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Date: 28 February 2017

MEETING OF STANDARDS COMMITTEE

On: Wednesday 8 March 2017 **At:** 2.00 pm

Venue: Town Hall - Bridge Street, Bideford, EX39
2HS

NOTICE OF MEETING

To: Councillor K Carroll (Chair)
Councillor B Boundy (Vice-Chair)
Councillors: M Langmead, S Robinson, D Brenton, M Brown and G Dezart

Town & Parish Representatives: Richard Clark and Harold Martin

Independent Persons: Barbara Berkhauser and Roger Levick

Members are requested to turn off their mobile phones for the duration of the meeting

AGENDA

PART I - (OPEN SESSION)

1.	Apologies for Absence
2.	Minutes of the Standards Committee meeting held on 30 January 2017. (Pages 3 - 5)
3.	Declarations of Interest Members with interests to declare should refer to the agenda item and describe the nature of their interest when the item is being considered.
4.	Agreement of Agenda between Parts I and II (if applicable)
5.	Urgent Matters of Information to be brought forward with the permission of the Chair and the Committee

6.	Hearing Procedure (Pages 6 - 16) To receive a report from the Senior Solicitor.
7.	Town and Parish Council Liaison (Pages 17 - 18) To receive a report from the Senior Solicitor.
8.	Exempt and Confidential Information To discuss the rules relating to exempt and confidential information.
9.	Forward Plan (Page 19)
10.	Exclusion of Members of the Public The Chair to move : That the public be excluded from the remainder of the meeting because of the likely disclosure of exempt information as defined in Part 1 of Schedule 12A of the Local Government Act.
11.	Part II (Closed Session) There are no Part II items
	Meeting Organiser: Tom Vanstone - Democratic Services

TORRIDGE DISTRICT COUNCIL

STANDARDS COMMITTEE MEETING

Town Hall - Bridge Street, Bideford, EX39 2HS

Monday, 30 January 2017 - 2.00 pm

PRESENT

Councillor K Carroll (Chair)
Councillors B Boundy, M Langmead, S Robinson, D Brenton,
M Brown and G Dezart

Roger Levick	Independent Persons
Barbara Berkhauer	Independent Persons
Richard Clark	Parish Representative
Harold Martin	Parish Representative

ALSO PRESENT

S Dorey	-	Solicitor
J Hollis	-	Senior Solicitor
J Walter	-	Governance Manager
T Vanstone	-	Democratic Services Officer
Frances Randle	-	Cllr Brenton Legal Representative
Councillor Christie		
Councillor Hackett		
Councillor Hurley		

4 Members of Public

The Chair welcomed everyone to the meeting.

1. DECLARATIONS OF INTEREST

The Chair asked that declarations of interest be made as and when the specific agenda item to which they related was under discussion.

2. AGREEMENT OF AGENDA BETWEEN PARTS I AND II (IF APPLICABLE)

The Agenda, as circulated, was agreed.

3. EXCLUSION OF MEMBERS OF THE PUBLIC

It was proposed by Councillor Langmead, seconded by Councillor Dezart –

That under Section 100(a)(4) of the Local Government Act 1972 (as amended) the public be excluded from the meeting for the following items of business because of the likely disclosure of exempt information by virtue of Paragraph 1 of Part 1 and Paragraph 10 of Part 2 of schedule 12A of the local Government Act 1972.

Following concerns raised with regard to moving the meeting into Part II, advice was given by the Governance Manager.

(Vote: For 6, Abstention 1)

4. PART II (CLOSED SESSION)
5. CODE OF CONDUCT COMPLAINT

Councillor Carroll introduced this item and referred Members to a complaint concerning the conduct of Councillor David Brenton, an elected member of Torridge District Council.

The complaint relates to an allegation that Councillor Brenton has disclosed information to the press which the Council deemed to be exempt in nature in breach of the Members Code of Conduct. The allegations potentially constitute a breach of Paragraph 5 (disclosure of confidential information), 6 (leading the Council to be in breach of legislation) & 7 (having regard to advice provided to you by the Council's officers) of the Code of Conduct for Members.

Evidence and finding of fact

The Committee listened to the evidence from Councillor Brenton and his legal representative regarding any disagreement of fact from the Investigators report. The Committee then asked questions to Councillor Brenton's legal representative and Torridge District Council's Solicitor.

The Chair then requested that all parties leave the room so the Committee could consider the facts.

After consideration, all parties were invited to return to the room.

