

Standards Committee

Wednesday, 8th December, 2021
7.00 - 8.20 pm

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

Minutes

1. APOLOGIES

Apologies were received from Cllrs. Bassett-Smith and Wilkinson, as well as from Martin Jauch (Independent Member).

In the absence of the Chair (Cllr. Wilkinson), the Vice-Chair (Cllr. Horwood) chaired the meeting.

2. DECLARATIONS OF INTEREST

There were none.

3. MINUTES OF THE LAST MEETING

The minutes of the last meeting were approved and signed as a correct record.

4. CHELTENHAM BOROUGH COUNCIL CODE OF MEMBERS' CONDUCT- COMPLAINT AGAINST COUNCILLOR SANDRA HOLLIDAY

In introducing the item, the Vice-Chair acknowledged that an email had been circulated on the 5th December from Cllr. Holliday which cast doubt on some factual elements on the report, and that he had looked into this. He confirmed that she was correct in one respect, namely that her six month suspension was not from the Liberal Democrat party, but rather from the Liberal Democrat group on Cheltenham Borough Council. Her suggestion that she had resigned rather than been suspended was technically correct, but this had happened immediately after the Party Panel determined she could not remain a member of the group, so the difference was semantic rather than substantial. She had also suggested that the sanctions referred to in May's Council meeting were confidential and should have remained in limited circulation. The Vice-Chair clarified that while the report in detail remained confidential, the sanction was public. He had not seen the report, nor had any member of the Liberal Democrat group besides the Leader. Finally, she had suggested that Cllr. Flynn's Council speech had not been recorded in full at Appendix 1. This had been checked against the meeting recording, and he confirmed that the speech was included verbatim.

The Interim Monitoring Officer introduced the report, noting that section 1 outlined the background information. This was a contextualisation of the complaint and had no part or bearing on the decision, but aimed to help members understand how the speeches were made in way they were at the Annual Council meeting. Section 2 outlined the basis of the complaint made by Cllr. Flynn, itemising matters in which she felt a departure from the Members' Code of Conduct had taken place.

The next section set out the rules and regulations regarding the consideration and determination of complaints. Part 2.2 explained the test which needed to be considered prior to the matter moving forward. In discussions with the Independent Member, it had been deemed that there was a viable issue which required consideration by the committee.

Members needed to consider the speech delivered at Annual Council, and test it against the code and requirements outlined in the report. The report identified the Seven Principles of Public Life (selflessness, integrity, objectivity, accountability, openness, honesty and leadership), while part 4.2 identified the parts from section 7 of the Code of Conduct which may be considered while testing the speech (to treat others with respect, not to bully a person, and to promote and support high standards of conduct when serving in public office by leadership and example).

An attempt had been made to mediate the matter, but that was not successful so it was necessary to bring it before the committee for consideration. He noted that the lack of a mediated settlement did not mean that members were required to decide that there had been a departure from the code. It was for the parties involved to determine whether they wished to seek a mediation.

Members were required to take a two-stage approach to the matter: firstly, to consider the speech against the requirements of the Code of Conduct and determine whether there was a departure from it. If they determined there was no departure, then the matter was concluded. However, if they did determine there was a departure, then they needed to move to the second stage, which was deciding what sanctions needed to be taken in response to it.

He emphasised that it was entirely for members to decide whether or not a departure had taken place, and noted that although the complaint had been submitted four months after the event, there was no time limit on when it could be considered. In the interests of expeditiousness, members could decide that future complaints needed to be submitted within a certain window of the event.

The Vice-Chair thanked the Interim Monitoring Officer for his introduction and asked Members if they were happy with the process in place.

A Member expressed concern about the process which he had the opportunity of raising with the Monitoring Officer in advance of this meeting. This related to the consideration of the complaint being taken in public, as he was not fully comfortable talking about complaints between councillors in a public forum.

Concern was also expressed by a Member about the focus on internal Liberal Democrat party processes and the confidential findings of an investigation of which members had not had sight. He had also not seen the email which was

allegedly the genesis of the process. In addition consideration of a complaint from one councillor towards another, rather than from a member of the public, did not appear, in his view, to be the correct function of the committee.

The Monitoring Officer confirmed that it was an individual complaint from one councillor about another, and that it was within the jurisdiction of the committee. Regarding the meeting taking place in public, he explained that it related to both an open Council meeting and a previous open meeting of the Standards Committee, so public session was appropriate.

The Vice-Chair moved onto the debate, reminding members that they would follow a two-stage process to first determine whether a departure from the code had taken place, and then, if appropriate, to determine what sanctions should be applied.

The timing of the complaint, which was submitted four months after the meeting, was queried by Member. He suggested that any matter worthy of sanction should have been brought before the Monitoring Officer sooner. He had spoken during the item in question at Annual Council and had not felt that Cllr. Holliday had committed any breach at the time.

Another Member noted that seeing the speech written down brought a level of clarity that was needed due to the amount of time that had passed since the meeting. It had been a tense and emotional situation, and seeing the statements written down in black and white was beneficial. He was looking to find a balance on what was a difficult and uncomfortable issue.

