



**MINUTES of
JOINT STANDARDS COMMITTEE
3 SEPTEMBER 2020**

PRESENT

Councillors	M G Bassenger, M W Helm, C Mayes and S P Nunn
Town Councillor	Councillor P Stilts
Substitute Councillor(s)	A L Hull, C P Morley and C Swain
In attendance	Councillors E L Bamford, K M H Lagan, C Morris, R H Siddall and W Stamp
Independent Person	Mr N Hodson

1172. ELECTION OF CHAIRMAN

In the absence of a Chairman and Vice-Chairman, the Lead Legal Specialist and Monitoring Officer opened the meeting and a roll call of all Committee Members present and any Councillors in attendance was taken.

The Lead Legal Specialist and Monitoring Officer then sought nominations for Chairman of the Joint Standards Committee for the remainder of the municipal year. Councillor S P Nunn nominated Councillor M W Helm be elected as Chairman and this was duly seconded. There were no other nominations and this was therefore agreed by assent.

RESOLVED that Councillor M W Helm be appointed as Chairman of the Joint Standards Committee for remainder of the municipal year.

IN THE CHAIR : COUNCILLOR M W HELM

1173. ELECTION OF VICE-CHAIRMAN

The Chairman called for nominations for Vice-Chairman of this Committee for the remainder of the municipal year and nominated Councillor S P Nunn. This was duly seconded. Councillor Nunn advised that he had not been asked to fulfil this position and confirmed that he would not be standing. The Chairman called for any other nominations and Councillor C Swain nominated Councillor W Stamp.

In response to a question regarding appointing Councillor Stamp as she was not present at the meeting, the Lead Legal Specialist and Monitoring Officer advised so long as the person nominated was a standing Member of the Committee there was nothing to prevent another Member from nominating them.

The nomination for Councillor Stamp as Vice-Chairman was duly seconded. Prior to agreeing by assent this nomination it was noted that confirmation from Councillor Stamp that she was happy to assume this post would be sought at the next meeting of the Committee she was in attendance at.

RESOLVED that Councillor W Stamp be appointed as Vice-Chairman of the Joint Standards Committee for the remainder of the municipal year.

1174. CHAIRMAN'S NOTICES

The Chairman welcomed everyone to the remote meeting, held under new regulations which came into effect on 4 April 2020 in response to the COVID-19 situation. The Chairman then asked the Committee Services Advisor to go through the general housekeeping arrangements for the meeting.

1175. APOLOGIES FOR ABSENCE AND SUBSTITUTION NOTICES

Apologies for absence were received from Councillors Mrs P A Channer, K W Jarvis, W Stamp and Mrs M E Thompson.

It was noted that in accordance with notice duly given Councillor A L Hull was attending as a substitute for Councillor Mrs Channer, Councillor C Swain as a substitute for Councillor Stamp and Councillor C P Morley as a substitute for Councillor Mrs Thompson.

1176. MINUTES OF THE LAST MEETING

RESOLVED

- (i) that the Minutes of the meeting of the Committee held on 30 January 2020 be received.

Mr Hodson, Independent Person, advised that he had been in attendance at this meeting, but this was not recorded. The Chairman advised that this would be amended.

RESOLVED

- (ii) that subject to the above amendment the Minutes of the meeting of the Joint Standards Committee held on 30 January 2020 be confirmed.

1177. DISCLOSURE OF INTEREST

There were none.

1178. STANDARDS COMPLAINT - COUNCILLOR ADRIAN FLUKER

The Committee considered the report of the Monitoring Officer advising of an independent investigation (attached at Appendix 1 to the report) that had been undertaken following receipt of a Code of Conduct complaint against Councillor A S Fluker.

The report set out the three decisions for consideration by the Committee based on the evidence before them and sanctions it could apply if it was determined that a breach of the Code of Conduct had occurred.

The Chairman referred the Committee to the procedure for complaints determination, contained within the agenda pack which it would be following for this meeting.

The Lead Legal Specialist and Monitoring Officer presented the report and introduced Mr Oram, Independent Investigator who had carried out the investigation.

In response to a question regarding the sanctions detailed on pages 11 and 12 of the report and which of these the Committee could impose, and which required recommendation and subsequent approval by the Council the Lead Legal Specialist and Monitoring Officer clarified:

- Sanction 1. This was automatic as Minutes go to the Council;
- Sanction 2. Although the Committee could issue a censure, a recommendation to the Council to issue a full censure would be of a higher level and require a vote of all Members of the Council.
- Sanction 3. This is a power invested in the Joint Standards Committee;
- Sanction 4. This would be a recommendation to the Council;
- Sanction 5. Removal from any official position would need to be a Council decision and therefore would be a recommendation to the Council.

