

AGENDA REPORTS PACK

STANDARDS COMMITTEE

29th APRIL 2015

15S/015.

Minutes of Cottenham Parish Council Standards Committee
Held in the Parish Office, Community Centre, Cottenham
On Tuesday 27th January 2015 at 7.30pm

Present: Cllrs Heydon, Leeks, Morris and Nicholas plus Clerk Jo Brook

- 15S/001. Appointment of Chair of the Committee** – Resolution that Cllr Morris be appointed as Chair of the Standards Committee. **RESOLVED.**
- 15S/002. Any Questions from the Public or Press – Standing orders to be suspended** – None.
- 15S/003. Standing Orders re-instated - Chairman’s Introduction and Apologies** – Cllr Morris thanked the Committee for his appointment.
- 15S/004. Declarations of Interest** *To receive disclosures of pecuniary and non-pecuniary interests from Councillors on matters to be considered at the meeting.* – None.
- 15S/005. Follow up from Cllr training** – To consider lessons learned from the Councillor training sessions and any perceived need for follow-up training or mentoring – Cllr Morris ran through the syllabus. Regarding planning, Cllr Leeks pointed out that neither SCDC or the Parish follow up on conditions placed on planning applications. Part of the S106 money to District should be used for this purpose. Should we put our own system in place? Cllr Nicholas also suggested using delegation reports to learn the reasons why applications are/aren’t approved.
- 15S/006. Review the Code of Conduct** – To consider Councillor behaviour in and out of formal meetings, including use of email and any effect on our Code of Conduct – CPC adopted the NALC version of the Code in 2012. Need to look at use of email discussions and pre-disposition. Cllrs need to be aware of FOI requests and that personal email accounts could be subject to requests if used for PC business. Items that are or may become agenda items should be off limit for discussion outside of meetings. If Cllrs don’t agree with a decision they must still stand by the PC’s decision. Cllr Morris to draft addition to the Code for the next meeting.
- 15S/007. Review the Complaints procedure** – To consider its fitness for purpose and suggest independent members for possible inclusion on panels – Suggestion to add extra clauses to fill a hole in the process re. complaints about Cllrs. When required, the Standards Committee will co-opt two non-Councillor residents to form a Code of Conduct Committee to investigate complaints about actions by any Parish Councillor. Cllr Leeks said that they needed to be some form of test of the validity of a complaint i.e. that it falls under the Code. First responders get complaint, test validity with Code Committee and take a view of what should be done. Need to establish what redress the complainant expects. The Committee will make a decision whether the complaint will be taken further and the Cllr concerned is notified. Actions: need to amend response time and Clause 14 to be rewritten. Clerk to write to the 5 panel members nominated for the 2 independent places to ascertain their availability (Simon Edwards, Ruth Rogers, John Garstang, Eileen Wilson and Rick Bristow).
- 15S/008. Scrutiny Mechanisms** – To consider Council’s scrutiny mechanisms, especially in light of proposed further financial delegation to Committees – Cllr Morris outlined the requirement. Cllr Nicholas raised concerns that some items may slip through unscrutinised. We need to decide whether there is a real need for this new working party/committee and how much time would be required. All minutes are already sent to all Cllrs. In terms of payments/cheques there is already a robust process in place.
- 15S/009. Terms of Reference** – Resolution to amend Standards Committee Terms of Reference membership to 6 members including ex-officio. **RESOLVED.** NB: the situation re. ex-officio should be amended for all committees. Also need 2 more members; Clerk to add to next full Council agenda.
- 15S/010. Date of next meeting** – TBC.
- 15S/011. Close of meeting** – 8.41pm.

Signed _____ (Chair) Date _____

15S/016. Terms of Reference – To consider and recommend for adoption by the Parish Council, the (possibly revised) Terms of Reference of the Standards Committee

There is one possible suggested amendment to the version adopted in February 2015 which formalised the Committee having 6 members, including Chair and Vice Chair as “ex-officio”

- a) conduct, with co-opted independent members, formal procedures to handle any complaints properly brought against the Parish Council

Currently the Complaints Handling Procedure implies the “independent” members are “two co-opted Councillors who are not currently members of the Standards Committee”

- If this is intended, then it may be better to re-write the ToR from “with co-opted independent members” to state “with two co-opted Councillors who are not currently members of the Standards Committee”.
- If “independent” should imply “non-Councillor residents” then the ToR should possibly read “with two co-opted non-Councillor residents chosen from a list approved by Council” AND the Complaint Handling procedure paragraph 7 altered similarly

15S/017. Code of Conduct – To consider and recommend for adoption by the Parish Council, the (possibly revised) Code of Conduct

While not revising the core text, it will be useful to review the interpretations shown in red italics:

1 Application

This Code of Conduct applies to you whenever you are acting, claim to act or give the impression you are acting in your capacity as a Member of the Authority, including:–

