

APOLOGIES Committee Services
Email: Committee.clerk@maldon.gov.uk

DIRECTOR OF STRATEGY,
PERFORMANCE AND
GOVERNANCE
Paul Dodson

09 August 2021

Dear Councillor

You are summoned to attend the meeting of the;

JOINT STANDARDS COMMITTEE

on **TUESDAY 17 AUGUST 2021** at **12.30 pm**

in the **Council Chamber. Maldon District Council Offices, Princes Road, Maldon.**

Please Note that due to social distancing and space limitations, we require any members of the public or press who wish to attend physically and observe at this meeting to complete [a request form](#) (to be submitted by 12noon on the working day before the Committee meeting). This will be reviewed and managed according to capacity of the meeting and whether any other persons have already registered.

The Committee meeting will still be live streamed via the [Council's YouTube channel](#) for ease of viewing.

A copy of the agenda is attached.

Yours faithfully



Director of Strategy, Performance and Governance

COMMITTEE MEMBERSHIP:

CHAIRMAN	Councillor M G Bassenger
VICE-CHAIRMAN	Councillor Mrs J L Fleming, CC
COUNCILLORS	Miss A M Beale R P F Dewick K W Jarvis C Mayes S P Nunn R H Siddall
PARISH / TOWN COUNCILLOR (non-voting)	Councillor P Stilts <i>One vacancy</i>
INDEPENDENT PERSON (non-voting)	Mr J Mitchell





**AGENDA
JOINT STANDARDS COMMITTEE**

TUESDAY 17 AUGUST 2021

1. **Chairman's Notices**
2. **Apologies for Absence**
3. **Minutes of the last meeting** (Pages 3 - 8)

To confirm the Minutes of the meeting of the Joint Standards Committee held on 22 February 2021 (copy enclosed).

4. **Disclosure of Interest**

To disclose the existence and nature of any Disclosable Pecuniary Interests, other Pecuniary Interests or Non-Pecuniary Interests relating to items of business on the agenda having regard to paragraphs 6-8 inclusive of the Code of Conduct for Members.

(Members are reminded that they are also required to disclose any such interests as soon as they become aware should the need arise throughout the meeting).

5. **Consultation on Complaints Process and Amendments to the Articles for Standards Arrangements** (Pages 9 - 16)

To consider the report of the Monitoring Officer, (copy enclosed).

6. **Any other items of business that the Chairman of the Committee decides are urgent**

NOTICES

Recording of Meeting

Please note that the Council will be recording and publishing on the Council's website any part of this meeting held in open session.

Fire

In the event of a fire, a siren will sound. Please use the fire exits marked with the green running man. The fire assembly point is outside the main entrance to the Council Offices. Please gather there and await further instruction.

Health and Safety

Please be advised of the different levels of flooring within the Council Chamber. There are steps behind the main horseshoe as well as to the side of the room.

Closed-Circuit Televisions (CCTV)

Meetings held in the Council Chamber are being monitored and recorded by CCTV.



**MINUTES of
JOINT STANDARDS COMMITTEE
22 FEBRUARY 2021**

PRESENT

Chairman	Councillor M G Bassenger
Vice-Chairman	Councillor Mrs J L Fleming
Councillors	R G Boyce MBE, A L Hull and C Mayes
Parish Councillors	Councillor P Stilts
Substitute Councillor(s)	Councillors Miss A M Beale, M S Heard and N G F Shaughnessy

267. 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 pandemic. He took Members through some general housekeeping issues, together with the etiquette for the meeting. Finally, he asked Officers and Councillors in attendance to introduce themselves.

This was followed by a roll call of Committee Members present.

268. APOLOGIES FOR ABSENCE AND SUBSTITUTION NOTICE

Apologies for absence were received from Councillors S P Nunn, R H Siddall and Mrs M E Thompson.

In accordance with notice duly given it was noted that Councillor M S Heard was attending as a substitute for Councillor Nunn, Councillor N G F Shaughnessy as a substitute for Councillor Siddall and Councillor Miss A M Beale as a substitute for Councillor Mrs Thompson.

269. MINUTES OF THE LAST MEETING

RESOLVED (by assent) that the Minutes of the meeting of the Committee held on 26 January 2021 be approved and confirmed.

270. DISCLOSURE OF INTEREST

Councillor C Mayes declared a non-pecuniary interest in Agenda Item 7 - Complaint Against Councillor - Next Step (1) advising she had, as an observer, attended the North Western Area Planning Committee as she did for many other meetings.

