

STANDARDS COMMITTEE
Friday, 29 January 2021

Minutes of the meeting of the Standards Committee held at Committee Rooms on
Friday, 29 January 2021 at 11.00 am

Present

Members:

Randall Anderson (Deputy Chairman)
Judith Barnes
Henry Colthurst
Nick Cooke
Mary Durcan
Helen Fentimen
Deputy Jamie Ingham Clark
The Very Revd. Dr. David Ison
Alderwoman Susan Langley
Dan Large
Alderman & Sheriff Professor Michael Mainelli
Jeremy Simons
Elizabeth Walters

Officers:

Gemma Stokley	Town Clerk's Department
Antoinette Duhaney	Town Clerk's Department
Emily Garland	Town Clerk's Department
Michael Cogher	Comptroller and City Solicitor
Edward Wood	Comptroller and City Solicitor's Department
Tracey Jansen	Human Resources
Tim Fletcher	Media Officer
Aqib Hussain	IT Support Officer

Also Present:

Deputy Brian Mooney, Chief Commoner
Marianne Fredericks
Graeme Harrower
Ann Holmes
Susan Pearson

Introductions

The Town Clerk opened the meeting by introducing herself and stating that the Committee was quorate.

A roll call of Members present was undertaken.

The Town Clerk highlighted that the meeting was being recorded as well as live streamed and would be made available on the City Corporation's YouTube page for a period of time after the meeting had concluded. With this in mind, it

was confirmed that participants in the meeting had all individually agreed and given their consent to being recorded and that all personal data would be processed in accordance with the Data Protection Act 2018. The Town Clerk highlighted that, for further information on this, viewers could contact the City Corporation using the details provided on the public webpages.

The Deputy Chair (in the Chair) then introduced himself and welcomed all those in attendance and viewing the meeting via YouTube. He commented that, under the new governance arrangements recently approved by the City with regard to its Standards regime, this was likely to be the last meeting of the Standards Committee.

1. **APOLOGIES**

Apologies for absence were received from Vivienne Littlechild.

2. **MEMBERS' DECLARATIONS UNDER THE CODE OF CONDUCT IN RESPECT OF ITEMS ON THE AGENDA**

There were no declarations.

3. **MINUTES OF THE PREVIOUS MEETING**

The public minutes of the meeting held virtually on 2 October 2020 were considered and approved as a correct record.

4. **GOVERNANCE REVIEW RECOMMENDATIONS AND TRANSITIONAL ARRANGEMENTS**

The Committee discussed the Governance Review recommendations and transitional arrangements pertaining to the City's Standards regime. The Deputy Chair invited any questions or comments that the wider Committee might have.

A Co-opted Member commented that she welcomed the proposals pertaining to dispensations. However, she was of the view that the proposals around complaints under the Member Code of Conduct were not an improvement on the current system, particularly when the Court of Common Council had thrown out recommendations on sanctions from both the Standards Committee and the Standards Appeals Committee when a Member had been found to be in breach of the Code in the past. The Co-opted Member went on to state that she could see nothing under these new proposals to stop the same from happening again when recommendations were put to the Court from the new Independent Panel. She went on to comment that, under existing arrangements, the Court were not able to overturn a finding of a breach but that, as she understood it, under the proposed approach, even this would be possible. She underlined that, to truly improve on standards in the City Corporation, there needed to be a change of culture which would require training yet she noted that Members had, again, rejected an external recommendation to make training on conduct and standards a pre-condition for sitting on Committees (made originally by Charles Bourne QC and now by Lord Lisvane).

Another Co-opted Member echoed the thoughts of the previous speaker. He commented that he was now the longest serving Co-opted Member of the

Committee and had begun serving under one regime which had then been changed under the Bourne Review without consulting Co-opted Members and now further changes were proposed. He stated that he felt that the problem was not with the regime and had concerns that the new Independent Panel would also receive written abuse from Members. He added that the first opportunity to discuss any recommendations from the new Independent Panel would be at the Court of Common Council where he had concerns that the Court would be just as vituperative as it had been on standards matters for the past 8 years. He agreed with the point made by the previous speaker with regard to a culture change being needed and Members needing to accept that they were public servants and therefore under scrutiny. He went on to state that Members ought to be kinder to each other, to Officers and to Co-opted Members and that he did not feel that these new proposals would resolve anything and that further regime changes would be called for in due course. He continued by stating that this problem did not occur in other local authorities where the standards regime was not used as heavily.

