

North Yorkshire County Council

Standards Committee

Minutes of the meeting held on 11 February 2013 at 10.30 am at County Hall, Northallerton on 11 February 2013._

Present:-

County Councillors Caroline Patmore (Chairman), David Jeffels, Peter Sowray and Geoff Webber.

Independent Persons: Mrs Hilary Gilbertson MBE and Louise Holroyd.

Apology for Absence:

An apology for absence was received from County Councillor Brian Marshall.

Copies of all documents considered are in the Minute Book

9. Minutes

Resolved –

That the minutes of the meeting held on 29 October 2012, having been printed and circulated, be taken as read and be confirmed and signed by the Chairman as a correct record.

10. Public Questions or Statements

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

11. Local Ethical Framework Developments

Considered –

The report of the Monitoring Officer updating Members on the development of the new ethical framework under the Localism Act 2011.

It was asked whether Members would like an update on the local ethical framework provided to each Standards Committee meeting and they agreed that it was appropriate for this to be provided.

Dispensation Issue

The Monitoring Officer drew Members' attention to an issue that had arisen nationally in relation to the requirements of the new ethical framework in terms of setting Council budget and Council Tax and the possible need for dispensation for Members in relation to those issues. She noted that there was a view that Members may have a disclosable pecuniary interest in the budget/Council Tax setting and should a Member have such an interest and was present at the appropriate meeting then they must declare the interest and leave the room and not participate in the debate or vote on that item.

Under the previous Code of Conduct there was a statutory exemption for Members against them having to declare a prejudicial interest in relation to the setting of Council Tax or precept, however, there were no such provisions included in the new Standards framework. An informal view had been submitted by CLG suggesting that the situation would not give rise to a disclosable pecuniary interest as Council Tax affects all residents irrespective of whether they are a councillor. It was noted, however, that despite what was intended the situation was a consequence of how the legislation had been drafted.

As a response to the issue, she noted that North Yorkshire County Council had taken a pragmatic view that this was not a matter in respect of which a dispensation was required for Members, given that it was not their specific home address that was being considered at the Council meeting. However, as the issue was being discussed nationally, with a divided opinion, the matter had been discussed at the York and North Yorkshire Monitoring Officers Group on 4 February 2013. The overall opinion of that Group was that there was no reason to invite Members to obtain a dispensation, for the reasons set out by North Yorkshire County Council. Members were asked for their views on this matter.

Further advice has also been provided by the Department for Communities and Local Government who had stated, in their opinion, that the requirement for dispensations on this matter was unnecessary.

Members were fully supportive of the Monitoring Officer's view and the pragmatic stance of North Yorkshire County Council, stating that the whole aim of the Localism Act was to cut bureaucratic measures in relation to standards. The Committee agreed that had such dispensation requests been made, it would have been minded to grant them. Details of the stance being taken by the other local authorities in North Yorkshire were noted.

14th Report of the Committee on Standards in Public Life

The Monitoring Officer's report referred to the most recent meeting of the Committee on Standards in Public Life and provided key extracts from that meeting.

It was noted that the Committee had revised the seven principles of public life which previously informed the statutory general principles and details of those were set out as an Appendix to the report. It was noted that the original statutory general principles were currently appended to the existing Code of Conduct for Members and it was asked whether these should be amended to reflect the new principles.

Members stated that it was appropriate to replace the existing general principles with the new versions, particularly as they gave a better description of what was required.

Noting the issues set out in the report relating to the sanctions available to Standards Committees under the new arrangements a Member suggested that further consideration should be given to that, as currently, he did not consider that the sanctions available would always be appropriate.

The Monitoring Officer also brought to the attention of Members the issue of a County Councillor not having yet registered their interests in line with the new Code of Conduct. She stated that there had been correspondence sent out to the Member involved and it was considered that this matter was just an oversight on that Member's part.

Resolved –

- (i) That developments on the local ethical framework continue to be brought to future meetings;

- (ii) That the County Council's pragmatic stance in relation to the potential dispensation issue for Members in relation to the setting of the Council Tax or precept be supported;
- (iii) That the Code of Conduct be amended to reflect the revised principles of public life; and
- (iv) That a letter be sent from the Chairman to the Group Leader of the Member who has yet to register their interests, in respect of that matter.

12. Protocol re Persistent/Vexatious Complaints

Considered –

The report of the Monitoring Officer presenting for consideration, a revised Protocol re Persistent/Vexatious Complaints.

Details of that Protocol were attached as an Appendix to the report.

The Protocol was a revised version to that submitted to a previous meeting and included more detailed proposals, including the requirement for a local Member to be kept informed of developments on such an issue. The Monitoring Officer stated that the County Council had a well-developed policy in place with clear guidance as to how to deal with persistent/vexatious complaints. She stated that adoption of the Protocol would allow the Standards Committee to support that process and to add value, giving much needed Member body support to determining those types of complaints. Guidance on the role of the Committee was provided within the Protocol.