- 1.1 at formal Meetings of the Authority (*Council or Committee*)
- 1.2 when acting as a representative of the Authority (*formally delegated and/or self-declared*)
- 1.3 when corresponding with the authority other than in a private capacity (*including email*)

2 Meeting

In this Code “Meeting” means any meeting organised by or on behalf of the Authority, including :–

- 2.1 any meeting of the Council, or a Committee or Sub-Committee of Council
- 2.2 at any site visit to do with the business of the Authority

3 General Conduct

You must –

- 3.1 provide leadership to the authority and the community within its area, by personal example and
 - 3.2 respect others and not bully or threaten or attempt to bully or threaten any person (*perceptions and reality can be different*)
- 3.3 respect the confidentiality of information which you receive as a Member by–
 - 3.3.1 not disclosing confidential information to third parties unless required by law to do so or where there is a clear and over-riding public interest in doing so; and
 - 3.3.2 not obstructing third parties’ legal rights of access to information
- 3.4 not conduct yourself in a manner which is likely to bring the Authority into disrepute (*avoid introducing misinformation; decisions debated in open meetings “afresh” unless delegated by resolution to a WG or Clerk*
- FOI request could extract email trail that implies secret decision-making and or pressurisation)
- 3.5 use your position as a Member in the public interest and not for personal advantage
- 3.6 comply with the Authority’s reasonable rules on the use of public resources for private and political purposes
- 3.7 exercise your own independent judgement, taking decisions for good and substantial reasons by –
 - 3.7.1 attaching appropriate weight to all relevant considerations including, where appropriate, public opinion and the views of political groups (*avoid predetermination*)
 - 3.7.2 paying due regard to the advice of Officers (*without claiming reliance on the advice*)
 - 3.7.3 stating the reasons for your decisions where those reasons are not otherwise apparent (*explanation rather than simple assertion*)
- 3.8 do nothing that causes the Authority to act unlawfully. (*compliance with SO, FR and ToR*)

15S/018. Complaints procedure – To consider and recommend for adoption by the Parish Council, the (revised) Complaints Handling procedure

From our Terms of Reference:

1f) When required, the Standards Committee will nominate additional Councillors to form the necessary 5-strong Complaints Committee to investigate complaints about actions by the Parish Council

1g) When required, the Standards Committee will co-opt two non-Councillor residents to form a Code of Conduct Committee to investigate complaints about actions by any Parish Councillor

Our current adopted Complaints Handling procedure focuses on complaints about the Council's administrative and procedural issues in line with ToR 1f above, but does not address complaints against a Councillor as required by ToR 1g.

This recommendation is based on the NALC text (in black) extended (in red) to cover complaints against a Councillor using text used by Histon & Impington, further modified following a discussion at the last Standards meeting.

Proposed Complaint handling procedure

1. *The following procedure will be adopted for dealing with complaints:*
 - (a) *about a policy decision made by the Council will be referred back to the Council, or relevant Committee, as appropriate, for consideration.*
 - (b) *about the Council's administration or its procedures will be handled as outlined in paragraphs 2 to 7 and A to D below*
 - (c) *about the conduct of a member of the Parish Council will be handled as outlined in paragraphs 8 to 12 and A to D below.*
 - (d) *Matters relating to **Grievance or Disciplinary proceedings** that are taking, or are likely to take place, should be dealt with in accordance with paragraphs 2 to 7 below then in accordance with the Council's grievance and disciplinary procedures.*
2. If a complaint about **procedures, administration or the actions** of any of the Council's employees is notified orally to a Councillor, or to the Clerk to the Council, a written record of the complaint will be made, noting the name and contact details of the complainant and the nature of the complaint.
3. The complainant will be asked to put the complaint in writing (letter/e-mail/standard form) to the Clerk to the Council at Right Side Entrance, Community Centre, 250a High Street, Cottenham, Cambridge CB24 8XZ. The complaint will be dealt with within 21 days of receipt. Refusal to put the complaint in writing does not necessarily mean that the complaint cannot be investigated, but it is easier to deal with if it is in writing.
4. If the complainant prefers not to put the complaint to the Clerk to the Council (because the matter relates to the Clerk, for example,) he or she should be advised to write to the Chair.
5. On receipt of a written complaint, the Clerk to the Council (except where the complainant is about his or her own actions) or Chair of Council (if the complaint relates to the Clerk), will seek to settle the complaint directly with the complainant. This will not be done without first notifying any person complained about and giving him or her an opportunity to comment. Efforts should be made to resolve the complaint at this stage.
 - (a) Where the Clerk to the Council or a Councillor receives a written complaint about the Clerk's actions, he or she shall refer the complaint to the Chair of Council. The Clerk to the Council will be formally advised of the matter and given an opportunity to comment.

