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24 September 2020

## **STANDARDS COMMITTEE**

A meeting of the **Standards Committee** will be held on **Friday, 2nd October, 2020** at **10.00 am**. This will be a virtual meeting and you can observe the meeting [by clicking on this underlined text.](#)

PHIL SHEARS  
Managing Director

### **Membership:**

Councillors Bullivant, Evans, Foden, Nuttall, Peart and L Petherick.

### **Independent Members:**

Barnicott and Smith

### **Parish Council Representative:**

Cllr Dowding

**Please Note:** The meeting will be live streamed with the exception where there are confidential or exempt items, which may need to be considered in the absence of the media and public.

## **A G E N D A**

### **1. Apologies for Absence**

### **2. Minutes**

(Pages 3 - 10)

To approve and sign the minutes of the meetings held on 26 February, 15 July and 22 July 2020.

3. **Declarations of Interest (if any)**
4. **Election of Chair**
5. **Election of Deputy Chair**
6. **Matters referred to Committee by full Council** (Pages 11 - 16)
7. **Public Consultation on Standards in Public Life** (Pages 17 - 18)
8. **Work Programme**

<b>Date of Meeting</b>	<b>Matters to be considered</b>	<b>Notes</b>
20.10.20	Standards Hearing	Report of Investigator
Jan 2021 Date to be confirmed	Review of Members and Officers Code of Conduct	Report of the Monitoring Officer
	Review of Planning Guidance	Report of the Monitoring Officer

9. **Local Government (Access to Information) Act 1985 - Exclusion of Press and Public**

**RECOMMENDED** that, under Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting during consideration of items on the grounds that they involve the likely disclosure of exempt information as defined in the relevant paragraphs 1, 2 and 5 of Part 1 of Schedule 12A of the Act.

**Part II: Items suggested for discussion with the press and public excluded**

10. **Consideration of confidential investigation reports**

If you would like this information in another format, please telephone 01626 361101 or e-mail [info@teignbridge.gov.uk](mailto:info@teignbridge.gov.uk)

## **STANDARDS COMMITTEE**

**26 FEBRUARY 2020**

**Present:**

Councillors Keeling (Chairman), Bullivant, Haines, Nuttall, Peart, L Petherick

**Independent and Parish Members**

Mr G Barnicott

Ms A Smith (gave apologies)

Mr R Dowding (gave apologies)

**Officers in Attendance:**

Karen Trickey, Solicitor to the Council and Monitoring Officer

Sarah Selway, Democratic Services Team Leader & Deputy Monitoring Officer

Christopher Morgan, Trainee Democratic Services Officer

Paul Woodhead, Solicitor & Deputy Monitoring Officer

### **1. MINUTES**

The Minutes of the meeting held on 25 July 2019 were confirmed as a correct record and signed by the Chairman.

### **2. DECLARATIONS OF INTEREST**

None.

### **3. APPOINTMENT OF VICE-CHAIRMAN**

Councillor L Petherick was elected as Vice-Chairman.

### **4. STANDARDS HEARINGS**

Members and those officers involved in administering and investigating the complaint referred to the last Standards Committee hearing discussed the current standards investigation process and reflected on the experience of the previous hearing in July involving Cllr D Cox. It was noted that members needed to (unlike in the last hearing) cooperate fully with investigations and hearings requirements including ensuring that relevant information was submitted and in a timely manner.

## 5. DISPENSATION REQUESTS

In light of the number of requests for dispensations that the Monitoring Officer had received over the last few months the Committee Members considered that the Standards Committee should consider all requests for dispensations from Members to speak and/or vote on a matter. These should be submitted in a timely manner to enable a meeting of the committee to be arranged in line with access to information legislation. The Monitoring Officer advised that she had anticipated a request to the Standards Committee from Newton Says No Members but none had been received.

**RESOLVED** that all dispensation requests from District Council Members be considered by the Standards Committee.

## 6. STANDARDS TRAINING PROGRAMME FOR MEMBERS

The Monitoring Officer outlined the five training events held for various groups of District Council Members since November 2019.

