

NORTH YORKSHIRE COUNTY COUNCIL

STANDARDS COMMITTEE

Minutes of the meeting held at County Hall, Northallerton on Monday, 1 December 2008.

PRESENT:

Mr James F S Daghish (Chairman).

County Councillors David Jeffels, Brian Marshall, J W Marshall, Caroline Seymour, Jim Snowball and Peter Sowray.

Independent Member: Ms Gillian Fleming.

Apologies were received from Independent Member Dr Janet Holt.

The Chairman welcomed County Councillor David Jeffels to this, his first meeting of the Standards Committee.

COPIES OF ALL DOCUMENTS CONSIDERED ARE IN THE MINUTE BOOK

217. EXCLUSION OF PUBLIC AND PRESS

RESOLVED –

That during consideration of the appendix in respect of Minute 222 – Independent Member Appointment, the public and press be excluded from the meeting because of the disclosure of exempt information as defined in Paragraph 1 of Schedule 12A to the Local Government Act 1972 as amended by the Local Government (Access to Information)(Variation) Order 2006.

218. MINUTES

RESOLVED –

That the minutes of the meeting held on Monday, 1 September 2008, having been printed and circulated, be taken as read and signed by the Chairman as a correct record.

219. PUBLIC QUESTIONS OR STATEMENTS

The Assistant Chief Executive (Legal and Democratic Services) reported that no notice of any public question or statement to be made to the Committee had been received.

220. STANDARDS BULLETIN

CONSIDERED –

The report of the Monitoring Officer presenting to the Committee, for consideration, a draft of the forthcoming Standards Bulletin.

The latest draft of the bulletin was attached to the report as Appendix 1 and the Committee was requested to consider whether any amendments were required, with a view to its subsequent circulation.

It was asked whether there was anything further to put in the bulletin in respect of the prospective Officers' Code of Conduct. In response the Monitoring Officer stated that only the basic framework was in place at this time, with no guidance issued in respect of the application of the Code of Conduct for Officers at this stage.

Members commended the bulletin and considered it to be a purposeful document.

RESOLVED –

That the bulletin be approved for circulation.

221. CONSULTATION PAPER RE: CODES OF CONDUCT FOR LOCAL AUTHORITY MEMBERS AND EMPLOYEES

CONSIDERED –

The report of the Monitoring Officer informing Members of a consultation paper issued by Communities and Local Government on “Communities in Control: Real People, Real Power: Codes of Conduct for Local Authority Members and Employees”.

A copy of the consultation paper and the Government's covering letter to Authorities was attached to the report at Appendix 1. This set out the proposals for revising the model Members Code of Conduct, providing clarification of the General Principles Order and the introducing a new Code for employees, with views sought on those proposals. The deadline for responses to the consultation was 24 December 2008 and it was suggested that, subject to any views Members may have upon the consultation, the Monitoring Officer would prepare a response to the paper, in consultation with the Chairman of the Committee, for approval for submission by the Executive Member for Corporate Services.

The Consultation Paper outlined a series of questions for Local Authorities to consider, in respect of alterations to the Code of Conduct, with replies required on each.

The questions, and Members comments and discussions in relation to those, are set out below:-

Consultation Question One – Do you Agree that the Members Code should apply to a Members' Conduct when acting in their non-official capacity?

Members raised concerns about this definition, particularly in respect of who would make a judgement on that position and how it would be defined.

Members noted that the situation defined was that of a criminal offence and considered that some clarification of the type and severity of criminal offence were required. They considered, however, that subject to the rephrasing of the provision within the Code stating as follows,:-

“Members must not bring their office authority into disrepute by conduct which would lead to them being convicted of a serious criminal offence”;

then they would be generally in agreement with the application of this within the Members' Code.

Question Two – Do you Agree with the Definition of “Criminal Offence” for the purpose of the Members Code? If not what other definition would you support, for instance should it include Police cautions? Please give details

Members discussed this matter at length. They considered that they had specified a serious criminal offence in the over riding statement and that was likely to result in a prison term of three months or above which would automatically lead to disqualification as a Councillor.