6. The Clerk to the Council (or Chair) will report any complaint disposed of by direct action with the complainant to the next meeting of the Council.
 7. *If the matter cannot be resolved in this way the complaint, in writing, should be put to CPC's Complaints Committee, comprising three members of the Standards Committee and two co-opted Councillors who are not currently members of the Standards Committee, whose procedure is outlined at paragraphs A to D below.*
 8. ***Complaints about the conduct of a Member of the Parish Council should be made in writing to the Clerk of the Council (or the Chair of the Standards Committee if the complainant prefers not to put the complaint to the Clerk) at the Parish Office, Right Side Entrance, Community Office, 250a High Street, Cottenham, Cambridge CB24 8XZ or by email to clerk@cottenhampc.org.uk***
 9. *Upon receipt of a written complaint the Clerk will notify a member of the Standards Committee, normally the Chair unless the subject of the complaint, who will, if necessary seek further information from the complainant until able to assess whether the complaint, in principle, qualifies as a breach of the Code of Conduct and likely acceptable forms of redress.*
 10. *In the event of a technically valid complaint, the complainant will be advised that the councillor(s) against whom the complaint(s) is made will be given 10 working days to offer a response and that response will be copied to the complainant within 2 working days of such receipt*
 11. *The complainant will then be given 5 working days to consider the response after which time the Clerk will ask whether the complainant is satisfied or whether further action is required.*
 12. *If the matter cannot be resolved in this way the complaint, in writing, should be put to CPC's Code of Conduct Committee, comprising three members of the Standards Committee and two co-opted non-Councillor residents from a list approved by Council. Their procedure is outlined in paragraphs A to D below.*
- A. The Committee may defer dealing with any complaint if it is of the opinion that issues arise on which further advice is necessary. The advice will be considered and the complaint dealt with after the advice has been received.
 - B. *The complainant will be invited to attend a meeting of the relevant committee on the understanding that any documentation of other evidence on which the complainant may rely has been copied to and received by the Clerk seven working days prior to the meeting date. The complainant may be accompanied by whomsoever he/she wishes but such person may only attend as an observer and whilst their presence will be acknowledged they must take no part in the proceedings.*
 - C. *The meeting will be held in private at which time:*
 - i. *The Chair will introduce everyone*
 - ii. *The Chair will then state the nature of the complaint and thereafter ensure that the hearing adheres to the following:*
 - iii. *The Complainant will detail the grounds for complaint and the action he/she would expect to resolve the complaint.*
 - iv. *The Committee members will then be given time to ask questions of the Complainant.*
 - v. *The Parish Clerk, a Councillor or the subject of the complaint (the nominee) will explain their position.*
 - vi. *The Committee will then have time to question the nominee.*
 - vii. *The nominee and then the Claimant (that order) will be given an opportunity to make a final address to the Committee.*
 - viii. *The nominee and the Claimant will be asked to leave the room whilst the Committee decides whether or not the grounds for complaint have been made. (In the event that any point is in need of clarification then both parties will be invited back in).*

ix. The nominee and the Complainant will return to hear the decision or be told when the decision will be made.

D. The decision will be confirmed in writing, and with details of any action to be taken, within seven working days of the decision date. Furthermore such decision shall be announced, and explained at the next council meeting and in the presence of any members of the public or press.

15S/019. Code of Conduct Committee membership – To consider the nominee list of non-Councillor residents, two of whom are to be appointed by the Standards Committee as ad-hoc co-opted members to form, with 3 members of the Standards Committee, a 5-member Code of Conduct Committee in the event of a complaint about actions by a Councillor

Subject to agreement (15S/018) of a procedure for handling complaints against a Councillor, the suggestion is to “sound out” three to five non-Councillor residents for willingness to join an ad-hoc Code of Conduct Committee alongside two members of the Standards Committee in the rare event of a complaint against a Councillor (OR against the Council if ToR amended to require true independent members) reaching this stage.

15S/020. Annual report – To consider and present an annual report of the Committee’s activities to the Parish Council

Suggested text:

The Standards Committee, currently comprising Frank (Chair), Alan, Ian, Kate, Martin and Tony has met twice in the year with minutes on record.

The Committee has reviewed the Code of Conduct and the Complaints procedure and recommended various changes for adoption at the Annual Meeting

The Committee has not conducted any formal complaints procedures against the Council or any Councillor, although several informal assessments have been made of complaints against one or more Councillors.

The Committee has reviewed the training status of all Parish Councillors and recommends that Councillor training courses are made available to new Councillors and those Councillors who did not complete the training offered during the year. The Clerk and RFO should be encouraged to participate in SLCC training sessions and the Assistant Clerk to undergo a Clerk training course.

15S/021. Training - consider and recommend to the Parish Council any necessary training required during 2015/6 for Councillors and/or staff

Councillor training courses should be made available to new Councillors and those Councillors who did not complete the training offered during the year.

Membership of SLCC should continue to be offered to the Clerk and RFO who should also be encouraged to take up occasional relevant courses and seminars.

The Assistant Clerk, when recruited should take a Clerk training day.