

WAVERLEY BOROUGH COUNCIL

MINUTES OF THE STANDARDS PANEL - 10 OCTOBER 2016

SUBMITTED TO THE COUNCIL MEETING – 18 OCTOBER 2016

(To be read in conjunction with the Agenda for the Meeting)

Present

Cllr Michael Goodridge (Chairman)
Cllr Mike Band
Cllr Carole Cockburn

Cllr Kevin Deanus
Cllr Stephen Hill

Apologies

Cllrs David Else, Jeanette Stennett and John Williamson

Also Present

Councillor Jerry Hyman

6. MINUTES (Agenda item 1.)

The minutes of the meeting held on 13 June 2016 were confirmed and signed.

7. APOLOGIES FOR ABSENCE (Agenda item 2.)

Apologies for absence were received from Councillors David Else, Jeanette Stennett and John Williamson.

8. DISCLOSURE OF INTERESTS (Agenda item 3.)

There were no disclosures of interest.

PART I – RECOMMENDATIONS TO THE COUNCIL

Background Papers

Unless specified under an individual item, there are no background papers (as defined by Section 100D(5) of the Local Government Act 1972) relating to the reports in Part I of these minutes.

9. REVIEW OF MEMBER CODE OF CONDUCT, ARRANGEMENTS FOR DEALING WITH STANDARDS ALLEGATIONS AND COUNCILLORS' PLANNING CODE (Agenda item 5.)

[NB Cllr Jerry Hyman attended the meeting and spoke on this item].

9.1 The Localism Act gave Councils an explicit duty to promote and maintain high standards of Member conduct. It obliged the Council to adopt a Code dealing with

the high standard of conduct that is expected of Members when acting in their official capacity.

- 9.2 At its meeting on 13 June 2016, the Standards Panel recommended to Council that the Waverley ‘Member Code of Conduct’, ‘Arrangements for dealing with Standards Allegations’ and ‘Councillors Planning Code of Good Practice’ be reviewed by the Monitoring Officer in light of examples that had come forward and advice that had been given. Council agreed that recommendation on 19 July 2016.
- 9.3 That review has now taken place and this report sets out a number of suggested changes. The existing versions of all three documents are attached as Annexes 1-3 to this report with suggested amendments highlighted in red.
- 9.4 The proposed changes have also been shared with the Council’s three designated Independent Persons and any feedback from them will be shared with members at the meeting. If, subject to any changes they recommend, Members of the panel resolve to put forward these changes, they will be considered by the Council on 18 October 2016.
- 9.5 Annexes 1-3 to these minutes set out the text of the existing documents with all suggested amendments highlighted in red. The following tables summarise the key changes that have been put forward both by officers, an Independent Person and raised by Members of the Standards Committee.

Table 1 – Amendments to Waverley Code of Conduct

Where	What	Why
Paragraph 1	That individuals may seek advice from the Monitoring Officer or Deputy Monitoring Officer about whether the code of conduct applies in any given situation.	To manage expectations and to encourage early consultation and communication with the Monitoring Officer or Deputy Officer which will often enable early and informal resolution of issues.
Paragraph 2	Explicit statement on keeping Waverley Exempt documents confidential.	For the avoidance of doubt.
Paragraph 2	Clarification that bullying or harassment is not acceptable under the code. The Committee also requested that Intimidation be added to this list.	In the interests of transparency. To make explicit what is already referred to by cross-references between this code and the member/officer protocol. In line with best practice advice
Paragraph 5	Clarification that detail needs to be given in respect of interests registered and that	To promote public transparency. To support the Monitoring Officer in providing

	<p>the register needs to be updated if circumstances change.</p> <p>The Committee requested that the word “promptly” be added so that any changes be done as soon as possible.</p>	<p>advice to members on the implications of their interests. In light of issues encountered by the previous Monitoring Officer and lessons learnt as a result.</p>
Paragraph 5 (and DPI annexe)	<p>Clarification that disclosable pecuniary interests refer to past and potential future matters as well as present ones.</p>	<p>In line with best practice advice. In light of issues encountered by the previous Monitoring Officer and lessons learnt as a result.</p>
Paragraph 5 (3)	<p>The Committee requested that the words “reasonably expected” be added</p>	<p>The Committee agreed with the Independent Members suggestion that care should be taken concerning the word “expected” in circumstances where someone might argue that an interest had a lesser degree of confidence than expected.</p>
Paragraph 6	<p>Inclusion of statement on the importance of declaring of interests that are non-pecuniary but which members judge may nonetheless undermine their ability to make an open-minded and objective decision and that members should declare and withdraw when this is the case.</p> <p>The Committee agreed with the Independent Person that the words “as soon as you become aware of it” should be added.</p>	<p>In line with best practice advice. In light of issues encountered by the previous Monitoring Officer and lessons learnt as a result.</p>
Paragraph 6(4)	<p>The Committee was fully supportive of this addition as it reinforced the point that minimal compliance with the rules was insufficient to demonstrate integrity in all circumstances. The Committee would prefer some qualification to be added.</p>	<p>Officers noted members comments and would look at some revised wording to support this comment.</p>