Members discussed Members' attendance at arranged training events, the need for Members to take ownership of their own development requirements and that standards training should be viewed as mandatory, in a similar fashion to that for planning and licensing matters. Members acknowledged that the Democratic Services team had started to develop a more focused Member training programme and that standards training would continue to form part of that scheme. The Committee considered it should illustrate the importance and need to promote and highlight high standards of conduct by referring to a requirement to attend training in the Council's current code.

**RECOMMENDED** to Council that the following be added to the General Obligations within the Members' Code of Conduct "*All Members must attend standards training as required by the Monitoring Officer.*"

## 7. CO-OPTED MEMBERSHIP OF STANDARDS COMMITTEE

Members discussed the co-opted membership of the two parish members as nominated by the Teignbridge Association of Local Councils (TALC) and the impact of any changes as a result of the civility in public life and the pending national review of the model code of conduct. It was recognised that the constitution provisions for membership of the Committee had not been reviewed for some years and the Committee should properly consider such taking account of the need to engage all parish and town councils in promoting and maintaining high standards of conduct by their members too. With this mind, the Committee concluded that the appointment should be limited to six months pending a review of the Committee's parish and town council representation.

**RECOMMENDED to Council** the TALC nominee – Mr John May – the second parish co-opted member be appointed for a period of six months

**RESOLVED** the parish and town council membership of the Standards Committee be reviewed within the next six months.

**8. UPDATE ON PENDING CHANGES TO STANDARDS LEGISLATION**

The Trainee Democratic Services Officer updated Members on the pending changes to standards legislation which would be considered by the Local Government Association (LGA) later this year, with then any recommendations on changes to be considered by the Secretary of State. This would include recommendations to seek increases in sanctions that were available to Standards Committee such as suspension from membership of the Council and banning Members from accessing council buildings or attending particular meetings.

Members discussed the proposals coming forward, the use of social media by the public, pressure groups and councillors; the need for respect for councillors and officers in and out of the Council Chamber which had been lacking on occasion in recent years and months having been the subject of considerable number of complaints; and the need for the Code of Conduct and all Council Members to support this.

**RESOLVED** that the Standards Committee look to development a simple protocol with regards to the use of social media and officer member relationship to be appended to the Code of Conduct

**RECOMMENDED** to full Council to add to the Code of Conduct the following words '*you should give respect if you want to receive it*'.

The meeting started at 10.00 am and finished at 11.19 am.

Chairman

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## **STANDARDS COMMITTEE**

**15 JULY 2020**

**Present:**

Councillors Keeling (Chairman), Haines, Nuttall, Peart and L Petherick (Vice-Chairman)

**Members in Attendance:**

Councillors Daws and Mullone

**Apologies:**

Councillor Bullivant

Parish Representative Councillor Dowding (non-voting)

**Officers in Attendance:**

Karen Trickey, Solicitor to the Council and Monitoring Officer

Sarah Selway, Democratic Services Team Leader & Deputy Monitoring Officer

Paul Woodhead, Solicitor & Deputy Monitoring Officer

**Also in Attendance:**

Independents Persons – Mr Barnicott and Ms Smith

Investigator – Mr Darsley

### **9. APOLOGIES**

Councillor Bullivant gave his apologies as he had a personal interest.

### **10. DECLARATIONS OF INTEREST**

There were no declarations of interest.

### **11. STANDARDS INVESTIGATION**

The Committee considered the published report in line with the procedure set out in the agenda.

Attached is the You Tube stream of the meeting - [Standards Committee 15 July 2020](#)

The Committee resolved to go into confidential session to consider the Investigator's recommendations regarding the alleged breaches of the Members' Code of Conduct.