The Standards Committee considered the facts and found that the Community & Resources meeting on 23 May had properly entered into Part II (Closed Session).

Decision

The Committee heard representations from Councillor Brenton's legal representative and Torridge District Council's Solicitor as to whether or not Councillor Brenton had breached Torridge District Council's Code of Conduct for Members.

The Chair then requested that all parties leave the room so the Committee could consider the representations.

After consideration, all parties were invited to return to the room.

Having considered the evidence before it, as well as the written and verbal representations of Councillor Brenton and his legal representative, the Standards

Committee found that Council Brenton had breached the following provisions of the Torridge District Council Code of Conduct for Members:

- Paragraph 5 (i): You must not disclose information given to you in confidence by anyone, or information acquired by you or provided to you by the Council which you believe, or ought reasonably to believe, is of a confidential nature or is capable of being treated as confidential.
- Paragraph 7: You must have regard to any relevant advice provided to you by the Council's officers and other external bodies or officers.

Sanctions

The Committee heard representations from Councillor Brenton and his legal representative as to whether any sanctions should be applied.

The Chair then requested that all parties leave the room so the Committee could consider the representations.

After consideration, all parties were invited to return to the room.

In light of the above findings, the Standards Committee resolved to impose the following sanctions:

- To issue a censure to Councillor Brenton;
- To report the findings of the Standards Committee 30 January 2017 meeting to Full Council;
- To recommend to Councillor Brenton Group Leader that Councillor Brenton be removed from Torridge District Council's Standards Committee.

It was proposed by Councillor Langmead, seconded by Councillor Robinson and –

Resolved:

That the meeting return to Part I and that any press and public be readmitted.

The meeting commenced at 2.00 pm and closed at 5.09 pm

Chair:

Date:

Agenda Item 6

Agenda Item

REPORT OF Senior Solicitor & Monitoring Officer

To: Standards Committee

Subject: Hearing Procedure

Date: 8 March 2017

Reference: JH

PURPOSE OF REPORT:

To consider the introduction of a hearing procedure for the determination of Standards Committee complaints in relation to the Members Code of Conduct.

1. INTRODUCTION

The Council does not currently have an adopted hearing procedure in relation to the determination of complaints under the Members Code of Conduct. While it is not essential to have such a procedure, it may assist the Committee in this role if it were to be given a more clearly defined structure.

2. REPORT

The purpose of this report is to give the Committee an opportunity to reflect on the recent Code of Conduct determination, and to decide whether or not to adopt a procedure to assist with the mechanics of any further determinations. While there is currently no formally adopted hearing procedure, an outline of some of the key steps was used as an aide memoir at the last determination. A copy of this is attached to this report for reference at **Appendix A**.

Also attached at **Appendix B** are copies of a 'Chairman's Guide to Standards Committee Hearings', and two documents entitled 'Form A' and 'Form B'. These documents were previously in use under the old Standards regime, before it was done away with by a change in legislation. They are reproduced now so that the Committee can consider whether it wishes to incorporate any or all aspects into a new procedure. Form A and Form B could be particularly helpful in establishing a clear record of disputed findings of fact and additional evidence in advance of the hearing.

3. IMPLICATIONS

Legal Implications

There are none identified

Financial Implications

There are none identified

Human Resources Implications

There are none identified.

Sustainability Implications

There are none identified

Equality/Diversity

There are none identified.

Risk Management

There are none identified

Compliance with Policies and Strategies

There are none identified

Ward Member and Lead Member Views

Cllr Ken Carroll: Any matters considered by the Committee should be done in a fair and consistent manner. Those attending a Standards Committee hearing may benefit from the additional predictability a written procedure provides.

4. CONCLUSIONS

The Committee is asked to consider whether it wants to adopt a hearing procedure, and if so, what it should contain.

5. RECOMMENDATIONS

That the Committee consider whether it wants to adopt a hearing procedure, and if so, what it should contain.

SUPPORTING INFORMATION

Consultations: Cllr Ken Carroll

Contact Officer: Jamie Hollis

Background Papers: Standards Committee Terms of Reference, Torridge District Council Members Code of Conduct.

