

## STANDARDS COMMITTEE

### Minutes of the meeting held on 7 March 2018 at 7.00 pm in Council Chamber - Council Offices.

**Present:** Dr Jonathan Sexton (Chairman); Mrs Janet Bacon (Vice-Chairman),  
Councillors: Crow-Brown, Dexter, L Fairbrass, Johnston, S Piper, Tomlinson,  
Parish Councillors: Way (Monkton Parish Council) and Wright (Birchington Parish Council - Birchington South)

**In Attendance:** Independent Persons: Mr Tucker and Mr James

#### 144. APOLOGIES FOR ABSENCE

Apologies were received from Councillor Jeremy Fairbrass, substituted by Councillor Crow-Brown.

#### 145. DECLARATIONS OF INTEREST

There were no declarations of interest made at the meeting.

#### 146. MINUTES OF PREVIOUS MEETING

Councillor Tomlinson proposed, Councillor Johnston seconded and committee members agreed the minutes as a correct record of the meeting held on 09 November 2017.

#### 147. CHANGES TO THE COUNCIL'S CONSTITUTION

Nick Hughes led the discussion and highlighted the key changes and requested Member feedback to the proposed amendments to the Council Constitution. The proposed changes had been forwarded to Standards by the Constitutional Review Working Party. Some of the changes included the following:

- That no paper copies of the council constitution would be issued to Members as councillors can access this document electronically. This will be reflected in the updated version of the constitution;
- The electronic version was easier to search via Members' ipads and the public can access it on the council website;
- Printing of constitution was an additional cost to the limited resources available to the council;
- One other amendment would allow Members to withdraw or defer their questions or notices of motion. This provision would permit Members to re-submit that same motion/question at a future meeting;
- That such request to withdraw questions/motions should be made through an email using the official TDC allocated email account. The request could also be made through a letter written to Democratic Services.

In response to the presentation Members made comments and asked questions as follows:

- They were concerned that as a result of the changes being suggested, no more paper copies of the constitution were going to be printed out for councillors. Some Members preferred paper copies;

- Could a Member ask a question or introduce a motion on behalf of another Member who would not have been able to attend the meeting?
- Could a Member question be withdrawn or deferred at the meeting if the Cabinet Member who was meant to respond to that question was not in attendance?
- Who deputised the Monitoring Officer and shouldn't that officer role be included in the constitution?
- Members were largely in support of the amendments being proposed by the Constitutional Review Working Party.

Responding to Member queries Mr Howes, Mr Hughes and the Chairman indicated that:

- Electronic versions of the constitution would always be up to date as they were easier to amend as soon as Council made decisions to update the constitution;
- Members of the Constitutional review Working Party had debated long and hard on the issue regarding not printing paper copies of the constitution any more, but had come to the conclusion that the electronic version approach was the way forward;
- The right to ask a question was an individual right of Members and cannot be passed on to another Member. If the Member with the question was unable to attend the meeting then that would call for the question to be withdrawn/deferred to a future meeting;
- If a Cabinet Member was not in attendance at Council meetings to respond to Member questions, the Leader of Council would step in to give responses as requested by Members;
- The (Interim) Head of Legal Services was the Deputy Monitoring Officer and by law the Deputy Monitoring Officer acted in the absence of the Monitoring Officer.

Councillor Johnston proposed, Councillor Lin Fairbrass seconded and members of the committee agreed the following:

- a) To amend paragraph 16.03 a) to read: "The Committee Services Manager will provide an electronic copy of this Constitution to each member of the authority upon delivery to him/her of that individual's declaration of acceptance of office on the member first being elected to the Council."
- b) To amend Council Procedure 3.3 to read: "The Monitoring Officer shall include all notices of motion and accompanying statements in the agenda for the next relevant meeting of Council in the order received."
- c) To add a new Council Procedure Rule 3.4 to read "A member giving notice in writing (either by official TDC email or via letter) prior to the start of the meeting at which their motion is to be considered, may defer their motion to a later meeting or withdraw it if they are unable to attend the said meeting. If no such notice is received and the member is not present to move the motion it will automatically fall and will not be able to be re-considered for six months as per CPR 3.8 xi)."
- d) To amend Council Procedure Rule 14.6 to read: "The Monitoring Officer will reject a question if it is..."
- e) To add a new Council Procedure Rule 14.7 to read: "A member giving notice in writing prior to the start of the meeting at which their question is to be considered, may defer their question to a later meeting or withdraw it if they are unable to attend the said meeting."
- f) To add a new Council Procedure Rule 14.8 to read: "If such notice is not received and the questioner is not present the question shall not be put and shall be answered in writing. There will be no ability to ask a supplementary question."

- g) To note that all subsequent numbering of the council procedure rules would be amended in order to accommodate the changes suggested above.

