

Standards Advisory Committee – 13 March 2018

Present: Anne Elder (Chairman)
Councillors Davies and Hall
Michael Marshall and Bryn Wilson (Parish Council representatives)
Lynn Rogers (Co-opted independent member of the Advisory Committee)

Officers: Bruce Lang (Monitoring Officer) and Richard Bryant (Democratic Services Manager)

Also present : Councillor Horsley and Louise Somerville (Independent Person)

The meeting commenced at 2.30 p.m.

35. Minutes

The minutes of the meeting of the Standards Advisory Committee held on 14 November 2017 were taken as read and were signed.

36. Local Government Ethical Standards : Stakeholder Consultation

The Council had recently been notified that the Committee on Standards in Public Life (CSPL) was undertaking a review of local government ethical standards.

In their view, robust standards arrangements were needed to safeguard local democracy, maintain high standards of conduct and protect ethical practice in local government.

As part of its review the CSPL had formulated a series of consultation questions which they had sent to all local authorities in England asking for responses. The questions covered the following topics:-

- Codes of Conduct;
- Investigations and decisions on allegations;
- Sanctions;
- Declaring interests and conflicts of interest;
- Whistleblowing;
- Improving standards; and
- Intimidation of local Councillors.

Prior to the meeting, the Monitoring Officer had drafted responses to the questions which were presented to Members. Numerous additions to these responses were suggested, many of which were incorporated into the final reply to the CSPL – a copy of which is appended to these Minutes.

Resolved that the responses to the consultation questions, as amended, be agreed and submitted to the Committee on Standards in Public Life before the deadline of 18 May 2018.

37. Exclusion of the Press and Public

Resolved that the press and public be excluded from the meeting for the following items because of the likelihood that exempt information would otherwise be disclosed relating to Clause 2 of Schedule 12A to the Local Government Act 1972 and the public interest in withholding the information outweighed the public interest in disclosing the information to the public.

38. Complaint against a Councillor

The Monitoring Officer, Bruce Lang, provided a verbal update on the outcome of a complaint against a Councillor which had been received towards the end of 2017.

The Councillor the subject of the complaint had offered an apology to the complainant which had been accepted. No further action was therefore necessary.

Resolved that the report be noted.

39. Date of next meeting

The next meeting of the Advisory Committee would be held on Tuesday, 22 May 2018 in the Committee Room at the Brittons Ash Community Centre, Bridgwater Road, Bathpool, Taunton.

The Independent Person, Louise Somerville, asked whether there was any scope for meetings of the Advisory Committee to take place earlier in the day due to the distance she had to travel and the usual need for her to arrange childcare.

It was agreed that future meetings should be held at 10.30 a.m.

(The meeting ended at 4.07 p.m.)

Taunton Deane Borough Council

Review of Local Government Ethical Standards

Responses to the Consultation Questions

- a. ***Are the existing structures, processes and practices in place working to ensure high standards of conduct by local councillors? If not, please say why.***

Not in all cases, especially the potentially serious cases or instances whereby a particular councillor keeps breaching the code of conduct. This is a direct result of the available sanctions having no teeth to act as a deterrent.

- b. ***What, if any, are the most significant gaps in the current ethical standards regime for local government?***

- (i) Sanctions that would act as a deterrent including the power to suspend councillors for a limited time and, in those councils where a basic allowance is paid to councillors, the power to stop paying the allowance during the period of suspension. It is firmly believed that stronger deterrents would undoubtedly result in fewer complaints being received;
- (ii) Currently there are very limited powers in respect of town and parish councils where the majority of complaints raised seem to arise. At present, there is no independent body that people can go to if they are unhappy with the treatment/service provided by a town/parish council (like the Local Government Ombudsman for example). This means a range of issues come to the Monitoring Officer which are either completely outside the normal remit or, if they do relate to the code of conduct, there are no effective sanctions to adequately address the more serious issues;
- (iii) The involvement of the Police where there is an alleged non declaration of a Disposable Pecuniary Interest. Such referrals are treated as very low priority by the Police which, in turn, can lead to long delays in a complaint against a councillor being dealt with. This is very unfair on the councillor concerned.