Councillor Mrs J Stilts declared a non-pecuniary interest in Agenda Item 7 - Complaint Against Councillor - Next Step (1) as she knew the Member involved. The Chairman commented that all knew both Members in question.

Councillor R G Boyce advised that on the advice of the Monitoring Officer he would declare a personal interest in Agenda Item 8 – Complaint Against Councillor – Next Step (2) as he had a complaint against that Councillor so would not speak or vote on this item of business. In respect of Agenda Item 7 – Complaint Against Councillor – Next Step (1) Councillor Boyce advised that he had given evidence against that Councillor; however thought he was able to speak although would not vote on this item of business.

Councillor N G F Shaughnessy declared a non-pecuniary interest in Agenda Item 7 – Complaint Against Councillor – Next Step (1) as she had viewed a video of the related Area Planning Committee meeting.

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

The Chairman reported that in accordance with Section 100B(4) of the Local Government Act 1972 he had agreed to allow the Lead Legal Specialist and Monitoring Officer to raise an urgent item of business seeking a dispensation for Councillor S P Nunn at the forthcoming extraordinary meeting of the Council. This matter was brought forward for urgent consideration as a decision was required before the extraordinary Council meeting on 23 February 2021. This was duly noted.

272. URGENT BUSINESS - DISPENSATION

The Lead Legal Specialist and Monitoring Officer gave a verbal report, advising that he had received a request from Councillor S P Nunn asking that consideration be given to granting him a dispensation. Members were informed that Section 33 of the Localism Act 2011 gave powers to Local Authorities to grant a dispensation to a Member or Members where there might be a disclosable pecuniary interest, other pecuniary interest or non-pecuniary interest to debate or vote on a matter despite their particular interest.

The Council's budget meeting was due to take place the following day (23 February 2021) and the Lead Legal Specialist and Monitoring Officer advised that Councillor Nunn had a specific interest in one small aspect of one of the reports due for consideration. Due to the way that it was expected the reports would be voted on at the Council's budget meeting the Officer explained that it would be more expeditious if Councillor Nunn and any other Member that had such an interest could participate in the budget by declaring a particular pecuniary interest but not stopped from debating or voting. The Lead Legal Specialist and Monitoring Officer provided some suggested wording for Members to consider if they were mindful to agree the dispensation.

In response to a Point of Order raised by Councillor R G Boyce, the Lead Legal Specialist and Monitoring Officer advised that this matter was an urgent item of business as it had only been identified two days ago and having spoken with the S151 Officer it was felt expeditious and easier for Members if the dispensation was granted. He further explained that the nature of this dispensation under Section 33 often came up at short notice and if Members were in agreement with Councillor Boyce dispensation could be granted for only one year or just for one meeting.

A debate ensued. In response to a question regarding the urgency of the item, the Lead Legal Specialist and Monitoring Officer provided Members with further information regarding this. The Officer further reported that information had been brought to him, not from the administration, and in his professional opinion following discussion with the Section 151 Officer they both agreed that use of Section 33 was entirely appropriate in these circumstances.

Councillor C Mayes proposed that in light of the Monitoring Officer's advice the Committee grant a dispensation for all Members, for the period of the budget meeting on 22 February 2021 and then the matter be brought back to the Committee at the earliest opportunity for further discussion. This was duly seconded.

In response to a query the Lead Legal Specialist and Monitoring Officer clarified that this dispensation would relate to all Members as there could be others in a similar situation to Councillor Nunn that he was not aware of. Following this clarification, Councillor Mayes amended her proposal, that the dispensation should cover all Members for the purposes of the forthcoming Council meeting on 22 February 2021. This amendment was duly seconded.

In accordance with Procedure Rule No. 13 (3) Councillor C Mayes requested a recorded vote. This was duly seconded.

For the recommendation:

Councillors M G Bassenger, Miss A M Beale, Mrs J L Fleming, MS Heard, A L Hull, C Mayes and N G F Shaughnessy.

Against the recommendation:

Councillor R G Boyce.

Abstention:

None.

RESOLVED that under Section 33 of the Localism Act 2011 a dispensation be granted to all Members for the purpose of the budget meeting of the Council on 22 February 2021 and a further report on this dispensation be brought back for consideration at its earliest opportunity to a future meeting of the Joint Standards Committee.

