

VI(iii) - The proceedings of the STANDARDS COMMITTEE as follows:

STANDARDS COMMITTEE

STANDARDS COMMITTEE – Minutes of Meeting held on Tuesday, 6th November, 2012.

Members Present: Mr. Councillor E.A. Joyce (Chairman), Councillor Mrs. R. Chatel (from 10.00am – 12.45pm), Messrs Councillors G.J. Faragher (from 10.00am – 12.45pm), J.E. Skinner, Mr. D Booth (Independent Member).

In Attendance: Assistant Town Clerk, Democratic Services Officer.

REPORT

PART A -

Matters within the scope of the Advisory Committee's delegated authority

1A. Election of Vice-Chairman

Councillor Mrs R. Chatel was unanimously elected to serve as Vice-Chairman for the 2012/2013 municipal year.

PART B –

Matters requiring Executive Committee approval

There were no matters requiring Executive Committee approval.

PART C –

Matters requiring Council Approval

2C. Terms of Reference of the Standards Committee

The Committee considered a report on the terms of reference for the Standards Committee as set out in Article 8 of the Constitution.

Resolved, “That the report be noted on the minutes, and approval be given for revision of the Constitution to read as follows:-

“Article 8 – The Standards Committee

8.1 Standards Committee

The Council will appoint a Standards Committee, which will be tasked with promoting and maintaining high standards of conduct within the Council and assisting Members in observing the Code of Conduct.

8.2 Composition

(a) Membership

The Standards Committee will comprise

- *Four Members*
- *One person, who is not a Member or Officer of the Council or any other body having a Standards Committee (Independent Member)*

(b) Independent Person

The Independent Person will be entitled to vote at meetings.

8.3 Proceedings of the Standards Committee

Proceedings of the Standards Committee shall take place in accordance with the Council Procedure Rules, as set out in Part 4 of the Constitution.

8.4 Roles and Functions

The terms of reference for the Standards Committee are set out in Part 3 of this Constitution, entitled "Responsibility for Functions" and include the following roles and functions:

- (a) To promote and maintain high standards of conduct and behaviour in all areas of Council activity;
- (b) To advise the full Council on the adoption or revision of the Members' Code of Conduct;
- (c) To assist Members to observe the Members' Code of Conduct;
- (d) To monitor the operation of the Members' Code of Conduct;
- (e) To advise, train, or arrange training on any aspect of conduct and behaviour relating to the Members' Code of Conduct;
- (f) To support the Chief Executive, and Assistant Town Clerk (as Governance / Monitoring Officer) in discharging his or her duties in relation to ethical governance and the Members' Code of Conduct;
- (g) To consider any report referred to it by the Chief Executive, Assistant Town Clerk or other investigating officer;
- (h) To ensure the Council's "Complaints Against Members" Procedure operates effectively and, in particular:-
 - Receive and review regular reports on its operation;
 - Adjudicate on unresolved complaints against Members and hold hearings to consider complaints and alleged breaches of the Members' Code of Conduct;
 - Review information gained from the operation of the system;
- (i) To oversee and monitor the operation of the Council's Whistleblowing Policy and procedures;
- (j) To approve and revise protocols on relations between Members and employees and to monitor such protocols;
- (k) To review and monitor the keeping of the Register of Members' Interests;
- (l) To review and monitor the guidance to Members on gifts and hospitality;
- (m) To report to Council annually on the work of the Standards Committee;
- (n) To assist in the recruitment of an Independent Member for the Standards Committee."

3C. Remit and Functions of the Standards Committee

The Committee considered a report setting out the remit and functions of the Committee. The report set out the detail of how the Committee will apply the Terms of Reference. The report identified topics for review and set out the matters which should be included in the review and an indication of when each topic would be considered by the Committee.

Members' Conduct (Including Independent Members)

These are the matters which fall within this topic.

Setting out a procedure for consideration of complaints against Council Members from members of the public, fellow Councillors or Council officers; with a focus on ensuring fairness and speedy resolution.

Identification of sanctions available if complaint is upheld.

Identification of cases where consideration is inappropriate.

Definition of a complaint, including any means whereby an item comes to attention. Publicising the procedure and production of a Standards Handbook.