A Member spoke to state that he understood and largely accepted the views expressed by the two Co-opted Members but added that it was very clear that the current standards regime did not work and therefore had to be replaced. He agreed with the comments made regarding a need for a change in culture in the City Corporation but added that he did not feel that the current standards regime whereby Members sat in judgement of other Members was conducive to this. He stated that he hoped that a far more informal process to resolve most complaints and those requiring a simple apology would be adopted.

The Member went on to endorse the view that there ought to be some form of training before Members were able to sit on Committees so that they were aware of the sensitivities of others and prepared to apologise where necessary.

The Deputy Chair also spoke in agreement and stated that he would also support an approach whereby Members were strongly encouraged to undergo training and hoped that this would be taken up by the Committee's successors.

Another Co-opted Member stressed the importance of training, highlighting that it indicated a willingness of people to take an issue seriously as indicated by Safeguarding training for example. He went on to say that a structured expectation that all Members receive standards training as part of the work of the City Corporation would signal the importance of it. He added that he felt that there was a deeper structural problem in that there was no party whip system in the City Corporation and that when he had chaired a Standards Committee elsewhere, his experience had been that the problems came not from the City Council but from the Parish Councils where there was also no party system and no sense of responsibility to those higher up within a party structure. This was something that the City Corporation would have to continue to deal with and he felt that a strong and independent standards regime was therefore key here and that their conclusions were accepted without question by the Court of Common Council.

Another Co-opted Member spoke out in agreement with the points made, highlighting that one of the problems with the proposed structure as he

understood it was that the recommendations of the Independent Panel could be overruled and effectively ignored by the Court. He added that, if this was the case, the issue of Councillors judging Councillors persisted. He stated that in his own wide and extensive experience of local authorities, expecting matters to be dealt with informally failed and could give rise to a culture of bullying due to a reluctance to tackle matters in this way. He concluded by stating that he did not feel that the reform of the standards regime had been very well considered.

A Co-opted Member spoke again on the matter of informal resolution, stressing that he could not caution enough against the excessive use of this and underlining that he had been making this point for his entire tenure on the Standards Committee. He stated that the City Corporation had a serious problem with the use of informal resolution for inappropriate matters. He added that he felt that he was leaving the City's standards regime in a much worse state than he had found it.

Another Co-opted Member spoke further to recognise that, whilst informal resolution always had a role to play, as far back as 2016, Charles Bourne had cautioned against using this inappropriately. With regard to offering apologies, she commented that she hoped that the City Corporation would avoid a sort of cancel culture by demanding apologies where someone had taken offence as apologies were only appropriate where someone had been offensive and this had to be subjective.

The Deputy Chair spoke to agree with the points made, stressing that the City Corporation did not have party politics and was made up of independents and that there had been a very strong feeling amongst Members that complaints to the Standards Committee were being used, in many instances, to address things that were less to do with standards and more to do with disagreements around policy and the like. He also agreed that the informal process was only appropriate for matters that meet a certain small threshold and that anything over this ought to be dealt with under the proper regime. He stated that he hoped that the Court's ability to overturn decisions of the Independent Panel would be rarely used with the new regime in place.

A Member spoke to recognise that, whilst it was not possible to undo the will of the Court at this stage, it might be worth this Committee sending a note/recommendation to ensure that whomever was tasked with overseeing the new standards regime were made aware of these conversations and had the benefit of the combined experience held here. Personally, he had no problem with introducing compulsory training, but the Court apparently felt that, along with the idea of being an independent, came the independence to choose whether or not you require training. The Member underlined that undertaking training actually gave Members some form of defence when challenged.

The Deputy Chair spoke to state that he would endorse a recommendation/resolution along these lines from this Committee and that he too did not understand the reticence of the Court to adopt compulsory standards training for all.

With the permission of the Deputy Chairman, the Chief Commoner addressed the meeting to seek to reassure the Co-opted Members present that the culture at the City Corporation had changed and would continue to change with serious matters not dealt with informally. He stated that he felt that the Co-opted Members of the Committee should feel a sense of pride in what they had achieved with and for the organisation as they had helped to bring about cultural change. He hoped that they would be impressed with the manner in which standards matter could be dealt with robustly both informally and formally via the new Independent Panel going forward. He underlined that the key here would be that Members no longer sat in judgement of other Members.

