



Committee: STANDARDS COMMITTEE
Date: THURSDAY, 24 JANUARY 2013
Venue: LANCASTER TOWN HALL
Time: 6.00 P.M.

A G E N D A

1. **Apologies for Absence**

2. **Minutes**

Minutes of meeting held on 11th October 2012 (previously circulated).

3. **Items of Urgent Business authorised by the Chairman**

4. **Declarations of Interest**

To receive declarations by members of interests in respect of items on this agenda.

Members are reminded that, in accordance with the Localism Act 2011, they are required to declare any disclosable pecuniary interests which have not already been declared in the Council's Register of Interests. (It is a criminal offence not to declare a disclosable pecuniary interest either in the register or at the meeting).

Whilst not a legal requirement, in accordance with Council Procedure Rule 10 and in the interests of clarity and transparency, members should declare any disclosable pecuniary interests which they have already declared in the register, at this point in the meeting.

In accordance with Part B Section 2 of the Code Of Conduct, members are required to declare the existence and nature of any other interests as defined in paragraphs 8(1) or 9(2) of the Code of Conduct.

5. **Press Protocol and Members' Protocol for Standards Complaints** (Pages 1 - 7)

Report of the Monitoring Officer.

6. **Exclusion of the Press and Public**

The committee is recommended to pass the following recommendations in relation to the following items:

"That, in accordance with Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following items of business, on the grounds that they could involve the possible disclosure of exempt information, as defined in paragraph 1 of Schedule 12A of that Act."

Members are reminded that, whilst the following items have been marked as exempt, it is

for the committee itself to decide whether or not to consider each of them in private or in public. In making the decision, members should consider the relevant paragraph of Schedule 12A of the Local Government Act 1972, and also whether the public interest in maintaining the exemption outweighs the public interest in disclosing the information. In considering their discretion, members should also be mindful of the advice of council officers.

7. **Summary of Complaints** (Pages 8 - 10)

Report of the Monitoring Officer.

8. **Complaint 7/11 - Decision of the First Tier Tribunal (Local Government Standards in England)** (Pages 11 - 18)

Report of the Monitoring Officer.

9. **Complaint 4/12** (Pages 19 - 20)

Report of the Monitoring Officer. The appendix to this report will be sent under separate cover.

ADMINISTRATIVE ARRANGEMENTS

(i) **Membership**

Councillors

Councillors Roger Sherlock (Chairman), Chris Coates, Sheila Denwood, Billy Hill, Roger Mace (Vice-Chairman), Joyce Taylor and David Whitaker

(ii) **Substitute Membership**

Councillors

Councillors Shirley Burns (Substitute), Roger Dennison (Substitute), Paul Gardner (Substitute), Kathleen Graham (Substitute), Andrew Kay (Substitute) and Peter Williamson (Substitute)

(iii) **Queries regarding this Agenda**

Please contact Peter Baines, Democratic Services - telephone 01524 582074 or email pbaines@lancaster.gov.uk.

(iv) **Changes to Membership, substitutions or apologies**

Please contact Members' Secretary, telephone 582170, or alternatively email memberservices@lancaster.gov.uk.

MARK CULLINAN,
CHIEF EXECUTIVE,
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STANDARDS COMMITTEE

**PRESS PROTOCOL AND MEMBERS' PROTOCOL FOR
STANDARDS COMPLAINTS**

24th January 2013

Report of the Monitoring Officer

PURPOSE OF REPORT

To enable the Committee to consider a protocol for dealing with press enquiries about standards complaints, and a protocol for Members who are the subject of, or are aware of, a complaint.
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This report is public

RECOMMENDATIONS

- (1) That the Committee approve the Protocol for dealing with press enquiries about complaints to the Standards Committee and the revised Members' Protocol on publicity for complaints to the Standards Committee, appended to this report
- (2) That the approval of the Council Business Committee be sought for the inclusion of the revised Members' Protocol in the Constitution, to replace the obsolete version in Part 7 Section 4 of the Constitution

1.0 Introduction

1.1 At its meeting on the 11th October 2012, in considering its arrangements for dealing with complaints of breach of the code of conduct under the new standards regime introduced by the Localism Act 2011, the Committee considered a number of circumstances where the press might inquire about the details of a complaint.

