

WEST LINDSEY DISTRICT COUNCIL

MINUTES of the Meeting of the Standards Sub-Committee held in the Council Chamber - The Guildhall, Marshall's Yard, Gainsborough, DN21 2NA on 9 December 2016 commencing at 2.30 pm.

Present: Councillor David Cotton (Chairman)
Councillor Mrs Gillian Bardsley (Vice-Chairman)

Councillor Mrs Pat Mewis
Councillor Reg Shore
Councillor Mrs Anne Welburn

Also Present: Parish Councillor – John Hill
Parish Councillor – Chris Elkington

In Attendance:

Alan Robinson	Monitoring Officer
Katie Coughlan	Governance & Civic Officer
Margaret Freeman	Governance & Civic Assistant

Apologies: Councillor Roger Patterson

As this was the first meeting of the Committee roundtable introductions were made.

6 MINUTES (SCC.01 16/17)

RESOLVED that the Minutes of the meeting of the Standards Sub- Committee held on 9 May 2016 (annual council) be confirmed and signed as a correct record.

7 MEMBERS' DECLARATIONS OF INTERESTS

All Members present declared a non-pecuniary interest in that any newly approved Code would directly affect them.

8 CODE OF CONDUCT REVIEW AND OPERATING PROCEDURES (SSC.02 16/17)

The Committee gave consideration to a report which presented a first draft stage, revised Members Code of Conduct and Operating Procedures for consultation purposes. The report also included supporting data analysis and rationale for change.

By way of background and context it was noted that the Council had introduced its current Code of Conduct and Operating Procedures in July 2012 in response to the requirements of the Localism Act 2011, which had seen the abolition of the Standards Board regime and all the rules under it.

A review of the Code had not been undertaken since its introduction in 2012 and having now worked within its requirements for over four years it was considered appropriate to do so.

The Committee noted that the content of any Code adopted under the Localism Act was a matter for each local authority to determine subject only to it being consistent with the seven 'Nolan Principles' and different authorities would and could quite legitimately come to a range of views about the content of their Code.

Having worked with the current Code for around four years, it had become apparent that the general public, Officers and Councillors alike were of the view that these principles do not go far enough.

The Localism Act did not prevent the Authority from including further provisions on its Members and in light of the nature of the complaints that have been received during the period, it was being recommend that general obligations **relating to respect, bullying, intimidation and the disclosing of confidential information** be incorporated in to the Code of Conduct.

The data to support the changes, was detailed in Section 2 of the report and was outlined to the Committee.

The main amendments being proposed and the rationale for such were detailed in Section 3 of the report, in summary these included: -

- A new section within the Code entitled General Provisions which comprised: -
 - An Introduction and Interpretation
 - Scope
 - New General Obligations on Members relating to respect, bullying, harassment, confidential information and use of resources
- The introduction of “local provision” prejudicial interests particularly relating to planning and licensing regulatory functions
- A wider scope for relevant persons when in relation to the new prejudicial interests
- A need to leave the room

It was stressed that all of the proposed changes, were arguably how the majority of Councillors currently conducted themselves. However if the changes were accepted, in due course, they would become enforceable under the Code of Conduct.

Two main changes were being proposed to the operating procedures namely: -

- Making it clear throughout the document which stages of the process were not within the public domain.
- Removing consultation with the Ward Member (for Parish Council complaints)

In response to a Members comment, it was confirmed that Officers were subject to a detailed Code of Conduct, and Officers undertook to provide this to the Member outside of the meeting.

It was also questioned as to whether confidentiality needed to be included with the Code, as this was currently a requirement of West Lindsey's constitution.

In response Officers confirmed confidentiality was addressed in the Constitution, however the Monitoring Officer could not address complaints regarding breaching the Constitution. It was therefore felt appropriate to ensure that the Code addressed all those requirements placed on Members through the constitution, in order that any problems arising could be addressed. Furthermore this Code would be offered as a standard code for Parish Councils to adopt should they wish to, and it was therefore important it was covered. Parish Council representatives welcomed its inclusion and suggested that further clarification of "confidential information" and specific examples would be of assistance.

