

North Yorkshire County Council

Standards Committee

Minutes of the meeting held at County Hall, Northallerton on Wednesday 8th March 2023 at 10am.

Present:-

County Councillors Clive Pearson (Chair), Nick Brown, Sam Cross, Melanie Davis, Heather Phillips and Monica Slater; together with Louise Holroyd and Hilary Gilbertson MBE (Independent Persons for Standards).

County Councillor George Jabbour attended as an observer.

Copies of all documents considered are in the Minute Book

11. Welcome and Introductions

The Chairman welcomed everyone to the meeting of the Standards Committee and noted that there were no apologies as everyone was present.

12. Appointment of Vice-Chair

County Councillors Heather Phillips and Melanie Davis were nominated. Members raised concerns that the composition of the Committee led to tied votes, resulting in the Chair having to use his casting vote and suggested that this matter should be avoided, going forward into the new unitary Council, through further appointments to the Committee.

Resolved –

That County Councillor Heather Phillips be appointed Vice-Chair of the Committee

13. Minutes

A Member stated that Minute No. 8 – Dispensation Requests – Resolution (ii) was incorrect, as the decision had not been delegated to the Chair in consultation with the Monitoring Officer, Members and Independent Persons of the Committee, but was to be reconsidered by the Committee at its next meeting to take account of the further information requested.

Resolved –

That the Minutes of the remote meeting held on 17 October 2022, having been printed and circulated, be taken as read, be confirmed by the Chairman and signed as a correct record, subject to the following amendment:-

Minute no.8 – Resolution (ii) – delete- “be delegated to the Chair in consultation with the Monitoring Officer, Members and Independent Persons of the Committee,” and replaced with “be returned to the Committee for further consideration”.

14. Declarations of Interest

There were no declarations of interest from Members.

15. Public Questions or Statements

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

16. Guidance on the Code of Conduct for Members

Considered-

The report of the Monitoring Officer outlining the guidance to be provided to Members in respect of the revised Council's Code of Conduct for Members.

The revised Code of Conduct was adopted by Full Council at its February meeting when the new Constitution for the new Authority was approved. The Code was based on the guide issued by the LGA.

Members discussed the report and the following issues were highlighted:-

- Members raised concerns that some of the changes to the Code, highlighted in the report, provided the potential for Members to be able to have an excuse for breaking the Code if they could show they were not acting in their capacity as councillors. In response it was stated that the amendments to the Code recognised the difficulties faced by Councillors, particularly on Social Media, when conducting their business..
- A Member asked whether membership of a Masonic Lodge was a declarable interest, noting that membership of a Trade Union was. Another Member raised concerns that declarations of interest could become too restrictive if membership of numerous bodies were to be taken account of. In terms of the Masonic Lodge issue this was not clearly set out in the Code and clarification would be sought for Members on whether this was declarable.
- It was noted that a number of the work-links to additional information were not working in the new Code. It was stated that this issue would be investigated and put right.
- Training for the Code would be provided to Members and it was suggested that consideration be given to providing this via Teams and recording the training thereby, allowing Members to watch it at a later date if not available during the live training session. It was agreed that this would be considered.
- A Member praised the guidance stating that it was very clear and useful.
- Clarification was provided as to how complaints against officers were dealt with. Members considered that there could be a perception of bias in such cases as the complaints process involved the officer being investigated internally. It was emphasised that this would not be the case, with the process being very transparent, with leadership ensuring that this was undertaken appropriately. It was explained that there was no role for the Independent Standards Persons to be involved in this process. An update on the process for officers registering interests would be brought to the Committee for Members to consider.
- In relation to complaints against Members it was stated that, initially, these would be considered by the Independent persons for Standards and the Monitoring Officer. The complaint remained confidential until an investigation was undertaken. It was emphasised that both parties provided information in relation to the complaint. Should there be disagreement on the way forward between the Monitoring Officer and Independent Persons the matter would be referred to Members of the Standards Committee for further consideration.