A Member reported that she had sat on various panels assessing complaints under the current regime alongside some of the Co-opted Members and stated that she had always been impressed by the way in which they were able to speak without fear or favour on these matters. She added that she was saddened that the Corporation would now be losing this contribution and thanked them for all of their work. These thanks were echoed by the Deputy Chairman on behalf of the Committee.

Another Co-opted Member spoke to state that she was a relatively new appointee and had had a short but interesting tenure. She went on to highlight that you only needed to look at the City Corporation's statistics on complaints in recent years to see that what had occurred was out of sync with other local authorities. In response to the Chief Commoner, she highlighted that culture was very deep rooted and did not therefore change overnight. Her concern was therefore how long it may take to ingrain this and for culture to change. She shared some of the concerns voiced by previous speakers in that some of the aggression and concern of Members may now be directed at the new Independent Panel and that the Court were able to overturn the decisions of this Panel. She suggested that there ought to therefore be a much more restricted right of appeal concerning manifest error or there would, in time, be a repeat of existing problems until such time as cultural change was truly ingrained. This could be reputationally damaging for the City Corporation. Regarding training, she stated that she found it astonishing that there should be any resistance to making this mandatory and a regular requirement for all.

A Member spoke to highlight that the Committee seemed to have reached a consensus on the matter of mandatory training and picked up on the suggestion of a previous speaker that they should put forward a resolution to this effect to the relevant body. The Deputy Chairman reiterated that he would be happy to support this if it were the will of the Committee. The Committee asked the Town Clerk to take forward a resolution stating that the Standards Committee strongly endorse compulsory training on standards before Members were able to sit/vote on Committees to ensure that all were properly appraised of the relevant issues. The Chief Commoner spoke to state that he felt that this resolution should be sent to the Member Development Steering Group who were already beginning to work up plans for new and returning Members following the 2022 all out elections.

A Co-opted Member picked up the point made by a previous speaker and questioned what would happen if there was a dispute over recommendations put forward by the Independent Panel and whether the right of appeal could be tightened as suggested. He added that there needed to be clear guidance from the outset in relation to appeals and how these were to be dealt with to maintain the independence of the decision-making process. The Deputy Chair and the Chief Commoner felt that it was important to minute these views but the Deputy Chair underlined that the Court had already now reached a decision on this matter and that the new process would be monitored and altered if necessary. The Chief agreed with the fact that the decisions reached by the Independent Panel should be safeguarded in so far as possible and that they should only be open to challenge on very specific legal points. He suggested that the Committee might therefore want to propose another resolution to this effect recognising that, whilst this could not bind future decisions, it could send a very strong message to the Committee's successors going forward.

A Co-opted Member stated that, in its present form, because of the unfettered ability of the Court of Common Council to overrule the recommendations of the Independent Panel, there was a serious risk of the Court being exposed to applications for Judicial Review. There were also concerns that the proposed system may not pass even the most basic of tests with regard to independence. He added that it would not be the newly appointed Independent Panel (who, in any case, would need to be clear as to their functions before appointment) who could create a watertight system, highlighting that only the Court of Common Council could do this. He concluded by stating that the detail of what could and could not be challenged was fundamental. He stated that many complaints had elements of confidentiality and that there was therefore a danger that if confidential matters came to the full Court, there could be no one there to advocate the complainant's case. He endorsed that a resolution warning of this and recommending the tightening of the appeals system was the best possible approach at this stage to protect the City Corporation going forward. He added that the need to pass basic tests in terms of independence would also need to apply to any transitional arrangements until such time as the new Panel were in place.

Another Co-opted Member spoke to state that, as she understood it, the Independent Panel could not make decisions on behalf of the Court of Common Council and so their decisions had to take the form of recommendations which could ultimately be rejected. As she understood it, this discretion to reject could not be fettered. The Comptroller and City Solicitor responded to state that the core issue here was that this was a local authority function under the Localism Act and that local authority functions could only be discharged by the full Council, a Committee, Sub-Committee or an Officer. The matter could not therefore be entirely outsourced and, ultimately, it was a Member decision that these recommendations should return to the Court of Common Council. He reported that alternatives to this approach could include having a Member led Committee considering final decisions or a Senior Officer. He added that he hoped that, as long as the Court simply received these recommendations, gave considerable weight to them and did not seek to routinely overturn them, the new regime should be without issue.

