

NOTICE OF MEETING

COMMITTEE : STANDARDS

DATE : TUESDAY 20TH SEPTEMBER 2016

TIME : 6.45 PM OR AT THE CONCLUSION OF THE COUNCIL MEETING

PLACE : COUNCIL CHAMBER, TOWN HALL

COUNCILLORS:	MJ DOLLING	PETTS
	HUSSAIN	S. SALEEM
	MOLES	VACANCY
	VACANCY	VACANCY
	VACANCY	VACANCY

5 INDEPENDENT MEMBERS:	MS. P. BRENNAN	*MR. J. JONES
	*MRS. M. BRIGGS	MS. M. WILLIAMS
	VACANCY	

(*Subject to Council ratification on 20.9.16)

QUORUM : 5 MEMBERS (INCLUDING AT LEAST 2 INDEPENDENT MEMBERS)



INFORMATION FOR THE PUBLIC

PURPOSE: This Committee considers any allegations that a Member has breached the Council's Code of Conduct for Members, relevant Standing Orders or the National Code of Local Government Conduct; it advises individual Members on matters of conduct; and advises and makes recommendations to the Council on training for Members on issues of conduct.

This meeting is open to the public and you are welcome to attend.
For further information, or to see the papers, please contact us at the Town Hall:



IN PERSON, 9am to 5pm, Monday to Friday, or
CALL Democratic and Member Services on 01582 546038

An induction loop  facility is available for meetings held in Committee Room 3.
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EMERGENCY EVACUATION PROCEDURE

Committee Rooms 1, 2, 4 & Council Chamber:

Turn left, follow the green emergency exit signs to the main town hall entrance and proceed to the assembly point at St George's Square.

Committee Room 3:

Proceed straight ahead through the double doors, follow the green emergency exit signs to the main Town Hall entrance and proceed to the assembly point at St George's Square.

AGENDA

<i>Agenda Item</i>	<i>Subject</i>	<i>Page No.</i>
1.	ELECTION OF CHAIR	
2.	ELECTION OF VICE-CHAIR	
3.	APOLOGIES FOR ABSENCE	
4.	MINUTES (i) 15 th February 2016 (ii) 31 st March 2016	4(i)/1 to 4(i)/5 4(ii)/1 to 4(ii)/2
5.	SECTION 106, LOCAL GOVERNMENT FINANCE ACT 1992 Those item(s) on the Agenda affected by Section 106 of the Local Government Finance Act 1992 will be identified at the meeting. Any Members so affected is reminded that (s)he should disclose the fact and refrain from voting on those item(s).	
6.	PECUNIARY AND NON PECUNIARY INTERESTS Members are reminded that they must disclose both the existence and the nature of any disclosable pecuniary interest that they have in any matter to be considered at this meeting unless the interest is a sensitive interest in which event they need not disclose the nature of the interest. A member with a disclosable pecuniary interest must not further participate in any discussion of, vote on, or take any executive steps in relation to the item of business.	

A member with a personal interest, which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the member's judgment of the public interest, must similarly not participate in any discussion of, vote on, or take any executive steps in relation to the item of business.

Disclosable pecuniary interests and Personal Interests are defined in the Council's Code of Conduct for Members and Co-opted members.

7. URGENT BUSINESS

The Chair to report on any business which is considered to be urgent and which should be discussed at the meeting in accordance with Section 100B(4)(b) of the Local Government Act 1972 and to determine when, during the meeting, any such business should be discussed.

8. APPOINTMENT OF MEMBERS WHOM OFFICERS ARE REQUIRED TO CONSULT BEFORE TAKING URGENT ACTION FOR WHICH POWER IS NOT DELEGATED TO OFFICER(S)

9. MEMBERSHIP OF THE (A) LOCAL ASSESSMENT, (B) LOCAL ASSESSMENT REVIEW AND (C) LOCAL ADJUDICATION PANELS

9.1 to 9.3

10. LOCAL GOVERNMENT ACT 1972, PART VA

To consider whether to pass a resolution under Section 100A(4) of the Local Government Act 1972 to exclude the public from the meeting during consideration of any item listed above if it is likely that if members of the public were present during those items there would be disclosure to them of exempt information falling within the Paragraphs of Part 1 of Schedule 12A to the Local Government Act 1972.

STANDARDS COMMITTEE

15th February 2016 at 6.00 p.m.

PRESENT: Mr J. Jones (Independent Member – Chair)
Councillors Dolling, Hussain, Petts, Moles, and
Worlding, Ms. P. Brennan, Ms. M. Briggs, and Mr.
J. Hearnshaw (Vice Chair)(Independent Members)

1 APOLOGY FOR ABSENCE (REF: 3)

An apology for absence was received on behalf of Councillor Dolling Ms M Williams.