- A Member noted that there was nothing in the Code in respect of patronage or cronyism and asked how this would be addressed. Details from the Code were outlined in relation to protecting against this.
- It was clarified that the Chairs of Area Planning Committees would not need to seek a dispensation to sit on those Committees as an area representative, but could require one should they have a disclosable interest in any of the applications. The other issue that could affect their position could be predetermination especially if the matter has been discussed locally.
- It was stated that NRIs were being introduced to cover areas that were not covered by DPs but were still seen as having an influence on the decision making process. Members considered that the scope of NRIs required clear explanation to ensure Members know to what these relate. In response it was stated that the guidance provided details of when a NRI should be declared and what to do as a result. Members suggested that there should be a cross reference between NRIs and DPs allowing Members to make an informed decision on these matters.
- It was considered appropriate that Parish Councils be steered towards adopting the LGA model code to ensure that North Yorkshire is operating in a co-ordinated manner. It was stated Parish Clerks were being contacted to explain the Monitoring Officer arrangements and to encourage adoption of the model Code. A Member highlighted her role as the representative for the YLCA in North Yorkshire and stated that she would raise this issue at that forum.
- A Member considered that the threshold for Gifts and Hospitality may have been set too low at £25, but other Members were satisfied with the level set.

Resolved –

That the report be noted and, subject to the comments Members above being taken account of, the Committee approves the draft Guidance on the new Council's Code of Conduct for Members.

17. Officers' Registration of Interests

Considered –

The report of the Monitoring Officer updating the Committee on the the regime for the registration of officers' interests as requested at a previous meeting.

The report provided details of what interests officers were expected to declare and provided a comparison with the Members' registration of Interests regime. There would be a large influx of officers into the Authority when the unitary Council was introduced on 1st April 2023 and those officers would be required to register their interests.

It was noted that officers were required to complete a form in relation to potential conflicts of interest in the procurement process, and that was expected to continue in the new Authority.

Members discussed the report and the following issues were highlighted:-

- A Member considered that the officers registration process did not appear to be as extensive as the Members' scheme and suggested that these should be the same, particularly in respect of the declaration of interests of spouses and relatives. It was also asked at what level of officer the registration of interests was required. In response it was noted that details of spouses and family interests were included as part of the declaration, however, the Member considered that this should be a separate box on the form so that the

interests could be easily identified. In terms of the level of officer required to declare it was stated that this was Grade K and above, which was a fairly low level of seniority. Members requested details of the grading system as they were unaware of the current grading system.

- A Member queried the policy in respect of conflicts of interest in relation to procurement. In response it was stated that this was set out in the Constitution. Any issues in relation to this were delegated to the Monitoring Officer, delegated to a Senior Lawyer, to address any difficulties.
- Members suggested that, in the interests of openness and transparency for the new Council, it would be beneficial to have all the details around officers' interests submitted to the next meeting of the Committee.

Resolved –

That the details within the report be noted and further details on the regime be submitted to a subsequent meeting of the Committee.

18. Local Ethical Framework Developments

Considered -

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

The report provided a summary of the following, together with links to the full documents:-

- Presentation slides on “Handling online abuse and intimidation” - Local Government Association
- Committee on Standards in Public Life (CSPL) Report – “Leading in Practice”
- CPSL letter re Standards Sanctions
- Social Media guidance
- Previous CSPL reports and reviews

Members discussed the report and the following issues were highlighted:-

- A Member raised concerns regarding the sanctions available to discipline individual Independent Members who had no Group Leader, considering these to be ineffective, particularly when there are a number of vexatious complaints based purely on political backgrounds. Another Member stated that the Monitoring Officer and Independent Persons were in place to prevent such occurrences getting out of hand. It was felt, however, that without a Group Leader it was difficult to discipline a Member. In response to the issues raised it was stated that the Monitoring Officer was able to take action against an individual Member in such circumstances but only within the parameters set out in the legislation. In terms of vexatious complaints a policy and procedure were in place for those, with such issues brought to the Standards Committee to determine.

Resolved -

That the contents of the report and the issues raised be noted.

19. Dispensation Requests

Considered -

A report of the Monitoring Officer providing additional details in respect of a dispensation request from County Councillor Peter Lacey, further to Minute No.8 – Dispensation Requests, Resolution (ii) from the meeting held on 17th October 2022,

Details of the legislation relating to dispensations and the process involved were provided in the report. It was explained the dispensations could be granted under the following circumstances:-

- (a) without the dispensation the number of persons prohibited from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business;
- (b) without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business;
- (c) granting the dispensation is in the interests of persons living in the authority's area;
- (d) without the dispensation each Member of the Authority's Executive would be prohibited from participating in any particular business to be transacted by the Executive; or
- (e) it is otherwise appropriate to grant a dispensation.

County Councillor Peter Lacey

Councillor Lacey had previously sent a request for a dispensation, which did not feature in the report, relating his service on the Scrutiny of Health Committee and his work as a consultant with a systems partnership that was in the process of developing contracts with the NHS across the whole area

Members had suggested that it would be beneficial to obtain more information for greater clarity on the relationship between the Councillor, the consultancy and the contracts with the NHS, before a decision was made.

