

WAVERLEY BOROUGH COUNCIL

MINUTES OF THE STANDARDS COMMITTEE - 21 JANUARY 2019

SUBMITTED TO THE COUNCIL MEETING – 12 FEBRUARY 2019

(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 David Else

Cllr John Gray
Cllr David Hunter
Cllr Robert Knowles
Cllr John Ward

STD 12/18MINUTES (Agenda item 1.)

The Minutes of the meeting held on 11 June 2018 were confirmed as a correct record of the meeting.

STD 13/18APOLOGIES FOR ABSENCE (Agenda item 2.)

There were no apologies for absence.

The Town & Parish representative, Mrs Joan Holroyd was not required for this meeting.

STD 14/18DISCLOSURES OF INTERESTS (Agenda item 3.)

There were no disclosures of interests.

STD 15/18QUESTIONS BY MEMBERS OF THE PUBLIC (Agenda item 4.)

There were no questions from members of the public.

STD 16/18QUESTIONS FROM MEMBERS (Agenda item 5.)

There were no questions from Members.

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.

STD 17/18 STANDARDS COMMITTEE - TERMS OF REFERENCE (Agenda item 9.) (Pages 7 - 10)

The Committee reviewed its revised terms of reference, which had been updated to reflect better the function and purpose of the committee.

The Committee agreed that going forward, it should have a vice-chairman, and officers would need to flag this up to Group Leaders as part of the process for nominating committee memberships following the May elections.

The Committee felt that its role in keeping the Constitution under review should have a higher priority in the in the list of the Committee's functions.

The Committee RESOLVED to RECOMMEND to Council that the revised terms of reference of the Standards Committee, as attached, be approved and incorporated into the Constitution at Article 9.

PART II - MATTERS OF REPORT

The background papers relating to the following items are as set out in the reports included in the original agenda papers.

STD 18/18 MONITORING OFFICER'S REPORT (Agenda item 6.)

The Committee received a report from the Monitoring Officer, Robin Taylor, summarising complaints about councillors received between January 2018 and January 2019, and updating the Committee on other matters relating to the Council's ethical framework.

Since January 2018, the Monitoring Officer had received nine complaints: two related to Town and Parish Councillors, and seven related to Borough councillors. Of the two complaints about Town and Parish Councillors, one had been withdrawn by the complainant and the other was being informally investigated by the Monitoring Officer. Of the seven complaints about Waverley Councillors, two had been withdrawn by the complainants, four had been informally investigated by the Monitoring Officer and resolved informally, and one was a live complaint currently being informally investigated by the Monitoring Officer.

Common features of the complaints received were: allegations of failing to treat others with respect, disclosure of interests and participation in decision-making, and the content of electronic communications.

The Monitoring Officer had also provided advice to elected councillors, members of staff, Town and Parish clerks and councillors, and residents, where no complaint has been made.

A meeting of the Standards Panel would take place on 1 February 2019 to consider the external investigator's report into two complaints against a Waverley councillor submitted in April 2017.

Following the elections in May for Waverley Borough Council, training would be provided for new Waverley councillors on Standards and the Code of Conduct, Member-Officer relationships, and Operating Safely as a councillor. Similar training would be offered to new Town and Parish councillors.

Following the Town and Parish Council elections, arrangements would also be made to appoint two representatives from the town and parish councils to the Standards Committee, who would be invited to attend when matters affecting town and parish councils were being considered.

The Monitoring Officer also updated the Committee on action taken to raise awareness with staff of the need to register any gifts or hospitality offered to them or received that exceeded £25 in value. Arrangements had been reviewed following a routine internal audit, and the on-line form for submitting registrations had been made more visible on the staff intranet. Most of the gifts registered were less than £25 in value – typically biscuits or chocolates that were shared among colleagues, or donated to the Mayor's Christmas tombola.

The Committee was pleased to learn that most complaints had been resolved informally, and thanked the Monitoring Officer for his report, which they noted.

STD 19/18 STANDARDS ARRANGEMENTS - APPOINTMENT OF INDEPENDENT PERSONS (Agenda item 7.)

Fiona Cameron, Deputy Monitoring Officer, reminded the Committee that under the Localism Act 2011, the standards arrangements adopted by the Council were required to include the provision of at least one Independent Person. Waverley had appointed three Independent Persons, whose term of office ended in May 2019.

