

Standards Committee

Thursday, 4th August, 2022
6.00 - 7.00 pm

| Attendees | |
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| Borough Councillors: | Garth Barnes (Chair), Ian Bassett-Smith, Martin Horwood, Peter Jeffries, Tony Oliver (Vice-Chair) and Louis Savage |
| Independent Members: | Mr Duncan Chittenden |
| Also in attendance: | Howard Norris, Harry Mayo and Bev Thomas |

Minutes

1. ELECTION OF CHAIR AND VICE-CHAIR

Cllr. Barnes was elected Chair, and Cllr. Oliver was elected Vice-Chair.

2. APOLOGIES

Apologies were received from Cllr. Tailford and Martin Jauch (Independent Person).

3. DECLARATIONS OF INTEREST

There were none.

4. MINUTES OF THE LAST MEETING

Cllr. Savage noted that in item 4, his concern that that Members had not had sight of the confidential findings of the investigation needed amending to read 'some Members'.

With that change in mind, the minutes of the 8th December 2021 meeting were approved and signed as a correct record.

5. A UNIFIED CODE OF CONDUCT

The Monitoring Officer began by outlining the guidance on best practice with regard to Codes of Conduct. Since the requirement for a council to have one came into existence, there had been much discussion as to both the content and the geographical applicability of the code. No requirement for the operation of a nationwide code had ever been made, and so councils had been expected to generate their own codes based on the requirements of the Nolan principles.

He added that the Monitoring Officers from all the local authorities in Gloucestershire had been meeting virtually to consider whether it was possible to describe a single model for a Code of Conduct that could be adopted by all the councils in the group. These discussions had also included the Chief Executive Officer of the Gloucestershire Association of Town and Parish

Councils, and the model code culminating from them had been circulated before the committee.

The principal benefits of a uniform code included ensuring a consistency of approach to setting behaviours, and meant that the public would have further confidence in a situation where there was no 'compare and contrast' exercise between the codes of the different bodies. A uniform code would also ensure that, where a district or borough councillor might also be a county councillor and/or a parish councillor, they would be able to operate within one Code of Conduct.

He acknowledged that there might be some minor variations brought about by specific council issues and, in respect of Stroud's full committee system, there could be procedural variations as to how the code operated. However, in respect of the requirements made of councillors in the various local authorities, be they county, borough, district or parish, it was proposed those would be uniformly applied. The other consideration was that further requirements as additions to the code might emanate from central government and these would have to be picked up in the code in the future, recognising the role of the Standards Committee in considering any necessary changes.

The layout and language of the proposed code was in the form already used in the existing Cheltenham code, so the change to the new code would be minimal. The committee was asked to consider the draft code and, if felt appropriate, recommend it for adoption subject to any final changes that did not affect the overall obligations contained in the draft. If approved, the matter would go forward to a meeting of the Constitution Working Group in September, who were presently considering general changes to the council's constitution – of which the Code of Conduct formed a central part. The code would then proceed to Full Council for final approval.

Members approved the report with one abstention.

6. HEARING PROCESS FOR COMPLAINTS

The Monitoring Officer introduced the report, which invited Members to consider if there were any areas in respect of the preparation for and the hearing of a complaint that would assist in discharging the obligations placed on the Committee of ensuring a transparent process and decisions warranted on the available facts.

The previous report on the agenda proposed the adoption of a unified code, but beyond this there was the question of the procedural steps necessary for a hearing. In respect of determining which complaints came forward for a full hearing, the council operated a flow chart for categorising and clarifying complaints which centred on the first principle of trying to resolve them amicably by use of mediation by the Monitoring Officer whenever possible. This report proposed that, in circumstances where a hearing became unavoidable, the Independent Persons would prepare a precis of their views for use of the committee during the hearing focusing on their concerns. This could be supplied as an appendix to the main report from the Monitoring or Investigating Officer.

The report also asked the committee to consider whether a further addition to the pre-hearing process should include a request to any third party organisations holding relevant decision notes to be approached to provide a written record of those decisions. This would of course be subject to any data protection considerations and the procedural rules the third party organisation may have.

