

COUNCIL

9 APRIL 2015

*PART 1 – PUBLIC DOCUMENT

AGENDA ITEM No.

7

TITLE OF REPORT: ITEM REFERRED FROM STANDARDS COMMITTEE: 24 FEBRUARY 2015 – STANDARDS MATTERS (PROPOSED CONSTITUTION AMENDMENTS)

The following is an extract from the Draft Minutes of the Standards Committee meeting held on 24 February 2015.

13. STANDARDS MATTERS

The Acting Monitoring Officer presented a report in respect of standards issues generally, and seeking the views of the Committee on various proposals. The following appendices were submitted with the report:

Appendix A – Extract from Annual report of the Committee on Standards in Public Life, September 2014;

Appendix B – Draft Hertfordshire County Council Guidance on Pre-Election Period; and

Appendix C – Tendring District Council Pre-Election Publicity Guidance.

Proposed changes to the Constitution

The Acting Monitoring Officer advised that, as Members would be aware, the Council currently reviewed its Constitution on an annual basis and the current review was underway. The Monitoring Officer had two proposals for inclusion in the review that related to the Standards Committee. The first relevant paragraph of the Constitution, in its current format, was:

“7.3 Number of Meetings

There shall be three regular meetings of the Committee in each year. In addition, extraordinary meetings may be called from time to time, as and when appropriate. An extraordinary meeting may be called by the Chairman of the Committee or by the Proper Officer if he/she considers it is necessary or appropriate.”

The Acting Monitoring Officer stated that Members were aware that there were three regular meetings of the Standards Committee scheduled each Civic Year. However, there had not been enough business for all of these meetings to be effective and therefore a number had been cancelled. The dates of the last 8 meetings of the Committee were set out in the report and Members noted that, for the past four years, only two meeting per year had taken place.

The Acting Monitoring Officer therefore proposed to reduce the number of regular meetings to two (noting that extraordinary meetings could be called as and when appropriate, as Paragraph 7.3 of the Constitution made clear). It was suggested that these meetings were held in late February and September, once a suitable gap in the meeting schedule was identified.

The second relevant paragraph of the Constitution, in its current format, was:

“7.6 Work Programme

The Monitoring Officer will prepare a work programme, which will be reviewed and approved at each Committee meeting. It will cover the business to be transacted at future meetings of the Committee.”

The Acting Monitoring Officer also proposed to either delete or amend Paragraph 7.6 of the Constitution, as the current drafting did not reflect the amount of business being conducted (it was therefore difficult to create a meaningful work programme to inform the Committee). An alternative approach to simply deleting it would be to reword it as follows:

“7.6 Standards Matters

The Monitoring Officer will present a general report on standards matters at each Committee meeting, updating the Committee on the workload of the Monitoring Officer and current standards issues.”

The Committee supported the proposal to reduce the number of scheduled meetings to two per Civic Year, and opted for the revised wording for Paragraph 7.6 of the Constitution, as set out above, rather than outright deletion of this paragraph.

Committee on Standards in Public Life Report

The Acting Monitoring Officer referred to Appendix A to the report, which was the section on Local Government standards from the Committee on Standards in Public Life (CSPL) Annual Report, published in September 2014. The concerns expressed about the post-Localism Act 2011 standards regime were familiar to Members, as these potential issues were raised by officers at the time the new approach was implemented. Also noted was the importance placed on the training of new Councillors. The Council did offer sessions covering a range of issues, including standards, but unfortunately the 2014 sessions were poorly attended. Officers were currently considering the approach to take with training any new Councillors elected in 2015.

The Committee asked the Monitoring Officer to develop some ideas for the training of new councillors. Any suggestions from Committee Members would be welcomed.

The Acting Monitoring Officer stated that there were other sections in the CSPL Annual Report that might be of interest to Members, particularly the Public Perceptions Survey. The survey looked across different sectors, but there were interesting points to note from the Council’s perspective, including that the public felt the best governance models included both ‘compliance-based’ and ‘integrity-based’ approaches: that was, between good behaviour resulting from a well-designed and systematically enforced external set of rules, and good behaviour that was internally driven and the result of strong ethical character. The survey also noted that there was very wide agreement in all segments of the British general public about the ways in which probity in both the public and the private sector could be promoted. In that shared view, the ways seen as most important were the promotion of a culture in which people were not afraid to report wrongdoing, the use of codes of proper conduct in which office holders and staff were trained, and the setting of a good example by senior managers or office holders.

