at 7.25 pm

Chairman
Date

East Herts Council Report

Standards Committee

Date of meeting: Tuesday 16 July 2024

Report by: Head of Legal and Democratic Services

Report title: Standards Update and appointment of a Standards Sub-Committee.

Ward(s) affected: (All Wards);

Summary – The report updates Members of the Committee on standards issues generally and asks Members of the Committee to appoint a Standards Sub-Committee.

RECOMMENDATIONS:

- a) That the Committee receive the report and provide any observations to the Head of Legal and Democratic Services and Monitoring Officer.**
- b) That the Committee appoint a Standards Sub-Committee to determine Complaint 13/2023 in accordance with the Standards Sub Committee Terms of Reference under the Constitution.**

1.0 Proposal(s)

- 1.1 As above

2.0 Background

- 2.1 Within its terms of reference, the Standards Committee has a function “to promote and maintain high standards of conduct of Members and Co-opted Members of the Council” and “to receive reports from the Monitoring Officer and assess the operation and effectiveness of the Members’ Code of Conduct”.

- 2.2 Paragraph 7.5.1 of the Constitution also states that “The Monitoring Officer will present a general report on standards matters at each Committee meeting, updating the Committee on the workload of the Monitoring Officer and current standards issues”.
- 2.3 The Committee will therefore receive update reports from the Monitoring Officer on matters that relate to, or assist to govern, Member conduct.
- 2.4 Under paragraph 7.4.1 (m) of the Constitution the Committee can “appoint the Standards Sub Committee drawn from three members of the Committee which will exercise, on a delegated basis, the functions set out in the Sub-Committee terms of reference. The Committee should reflect representation where practicable”.
- 2.5 Within its terms of reference, the Standard Sub Committee has the function to consider assessment and investigation reports in respect of Code of Conduct complaints that are referred to it by the Monitoring Officer and to conduct a hearing into an allegation that a Member has breached the relevant Code of Conduct.

East Herts complaints/ issues update

- 2.6 The complaints made to the Monitoring Officer since the last report to the Standards Committee on 23rd January 2024 are as follows:

Complaint about: Parish/Town or District	Summary of complaint	Action taken
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Councillor		
Complaint 10/2023 Complaint against District Councillor	Improper use of position as a District councillor and bullying.	Resolved informally (apology given and training provided).
Complaint 11/2023 Complaint against District Councillor	Unacceptable language online.	Withdrawn by the complainant.
Complaint 12/2023 Complaint against Parish Councillor	Impartiality and improper use of position as a Town Councillor	Dismissed under Appendix 1 paragraph 3 of the Complaints Procedure – no breach of the Code of Conduct (the Councillor was not acting in their capacity as a Councillor at the time of the alleged incident).
Complaint 13/2023 Complaint against District Councillor	Disrespectful behaviour toward another councillor	Councillor refuses to engage with informal action approach and therefore in accordance with paragraph 5.11 of the Complaints Procedure the complaint has been moved to the Standards Sub-Committee to be determined.
Complaint 01/2024 Complaint against a	Disrespectful behaviour.	Local Resolution Referral in accordance

Town Councillor		with Appendix 1 paragraph 11 of the Council Procedure Rules.
Complaint 02/2024 Complaint against a Town Councillor.	Disrespectful behaviour.	Local Resolution Referral in accordance with Appendix 1 paragraph 11 of the Council Procedure Rules.
Complaint 03/2024 Complaint against a District Councillor	Impartiality, not treating persons fairly	Ongoing.
Complaint 04/2024 Complaint against a District Councillor	Disrespectful behaviour	Dismissed under Appendix 1 paragraph 3 of the Complaints Procedure – no breach of the Code of Conduct (the Councillor was not acting in their capacity as a Councillor at the time of the alleged incident).

2.7 In respect of Complaint 12/2023 the complainant referred their complaint to the Local Government and Social Care Ombudsman (LGO) as they were unhappy with its conclusion. The LGO confirmed that they were “satisfied the Deputy Monitoring Officer had dealt with the matter in line with the Council’s rules for code of conduct complaints before deciding not to take any further action”. The LGO confirmed they would “not investigate the complaint because they were unlikely to find fault by the Council.”

2.9 In respect of Complaint 13/2023 the Deputy Monitoring Officer sought to resolve this informally by way of an apology and training without the need for a formal investigation. The Councillor refused to engage with the informal approach suggested and therefore, as set out at paragraph 5.11 of the Complaints Handling Procedure for matters relating to the Councillors' Code of Conduct, this complaint will need to be referred directly to the Standards Sub-Committee for determination.

3.0 Reason(s)

3.1 To ensure good governance within the Council.

3.2 To consider, investigate and dispense with Code of Conduct Complaints under the Localism Act 2011 and to comply with the Council's Complaints Procedure.

4.0 Options

4.1 Not providing updates to Members on standards issues. This option is NOT RECOMMENDED, as to do so would weaken the Committee's ability to adequately promote and maintain the Ethical Standards Framework, and to maintain an oversight of the council's arrangements for dealing with complaints.

4.2 Not agreeing to form a Standards Sub Committee to determine Complaint 12/2023. This option is NOT RECOMMENDED as the Council is under a legal duty to promote and maintain high standards of conduct. Complaints therefore need to be investigated and concluded in line with the Localism Act 2011 and the Council's Complaint's Procedure.

5.0 Risks

5.1 Appropriate reporting processes and policy frameworks help to ensure good governance of the Council and therefore reduce risk of poor practice or unsafe decision making.

6.0 Implications/Consultations

6.1 The Independent Person is consulted on all complaints as is required under the Localism Act 2011.

Community Safety

No

Data Protection

Yes – All information pertaining to the complainants, Councillors complained of and the Parish and Town Council involved have been removed to maintain confidentiality.

Equalities

Yes – Where complainants make it known that they require assistance in making their complaints e.g. with language issues, the Monitoring Officer took additional steps to assist them in this regard.

Complaint that highlight a failure to promote equal opportunities allows the Council to address these and provide confidence to the residents of East Herts that the Council treats these issues seriously.

Environmental Sustainability

No - There are no environmental implications to this report.

Financial

No - There are no capital or revenue implications arising from the content of this report. Complaints are dealt with by the Monitoring Officer and Deputy Monitoring Officer, with the potential for some referrals to be made externally should the Procedure indicate that this is appropriate, or because of resource implication within the Service in dealing with it inhouse.

Health and Safety

No

Human Resources

No - The work outlined within the report is within the caseload of the Monitoring Officer. Implications are otherwise touched on under financial implications above.

Human Rights

No

Legal

Yes – The Standards Committee has a function under paragraph 7.4.1(a) and (f) to promote and maintain high standards of conduct of Members and Co-opted Members of the Council and receive reports from the Monitoring Officer and assess the operation and effectiveness of the Members' Code of Conduct.

Specific Wards

No

7.0 Background papers, appendices and other relevant material

7.1 None

Contact Member

None

Contact Officer

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