

Standards and Ethics Committee

Wednesday, 10 April 2019, County Hall, Worcester - 10.00 am

Present:

Minutes

Mr S J Mackay (Chairman), Mr R C Adams,
Mr R M Bennett and Mr R P Tomlinson

Independent Members (non-voting): Mr C Slade and Dr P Whiteman.

Available papers

The members had before them:

A. The Agenda papers (previously circulated); and

B. The Minutes of the meeting held on 24 October 2018 (previously circulated).

**272 Apologies and
Named
Substitutes
(Agenda item 1)**

Apologies were received from Dr A J Hopkins and Dr K A Pollock.

**273 Declarations of
Interest
(Agenda item 2)**

None.

**274 Public
Participation
(Agenda item 3)**

None.

**275 Confirmation of
Minutes
(Agenda item 4)**

RESOLVED that the Minutes of the meeting held on 24 October 2018 be confirmed as a correct record and signed by the Chairman.

**276 Local
Government
Ethical
Standards -
Report of the
National
Committee on
Standards in**

The Committee considered a report of the National Committee on Standards in Public Life.

In the ensuing debate, the following points were raised:

Nolan Committee – List of recommendations

- The Head of Legal and Democratic Services indicated that the biggest change to the Ethical regime recommended by the Nolan Committee

Public Life (Agenda item 5)

was for authorities to regain the power to suspend members (for up to six months) as a sanction for breaching the code, with an appeal to the Ombudsman

- In response to a query, the Head of Legal and Democratic Services commented that in the filtering arrangements adopted by the Council, the Independent Person (IP) was usually consulted at an early stage but was not a decision-maker. It was therefore somewhat surprising that recommendation 10 was proposing that the IP would need to agree with a finding of a breach of the Code and that suspension was a proportionate sanction
- Bearing in mind the number of councillors serving on both the county and district councils, it was vital to liaise with the district councils to ensure that any changes to the Code were consistently applied. The Head of Legal and Democratic Services advised that a pan-Worcestershire Code of Conduct had been adopted to address this matter and this approach had found favour with representatives of the Nolan Committee. Following this meeting, he would be liaising with monitoring officers from the districts to agree any potential changes to that code. Members of the Standards and Ethics Committee strongly supported the continuance of a joint Code
- Recommendation 3 implied that it was the responsibility of the member to rebut the presumption that they were not acting as a councillor when making statements on publicly-accessible social media. The Head of Legal and Democratic Services added that this distinction was often not easy to make especially in relation to the use of social media. The context of a statement should be taken into account
- In relation to recommendation 11, did the Council provide legal indemnity for IPs? The Head of Legal and Democratic Services advised that standing indemnities were not provided but he could not see a situation where an IP could be legally liable. In any case, IPs would be granted qualified privilege against defamation.

Nolan Committee - Best Practice recommendations

BP1

Agreed that this could be adopted and the Head of Legal and Democratic Services would try to agree a definition of bullying and harassment with the other

authorities.

BP2

- There was some concern that this recommendation was almost implying that a councillor should incriminate themselves by complying with the investigation of a complaint made against them. There was also a danger of tit for tat complaints.

Agreed that the matter be raised by the Head of Legal and Democratic Services with the other principal authorities in the county.

BP3

Agreed that a formal Annual Review of the Code as recommended was unnecessary, but could be done by the committee itself. Any review would be undertaken as and when determined necessary by the Monitoring Officer.

BP4

Agreed that the Council already complied with this recommendation and therefore no further action was necessary.

BP5

- It would be safe to assume that the public would expect that the Council would establish a register of gifts and hospitality. The key issue was to determine what constituted a gift under this recommendation. The Head of Legal and Democratic Services advised that this recommendation applied to gifts received in the role as a councillor. The onus to make the declaration would rest with the councillor who could seek the advice of the Monitoring Officer where necessary.

Agreed that a Register of Gifts and Hospitality could be established ahead of any legislation, to be discussed with the other authorities.

BP6

Agreed that the Council already complied with the recommendation for the publication of the arrangements for the filtering of allegations which were available online.

BP7

Agreed that the Council already complied with this recommendation and had access to a range of IPs.

BP8

Agreed that the Council already effectively complied with this recommendation as IPs had a role in the filtering arrangements at an early stage.

PB9

- In response to a query about the anonymisation of councillors who were the subject of a complaint, the Head of Legal and Democratic Services advised that generally the name of a councillor would only be made public at the point where it was considered that a breach of the Code had been established.

Agreed that the Council already complied with this recommendation as the publication of formal decisions after investigation was part of the Council's existing arrangements.

PB10

Agreed that the Council already complied with this recommendation but that the Head of Legal and Democratic Services would review the guidance on the Council's website on how to complain, the process and timescales.

BP11 – 12

Agreed that these recommendations were not relevant.

BP13

Agreed that the Council already complied with this recommendation as arrangements were in place for managing conflicts of interest for the Monitoring Officer.

BP14

Agreed that this recommendation had limited application for this Council.

BP15

Agreed that the existing arrangements worked well without the need for additional political involvement.

RESOLVED: that

- a) the report published by the National Committee on Standards in Public Life (the Nolan Committee) following its review of standards in local government be noted;**
- b) the various recommendations to Government**

**277 Code of
Conduct -
Complaints
Update (Agenda
item 6)**

concerning legislative change be noted;

- c) the initial views on what action the Council should take in relation to the relevant Best Practice recommendations in the Nolan report are set out above;**
- d) the Monitoring Officer, having regard to those initial views, will be discussing any implications for the pan-Worcestershire Code of Conduct with the other principal authorities in the county be noted; and**
- e) a further report be received following those discussions.**

The Committee considered a Code of Conduct - Complaints update from the Head of Legal and Democratic Services.

The Head of Legal and Democratic Services outlined the details of the complaint. He indicated that since the publication of the report, a further formal complaint had been received but at this early stage, there was nothing to report to the Committee. The Committee raised the following points:

- Were there instances where the same complaint was received by both the county and a district council? The Head of Legal and Democratic Services responded that complainants were required to indicate if their complaint had been made elsewhere but on occasion failed to do so. In these cases, it was difficult to unpick the details and responsibilities to enable appropriate action to be taken but there was often close liaison between Monitoring Officers where 2 authorities might be involved
- In response to a query about Purdah, the Head of Legal and Democratic Services advised that all councillors had been issued with the traffic light signal guidance
- Were councillors able to report to local parish council meetings during the Purdah period? The Head of Legal and Democratic Services advised that members were able to report to parish councils on county matters as business as usual
- If a member were not a candidate in a local election, then Purdah would have a more limited impact on them.

RESOLVED: that the formal complaint that has been made about the conduct of a County Councillor be noted and no further action was necessary.

The meeting ended at 11.50am.

Chairman