The report detailed that Councillor Lacey owns, and is Managing Director, of Whole Systems Partnership Ltd (WSP), a consulting company working across health and social care. WSP was currently working with TEWV NHS Trust on a pro-bono basis and may in the future, gain paid consultancy business from the Trust. Councillor Lacey would not wish his comments on TEWV CQC reports or other concerns regarding service quality to indicate any advantage or inside knowledge of the Trust, nor would he wish his position as a member of the Scrutiny of Health Committee to advantage himself, or appear to do so, regarding the winning of such business that his company may secure.

Councillor Lacey's directorship of WSP, his business, was registered on his interests form and was therefore a Disclosable Pecuniary Interest (DPI). If there was an item of business due to be considered at the Scrutiny of Health meeting which directly relates to WSP itself, then Councillor Lacey would need to declare the existence and nature of his interest to the meeting, not participate in any discussion or vote on the matter and withdraw from the meeting room for that item unless he has a dispensation. If something arose which did not directly relate to WSP but could more

indirectly affect its finances or wellbeing, then Councillor Lacey may have a non-registrable interest. He would need to declare the existence and nature of his interest to the meeting, and consider whether the matter affects the financial interest/wellbeing more than it affects that of the majority of inhabitants of the ward affected and a reasonable member of the public knowing all the facts would believe it would affect Councillor Lacey's view of the wider public interest:

- if yes, then Councillor Lacey may speak if the public can but must otherwise take no part in the discussion or vote and must leave the meeting room unless he has a dispensation;
- if no, the matter does not so affect financial interest/wellbeing etc, then he can speak and vote in the usual way after declaring the interest.

Members discussed the request and the following issues were raised:

- A Member considered that, should the dispensation be granted, Councillor Lacey would be provided with an opportunity to discuss his direct competitors within the meetings. In response it was stated that any discussions relating to a direct competitor would still be covered by the DPI and the Councillor would be required to leave the meeting. The remit of the dispensation should be outlined by the Committee, if they were minded to grant this, but the report details related to general discussions at the Committee, rather than specific.
- It was noted that Members were required to declare their dispensation and the reasons for that at the place on the agenda where declarations of interest are declared. It was suggested that the letter outlining the granting of a dispensation should advise Members of the need to declare this at meetings where it applies.
- It was clarified that a list of those holding dispensations was kept by the Monitoring Officer. Members suggested that it would be useful if the Chairs of Committees could have this.
- Members considered that the remit of a dispensation was important to ensure that a Member could bring their expertise to a discussion, but would not acquire undue benefit from being involved. Voting remained the main concern in terms of having undue influence on a matter. Concerns were expressed that without appropriate wording being provided in the dispensation there was a distinct possibility that a Member could gain an undue advantage.
- It was also suggested that 4 years was too long in terms of the granting of a dispensation and it was suggested that future applications should be the subject of a 2 years limit. It was explained that 4 years was frequently used by authorities to align with councillors term of elected office.
- An explanation was provided as to how Councillor Lacey's business could be the subject of consideration at Scrutiny of Health. Members felt that there was no reason for the dispensation as the Member could be involved on issues that were unrelated to his Company, and any discussion directly affecting his Company would be the subject of a DPI, whether he had the dispensation or not.
- Members again considered that further information was required before the dispensation could be determined, particularly as the Member would still be required to declare a DPI if his business was discussed. As the position stood there appeared to be no reason for the dispensation request.

Resolved –

- (i) That the application for a dispensation submitted by County Councillor Peter Lacey be refused at this time, with a further report on this application to be submitted to a subsequent meeting, with Councillor Lacey being invited to attend to explain his reasons for the application for a dispensation:

- (ii) That any future dispensations granted by the Committee be for 2 years maximum, with a review of the use of the dispensation taking place when the maximum period has expired.

20. Members' Attendance at Committees

Considered –

The report of the Assistant Chief Executive (Legal and Democratic Services) on the record of attendance of Members of the County Council at meetings of the County Council and its Committees for the period May 2022 until March 2023.

Members raised concerns that all Committees were taken account of, irrespective of their level of importance. It was noted that for one of the meetings included in the details it had been suggested that Members were not obliged to attend, and it was suggested that further consideration to which meetings were included in the overall figures, as this was detrimental to the overall attendance figures given for Members. A Member pointed out that there was a responsibility to attend a certain number of meetings. This was acknowledged but it was felt that only key meetings should be taken account of in the published figures.

