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STANDARDS COMMITTEE

3 December 2020 at 6.00 pm

Present: Councillors Bennett (Vice-Chairman, in the Chair), Bower, English, Huntley (Substitute for Coster), Kelly, Stanley (Substitute for Blanchard-Cooper), and Tilbrook.

Independent Persons: Mr J. Thompson, MBE, Mr B. Green, Mrs S. Prail and Mr J. Cooke

[Note: The following Councillors were absent from the meeting during the consideration of the following matters set out in Minutes 362 – Councillors Bower and English.]

352. WELCOME

The Chairman welcomed Members, Independent Persons of the Committee and Officers to what was the second virtual meeting of the Standards Committee.

Having explained, the virtual meeting procedure rules in place, the following introductions were made by the Committee Services Manager:

Mr N Bennett – Previous Acting Monitoring Officer
Mr S Agutu – Interim Monitoring Officer
Mr P Hoey – Hoey Ainscough Associates Ltd

353. APOLOGIES FOR ABSENCE

Apologies for absence had been received from Councillors Edwards (Chairman), Blanchard-Cooper, and Coster.

354. DECLARATIONS OF INTEREST

There were no Declarations of Interest made.

355. MINUTES

The Minutes of the meeting held on 24 September 2020 were approved by the Committee as a correct record and would be signed by the Chairman as soon as possible following the Council's resumption of normal working.

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356. LOCAL GOVERNMENT ASSOCIATION - MODEL MEMBER CODE OF CONDUCT

Mr Hoey explained his connection with the Council in terms of being responsible for managing Code of Conduct complaints and his work being commissioned by the Local Government Association (LGA) to draw up a new Model Code of Conduct.

The Committee was advised by Mr Hoey that further work had progressed on the LGA's Model Code and that a final submission had been presented to the LGA Board earlier in the day meaning that a final Code would be published imminently.

Mr Hoey suggested that the Code, when published, be presented to the Committee at its next meeting in February 2021 so that the Committee could consider whether to recommend it onto Full Council for adoption in March 2021.

Following some discussion,

The Committee

RESOLVED - That

- 1) To note progress with the Draft Model Code; and
- 2) Instruct the Monitoring Officer to bring a further report to the Standards Committee once the final version of the Model Code is published.

357. STANDARDS RECOMMENDATIONS PENDING NEW MODEL CODE OF CONDUCT

The Committee was advised that the Council had received a request from the Local Government Association (LGA) to advise on its progress against the 15 recommendations that emerged from the Committee on Standards in Public Life's (CSPL) recent review of the Code of Conduct and Ethical Standards. It was recognised that some of these recommendations would need some legislative changes, which the CSPL were working on.

The majority of the 15 recommendations of best practice were mostly being complied with, and some were awaiting issue of new Model Code or needed the Committee to decide whether current reporting arrangements were sufficient at this Council. Mr Hoey advised the Committee that most of the recommendations would be incorporated into the anticipated Model Code of Conduct.

In discussing the 15 recommendations, some points of clarification were raised with regard to Recommendations 1 and 15. In relation to Recommendation 1, it was felt that a clear definition of bullying and harassment was required otherwise this could be confused with vigorous debate. Mr Bennett reminded Members of information recently issued to all Councillors following behaviour at recent Full Council meetings and stated

that he understood that there would be further defining of the terms. Mr Hoey explained that consideration had been given to the length and detail of a Model Code, looking at other examples across the country. In considering this, the decision was to keep to a shorter version to make it easier to manage and using the ACAS definition of 'bullying'. The LGA was looking to provide some supporting guidance to be issued alongside of the Code which would provide further detail – this was anticipated to be released in March 2021.

Clarification was sought on the Council's process and the reporting of concerns about conduct as suggested at Recommendation 15 regarding senior officers discussing complaints with Group Leaders. Mr Bennett advised that his understanding, from a discussion with the Chief Executive, was that there would be some reporting mechanism in place in the future.

