

Standards Committee

Wednesday, 25th November, 2020
2.00 - 2.55 pm

Attendees	
Borough Councillors:	Max Wilkinson, Karl Hopley and Martin Horwood
Independent Members:	Mr Martin Jauch and Mr Duncan Chittenden

Minutes

1. APOLOGIES

Apologies were received from Councillors Payne, Savage, Stafford and Sudbury.

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

3. MINUTES OF THE LAST MEETING

The minutes of the meeting held on 13 August 2020 were approved and signed as a correct record.

4. COMMITTEE ON STANDARDS IN PUBLIC LIFE - PROGRESS ON BEST PRACTICE RECOMMENDATIONS

The Monitoring Officer reminded Members that the committee had already considered the findings of the review of ethical standards in local authorities by the Committee on Standards in Public Life, published in 2019. The review resulted in a number of recommendations including strengthening the sanctions for any breach of the code of conduct. The Local Government Association had been requested to devise a model code which authorities could adopt and the Standards Committee had also fed into that consultation in the summer. She advised that the final model code would be issued in December.

There were 15 best practice recommendations in total arising from the review and the Standards Committee was meeting today to consider progress the council had made against each one as this was required to be submitted to the Cabinet office by the end of November 2020. Both the Cabinet Office and the Committee on Standards in Public Life would publish this on their respective websites.

Members considered, and had the opportunity to raise questions on, the commentary the Monitoring Officer had produced to each recommendation as outlined in paragraph 2.3. Where there were no comments from members of the committee the proposed response as outlined in appendix 1 was deemed to be approved.

The main points raised on the recommendations are summarised as follows :

Recommendation 1: Local authorities should include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition.

A Member felt that the existing wording should be expanded in order to cover patterns of intimidating behaviour, as bullying appeared to set a high threshold for complaints. He suggested there was a recent example where the complaints process had not been used in this respect but where it perhaps should have been. Members agreed that no form of harassment and bullying should be deemed acceptable and therefore this should be made as clear as possible in the wording to provide protection to Members, members of the public or others.

The Monitoring Officer agreed that, when considering the review of the code of conduct once the revised LGA model code was published, the opportunity will be taken to include a prohibition against harassment and a definition of bullying.

Recommendation 2: Councils should include provisions in their code of conduct requiring councillors to comply with any formal standards investigation, and prohibiting trivial or malicious allegations by Councillors.

No points were raised.

Recommendation 3: Principal authorities should review their code of conduct each year and regularly seek, where possible, the views of the public, community organisations and neighbouring authorities.

The Monitoring Officer explained that the code was in effect reviewed each time a complaint was determined and a review was considered periodically but it was generally working well. It was suggested that the frequency and methods of a review should be considered when considering the adoption of the new model.

No points were raised.

Recommendation 4: An authority's code should be readily accessible to both councillors and the public, in a prominent position on a council's website and available in council premises.

No points were raised.

Recommendation 5: Local authorities should update their gifts and hospitality register at least once per quarter, and publish it in an accessible format, such as CSV.

The Monitoring Officer confirmed that this was available but not published in a CSV format. This would be reviewed, in the light of this best practice recommendation, when the Council reviews its Code.

A Member queried the suggested CSV format and proposed that listing on the website would be far more accessible.

Recommendation 6: Councils should publish a clear and straightforward public interest test against which allegations are filtered.

The Monitoring Officer advised that the public interest test was not published but, as the independent persons would confirm, was what was applied in respect of the determination of allegations. She would be reviewing the complaints procedure and would include appropriate wording to reflect the public interest test.

No points were raised.

Recommendation 7: Local authorities should have access to at least two Independent Persons.

The Monitoring Officer acknowledged the active participation of the two Independent Persons and the Chair thanked them for their continued vigilance in ensuring that standards were upheld at the council.

Recommendation 8: An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation and should be given the option to review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious, or trivial.

The Monitoring Officer confirmed that every formal complaint together with the proposed response is referred to the Independent Persons for review and comment.

No points were raised.

Recommendation 9: Where a local authority makes a decision on an allegation of misconduct following a formal investigation, a decision notice should be published as soon as possible on its website, including a brief statement of facts, the provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker, and any sanction applied.

The Monitoring Officer reported that there had been no formal investigations since 2012 and currently it was not part of the procedures to publish a decision notice but this would be included when considering the adoption of the new model code.

There had been breaches of the code on two occasions and these had been published. These breaches did not warrant formal investigation as the facts of the complaint had been evidenced and the councillors involved did not dispute them. Nevertheless, these had been formally dealt with, the decisions published albeit not in the form of a decision notice.

She confirmed that there was no best practice recommendation for informal resolutions to be published and indeed any such suggestion would be undesirable as there is currently flexibility within the Council's arrangements to allow the Monitoring Officer to resolve complaints informally.

A Member gave the example of the recent censure issued by the Standards Committee and questioned why a formal decision notice would not be required to be published in this instance. The Monitoring Officer confirmed that this

would have to be published but clarified that the assumption within the recommendation was that in order for something to be serious it had to be subject to a full investigation and it was this assumption that she felt was incorrect. Certainly, in respect of any complaints that are determined by the Standards Committee or those determined following investigation, the decision ought to be published.

