



**MINUTES of
JOINT STANDARDS COMMITTEE
17 AUGUST 2021**

PRESENT

Chairman	Councillor M G Bassenger
Vice-Chairman	Councillor Mrs J L Fleming, CC
Councillors	Miss A M Beale, C Mayes, S P Nunn, R H Siddall and Stilts
Town Councillor	Councillor P Stilts
In attendance	Mr John Mitchell, the Independent Person

210. CHAIRMAN'S NOTICES

The Chairman opened the meeting, welcomed Mr John Mitchell the new Independent Person to his first Joint Standards Committee and invited all present to introduce themselves for his benefit. He then took the Committee through some housekeeping arrangements for the meeting.

211. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor R P F Dewick and K W Jarvis.

212. MINUTES OF THE LAST MEETING

RESOLVED

- (i) that the Minutes of the Joint Standards Committee held on 22 February be received.

Minute 274- Complaint Against Councillor – Next Step

It was noted that the typographical error in paragraph 5, second sentence 'thiw as', should read as 'this was'.

RESOLVED

- (ii) that subject to the above amendment, the Minutes of the Joint Standards Committee held on 22 February 2021 be agreed.

213. DISCLOSURE OF INTEREST

There were no disclosures.

214. CONSULTATION ON COMPLAINTS PROCESS AND AMENDMENTS TO THE ARTICLES FOR STANDARDS ARRANGEMENTS

The Committee considered the report of the Monitoring Officer together with Appendix 1 that detailed the response to the consultation on the complaints process resulting in amendment to Article 7 of the Constitution. The Committee were asked to agree Recommendation to Council to approve the amendments to Appendix 1.

The Chairman introduced the report and deferred to the Lead Legal Specialist and Monitoring Officer to present the detail. He provided background to the report in that some Members had raised concerns regarding the Member complaints process and it was suggested by the Leader of the Council that an email consultation to canvass all Members' views be undertaken. It was noted that the response from Members was set out at paragraph 3.1 of the report and the Monitoring Officer's response to each of those was set out at a) to j) in paragraph 3.2 of the report. Those responses had resulted in a change to the Article 7 Complaints Process, which forms a part of the Constitution. Appendix 1 to the report outlined those tracked changes that the Committee were being asked to consider for recommendation to Council based on responses received.

There were a few other matters not included in the report that weren't the subject of member comment during the consultation, firstly as shown at Appendix 1, Stage 1 paragraph 5 this had been changed to 'Formal Investigation' to remove the process of the Monitoring Officer (MO) referring an item to the Joint Standards Committee (JSC) to determine if it should be investigated and whether it should be external, as this was a matter for the MO to decide and not JSC. The other matter related to the inclusion of the 'Public Interest Test' as a footnote at the end of Appendix 1. This addition had been agreed by JSC in January 2021 and provided the criteria that informed whether an investigation take place or not. For transparency this was also available to the public.

The Chairman then opened the debate and a lengthy discussion took place.

An issue was raised regarding the application of political balance rules in respect of the JSC and the Monitoring Officer provided legal advice. Members then went on to discuss in detail the amendments as a result of the consultation together with further amendments as follows:-

- That in respect of changes in Section 1 'Composition', paragraph c) relating to seeking nominations from parishes/town councils Councillor Nunn proposed *that an email be sent from Maldon District Council to all Parish Clerks asking for nominations by an agreed deadline, this to include the Terms of Reference for the Joint Standards Committee (JSC). Should nominations for representatives and substitutes not be forthcoming the fall-back position was to engage with the two respective Town Councils, Maldon Town Council and Burnham-on-Crouch Town Council.* This was seconded by Councillor Siddall. The Chairman put the proposal to the Committee and it was agreed by assent.

In respect of the above agreed change it was noted that the Essex Association of Local Councils (EALC) was content not to have nomination powers.

- That in respect of changes at **Stage II**, under 'BREACH', the existing first bullet point be amended to read *'Following investigation the MO/IP consider and pursue informal resolution with a subsequent report to the Joint Standards Committee for information'*. This was a joint proposal by Councillors Nunn and Siddall, duly seconded by Councillor Mayes. The Chairman put this proposal to the Committee and it was agreed by assent.