273. EXCLUSION OF THE PUBLIC AND PRESS

RESOLVED (by assent) that under Section 100A (4) of the Local Government Act 1972 the public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in

Paragraph 1 of Part 1 of Schedule 12A to the Act, and that this satisfies the public interest test.

274. COMPLAINT AGAINST COUNCILLOR - NEXT STEP (1)

The Committee considered the report of the Monitoring Officer presenting a Code of Conduct complaint against a Councillor and seeking Members' consideration of the next step.

The report set out details of the complaint received, a copy which was attached as Appendix 1 to the report along with a response from the respective Councillor (attached at Appendix 2).

In response to a Point of Order raised by Councillor M S Heard, the Senior Specialist: Legal provided the Committee with details regarding the complaint and outlined the three staged decision process.

The Independent Person addressed the Committee outlining the reasoning for investigation, he also provided further details regarding the complaint and his view that there should be an investigation.

A debate ensued. Councillors stated that predetermination was a high threshold and that Councillors could have a view prior to a hearing, this was very different to predetermination. Councillors stated that how a Councillor votes should not be a matter for the Committee to consider.

Councillor M S Heard disagreed with the Independent Person and provided detail regarding this view. He then proposed that there be no further action taken in respect of this complaint. This proposal was duly seconded.

Further debate ensued. In accordance with Procedure Rule No. 13 (3) Councillor A L Hull requested a recorded vote. This was duly seconded.

For the recommendation:

Councillors M G Bassenger, Mrs J L Fleming, M S Heard, A L Hull, C Mayes and N G F Shaughnessy.

Against the recommendation:

Councillor Miss A M Beale.

Abstention:

None.

In accordance with his earlier declaration, it was noted that Councillor R G Boyce was not voting on this item of business.

Councillor M G Bassenger proposed that recommendation (ii) as set out in the report be agreed. There was some discussion as to whether this should be a decision of the Council rather than the Committee. A number of Members were not supportive of this change. Councillor Bassenger amended his proposal that the report be presented to the Council for decision. This amendment was duly seconded and agreed by assent.

RESOLVED

- (i) That no further action be taken in respect of the complaint referred to in the report;
- (ii) That a report be presented to the Council to consider amending the complaints procedure in Article 7 of the Constitution to remove the word “internal” (as detailed below):

MO / IP decide to put straight to **investigation** (~~internal~~) and then Stage II **Hearing**.

275. COMPLAINT AGAINST COUNCILLOR - NEXT STEP (2)

The Committee considered the report of the Monitoring Officer presenting a Code of Conduct complaint against a Councillor and seeking Members’ consideration of the next step.

The report set out details of the complaint received, a copy which was attached as Appendix 1 to the report.

The Senior Specialist: Legal presented the report and the matter for consideration. Following this the Independent Person addressed the Committee outlining his view in relation to this complaint.

In response to a question, the Senior Specialist: Legal explained that the Code of Conduct applied to a person when acting in their role as a Councillor. She provided some further guidance in relation to social media and explained the process that an investigator would go through when investigating a complaint. In respect of the complaint the Senior Specialist: Legal advised that it was her view that the Councillor in question was acting as a Councillor at the time of the incident.

Councillor M S Heard proposed that this matter be referred to an external agency for investigation. This was duly seconded.

In accordance with Procedure Rule No. 13 (3) Councillor Mrs J L Fleming requested a recorded vote. This was duly seconded.

Councillor C Mayes sought an amendment to the proposal that this complaint be consolidated with other complaints relating to the Councillor. Councillor Heard amended his proposal accordingly. The Chairman then put the proposal to the Committee and the voting was as follows:

For the recommendation:

Councillors Miss A M Beale, Mrs J L Fleming, M S Heard, A L Hull and N G F Shaughnessy.

Against the recommendation:

None

Abstention:

Councillors M G Bassenger, R G Boyce and C Mayes.

RESOLVED that the complaint regarding the Councillor identified in the related report be investigated externally and consolidated with other complaints relating to this Councillor.

There being no further items of business the Chairman closed the meeting at 3.36 pm.

M G BASSENGER
CHAIRMAN



**REPORT of
MONITORING OFFICER**

to
**JOINT STANDARDS COMMITTEE
17 AUGUST 2021**

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

1. PURPOSE OF THE REPORT

- 1.1 To consider the response to the consultation on the complaints process and recommend to Council amendment of the Articles of the Constitution.

2. RECOMMENDATION

To the Council:

That the changes shown in **APPENDIX 1** to the Articles for Standards Arrangements and especially to the complaints process be approved.

