

North Yorkshire County Council

Standards Committee

Minutes of the meeting held at County Hall, Northallerton on 23 April 2012, commencing at 10.30 am.

Present:-

Mr Henry Cronin (Chairman).

County Councillors Philip Barrett, David Jeffels, J W Marshall, Peter Popple, Peter Sowray and Geoff Webber.

Independent Members: Hilary Bainbridge, Hilary Gilbertson and Dr Janet Holt.

Copies of all documents considered are in the Minute Book

111. Minutes

Resolved –

That the minutes of the meeting held on 16 January 2012, having been printed and circulated, be taken as read and signed by the Chairman as a correct record.

112. Public Questions or Statements

There were no questions or statements from members of the public.

113. Local Ethical Framework Developments - The Localism Act 2011

Considered –

The report of the Monitoring Officer updating Members regarding proposed changes to the National Standards Regime arising out of the Localism Act 2011 and to seek Members' further views on appropriate arrangements for the Authority's future Local Standards Framework.

The report set out the discussions on the Authority's future Local Standards Framework that had taken place at the previous meeting and how the Framework had been the subject of discussions by a Members Working Group, together with the formation of an officer group involving the Monitoring Officers from the local district authorities and the City of York Council, in conjunction with the County Council's Monitoring Officer. Details of those discussions were set out in the report.

The report set out the new ethical framework and highlighted the following:-

- Duty to promote and maintain high standards of conduct.
- Details of the discussions on how best to promote and maintain high standards of conduct involving both the Members and Officers Working Groups were highlighted, together with the consensus as to how these were best delivered. Section 4.4 of the report set out the recommendation for the approach. It was noted that the Standards bulletin was circulated to all Members of the Council, all co-optees and key officers.
- Standards Committee.

The Member Working Group suggested that a Standards Committee be established comprising of no more than five Members and subject to the rules of proportionality, with three Conservative Members, one Liberal Democrat Member and one Independent Member. It had suggested that there was no need for substitutes, that it could meet twice per year and a panel of Members from the new Committee, or the whole Committee, could meet on an ad-hoc basis to deal with any alleged breach of the new Members Code of Conduct.

It was noted that initially suggestions had been put forward that an overarching Standards Committee could be established for all the authorities in North Yorkshire, however, on balance it had been considered preferable that authorities should be directly involved in handling the complaints against Members of their own particular Authority and the feasibility of establishing a joint Committee between the Authorities had been considered unworkable.

Members considered that with such small numbers being involved in the Committee, and the likelihood that difficulties could be encountered by the single Member representations from the Liberal Democrat and Independent Groups it would be appropriate for a substitute from each group to be appointed to a Standards Committee. Members agreed that the proposal should be included within the recommendation.

The Monitoring Officer clarified the position of the appointed Independent Member and the relationship that Member would have with the Committee, specifically in relation to the investigation of alleged breaches of the Code of Conduct. In terms of the make up of the Panel of Members required to deal with alleged breaches of the Code of Conduct, Members considered that a smaller group from the main Committee, which would have to be at least three Members, should give cross-party representation, to ensure that the public perception of the procedure was that this was fair. It was noted that the details of the procedure for the investigation of complaints would be discussed later in the meeting and the make up of the Panel would be discussed at that point. Members emphasised the need to maintain public confidence when establishing the Panel.

- Members Code of Conduct

Members were provided with details of the following:-

- The Authority's current Code of Conduct.
- A proposed new Members Code of Conduct for the Council.

- A “model” Code of Conduct formulated by the Local Government Association.
- A “model” Code of Conduct circulated by the Government Department for Communities and Local Government.

It was noted that the initial draft code prepared by the Monitoring Officer, which was based on models from other authorities and the two initial model drafts produced by the Local Government Association had been considered by the Member Working Group, which in turn had made a number of small scale amendments. Those had been included in the code provided as an appendix to the report with a request for the Standards Committee to recommend that approach to full Council for approval.

The Monitoring Officer noted that the new Code included a recommendation to Members that consultation should be carried out with the Monitoring Officer and/or the Chief Executive before a Member decided to declare possible confidential information. Members suggested that this could be extended to suggest that Members sought advice from the Monitoring Officer/Chief Executive, generally, in respect of the disclosure of any information that they were unsure about. Members were happy to have both the Monitoring Officer and the Chief Executive identified as points of contact in relation to this matter.