There was some concern that not all the details were available within the report but, in response, it was outlined how the details could all be obtained through the links in the report and cross-referenced.

Members asked that, to assist their attendance at meetings all briefings and presentations be provided in advance. It was agreed that this would be beneficial to Members and should be taken forward through the Member Development Programme.

In terms of low attendance figures at meetings for Members these were reported to Group Leaders for them to discuss with the Member, or, in the case of individual Independent Members, an explanation was requested by the Monitoring Officer. It was emphasised that mitigating circumstances were taken account of in terms of Members attendance. Members welcomed this as it could be detrimental to Members for their low attendance to be made public with no explanation as to why.

Resolved -

- (i) That the report, and issues raised, be noted and acted upon accordingly.
- (ii) That details of any specific concerns in terms of attendance be circulated to the Leaders of the Political Groups of the County Council and to individual Members where appropriate.

21. Appointment of further Independent Persons for North Yorkshire Council

Considered –

The report of the Monitoring Officer providing details of proposals for appointing further Independent Persons for Standards for the new unitary authority.

Under the current Constitution the Monitoring Officer, in consultation with the Chair of the Standards Committee, has power to exercise all functions in respect of the publication of Independent Person for standards' vacancies. At the time the meeting, the Monitoring Officer was finalising the arrangements for publishing the vacancies for Independent Persons, which was likely to involve publication on NYCC's and the district and borough councils' websites and a press release supported by social media.

The proposed timetable for the recruitment process was -

- Publication of vacancies – week commencing 27 February 2023
- Closing date for applications – Friday 31 March 2023
- Shortlisting by the Monitoring Officer and the Chair of the Standards Committee – week commencing 3 April 2023
- Interviews - week commencing 10 or 17 April 2023
- 3 May 2023 – papers out for Council on 17 May 2023.
- 17 May 2023 - report to full Council. Council appoints the Independent Persons.

Members of the Committee were invited to identify which of them would be available to take part in the interview process.

The current Independent Persons for Standards outlined their current workload and details of recent work they had undertaken.

Members considered that further appointments would assist what was expected to be an increased workload going forward. It was noted that a lot of the work with the Monitoring Officer was undertaken virtually, which assisted in terms of being available when required, but expanding the diversity of the representation from Independent Persons would be of benefit to the Standards regime.

It was asked if the number of Standards hearings were expected to increase. In response it was stated that it was too early to tell, but further information would be fed into subsequent meetings of the Committee to outline how this was developing.

The importance of training in the process of hearings was outlined and it was noted that there was online training available in relation to this.

Resolved -

- (i) That the report be noted.
- (ii) That the Committee nominates Councillors Clive Pearson, Nick Brown, Melanie Davies and Heather Phillips to sit on a panel of Members of the Committee to interview appropriate candidates and make recommendations to full Council, through the Monitoring Officer, regarding the appointment of appropriate candidates.

22. Complaints Update

Considered -

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

There have been two new formal complaints received since the last Complaints Update report to the Committee:

NYCC/SC/84 and NYCC/SC/85

At the time of the meeting, these complaints were awaiting assessment by the Monitoring Officer in consultation with the Independent Person for Standards.

For the year 1 April 2022 to date, the Council has received six formal standards complaints. All are currently live complaints. An update would be provided to Members when the Monitoring Officer is in a position to do so.

In a discussion of the report, the following issues and points were raised:-

- Members raised concerns that there were six outstanding complaints that were yet to be the subject of final reports and asked when these when the outcomes were likely to be available. They also suggested that the complaints within the report should provide a date at which they were submitted to benefit Members' understanding of how long the process was taking. In response it was explained that the investigations into the complaints were currently taking place with information and feedback being collected. There had been a small delay to the process due to LGR, but these were expected to be completed by vesting day. The capacity for reviewing complaints would be extended following the appointment of the additional Independent Persons, with the Monitoring Officer also shared between senior lawyers, going forward. Consideration would be given to providing additional information within future reports, including dates, the nature of the complaint and current position.

Resolved -

That the current position, regarding complaints received, be noted, and the issues raised be acted upon, accordingly.

23. Standards Bulletin

Considered -

The report of the Monitoring Officer presenting for the Committee's consideration, a draft of the latest Standards Bulletin, a copy of which was at Appendix 1 to the report. It was suggested that the Bulletin be also circulated to Parish Councils.

Resolved –

That the Bulletin be approved for circulation.

The meeting concluded at 12.15 pm.
SML