



**MINUTES of
JOINT STANDARDS COMMITTEE
13 JANUARY 2017**

PRESENT

Chairman	Councillor Cllr Mrs M E Thompson
Vice-Chairman	Councillor Cllr Rev. A E J Shrimpton
Councillors	Mrs B F Acevedo, R G Boyce MBE, S Nunn and H M Bass
Parish Councillors	Councillor S Nunn
Substitute Members	Councillors H M Bass

859. CHAIRMAN'S NOTICES (PLEASE SEE OVERLEAF)

The Chairman drew attention to the list of notices published on the back of the agenda.

860. APOLOGIES FOR ABSENCE AND SUBSTITUTION NOTICE

Apologies for absence were received from Councillors M R Pearlman and B Ledger. In accordance with notice duly given Councillor H M Bass was substituting for Councillor Pearlman. It was reported that Councillor Ledger had advised that due to ill health he would be standing down from the Committee. The Essex Association of Local Councils had been approached with a view to nominating a replacement representative.

861. MINUTES OF THE LAST MEETING

RESOLVED

- (i) that the Minutes of the meeting of the Committee held on 9 December 2016 be received.

Councillor S Nunn said he noted the report submitted to this meeting addressing the constitutional arrangements he had raised under Minute 804, and thanked the Deputy Monitoring Officer for updating him pursuant to Minute 808.

RESOLVED

- (ii) that subject to the above amendment the Minutes of the meeting of the Committee held on 9 December 2016 be confirmed.

862. DISCLOSURE OF INTEREST

There were none at this juncture although Councillor S Nunn gave notice that he would disclose an interest in relation to agenda item 8 – Allegation of Misconduct when that point was reached in the meeting.

863. REVIEW OF CONSTITUTION AFFECTING THE JOINT STANDARDS COMMITTEE

The Committee considered the report of the Monitoring Officer on possible revisions to its constitution.

In the light of comments made by Councillor S Nunn at and following the last meeting of the Committee it was considered that there was scope for looking at certain aspects of the Council's constitutional arrangements so far as they affect the set-up of this Committee.

The constitution of the Committee, details of which were circulated at the meeting, was set out at the head of its terms of reference and general remit. In particular it provided that

- 7) The Chairman of the Committee shall be a Maldon District Councillor appointed at the Annual Meeting of the Council.
- 8) There will be one Vice-Chairman who shall be a Maldon District Councillor and shall be elected by the Committee.

The Committee noted that the above matters had occurred within the confines of the statutory annual meeting of the Council, albeit on adjournment to facilitate the holding of special meetings of the committees for this purpose and that in reality that was the first meeting of the Committee. This conformed to the overall constitutional arrangements of the Council as set out in Procedure Rules.

Councillor S Nunn asked that it be recorded that he believed that the constitution had been breached in that the Chairman of the Committee had not been appointed by the Council at its annual meeting and that the Vice-Chairman had not been elected by the Committee. He added that the implication of the reference to 'Joint' in the name of the Committee was that its members were of equal standing, and recognised the equal importance of Parish and Town Councils in the District.

Discussion ensued with particular reference to the potential involvement of the two Parish/Town Council Members in the chairmanship/vice-chairmanship decisions.

It was proposed by Councillor R G Boyce that in the interests of equality and fairness the two Parish representatives be invited to attend the first meeting of the Joint Standards Committee held at the statutory annual meeting of the Council. There was no seconder to this proposition.

It was then proposed by Councillor S Nunn and seconded by Councillor Rev A E J Shrimpton that every member of the Committee has equal rights to the election of Chairman and Vice-Chairman and that this is done at the first meeting of the Committee following the statutory annual meeting of the Council.

After some further and brief debate and clarification of the mechanism currently operated Councillor Shrimpton withdrew his seconding the above proposition.

Councillor Nunn then amended his proposition to refer to the same day as the statutory annual meeting of the Council and this was seconded by Councillor Mrs B F Acevedo. Upon being put to the meeting and a vote taken the proposition was agreed.

RECOMMENDED that the Council agrees that the constitution of the Committee be revised to enable all its members to be party to the election of Chairman and Vice-

Chairman of the Committee and that this takes place on the same day as the statutory annual meeting of the Council.

864. EXCLUSION OF THE PUBLIC AND PRESS

The Committee was invited to resolve to move into private session to deal with agenda item 8 – Allegation of Misconduct. In reply to a question, the Monitoring Officer advised that the report did identify an Officer of the Council and therefore to proceed with the consideration of this matter in open session could impact on that Officer's reputation and well-being. In her view this was significant and, along with the reasons given in the report, outweighed the public interest in disclosure of the information.

RESOLVED that under Section 100A(4) of the Local Government Act 1972, the public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in Paragraphs 1 and 2 of Part 1 of Schedule 12A to the Act, and that this satisfies the public interest test.

865. ALLEGATION OF MISCONDUCT

The Committee considered the report of the Monitoring Officer on a complaint by an Officer of the Council concerning the conduct of a District Councillor.