Waverley had worked in partnership with Guildford, Mole Valley and Spelthorne borough councils in 2012 to recruit Independent Persons for an initial period to 2015, and then to extend the appointments to May 2019. Following discussion between Surrey Democratic Services Managers and Monitoring Officers, there was agreement in principle to once again undertake a joint recruitment exercise on behalf of seven Surrey boroughs and districts: Guildford, Epsom & Ewell, Mole Valley, Reigate & Banstead, Spelthorne, Surrey Heath and Waverley.

The intention was to appoint at least three Independent Persons for a four-year term commencing May 2019 and ending May 2023, with any of those appointed being available to act for any of the councils. The positions would be advertised on the websites of each of the participating councils at the end of January for a three-week period. The Joint Appointments Panel, comprising 3 of the Monitoring Officers of the participating councils, would meet at the end of February to shortlist, and interviews would be held in March, if necessary. Serving Independent Persons would be eligible for re-appointment. The aim was for each participating council to make formal appointments in time for May 2018.

The Committee was pleased to see that Waverley was once again working jointly with other Surrey councils to recruit to these very specialised positions, but felt that it would be advisable to appoint four or five Independent Persons, if possible. The

Committee also noted that the Independent Person Protocol would need to be updated to change the name of the Standards Panel to Standards Committee.

The Committee RESOLVED to:

1. agree the joint arrangements for advertising, shortlisting and interviewing candidates for the appointment of Independent Persons from May 2019; and
2. note that recommendations for appointments would be brought to the May meeting of Council for approval.

STD 20/18 MEMBERS' CODE OF CONDUCT (Agenda item 8.)

The Monitoring Officer introduced the report that set out proposed amendments to the Waverley Members' Code of Conduct. The proposed amendments were largely to provide additional clarification on the core principles of the Code, and to address some procedural matters on which the Code was currently silent in relation to recording sensitive information on the Register of Interests, removal of entries from the Register, and dispensations.

The Committee reviewed the proposed amendments and agreed in principle to the amendments, but asked for further revisions to the wording on:

- new paragraph 1 (7) - to be split into two paragraphs, to separate out the two elements of the statement.
- new paragraph 5 (6) – the wording in relation to dealing with including sensitive information on the Register of Interests to be simplified and made clearer.
- new paragraph 7 – to be made clearer that the intention of this paragraph is to give a standing dispensation to Members to participate in certain business of the Council from which they might otherwise be excluded through having a Disclosable Pecuniary Interest, as set out in Paragraph 5 (1).

The Committee asked that these revisions to the Code of Conduct be brought back to the next meeting of the Standards Committee for further consideration, before making a recommendation to Council.

STD 21/18 REVIEW OF SCHEME OF DELEGATION (Agenda item 10.)

The Borough Solicitor introduced the report setting out a number of proposed changes to the Scheme of Delegation to Officers. The Scheme had been comprehensively reviewed and revised in 2017 and the proposed revisions were based on experience of using the Scheme over the past 12 months.

The Committee noted that under the General Principles, the amendments would enable any Strategic Director to exercise the powers granted to the Chief Executive under the Scheme, either at the request of the Chief Executive or at the discretion of the Strategic Director in the absence of the Chief Executive. The Committee agreed that this was a practical approach to enable the efficient running of the Council.

With regard to the proposed delegation to the Section 151 Officer to approve adoption of new or revised fees and charges (new 8A), after consultation with the Portfolio Holder for Finance, the Committee asked that the wording was clear that

this delegation was constrained by the Budget and Policy Framework, including the Financial Regulations.

With regard to the delegation to the Head of Customer and Corporate Services in relation to the administration of the Council's estate and property portfolio at (17), the Committee noted that this had not been updated to reflect the role of the Investment Advisory Board in making recommendations to the Executive on the acquisition of interests in land or property.

With regard to paragraph (77) of the Scheme, the Borough Solicitor clarified that under the new Data Protection Act 2018, there was no longer an automatic charge for a Subject Access Request so there was no longer a need to be able to waive this in cases of hardship. The delegation was now proposed to allow a fee to be charged in respect of any manifestly unfounded or excessive Subject Access Request.

The Committee agreed that the wording of paragraphs (8A) and (17) be amended and the revised Scheme of Delegation brought back to the Committee for final consideration before making a recommendation to Council.

STD 22/18 ELECTED MEMBER ACCESS TO INFORMATION (Agenda item 11.)

Robin Taylor introduced the draft guidance note clarifying Waverley Elected Members' rights to access information, which had been developed following discussions with Members following a situation where a Town Council was seeking access to a Waverley document via a twin-hatted Member of both Waverley and the Town Council.

The Standards Committee was asked to consider if this was needed, and if so what status it would have in relation to the Access to Information Procedure Rules.