The initial reports on procedures were considered later in the meeting.

Maintaining and Improving Governance of the Council and Advising Members on Adoption and Revision of Code of Conduct for Members

These are the matters which fall within these topics

Identification of all internal procedures and codes the Council operates relevant to Governance and all external governance requirements. Auditing is to be excluded as outside the Committee's scope.

Set programme for regular review of each document.

These topics are included in the Forward Plan,

Reporting annually to the Council on Ethical Governance within it

These are the matters which fall within this topic.

Annual report to be produced by May in each year.

Interim report in March of General Election years.

Reports to include information about the number and nature of complaints, decisions, how they were dealt with and outcomes.

The report will be drafted in February/ March 2013.

Monitoring Operation of Code of Conduct of Members

These are the matters which fall within this topic.

Overview of any difficulties experienced or reported.

The Standards Committee needs to monitor how effectively Members are keeping to the Code of Conduct, Standing Orders and other protocols and look at the type of complaints received. This will help identify where there are problems and what should be included in future guidance and training.

Monitoring reports are to be included in future agendas.

Advising Council on Adoption and Revision of Code of Conduct for Employees

This topic is distinct from the Terms and Conditions of Service. Issues relating to those come within the remit of the Chief Executive as Head of Paid Service.

This will be included in the Forward Plan.

Monitoring Operation of Code of Conduct for Employees

This will be an overview of any difficulties experienced or reported.

Monitoring reports are to be included in future agendas.

Induction and Training of Members and Independent Members

These are the matters which fall within this topic.

Identification of training needs of members of the Standards Committee in the first instance and then to look more widely at induction and training needs on ethics and standards for the whole Council and other Committees. There was a brief discussion of training that might be needed and how the training would be provided.

This will be included in the Forward Plan.

Assisting in the Recruitment of Independent Members

In late 2013 this will need to be reviewed as the current appointments expire in 2014.

This topic will be included in the Forward Plan.

Resolved, "That the report be noted on the minutes and approval is given to the topics identified and the plan for consideration of those topics."

4C. Procedure for Complaints Against Members

The Committee considered a report setting out a procedure for dealing with complaints against Members. The Committee carefully reviewed the proposed procedure, the complaint form and the accompanying notes. There was some discussion of the extent of sanctions which could be applied if required. The Local Government Act does not allow the Council to bar Members from attendance at Council meetings.

The topic of anonymity was closely considered from two different perspectives. First, there was the question of how (if at all) anonymous complaints are or should be considered. It was agreed after some considerable discussion, that matters raised anonymously should be at least noted and initially investigated, but that in practice it may well be difficult or impossible to fully deal with a complaint made anonymously. Reference was made to the principles of natural justice which hold that when you are accused of misbehaviour, you are entitled to know what it is that are you are accused of doing (or not doing) and you should know who is accusing you. The second point raised on anonymity, was the question of whether or not a Member has the right to know who has made the complaint. The point was made that a requirement for the Member to be told who has made a complaint about him or her might stifle complaints as complaints could be made by persons who have to work closely with Members. Even though the draft procedure included a provision for concealment of the identity of the complainant in particular circumstances, it was felt that this could be overly-restrictive. The Committee carefully reviewed the wording of the proposed procedure, the Complaint Form and the guidance notes which were included with the Form.

As a matter of clarification, the Committee agreed that any complaint that is or becomes the subject of a Police investigation is to be suspended until the conclusion of that Police investigation.

Resolved, "That the report be noted on the minutes and

- (i) The Procedure for Complaints against Members be approved and adopted subject to several minor grammatical changes; and subject to the amendments detailed below; and
- (ii) The Complaint Form be amended to include the Mayor on the list of those who would be informed of any complaints made; and
- (iii) The third paragraph of the first page of the Complaint Form be amended to read as follows: *'We will tell them your name and give them a summary of your complaint. We will give them full details of your complaint where necessary or appropriate to be able to deal with it. Your name will be withheld if you wish.'*; and
- (iv) Approval is given for a request to be made to Government for a change in legislation so as to enable the Council in serious circumstances to impose the sanction of barring a Member from attendance at Council meetings for a period of up to three months."