Councillor S Nunn advised, further to his earlier notification of an intention to declare an interest, that he was friends with one of the persons mentioned and was also acquainted with a Councillor referred to in the correspondence. He also referred to his management responsibility with Essex County Council.

866. ADJOURNMENT OF MEETING

The Chairman adjourned the meeting at 2.40 pm to allow Members a short break.

867. RESUMPTION OF MEETING

The formal business of the Council was resumed at 2.45pm.

The Monitoring Officer had referred this complaint to the Committee in accordance with stage 2 of the Conduct Complaints process which required the Committee to make an initial assessment and decide whether to refer the complaint for investigation or that no further action is taken. The Monitoring Officer said that the report was based on the information obtained to date which in her view suggested that there may have been a breach of the Councillor Code of Conduct. She advised that if the Committee shared that belief then the appropriate action would be to agree that the complaint should be fully investigated.

Councillor R G Boyce drew the Committee's attention to the fact that the Deputy Monitoring Officer's conclusion and notification under stage 1 of the complaints process had overrun by one day and that the allegation had been hanging over the Councillor concerned since last September 2016. It was contended that the matter was out of time and should therefore not proceed at all. Cllr Boyce then proposed accordingly and this was seconded by Councillor Rev A E J Shrimpton.

The Monitoring Officer said that in her view there was no reference to a deadline in the process and therefore nothing absolute in this respect. She felt that during the process under stage 1 every possible step was taken to protect the identity and interests of the parties and that whilst there had been a slight delay of one day due to the level of encryption of the documentation required in communications with the Independent Person (who was required by law to be involved in the process) she did not consider that the delay was unreasonable or had caused any disadvantage to the Councillor concerned as it made no difference to the outcome of stage 1 or notification to the Councillor concerned. In the interests of natural justice, and the fact that the delay was unforeseen, it would be wrong to allow a technicality to circumvent the substantive process.

While it was understood by some members of the Committee that the Council's intention had been clear in setting down the timescales within the conduct complaints process such that they were to be absolute, the Committee noted that the process did not provide for a complaint to fall and the implications of this if not dealt with according to the timescales laid down. Further, the slight delay had not affected the time taken to bring the matter to the Committee.

The Monitoring Officer advised the Committee that if the intention of the Council had been absolute then the process would need to be revisited to provide for what happens to a complaint in such circumstances and what the response to the complainant would then be. The potential ramifications of issues of this nature outweighing the duty of the Committee to look at the substantive conduct issues were broad. She suggested this might be taken as a somewhat bureaucratic stance and questioned how this could be justified to the complainant.

Debate ensued, and Councillor R G Boyce advised that in the light of the advice of the Monitoring Officer and having heard the views of other Members he would withdraw his proposition.

The Committee then considered the report and the actual nature of the complaint and the potential breach of the Code of Conduct in terms of disrespect and bullying or any other grounds. Debate ensued on the intention of the communications complained of. To what extent the content of the communications complained of was either understandable or misjudged, Councillor S Nunn stated that there could be a difference between intention and receipt and it was not for the Committee to judge the intent at this point and proposed that the complaint be investigated. This was seconded by Councillor Mrs M E Thompson.

The Committee looked at the possibility of recommending that the Councillor complained of should receive appropriate training in the event of the actions complained of being regarded as ill-judged but not in breach of the Code. The Deputy Monitoring Officer advised that in reaching such a conclusion, that training was required, the Committee was making a determination on the Councillor's conduct and intention without there having been an investigation. Referral to investigation, and the bringing of a report to the Committee, would provide an opportunity to address this point and for the Councillor concerned to respond to the investigation report.

Debate ensued in which the form of any potential investigation was raised, and the view was expressed within the Committee that to externalise the matter for investigation could fail through the delay technicality to the expense of the Council-taxpayer, and that

given the nature of the report before the Committee it would be difficult to provide a fully independent internal investigation.

The proposition standing in the name of Councillor S Nunn, that the complaint be investigated, was then put to the meeting and upon a vote being taken was declared lost.

It was then proposed by Councillor R G Boyce, and seconded by Councillor Mrs B F Acevedo, that on the basis that the Committee had neither seen nor heard anything that led it to conclude that a potential breach of the Code of Conduct may have occurred such as to warrant referral to investigation, that no further action be taken. Upon being put to the meeting and a vote taken the proposition was agreed.

RESOLVED

- (i) *That on the basis that the Committee had neither seen nor heard anything that led it to conclude that a potential breach of the Code of Conduct may have occurred no further action be taken. ”*

The Committee then looked briefly at whether arising from this complaint any recommendation should be made regarding Member training. It was noted that although the complaint had not been viewed by the Committee as being either an equality or diversity issue all Members had been provided with training on this subject. Upon the proposition of Councillor R G Boyce the Committee agreed that the following recommendation be made to Council:

RECOMMENDED

- (i) that the Council endorses the proposal that all Members of the Council receive training on the Member/Officer Relations Protocol and the Councillor Code of Conduct and for any outcomes from the training to be communicated to Parish and Town Councils.

There being no further items of business the Chairman closed the meeting at 4.12 pm

MRS M E THOMPSON
CHAIRMAN