1.2 The parts of the Committee's resolution which related to press enquiries, and to Members' comments on complaints, were as follows:

-That the Monitoring Officer be requested to issue a response of no comment to the press, in the event of enquiries at the initial stage of a complaint, and not to confirm receipt of a complaint at this stage;

- That reports to Standards Committee which summarise recent complaints be exempt from publication. It was requested that the reports should, for the Committee's information, identify the member(s) complained of and the complainant;

- That the Monitoring Officer be requested to issue statements to the press only after the final hearing of a complaint, but that in other cases where the

press already have information about a complaint, the Monitoring Officer liaise with the member complained of in dealing with any press inquiry;

- That the complainant and the member complained of be recommended not to speak to the press about a complaint until it has been resolved;

- That the Monitoring Officer prepare a Press Protocol and revised Protocol on Publicity for Complaints of Breach of the Code of Conduct for consideration at a future meeting, based on the decisions taken at this meeting.

2.0 Proposal Details

2.1 The Monitoring Officer has therefore prepared a draft Protocol for dealing with press enquiries about complaints to the Standards Committee, and a draft Members' Protocol on publicity for complaints to the Standards Committee, and these are appended to the report

2.2 Members are asked to consider the draft Protocols for approval, either with or without amendment.

2.3 The draft Members' Protocol is to replace the obsolete version which appears in Part 7 Section 4 of the Constitution, and the formal approval of the Council Business Committee will be required for its inclusion on the Constitution.

3.0 Conclusion

3.1 The Committee is asked to consider the draft Protocols.

CONCLUSION OF IMPACT ASSESSMENT

(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)

The Protocols seek to balance the rights of those who may be the subject of a complaint, and the integrity of the investigation process, with the rights of freedom of speech and public interest in transparency.

LEGAL IMPLICATIONS

Under the Localism Act 2011 there is no statutory provision in respect of the complaints process, and any protocols are a matter for the Committee to determine.

FINANCIAL IMPLICATIONS

There are no direct financial implications arising from this report.

OTHER RESOURCE IMPLICATIONS

Human Resources:

None

Information Services:

None

Property:

None

Open Spaces:

None

SECTION 151 OFFICER'S COMMENTS

The Section 151 Officer has been consulted and has no further comments.

MONITORING OFFICER'S COMMENTS

The report has been prepared by the Monitoring Officer in her capacity as adviser to the Standards Committee.

BACKGROUND PAPERS

None

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**PROTOCOL FOR DEALING WITH PRESS ENQUIRIES ABOUT
COMPLAINTS TO THE STANDARDS COMMITTEE**

1. A new standards regime was introduced by the Localism Act 2011, replacing the previous statutory regime under the Local Government Act 2000.
2. Lancaster City Council has within its Constitution a “Protocol on Publicity for Complaints made to the Standards Committee”. This recommends that Members should not make any public or press comment about any complaint which they have made, are aware of, or are the subject of, until the complaint has been resolved. The Protocol acknowledges, however, that it cannot bind members of the public, and that there may be situations where a complaint becomes known to the public through the press or some other medium. In these circumstances, the Protocol does not preclude the Member who is the subject of the complaint from making a press comment, although the Member should carefully consider the appropriateness of so doing.
3. The Standards Committee’s arrangements for dealing with allegations of breach of the Code of Conduct enable the matter to be resolved informally at the outset if possible. Otherwise, a complaint will be assessed by the Monitoring Officer in consultation with the Independent Person, the Chairman of the Standards Committee, and, if appropriate, the Chief Executive. In some cases the Monitoring Officer may ask the full Standards Committee to assess a complaint. The assessment process will determine whether the complaint is to be referred for investigation, or whether no action is to be taken. If the press become aware of a complaint at this assessment stage, and make enquiries of the Council, the response will be given that it is not the Council’s policy to comment on whether or not a complaint has been made, but that all complaints are considered in accordance with the arrangements approved by the Standards Committee. Accordingly, no confirmation will be given, prior to assessment, as to whether a complaint has been received or not.
4. The Standards Committee will at its scheduled quarterly meetings receive a report on the complaints received and the action taken on them. This report will be exempt from publication under paragraph 1 of Schedule 12A of the Local Government Act 1972, and information will not be provided to the press.
5. Where no action is to be taken on a complaint and the press become aware of the identity of the member complained of, the Monitoring Officer will liaise with the member complained of as to what response should be given.
6. Where a complaint is referred for investigation, no comment will be made on behalf of the Standards Committee until after the matter has been resolved, other than to confirm that a complaint is being investigated. The member who is the subject of the complaint/investigation will be informed of the press enquiry, and may consider whether or not to comment, in accordance with the Members’ Protocol on publicity for complaints to the Standards Committee (see para 2 above).
7. Following an investigation, a complaint will generally be resolved after consideration of the investigation report by the Committee. If the investigator’s finding is that there has been a breach of the Code of Conduct, there will be a hearing before the Committee. The hearing is likely to be held in public, although