The Chairman then invited the Investigating Officer, Mr Oram, to summarise the conclusion of his report and make any clarifying remarks.

Mr Oram provided some background information regarding the complaint received and his investigation. It was noted that Councillor Fluker had not engaged with the investigation. Members were advised that in his consideration of whether the Code of Conduct (the Code) had been breached Mr Oram had to determine whether the alleged conduct came within the jurisdiction of the Code which could only be applied when a Member was conducting Council business. For this reason he had decided that conduct when attending Conservative and selection meetings fell outside of the jurisdiction, although Mr Oram noted that the Committee could take their own view. Mr Oram drew Members' attention to section 5 of his report which set out his reasoning as to whether he felt there had been failures to comply with the Code of Conduct.

In accordance with the Procedure, the Chairman invited Members of the Committee and the Independent Person to ask the Investigator / Monitoring Officer any questions.

Officers responded to several questions raised, drawing Members' attention to specific points within the report, providing clarification and further information including:

- The Investigator had decided not to use evidence from the witness who wished to remain anonymous.
- In respect of the comment ‘hello sailor’ the Investigator advised that he had concluded in his report that Councillor Fluker had failed to treat Councillor Siddall with respect and bullied him.
- The Investigator provided further information and clarified that in his opinion the Equality Act 2020 was not applicable in this case and was happy to provide Members with further information regarding this outside of the meeting.
- The Lead Legal Specialist and Monitoring Officer provided some guidance in respect of the Localism Act and there being no requirement for a person to cooperate with investigations.
- There was legislation in relation to discrimination and harassment and when a person became a Councillor they were required to sign up to the Code of Conduct which impacts on their freedom of speech rights.

At this point Councillor C Morris wanted to raise a point of order but the Chairman would not allow this as he was not a member of the Committee. Councillor Morris continued trying to raise his point of order. In response to a request from the Chairman, the Lead Legal Specialist and Monitoring Officer advised the Committee that Councillor Morris was not a member of the Committee and only Members of the Committee could raise points of order. Any other Member wishing to speak could do so with prior agreement of the Chairman or at the Chairman’s discretion. Following further disruption the Chairman proposed that Councillor Morris be removed from the meeting. This was duly seconded and upon a vote being taken duly agreed. Councillor Morris removed from the meeting at this point.

The debate continued with further information being provided by the Officers present. In response to questions regarding the steps taken by the Investigator to contact Councillor Fluker, Members were advised that the Officer had sent a number of emails and left messages on Councillor Fluker’s telephone requesting that he contact the Officer. It was clarified that a direct instruction was not issued by the Monitoring Officer, but every opportunity had been given. Mr Oram advised that Members may consider that non-cooperation resulted in a breach of the Code of Conduct but under the Localism Act neither him or the Monitoring Officers had the powers to order any party to engage with the process. Members were reminded at this point to largely focus on the content of the Investigator’s report.

A Member sought to ask a question of Councillor R H Siddall, the complainant, as he was in attendance. Councillor C Mayes raised a point of order regarding this. Councillor Siddall indicated he was happy to answer questions and the Chairman sought confirmation from other Members that they were happy for a question to be raised. This was agreed and Councillor Siddall responded to the question.

Returning to the procedure for complaints determination the Chairman invited the Independent Person to make any representations or give advice. Mr Hodson, the Independent Person referred to the investigator’s report and the questions raised by Members during the meeting. He advised that overall, he believed that Councillor Fluker had breached the Code of Conduct and this breach was in line with the conclusions drawn by the Investigator.

Councillor S P Nunn agreed with the comments of the Independent Person and Investigator. He proposed that having considered the evidence before them, Councillor A S Fluker had failed to comply with the Member Code of Conduct. Councillor C Mayes seconded this proposal and requested a recorded vote.

Councillor J Stilts raised a point of order that the proposal be debated.