Complaints Update

The Acting Monitoring Officer advised that, since the last meeting of the Standards Committee held on 22 July 2014, there had been three complaints received about District Councillors regarding failure to respond to correspondence, which had all been ruled out as not constituting a breach the Code of Conduct. This issue was also reported to the Committee at its last meeting and Members recalled that a Members’ Information Service (MIS) note on this subject had been issued on 10 October 2014 as part of Customer Services Week. A complaint was dismissed as it referred to an ex-Councillor and concerned a County Council function. A complaint was received shortly before the writing of the report and was currently being considered.

Current Issues

The Acting Monitoring Officer stated that, as Members were aware, the Council had recently been consulting on the Preferred Options for the North Hertfordshire Local Plan. Ahead of the Full Council meeting on 27 November 2014, advice was provided as to interests and pre-determination. Given the high profile nature of this issue and the scrutiny being placed on it by the public, all Members should ensure they complied with their responsibilities under the Council's Code of Conduct.

The Acting Monitoring Officer reminded Members of the pre-election period, which applied in the run up to the May 2015 elections. However, he felt that there was sometimes confusion as to what this actually meant. The key principle was that the Council's resources were not used to promote any political party during this period, for example, through press releases or Outlook magazine. The pre-election period did not prevent individual Councillors writing to the local newspaper, an issue which had been queried in the past. Attached at Appendices B and C to the report were two briefing notes prepared by other authorities – Hertfordshire County Council (currently in draft) and Tendring District Council, respectively. The Acting Monitoring Officer asked the Committee to consider whether such a briefing note would be of benefit and, if so, whether they had a particular preference for either note, which would then be tailored to NHDC.

The Committee expressed a preference for Appendix B (the Hertfordshire County Council draft), and the Acting Monitoring Officer undertook to circulate this versions to Members and Officers once it was finalised.

Forthcoming Policy Reviews

The Acting Monitoring Officer was currently reviewing the following policies:

- Conflicts of Interest;
- Planning Code of Good Practice; and
- Confidential Reporting Code (Whistleblowing).

The Acting Monitoring Officer commented that, where required by the Committee's terms of reference, these will be submitted to a future meeting(s).

Parish Council Representative

The Acting Monitoring Officer advised that the Standards Committee's membership included "A maximum of two Parish Councillors co-opted as non-voting members." On 12 November 2014, the Council received the sad news that Councillor Peter Long of Ashwell Parish Council had died. Parish Councillor Long was co-opted to the Standards Committee. It was therefore necessary to seek a new Parish Councillor to be co-opted to the Committee and this process would commence following the May 2015 Elections.

RECOMMENDED TO COUNCIL: That the following amendments be made to Section 7 (The Standards Committee) of the Council's Constitution:

- (1) Paragraph 7.3 – Number of Meetings - to now read:

There shall be two regular meetings of the Committee in each year. In addition, extraordinary meetings may be called from time to time, as and when appropriate. An extraordinary meeting may be called by the Chairman of the Committee or by the Proper Officer if he/she considers it is necessary or appropriate; and

- (2) Paragraph 7.6 to be re-named "Standards Matters" – and to now read:

The Monitoring Officer will present a general report on standards matters at each Committee meeting, updating the Committee on the workload of the Monitoring Officer and current standards issues.

RESOLVED:

- (1) That the report be noted;
- (2) That the Acting Monitoring Officer be requested to develop some ideas for the training of new councillors, incorporating any helpful suggestions from Members of the Committee
- (3) That, once finalised, the Acting Monitoring Officer be requested to circulate to Members and Officers the briefing note prepared by Hertfordshire County Council in respect of guidance of what can and cannot be done during the Pre-Election Period.

REASON FOR DECISION: To ensure good governance within the Council.

The following is the report considered by the Standards Committee at its meeting held on 24 February 2015 (minus the appendices).

TITLE OF REPORT: STANDARDS MATTERS

REPORT OF THE ACTING MONITORING OFFICER

1. SUMMARY

- 1.1 The report updates Members of the Committee on standards issues generally and seeks views and discussion on various proposals.

