

Standards Committee Minutes

Date: 9 January 2018

Time: 5.30 - 6.08 pm

PRESENT: Councillor C Etholen (in the Chair)

Councillors D J Carroll, M Clarke, A R Green, R Newman, S Saddique and H L McCarthy.

Independent Member: Mr G Houalla.

Parish Council Members: Mr A Cobden and Mr T Nolan.

Apologies for absence were received from Councillors J A Savage and Parish Councillor Mrs H Stearn (Hughenden Parish Council).

39 A MINUTES SILENCE

The Chairman informed everyone present of the very sad passing of Mr Michael Pearce in early December. It was noted that Mr Pearce had served as an Independent Person on the Standards Committee since 2012.

The Committee showed its respect by holding a minute's silence in memory of Mr Pearce.

40 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor Savage (Councillor McCarthy substituted).

Apologies for absence were also received from Parish Councillor Hilda Stearn.

The Chairman thanked everyone for attending and wished all present a Happy New Year.

41 DECLARATIONS OF INTEREST

There were no declarations of interest.

42 MINUTES OF PREVIOUS MEETING

RESOLVED: That the minutes of the meeting held on 10 October 2017 be confirmed as a correct record and signed by the Chairman subject to the following amendment:

Minute 32 (Adoption of guidance on use of social media by Members)
– to read *“The proposed guidance at Appendix 1, was based upon guidance recently issued by the London Borough of Waltham Forest.”*

43 INDEPENDENT PERSON RECRUITMENT

The District Solicitor and Monitoring Officer informed the Committee that the Council had decided to have two Independent Persons, and Mr Gilbert Houalla and Mr Michael Pearce had been appointed on 13th May 2013. It was noted that since then they had provided valuable support to the Standards Committee and the Council in general in support of its duty to promote and maintain high standards of conduct and specifically in providing consultative support on Stage 2 member conduct complaints. Members were informed that the recent death of Mr Pearce meant that there was now a vacancy in one of the roles.

The District Solicitor and Monitoring Officer informed Members that she proposed to advertise the vacancy on the WDC website and in the Bucks Free Press (17th January edition) and give a closing date of Monday 19 February 2018. It was noted that those who applied and met the criteria would be interviewed by the District Solicitor and Monitoring Officer and the Chairman of the Committee in February / March and that a report containing a progress update, and a recommendation for ultimate approval by full Council would be presented to the Standards Committee in March.

Members were informed that the legislation required a minimum of one Independent Person to be appointed, but many Councils chose to appoint at least two, in order to provide some resilience, prevent the whole of the necessary support falling to a single person, and allow for the various facets of the role to be covered.

The Chairman thanked Mr Houalla for all his hard work and for agreeing to commit to a further five year period as an Independent Person on the Standards Committee. It was noted that as Mr Houalla had indicated his willingness to extend his term for a further 5 years, the forthcoming report in March would therefore recommend that full Council re-approve his appointment until at least May 2023.

It was suggested that if an alternative to advertising in the Bucks Free Press which might be more effective in bringing attention to the vacancy was available, this should be considered, and that advertising on a community radio station (Wycombe Sound) might be a viable alternative. The District Solicitor and Monitoring Officer agreed to explore all options available to the Committee within the requirements of the legislation.

RESOLVED: To note the process for recruiting and appointing an Independent Person and to approve the sifting process set out in the report prior to Standards Committee making a recommendation to full Council.

44 REVIEW OF THE MEMBER COMPLAINTS PROCEDURE

The District Solicitor and Monitoring Officer informed the Committee that the Member Standards Complaints process had been in place since July 2012. The Code of Conduct, adopted at the same time, had been reviewed and amended in the meantime. Member comments on the operation of the system in relation to some of the complaints recently submitted under the process suggested that now was a suitable time to review how the complaints process worked, and whether any amendments to it should be made. The following points had been raised for consideration by Members.

<u>Points for consideration</u>	<u>Recommendations to the Committee</u>
<p>The Complainant could be anonymous, in the sense of requesting not to be identified to the Subject Member, which because the Subject Member was known to, and named by the Complainant, could be viewed as unfair.</p>	<p>No action required.</p>
<p>Complaints did not receive enough scrutiny at the outset for triviality, nuisance or frivolity. There was currently no facility for the Monitoring Officer to dismiss a complaint at pre-Stage 1 (i.e. before it was accepted as a complaint and sent to the member) where there was some obvious discriminatory motive on the part of a complainant which would be unlawful.</p>	<p>That a new criterion be added to Paragraph 4 of the Complaints Procedure. "What happens Next?" as follows:</p> <p style="padding-left: 40px;">“(h) the subject matter of the complaint reveals any manifest and/or obvious discriminatory motive on the part of the Complainant within the meaning of the Equality Act 2010 in making the complaint”.</p> <p>That criterion (g) in Paragraph 4 of the Complaints Procedure be amended to insert the additional wording in italics below, so (g) will read:</p> <p style="padding-left: 40px;">“the same, or substantially the same issue has been the subject of a previous Code of Conduct allegation or service complaint and there is nothing further to be gained.”</p>
<p>There was no verbal discussion with the member before the complaint became formal. Communication with members was very formal, and could come as an unwelcome shock “out of the blue”. Members lack an effective point of contact whom they could contact to find out more about how the process would</p>	<p>That the Head of Democratic Legal and Policy Services nominate a “member contact” officer who has no direct involvement with the complaints process and whom members can contact for support and advice on the process. In the first instance this would probably be the Democratic Services Manager, and</p>