### **RESOLVED:**

Having made a finding of facts as set out in its Decision Notice, the Committee concludes that Cllr Daws breached the Members' Code of Conduct as provided for in the Decision Notice and that

- (a) The Decision Notice be published to publicly censure Cllr Daws's conduct
- (b) It be noted that if the Committee had the power to suspend Cllr Daws from being a councillor (a power which was previously available to councils and may be reintroduced in the future), the Committee would have suspended Cllr Daws
- (c) Cllr Daws is requested to write within 10 working days of this decision being notified to him, an unequivocal letter of apology (the content of such to be approved in advance by the Monitoring Officer and Chairman of Standards Committee) to those officers to whom the Committee has found he was disrespectful
- (d) The Committee sends a letter to all staff within the Council making it clear that the Council will not tolerate disrespectful conduct by councillors towards staff

AND

**RECOMMENDS to Full Council** that the requirement that a failure to comply with relevant protocols and security arrangements be formally confirmed with reference to new provisions in the Code.

*Decision notice attached.*

The meeting started at 10.32 am and finished at 12.17 pm.

Chairman



## **STANDARDS COMMITTEE**

**22 JULY 2020**

**Present:**

Councillors Keeling (Chairman), Haines, Nuttall and Peart

**Members in Attendance:**

Councillors Daws and Mullone

**Apologies:**

Councillors Bullivant and L Petherick

**Officers in Attendance:**

Karen Trickey, Solicitor to the Council and Monitoring Officer

Sarah Selway, Democratic Services Team Leader & Deputy Monitoring Officer

Paul Woodhead, Solicitor & Deputy Monitoring Officer

**Also in Attendance:**

Independents Persons – Mr Barnicott and Ms Smith

Parish Representative – Cllr Dowding (non-voting)

Investigator – Mr Darsley

### **12. APOLOGIES**

Councillor L Petherick gave her apologies.

Councillor Bullivant gave his apologies as he had a personal interest.

### **13. DECLARATIONS OF INTEREST**

There were no declarations of interest.

### **14. STANDARDS COMPLAINT**

The Committee considered the published report in line with the procedure set out in the agenda.

Attached is the You Tube stream of the meeting [Standards Committee 22 July 2020](#)

The Committee resolved to go into confidential session to consider the Investigator's recommendations regarding the alleged breaches of the Members' Code of Conduct.

**RESOLVED:**

Having made a finding of facts as set out in its Decision Notice, the Committee concludes that Cllr Mullone breached the Members' Code of Conduct as provided for in the Decision Notice and that

- (a) It is appropriate to publicly censure Cllr Mullone for the conduct which is detailed in the Report and has been upheld by this Committee. Consequently, the decision notice on this matter is published.
- (b) Cllr Mullone is requested to write within 10 working days of this decision being notified to him, an unequivocal letter of apology (the content of such to be approved in advance by the Monitoring Officer and Chairman of Standards Committee) to those officers to whom the Committee has found he was disrespectful.
- (c) The Committee sends a letter to all staff within the Council making it clear that staff are not expected to tolerate disrespectful behaviour, intimidation or bullying conduct by councillors towards staff and that any concerns can be reported in confidence for action.
- (d) It be noted that if the Committee had the power to suspend Cllr Mullone from being a councillor, the Committee would have suspended Cllr Mullone for up to 6 months.

*Decision notice attached.*

The meeting started at 10.30 am and finished at 12.17 pm.