2. RECOMMENDATIONS

- 2.1 That Members note the content of the report.
- 2.2 That the Committee makes a recommendation to Full Council that the number of regular meetings be reduced to two meetings each year and that paragraph 7.6 of the Constitution either be deleted or amended.
- 2.3 That the Committee advise the Monitoring Officer of their views on the matters set out in section 8 of the report.

3. REASONS FOR RECOMMENDATIONS

- 3.1 To ensure good governance within the Council.

4. ALTERNATIVE OPTIONS CONSIDERED

- 4.1 The number of regular meetings of the Standards Committee could be maintained at three, with the current approach of cancelling a meeting if there is insufficient business.

5. CONSULTATION WITH EXTERNAL ORGANISATIONS AND WARD MEMBERS

- 5.1 The Chairman of the Standards Committee has been consulted on the issues to be covered within the report and specifically the proposed changes to the constitution which affect the Standards Committee.

6. FORWARD PLAN

- 6.1 This report does not contain a recommendation on a key decision and has not been referred to in the Forward Plan.

7. BACKGROUND

- 7.1 Within its terms of reference the Standards Committee has a function of "to promote and maintain high standards of conduct by Members and Co-Opted Members of the authority". The Committee will therefore receive update reports from the Monitoring Officer on matters that relate to, or assist to govern, Member conduct.

8. ISSUES

Proposed changes to the Constitution

- 8.1 As Members will be aware the Council currently reviews its Constitution on an annual basis and the current review is underway. The Monitoring Officer has two proposals for inclusion in the review that relate to the Standards Committee. The relevant paragraphs are set out below, in their current format.

7.3 Number of Meetings

There shall be three regular meetings of the Committee in each year. In addition, extraordinary meetings may be called from time to time, as and when appropriate. An extraordinary meeting may be called by the Chairman of the Committee or by the Proper Officer if he/she considers it is necessary or appropriate.

7.6 Work Programme

The Monitoring Officer will prepare a work programme, which will be reviewed and approved at each Committee meeting. It will cover the business to be transacted at future meetings of the Committee.

- 8.2 Members are aware that there are three regular meetings of the Standards Committee scheduled. However there has not been enough business for all of these meetings to be effective and therefore a number have been cancelled. The dates of the last 8 meetings are below and Members will see that we have actually been holding 2 meetings per year for the last 4 years:-

28 February 2011
23 November 2011
21 March 2012
26 June 2012
26 February 2013
17 June 2013
25 February 2014
22 July 2014

It is therefore proposed to reduce the number of regular meetings to two (noting that extraordinary meetings can be called as and when appropriate, as paragraph 7.3 of the Constitution makes clear). It is suggested that these meetings are held in late February and September, once a suitable gap in the meeting schedule is identified.

- 8.3 It is also proposed to either delete or amend paragraph 7.6 of the Constitution, as the current drafting does not reflect the amount of business being conducted (it is therefore difficult to create a meaningful work programme to inform the Committee). An alternative approach to simply deleting it would be to reword it as follows:-

7.6 Standards Matters

The Monitoring Officer will present a general report on standards matters at each Committee meeting, updating the Committee on the workload of the Monitoring Officer and current standards issues.

Committee on Standards in Public Life Report

- 8.4 Attached at Appendix A is the section on Local Government standards from the Committee on Standards in Public Life (CSPL) Annual Report, published in September 2014. The concerns expressed about the post-Localism Act 2011 standards regime will be familiar to Members, as these potential issues were raised by officers at the time the new approach was implemented. Members will also note the importance placed on the training of new Councillors. The Council does offer sessions covering a range of issues, including standards, but unfortunately the 2014 sessions were poorly attended. Officers are currently considering the approach to take with training any new Councillors elected in 2015.
- 8.5 The full CSPL Annual Report can be obtained from <https://www.gov.uk/government/publications/cspl-annual-report-2013-to-2014> and there are other sections within the report that might be of interest to Members, particularly the Public Perceptions Survey. The survey looks across different sectors, but there are interesting points to note from the Council's perspective, including that

the public felt the best governance models include both 'compliance-based' and 'integrity-based' approaches: that is, between good behaviour resulting from a well-designed and systematically enforced external set of rules, and good behaviour that is internally driven and the result of strong ethical character. The survey also noted that there is very wide agreement in all segments of the British general public about the ways in which probity in both the public and the private sector can be promoted. In that shared view, the ways seen as most important are the promotion of a culture in which people are not afraid to report wrongdoing, the use of codes of proper conduct in which office holders and staff are trained, and the setting of a good example by senior managers or office holders.