One Member suggested that her recollection of the meeting was somewhat different, and was clearly worthy of consideration by the committee. Cllr. Holliday's conduct had fallen short of the standards expected of colleagues, and she had felt intimidated as a result. She disagreed with concerns expressed about the delay before the complaint was submitted, highlighting the need to mediate privately and see how things develop before escalating. She had previously made a complaint about a colleague in a different capacity almost a year after the event in question, and the time elapsed did not in any way affect its legitimacy.

A Member noted that it was an unedifying episode which had done no favours for the reputation of the council. Looking at the transcript, it seemed that the discomfort felt was not solely due to the comments made by Cllr. Holliday. He asked whether the committee was really in a position to decide whether the language used was correct or not without seeing the broader communications and interactions that the two members had. He suggested that the subjective feeling of intimidation did not correspond to the specific allegation before them. Blackmail and excusing or denying racism were serious allegations, and he did not see clear evidence to substantiate them. He felt that both members had conducted themselves inappropriately. The Standards process was not in place to settle a dispute between two members, and in his view this case was not worthy of punishment. The Vice-Chair clarified that Cllr. Flynn's speech had been provided as context to Cllr. Holliday's response but was not itself the subject of this committee.

A Member felt strongly that the speeches should be viewed in context, and emphasised that the Standards Committee should not be used as an alternative to mediation. Another Member agreed that the tone of the interaction had fallen short of the desired standards, but the tone was not the main focus of the committee. They were considering a speech containing allegations of intimidation, blackmail and bullying, which are very serious allegations and would themselves breach the Code of Conduct if they were true.

A Member suggested that the committee needed to avoid setting a precedent wherein the committee could end up as a forum for councillors to complain about each other, with the advantage going to whoever submitted their complaint first. Robust and confrontational speeches were part of political debate. It would set a dangerous precedent for future meetings if members were afraid to speak their mind for fear of ending up before the Standards Committee.

It was noted that language was always open to interpretation and could have a serious impact on people, but members needed to be able to describe how they felt without fear of censure.

It was acknowledged by a Member that the majority of the speech was not relevant to the committee, but noted that the specific allegations of intimidation, blackmail and bullying made by Cllr. Holliday were not simply a matter of free speech.

The Independent Member, noted that his role was not to make a judgement, but rather to help inform the decisions of councillors. He had been involved with the committee for 15 years and in that time it had never reached a point where a councillor-versus-councillor series of complaints were taking place. He stressed that the factor of timing raised by Members had no impact on how the case was approached. The context of the situation did matter, though, particularly in terms of whether it was a scripted statement or an emotional response in the moment.

The Vice-Chair echoed the earlier point that the Standards Committee must not become a vehicle to resolve differences between members at Council meetings, but reminded members that the proper process had been followed in the lead up to the meeting. He acknowledged that there would always be internal and contextual factors that they would not know, and emphasised that robust debate and passion could not be avoided in the political sphere. The crucial question was whether the content in this case stepped over the line and deviated from the Code of Conduct. The accusation of blackmail was a serious one, and members should have exercised more restraint in the way they addressed each other.

The Vice-Chair moved to the vote on whether a departure from the Code of Conduct had taken place.

YES – 2

NO – 3

RESOLVED THAT

a breach of the Code of Conduct had not taken place, and that the second stage of the process regarding sanctions therefore did not apply.

The Vice-Chair thanked members for their contributions to a considerate and thoughtful debate on a sensitive subject.

5. ANY OTHER BUSINESS

The question of timeliness, which had been raised during the debate was queried. The Monitoring Officer explained that the Code of Conduct could be amended to reflect these concerns, and it was solely a matter for members to consider. It was acknowledged that it depended on circumstances, and that the complaints procedure did take time. However, if someone took an inordinate amount of time to submit a complaint, then they should be required to provide some reasoning for the delay. He felt this would be preferable to a specific time limit, which would not take context into account.

Members felt some kind of backstop was needed, since an open-ended process that took a long time could affect the clarity of the issue.

One Member emphasised that a complainant should not be discredited because of the time they took to submit their complaint. In the example she had related earlier, the reason for her delay was the risk of professional recrimination. She agreed with the need for some kind of backstop, and suggested that the end of the councillor's term might be a suitable end point.

The Independent Member noted that the Monitoring Officer addressed complaints as soon as they were received, and sought to informally reach a conclusion without it becoming a formal process. The process took place for a long time behind the scenes without necessarily coming to committee. He warned that the practicalities of a backstop might be more difficult to enforce than they seemed.

It was noted that it was important to safeguard the process from abuse in any case, and to prevent it being used to continue political disagreements.

The Vice-Chair summarised the view of the committee as being reluctant to impose a specific time limit, but willing to polish the process to discourage either very long or vexatious matters. It was agreed that, in consultation with the Monitoring Officer, the Chair would look at possible amendments to the Code of Conduct to take this forward.

6. DATE OF NEXT MEETING

9th February 2022 (if necessary)

Chairman