Torridge District Council
Standards Committee Hearing Procedure

Procedure to be followed at the Hearing

Interpretation

1. 'Member' means the Member of the authority who is the subject of the allegation being considered by the Standards Committee, unless stated otherwise. It also includes the Member's nominated representative.
2. Independent Person(s) means an Independent Person appointed by the Authority in accordance with Section 28(7) of the Localism Act 2011.
3. 'Investigator' means the Investigating Officer, and includes his/her nominated representative. Investigator could mean the Monitoring Officer or other investigating officer, and his/her nominated representative.
4. 'Committee' also refers to 'a Standards Sub-Committee'.
5. 'Legal Adviser' means the officer responsible for providing legal advice to the Standards Committee, and may be the Monitoring Officer or a member of his/her team.

Representation

6. The Member may be represented or accompanied during the Hearing by a solicitor, counsel or, with the permission of the Committee, another person.

Advice

7. The Committee may take legal or procedural advice from the Legal Advisor at any time during the Hearing or while it is considering the outcome. The substance of any legal advice given to the Committee should be shared with the Member, the Investigating Officer and the Independent Person(s) if they are present.

Setting the scene

8. After all the Members and everyone involved have been formally introduced, the Chairman should explain how the Committee is going to run the Hearing.

Preliminary procedural issues

9. The Committee should then resolve any issues or disagreements about how the Hearing should continue that have not been resolved prior to the Hearing, including whether to proceed if the Member is not present etc.

Making findings of fact

10. After dealing with any preliminary issues, the Committee should then consider whether or not there are any significant disagreements about the facts contained in the Investigating Officer's report.
11. If there is no disagreement about the facts, the Committee can move on to the next stage of the Hearing (proceed to item 19 below).
12. If the Member disagrees with any relevant fact in the Investigating Officer's report, without having given prior notice of the specific disagreement, he or she must give good reasons for not mentioning it before the Hearing. After considering the Member's explanation for not raising the issue earlier, the Committee may then:-
 - (a) continue with the Hearing, relying on the information and findings of fact as set out in the Investigating Officer's report (proceed to item 19 below);
 - (b) allow representations to be made as though those representations had been notified in advance (proceed to item 13 below), or
 - (c) postpone the Hearing to arrange for appropriate witnesses to be present.
13. If there is a specific disagreement which has been notified in advance, the Investigating Officer should be invited to make any necessary representations to support the relevant findings of fact in the report. With the Committee's permission, the Investigating Officer may call any necessary supporting witnesses to give evidence. The Committee may give the Member an opportunity to challenge any evidence put forward by the Investigating Officer and any witness called by the Investigating Officer. The Independent Person(s) will then be given the opportunity to ask any questions of the Investigating Officer or any of their witnesses.
14. The Member should then have the opportunity to make representations to support his or her version of the facts and, with the Committee's permission, to call any necessary witnesses to give evidence.
15. At any time, the Committee may question any of the people involved or any of the witnesses, and may allow the Investigating Officer to challenge any evidence put forward by the Member and witnesses called by the Member. The Independent Person(s) will then be given the opportunity to ask any questions of the Member or any of their witnesses.
16. The Independent Person(s) will be given an opportunity to make any representations on the facts and the Investigating Officer and Member will be allowed to ask questions of the Independent Person(s).
17. The Committee will then deliberate in private. Only Committee Members, the Committee's Legal Adviser, and the Committee's minute taker will be present during deliberations.
18. The Chairman will then announce to all parties the Committee's findings of fact.

Did the Member fail to follow the Code?

19. The Committee then needs to consider whether or not, based on the facts it has found, the Member has failed to follow the Code of Conduct.
20. The Member should be invited to give relevant reasons why the Committee should not decide that he/she has failed to follow the Code.
21. The Committee should then consider any representations from the Investigating Officer.
22. The Committee should then consider any representations from the Independent Person(s).
23. The Committee may, at any time, question anyone involved on any point they raise in their representations.
24. The Committee will then deliberate in private. Only Committee Members, the Committee's Legal Adviser, and the Committee's minute taker will be present during deliberations.
25. The Chairman will then announce to all parties the Committee's decision as to whether or not the Member has failed to follow the Code of Conduct.

If the Member has not failed to follow the Code of Conduct

26. If the Committee decides that the Member has not failed to follow the Code of Conduct, it shall move on to consider whether it should make any recommendations to the authority.

If the Member has failed to follow the Code

27. If the Committee decides that the Member has failed to follow the Code of Conduct, it will consider any verbal or written representations from the Investigating Officer, the Member and the Independent Person(s) as to whether or not the Committee should impose any sanctions upon the Member, make any recommendations concerning sanctions to the authority, or whether it should make any general recommendations to the authority with a view to promoting high standards of conduct amongst Members.
28. The Committee may question the Investigating Officer, the Member and Independent Person(s), and take advice to make sure it has the information it needs in order to make an informed decision.
29. The Committee will then deliberate in private. Only Committee Members, the Committee's Legal Adviser, and the Committee's minute taker will be present during deliberations.
30. The Chairman will then announce the Committee's decision to all parties.

