

STANDARDS COMMITTEE

Date: Wednesday 11th May, 2022
Time: 2.00 pm
Venue: Council Chamber

AGENDA

1. Welcome and Evacuation Procedure
2. Apologies for Absence
3. Declarations of Interest
To receive any declarations of interest.
4. Minutes- Standards Committee - 26 April 2022 3 - 6
5. Procedure For A Standards Committee Hearing 7 - 10
For Information
6. Any other urgent items which in the opinion of the Chair, may be considered
7. Exclusion of Press and Public

To consider passing a Resolution Pursuant to Section 100A (4) Part 1 of the Local Government Act 1972 excluding the press and public from the meeting during consideration of the following items on the grounds that if present there would be disclosure to them of exempt information falling within paragraphs 1 and 2 of Part 1 of Schedule 12A of the Act and the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

8. Standards Complaint Ref: Iken: 11230
1, 2

11 - 86

Charlotte Benjamin
Director of Legal and Governance Services

Town Hall
Middlesbrough
Tuesday 3 May 2022

MEMBERSHIP

Councillors T Mawston (Chair), M Saunders (Vice-Chair), S Dean, S Hill, J Hobson,
D Rooney, J Rostron, M Storey and S Walker

Assistance in accessing information

**Should you have any queries on accessing the Agenda and associated information
please contact Susan Lightwing, 01642 729712,
susan_lightwing@middlesbrough.gov.uk**

STANDARDS COMMITTEE

A meeting of the Standards Committee was held on Tuesday 26 April 2022.

PRESENT: Councillors D Rooney, J Rostron and M Storey

ALSO IN ATTENDANCE: A Walker, Nunthorpe Parish Council and G Fell, Independent Person

OFFICERS: D Johnson, S Lightwing, A Pain, S Reynolds and A Wilson

APOLOGIES FOR ABSENCE: Councillors T Mawston, M Saunders, S Dean, S Hill, J Hobson and S Walker

21/26 **APPOINTMENT OF CHAIR FOR THE MEETING**

Nominations were sought for the appointment of Chair of the Standards Committee for the meeting. Councillor Rostron was nominated and seconded and, therefore, appointed as Chair of the Standards Committee for the meeting.

ORDERED that Councillor Rostron was appointed Chair of the Standards Committee for the meeting.

21/27 **WELCOME AND EVACUATION PROCEDURE**

The Chair welcomed all present to the meeting and read out the building evacuation procedure.

21/28 **DECLARATIONS OF INTEREST**

There were no Declarations of Interest at this point in the meeting.

21/29 **MINUTES- STANDARDS COMMITTEE - 24 JANUARY 2022**

The minutes of the Standards Committee meeting held on 24 January 2022 were submitted and approved as a correct record, subject to the following amendment:

Councillor Hill to be added to the list of Members Present at the meeting.

21/30 **QUARTERLY UPDATE REPORT TO STANDARDS COMMITTEE**

A report of the Director of Legal and Governance Services was presented to provide a quarterly update to the Standards Committee regarding the recent and current position concerning Code of Conduct Complaints and to give the Committee assurance about the practice and process.

There was one complaint from 2020, and ten complaints from 2021 at various stages of the process, which had not yet concluded. No specific information could be provided about those complaints, so as not to prejudice any outcomes, and/or create a conflict should any of those complaints need to come to Standards Committee at a future date.

Of the 2020 complaints, another two complaints had now been considered by the Monitoring Officer and been referred for investigation.

Four complaints had been submitted to date in 2022, one of which was subsequently withdrawn by the complainant, leaving three complaints, two of which were ongoing.

One complaint had been resolved this year, the details of which were provided at paragraph six of the submitted report.

A Code of Conduct complaints dashboard was now in place to improve the monitoring of

performance and outcomes in relation to complaints. A Member highlighted that the Monitoring Officer had previously informed the Committee that the dashboard would be available for this meeting. The Officer explained that the dashboard could not be shared with Members as the information displayed may be prejudicial to complaints that were currently outstanding. The dashboard was used to keep a track of the number of, and type of, complaints, so that some analysis could be undertaken. The aim of the analysis was to try and target, and therefore minimise, those types of complaints by offering some bespoke training to Members on those issues. It was suggested that a mock dashboard could be produced to give Members an idea of the system.

In line with the recently approved amended Code of Conduct, the process of dealing with complaints had been reviewed and a copy of the updated arrangements was attached to the submitted report. The process had been cross referenced with the LGA Model Code of Conduct Guidance to ensure that the Council was operating within those guidelines. There had been some minor amendments to the process, such as changes to a two stage preliminary test to determine whether a complaint was accepted or rejected on receipt. The overall process remained broadly the same with updated timescales.

The following elements of the updated arrangements were discussed:

Appendix 1

Paragraph 9 Investigation – clarify that the Monitoring Officer and Independent Person would look at the complaint as a whole to see whether it was an issue that could be dealt with by advice and guidance as an alternative to an investigation.

Paragraph 9.2 – reference to be made to some of the criteria that the Monitoring Officer and Independent Person would balance when considering whether to appoint an Investigating Officer.

Paragraph 10 – it was clarified that if there was a criminal investigation the complaints process may be suspended but not stopped. Discussions might take place with the Monitoring Officer and Police to determine whether the Council needed to take actions outside of the standards process to protect people or the Council.

Appendix 2

Paragraph 1.6 – it was suggested that a timescale should be agreed at the outset by the Monitoring Officer and Independent Person for the Subject Member to engage in the investigation process.

