

North Yorkshire County Council

Standards Committee

Minutes of the meeting held on Friday 8 March 2019 at 10 am in County Hall, Northallerton.

Present:-

County Councillors Caroline Patmore (Chairman), Peter Sowray and Cliff Trotter, together with Independent Person for Standards Hilary Gilbertson MBE.

Apologies:-

County Councillors John Blackie and Andy Paraskos; together with Independent Person for Standards Louise Holroyd.

There were two members of the public in attendance.

Copies of all documents considered are in the Minute Book

34. Minutes

Resolved -

That the Minutes of the meeting held on 3 January 2019, having been printed and circulated, be taken as read and be confirmed and signed by the Chairman as a correct record.

35. Declarations of Interest

There were no declarations of interest from Members at this stage of the meeting.

36. Public Questions or Statements

Mr and Mrs Hornsby attended the meeting to outline a question/statement to the Committee.

Initially they requested clarification around the September Minutes of the Standards Committee, which they considered to be incorrect, and, therefore objected to the signing off of those Minutes. The Chairman indicated that the Minutes of 3 January 2019 highlighted amendments that had been made to the September Minutes and, therefore, she considered that the issues had been addressed accordingly. She also noted that the Minutes of 3 January 2019 had been agreed by Members as a correct record and she was fully satisfied that these were correct.

Mr Hornsby put his questions/statements to the Standards Committee as follows:-

1. Can you tell us when County Councillors adopted an approved policy of not replying to communications? We were informed that if a County Councillor did not want to reply there was no obligation to do so. The policy has been implemented by three senior County Councillors and latterly by the five County Councillors on the Standards Committee.

2. The Monitoring Officer has stated previously that the only way to complain about a County Councillor is not to vote for them. This was repeated at the January meeting by County Councillor Patmore. What is the point of having rules for County Councillors and the framework for raising a complaint if that is the basic rule?
3. North Yorkshire County Council and County Councillors were considered by the Local Government Ombudsman as one of the worst Councils in the country for dealing with complaints. Do you agree that it is particularly annoying to residents and ratepayers to be told, if they are not satisfied with procedure, to take the matter to the Local Government Ombudsman? This brush-off is very frequently used.
4. A member of the public has to provide text in advance to speak at the County Council Annual General Meeting. The audio recording is described as the only true record and a copy provided. There is a limited time of question and answer, and the member of the public is allowed no further part.

The County Councillor responding is allowed to drastically alter their response and force that through for the written minutes. Using "Knowles" this was presented and accepted at the next County Council meeting, both actions were declared "legal". E-mails released under a DP Act request showed the member of staff was pressured to accept this as opposed to transcribing the audio version. A member of staff accepted this practice at the time and has since left North Yorkshire County Council. At a later date it was declared that they endorsed it as "legal". Do the Standards Committee agree with this procedure?

In view of the fact it is 40 working days with no correspondence from the Standards Committee, since the 3 January meeting, we feel that you should be obliged to give a written answer to the above questions.

In response the Chairman stated that the Monitoring Officer would be responding to the issues raised, in writing, but she would outline the basis of that response at the meeting to ensure that all Members were fully informed of that. The Chairman outlined the following:-

- ◆ County Councillors had not adopted a policy of not replying to issues raised with them. Should a County Councillor decide not to respond directly to an issue this was not a breach of the Code of Conduct.
- ◆ The formal complaints procedure against County Councillors could only be implemented should a County Councillor have breached the Code of Conduct. If a complaint was not found to have breached the Code, for example the complaint related to a decision having been made that the complainant did not agree with, then the only course of action open to the complainant was to not vote for the County Councillor through the democratic process. No action could be taken against a County Councillor where a breach of the Code of Conduct had not occurred.
- ◆ It was contested that the Local Government Ombudsman had declared the County Council to be one of the worst in the country, however, it was acknowledged that findings against the County Council had been made by the Ombudsman. The County Council welcomed the input of the Ombudsman when an issue was unresolved. The findings of the Ombudsman in such cases would be analysed by the County Council, with a

view to ensuring, where maladministration had been found to have occurred, that the issues were addressed appropriately.

- ◆ In terms of minute writing it was noted that these provided a review of the information outlined at a meeting. In terms of the issues raised it was noted that the officer had requested the notes of the Councillor in terms of what had been stated and had taken an independent review of what should be included in relation to that. It was noted that the meeting had been recorded, therefore, full details of what had been said could be obtained from that. It was stated that the County Council was looking at the possibility of recording more meetings in future to make minutes more accessible. It was emphasised that nothing untoward had taken place in terms of the written minutes and how these were agreed.
- ◆ The issues addressed in response, would be provided in writing, in full, to the questioners immediately following the meeting.