the press and public may be excluded if any exempt or confidential information would be disclosed. The press and public will also be excluded during the Sub-Committee's deliberations. Where a complaint is resolved after investigation, the Committee will consider, as part of its deliberations, whether a press statement should be made by the Committee.

8. Where the Member complained of is a member of a parish council, the City Council will inform the clerk to the relevant parish council of any press enquiry received at any stage of the procedure and how it is being dealt with.
9. The foregoing is a general summary of how the Council will deal with press enquiries relating to complaints received by the Standards Committee. Any information that may be provided to the press may depend on the particular circumstances of a complaint. The Council will seek to balance the public interest in openness and transparency with the need to uphold natural justice and human rights, to protect confidential information and safeguard the integrity of any investigation.

Part 7, Section 4

Protocol on Publicity for Complaints to the Standards Committee

Introduction

The purpose of this Protocol is to provide guidance to Members as to their conduct when referring an alleged breach of the Code of Conduct to the Standards Committee, or when they are the subject of such an allegation, or are aware of such an allegation.

Background

There is no statutory mechanism preventing those making a complaint to the Standards Committee (or those the subject of such a complaint) making the nature of the allegation known to the press and public, or making public comment on the allegation. Any such comments would be subject to the general law of defamation, and a Member could seek a court injunction to prevent the publication of defamatory material.

Guidance to Members

When a Member has made or is considering making a complaint to the Standards Committee alleging a breach of the Code of Conduct, the Member is recommended not to make the complaint or allegation known to any other Member, or to the public in any forum, whether at a meeting that is open to the public or through the press or media, nor to discuss the complaint or possible complaint in such a manner as is reasonably likely to cause the complaint to be made known to the public.

It is recognised that a Member who has made or is considering making a complaint to the Standards Committee may wish to discuss the matter within the Member's own political group or seek advice from a third party.

A Member who is aware of a complaint is recommended not to make any public comment on it, and it is recommended that the matter should not be the subject of discussion or debate within the Council.

Likewise, once a Member becomes aware that he/she is the subject of a complaint or allegation to the Standards Committee, the Member is recommended not to make any public or press comment on it.

These recommendations apply until the complaint has been resolved. This will be as follows:

- Where, following the assessment of the complaint, it is determined that no action should be taken.
- Where, following a referral for investigation, the investigation finds that there has been no breach of the Code
- Where, following a referral for investigation and a finding by the investigation that there has been a breach of the Code, a hearing has taken place before the Standards Committee.

This Protocol does not bind members of the public.

Where a complaint is made to the Standards Committee by a member of the public, this may become known to the public through the press or some other medium.

If the press become aware of a complaint, by whatever means, this Guidance does not preclude the Member who is the subject of the complaint from making a public comment, although it is recommended that the Member should carefully consider the appropriateness of so doing. Until the complaint is resolved (as described above), other Members who are aware of the complaint are recommended not to make any public comment on it, and it is recommended that the matter should not be the subject of discussion or debate within the Council.

The Standards Committee has approved a Press Protocol for dealing with press inquiries to the Council about complaints of breach of the Code.

By virtue of paragraph(s) 1 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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