He noted that complaints which proceeded through the various stages, including the prospect of an amicable solution, coming to a point where they required a full hearing by the committee were few and far between. Nevertheless, if there were proposals that Members believed would assist them to discharge their hearing duties, they should be investigated.

One Member was concerned that the structure of the complaints process allowed complainants to effectively be the accuser, judge and jury at the same time, and suggested taking an equally unified approach to assessing the validity of breaches of the Code of Conduct. If an allegation was made against a councillor from a particular authority, then that should be assessed by councillors who did not have a partisan or personal interest in the case. All councillors needed to have confidence that the Code of Conduct was being applied fairly and appropriately, as did the public.

The Monitoring Officer felt that this suggestion was logical, as it would make sense to have a similarly unified approach to responding to departures from the code. It would need to be agreed with all other involved parties, but it was certainly a matter that the incoming Monitoring Officer could discuss in depth with colleagues from other authorities.

One Member was happy to support the idea but warned of the potential risks of Cheltenham-based complaints being settled outside of the town. Another Member agreed that while marking your own homework was not appropriate, neither was it appropriate for your political opponents to do it.

One Member acknowledged the risk of the process being politicised by opposition Members, though as an opposition Member themselves they were similarly concerned about the possibility of a Standards process being controlled by a majority party. It was essential for public confidence that the process was seen as fair and apolitical, and to do this they needed to ensure that those involved in making the decision were not in any way related to its surrounding context. Another Member noted that it would be difficult to reach a result that satisfied everyone, and it was hard to talk about hypothetical situations.

One Member suggested that a short précis of the view of the Independent Person could be very valuable in terms of providing an impartial assessment of the complaint, and asked whether they could suggest an appropriate sanction too. The Monitoring Officer confirmed that there was no prohibition in law or practice to stop the Independent Person giving their view on a suitable sanction, though Members would always have the final decision.

Duncan Chittenden, the Independent Person, added that he saw the code as much as a protection for councillors against unreasonable, vexatious or

politicised complaints as it was a way of upholding standards. He stressed the need for a fair complaints process, and said he would not remain part of the process if he felt it was becoming politicised. It was also possible that he could be placed in an uncomfortable public-facing position if he had to make strong comments about a Member's conduct.

One Member suggested adding two further recommendations to the report. The first was that the Independent Person could be invited, but not required, to make recommendations as part of their précis, attached as a separate report. The second was that a formal note could be attached covering the decisions of external organisations that had dealt with similar issues, which would not apply in many cases but could be very useful when it did.

One Member added that they had not answered the previous question about evidence being considered that not all Members had seen. In inviting complainants to put things in writing, they could be encouraged to provide evidence that all councillors had or could have seen.

One Member agreed that receiving a précis of the Independent Person's view would be very useful. They could not 'farm out' complaints to other authorities, but could invite the opinions of councillors from other authorities on the validity of the complaint, since they would then be using the same Code of Conduct. This offered a politically balanced way of getting further opinions, and protected the Independent Person from the possible downside of their public facing role. Another Member noted that in trying to obtain an apolitical view, this might guarantee politicisation, since councillors from other authorities were very likely to represent a political party.

One Member stressed the importance of the body remaining independent, and warned that involving people from other authorities might muddy the waters. The Independent Person noted that the issue was what happened when the committee considered a complaint related closely to the council. The Monitoring Officer clarified that complaints involving councillors in this authority needed to be dealt with within this authority. The independent voice within that process is the Independent Person. Additional voices, such as councillors from other authorities, would not carry the same weight.

The Monitoring Officer asked for Members' approval that he continue to seek a unified approach with Monitoring Officers from other local authorities in Gloucestershire. The Chair confirmed that this was the view of the committee, and that combining shared expertise and experience would strengthen the process.

The recommendations were unanimously approved.

7. ANY OTHER BUSINESS

There was none.

8. DATE OF NEXT MEETING

28th October 2022.

Chairman