2 MINUTES (REF: 2.1)

Resolved: That subject to Ms. P. Brennan being removed from the list of those present, the Minutes of the meeting of the Committee held on 21st December 2015 be taken as read, approved as a correct record and the Chair be authorised to sign them.

3 COMPLAINTS AGAINST MEMBERS (REF: 6)

The Service Director, Human Resources and Monitoring Officer informed Members that an Adjudication Panel had been set for the end of February for Ex Councillor K. Malik's hearing.

Members were also advised that a complaint had been received against a Councillor for not communicating properly with a member of the public, although this was contested by the Councillor concerned.

Resolved: That the Report (Ref: 6) be noted.

4 REVIEW OF MEMBERS CODE OF CONDUCT (REF: 7)

The Service Director, Human Resources and Monitoring Officer invited Members to review the existing Members Code of Conduct and comment on the proposed changes. The Committee were advised that under the Localism Act 2011, Council's were required to adopt a code dealing with the conduct that was expected of members and co-opted members of the authority when they were acting in that capacity. The Localism Act required that a Member Code of Conduct must, "when viewed as a whole" be "consistent with the following principles":

- selflessness;
- integrity;
- objectivity;
- accountability;
- openness;
- honesty;
- leadership.

She added that in addition, the Localism Act required that a Member Code of Conduct must include “the provision the authority considers appropriate in respect of the registration in its register, and disclosure, of – pecuniary interests; and interests other than pecuniary interests.”

Members were informed that the existing Members Code of Conduct had been approved by Full Council on the 20th February 2013 and not been reviewed since. She added that the Group Leaders had already consulted and were keen to make it specific in the policy when an elected member was operating in the capacity as an elected member, and when in a personal capacity.

The Acting Principle Solicitor discussed with Members the extent of the effect to which the Code might bind Members. It was anticipated that the current revision of the Members Code of Conduct would clarify the extent to which it may regulate the activities of Members, and whether it applied to not only whilst conducting Council business, but also in Members private lives. He added that the Council were required to adopt the Code under Chapter 7 of Part 1 of the Localism Act 2011, which set out the conduct that was expected of Members and co-opted members of the authority when they are acting in that capacity. This had to be:

- Based on the seven principles of public life; and
- Registration and disclosure of pecuniary interests and other interests.

He went on to say that other than being based on those principles, the Council was free to determine the content of its Code, so long as it was reasonable. There must also be a system for:

- a. Investigating alleged breaches of the Code; and
- b. Making decisions on allegations of such breaches.

The current standards regime replaced the old system under the Local Government Act 2000. Under that regime local authorities had to:

- a. adopt a Code within six months of the issue of a model Code by the Government; and,
- b. If they failed to do so, they would be bound by the relevant model Code until such time as they did adopt their own Code.

The Code was to set out the conduct which is expected of members and co-opted members of relevant authorities. Again, any Code which was adopted under that system had to comply with principles set out in an Order issued by the Government, based on ten general principles. The content of the model Code, which would apply by default to any authority which failed to adopt its own Code, expressly stated:

- a. An authority's code of conduct shall not, apart from paragraphs 4 and 5(a) below, have effect in relation to the activities of a member undertaken other than in an official capacity;
- b. **4.** A member must not in his official capacity, or any other circumstance, conduct himself in a manner which could reasonably be regarded as bringing his office or authority into disrepute; and
- c. **5.** A member – (a) must not in his official capacity, or any other circumstance, use his position as a member improperly to confer on or secure for himself or any other person, an advantage or disadvantage.

The Acting Principal Solicitor commented that this plainly indicated that under the old regime, a Code could regulate certain aspects of a member's life beyond his or her official duties. Also, under that regime, a member had to sign a declaration within 2 months of election that in performing his functions he would observe the authority's code of conduct for the time being, failing which they automatically cease to be a member at the end of that time. Members were informed that the High Court was required to give a ruling on the effect of a Code under the old regime in a case involving Ken Livingstone when he was mayor of London and where he had been found guilty of breaches by a case tribunal. Mr Livingstone was alleged to have breached the Code by comparing a reporter to a guard in a Nazi concentration camp, this being prohibited by the Code adopted by the GLA, specifically paragraph 2 which provided that 'a member should treat others with respect'; and paragraph 4 which provided that 'a member must not in his official capacity, or any other circumstance, conduct himself in a manner which could reasonable be regarded as bringing his office or authority into disrespect'.