Chairman

# TEIGNBRIDGE DISTRICT COUNCIL

## STANDARDS COMMITTEE

2 OCTOBER 2020

Report Title	Matters referred to Committee by full Council
<b>Purpose of Report</b>	To consider how the Committee wishes to proceed with those items referred to it by full Council on 3 September 2020.
<b>Recommendation(s)</b>	<p>It be RECOMMENDED to full Council: The membership of the Standards Committee be limited to six elected members.</p> <p>It be RESOLVED by the Committee:</p> <ul style="list-style-type: none"> <li>(a) A sub-committee of three members be appointed to deal with standards hearings;</li> <li>(b) Non-voting parish / town council members be selected to participate in hearings as outlined in the report;</li> <li>(c) The arrangements for dealing with the Code, associated protocols and the investigation procedure be reviewed by the Committee and recommendations to full Council made following consideration of further guidance from the LGA.</li> </ul>
<b>Report Author</b>	<p>Karen Trickey Solicitor to the Council and Monitoring Officer Tel: 01626 215119 Email: karen.trickey@teignbridge.gov.uk</p>
<b>Appendices</b>	<p>Appendix A – Guidance Note to Teignbridge Councillors Appendix B – draft model Code of Conduct see <a href="https://www.local.gov.uk/sites/default/files/documents/LGA%20Model%20Member%20Code%20of%20Conduct.pdf">https://www.local.gov.uk/sites/default/files/documents/LGA%20Model%20Member%20Code%20of%20Conduct.pdf</a></p>

### 1. BACKGROUND

- 1.1 Full Council has requested that the Committee consider the following matters (i) councillor training on standards (ii) co-opted membership of the Committee and (iii) any changes which may be needed to the Code.

### 2. COUNCILLOR TRAINING

- 2.1 To date training has been based upon a mix of workshop and advice to individual members and parish / town council clerks. It is proposed to supplement these with

periodic guidance notes to Members, an example of a new format for such, recently produced is attached in Appendix A.

- 2.2 Whilst it is considered that all Members largely appreciate the requirements upon them in terms of conduct and do willingly comply, for those that do not wish to comply or are reckless as to whether they do or not, given the limited sanctions available to secure compliance, there is little incentive to comply. Consequently, the effective application and enforcement of high standards of conduct amongst all councillors relies heavily on the vast majority of Members leading by example; making it clear that they, as individuals, as well as full Council as a whole, will not tolerate breaches of the Code. This line is one which it is recommended should be promoted by the Committee.
- 2.3 It should be appreciated by the Committee that the principal areas of concern regarding the conduct of councillors at a district, parish and town level continues to relate to disrespectful conduct and matters of possible predetermination within the context of planning matters. Conduct regarding these areas is the subject of two protocols of the Council, namely the Member and Officer Protocol and also the Guidance on Planning. Neither of these documents have been reviewed in recent years; although the underlying messages within them remain relevant to the Council now. Concern has been raised by third parties including as part of investigations, regarding the lack of consideration given to these by councillors in practice. This may be due in part to a lack of awareness of these documents even though the contents form part of the Constitution and are largely a matter of good manners / practice and common sense etc..
- 2.4 Subject to the noting of the point made in Section 3 below regarding a possible review of the Code of Conduct, it is recommended that the Committee considers these two documents as part of a small time limited task and finish group before making recommendations to full Council on any changes. The Committee should in any event arrange / promote regular training for all District Council Members on existing requirements as well as any changes implemented; and provide guidance for parish / town council clerks to relay to their council members.
- 2.5 Pending a review of the Code of Conduct and / or these documents, as an interim measure, the Committee may still wish to resolve that the guidance / foot notes to the existing Code make it clear that when determining whether other existing provisions in the Code have been breached (e.g. interest rules; requirement not

to bring the Council into disrepute; and the requirement to treat others with respect), consideration will be given to whether or not members of the district council have complied with relevant protocols such as the Member / Officer Protocol and the Guidance on Planning.

### **3. CODE OF CONDUCT**

- 3.1 Earlier this year, the Local Government Association published a proposed revision to its current model Code of Conduct (see also the separate report to this Committee on Public Consultation on Standards in Public Life and Appendix B link to the current report). That revised code is due to be considered by the LGA in response to range of consultation being carried out later this year / early 2021.
- 3.2 It is recommended that the Standards Committee await the outcome of the LGA work before making any recommendations regarding its own Code, particularly as the existing Code is still largely fit for purpose, covering many of the points within the model code. In the interim, the Committee might consider its time is better spent seeking to promote compliance with the existing Code as noted in Section 2 above.