The written decision

31. The Committee will announce its decision on the day of the Hearing. A full written decision will be produced within two weeks of the Hearing. The full written decision will be provided to the Member, the complainant and the clerk to the appropriate town/parish council, if applicable.



Procedural Guidance

for

Standards Committee Hearings

Chairman Guide

Summary of Hearing Procedure

- Introduction of the Hearing Committee members by the Chairman.
- The Hearing is to consider an alleged failure to comply with the Code of Conduct.
- The Chairman explains how the Committee is to manage the various stages of the Hearing:

Stage 1 – Making findings of fact

Stage 2 - Did the Member fail to follow the Code?

Either the Member has not failed to follow the Code
Or the Member has failed to follow the Code

Stage 3 - If the Member has failed to follow the code, what sanction should apply

1. **The Chairman** will then continue –

"This Hearing will be conducted in three distinct Stages. These are, in order:

Stage 1 – Making Findings of fact

The purpose of this stage is to establish the facts of the case. This may be achieved by agreement of all parties or may be complicated by disagreement. In the case of the latter the Committee will need to listen to the evidence, question this as necessary and deliberate in private to reach their decision.

Stage 2 - Did the Member fail to follow the Code?

Either the Member has not failed to follow the Code
Or the Member has failed to follow the Code.

Stage 3 - *If the Member has failed to follow the code, what sanction should apply.*

STAGE 1 – FINDINGS OF FACT

Where the facts are not agreed the Investigator, will be invited to make representations in support of his report and call witnesses.

The Member, or his/her representative, may cross-examine any witnesses called by the Investigator.

The Member, or his/her representative, will then be invited to make representations in support of his/her view of the facts and call witnesses. The Member may also address any matters of evidence identified.

The Investigator may cross-examine any witnesses called by the Member.

At an appropriate time, with the permission of the Chairman, the Investigator or the Member may make further representations or re-question a witness on matters arising from their evidence.

At any time the committee may question any of the people involved or any of the witnesses.

The Chairman

"The Committee will now consider the facts and this will be done in private would all parties please leave the room"

STAGE 2 – DID THE MEMBER FAIL TO FOLLOW THE CODE?

The Chairman will open Stage 2 by saying

"The Committee has considered the facts and has found as follows"

The Chairman will read out the findings of the Committee regarding the facts. No further representations from either the Investigator nor the Member may be made regarding the facts.

"The Committee will now hear representations as to whether or not the Member failed to follow the Code.

Would the Investigator please begin?"

Based on the facts it has found the committee will then hear representations as to whether or not the Member has failed to comply with the Code of Conduct.

The Member will be invited to give reasons why the Committee should decide that he has not failed to comply with the Code of Conduct.

The Committee will then consider any verbal or written representations from the Investigator upon this point.

The Committee may, at any time, question anyone involved on any point they raise in their representations.

The Member will be invited to make any final relevant points.

The Chairman

"The Committee will now consider the representations and this will be done in private – would all parties please leave the room."

STAGE 3 – IF THE MEMBER HAS FAILED TO FOLLOW THE CODE WHAT SANCTION SHOULD APPLY

The Chairman will open Stage 3 by saying

"The Committee has considered the representation of Stage 2 and has found as follows"

The Chairman will read out the findings of the Committee regarding whether or not the member failed to follow the Code.

If there is no breach of the Code:

If the Committee decides that the member has not failed to follow the Code of Conduct, the committee can move on to consider whether it should make any recommendations to the authority.

If there is a breach of the Code

The Chairman will say

"The Committee will now hear representations as to whether any sanctions should be applied"

Representations are then made:
The Investigator
The Member or their representative

The Chairman

"The Committee will now consider the representations and this will be done in private – would all parties please leave the room.""

HEARING CONCLUSION

The Chairman will open by saying

"The Committee has considered the representations of Stage 3 and has found as follows"

The Chairman will read out the findings of the Committee regarding any sanctions that it may feel appropriate.

"A written copy of the Committee's findings will be sent by post to the Member, within 10 working days."

The Chairman closes the Hearing by saying

"This Hearing is now closed."