- c. ***Are local authority adopted codes of conduct for councillors clear and easily understood? Do the codes cover an appropriate range of behaviours? What examples of good practice, including induction processes, exist?***

Broadly yes at principal council level but not consistently across town and parish councils. It is very difficult to reach all councillors at parish level simply because of the sheer numbers involved even when we have offered free training sessions. Following the last local government elections in 2015 we were only able to reach about a third of parish/town councillors in our area.

In the past – and before budget cuts took hold – the council employed a Parish Liaison Officer who, amongst his other duties, was responsible for delivering code of conduct training directly to all our parish/town councils at source. This was particularly effective and resulted in a very high proportion of councillors being in receipt of the training. Whether it was this or other factors as well, it was very noticeable just how few complaints this council received compared to neighbouring authorities.

- d. ***A local authority has a statutory duty to ensure that its adopted code of conduct for councillors is consistent with the Seven Principles of Public Life and that it includes appropriate provision (as decided by the local authority) for registering and declaring councillors' interests. Are these requirements appropriate as they stand? If not, please say why.***

The main issue is that since 2011 the wording does not have to be consistent in relation to declarations of interests and it would be much clearer if all codes of conduct had precisely the same wording. Using the three classifications of disclosable pecuniary, prejudicial and personal interests works well at our principal council level but this is not mirrored by all town and parish councils which has caused confusion and inconsistency.

- e. ***Are allegations of councillor misconduct investigated and decided fairly and with due process?***

(i) What processes do local authorities have in place for investigating and deciding upon allegations? Do these processes meet requirements for due process? Should any additional safeguards be put in place to ensure due process?

We do have good processes in place, but rarely use them due to the expense and time taken knowing that there is no significant sanction available at the end of the process to address serious issues. Councils simply cannot afford to enter into potentially long and costly processes unless it is clearly in the public interest. Time and money are key factors when they really should not be. As such, no-one achieves real satisfaction under the current standards regime.

The requirement under the Localism Act 2011 for Standards Committees to reflect political proportionality means that when, on the rare occasions, a hearing has been held, it has been very evident that politics obstructs proper, objective investigation and the consideration of findings. This is something that simply did not happen when the Committee here at Taunton Deane comprised a majority of independent members and parish representatives.

It should be noted that hearings are held so infrequently because the current system does allow the Monitoring Officer a degree of flexibility whereby an informal resolution (normally an apology) is often sought to resolve a complaint.

Informal dispute resolution tends to be favoured as issues can often become entrenched if the current 'system' is brought to bear.

This flexibility is one part of the current standards regime that the Council would very much wish to be retained.

(ii) Is the current requirement that the views of an Independent Person must be sought and taken into account before deciding on an allegation sufficient to ensure the objectivity and fairness of the decision process? Should this requirement be strengthened? If so, how?

The views of the Independent Person do provide a useful check and balance and a support to the Monitoring Officer. Members of the public do not always understand where/why they fit in (in relation to the Council, Monitoring Officers, Standards Committees etc.).

Unfortunately there are insufficient 'checks and balances' in place to stop 'tit for tat' complaints which often necessitate informal round the table discussions in an effort to mediate and find a suitable outcome for both parties.

(iii) Monitoring Officers are often involved in the process of investigating and deciding upon code breaches. Could Monitoring Officers be subject to conflicts of interest or undue pressure when doing so? How could Monitoring Officers be protected from this risk?

The Monitoring Officer would always use someone else to undertake any formal investigation but this will take extra resource internally (which we often do not have) so it can cost additional funding that is difficult to budget for – a further deterrent to going down the formal investigation route – so we always look to deal with matters by the way of an informal resolution.

f. Are existing sanctions for councillor misconduct sufficient?

(i) What sanctions do local authorities use when councillors are found to have breached the code of conduct? Are these sanctions sufficient to deter breaches and, where relevant, to enforce compliance?

For less serious matters where some training or an apology is a proportionate mitigation, then the current sanctions are adequate – but for cases that require a formal investigation, then, it is the Council's view, that they do not offer a sufficient deterrent.