### **4. MEMBERSHIP OF STANDARDS COMMITTEE**

- 4.1 The Constitution currently provides that the membership of the committee may comprise six elected members of the Council; plus up to three co-optees (one independent person; and two parish council members). The co-opted members do not have voting rights. This arrangement has not been reviewed for some years.
- 4.2 There is no legal requirement for a specific Standards Committee, nor in that regard any requirements regarding its membership. Some authorities' committees involve non-elected members (including independent persons and parish councillors). In such cases, these external members do not have voting rights (voting rights only being possible in the case of advisory committees). Some authorities don't have any external members as members of the committee, inviting them instead, when appropriate, to attend committee; and / or involving them in the complaint process only.
- 4.3 One option for the Standards Committee membership could be as follows:

- (i) The full committee comprise only elected district council members (currently six) and parish / town councillor representative be invited along with independent persons to the Committee as appropriate. This change would need to be resolved by full Council.
- (ii) The Committee resolve to set up a sub-committee to deal with report investigations only (reserving the option to deal with hearings as a full Committee in the case of more serious alleged breaches) where:
  - the sub-committee membership is limited to three members of the committee, appointed according to their availability;
  - the sub-committee has a (non-voting) parish / town council representative (in connection with complaint hearings on parish / town councillor matters) on that sub-committee as an additional (non-voting) member along with the existing independent member;
  - the sub-committee still consults with the independent person prior to a decision being made by the sub-committee / committee on any complaint hearing.

4.4 If the Committee is mind to recommend a parish / town councillor representative as a non-voting member to assist with complaint hearings involving parish or town councillors, the Committee should consider the process for appointment of such members. Currently, that is simply by means of accepting a nomination from Teignbridge Association of Local Councils rather than all parish or town councils in the district. It is recommended that if the Committee wishes to include parish / town councillor representatives it should contact all parish / town council clerks and invite one application from a named member from each council; with the applicants being shortlisted by the Chair and the Monitoring Officer before an interview with the members of the committee.

4.5 Currently it should be noted that hearings where a breach of the Code has been established by the investigator are dealt with by way of a formal hearing. As suggested above, it is proposed that a sub-committee largely deal with these. The complaint process could also provide for investigation reports to be dealt with by means of considering documents only; or simply continue to do so only where the member against whom the complaint is notified has agreed. The Committee may wish to review the current arrangements in this regard.

## **INTERESTS ARISING AT PLANNING COMMITTEE**

SUMMARY: This guide provides 4 key reminders regarding interests, which affect Members' participation in the Planning Committee.

### **1. KNOW THE MEMBERS' CODE OF CONDUCT**

You must follow the Code. The rules regarding interests which may arise in connection with a planning application (and any other matter) are set out in the Code of Conduct at paragraph 6. A copy of the Code is available on the Council's website at:

<https://www.teignbridge.gov.uk/council-and-democracy/district-councillors/conduct-of-local-councillors/>

There are 4 types of interests in paragraph 6 of the Code. In each instance you are required to declare that you have an interest and will not be permitted to vote on the matter. In the case of Appendix 1 interests you are also prohibited from speaking at the committee.

If you have an interest but still wish to participate in the consideration of a planning application you may apply to the Standards Committee for a dispensation to speak and / or vote as well. As the Standards Committee will consider the application, make sure you apply ASAP. An application form is available from the Monitoring Officer.

### **2. IF IN DOUBT DECLARE**

It is usually clear whether or not you have an interest. Particularly when considering whether you have an interest under paragraph 6.4 of the Code, you should always consider what a reasonable person knowing the facts would think. If you are still in doubt, you should declare your interest; refrain from voting; and not speak on the matter, all as per the Code.

### **3. MATERIAL PLANNING CONSIDERATIONS & INTERESTS ARE DIFFERENT**

Just because something isn't a material planning consideration doesn't mean it is not an interest. For example, a loss of private view or loss light aren't planning considerations, but they may well give rise to an interest under the Code.