Members asked about the Independent Persons' role in relation to persistent/vexatious complaints. In response the Monitoring Officer stated that the Independent Persons would be involved through attending meetings of the Standards Committee in relation to those matters brought to the Committee.

Members noted that persistent complainants could cause difficulties for local authorities in terms of time and cost and suggested that the policy was helpful in addressing those difficulties. They suggested it was helpful to have elected Members and Independent Persons give consideration to these within the process.

One of the Independent representatives suggested that reference to the Protocol in respect of persistent/vexatious complaints should be referred to in the Complaints Protocol to make people aware of this factor when they were raising complaints. The Monitoring Officer agreed that details of this Protocol should be included within the Complaints Protocol.

Resolved –

That the revised Protocol be approved and reference to it be included within the Complaints Protocol.

13. Dispensation Issue

Considered –

The report of the Monitoring Officer requesting the Committee to consider a request from a County Councillor for a dispensation from the Standards Committee.

The Monitoring Officer outlined how County Councillor Patrick Mulligan had submitted a request for a dispensation from the Standards Committee to enable him

to fully participate in County Council, Executive, Committee and Sub-Committee business which may relate to the Police or the Police and Crime Commissioner in circumstances where the impact of any decision by those bodies on an item of business would not bring any personal advantage or disadvantage to him or his wife. It was noted that the request for the dispensation had come about as County Councillor Mulligan's wife, Julia, had recently been elected to the office of Police and Crime Commissioner. Councillor Mulligan had sought advice from the Monitoring Officer as to any potential effect upon his ability to participate in County Council business that may relate to the Police or the office of Police Commissioner. The Monitoring Officer noted that Councillor Mulligan's wife's office as Police and Crime Commissioner appears in his Register of Interests as a disclosable pecuniary interest and, therefore, he would have to declare such an interest on any matter being discussed at the County Council's meetings affecting the office of the Police and Crime Commissioner.

The Monitoring Officer explained the dispensation process and how it could be applied in this case.

A Member considered that the request should not be granted as he could not see how the two roles could be separated in terms of the public perception. He suggested that if Councillor Mulligan's wife were the Chief Constable then he would not be able to comment on policing issues, and he could not see much difference between the two roles. He stated that he considered the interest to be pecuniary and disclosable and should not be the subject of a dispensation.

Other Members noted that as the interest had been registered, Councillor Mulligan had to leave to meetings where policing issues were being discussed, whether it affected him financially or not. They considered that this was too strict a burden on Councillor Mulligan and that he should be able to join in with discussions, particularly where these affected his own electoral division, in terms of policing, if this would not affect him or his wife in terms of financial gain. Members emphasised, however, that should Councillor Mulligan, or his wife, be likely to gain financially through the issues being discussed, then he should leave the meeting, through declaring a pecuniary interest, even if the dispensation had been granted. It was noted that should a Member of the County Council be related to a member of staff then a similar issue would occur.

The Independent Persons agreed that in terms of public perception it was difficult to differentiate as to what was a conflict of interest in terms of Councillor Mulligan's participation in issues relating to the Police or the Police and Crime Commissioner. They considered that the Member would recognise those situations where there was a declarable conflict of interest and would remove himself from the meeting appropriately. They suggested, therefore, that the dispensation could be provided for a trial period, to determine whether any difficulties arose regarding him having the dispensation during that time.

The Monitoring Officer emphasised that Councillor Mulligan had sought her guidance on this matter and had willingly followed the advice provided to date.

A Member stated that whilst he did not doubt the integrity of County Councillor Mulligan he had concerns that granting a dispensation in such circumstances would open the door for similar dispensations to be granted in terms of any elected Member whose spouse worked in the public sector. He did not consider that the granting of a dispensation was appropriate in such circumstances.

Resolved –

That the application for a dispensation submitted by County Councillor Patrick Mulligan, enabling him to speak, vote and be included within the quorum at County

Council, Executive, Committee and Sub-Committee meetings when the Council/Executive/Committee/Sub-Committee is considering business which may relate to the Police and/or the Police Commissioner, where the impact of any decision by the Council/Executive/Committee/Sub-Committee on the item of business would not, in any event, bring any personal advantage or disadvantage to Councillor Mulligan or his wife, be granted for a temporary period, until the County Council Elections being held on 2 May 2013.

14. Members' Attendance Monitoring

Considered –

The report of the Monitoring Officer seeking the Committee's views on appropriate arrangements for the monitoring of Members' attendance at meetings

The Monitoring Officer stated that the previous Standards Committee received a report each year setting out the attendance record of County Councillors at meetings of the County Council and its Committees for the previous municipal period. The Committee would resolve that letters be written to Group Leaders and individual Independent Members where Councillors' attendance at meetings had been 60% or less. The Committee would then receive an update at its next meeting as to any responses received.

She noted that the Council's Audit Committee had previously requested that the Standards Committee report to them once per year concerning the action taken in reviewing Members' attendance records. The Audit Committee had been informed that its request would be considered at a future meeting of the Standards Committee and would be advised of the outcome in due course.

