

STANDARDS COMMITTEE

6 November 2018

Commenced: 4.00 pm

Terminated: 5.40 pm

Present: Mrs Bracken (Chair)
Councillors Bell, Kitchen, J Lane, Quinn, M Smith, Town Councillor Brett and Mrs Barnes

In Attendance: Steven Pleasant Chief Executive
Sandra Stewart Director of Governance and Pensions

1 **DECLARATIONS OF INTEREST**

There were no declarations of interest submitted by members of the Standards Committee.

2 **MINUTES**

The Minutes of the proceedings of the Standards Committee held on 7 November 2017 were taken as read and signed by the Chair as correct record.

3 **RESPONSIBLE SOCIAL MEDIA USE**

The Monitoring Officer stated that the use of social media was an effective method for Councillors to engage and communicate and to support local democracy. It had grown substantially over recent years as a means of communicating and sharing information including websites, emails, online forums and communities such as Facebook and Twitter. She made reference to the Council's Social Media Use Responsible Conduct Policy, which had been recommended by Standards Committee and approved by Council a year ago for employees and commended to Councillors together with an explanation of the Cabinet Office consultation on proposed changes to electoral law aimed at improving political debate, which had recently been considered at the Democratic Processes Working Group and discussed at Council.

A discussion took place about concerns about email Facebook comments that had taken place between some elected members and the role of the Standards Committee.

The Monitoring Officer reminded members of the role of the Standards Committee, the Independent Person, who chaired the Committee and that of the Monitoring Officer.

The Monitoring Officer's role is set out section 5 of the Local Government and Housing Act 1989, which was amended by Schedule 5 of the Local Government Act 2000. Additional responsibilities relating to standards and conduct can be found in Part III of the 2000 Act.

The Monitoring Officer has three principal responsibilities:

- (a) To report on matters they believe are, or may be, illegal or amount of maladministration. There is particular provision in the 1989 Act as to how these reports should be framed, and how they should be responded to. These are slightly different for authorities operating executive arrangements, and other authorities;
- (b) To be responsible for the conduct of councillors and officers with the Statutory Code of Conduct;

- (c) To be responsible for the operation, review and updating of the constitution. This includes providing advice on the interpretation of the constitution, and making determinations where necessary.

The Members Code of Conduct, which applies to all elected members, can be found on the website at:

<http://tameside.moderngov.co.uk/documents/s13987/Standards%20of%20Conduct%20and%20Ethics.pdf>

In 2012, the then Government significantly reduced the role of Standards Committee and Monitoring Officer to deal and consider complaints and abolished the Standards Board for England taking the view that the electorate should determine who the representative was and sanction their behaviour through the ballot box unless the elected member's behaviour was criminal.

Criminality was refined and narrowed to failures to declare interests.

Clearly all elected members are subject to the laws of the land and any such complaints would be investigated by the Police in the usual way.

The complaints process does not apply to complaints that are about:

- any conduct where the Councillor is not acting as a councillor for example in their private life
- Incidents that happened before a member was elected or chosen to serve.
- Incidents that generally happened more than 12 months ago
- The way a council conducts or records its meetings.
- The way a council as a whole has or has not done something. This may be a matter for the Local Government Ombudsman if the council has not dealt with the matter properly and it has not been resolved locally.
- Decisions of the council or which are about one of the services it provides. In this case, you should ask how to complain using the relevant council's own complaints system.
- Any matters relating to elections

Any complaints are considered by the statutory section 5 Monitoring Officer usually in consultation with the Independent Person appointed under the Localism Act 2012.

The options available include:

- Informal resolution through, for example, seeking an apology from the member who is the subject of the complaint or attempts at conciliation.
- Formal investigation to the Standards Sub-Committee
- No further action.

Depending on the nature of the complaint, the Monitoring Officer may refer the matter for formal investigation to the Standards Committee.

If the complaint identifies criminal conduct or breach of other regulations by any person, the monitoring Officer had the power to call in the Police and other regulatory agencies.

There is no right of appeal against the decision as to what steps, if any, the Council intends to take in relation to a complaint.

If a complainant feels that the authority has failed to deal with their complaint properly, they may make a complaint to the Local Government Ombudsman.