They considered that more detail was required on what was considered a serious offence. Members considered whether Police cautions should be taken account of in respect of the definition for the Members Code. It was suggested that some caution related offences were more serious than others and, therefore, should be taken account of. Some Members of the Committee were of the opinion that cautions should not be included. Members suggested that any offenders that led to a person being placed on the sex offenders list should be taken account of. It was also stated that the Standards Committee should determine each situation at the time it was presented and should take account of mitigating circumstances.

Members agreed, therefore, that specific cautions should be included, however, it was stated that these required definition and that the Standards Board should supply those appropriate definitions in relation to specific cautions.

Question Three – Do you agree with the definition of “Official Capacity” for the purpose of the Members Code? If not what other definition would you support? Please give details

Members broadly agreed with the statement relating to acting in an “official capacity”. It was stated, however, that the statement should also include “giving the impression that you are acting in an official capacity”.

Question Four – Do you agree that the Members Code should only apply where a criminal offence and conviction abroad would have been a criminal offence if committed in the UK?

Members agreed with this statement.

Question Five – Do you agree that an ethical investigation should not proceed until the criminal process has been completed?

Members agreed with this, providing that, should an initial assessment of the case take place, the Assessment Sub-Committee had to ensure that pre-disposition was guarded against.

Question Six – Do you think that the amendments to the Members Code suggested in the chapter are required? Are there any other drafting amendments which would be helpful? If so please could you provide details of your suggested amendments?

Question Seven – Are there any aspects of conduct currently included in the Members Code that are not required? If so please could you specify which aspects and the reasons why you hold this view?

Question Eight – Are there any aspects of conduct in a Members official capacity not specified in the Members Code that should be included? Please give details

Members stated that they were satisfied with what was currently outlined in the Members Code.

Question Nine – Does the Proposed time scale of two months, during which a Member must give an undertaking to observe the Members Code, starting from the date the Authority adopts the Code, provide Members with sufficient time to undertake to observe the Code?

Members agreed with this.

Question Ten – Do you agree with the addition of a new General Principal, applied specifically to conduct in a Members non-official capacity?

Members suggested the addition of a further General Principal did not add anything to the existing Principal Eight – “Members should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them” - and stated that this Principal was sufficient.

Question Eleven – Do you agree with the broader definition of “criminal offence” for the purpose of the general principles order? Or do you consider that “criminal offence” should be defined differently?

Question Twelve – Do you agree with the definition of “official capacity” for the purpose of the general principles order”?

Members considered that the responses to questions eleven and twelve had been provided in the earlier discussion on these issues and referred to the answers provided in their earlier responses to the consultation.

Question Thirteen – Do you agree that a mandatory model Code of Conduct for Local Government Employees, which could be incorporated into an Employees Terms and Conditions of Employment, is needed?

The Monitoring Officer stated that the recently updated County Council model of an Employees Code of Conduct mirrored the suggested model Code, other than the model Code suggesting a ‘two tier’ Code applying to all employees, with an additional tier for senior officers.

A Member considered that the Code should be for guidance rather than being mandatory by inclusion in the terms and conditions of employment. In response it was emphasised that unless the Code appeared in employees’ contracts then it could not be enforced.

It was suggested that in agreement to the statement, Members considered that the model should be the basis for an authority to build on to develop an appropriate Employees Code Of Conduct for that particular organisation.

Question Fourteen – Should we apply the Employees Code to Fire Fighters, Teachers, Community Support Office, and Solicitors?

Members stated that there appeared to be no reason to separate the Codes of Conduct, where these may already be in place for employees in certain roles. It was suggested that where Codes of Conduct already existed then the higher standard should be applied.

Question Fifteen – Are there any other categories of employee in respect of whom it is not necessary to apply the code?

Members agreed that there were no employees that this applied to.

