

STANDARDS COMMITTEE

Date: Friday 22nd September, 2023
Time: 11.00 am
Venue: Mandela Room

AGENDA

1. Welcome and Evacuation Procedure
2. Apologies for Absence
3. Declarations of Interest
To receive any declarations of interest.
4. Minutes - Standards Committee - 3 July 2023 3 - 4
5. Procedure for a Standards Committee Hearing 5 - 8
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.

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| 8. | Standards Complaint: IKEN Ref: 15427 | 9 - 60 |
| 9. | Standards Complaint: IKEN Ref: 15391 | 61 - 112 |

Charlotte Benjamin
Director of Legal and Governance Services

Town Hall
Middlesbrough
Thursday 14 September 2023

MEMBERSHIP

Councillors J Kabuye (Chair), J Ewan (Vice-Chair), D Davison, S Dean, D McCabe, J McConnell, M Smiles, M Storey and J Thompson

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 Monday 3 July 2023.

PRESENT: Councillors J Kabuye (Chair), J Ewan (Vice-Chair), D Davison, S Dean, D McCabe, J McConnell, M Smiles, M Storey and J Thompson

OFFICERS: J McNally, S Lightwing, A Hoy and A Wilson

APOLOGIES FOR ABSENCE: All Committee members were present at the meeting.

23/1 **WELCOME AND EVACUATION PROCEDURE**

The Chair welcomed all present to the meeting and introductions were made. The Building Evacuation Procedure was read out.

23/2 **DECLARATIONS OF INTEREST**

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

23/3 **MINUTES- STANDARDS COMMITTEE - 3 APRIL 2023**

The minutes of the Standards Committee meeting held on 3 April 2023 were submitted and approved as a correct record.

23/4 **QUARTERLY UPDATE REPORT TO STANDARDS COMMITTEE**

A joint report of Director of Legal and Governance Services and the Executive Member for Finance and Governance was presented to provide a quarterly update to the Standards Committee on Code of Conduct complaints.

The report included an update on actions from the last Committee meeting, details of outstanding complaints against Members who were not re-elected to the role in which the alleged breach occurred and the recruitment process for the role of Independent Person.

There was 1 complaint from 2020, 4 complaints from 2021, and 3 ongoing from 2022 at various stages of the process which had not yet concluded. One complaint had been withdrawn from 2021 further to the April update. Specifics about those complaints could not be provided to the Committee at this time 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.

There had been 39 complaints submitted to date in 2023. Of the 39 complaints, there had been 15 complaints rejected further to the assessment criteria, 1 withdrawn, and 1 resolved by way of advice and guidance.

There was one matter which was due to come before the committee for a hearing, dates were currently being arranged and the appropriate report would be provided in due course.

The issue of the use of social media was highlighted as being a theme throughout a number of complaints received this year and the Committee had agreed several actions at the Standards Committee meeting held on 3 April 2023 which had been completed as follows:

- An advice and guidance email was sent to all current Members from the Monitoring Officer/Deputy Monitoring Officer reminding them of the guidance around social media use with reference to the Code of Conduct.
- Regular meetings have taken place with the Monitoring Officer/Deputy Monitoring Officer and Group Leaders at which standards issues have been discussed.
- A training session was held on 20 June 2023 with newly elected Members, focussing specifically on guidance around social media

- The issue of Social Media use was also covered in detail in Code of Conduct training held on 6 June 2023 via Teams.

There were 10 complaints at various stages of the procedure where the subject member was not re-elected into the role in which the alleged breach occurred. The Code of Conduct applied to Councillors and as the subject members were no longer Councillors, the code did not now apply and thus any sanction that the Standards Committee could impose, fell away.

A table at paragraph 12 of the submitted report set out the position in relation to outstanding complaints where the subject member was no longer in the role in which the alleged breach occurred. These complaints would now be closed with no further action.

The following points were raised by Members in relation to the complaints that had been closed:

- The potential for a former Councillor with a complaint against them that had been closed with no further action to stand for re-election.
- Complaints taking too long to process.
- A lack of transparency in the public arena with regard to the issues raised by complainants.
- Staff complaints in relation to Members receiving no further action, potentially leaving staff feeling unsupported.

Members agreed that there should still be an outcome to complaints and asked whether there was a legal reason why Hearings could not go ahead, even accepting that if a breach of the Code was found, no sanctions could be applied. The Deputy Monitoring Officer agreed to seek the Monitoring Officer's advice on this issue and request that written response was provided to the Standards Committee Members.

The Council was required by law to adopt a Code of Conduct and to make arrangements under which allegations could be investigated and decisions on allegations could be made about Councillors. The Independent Person played a key role in this process providing an objective and impartial opinion at various stages of the complaints process, which the Monitoring Officer would consider in making the decision.

Middlesbrough Council currently had two Independent Persons, one of whom wished to leave the position having been in role for approximately 9 years. Recruitment to these posts in the past had proved difficult as it was an un-remunerated role and relied upon goodwill and volunteers. However over the years the number of complaints had increased in amount and complexity placing an additional burden on the Independent Person.

Therefore, following research and an exercise on allowances for Independent Persons' it had been decided to offer an allowance of £950 per annum. Recruitment for the role had commenced and the Chair of the Standards Committee had been contacted to participate in the recruitment process or provide a nominee to sit on the interview panel to assist with recruitment. A report would be submitted to Full Council to approve the appointment.

AGREED as follows:

1. That the information provided was received and noted.
2. A request would be made to the Monitoring Officer to provide written advice to Standards Committee Members as to whether there was a legal reason why Standards Hearings could not go ahead when there were outstanding complaints against former Councillors.

23/5

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

None.

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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