3. SUMMARY OF KEY ISSUES

- 3.1 On 24 May 2021 the Monitoring Officer sent out an all member email requesting Members' views on the working of the complaints process. Below are set out those responses in the order they were received which extend beyond the complaints process itself:
- a) Filtering of complaints are essential. There should be a review as to who should be involved. Referrals up and down the procedure should be avoided such as referring a matter to Joint Standards Committee for a decision on whether a complaint should be investigated;
 - b) Properly trained members of Joint Standards Committee and decision-making templates could aid objective decision making by members;
 - c) The names of the Independent Persons should be updated;
 - d) A lack of confidence about the nomination of Parish Council representatives and an alternative route from the Essex Association for Local Councils (EALC) for nomination should be employed;
 - e) The period of 25 days for discussion with the Independent Person is too long;
 - f) Group Leaders should not be involved in the process at all because it leaves too much scope for matters to be "swept under the carpet";

- g) The 5-day rule about informing a councillor that s/he is the subject of the complaint should begin when the communication arrives at the Council and not when passed to the Monitoring Officer;
- h) Gathering all information, including the councillor response, is important prior to consulting with the Independent Person;
- i) When notified the councillor should be sent a copy of the complaints process;
- j) The Leader of the relevant political group and the Leader of the Council should be informed of the decision made by the Monitoring Officer and Independent Person about the next step in the process.

3.2 The officer response to these suggestions is as follows:

- a) It is agreed that the filtering process is important. Presently the Monitoring Officer has a meeting on Microsoft Teams with the Independent Person and they agree the next step in the process. The Independent Person provides his written advice following the meeting. Of the 11 complaints made since January 2021 only 2 have been referred for formal investigation. This shows that the filtering process is rigorous and only the serious cases are referred for investigation;
- b) Training is important, and training was given last year by the Independent Person. I do not know how decision-making templates can help. At each hearing there is a procedure note setting out the stages that need to be followed along with a procedures report;
- c) Agreed and this has been done in the changes shown in the **APPENDIX 1**;
- d) Agreed and a change is suggested in the **APPENDIX 1**;
- e) A change is shown in the **APPENDIX 1**;
- f) Agreed but Group Leaders could be informed of decisions in relation to their members on a confidential basis;
- g) Agreed and this is the present position. If a complaint is received by another officer who does not recognise that it is a code of conduct complaint there may be a delay outside the control of the Monitoring Officer. The present Monitoring Officer only knows of 1 case where this happened in the last 4 years with an estimate of over 50 complaints. In all other complaints the 5-day rule has been complied with (a 98% compliance rate);
- h) The present practice is that the Monitoring Officer only consults the Independent Person once satisfied he has the information necessary to decide what should be the next step. It is important that the Monitoring Officer does not turn the initial assessment into a formal investigation itself;
- i) This is on the website and so is a duplication, but it can be done. A change has been proposed in the **APPENDIX1**;
- j) (See response to f).

4. CONCLUSION

4.1 Please see changes proposed to the Articles in **APPENDIX 1**.

5. IMPACT ON STRATEGIC THEMES

5.1 None

6. IMPLICATIONS

- (i) **Impact on Customers** – None
- (ii) **Impact on Equalities** – None
- (iii) **Impact on Risk** – None
- (iv) **Impact on Resources (financial)** – None
- (v) **Impact on Resources (human)** – None
- (vi) **Impact on the Environment** – None
- (vii) **Impact on Strengthening Communities** - None

Background Papers: Consultation responses from members

Enquiries to: Simon Quelch, Lead Legal Specialist and Monitoring Officer,
on 01621 732731

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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 by Maldon Town Council for one and by Burnham Town Council for the second 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.

APPENDIX 1

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

(Updated – June 2021)

Article 7 – Standards Arrangements

APPENDIX 1

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 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:

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- No further action.
- Refer to Political Group Leader for action (MO / IP to reconsider if no action taken).
- Informal resolution.
- Refer to Police (if potential criminal issues involved).
- ~~MO / IP decide to put straight to investigation (internal) and then Stage II Hearing-Formal investigation~~
- ~~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:

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- NO BREACH
 - No further action.
 - Copy of report and findings to all parties including IP.
 - Report to JSC members for information.

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- BREACH
 - MO / IP consider and pursue possible informal resolution
 - **JSC Hearing to determine if there is a breach of the Code of Conduct and to impose any sanctions** (which may also be convened

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APPENDIX 1

~~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 40-7 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.

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