The allegation under paragraph 2 was not proven at the tribunal as his comments were not found to be within his official capacity and,

accordingly, the High Court did not consider this aspect further. In respect of the alleged breach of paragraph 4, the High Court found that the wording *in performing his functions* may extend further than the literal meaning and not necessarily cover the same conduct as *in his official capacity*. If the words *in performing his functions* were interpreted literally then conduct such as misuse of his position to confer an advantage on a friend (which is outside his official role) would not be covered by the Code. Such an interpretation would emasculate the system set up by Parliament. It followed that conduct which was outside the member's official capacity could be covered. The use of the words *or any other circumstance* in the GLA Code did not make it unlawful however, that phrase must be narrowly construed so as only to cover conduct which is properly to be regarded as falling within the phrase *in performing his functions* and a link with his membership of the authority is needed;

The same applied to the regime under which Luton Borough Council operated. The question therefore arises as to how far conduct outside the member's official duties may be covered. Unfortunately the High Court did not give any definitive answer although it made the following observations:

- a. Unlawful conduct is not necessarily covered, meaning a councillor who shoplifts or drink drives would not be caught if the offences had nothing to do with his position as a councillor; and
- d. There is an existing regime in the Local Government Act 1972 providing for disqualification if members are convicted of offences resulting in 3 months or more imprisonment and Parliament chose not to extend that regime.

The Acting Principal Solicitor concluded that accordingly, in its revision of the Code Luton Borough Council may not go as far as to provide that it applies to every aspect of a member's life both public and private.

Councillor Dolling commented that Members conduct, unless criminal was not a breach of the code until a complaint had been made against a Member and had been confirmed by the Adjudication Panel.

Councillor Moles commented that when a Member is elected they are urged to sign the Code of Conduct and enquired what would happen if a Member refused to sign and a complaint were made against them.

The Acting Principle Solicitor replied that even if a Member refused to sign the Code of Conduct they would still be bound to it.

Councillor Dolling commented that more clarification was required in regards to gifts of hospitality with an estimated value of at least £100 from a person from whom he/she in the previous twelve months. He added that this could be interpreted as several gifts within that time period i.e. twelve separate gifts of £99, or gifts in the total of £100 for the same period. Ms. P. Brennan added that £100 was high, and that the limit for HMRC was £75.

Members commented that there were several typos and grammatical errors throughout the document and requested that these be corrected. Members also commented that several paragraphs did not flow correctly. It was also suggested that more clarity was required around the Register of Interests and that the Membership needed updating.

Resolved: (i) that the comments and suggestions listed above be incorporated into the draft Members Code of Conduct.

(ii) That a further Report be submitted to the next meeting of the Standards Committee in regards to the Members Code of Conduct.

(iii) That a limit of £75 be made for gifts of hospitality.

5 WORK PROGRAMME (REF: 8)

Members of the Committee considered the Committee's work programme and agreed that the following items are reported at future meeting of the Committee:

- Finalised Members Code of Conduct.

Resolved: That the Committee's work programme be noted and the items listed above be included in the Committee's work programme for reporting at future meeting.

(Note: The meeting ended at 7.20p.m.)

STANDARDS COMMITTEE

31ST MAY 2016 at 6.00 p.m.

PRESENT: Independent Members: Mr J. Jones, Ms. P. Brennan, and Mr. J. Hearnshaw.

Councillors, Hussain, Moles, Petts, and S. Saleem.

6 ELECTION OF CHAIR (REF: 1)

***Resolved:** That Mr. J. Jones be elected as Chair of the Standards Committee for the ensuing municipal year, 2016/17.

7 ELECTION OF VICE CHAIR (REF: 2)

***Resolved:** That Mr. Jim Hearnshaw be elected Vice Chair of the Standards Committee for the ensuing municipal year, 2016/17.

8 MINUTES (REF: 3.1)

The Committee was advised that minutes of the meeting held on 15th February would need to be authorised as a correct record at a future meeting of the Committee. The meeting planned to be held immediately following Annual Council on 17th May 2016, had been inquorate and had not proceeded.

Resolved: That it be noted that the Minutes of the meeting held on 15th February 2016 would be submitted to a future meeting.

9 APOLOGIES FOR ABSENCE (REF: 4)

Apologies for absence from the meeting were received on behalf of Councillor Dolling and Mrs. Briggs, Independent Member.