In response to further questions, the Comptroller and City Solicitor stated that a high bar could be set in terms of grounds for appeal but warned that, ultimately, the ability of the Court to overturn these matters could not be entirely avoided.

The Committee were supportive of a second resolution regarding the need to tighten the right of appeal and setting appropriate parameters being put forward from this Committee.

In response to questions, the Town Clerk reported that existing arrangements would continue to apply until such time as a new Independent Panel was established and that it was hoped that this would coincide with the beginning of the new municipal year in April 2021.

RESOLVED – That resolutions regarding the need for compulsory training for all Members on standards matters and also the need to tighten the right of appeal/the ability of the Court to overturn decisions of the new Independent Panel be drafted by the Town Clerk in consultation with the Chairman and Deputy Chairman of the Standards Committee for onward submission to the Member Development Steering Group and to the new Independent Panel.

5. **LGA MODEL CODE OF CONDUCT**

The Committee received a copy of the Local Government Association Model Councillor Code of Conduct 2020.

The Deputy Chair reminded Members that the consultation on this document was now closed and that the final version was now presented for information. It was noted that it would be for the Committee's successors to pay due regard to the document.

A Member commented that the definition of who was caught by the term Councillor was anyone who sits on a Council Committee or Sub-Committee and has a vote. He remarked that, in some parts of the Corporation, whether someone had a vote or not and whether the vote was restricted in any way (e.g. the ability to vote on substantive items but not on the election of a Chairman) differed as a result of differing terms of reference. He therefore asked the Comptroller and City Solicitor whether he felt that anyone sitting on a Corporation Committee (particularly external members) were left uncaptured by the Code under this definition. The Comptroller and City Solicitor commented that all of the City's Co-opted Members, whether they had a vote or not, were caught by the City Corporation's own Code but recognised that there was work to be done in future to examine the LGA Code further and compare it with this. Under the new arrangements approved by the Court of Common Council, this would be a matter for the Members Privileges Sub-Committee in the first instance, although it was suggested that it would be best to review this once the new Independent Panel were in place so that they could also be consulted.

RECEIVED.

6. **ANNUAL REVIEW OF THE PROTOCOL ON MEMBER/OFFICER RELATIONS 2020**

The Committee received a joint report of the Director of Human Resources and the Comptroller and City Solicitor providing Members with the annual review of the Protocol on Member/Officer Relations and highlighting any related issues that have arisen during 2020.

Officers reported that there had been very little activity in terms of the Protocol in relation to staff over the last year.

A Member spoke to question reference within the report to the one formal dispute under the Dispute Procedure being withdrawn prior to assessment and asked for further details on this. The Comptroller and City Solicitor reported that this particular case was withdrawn by the complainant at the onset of the pandemic as they had considered that pursuing this would not be in the public interest or an effective use of Member and Office time at a time of national crisis.

RESOLVED – That the report be noted.

7. **QUESTIONS ON MATTERS RELATING TO THE WORK OF THE COMMITTEE**

There were no questions.

8. **ANY OTHER BUSINESS THAT THE CHAIRMAN CONSIDERS URGENT**
Thanks

A Co-opted Member spoke to place on record and publicly thank the Comptroller and City Solicitor, his staff and representatives of the Town Clerk's Office who had so ably and diligently supported the work of this Committee over the past 8 years. He referred to the Officers as enormously and increasingly resilient, polite, efficient, well-organised and a pleasure to work with and thanked them for providing a consistently high level of service. This was endorsed by other Co-opted Members and the Deputy Chairman spoke to endorse this on behalf of the Committee and ask that this be recorded in the minutes.

9. **EXCLUSION OF THE PUBLIC**

RESOLVED - That, under Section 100(A) of the Local Government Act 1972, the public be excluded from the meeting for the following items on the grounds that they involve the likely disclosure of exempt information as defined in Part I of Schedule 12A of the Local Government Act.

Item No

10

11

Paragraph No(s)

3

2

10. **NON-PUBLIC MINUTES**

The Committee considered the non-public minutes of the meeting held virtually on 2 October 2020 and approved them as a correct record.

11. **CONFIDENTIAL MINUTES**

The Committee considered the confidential minutes of the meeting held virtually on 2 October 2020 and approved them as a correct record.

The meeting ended at 11.55 am

Chairman

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