Concern was also expressed, that by increasing the remit of the Code, the number of complaints made and the number taken through to a more formal stage would increase.

In response, Officers advised that the Code would be enforced with the ethos of good governance, openness and transparency underpinning any decisions made. Local and informal resolution would always be used wherever possible. This was particularly important due to the impossible sanctions being limited by legislation. Complaints would only be released into the public domain, when all forms of local and informal resolutions have failed.

Complaints regarding respect, bullying and harassment, would be considered within a threshold of tolerance, with less tolerance applied for complaints regarding behaviour towards the public or very public acts.

The Code aimed to respect a Councillors' right to a private life, however, it was important to understand that the public, particularly in small communities, would never see their elected Members as off duty.

The Code was not intended to stifle the rough and tumble of political debate, nor would malicious, petty or politically or personally motivated complaints be pursued

Arguably one of the positive aspects of the previous Standards Regime having being abolished, was the less prescriptive way in which the administration of complaints had to be handled. One example given was that previously the law required the Authority to publish a notice within days of a complaint having been received. All such requirements had now been removed, allowing the authority to better safeguard reputations against petty, malicious or political complaints. For these reasons Officers did not envisage the number of complaints taken to hearing would increase.

The general consensus of the Committee was that any Code and procedure adopted needed to give the public confidence that complaints would be dealt with and behaviours would be appropriate, as they considered this to be the primary aim and purpose of the Code.

There was very lengthy discussion regarding the proposed change to the Operating Procedure. Officers gave substantial detail regarding the reasons this change was being proposed and perceived issues that had arisen as result.

Some elected Members had concern that without local Member input there would be no

local context to complaints. Parish Council representatives considered it was important that this was retained, whilst accepting that the public must have confidence that complaints would be handled fairly. A number of suggestions as to how this involvement could be maintained, albeit in a different guise, were suggested. This included written representations, information from the Clerk or a more a fluid statement leaving it at the discretion of the Monitoring Officer. Caution was again expressed that all complaints needed to be handled the same and discretion often led rise to allegations of unfairness. There was a view that if it was a multiple member ward, then all should be asked for their views.

Some suggested that both Independent Persons should be part of the initial Decision Panel. However the Monitoring Officer clarified that the role of the Independent Person, as laid out in statute, was a consultation role. The “decision” was that of the Monitoring Officer. It was therefore suggested that all communications and notifications should make this clear so as to not cause confusion, or doubt as to the level of involvement the Elected Member or Independent Person had.

Having discussed a variety of options it was suggested that Members submit any further comments they had by 9 January, after which time the Committee would re-convene in a workshop style to further consider each section of the Code.

There was brief discussion as to how best to engage Parishes on this matter and again a series of workshops were suggested. This matter could be further consider when the Sub-Committee had met again and had agreed a finalised document.

Members requested that future data analysis reports also include, the number of individuals involved; (ie are some members being complained about more than once) the number of parish councils involved (ie is there hotspots) and the number of complainants (ie are their serial complainants).

On that basis it was: -

RESOLVED that:

- (a) the comments expressed throughout the meeting be taken into consideration, in producing the second draft version of the Code and Operating Procedures;
- (b) that consultation be undertaken with the Core Management Team, Parish Councils and District Councillors on the revised Code of Conduct and Operating, following further consideration by the Standards Sub-Committee (meeting to be arranged);
- (c) that following consultation, the Final proposed Code and Operating Procedures be submitted to the Governance and Committee for further consideration and subsequent Audit adoption by Full Council in May 2017; and

- (d) Officers, at least annually, report the number, nature and outcome of complaints received under the Code of Conduct.

The meeting concluded at 4.00 pm.

Chairman