

MEMBER STANDARDS PANEL

MONDAY, 12 APRIL 2021

PRESENT: Councillors Samantha Rayner (Chairman), Shamsul Shelim (Vice-Chairman), Christine Bateson, David Coppinger, Catherine Del Campo, Andrew Johnson, Lynne Jones and Joshua Reynolds

Also in attendance: Councillor John Baldwin, Councillor David Cannon, Councillor Gurpreet Bhangra, Councillor Ewan Larcombe, Councillor Gurch Singh, Councillor Donna Stimson and Councillor Amy Tisi

Officers: David Cook, Emma Duncan, Karen Shepherd and Mary Severin

APOLOGIES FOR ABSENCE

An Apology for Absence was received from Councillor Werner.

DECLARATIONS OF INTEREST

No declarations were made.

CODE OF CONDUCT

Members considered the new recommended Code of Conduct which had been published by the Local Government Association (LGA). The Monitoring Officer explained that there was no nationally agreed model which had led to variations across the country, and also between parish councils and principal authorities. There were also issues of interpretation and consistency of application.

The Committee on Standards in Public Life (CSPL) had taken evidence from bodies including principal authorities, parish councils and Monitoring Officers. It had found that the code was not effective, in particular in relation to sanctions. The CSPL had issued a set of recommendations to the government for implementation, along with some best practice recommendations that could be implemented straight away. The LGA had subsequently developed a model Code of Conduct and was recommending that councils adopted it for both the principal authority and any parish councils.

Members noted that at the time of report publication the government had not indicated any desire to change the sanctions as recommend by the CSPL report, however the Ministry of Housing, Communities and Local Government (MHCLG) had since suggested it would bring forward legislation to change the sanctions regime including suspension of Members from duty.

The Chairman commented that it was important to continually review the Code of Conduct and adapt it to changing circumstances such as the increase in social media usage.

The Monitoring Officer highlighted a number of specific areas covered by the model code. Social media had been picked up as a specific danger area for Members. The council had received a number of complaints about Member use of social media and it was an area that was easy to get wrong. The Member/office relationship was affected

by a culture that developed over time; it was important to be aware what a healthy culture looked like. Due to the lack of sanctions, a Code of Conduct was not a panacea for everything. An informal process for dealing with some complaints was therefore useful alongside self-policing by Members. The best practice recommendations in the CSPL report highlighted the Nolan principles and the importance of ethics in relation to the business of the council.

The Monitoring Officer explained that since she had been in post she had made more use of the council's Independent Persons in assessing initial complaints and supporting Subject Members. Members were seeking lots of advice on the Code itself, which was very helpful, therefore progress was being made. The support of the Deputy Monitoring Officers had been important in this respect. The Chairman echoed this sentiment.

It was confirmed that if the council adopted the new model Code of Conduct, it would be up to the individual parish councils in the area to decide if they also wished to adopt it. The LGA had worked with the National Association of Local Councils (NALC) to seek support for consistency. It was helpful if both tiers adopted the same model, particularly when it came to dual-hatted Members.

Councillor Jones commented that she felt the Member Standards Sub Committee should not necessarily be politically balanced. The Local Independents Group had concerns that the process had become politicised; an Independent chairman was therefore very important. The Monitoring Officer suggested these issues could be the subject of discussions at a future Constitution Sub Committee.

Councillor Reynolds highlighted that most responses to the consultation had suggested the appropriate level for declarations of gifts and hospitality was £25 but the recommendation in the report was £50. He felt that the £25 level that was in the current scheme worked well and should remain. Councillor Del Campo agreed the appropriate level would be £25. Councillor Johnson agreed that the £25 level worked well therefore there was no need to change it. Councillor Shelim commented that since the Code of conduct was last reviewed, all costs would have increased in hospitality.

The Monitoring Officer explained that the assessment framework set out the process for dealing with a Code of Conduct complaint. There were a number of 'sieving' procedures including Data Protection consent and ensuring the right areas of the Code were being addressed. Other issues related to vexatious complaints, timeliness, whether the costs of an investigation were worthwhile and whether the complaint could be better dealt with in another way. On some occasions the complainant was asked to provide further evidence. The Subject Member was then notified to enable them to provide input, before the Monitoring Officer consulted with the Independent Person. If an investigation was needed, this could then take some time.

In relation to multiple gifts below the threshold from the same organisation or individual, Members noted that it was a grey area as to whether or not a declaration should be made. The Monitoring Officer suggested Members could, via their Group Leader, formally request the issue of aggregate gifts be considered by the Constitution Sub Committee. Registers of Interest were kept and in the public domain for as long as an individual was a Councillor.