(ii) Should local authorities be given the ability to use additional sanctions? If so, what should these be?

For more serious cases, sanctions including the suspension of a councillor for

up to six months and, possibly stopping their councillor basic allowance during their suspension would have the potential to have a real impact and make people think more about their behaviours.

The making of certain breaches a criminal offence does not seem to have worked as such matters have to be referred to the Police who, from my experience, are not geared up to the local government world and do not (understandably) see such matters as a high priority to them. As previously mentioned matters can take a long time and often end up being handed back to the council to deal with in any case.

g. *Are existing arrangements to declare councillors' interests and manage conflicts of interest satisfactory? If not, please say why.*

(i) A local councillor is under a legal duty to register any pecuniary interests (or those of their spouse or partner), and cannot participate in discussion or votes that engage a disclosable pecuniary interest, not take any further steps in relation to that matter, although local authorities can grant dispensations under certain circumstances. Are these statutory duties appropriate as they stand?

Broadly the arrangements work quite well. It is quite difficult from a Monitoring Officer perspective to get all register of interest forms completed by all parish and town councillors across our areas (can be hundreds of councillors) let alone keep them up to date.

(ii) What arrangements do local authorities have in place to declare councillors' interests, and manage conflicts of interest that go beyond the statutory requirements? Are these satisfactory? If no, please say why.

A declaration of interest item is on the agenda near the beginning of all formal decision making meetings; induction training is given on the code of conduct and as long as the member concerned brings to the Monitoring Officer's attention any potential conflict of interest in good time, then discussions can usually be held to ensure that potential conflicts of interest are satisfactorily managed.

h. *What arrangements are in place for whistleblowing by the public, councillors, and officials? Are these satisfactory?*

We have a Whistleblowing Policy which has proved to be satisfactory to date.

i. *What steps could local authorities take to improve local government ethical standards?*

Provide more training especially to parish and town councillors. However, a means of ensuring that such training is provided to as many councillors as possible needs to be found. Should the clerks to the parish and town councils be required to undergo full training on ethical standards to enable them to dispense this to their members at source?

j. *What steps could Central Government take to improve local government ethical standards?*

Either give councils greater sanctions or remove the requirement to formally deal with complaints to give more freedom to focus on them on an informal basis. At present there is a statutory requirement to have to deal with complaints with nothing significant to back it up.

k. *What is the nature, scale and extent of intimidation towards local councillors?*

There are some rare examples of tit for tat and/or persistent complaints about a particular parish/town council who rather than try to sort out their own issues, try to use the local Standards process to 'take sides' and sort things out for them. On occasion a particular councillor will be the subject of several complaints with other councillors ganging up on them.

I also have seen a lot of pressure put on councillors who sit on the Planning Committee. It does not feel appropriate that they have to sit and determine, say, a contentious large housing development, sat in front of sometimes hundreds of angry objectors who make it clear that they will not vote for them again unless they object, even if there are no valid planning reasons for doing so.

(i) *What measures could be put in place to prevent and address this intimidation?*

Adequate sanctions especially for more serious examples of bullying (councillor to councillor may help).

Controversially, perhaps do away with a formal and ineffective complaints system and then at least it cannot be abused by people trying to bully or put pressure on councillors.

Allow independent persons to sit as full voting members of a Standards Committee to demonstrate that this process is not political as it used to be before the introduction of the Localism Act. Since 2011, the role and status of Standards Committees has, from my experience, declined and I do not believe that is a good thing for local government ethics.

And finally....and perhaps controversially, whilst part of the Planning Committee should be held in public when information from officers and representations are being made, the Committee should then be allowed to debate and determine the application in private to avoid the in the moment intimidation and almost 'circus of booing and clapping' that can happen – a public record of the decisions made could still be recorded and made available subsequently.

This practice is already currently used in local government when Licensing Sub-Committees are requested to deal with particular matters. The councillors withdraw from the meeting once all the facts are presented to decide on the outcome. They then return to the meeting to announce the decision reached.

Should this practice be widened?