5C. Adjournment and resumption

During consideration of the following item the meeting adjourned at 12.45pm and resumed at 12.50pm with these Members in attendance:

Mr Councillor E.A. Joyce (Chairman), Mr Councillor J.E. Skinner, Mr D. Booth (Independent Member)

Councillor Mrs R. Chatel, and Mr Councillor G.J. Faragher gave their apologies for the remainder of the meeting.

The Assistant Town Clerk and the Democratic Services Officer remained in attendance.

6C. Procedure for the Investigation of Complaints

The Committee carefully considered a report into setting out a procedure for investigation of complaints. Attached to the report were the detailed proposed procedures including forms, pro forma, template letters and a guide for conducting interviews.

Resolved, "That the report be noted on the minutes and the draft procedure for investigation of complaints be approved subject to;

- (i) Paragraph 6.3(b) is amended to read “*explain the broad purpose for which the document is needed, for example ‘investigation into the conduct of Mr Councillor or Councillor Mrs X’*”; and
- (ii) The first sentence of paragraph 7.1 is amended to read ‘*the Member may be interviewed at any time in the investigation and will be re-interviewed at its conclusion*’; and
- (iii) The final sentence of paragraph 7.4 is amended to read ‘*Where necessary, the Investigating Officer will ensure that an interviewee is accompanied by an appropriate person*’; and
- (iv) Paragraph 8.1(a) is amended to read ‘*the agreed time, date, venue and whether there is to be a recorded telephone interview*’; and
- (v) In paragraph 8.1(c) the word ‘*representative*’ is to be replaced by the phrase ‘*accompanying person*’; and
- (vi) The second sentence of paragraph 9.1 is amended to read ‘*Interviews will be recorded in writing.*’; and
- (vii) Paragraphs 10.18 and 10.19(a) are amended by the substitution of the word ‘*concluded*’ for the word ‘*closed*’; and
- (viii) In paragraph 10.21 the words ‘*from the Investigating Officer*’ are to be added after the word ‘*report*’; and
- (ix) In paragraph 11.1 the word ‘*unused*’ is to be added before the word ‘*bundle*’ in the final sentence of the paragraph; and
- (x) The phrase ‘*I write*’ is to be deleted from every template letter which starts in that manner; and
- (xi) The template letter which is to be used to write to a Member about whom a complaint is made (headed ‘Appendix 3’) is to be amended by substitution of the words ‘*this complaint*’ for the word ‘*it*’ in the second sentence of the second paragraph; and
- (xii) The template letter which is to be used to confirm interview details (headed ‘Appendix 4’) is to be amended by substitution of the words ‘*vested in*’ for the words ‘*given to*’ in the second paragraph; and the eighth paragraph is to read ‘*When the investigation is concluded, I will report to the Standards Committee which will decide whether there has been a breach of the Code of Conduct and what action should be taken.*’; and
- (xiii) In the ‘Interview Plan’ form the word ‘*optional*’ should be deleted where it appears, and the duplicate box headed ‘*Nature of complaint*’ should be deleted; and
- (xiv) In the template letter to be sent following an interview (headed ‘Appendix 6’) the first sentence of the second paragraph should read ‘*I would be grateful if you could review the interview notes and amend where necessary if you feel there are any errors contained therein.*’; and
- (xv) In Appendix 8 there should be provision made to include the Ward the Member represents in the official details; and
- (xvi) In Appendix 9, the start of the first sentence of the fourth paragraph should be amended to read ‘*Please note that the disclosure of any information from the report....*’; and
- (xvii) In Appendix 10, the second sentence of the second paragraph should be amended to read ‘*...please note that disclosure of any information from the report....*’; and
- (xviii) In both Appendices 9 and 10, the word ‘*responsibilities*’ should replace the word ‘*functions*’, and

7C. Procedure for Hearings

The Committee considered a report on the proposed procedure for hearings. The Committee noted that a Standards Committee hearing is a formal meeting of the Council, not a court of law. It will not hear evidence under oath, but it will decide factual evidence on the balance of probabilities. The Standards Committee must work at all times in a demonstrably fair, independent and politically impartial way. This is to ensure that the public, Members of the

Council and staff have confidence in its procedures and findings. The Standards Committee's aims are to maintain public confidence in the Council's ethical standards and propriety. This requires that the Standards Committee's decisions should be seen as open, unprejudiced and unbiased. All concerned should treat the complaint process (including the Hearing) with respect and with regard to the potential seriousness of the outcome for the Member concerned, the Council and the public. The Standards Committee will, to an extent, control the procedure and evidence presented at a Hearing, but must at all times ensure that it acts fairly and consistently and within its terms of reference and authority. It is therefore important to have an approved Procedure to follow to ensure such consistency and fairness, but also so that all parties involved will know that is expected of them, how to prepare, and to give the public confidence in the Council's ability to deal with such matters.