<p>work. Although it was accepted that the Monitoring Office's role needed to display impartiality as far as possible once a complaint had been made, and this could preclude detailed discussion with the Monitoring Officer about the facts of the case, it would be useful to have a contact point who was knowledgeable about process, yet not directly involved in it.</p>	<p>the complaints process document be amended to reflect this.</p>
<p>It was impossible to prove a negative.</p>	<p>No action required.</p>
<p>The 20 working day deadline for members to respond to the initial complaint could give the impression that the reply was expected to take this period to reply, rather than being a longstop date.</p>	<p>That correspondence with Members made it particularly clear in future that the 20-working day reference was a long stop date, and that they should respond as soon as possible and in any event within 20 working days.</p>

As well as points noted by Members, it was also noted that paragraph 9 of the Complaint process still made reference, when explaining who was an Independent Person, to the transitional provisions up until July 2013, which were now obsolete. It was proposed that this wording be amended accordingly to remove the unnecessary wording.

It was debated whether an additional section of wording should be added to the 20-working day reference to encourage Members to respond within a target of 10-working days where possible. The Committee felt this might put Members under unnecessary pressure, would create additional work for officers and could give the complainant an unrealistic expectation.

The District Solicitor and Monitoring Officer informed the Committee that during the last four years the Council did not appear to have had any serial complainants. It was noted that the Monitoring Officer was entitled to dismiss a complaint at the outset if the same or substantially the same issue had been subject of a previous Code of Conduct allegation or service complaint and there was nothing further to be gained. Mr Houalla advised the Committee that in his experience it was important not to label persistent complainants as a nuisance as some were real victims who could be suffering on a regular, sometimes daily basis.

The Committee was content with the suggested recommendations, as detailed above, with some reservations around the issue of the Complainant being able to have their identity withheld from the subject member.

RESOLVED: That:

The District Solicitor and Monitoring Officer make enquiries with other Local Authorities to explore how they deal with complainants wishing to have their identity withheld from the subject member.

RECOMMENDED TO COUNCIL: That:

The following recommendations be presented to Full Council for approval, and incorporated into the Member Complaints system:

- i) That a new criterion be added to Paragraph 4 of the Complaints Procedure. “What happens Next?” as follows:

“(h) the subject matter of the complaint reveals any manifest and/or obvious discriminatory motive on the part of the Complainant within the meaning of the Equality Act 2010 in making the complaint”.
- ii) That criterion (g) in Paragraph 4 of the Complaints Procedure be amended, so (g) will read:

“the same, or substantially the same issue has been the subject of a previous Code of Conduct allegation or service complaint and there is nothing further to be gained.”
- iii) That the Head of Democratic Legal and Policy Services nominate a “member contact” officer who has no direct involvement with the complaints process and whom members can contact for support and advice on the process.
- iv) That correspondence with Members makes it particularly clear in future that the 20-working day reference is a long stop date, and that they should respond as soon as possible and in any event within 20 working days.
- v) That paragraph 9.1 of the Complaint process be amended to read ‘Is, or has been within the past five years, a member, co-opted member or officer of the authority.’

45 QUARTERLY COMPLAINTS UPDATE

A report was submitted which provided an overview of recent complaint cases regarding Member conduct since October 2017.

It was reported that since the report to Committee on the 10 October 2017 at which time three complaints had been reported with three remaining at Stage 1, those three had all been completed and were not being referred for investigation. It was noted that one further new complaint had been submitted which had since been rejected at pre-Stage 1. There were currently no outstanding complaints.

Members asked about the timescales for dealing with matters and were informed that one of the complaints reported had taken just under three months to resolve as it had not originally been submitted on the official complaints form and had involved four Councillors rather than a single Councillor.

Mr Houalla reminded the Committee that sometimes the Independent Person might not be able to respond to the Monitoring Officer as quickly as would be ideal which could result in more time being taken to deal with some matters.

It was noted that there continues to be a relatively small number of complaints currently being received by the Council.

RESOLVED: That the report be noted.

46 SUPPLEMENTARY ITEMS (IF ANY)

There were no supplementary items.

47 URGENT ITEMS (IF ANY)

There were no urgent items.

48 DATE OF THE NEXT MEETING

The Chairman requested that the next scheduled meeting (Tuesday 13 March 2018) be moved to Tuesday 20 March with a 6pm start time to which everyone present agreed.

The Clerk was requested to check the Corporate Diary and if there were no clashes on the 20 March to make the necessary changes and notify all parties involved of the new date.

Chairman

The following officers were in attendance at the meeting:

Tanya Brown - Democratic Services Officer
Julie Openshaw - District Solicitor