A Member stated that the recommendation indicated that a Member “should” be required to sign an undertaking to comply with the Code of Conduct, and asked what would be the situation if that Member refused to sign. The Monitoring Officer stated that signature to the Code was part of the signing of the Declaration of Office, therefore, to serve as a Councillor on the Authority the signature had to be provided.

Members agreed that opportunities to jointly publicise the post adoption of new Codes should be investigated where possible, with the various Authority’s websites being the best opportunity to promote these. Details could also be provided within the County Council at a Members Seminar.

Members considered and compared the draft code, the LGA Model Code and the CLG Model Code provided by the Monitoring Officer.

Members considered that the draft Code provided was familiar to existing Members of the County Council and therefore was seen to be the most appropriate.

It was considered, therefore, appropriate to recommend the new draft Code as detailed at Appendix 4 to the report, to the County Council for adoption.

In relation to disclosable pecuniary interests it was agreed that it should be recommended that Members should declare and leave the meeting where those arose.

- Register of Members Interests

Further details were awaited in terms of interests which would be provided in regulations yet to be published, therefore, work would be undertaken on the register when the regulations were in place.

- Complaint Handling

The Monitoring Officer outlined the arrangements for the investigation of allegations of breaches of the Code of Conduct and how to decide upon the allegations. She provided details of the appointed Independent Person's involvement and the process that would be followed by the Committee/Panel of the Committee in investigating an allegation and providing a conclusion to that investigation.

She noted that the proposed process, as set out in Appendix 6 to the report, was far less bureaucratic and time consuming than the process established under the former Standards regime.

It was noted that the final resolution to the complaint would be reported back to the full Committee, and it was suggested that this measure should be written into the procedure.

Members suggested that the reference to five days within the procedure should be altered to read five working days.

It was noted that should it be concluded that there was no evidence of a failure to comply with the Code of Conduct there was no further comeback for the complainant, should they not agree with that ruling.

In terms of the hearing Members debated whether this should be the whole Committee (5 Members) or a Panel of the Committee (3 Members). It was generally agreed that should this be a panel of three Members then every effort should be made to have cross-party representation to ensure that the public perception was that the process was fair.

It was considered that having a Panel of three was appropriate as any more than that could be intimidating to the subject member.

It was noted that a complainant did not need to attend a hearing, if they had worries about being in the same room as the subject member, dependent upon the nature of the complaint, as written representations would be accepted.

It was noted that the new process included a single sitting for both the decision and the sanction (if required) rather than the split process that was in place previously.

It was not expected that legal representation would be required for the process, particularly as the sanctions available to the Panel would be much lower than previously. It was expected that support could be provided from a legal representative, if they happened to be a Member of that persons family, etc, but it was not expected that advice would be provided, nor would that be necessary to be provided, to the hearing process.

The support offered to subject members going through an investigation, currently in place, would continue to be provided.

Members suggested that reference to consultation with the Independent Member, where it had been concluded that there was no evidence of failure to comply with the Code of Conduct, should be written into the procedure.

Details of the sanctions available were outlined. It was noted that should a Member refuse to apologise, where that sanction had been imposed, then the matter would be referred to the Standards Committee.

Publicity for any sanctions imposed and/or details of a complaint were expected to be carried out through the County Council's website. Members suggested that press releases should also be investigated as a possible publicity method, as the provision of such details within the local press was the most meaningful sanction available. It was suggested that this matter be considered for inclusion in the process and should refer to press releases may be issued rather than would be.

It was suggested that the section 5 of the procedure – assessment for investigation or other action – should be amended slightly to state that the subject Member would be advised of the complaint and copied into any “relevant” correspondence, rather than just any correspondence.

- Independent Persons

The Monitoring Officer stated that the Member Working Group considered that two Independent Persons should be appointed, to be involved on a rota basis.

Consideration had been given to sharing independent persons with other authorities, but it was suggested that this would be too problematic.

An Independent Person would be invited to Standards Committee meetings but would not be formally co-opted onto the Committee, an allowance would be paid, in line with what was recommended by the Independent Remuneration Panel in due course, the vacancies for Independent Persons would be advertised on the Council's website and by press release, with shortlisting undertaken by the Standards Committee, followed by interview and appointment. Details of the role of the Independent Persons were provided.

- Dispensations

It was noted that the current provisions on dispensations were changed by the Localism Act and the new provisions were set out in the report. The authority to grant a dispensation would be delegated to the Standards Committee. In addition the Monitoring Officer would be provided with a delegated power to grant dispensations where the timescales were such that a Standards Committee meeting could not be convened. On those occasions the Monitoring Officer would be required to consult with every available Member of the Standards Committee, and the Independent Member, prior to granting the dispensation.