### **4. BIAS / PREDETERMINATION ARE DIFFERENT TOO**

Predetermination / bias include expressing an intention to vote in a particular way before a committee meeting. Whilst any real potential for bias will usually fall within the confines of one or more of the 4 types of interests, members must avoid illustrating a bias in favour of a particular outcome on a planning application. Members who have voting rights at the Planning Committee must always have an open mind, even if they are predisposed to voting a particular way. A failure to have an open mind may provide a legitimate ground for a legal challenge of a decision.

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# TEIGNBRIDGE DISTRICT COUNCIL

## STANDARDS COMMITTEE

2 OCTOBER 2020

<b>Report Title</b>	<b>Public Consultation on Standards in Public Life</b>
<b>Purpose of Report</b>	To note the public consultation on standards (published on 22 September 2020) and to consider any issues which the Committee may wish to examine as part of future work programme.
<b>Report Author</b>	Karen Trickey Solicitor to the Council and Monitoring Officer Tel: 01626 215119 Email: karen.trickey@teignbridge.gov.uk
<b>Background Papers for reference / noting</b>	<a href="https://www.gov.uk/government/consultations/standards-matter-2-public-consultation-and-public-sector-survey">https://www.gov.uk/government/consultations/standards-matter-2-public-consultation-and-public-sector-survey</a>  <a href="https://www.local.gov.uk/code-conduct-consultation-2020">https://www.local.gov.uk/code-conduct-consultation-2020</a>

### 1. BACKGROUND

- 1.1 The Committee on Standards in Public Life is carrying out a landscape review of the institutions, processes and structures in place to support high standards of conduct. Public consultation is currently underway (see first link above in the Background Papers). Any member of the public or public sector professionals may make a submission. This follows on from previous consultations with public authorities, including on a proposed new code drafted by the Local Government Association earlier this year (see second link).
- 1.2 The following paragraphs set out some of the questions which are being raised with the public but also public sector professionals. It is suggested that these questions might be considered by the Standards Committee as part of identifying its future work programme and training of members, taking account of its Code of Conduct and complaints made regarding its councillors within the district (including parish and town councils).
- 1.3 For 2020, a total of three hearings have been / are being dealt with by the Standards Committee where the councillors have not agreed with the investigator's findings as to a breach (in comparison to one last year and zero in previous years). Complaints made regarding councillor conduct which have been resolved informally amount to one in 2020 in comparison to three last year.

Complaints not upheld due to there not being a breach, amount to five in 2020 in comparison to six last year.

## **2. QUESTIONS RAISED WITH THE PUBLIC**

### **Ethical standards generally**

How well do you think ethical standards - as enshrined by the Seven Principles of Public Life - are upheld in public life today? Do you believe that there have been any notable shifts in approaches or attitudes to ethical standards in public life in recent years? What do you see as the most significant threats to ethical standards in public life today?

### **Usefulness / relevance of Seven Principles of Public Life**

Do the Seven Principles of Public Life accurately describe the appropriate ethical responsibilities for those in public roles, including both political and non-political office-holders? Would you amend or replace any of the principles or their descriptors?

### **Regulation of Standards**

Are you confident that the UK's arrangements for regulating ethical standards are robust and effective? Are there any areas of public life where regulation on issues of ethical standards is not strong enough?

## **3. QUESTIONS RAISED WITH PUBLIC SECTOR PROFESSIONALS**

### **Generally**

How does the Council's approach to standards at manifest itself in the culture of your organisation?

How well known is the Code of Conduct within your organisation?

Does your organisation undertake any training or induction designed to create a culture of high ethical standards? Is the training helpful?

Do senior leadership in your organisation actively encourage high standards of high conduct? How could they improve their approach?

### **Specific Issues**

Please outline the specific issue of propriety and ethics you wish to share with the Committee, including relevant contextual information. Did any senior leadership (including line managers) in your organisation engage with the issue? Was any corporate policy or process used?

As a result of your experience, is there any element of policy, process, or standards regulation that you believe needs changing?