The Committee Members felt that the flow-chart was helpful, but had some concerns about who made the decisions – who decided if a Member needed the information to perform their duties as a councillor? The Committee Members also recognised that there was a difference between 'need' and 'desire', and that Members did not have a roving remit to see every piece of information held by the council. But, some Members felt that there was a lack of clarity about how they could request access to information.

The Borough Solicitor confirmed that all Waverley Members were able to access 'pink papers' that are exempt under any of the seven categories set out in the 1972 Local Government Act.

On balance, the Committee felt that it would be helpful to have the additional guidance, and that it should be clear that the Monitoring Officer is the Proper Officer for Access to Information. The Committee asked that this be referred to in the Access to Information Procedure Rules, and provided to Members as supplementary guidance.

The meeting commenced at 5.00 pm and concluded at 6.20 pm

Chairman

Article 9 – The Standards ~~Committee Panel~~

9.1 Standards ~~Committee Panel~~

The Council will determine the composition of and the role and function of the Standards ~~Committee Panel~~. The Standards Committee falls within the requirements of the Local Government and Housing Act 1989 for membership to be proportionate to the political composition of the Council.

9.2 Composition

- (a) **Membership.** The Standards ~~Panel Committee~~ will be composed of:
- i. nine councillors [other than the ~~L~~leader, and with a maximum of one member from the Executive]
 - ii. two members of a Town or Parish Council in the Council's area who cannot also be a District Councillor, to be appointed until the next full Town and Parish Council elections.
- (b) **Town and Parish members.** At least one Town or Parish member must be present when matters relating to Town or Parish Councils or their members are being considered, except where they have an interest. Town and Parish members will not attend meetings which are considering the Council's constitution. ~~;~~ ~~and~~
- (c) **Chairing the ~~Panel Committee~~.** A member of the Executive may not chair the ~~Committee Panel~~.

9.3 Role and Function

The Standards ~~Committee Panel~~ will have the following roles and functions:

- A. To review and propose revisions to the Constitution as set out in [Article 15](#).
- B. Ethical framework
 - (a) To promote and maintain high standards of conduct by councillors and co-opted members.
 - (b) To assist the councillors and co-opted members to observe the Members' Code of Conduct.
 - (c) To advise the Council on the adoption or revision of the Members' Code of Conduct.
 - (d) To monitor the operation of the Members' Code of Conduct.
 - (e) To advise on training for councillors and Independent Persons on matters relating to the Members' Code of Conduct.

- (f) Where the Monitoring Officer decides a hearing is necessary, to establish a Panel to hear and determine -complaints received concerning the conduct of Waverley Borough members. ~~and determination as appropriate.~~
- (g) To exercise functions (a) to (f) above in relation to the town and parish councils in Waverley Borough and the members of those town and parish councils.
- (h) In the event of a dispute arising from a breach of the Council's Local Protocols, the Standards Committee ~~Panel~~ should use the same processes as breaches of the Code.
- (i) ~~Appointment of a Panel: the Monitoring Officer in consultation with the Chairman of the Standards Panel will appoint Panels of no less than 3 members for the process of hearing and determination of complaints received regarding member conduct that may have breached the Waverley Code of Conduct or that of the relevant Town or Parish Council. The Panels will have the power to determine complaints where these have been referred by the Monitoring Officer; and~~
- (i) To agree arrangements for the selection and interviewing of candidates for appointment as Independent Person(s) (including such joint arrangements with other councils as may be deemed by the Monitoring Officer to be appropriate) and to make recommendations to full Council on these appointments.
- (j) To agree allowances and expenses for the Independent Person(s).
- (k) To implement, monitor and review the operation of the Independent Person(s) Protocol.
- (l) To implement, monitor and review the operation of the code of conduct for staff.
- (m) To implement, monitor and review the operation of the Monitoring Officer Protocol.
- (n) To implement. Monitor and review the operation of the Protocol on Member/Officer Relations.
- (o) To consider any other matter referred by the Monitoring Officer.

9.4 Appointment of a Panel

The Monitoring Officer in consultation with the Chairman of the Standards Committee will appoint a Panel of no less than 3 members of the Committee for the purpose of hearing and determining complaints received regarding member conduct that may have breached the Waverley Code of Conduct or that of the relevant Town or Parish Council.

A Panel established to hear a complaint against a Town or Parish Councillor must include at least one of the appointed Town and Parish Council members.

The Panel will have the power to determine complaints where these have been referred to it by by the Monitoring Officer.

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