Appendix 3

Paragraph 2.1 – it was queried whether a Subject Member had the right to be accompanied by a Trade Union representative – as there was the potential for this person to be a Council officer. The Officer agreed to seek further clarification on this point. It was noted that the Standards Committee Hearing Procedure formed part of the Constitution and any change would require Council approval. The Arrangements were a working document.

The Chair asked whether the Council had received a response from the Secretary of State regarding the Standard Committee's concerns in respect of the lack of sanctions available in response to breaches to the Members' Code of Conduct. The Committee on Standards in Public Life had undertaken a review of Local Government Ethical Standards and the Government had recently issued a response to the Committee's report. The Head of Democratic Services agreed to circulate a copy of the response.

AGREED as follows that:

1. the information provided was received and noted.
2. a mock complaints dashboard would be provided to the Committee.
3. amendments to the Arrangements for dealing with Code of Conduct complaints, as suggested at the meeting, would be incorporated.
4. A copy of the Government's response to the Committee on Standards in Public Life Report would be circulated to the Committee for discussion at a future meeting.

21/31

ANY OTHER URGENT ITEMS WHICH IN THE OPINION OF THE CHAIR, MAY BE CONSIDERED

None.

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PROCEDURE FOR A STANDARDS COMMITTEE HEARING

1. Subject to paragraph 1.2 below, the order of business will be as follows:
 - a) Apologies for absence;
 - b) Declarations of interests;
 - c) Approval of Minutes of the previous meeting;
 - d) If the Subject Member is absent, consider whether to adjourn or to proceed with the hearing.
 - e) Introduction by the Chair, of Members of the Standards Committee, the Independent Person, Monitoring Officer, Investigating Officer, Democratic Services Officer, the Council's Legal Advisor, complainant and the Subject Member and their representative;
 - f) Receive representations from the Monitoring Officer and/or Subject Member as to whether any part of the hearing should be held in private and/or whether any documents (or parts thereof) should be withheld from the public/press;
 - g) Determine whether the public/press are to be excluded from any part of the meeting and/or whether any documents (or parts thereof) should be withheld from the public/press. When the public/press are excluded from any part of the meeting, filming, photography and/or audio recordings of the meeting will be prohibited in accordance with the provisions of the Council's Constitution.
 - h) Consider the report of the Investigating Officer and determine the matter.
- 1.2 The Chair may exercise their discretion and amend the order of business, where they consider that it is expedient to do so in order to secure the effective and fair consideration of any matter.
- 1.3 The Standards Committee may adjourn the hearing at any time.
- 1.4 Witnesses:
 - a) The process of the hearing is inquisitorial, and not adversarial. Witnesses should not be made to feel uncomfortable or that their integrity is being questioned. The purpose of the hearing is to establish the facts.
 - b) All questions to witnesses should be made through the Chair.
- 1.5 Presentation of the complaint:
 - a) The Investigating Officer presents their report including any documentary evidence or other material and calls his/her witnesses. No new points will be permitted.
 - b) The Subject Member or their representative may question the Investigating Officer, and any witnesses called by the Investigating Officer.
 - c) The Standards Committee may question the Investigating Officer upon the content of his/her report, the Independent Person, the Advisory Officer, and any witnesses called by the Investigating Officer, upon the contents of his/her report.

- 1.6 Presentation of the Subject Member's response:
- a) The Subject Member or their representative presents their response to the Investigating Officer's report, and calls their witnesses.
 - b) The Investigating Officer may question the Subject Member and any witnesses called by the Subject Member.
 - c) The Standards Committee may question the Subject Member, the Independent Person, the Advisory Officer, and any witnesses called by the Subject Member.
- 1.7 Summing up:
- a) The Investigating Officer sums up the report.
 - b) The Subject Member or their representative sums up their response to the Investigating Officer's report.
- 1.8 Deliberations of the Standards Committee:
- a) Having heard the representations/views of all parties, the Standards Committee will adjourn the hearing and deliberate in private (assisted on matters of law by a legal advisor) to consider whether, on the facts found, the Subject Member has failed to comply with the Members' Code of Conduct, and if so, what sanctions should be applied.
 - b) Prior to reaching a decision, the Standards Committee will consider the views expressed by the Independent Person, including any views on sanctions to be applied and/or recommendations to the Council or Parish Council or Monitoring Officer.
 - c) Where the complaint has a number of aspects, the Standards Committee may reach a finding, apply a sanction and/or make a recommendation on each aspect separately.
 - d) The Standards Committee will make its decision on the balance of probability, based on the evidence before it during the hearing.
 - e) The Standards Committee may at any time come out of private session and reconvene the hearing in public, in order to seek additional evidence from the Investigating Officer, the Subject Member or the witnesses. If further information, to assist the Committee, cannot be presented, then the Committee may adjourn the hearing and issue directions as to the additional evidence required and by whom.
 - f) If evidence presented to the Standards Committee highlights other potential breaches of the Council's or Parish Council's Members' Code of Conduct, then the Chair will outline the Committee's concerns and recommend that the matter be referred to the Monitoring Officer as a new complaint.
 - g) Having deliberated on its decision and/or recommendations and the application of any sanctions, the Standards Committee will reconvene the hearing in public and the Chair will announce:
 - i) the Standards Committee decision as to whether or not the Subject Member has failed to comply with the Members' Code of

Conduct, detailing the breaches, and the principal reasons for the decision;

- ii) the sanctions (if any) to be applied;
- iii) the recommendations (if any) to be made to the Council or Parish Council or Monitoring Officer; and
- iv) that there is no right of appeal against the Standards Committee decision and/or recommendations.

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