Members debated the proposal and reference was made at this time to potential breach of the Public Order Act and Equality Act. The Lead Legal Specialist and Monitoring Officer advised that in response to other parts of the Code of Conduct being mentioned Councillor Nunn needed to be clear as to which part of the Code he was proposing had been breached. The Officer advised Members that they needed to bear in mind the nature of the complaint and investigation made. The Lead Legal Specialist and Monitoring Officer then referred Members to section 6.1 of the Investigator's report which in which the Investigator had concluded that Councillor Fluker had failed to comply with sections 3.2, 3.5b and 3.5e of the Code of Conduct. If Members wished to include other sections of the Code they must ensure they had evidence for this.

Councillor Nunn clarified his proposal that Councillor Fluker had failed to comply with Section 3.2 of the Code of Conduct in respect of bullying and not showing respect and sections 3.5b and e in respect of bullying. He added that Councillor Siddall had not been shown respect and had been bullied. The Lead Legal Specialist and Monitoring Officer clarified that the proposition from Councillor Nunn was clear that the breach related to three sections of the Code of Conduct which was in line with the Investigator's conclusion. The amended proposal was duly seconded.

The Chairman then moved to a vote.

Following the earlier request for a recorded vote by Councillor Mayes in accordance with Procedure Rule No. 13 (3) the voting was as follows:

For the recommendation:

Councillors M G Bassenger, C Mayes, S P Nunn and C Swain.

Against the recommendation:

Councillors A L Hull and C P Morley.

Abstention:

Councillor M W Helm.

The Chairman declared that this was duly agreed and sought whether Members wished to impose any sanctions. A debate ensued.

There was some discussion regarding removing the Member from any position, Committees or Working Groups and issuing a formal censure. Councillor Nunn proposed that a formal censure be issued, that the matter be referred to the Council for a written censure and that the Council should be recommended to remove the Member from any Committee or Working Group.

At this point the Lead Legal Specialist and Monitoring Officer provided the Committee with clarification that it could either issue an informal censure or recommend to the Council that it issue a formal censure. It was not possible to do both. He pointed out

that Councillor Fluker was currently a Member of the District Planning and South Eastern Area Planning Committees and the Committee could recommend to the Council that he be removed from these; however they could not remove him from the Council as he was elected to this by the public. Members were advised that Councillor Fluker had resigned from all other Committees and Working Groups and any recommendation could not refer to potential future appointments.

Following further discussion, Councillor Nunn further revised his proposition proposing that the Joint Standards Committee issue a letter to Councillor Fluker in association with the Monitoring Officer and Independent Person advising him of the outcome of the hearing today. The letter should refer to Councillor Fluker not being present and not cooperating with the investigation, that by majority the Committee had found against him and would be recommending to the Council that it issued a full censure. In addition the Committee would also be recommending that Councillor Fluker was not permitted to serve on any Committees or Working Groups for the next 12 months. Following clarification by the Chairman, Councillor Nunn confirmed that his reference to Committees included the District Planning and South Eastern Area Planning Committees.

The Chairman put the proposition of Councillor Nunn to the vote and in accordance with the request for a recorded vote (in accordance with Procedure Rule No. 13 (3)) the voting was as follows:

For the recommendation:

Councillors M G Bassenger, C Mayes, C P Morley, S P Nunn and C Swain.

Against the recommendation:

None.

Abstention:

Councillor M W Helm.

It was noted that Councillor Hull had lost her connection during the debate and therefore in accordance with the Council's Procedure Rules did not vote.

The Chairman declared that this was therefore agreed.

RESOLVED

- (i) that Councillor A S Fluker had failed to comply with the following sections of the Council's Code of Conduct:
- 3.2 You must treat others with respect.
 - 3.5 You must not:
 - b) bully any person;
 - e) conduct yourself in a manner which could reasonably be regarded as bringing your office or the Authority into disrepute

- (ii) that a letter be issued to Councillor Fluker from the Joint Standards Committee, in association with the Monitoring Officer and Independent person to include the following:
- reference to how Councillor Fluker had not been present at the hearing nor cooperated with the investigation.
 - advising of the outcome of this hearing; that the majority of the Committee had found against him and would be recommending to the Council that a formal censure be issued and he not be permitted to serve on any Committees or Working Groups for the next 12 months.

RECOMMENDED

- (iii) that as Councillor A S Fluker had failed to comply with the Council's Code of Conduct the Council should issue a formal letter of censure signed by the Chairman of the Council;
- (iv) that Councillor A S Fluker not be permitted to serve on any Committees (including the District Planning and South Eastern Area Planning Committees) or Working Groups for the next 12 months.

There being no further items of business the Chairman closed the meeting at 11.24 am.

M W HELM
CHAIRMAN