Complaints Update

- 8.6 Since the last meeting of the Standards Committee on 22 July 2014 there have been three complaints received about District Councillors regarding failure to respond to correspondence, which have all been ruled out as not constituting a breach the Code of Conduct. This issue was also reported to the Committee at its last meeting and Members will recall that an MIS note on this subject was issued on 10 October 2014 as part of Customer Services Week. A complaint was dismissed as it referred to an ex-Councillor and concerned a County Council function.
- 8.7 A complaint was received shortly before the writing of this report and is currently being considered.

Current Issues

- 8.8 As Members will be aware the Council has recently been consulting on the Preferred Options for the Local Plan. Ahead of the Full Council meeting in November advice was provided as to interests and pre-determination. Given the high profile nature of this issue and the scrutiny being placed on it by the public, all Members should ensure they comply with their responsibilities under the Council's Code of Conduct.
- 8.9 In the run up to the elections in May Members will be aware of the pre-election period (often called 'purdah') which applies. However there is sometimes confusion as to what this actually means. The key principle is that the Council's resources are not used to promote any political party during this period, for example through press releases or Outlook magazine. The purdah period does not prevent individual Councillors writing to the local newspaper, an issue which has been queried in the past. Attached at Appendix B and C are two briefing notes prepared by other authorities – Hertfordshire County Council (currently in draft) and Tendring District Council respectively. Members are asked to consider whether such a briefing note would be of benefit and, if so, whether they have a particular preference for either note which would then be tailored to this Council.

Forthcoming Policy Reviews

- 8.10 The Monitoring Officer and Deputy Monitoring Officer are currently reviewing the following policies:-
- Conflicts of Interest
 - Planning Code of Good Practice
 - Confidential Reporting Code (Whistleblowing)

Where required by the Committee's terms of reference these will be brought to a future meeting.

Parish Council Representative

- 8.11 The Standards Committee's membership includes "A maximum of two Parish Councillors co-opted as non-voting members." On 12 November 2014 the Council received the sad news that Councillor Peter Long of Ashwell Parish Council had died. Parish Councillor Long was, of course, co-opted to the Standards Committee. It is therefore necessary to seek a new Parish Councillor to be co-opted to the Committee and this process will commence shortly.

9. LEGAL IMPLICATIONS

- 9.1 The terms of reference of the Standards Committee include at paragraph 7.5.1 of the Constitution "to promote and maintain high standards of conduct by Members and Co-Opted Members of the authority".
- 9.2 There are no specific legal implications arising from the content of this report.

10. FINANCIAL IMPLICATIONS

- 10.1 There are no capital or revenue implications arising from the content of this report.

11. RISK IMPLICATIONS

- 11.1 Appropriate policy frameworks help to ensure good governance of the Council and therefore reduce risk of poor practice or unsafe decision making.

12. EQUALITIES IMPLICATIONS

- 12.1 The Equality Act 2010 came into force on the 1st October 2010, a major piece of legislation. The Act also created a new Public Sector Equality Duty, which came into force on the 5th April 2011. There is a General duty, described in 12.2, that public bodies must meet, underpinned by more specific duties which are designed to help meet them.
- 12.2 In line with the Public Sector Equality Duty, public bodies must, in the exercise of its functions, give **due regard** to the need to eliminate discrimination, harassment, victimisation, to advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not.

13. SOCIAL VALUE IMPLICATIONS

- 13.1 As the recommendations made in this report do not constitute a public service contract, the measurement of 'social value' as required by the Public Services (Social Value) Act 2012 need not be applied, although equalities implications and opportunities are identified in the relevant section at Paragraph 12.

14. HUMAN RESOURCE IMPLICATIONS

- 14.1 None. The work outlined within the report is within the Monitoring Officer's caseload.

15. APPENDICES

- 15.1 Appendix A – Extract from Annual Report of the Committee on Standards in Public Life, September 2014.
- 15.2 Appendix B – Draft Hertfordshire County Council Guidance on Pre-Election Period.
- 15.3 Appendix C – Tendring District Council Pre-Election Publicity Guidance.

16. CONTACT OFFICERS

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17. BACKGROUND PAPERS

17.1 None.