- That with reference to Section 1'Composition', paragraph d) Councillor Siddall proposed *the Independent Person be appointed for a term of four years only*. This was seconded by Councillor Mayes. The Chairman put the proposal to the Committee and it was lost.
- That in respect of changes at **Stage I**, paragraph 4, Councillor Mayes proposed that the following be added to the second sentence '*within 15 working days of receipt of the complaint...*'. This was seconded by Councillor Siddall. The Chairman put the proposal to the Committee and it was agreed by assent.
- That in respect of changes at **Stage I**, paragraph 5, Councillor Mayes proposed that the second bullet point be merged with the third to read '*Informal Resolution which may include reference to Political Group Leader...*'. This was seconded by Councillor Siddall. The Chairman put the proposal to the Committee and it was agreed by assent.
- That in respect of changes at **Stage I**, paragraph 5, bullet point 5 'Formal Investigation' Councillor Nunn proposed that this be amended to read '*Formal Investigation to be commenced within 5 working days of the receipt of the request and concluded in a timely manner*'. This was seconded by Councillor Siddall. The Chairman put the proposal to the Committee and it was agreed by assent.

There being no further amendments or discussion the Chairman moved the recommendation which was duly agreed by assent.

RECOMMENDED that the Council approve the changes to the Articles of the Constitution, Article 7- Standards Arrangements and especially to the complaints process (as set out in **Appendix 1** to these Minutes).

215. ANY OTHER ITEMS OF BUSINESS THAT THE CHAIRMAN OF THE COMMITTEE DECIDES ARE URGENT

There were none and the Chairman thanked all in attendance for their contributions.

The meeting closed at 2.11 pm.

M G BASSENGER
CHAIRMAN

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PART 2 – ARTICLES OF THE CONSTITUTION**ARTICLE 7 – STANDARDS ARRANGEMENTS****CONTENTS**

- 1. Composition**
- 2. Roles and Functions of the Joint Standards Committee:**
- 3. Procedural Arrangements:**
- 4. Code of Conduct Complaints Process – Written Summary**

The Council has established a Joint Standards Committee with all Parish and Town Councils in the Maldon District.

1. COMPOSITION

- a. The Joint Standards Committee consists of eight elected Members of Maldon District Council and two Local Council representatives and one Independent Person. The Independent Person (or Reserve) - shall be notified of and invited to attend meetings and may participate in the discussion. The Independent Person has no voting rights.
- b. Maldon District Council Members will be appointed at the Annual Meeting of the Council in line with the rules on political proportionality.
- c. Local Council Member representatives will be nominated (including substitutes) through the process of contacting all Parish Clerks asking for nominations by an agreed deadline, with the invitation attaching the Terms of Reference for the Joint Standards Committee (JSC). Should nominations not be forthcoming the fall-back position is to invite the , Maldon Town Council and Burnham-on-Crouch Town Council to nominate. The representatives will act as co-opted members (without voting rights) and serve for a period of no more than two years subject to remaining elected and pending further nomination.
- d. Independent Persons will be appointed by Council. Independent Persons shall be appointed for a period of four years, with the option of re-appointment for a further four years; no Independent Person may serve more than two terms of office.

The current Independent Person is ~~Mr N Hodson~~John Mitchell and the reserve Independent Person is ~~Mr S Anthony~~Kathy Payne.

- e. Group Leaders may not be members of the Committee.
- f. The Chairman and Vice-Chairman of the Committee shall be elected at the first and special meeting of the Committee held on the day of the Annual Meeting of the Council. The Chairman and Vice-Chairman shall not be appointed from the same political group.
- g. The Vice-Chairman shall deputise for the Chairman in his or her absence.
- h. The quorum for meetings of the Committee shall be three voting Members.

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- i. Substitutes shall be permitted for District Council Members to maintain political balance, and named substitutes as nominated by the ~~EALC~~ the Parish Councils shall be permitted for Local Council Members.

2. ROLES AND FUNCTIONS OF THE JOINT STANDARDS COMMITTEE:

- 2.1 The Joint Standards Committee will promote and maintain high ethical standards of conduct by Councillors in the District of Maldon. It will hold Councillors to account where it determines that Councillors' conduct has fallen short of what is to be expected or otherwise required of them pursuant to the applicable Council's adopted Code of Conduct. Further details on the role and functions of the Joint Standards Committee are set out elsewhere in this part of the Council's Constitution.