Returning to the concerns raised with regard to the definition of bullying at Recommendation 1, as this was recognised as an issue currently present within the Council, there was concern expressed that, potentially, there could be a large time delay between the Model Code being published and subsequently being adopted. Mr Bennett responded that there was commonly gaps between publication and adoption, and also decisions had to feed into agreed calendars of meetings. This, however, would not prevent continued oversight of complaints. The Committee Services Manager provided reassurance to Members by confirming that the Minutes and any recommendations from 18 February meeting of the Committee would be presented to the Full Council meeting on 17 March 2021 and so would be addressed quickly.

Returning to the concerns raised in relation to Recommendation 15, Mr Agutu commented that the Council already had a strong mechanism in place reporting concerns via its Standards Committee, attended by Senior Officers and Independent Persons, and so did not see the need for a further tier of reporting complaints. Mr Bennett explained that this was not intended to replace the Standards Committee process, but to ensure that there was an opportunity for Political Group Leaders to be involved in supporting and dealing with conduct matters outside of the formal complaint investigation process. This would act as a 'filtering' process and any serious complaints would still be referred to the Standards Committee for consideration.

A concern was expressed about the quality of Code of Conduct training provided to Members following their election, and that recent Council meetings had demonstrated a lack of understanding and so he requested further training to be provided.

Following further debate, Councillor English proposed that the CSPL Recommendation 15 be removed from the suite of recommendations included at Recommendation 2 of the report. This was seconded by Councillor Bower.

On this amendment being put to the vote it was declared LOST.

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The Committee then

RESOLVED - That

- (1) To note the report from the Committee for Standards in Public Life and this Council's responses to the recommendations made within the report be noted; and
- (2) It be agreed to incorporate the recommendations into the review of the Local Assessment Procedure.

358. REVIEW OF LOCAL ASSESSMENT PROCEDURE

At its meeting held on 24 September 2020, the Committee asked Hoey Ainscough Associates Ltd to return to this meeting with a review of the Local Assessment Procedure to enable the Committee to fully consider any recommendations for amendments, following the identification of some anomalies within the existing Procedure.

Mr Hoey explained that the Council's existing Procedure was broadly in line with that of other local authorities, but that the work of Hoey Ainscough Associates Ltd was to improve the process and address any legal compliance.

Mr Hoey was asked to address the recommendations in his report, for the benefit of the Committee. Most recommendations related to best practice, but some were necessary to bring the Procedure in line with current legislation.

In discussing the recommendations (a) to (l) set out in the appendix to the report, a steer was required from the Committee in relation to the following recommendations as set out below:

- (h) That the Committee consider whether political proportionality should apply to a Hearings Panel; and
- (k) That the Committee consider whether it wishes to retain an appeals mechanism on a Panel's decision

Most Members of the Committee agreed that the right for Panels to have political proportionality should be waived. It was explained further by Mr Hoey that, by law, Committees were required to adhere to political proportionality, but if the Committee wished to abandon this requirement for a Hearings Panel, it should be formally written into the process. Mr Hoey also added that Independent Persons were legally forbidden to cast votes and take part in decisions, only to offer independence advice, therefore should not be included in a Panel's private deliberations when deciding on the outcome of a complaint Hearing. This was accepted.

Turning debate to Recommendation (K), the majority of Councillors agreed that the Local Assessment Procedure should not retain an appeals mechanism on Panel's decisions and that this, if approved, by the Committee should be written into the revised procedures to be considered at the Committee's next meeting.

The Chairman confirmed that he wished to take a separate vote on each of the Recommendations (h) and (k) – which were:

For Recommendation (h) that political balance be waived for Hearings Panels. On this being put to the vote it was declared CARRIED.

For Recommendation (k) that an appeals mechanism be removed from the Procedure. On this being put to the vote it was declared CARRIED.

Having had both recommendations approved, it was explained that these would be implemented into a new Arun Local Assessment Procedure for new complaints coming forward and still needed to be approved when the whole procedure would be presented to the next meeting of the Committee.