10 APPOINTMENT OF MEMBERS WHOM OFFICERS ARE REQUIRED TO CONSULT BEFORE TAKING URGENT ACTION FOR WHICH POWER IS NOT DELEGATED (REF: 10)

***Resolved:** That the Chair and Vice Chair be appointed as the Members of the Committee whom Chief Officers are required to consult before taking action previously delegated for specific functions not forming part of the previous Scheme of Delegation to Officers where consultation with Members has been specified and urgent action for which power is not delegated to Officers.

11 MEMBERSHIP OF THE (A) LOCAL ASSESSMENT, (B) LOCAL ASSESSMENT REVIEW AND (C) LOCAL ADJUDICATION PANELS (REF: 9)

Resolved: That the membership of the Local Assessment, Local Assessment Review and Local Adjudication Panel be as set out at Item 9a, 9b and 9c of the agenda (Ref: 9).

(Note: (i) *These decisions were superseded by the decisions of Full Council held on 19th July 2016 recorded at Minute 92/16.

(ii) The meeting ended at 6.20pm)

AGENDA ITEM:

9

COMMITTEE: STANDARDS

DATE: 20TH SEPTEMBER 2016

SUBJECT: COMPOSITION OF STANDARDS SUB-COMMITTEES

REPORT BY: DEMOCRACY MANAGER

CONTACT OFFICER: DEBBIE JANES

IMPLICATIONS:

LEGAL	✓	COMMUNITY SAFETY
EQUALITIES		ENVIRONMENT
FINANCIAL		CONSULTATIONS
STAFFING		OTHER

WARDS AFFECTED: NONE

PURPOSE

1. The purpose of this report is to seek the Committees views as to the political composition that should be applied to the membership of the Standards Sub-Committees.

RECOMMENDATION(S)

2. **Standards Committee is recommended to indicate what arrangements it wishes to see applied to the composition of the membership of the Local Assessment Panel, Local Assessment Review Panel and the Local Adjudication Panel when they sit as Sub-Committees of the Standards Committee.**

BACKGROUND

3. At its meeting held on 19th July 2016, Full Council resolved that the membership of each of the Standards Sub-Committees should comprise three elected members of the Standards Committee and three co-opted members *“such that there is one Local Assessment Panel, Local Assessment Review Panel and Local Adjudication Panel for each possible permutation”*.

REPORT

4. The permutations arising from this calculation are referred to at Appendices A to C and will be tabled at the meeting for approval, as the names of those members comprising the Panels will not be known until the Full Council meeting immediately prior to this meeting.
5. The responsibility for calling Panel meetings falls to the Democracy Manager on behalf of the Service Director, Policy, Communities & Engagement and to date the protocol has been to appoint a Panel that did not comprise an elected member of the same political group as the member the subject of the Panel. Other approaches, such as a composition of 1 member from each of the political groups represented on the Standards Committee, could be considered.

CONSULTATION

7. Group Leaders have been consulted on their preference. The consensus reached as an outcome of those discussions, is as follows:

When an Assessment or Adjudication Panel sits as a Sub-Committee of the Standards Committee to hear an allegation against an elected member, the **elected** members of the Sub-Committee be appointed by the Service Director, Policy, Communities & Engagement having regard to the following criteria:

- (a) No member of the Panel may be from the same political group as the member against whom the allegation is made; OR, if that is not possible due to the limited numbers of available members,
- (b) One member of each political group is appointed to the Panel; OR if that is not possible due to the limited number of available members;
- (c) Members of the same political group as the member against whom the allegation has been made may not form a majority of membership of the Panel.

8. The membership of the Panels is three elected members and three co-opted members. The arrangements at 7 (a) to (c) above relate only to the elected members.

PROPOSAL/OPTION

9. That the Committee indicate if it wishes to apply the criteria set out at paragraph 7 (a) to (c) above to the appointment of elected members to an Local Assessment Panel, Local Assessment Review Panel or Local Adjudication Panel when they sit as a Sub-Committee of the Standards Committee to hear an allegation against an elected member.

LEGAL IMPLICATIONS

10. There are the following legal implications to this report as agreed with Clive Tobin in Legal Services on 9 September 2016:

The Council has dis-applied the rules which would normally require Standard's Committees' Sub-Committees to be politically balanced, that is having the same proportion of members from each political group as the Council has overall. It is therefore open to Committee to approve the options above if it wishes to do so.

APPENDICES

11. The following appendices are attached to this report:

Appendix A – Membership of the Local Assessment Panel) To be
Appendix B – Membership of the Local Assessment Review Panel) tabled
Appendix C – Membership of the Local Adjudication Panel)

LIST OF BACKGROUND PAPERS **LOCAL GOVERNMENT ACT 1972, SECTION 100D**

None