Councillor Bateson commented that she would wish to be notified about a complaint from the start; sometimes a Member was not notified until the issue had been sorted out. Whether innocent or not, she felt it was better to be notified as soon as possible. The Monitoring Officer agreed there was a balance to be struck to ensure all felt they were being treated fairly. If a complaint was not dismissed outright, for example for being outside the remit of the Code of Conduct, then it was important to involve the Subject Member as soon as possible to get their view.

Members noted that legislation relating to sanctions would likely come forward in the next 6-9 months.

Councillor Baldwin asked how free Members were to discuss in public references either by themselves or about themselves under the Code of Conduct, prior or post adjudication. The Monitoring Officer confirmed that details remained confidential until they became public when the complaint went to a Sub Committee hearing. However, some hearings were held in private, for example in relation to allegations of bullying of a parish clerk. Post adjudication, unless there had been a decision at a Sub Committee, then details would remain confidential, otherwise unfounded and unsubstantiated claims would be in the public domain.

Councillor Reynolds proposed that the value of gifts and hospitality that required declaration should remain at £25. The proposal was seconded by Councillor Del Campo.

RESOLVED UNANIMOUSLY: That the Member Standards Panel notes the report and:

- i) Recommends to full Council that the Model Code, with agreed amendments, be adopted, subject to the value of gifts and hospitality that required declaration remaining at £25.**
- ii) Agrees that a training programme for the new adopted Code be developed and presented by the Monitoring Officer after the next Council elections for the benefit of all new and existing councillors**

MONITORING OFFICER ANNUAL REPORT

Members considered that annual report from the Monitoring Officer, which supported the Annual Governance Statement process, which in turn supported the submission of the accounts. The Monitoring Officer explained that under the constitution she was obliged to report on a number of issues including Member standards, maladministration, unlawful decisions, and breaches of contract rules. The report also gave a broad understanding of the work of the Monitoring Officer and the Deputy Monitoring Officers over the past year.

Members noted that the three statutory officers (the Monitoring Officer, Head of Paid Service and Section 151 Officer) plus their deputies met on a regular basis to review the governance framework of the council. This was a very useful meeting that had been instigated by the Managing Director. The meeting provided a check on the governance framework including how it was operating and how it could be developed. The recently published Risk and Resilience Framework published by the Centre for Governance and Scrutiny (CfGS) had been utilised to provide a sense check on where the council was in terms of governance. Further information on the sections in the

framework would be discussed with Members during the year. The Code of Corporate Governance would be strengthened using the Risk and Resilience framework.

The Monitoring Officer confirmed that there had been no need to report any illegality over the past year. Cases where maladministration had been found by the Ombudsman were contained in the Part II Appendix.

Members noted that the constitution was regularly reviewed and updated as necessary. The importance of properly documenting decisions made under delegated authority had been highlighted by the Head of Governance through updated guidance to officers and reporting templates.

The Monitoring Officer commented that all acknowledged there were currently some issues with Member behaviour. This was a key risk under the governance framework. There had been 36 Code of Conduct complaints in the last year, which was significantly up on the previous year. The volume had tailed off in the last few months because of the new approach to dealing with complaints and work by Group Leaders and all Members to understand their responsibilities and the importance of self-policing. There was a potential issue with the recent reduction in the Members' training budget as it was important that Members were appropriately trained to ensure good decision making occurred.

The Chairman thanked the Monitoring Officer and the Deputy Monitoring Officers for their work over the past year. She commented that it had been heartening to see progress over the last 18 months. It was important to raise issues such as Member behaviour and recognise the need for more improvements.

Councillor Del Campo noted that statutory officers reviewed reports in advance of publication, but she had at times seen decisions made 'on the hoof' in meetings. She therefore asked if decisions were then made subject to input from the officers in a retrospective manner. The Monitoring Officer explained that, for example, if Cabinet tried to make an unlawful decision or one that was outside the budget or policy framework, officers would stop that either at the meeting or prevent it being implemented before the end of the call-in period. If an illegal decision was made statutory officers would need to consult each other to decide the next steps. Usually this could be resolved without a formal report to full Council but that was an option.

Councillor Del Campo commented that it was good to see the recent reduction in complaints. She requested details of the number of complaints that were by a Member about another Member as opposed to by a resident about a Member. The Monitoring Officer agreed to circulate the information to Members of the Panel.

RESOLVED UNANIMOUSLY: That the Member Standards Panel notes the report.

LOCAL GOVERNMENT ACT 1972 - EXCLUSION OF THE PRESS AND PUBLIC

RESOLVED: That under Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the remainder of the meeting whilst discussion takes place on the grounds that it involves the likely disclosure of exempt information as defined in Paragraphs 1-7 of part I of Schedule 12A of the Act

The meeting, which began at 6.18 pm, finished at 7.27 pm

CHAIRMAN.....

DATE.....