Resolved, "That particulars of the report be noted on the minutes and the proposed procedure for hearings be approved."

8C. Standards Committee Handbook

The proposed Standards Committee Handbook will contain the practices and procedures that will apply to investigations and hearings into allegations of misconduct by Members or breaches of the Code of Conduct or other Protocols relating to the behaviour of Members. The contents of the Handbook will remain under review, and subject to feedback from the Committee as to any further information which it would find helpful to have included in the Handbook.

Resolved, "That the report be noted on the minutes and the Handbook approved, subject to these amendments only:-

- (i) In the General Introduction, the heading 'The Standards Committee' be deleted and the first sentence of the third paragraph be amended to read '*The Standards Committee is responsible for the following main functions*'; and
- (ii) In section 1.1 'Members' Code of Conduct' there should be added the words '*this list is not exhaustive.*'; and
- (iii) In section 3.4 (Complaints which cannot be considered), the third paragraph should be amended to read '*Conduct which occurred in the Member's private life, as the Code / Protocol only applies to a Member's conduct as a Member of a local authority except where there is an effect on the Council and its reputation*'."

9C. Register of Members' Interests

The Committee considered a report on the register of Members' Interests together with a proposed updated form for Members to complete. The Assistant Town Clerk advised that when the report was written there were still several Members who hadn't submitted a Register of Interests form in compliance with the Local Government Act 1955 and the Council's Constitution; but all have now done so. The Assistant Town Clerk will now review all entries, consulting individual Members where appropriate, to enable them to be collated for publication as required by the Council's Constitution. All Members, particularly those who have registered their interests as 'None' should be advised during the review process that all property within the Borough owned by the Member should be declared, that any Employer should be named, and that Memberships of any organisations, associations, or societies should be included on the register.

Question was raised about the publication of the Register of Interests. The Local Government Act only requires that a Register be maintained by the local authority, there is no requirement to publish the Register on a website or otherwise. Concerns were raised that matters published onto the Council's website may be misused by internet 'trolls'.

Resolved, "That particulars of the report be noted on the minutes, and approval be given for the updated form to be used for Members to Register their Interests; and for the Assistant Town Clerk to review all entries, consulting individual Members where appropriate, to enable them to be collated for publication as required by the Council's Constitution and for the requirement to publish to be kept under review."

10C. **Forward Plan**

The Committee considered a report setting out a Forward Plan for the Standards Committee. The Forward Plan is a list of the key matters which are likely to be the main subjects of the Standards Committee's programme of work. They have been identified as key matters because they are the issues which will have the most significant impact on improving and guiding the standards and ethical framework of the Council, in the initial stages of the Committee's work. The Forward Plan will be updated at every Standards Committee meeting on a rolling basis, in consultation with Members as to their priorities as a Committee. It has been agreed in the Council's Constitution that the Committee will produce an Annual Report to the Council by May each year, and this is therefore included in the Forward Plan. In addition to the items already identified in the Forward Plan, these matters were raised during the meeting and should be included; report on an appeals process; consideration of the composition of the Committee and whether or not an additional Independent Member should be sought; training on interview techniques; and workshop or role play.

Resolved, "That the report be noted on the minutes and approval be given to the Forward Plan and the additional matters raised."

11C. **Schedule of Meetings**

The Committee considered and approved the following dates for future meetings of the Committee:-

10.00am, Wednesday 23rd January, 2013 (*subject to confirmation that this is not the date of the special Council to set the rates*)

10.00am, Wednesday 17th April, 2013

10.00am, Wednesday 24th July, 2013

10.00am Wednesday, 23rd October

The meeting ended at 2.15pm.