Following the initial question/statement and response a number of issues were raised in exchanges between the questioners, Members and officers, and the following issues were highlighted:-

- ◆ It was noted that elected Members could not instruct officers on how to operate, but could request on behalf of local residents. It was for officers to implement the County Council's policies and undertake work in accordance with that. Mr Hornsby highlighted the issue around him requesting a site visit on behalf of a 190 people Community Group formed to consider highways in their local area. He considered that the matter had been ignored by the Executive Member, for 18 months, and by the relevant Highways Officers. It was noted that extensive discussions had been held in relation to this matter at a meeting between Mr and Mrs Hornsby and the Standards Committee held in January 2019.
- ◆ Mr Hornsby repeated his statement in relation to the Local Government Ombudsman referring to North Yorkshire County Council as being one of the worst performing in the country and also being advised to approach the Ombudsman if they were not happy with the responses to the issues they had raised. In response the Monitoring Officer highlighted the process undertaken in involving the Local Government Ombudsman. He considered that there were different processes and procedures in terms of complaints to the County Council, dependent upon whom was to be complained against. He recognised that the processes and procedures could be difficult for members of the public to understand and that this appeared to have been the case in terms of Mr and Mrs Hornsby. He noted that when a complaint had been raised, and investigated, in relation to services offered by the Council, and the complainant was unhappy with the outcome of the investigation, they would be advised to approach the Local Government Ombudsman. He emphasised that the Ombudsman was independent and would review complaints in such circumstances, giving the public confidence that their issues could be considered at another level, when they did not believe that their complaint had received an independent or satisfactory response. He emphasised that this was not the County Council refusing to acknowledge the concerns of the public, but was ensuring that the matters could be reviewed independently. He noted that sometimes cases were considered to be maladministration and recommendations would be produced for action to be taken in relation to that. He emphasised that the Ombudsman was outside the influence of the Council and, therefore, the public could be satisfied that their complaint was being considered independently.

- ◆ Issues around a complaint against a County Councillor were discussed and the Chairman noted that when such complaints were submitted these were investigated by the Monitoring Officer and an Independent Person from the Standards Committee to determine whether a breach of the Code of Conduct had taken place. She indicated that in relation to the Hornsby's complaint it was determined that no breach had taken place. The Independent Person present at the meeting, Hilary Gilbertson MBE, commented on the issue. She highlighted the process that took place and emphasised that she considered carefully the details provided in relation to the complaint from an independent viewpoint. She stated that she was very experienced in these matters which should give confidence to the public that issues were being dealt with appropriately. She acknowledged that it could be difficult for members of the public to accept the response provided in relation to an investigation into a complaint, particularly when it did not conclude in the manner that they wanted. She noted that all complaints were subject to the same process and were carried out in accordance with the appropriate policies and regulations related to how complaints against councillors should be determined. In relation to the process Mr Hornsby considered that this relied on a "secret meeting" that he was unable to attend and was provided with a decision, with no right of appeal to that, and considered that to be flawed. In response the Monitoring Officer emphasised that the correct procedure was being utilised and that the procedure would be used countrywide to review complaints against councillors. He noted that it was a private meeting, but should the complaint be upheld then the decision would be made public. The process required the meeting between the Monitoring Officer and the Independent Person, at the investigation stage, to determine whether a breach of the Code of Conduct had taken place, and, as this had not been found, the matter was not made public. It was again emphasised that the Independent Person was utilised in such cases to ensure that a non-County Council view was provided in relation to the complaint.
- ◆ Mr Hornsby stated that he considered that the complaint against the councillor, that he had lodged, could have been progressed further. It was reiterated that as the County Councillor had not been found to be acting in breach of the Code of Conduct, then no further action could be taken. The Independent Person emphasised that had she found reason to challenge the decision, she would have done so at that time. It was recognised that Mr and Mrs Hornsby were dis-satisfied with the decision, however, due process had been followed. Mr Hornsby again raised the issue regarding being told that if they were not satisfied with the situation then the course of action was not to vote for that particular County Councillor, however, he emphasised that the County Councillor they complained against did not represent them, as he did not cover their Electoral Division. He wondered, therefore, how he was able to register his concerns against that County Councillor, given the circumstances. The Monitoring Officer again emphasised that the due process had been followed and, the advice given to Mr and Mrs Hornsby was correct in that the only course of action open to them was not to vote for a County Councillor with whom they had concerns.
- ◆ Mr Hornsby raised issues in relation to remuneration of councillors for attending the Standards Committee meeting, the issue or how the Minutes had been approved in relation to the County Council meeting of which they had spoken and also whether the suggestion of an automated response to emails sent in had been progressed. In response Members refuted the figures quoted in relation to their remuneration for attendance at the Committee, it was considered that the issues around the Minutes had been dealt with in previous responses and the issue around the automatic email

response had been passed onto the appropriate County Council section, for consideration.

The Chairman thanked Mr and Mrs Hornsby for their attendance at the meeting and advised them that a written response to their questions would be provided immediately following the meeting.

37. Local Ethical Framework Developments (Focus on CSPL Review of Local Government Ethical Standards Report)

Considered -

The report of the Monitoring Officer updating Members on the development of the Ethical Framework under the Localism Act 2011.