Members were requested, therefore, to consider whether the Committee should annually monitor the attendance record of County Councillors and, if it was minded to undertake such monitoring, consideration should be given to the Audit Committee's request as to whether it would be appropriate to report once per year, to that Committee, concerning the action taken in reviewing Members' attendance records. The views of the Committee would be reported back to the Audit Committee.

The Chairman clarified with the Monitoring Officer the procedure in place for reporting to Group Leaders Members' attendance that had been less than 60% and the responses received in relation to that. It was noted that the Independent Remuneration Panel also received details in relation to Members' attendance at meetings.

A Member suggested that the attendance monitoring of Members was unnecessary and bureaucratic. He noted that the report gave percentage details of where Members had attended meetings, but did not provide information as to how many meetings they could have attended or why they had not attended when they had not done so. He noted that the fewer Committees a Member served on the larger percentage drop they would incur should they miss a meeting. He could not see the purpose of the Audit Committee or the Independent Remuneration Panel receiving copies of this report and considered the most appropriate use of the attendance information was for this to be published alongside the appropriate County Councillors information, allowing the electorate to determine whether they thought the Member had attended sufficient meetings. He did not feel it was an issue for the County Council or the Group Leader to address. Another Member agreed with the views expressed.

Alternatively, a Member considered that some monitoring was required otherwise Members may not feel obliged to attend meetings regularly. The Chairman also

noted that some Members came to meetings but left early and there was no recognition of that within the monitoring procedure.

An Independent Person considered it appropriate for Group Leaders to monitor their own Groups Members and for them to take action against Members that were not attending meetings regularly, rather than bringing this to the Committee, before referring to Group Leaders. The other Independent Person agreed, considering the current method to be too bureaucratic. She considered that a sanction for Group Leaders to apply, should Members not be attending meetings, should be made available. She recognised there could be genuine reasons why Councillors had not attended particular meetings, for example they could be working in their own electoral divisions. She emphasised, however, it was not in the public interest for them not to turn up to meetings and that there should be some kind of sanction when this was occurring on a regular basis.

A Member stated that the North Yorkshire Independents did not have a Group Leader, therefore, there was no one in place to monitor or sanction those Members, should that be requested. Other Group Leaders were informed when Members' attendance was below 60%, however, there was no sanction open to Group Leaders other than to change the membership of a particular Committee. He emphasised that many Members undertook work in their own areas, which was often as important, if not more so, than their attendance at meetings. He also noted that the main aim of the 2000 Local Government Act was for Councillors to spend more time in their local areas, working with their local communities, rather than attending meetings. In response to an issue raised by an Independent Person he noted that very few decisions were now made in the County Council's Committees, other than the Executive.

The Chairman noted that Group Secretaries did keep a check on Members' attendance and movements and would collate that information for the benefit of Group Leaders. She suggested there may also be a role for Group Secretaries in determining why Members had left meetings early or had not attended. She considered, however, that the public needed to know who had and who had not attended meetings and suggested that there was a need for monitoring to be taken in view of this. A Member noted that the figures were monitored, with or without the report to the Committee and that information could be made available to the public. The Monitoring Officer confirmed that details were maintained in relation to Members' attendance and that the forthcoming implementation of new Committee software would assist that process. She noted, however, that should the Standards Committee not wish to monitor Members' attendance then there was a possibility that the Audit Committee would take up that role. Members considered that it was more of a role for the Standards Committee rather than the Audit Committee to monitor these details.

Resolved –

That the Committee would continue to annually monitor the attendance record of County Councillors at meetings of the County Council and its Committees, but does not consider it necessary for a report to be submitted to the Audit Committee concerning the action taken in reviewing Members' attendance records.

15. Complaints Update

Considered –

The report of the Monitoring Officer briefing Members on any new ethical framework complaints received about Members of the Authority and provided an update on previous complaints.

County Councillors Caroline Patmore and David Jeffels recorded non-pecuniary, nonprejudicial interests in relation to them being a dual hatted Member and a Member to whom one of the complaints related to, respectively. The Monitoring Officer noted that although these were non-declarable interests, as the report was for information only, they would be recorded in the minutes.

Relating to the complaint received in respect of allowances received from two Authorities by dual hatted Members in the context of broadband/IT fees it was asked whether, as no breach of the Code had been found, the principle could be applied to all similar complaints against dual hatted Members. In response the Monitoring Officer stated that she could not pre-determine complaints and that they had to go through the due process, because they could be slightly different. She emphasised, however, the process for vexatious complaints was in place and could be applied if that was appropriate.

Resolved –

That the contents of this report be noted and that further reports, providing a similar level of information as that provided to this Committee continue to be provided in respect of the new ethical framework complaint activity.

16. Standards Bulletin

Considered –

The report of the Monitoring Officer presenting a copy of the draft Standards Bulletin for consideration.

A copy of the latest draft edition of the Bulletin was appended to the report and Members were invited to comment.

Resolved –

That the Bulletin, as detailed, be circulated to Members of the Authority.

The meeting concluded at 11.45 am

SL/JR