3. PROCEDURAL ARRANGEMENTS:

- 3.1 The Joint Standards Committee will conduct its proceedings in accordance with the relevant Procedure Rules set out in Part 4 of this Constitution and the adopted Conduct Complaint Process set out below. The Committee will meet as and when required.
- 3.2 When dealing with matters deemed to be private / confidential where the public is to be excluded from the meeting, it is essential that the Committee's work is confined to the Members of the Committee only at the time, and circulation of papers will be restricted accordingly. Notwithstanding Procedure Rule 19 and the general acceptance of the practice which enables Members to attend meetings of other Committees, private sessions of meetings of this Committee should proceed only with the appointed Members, the Independent Person and required support of Officers present.

4. CODE OF CONDUCT COMPLAINTS PROCESS – WRITTEN SUMMARY

Stage I

1. If a complaint has been made by an Officer of the District Council against a District Councillor, it shall not normally be referred to the Monitoring Officer (MO) unless it has first been dealt with under the Member / Officer Relations Protocol.
2. Upon receipt of complaint, an initial assessment within 5 working days will be undertaken by the MO to establish the exact nature of the complaint and whether there is a potential breach of the Code of Conduct.

Informative: It is the normal practice of this Council to disclose the identity of the complainant to the councillor who is the subject of the complaint unless there are good reasons for the identity of the complainant to remain confidential.

3. All complaints will be acknowledged and the Councillor complained of notified within five working days of receipt. The MO shall send a copy of this complaints process to the Councillor. The Leader of the Council will be notified of all complaints against District Councillors and generally kept advised.

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4. The MO will seek further information as required from either the Councillor complained of or the complainant within 15-10 working days of receipt of the complaint. If the subject Councillor declines to co-operate with the MO within 15 working days of receipt of the complaint-without good reason, then the MO may move directly to consult with the Independent Person (IP) – this in itself could constitute a separate breach of the Code of Conduct.
5. The MO will then consider the complaint in discussion with the IP and reach a conclusion as to the likelihood of a breach of the Code and a way forward taking into account the public interest test (see below as a footnote). A conclusion will normally be reached within 25-15 working days of receipt of the complaint, and the respective parties notified. Options for conclusion at this stage are:
- No further action.
 - ~~Refer to Political Group Leader for action (MO / IP to reconsider if no action taken).~~
 - ~~Informal resolution- which may include reference to Political Group Leader for action (MO / IP to reconsider if no action taken).~~
 - ~~_____~~
 - Refer to Police (if potential criminal issues involved).
 - ~~MO / IP decide to put straight to **investigation** (internal) and then Stage II **Hearing**. Formal investigation to be commenced within 5 working days of the receipt of the request and completed in a timely manner~~
 - ~~Move to Stage II (with or without further discussion with parties to complaint).~~

Stage II

- ~~Refer to Joint Standards Committee (JSC) – two possible decisions / outcomes:~~
 - ~~**Investigation** (and Group Leader informed).~~
 - ~~No further action (all parties including IP to be notified immediately and rationale / detailed reasoning to be provided within 10 working days of the decision).~~
- Formal **Investigation** investigation outcomes:
 - NO BREACH
 - No further action.
 - Copy of report and findings to all parties including IP.
 - Report to JSC members for information.
 - BREACH

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- Following investigation the MO / IP consider and pursue possible informal resolution with a report afterwards to JSC for information
 - **JSC Hearing to determine if there is a breach of the Code of Conduct and to impose any sanctions** (which may also be convened ~~to hear~~ ~~outcome of Stage I investigation by MO or if there is~~ a failure to achieve informal resolution under Stage II)
- Hearing findings to be notified to all parties immediately and any rationale/detailed reasoning for decision to be provided within ~~10~~7 working days of the hearing. Decision notice to be published on Council’s website as soon as is practicable after notification **if there is a breach of the Code of Conduct. In the case of a finding of no breach the decision notice shall only be published at the request of the Councillor the subject of the complaint.**
- Public Interest Test (footnote)
- The seriousness of the alleged breach taking into consideration that minor breaches do not always require that action should be taken and if an individual incident is deemed minor whether it forms part of a pattern of behaviour;
 - Whether the complaint is politically motivated or is “tit for tat”;
 - When the alleged conduct took place and whether it could be fairly investigated;
 - Whether the Councillor is still in office;
 - whether the member deliberately sought personal gain for themselves or another person at the public expense
 - whether the circumstances of the breach are such that a member has misused a position of trust or authority and caused harm to another
 - whether the breach was motivated by any form of discrimination against the victim’s ethnic or national origin, gender, disability, age, religion or belief, sexual orientation or gender identity