Question Sixteen – Does the Employees’ Code for all employees correctly reflect the Core Values that should be enshrined in the Code? If not what had been included that should be omitted, or what had been omitted that should be included?

Members considered the proposed Core Values. It was suggested that the headings could be changed to more accurately reflect the Nolan Principles where possible.

In the section “relations with Members, the public and other employees” it was suggested that “sympathetically” be taken out of the final sentence. Members suggested that the references to legislation throughout the proposed Core Values may lead to some difficulty in understanding for those that the Core Values were aimed at and it was suggested that these were not used.

In the Core Value relating to “investigations by Monitoring Officers” it was suggested that this be broadened to include other investigations, for example those undertaken by the Police, Auditors, the Ombudsman, etc.

Question Seventeen – Should the selection of “qualifying employees” be made on the basis of a “political restriction” style model or should qualifying employees be selected using the delegation model?

This matter related specifically to the tier of the Employees Code of Conduct for senior officers. Members considered that the delegation model was more appropriate to the Authority. Details of who this was likely to apply to were outlined. The delegated model was explained as qualifying employees selected on the basis that they perform functions delegated to them by elected Members.

Members also suggested that officers who had a significant influence on contracts, procurement, regulatory matters, etc be included in the delegation model and be regarded as qualifying employees.

Question Eighteen – Should the Code contain a requirement for qualifying employees to publicly register any interest?

Members suggested that any register of interests for qualifying employees should not be in the public domain, however, should it be ultimately decided that this was to be in the public domain, then it was suggested that home addresses be omitted from the publicly available information.

Question Nineteen – Do the criteria of what should be registered contain any categories that should be omitted, or omit any categories that should be included?

Members again suggested that home addresses should be omitted from items that had to be registered. It was suggested that details of immediate family and friends that could have a major influence on the work that the officer was carrying out should also be declared in the register. It was also suggested, therefore, that in cases where influence could be exerted on the officer, the business undertakings of immediate family, partners, etc should also be declared.

It was considered that the final line of the paragraph relating to personal interests stating that “the qualifying employer should discuss the matter with their Monitoring Officer” should be altered to read “the qualifying employer must discuss the matter with their Monitoring Officer”.

In terms of officers outlining prejudicial interests it was suggested that the officer's Line Manager and the Monitoring Officer should be advised, to allow other people to undertake those affected duties for them. It was stated that the Monitoring Officer should be included in this process, as sometimes, the Line Manager could be too close to the employee to make a judgemental decision on this matter.

Question Twenty – Does the section of the Employees Code which will apply to qualifying employees capture all pertinent aspects of the Members Code. Have any been omitted?

Members suggested that a response should highlight the need to include officers declaring prejudicial interests in respect of influence from immediate family and friends.

Question Twenty One – Does the section of the Employees Code which will apply to qualifying employees place too many restrictions on qualifying employees? Are there any sections of the Code that are not necessary?

Members did not consider this to be the case.

Question Twenty Two – Should the Employees Code extend to employees of Parish Councils?

A Member suggested that this should be the case.

RESOLVED –

That the report be noted and the Monitoring Officer prepare a response to the consultation paper, in consultation with the Chairman of the Committee, and based on the comments made by Members, for approval for submission by the Executive Member for Corporate Services.

222. INDEPENDENT MEMBER APPOINTMENT

CONSIDERED –

The report of the Monitoring Officer requesting Members to consider the recommendation of the Standards Committee's Appointment Panel in respect of an appointment to the vacant position of Independent Member on the Standards Committee.

Details of the appointment process were outlined within the report.

It was noted that of the five candidates interviewed, the Panel had recommended that Mr Henry Cronin be recommended to the Committee and Council for appointment.

RESOLVED –

- (i) That the Standards Committee approves the recommendation of the Appointment Panel to appoint Mr Henry Cronin to fill the Independent Member vacancy on the Committee; and
- (ii) That, the appointment of Mr Cronin be recommended for approval to Full Council.