The Chair added that, with reference to the recent censure, he felt the Standards Committee had gone above and beyond what was required. A meeting had been called specifically for the purpose of considering the complaints and was supported by a full report resulting in a robust resolution without a full formal investigation.

The Monitoring Officer clarified that the recommendation was for a formal decision notice to be produced by the committee - this was not done for the recent censure, albeit this was supported by the minutes and the formal censure. A notice would be devised and our procedures amended accordingly. The lack of formal decision notice did not reduce the impact of the censure.

Recommendation 10: A local authority should have straightforward and accessible guidance on its website on how to make a complaint under the code of conduct, the process for handling complaints, and estimated timescales for investigations and outcomes.

The Monitoring Officer explained that an information document and complaint form was readily available on the council's website. However, this does not, apart from the initial response, include likely timescales. This was under review.

Recommendation 11: Formal standards complaints about the conduct of a parish councillor towards a clerk should be made by the chair or by the parish council as a whole, rather than the clerk in all but exceptional circumstances.

The Monitoring Officer explained that advice is provided in these terms to Parish Councils. However, although this is supported and encouraged, it is ultimately dependent upon each parish council agreeing to do so. She confirmed that there has not been any tendency for parish councils in the area to ask the clerk to make complaints for them.

A Member supported the council's current position and did not necessarily support the best practice recommendation recognising that this would be a difficult thing to do, particularly if it was of a personal nature.

Recommendation 12: Monitoring Officers' roles should include providing advice, support and management of investigations and adjudications on alleged breaches to parish councils within the remit of the principal authority. They should be provided with adequate training, corporate support and resources to undertake this work.

The Monitoring Officer confirmed that the council complied fully with this recommendation.

A Member welcomed and thanked the Monitoring Officer for the support she provided to parish councils in this regard.

Recommendation 13: A local authority should have procedures in place to address any conflicts of interest when undertaking a standards investigation. Possible steps should include asking the Monitoring Officer from a different authority to undertake the investigation.

The Monitoring Officer explained that the council has arrangements in place to ensure that any conflicts of interest are addressed. The Monitoring Officer has appointed a Deputy. Additionally, all investigations are carried out independently of the Monitoring Officer by a suitably qualified person.

Recommendation 14: Councils should report on separate bodies they have set up or which they own as part of their annual governance statement, and give a full picture of their relationship with those bodies. Separate bodies created by local authorities should abide by the Nolan principle of openness, and publish their board agendas and minutes and annual reports in an accessible place.

The Monitoring Officer explained that the Council includes, within its Annual Governance Statement, details of these separate bodies. For example, it states what the relationship is between Ubico/Publica and the council. Further work is required to be undertaken, as part of the overall review of the Code and local arrangements, to secure full compliance with this recommendation. This would be undertaken by the client officers.

A Member asked whether an audit was undertaken to ensure these separate bodies published their minutes in an open way according to the Nolan principles. The Monitoring Officer explained that the approach was inconsistent but this was something that the council should encourage, accepting that confidentiality would apply. The Member felt strongly that, at a minimum, all bodies established by the council should be abiding by these principles. He proposed that the Standards Committee embark on a separate piece of work considering the whole relationship between outside bodies and the council in respect of conflicts of interest and openness questions.

Members of the committee, including the independent persons, welcomed the proposal, recognising that openness and transparency was key in this regard as there were sensitivities around such issues. It was suggested that those Members currently acting as council appointed representatives on these bodies specifically set up by the council should be invited to contribute to this piece of work.

It was also noted that it was important for the public to be made aware that those bodies set up by the council included the provision for council appointed representatives in their respective constitutions.

The Chair supported the proposal highlighting the need, particularly where there are discussions on allowances paid to appointed councillors for time spent on these external bodies, to remain vigilant and to guard against a perception of what may be happening.

The Monitoring officer undertook to bring a report to a future meeting of the Standards Committee on potential conflicts for council appointed Members on outside bodies. This would provide Members with clarity on their participation

and relationships. Members agreed that this work should be limited to those organisations set up by the council to deliver public services rather than council nominations to various other committees and 3rd sector groups in the town.

Recommendation 15: Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.

The Monitoring Officer explained that this had not been necessary due to the minimal level of cases but emphasised that the political group leaders and Members generally have been more than willing to cooperate and, in fact have welcomed that opportunity when deemed necessary. She proposed to maintain the status quo in this respect.

A Member highlighted that groups being willing to have these discussions did not equate to them being prompted to have them, particularly for smaller political groups.

In the absence at this Committee meeting, of any members from the Conservative or PAB groups, the Chair proposed that political group leaders be consulted on whether they would prefer regular meetings and if so, to suggest the frequency. The current approach of senior officers meeting with political group leaders as necessary to discuss any standards issues that may arise would be maintained as a minimum.

RESOLVED THAT

The response to progress against the CSPL best practice recommendations as set out in Appendix 1 of the report be agreed, subject to the inclusion of the comments made above.

5. ANY OTHER BUSINESS

The Chair referred to a letter received and circulated earlier in the week from the Minister with regard to some previous code of conduct matters that had been raised with him, including the limited sanctions available to authorities for breaches of the code. He asked Members to note the letter and wished to place on record his thanks to the Minister for his reply.

The Monitoring Officer added that time had elapsed but she was reassured that there would be consultation on any proposed changes.

6. DATE OF NEXT MEETING

TBA

Chairman