#### **148. INDEPENDENT CHAIRMAN'S ANNUAL REPORT**

Dr Sexton, Chairman of the Standards Committee led the discussion and gave a quick summary of main points regarding the record of complaints received during the year and the decision made relating to them. During the presentation the Chairman made the following key points:

- Overall Member behaviour is very good and acceptable;
  - There were some exceptions;
  - There were some risks largely relating to control of the council and the forthcoming Local Government Elections in May 2019. These two key issues may have implications for Member behaviour and the reputation of the Council;
  - The Chairman invited Members to conduct themselves to acceptable standards in order to minimise the risks;
  - Due to changes by government to standards schemes for managing Member behaviour, voluntary models were introduced and these relied heavily on voluntary compliance by Members to enforce acceptable Member behaviour;
  - Members had to be aware of the image as viewed from the public gallery during debates at council meetings
  - A review was currently underway and there was a related consultation which the Chairman would be responding to regarding code of conduct;
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- Cross party training strategy adopted by the Council was good development;
  - Chairman supported the Council efforts to work towards the attainment Charter for Member Development;
  - The current approach for scheduling Standards Committee meetings was appropriate as meetings would only be convened when there was enough substantive business to consider, which business would be generated by the working party meeting first and recommending issues to Standards;
  - TDC support for town/parish councils - Tim Howes and Nick Hughes have been in discussions with parish/town representatives at Parish Forum regarding Member training;
  - Clarity was sought regarding the legal position for managing Parish/Town Councillors behaviour using the district council rules. However a recent case heard and determined elsewhere in the country confirmed that the District Council Standards' determination of Parish/Town Councillor behaviour was binding and not debatable;
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- Standards Committee had during Chairman's tenure tried to drive down the complaints about Member behaviour. However these had increased in the current municipal year;
  - The highest number of complaints related to Member use of the social media;
  - There was also a trend of Members complaints against each other;
  - There had been recently a regrettable trend in the social media of council officers being named;
  - Although there is a protocol for Member/Officer relations, this had not stopped one or two Members abusing some council officers;
  - This situation had generated more cynicism from the public;
  - The work of the Standards Sub Committees was not to make political judgements but to address issue relating to Member behaviour using the same rules as used elsewhere in the country;
  - However it was regrettable that a group chose to vote as a political group at the last Full Council despite the fact that a hearing had been set up and had agreed

- the recommendations on a case that was investigated by an outside independent investigator;
- That formal investigation cost TDC about £3,500, which money the Council did not a budget for;
- In one instance, forty complaints were received in relation to an incident. But upon considering the issue, the sub-committee found no breach in the code of conduct. Some members of the public were not satisfied with the outcome and complained to the Local Government Ombudsman. The office of the Ombudsman responded to the complaints and confirmed that the Council had indeed followed due process;
- The Chairman thanked Members of the Standards Committee for the work done during the year.

In response to the presentation of the report by the Chairman, members of the Committee made the following comments:

- The report was very thorough;
- It was important for Members to take advice from the Monitoring Officer when handling member behaviour issues;
- One of the worst part of unacceptable behaviour was the publication of officers' private telephone numbers in the public domain;
- Officers had a right to a private life;
- Committee members thanked the Chairman for the work done during the year;
- They acknowledged that the presentation was an honest and professional report;
- One Member offered an explanation for the group conduct at Full Council;
- Members of the group felt that they had been given clear and unequivocal guidance that the issue before Council on the night, was not to re-judge the case because the councillor had been found guilty and the punishment was being applied;
- Members sought to understand the meaning of the word 'censure' as contained in the report;
- There were a number of councillors who were asking on the night what they were voting for;
- The group wanted to know whether the censure vote would mark the end of the matter or verbal remark going to be given to the Member during the meeting or whether a letter was going to be given thereafter;
- The Member explained that the vote had nothing to do with a political decision;
- The Member apologised to the Chairman of the Standards Committee for what transpired at Full Council.
- The Member requested that in future, could the minutes of the meeting that was going to be subject of a council debate be forwarded to committee members prior to the council meeting;

In response to a Member suggestion highlighted above, Mr Howes advised the meeting that after each Standards Sub Committee hearing, all Members present at that hearing session would sign up to the decision made by that sub-committee.

Members agreed that signing up to each hearing decision was a good way forward.

Councillor Tomlinson proposed, Councillor Dexter seconded and Members agreed to accept the report.

**149. STANDARDS COMPLAINT STATISTICS**

As the item was largely covered in the Chairman's annual report in minute item 148, the committee noted the report.

**150. REVIEW OF LOCAL GOVERNMENT ETHICAL STANDARDS: STAKEHOLDER CONSULTATION**

Tim Howes introduced the item and advised the Committee of the need to respond to the national public consultation and made the following points:

- Members had a week to respond to the public consultation;
- Council spent significant amounts of money on conducting investigations but were unfortunately unable to enforce effective compliance to acceptable member behaviour as there were limited sanctions council could apply;
- The code of conduct was developed before the advent of social media and required changing;
- There was a need to provide clarity regarding how Charter Trustees were covered by the code of conduct;
- It was important to address the issue of having a national model of a code of conduct that TDC could refer to regularly when updating the local code;
- The role of Independent Person was very helpful as a sounding board for the council;
- More clarity was required to determine the status of councillors social media accounts and agree at what point such accounts became council business;
- The sanctions were insufficient and did not encourage compliance to acceptable member behaviour. One suggestion could be to remove a member's allowance as part of the sanctions;
- There is a need for clarity regarding the disclosable pecuniary interest legislation, particularly for Members when responding to the question on 'what property or land the member owned in the district.' Members did not realise that the home they owned formed part of that property information being requested.

Mr Howes was going to forward the initial draft response to committee members and seek member contributions. The Chairman said that the consultation provided an opportunity for Members to contribute to that review of the legislation based on their experience.

The report was noted.

Meeting concluded: 8.10 pm