The High Court concluded that where the Councillor was doing something in an entirely private capacity, where his conduct had nothing to do with his position as a Councillor, he will not be covered by the Code of Conduct.

By way of illustration, the High Court referred to a Councillor who was caught shoplifting or found guilty of drunken driving and said that, if it had been the intention of Parliament to subject a Councillor to a Code of Conduct, which extended to conduct in his private life, Parliament should have spelled out what was to be covered.

Accordingly, where a Councillor did something quite outside his functions as a Councillor, even where that action clearly reflected upon his/her credibility to act as a Councillor such as a criminal offence of dishonesty, the only way in which the law could prevent that Councillor from continuing to act as a Councillor was where the Councillor was disqualified under Section 80 of the Local Government Act 1972 as a result of being convicted of a criminal offence and given a custodial sentence of 3 months or more (whether or not suspended).

Additionally, some matters don't breach the very strict framework for councillors when undertaking their duties but it may in fact be in breach of their party political code of conduct and this may be an avenue that complainants wanted to follow.

Should it be determined that the matter was a complaint falling within the jurisdiction set out by the Localism Act, the Independent Person, who is the Chair of Standards Committee and the Monitoring Officer would make a decision as to the most appropriate course of action for dealing with the complaint, which may include consideration by the Standards Committee and the imposition of an appropriate sanction.

The Standards Committee acknowledged that the use of social media provided an opportunity for interaction but it was recognised that as local leaders, there were some additional points that Councillors should keep in mind.

Aspects of the Members Code of Conduct would apply to online activity in the same way as it did for other written or verbal communication and Members should be particularly aware of the following:

- Treating others with respect;
- Refraining from publishing anything received in confidence and;
- Ensuring the Council, or the councillor role, was not brought into disrepute.

The Standards Committee discussed at length the differences / balances between communicating as a Councillor or as a private individual. It would be safest to recognise that members of the public would naturally assume that any online activity could be attributed to a Councillor role and would more likely to be seen to be acting in an official capacity. Sometimes it could be difficult not to post an immediate response to something that was inflammatory or provoked an instinctive reaction.

Members also identified that there were occasions that the actions of councillors towards each other may place councillors potentially in conflict with the Code of Conduct. The Code was not intended to deter from robust political debate but did expect that all councillors conducted themselves with honesty, integrity and respect in dealings with others and certainly avoiding any behaviours which could be deemed as abusive or discriminatory in any way.

In addition, reference was made to the Conservative Party Respect Pledge and Labour Party Code of Conduct: Social Media Policy setting out the code of conduct expected by both parties of all their members.

Given that these sought to ensure such inappropriate behaviours were not tolerated, the Standards Committee discussed the possible introduction of a cross party pledge seeking members to sign up to in setting standards for acceptable behaviour online. The Standards Committee felt this was important to set an example whilst asking individuals to behave responsibly online, treating others with respect and appreciating others' views and opinions. A process for dealing with a Member found to be in breach of the pledge and possible sanctions that could be imposed were also discussed.

The Standards Committee requested the Monitoring Officer to produce a draft pledge for consideration at a future meeting of the Standards Committee with a view to its introduction in May 2019 subject to a training event on responsible social media use be included in the Members Training and Development Programme which would discuss and agree a cross party pledge together with agreeing a process for infringements and sanctions.

The Monitoring Officer explained this would need to be agreed by Council and each individual Councillor and the parties to enable enforcement which was additional to that set out in the Code.

RESOLVED

That the Monitoring Officer produce a draft cross party pledge setting out the conduct expected from Members to ensure responsible use of social media and process for dealing with infringements for consideration at a future Member Training and Development event on responsible social media use be arranged with a view to such being agreed by Council for introduction in the forthcoming Municipal Year.

4 REGISTER OF INTERESTS AND GIFTS AND HOSPITALITY

The Register of Interests and Register of Gifts and Hospitality was presented for inspection.

5 DISCUSSION PERIOD FOR MEMBERS TO RAISE ISSUES (IF ANY)

The Chair noted there were no issues raised by Members.

6 URGENT ITEMS

The Chair advised that there were no urgent items for consideration at this meeting.

7 DATE OF NEXT MEETING

It was noted that the next meeting of the Standards Committee will be held on 2 April 2019.