Resolved –

- (i) That the issues raised in the report be noted;
- (ii) That the Committee recommends to full Council that:
 - (A) The Authority's duty to promote and maintain high standards of conduct be discharged as listed below and from time to time in such other ways as the Monitoring Officer, in consultation with any Standards Committee established by the Authority, may deem appropriate:-
 - (a) Appoint a non-statutory Standards Committee.
 - (b) Adopt new/revise existing, ethical statements.
 - (c) Continue to promote ethical issues through planned and monitored Member training, including Member induction training.
 - (d) Continue to produce Standards Bulletins.
 - (e) Continue to monitor wider policies, protocols and indicators which point to the ethical health of the Authority.
 - (f) Use of the Authority's website to promote the Standards regime ultimately put in place.
 - (g) Publicise when the new/revised Code and supporting Standards regime is established by the Authority and from time to time as appropriate.
 - (h) Work together with neighbouring authorities, where possible and appropriate, in order to discharge the statutory duty.
 - (B) The Council establish a politically balanced Standards Committee (with one Substitute from each Political Group represented on the Standards Committee) comprising not more than five Members, meeting twice per annum, with a panel of Members from the Committee meeting on an ad hoc basis to deal with any alleged breach of the new Members' Code of Conduct (with effect from 1 July 2012);
 - (C) The draft new Members' Code of Conduct for the Council attached at Appendix 4 to the report be approved and effective from 1 July 2012; and that such Code be revised as necessary in the future once the relevant regulations are in force regarding the new statutory interests regime;
 - (D) Under the new standards regime effective from 1 July 2012, Members and voting co-opted Members should be required to sign an undertaking to comply with the Code before acting in such capacity;
 - (E) The Council publicise its adoption of the new Code on the Council's website and Intranet and in any other ways the Standards Committee deems appropriate;
 - (F) Provision be included in the Council Procedure Rules requiring Members to withdraw from the meeting room where they have a disclosable pecuniary interest;

- (G) The complaint handling procedure attached to this report at Appendix 6, as amended following comments from this meeting, be approved and effective from 1 July 2012;
 - (H) Two Independent Persons be appointed, to be involved on a rota basis;
 - (I) The Independent Persons be invited to meetings of the new Standards Committee but not formally co-opted on to the new Committee;
 - (J) The Independent Persons be paid expenses in accordance with the Council's Members' Allowances Scheme (1/2 unit plus travel expenses at Member rate) and that this be considered by the Independent Remuneration Panel in due course;
 - (K) The Independent Person vacancies be advertised on the Council's website and through a press release via the Council's arrangements with the local press (and in any other way the Council considers appropriate) and that the Chairman of the Standards Committee with the Monitoring Officer should undertake short-listing of applicants;
 - (L) All functions in respect of the publication of Standards Committee Independent Person vacancies be delegated to the Standards Committee and that the Committee then delegates such functions to the Monitoring Officer in consultation with the Chair of the Committee;
 - (M) The power to assist in the recruitment of Standards Committee Independent Persons (but not to approve individual appointments) be delegated to the Standards Committee;
 - (N) The Monitoring Officer be designated as Proper Officer to receive written requests for a dispensation by Members and voting co-opted Members, effective from 1 July 2012;
 - (O) The power to grant dispensations to Members and voting co-opted Members be delegated to the Standards Committee, after consultation with the Independent Person; and that power be delegated to the Monitoring Officer to grant dispensations (after consultation with the Independent Person) where the timescales are such that a Standards Committee meeting cannot be convened and where the Monitoring Officer has consulted every available Member of the Standards Committee, all of whom consent to the granting of the dispensation (all with effect from 1 July 2012).
- (iii) That, the Committee approves the draft Independent Person role description attached as Appendix 8 to this report.
 - (iv) That the Committee agrees that once the Council has delegated all functions in respect of the publication of Standards Committee Independent Person vacancies to the Standards Committee, the Committee then delegates such functions to the Monitoring Officer in consultation with the Chair of the Committee;
 - (v) That the Committee determines which of its Members should comprise a panel to interview appropriate Independent Person candidates and report back to the Standards Committee with a recommended candidate for appointment by full Council.

The meeting concluded at 3.10 pm.

SL/ALJ