The Monitoring Officer noted that the Committee had previously considered the Committee on Standards in Public Life (CSPL) Review of Local Government Standards and an extensive report had been published on 30 January 2019 a copy of which was sent to Members of the Standards Committee. The report made a number of recommendations which were not legally binding, to the Government, regarding the Ethical Framework which would require changes to legislation and the regulatory framework, if accepted. It also made various best practice recommendations which local authorities could choose to implement immediately should they so wish.

He highlighted the CSPL recommendations (a) to (t) (set out in full in the report).

The recommendations were not legally binding and the Government's response was awaited. The Government usually responded to recommendations within a three month period and Members would be kept informed of developments.

He also set out the CSPL best practice recommendations which were set out to local authorities with the aim of improving Local Government Standards. The CSPL considered that the best practice recommendations, should be considered a benchmark of good ethical practice, which were expected to be implemented by all local authorities.

He highlighted recommendations (a) to (m) (set out in full in the report).

The Committee was requested to consider the CSPL best practice recommendations and to determine whether there were any steps they would wish to take or recommendation to Council in terms of the Council's standards regime at this stage. It was noted that the CSPL intended to review the implementation of its best practice recommendations in 2020 and Members would be kept informed of developments.

Members discussed the report and the following issues and points were raised:-

- ◆ Members agreed with a move towards councillors' responses on social media being classed as responses under their public duties, rather than being seen as them expressing an opinion in their personal life, thereby not contravening the Code of Conduct.
- ◆ Members also welcomed a move towards a more all-encompassing single Code of Conduct, rather than individual Codes of Conduct for each Authority. They recognised, however, that there were also specific local issues that should continue to be addressed alongside a single Code, through local variation.

- ◆ The possibility of introducing Independent Members to Standards Committees, alongside Independent Persons, was outlined.
- ◆ In terms of Independent Persons the Monitoring Officer noted the suggestion that Independent Members/Persons should be appointed for a limited time period and disagreed with that proposal in terms of it being very difficult to find persons who were willing to put themselves forward for the role and who also had the necessary expertise to undertake the role. He suggested that when in place, and operating as the current Independent Persons do for the Standards Committee, then every effort should be made to retain them.
- ◆ It was noted that recommendations were being made to enable local authorities to have more effective powers in terms of imposing sanctions for Members who had breached the Code of Conduct, and that was welcomed by Members of the Committee.
- ◆ It was noted that, as had been previously discussed at a meeting of the Committee, it was being recommended that those standing for election would no longer have to publish their address within the election nomination papers, and this would also be welcomed by Members.
- ◆ In relation to the best practice recommendations it was noted that North Yorkshire County Council's standards regime already had compliance with the majority of those and it would be ensured that the others were met, going forward.
- ◆ It was noted that a further report on the recommendations and compliance with the best value recommendations would be provided to subsequent meetings of the Committee, when the Government had responded to the issues raised.

Resolved -

That the contents of the report be noted and further reports be submitted to the Committee in relation to any subsequent recommendations in relation to the CSPL's best practice recommendations.

38. Complaints Update

Considered -

The report of the Monitoring Officer updating the Committee regarding Ethical Framework complaint activity.

It was noted that there had been no new complaints received since the last complaints update report to the Committee on 21 September 2018.

Updates were provided on existing complaints where the outcome had not previously been reported. Details of the complaints and any action required were set out in the report.

Members suggested that, as the current County Council was approximately halfway through, it would be an appropriate opportunity to undertake some refresher training on the Ethical Framework and the Code of Conduct for County Councillors. The Monitoring Officer agreed and stated that appropriate plans would be put in place for this to be undertaken. It was suggested that these details be provided within the

forthcoming Standards Bulletin (next item on the agenda) before circulating to Members.

Within the report it was noted that for the year 1 April 2018 to date the Council had received four formal Standards complaints and, of these, three cases required no action to be taken whilst the other was dealt with under informal resolution, with the Member apologising and undertaking diversity training.

Resolved -

That the current position on complaints received be noted.

39. Standards Bulletin

Considered -

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

The latest draft of the bulletin was attached at Appendix 1 to the report and it was noted that the style had been changed slightly to ensure that it complied with corporate guidelines re communications. The Committee was requested to consider whether any alterations were required to the bulletin before this was circulated. It was noted that the bulletin was now circulated to neighbouring authorities via the Monitoring Officer Group, Parish Councils and certain other authorities, at their request.

It was noted that, further to the previous item, details of refresher training on the Ethical Framework should be included within the bulletin.

District Council Elections would be taking place in May 2019 and it was suggested that issues around Purdah and how this affected Members should be included within the bulletin by way of information.

Resolved -

That, subject to the issues highlighted above, for inclusion, the bulletin be updated as necessary and approved for circulation.

The meeting concluded at 11.10 am.

SL/JR