FORM A *Please enter the number of any paragraph where you disagree with the findings of fact in the Investigator's report, and give your reasons and your suggested alternative.*

Member's response to the evidence set out in the Investigator's report

Paragraph number from the Investigator's report	Reasons for disagreeing with the findings of fact provided in that paragraph	Suggestion as to how the paragraph should read

Please attach separate sheets if necessary.

Please set out below, using the numbered paragraphs, any other evidence you feel is relevant to the allegation made about you.

Other evidence relevant to the allegation

Paragraph number	Details of the evidence

Please attach separate sheets if necessary.

Agenda Item

REPORT OF Senior Solicitor & Monitoring Officer

To: Standards Committee

Subject: Town and Parish Council Liaison

Date: 8 March 2017

Reference: JH

PURPOSE OF REPORT:

To consider a Parish/Town Council liaison plan and schedule of visits for the Standards Committee.

1. INTRODUCTION

Members have recently been considering ways to improve links with Town and Parish Councils within the District, both to foster good relations and also to help parishes proactively deal with any specific issues that may arise. Following these discussions, the Senior Solicitor has approached the Town and Parish Councils to gauge initial interest. This report is intended to facilitate the creation of a plan and schedule of visits to parishes by members of the Standards Committee.

2. REPORT

Within the Torridge District boundaries there are 64 parishes, approximately 48 of which have an active Town/Parish Council or Parish Meeting. Council officers do attend parish council meetings on occasion, but due to the sheer number and rural location of parishes it isn't always possible to do this regularly or comprehensively. It was partly for this reason the Area Advisory Groups were established, and these have provided a very useful link with the parishes and have facilitated improved bilateral communications with the District Council. It was recently identified that there was demand for an additional Area Advisory Group, and as a result there are now three such groups which meet in Bideford, Great Torrington and Holsworthy.

Parish councils do contact the District Council from time to time with specific queries or issues, however this can be a somewhat reactive position depending on when issues are raised and how they have progressed by that stage. The Standards Committee has expressed an interest in being proactive in this respect, by attending parish/town council meetings and opening dialogue with parishes on issues relevant to the Committee's remit.

The Senior Solicitor has invited parish and town councils to get in contact if they would like a visit from a member of the Standards Committee. The response to this invitation has been quite good, with a number of parishes expressing an interest in a general visit or to discuss certain topical issues.

A draft schedule of those interested parishes will be circulated at the Standards Committee meeting, with details of the next scheduled meeting of those parishes. Members can then consider who would be willing to visit each parish and when, and also decide on the scope of those visits.

3. IMPLICATIONS

Legal Implications

There are none identified

Financial Implications

There are none identified

Human Resources Implications

There are none identified.

Sustainability Implications

There are none identified

Equality/Diversity

There are none identified.

Risk Management

There are none identified

Compliance with Policies and Strategies

There are none identified

Ward Member and Lead Member Views

Cllr Ken Carroll: The Committee is keen to assist the Town and Parish Councils wherever it can, and also to promote the Committee as a resource for advice and guidance on issues falling within its remit.

4. CONCLUSIONS

The Committee is asked to consider a Parish/Town Council liaison plan and schedule of visits for the Standards Committee.

5. RECOMMENDATIONS

That the Committee consider a Parish/Town Council liaison plan and schedule of visits for the Standards Committee to include:

- a) An outline of the scope and remit of visits by a member of the Standards Committee, and
- b) A draft schedule of meetings.

SUPPORTING INFORMATION

Consultations:	Cllr Ken Carroll Head of Paid Service, Strategic Manager (Resources)
Contact Officer:	Jamie Hollis
Background Papers:	Standards Committee Terms of Reference

STANDARDS COMMITTEE – FORWARD PLAN 2016/17

2015/16	Cycle 1	Cycle 2	Cycle 3	Cycle 4	Cycle 5	Cycle 6	Cycle 7	Cycle 8
	3 June 2016		7 September 2016		21 Dec 2016	30 January 2017	6 March 2017	
	2pm		2pm		2pm	2pm	2pm	
	Code of Conduct aspects of planning pre-application discussions Draft Advice Note – Parish Council Dispensations		Liaison with Parish and Town Councils Access to Information Procedure		Substitutions for Standards Committee Dispensation for M Brown & C Simmons	Code of Conduct Complaint	Hearing Procedure Town and Parish Council Liaison Part II Procedure	
Standing item	Complaint update		Complaint update		Complaint update		Complaint update	
Standing Item								