The Chairman then returned to the substantive recommendations and the Committee

RESOLVED – That

- (1) The proposed amendments to the Local Assessment Procedure, as reported by Hoey Ainscough Associates Ltd and as amended at the meeting in respect of Recommendations (h) and (k) be approved; and
- (2) Hoey Ainscough Associates be instructed to finalise a revised Local Assessment Procedure to be presented to the next meeting of the Standards Committee for final approval.

359. SOCIAL MEDIA GUIDANCE FOR COUNCILLORS

A draft Guidance document had been considered at the last meeting of the Committee on 24 September 2020 and recommendations to adopt a revised Social Media Guidance for Councillors had been made to Cabinet on 19 October 2020, replacing the previous version endorsed by Cabinet on 31 May 2016.

Although Cabinet had broadly supported the guidance, non-Cabinet Councillors raised some concerns about the content of the document. Cabinet then resolved to refer the Guidance back to this meeting of the Standards Committee for further discussion.

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Mr Hoey referred to the list of “do’s and don’ts” in the draft Guidance document, which had been lifted from the existing Guidance document. This was the element that had been mostly challenged at Cabinet. It was the view of some Councillors that this may lead to debate being disadvantaged and would prefer not to have this entire list included in the document.

Committee questioned the item relating to criticism of Councillors and Officers. Mr Hoey referred to a definition supported by the LGA, as follows “Do not misquote, misrepresent or make personal criticisms of Councillors and Officers” which could be incorporated into the Guidance, which was then broadly supported by the Committee.

With regard to the ‘do not’ point regarding securing a benefit, Mr Hoey suggested replicating the words used in the Code of Conduct so that this line would now read “do not try to secure an improper benefit for yourself or disadvantage others improperly”.

Further discussion took place as to whether another ‘Do Not’ item should be added to cover ‘matters that had not been concluded at meetings, in view of the current situation with the recent Full Council meeting having taken place over three separate dates and as it had still not concluded all of its business. Comments were then made regarding inflammatory comments and concerns expressed that this could be subjective. Mr Hoey emphasised that this document was only guidance and had no legal weight.

Following further debate, the Committee agreed to have the wording altered to the penultimate Do Not item to read as follows “do not try to secure an improper benefit for yourself or disadvantage others improperly”.

The Committee then, as it was content with all other parts of the guidance,

RECOMMEND TO CABINET – that

- 1) The new Social Media Guidance for Councillors, as amended at the meeting, be endorsed, replacing the previous version endorsed by Cabinet on 31 May 2016; and
- 2) To authorise the Acting Monitoring Officer to make any consequential changes arising from the adoption of a new Members Code of Conduct.

360. REGISTER OF COMPLAINTS

In presenting this report, the Committee were advised of any updates on Code of Conduct complaints received or completed since the last meeting.

The Committee then

RESOLVED

That the Register of Complaints against Councillors and progress of any outstanding complaints be noted.

361. EXEMPT INFORMATION

The Committee

RESOLVED

That under Section 100A(4) of the Local Government Act 1972, the public and accredited representatives of newspapers be excluded from the meeting for the following item of business on the grounds that it may involve the likely disclosure of exempt information as defined in Part 1 of Schedule 12A of the Act by virtue of the paragraph specified against the item.

362. REGISTER OF ASSESSMENTS OF COMPLAINTS AGAINST COUNCILLORS
[EXEMPT - PARAGRAPH 1 - INFORMATION RELATING TO ANY INDIVIDUAL]

Councillors English and Bower declared Personal Interests at the commencement of this item due to them both being complainants involved in complaint cases.

Councillor English briefed the Committee on his experience with a request for a review of an Assessment Panel decision. Having made his statement, Councillor English then left the meeting for the remainder of this item and did not take part in any debate or vote on this item. Councillor Bower then left the meeting having declared his interest in this item.

Mr Bennett presented this report and also provided verbal updates on a number of the cases included in the register.

Following a brief discussion, the Committee

RESOLVED

That the Register of Complaints against Councillors be noted

(The meeting concluded at 9.00 pm)

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