Table 2 – Amendments to The Arrangements for dealing with Standards Allegations

Where	What	Why
Paragraph 1	Simplification of introduction. Deletion of detailed description of Council’s duties.	To convey the key facts to the reader in plain English.
Paragraph 3	Clarification that name and address of complainant will only be withheld in exceptional circumstances.	In response to feedback received from members. In the interests of fairness and transparency. To set realistic expectations for complainants and. In line with Local Authority best practice.
Paragraph 4	Inclusion of specific criteria Monitoring Officer will refer to in determining the validity of a complaint.	In line with best practice advice and in line with legislation. To ensure the process by which complaints are accepted or rejected is clear and transparent.
	Additional guidance about who is notified and when at the commencement of the process.	To address gaps in existing guidance. In line with best practice advice.
	To clarify that allegations of a criminal nature, including the non-disclosure of disclosable pecuniary interests, may be shared with the Police or other regulatory agencies.	To reflect and be transparent about existing practice.
Paragraph 4	<p>The Committee made a number of suggestions to amend this paragraph following both the Independent Members comments and those from Councillor Jerry Hyman who spoke at the meeting. These are noted below:</p> <p>(a) add “if a clear public interest in doing so” (c) add “only” after relate” (e) add about being subject to a different code (corporate</p>	

	<p>complaints procedure) (i-j) Add about vexatious complaints. 4th new paragraph refer to 30 'calender' days. last paragraph add that complaints could be dealt with through informal "mediation" and change "identifies" to "alleged"</p>	
Paragraph 7	<p>To clarify that meetings of the Hearing Panel will be made in public but that papers will not be made available in advance.</p> <p>The Committee requested that officers looked at the wording regarding confidential papers in case there were any data protection issues</p>	<p>In line with best practice advice and to reflect and be transparent about existing practice.</p>
Paragraph 8	<p>The Committee requested that the word "may be" be changed to "Shall" in the opening paragraph</p>	-
Paragraph 11	<p>Clarification about role of the Independent Persons.</p>	<p>To reflect the IP protocol the Council is already working to. To ensure all parties understand who may contact the IP and why.</p>

Table 3 – Amendments to the Members' Planning Code of Good Practice

Where	What	Why
Paragraph 2	<p>Clarification that interests should be declared under 'declaration of interests' item.</p>	<p>For the avoidance of doubt.</p>
	<p>Inclusion of statement encouraging members to advise Democratic Services in advance wherever possible.</p>	<p>To provide sufficient time for officers to consult the Monitoring Officer where needed. To give committee officers the best chance to provide the right support and advice to committee chairmen and members.</p>
	<p>Deletion of cross-reference to</p>	<p>To avoid confusion / simplify</p>

	paragraph 4(1) of code of conduct.	the guidance.
Paragraph 3	<p>Addition of sentence to clarify the guidance on predisposition vs predetermination.</p> <p>The Committee suggested that Officers looked at the proposed wording to keep it simple. It was suggested that it could be “You must not have predetermined the matter before the meeting”</p>	To provide clearer guidance to members in light of the Localism Act.
Paragraph 4	Clarification on circumstances under which it would not be appropriate for a member to call in a planning application (where the member has a DPI or may be biased).	For the avoidance of doubt.
Paragraph 5	<p>Clarification that officers should attend formal meetings with applicants, developers or groups of objectors.</p> <p>The Committee also suggested that Officers looked at the wording, perhaps dividing it into 2 paragraphs, to give guidance between public exhibitions and private meetings with developers.</p>	For the avoidance of doubt. In light of issues encountered by the previous Monitoring Officer and lessons learnt as a result.
Paragraph 7	Clarification that although simple membership of a community interest group may not lead to a non-pecuniary interest, that specific office (for example chairmanship or vice-chairmanships) of the same group is likely to.	For the avoidance of doubt.
Paragraph 8	Clarification that members with a disclosable pecuniary interest or where there is a risk of the appearance of bias should not attend site visits.	For the avoidance of doubt. In light of issues encountered by the previous Monitoring Officer and lessons learnt as a result.

The Standards Committee noted and thanked the Independent Person for his comments on the three annexes and now

RECOMMENDS that

- 1. changes to the Waverley 'Member Code of Conduct', 'Arrangements for dealing with Standards Allegations' and 'Councillors Planning Code of Good Practice', as noted in the attached three annexes, be approved; and**
- 2. The Independent Persons be invited to the next meeting of the Standards Committee.**

PART II - MATTERS OF REPORT

There were no matters falling under this category

The meeting commenced at 4.30pm and concluded at 5.57pm

Chairman

Standards Panel 12
10.10.16

Standards Panel 14
10.10.16