

**NOTES
OF THE MEETING OF THE
STANDARDS COMMITTEE
WEDNESDAY 15 JANUARY 2014**

Held at 5.00 pm in Committee Room 1, Civic Centre, Pavilion Road, West Bridgford

PRESENT:

Councillors R A Adair (Chairman), G Davidson, J E Greenwood, A MacInnes,
Mrs M M Males, B A Nicholls

Independent Members: G Norbury, K White, W A Wood

ALSO IN ATTENDANCE:

J R Baggaley Independent Person

OFFICERS PRESENT:

P Cox Senior Solicitor
D Swaine Executive Manager - Operations and Corporate
 Governance and Monitoring Officer

APOLOGIES FOR ABSENCE:

There were no apologies for absence

6. Declarations of Interest

There were none declared.

7. Notes of the Previous Meeting

The notes of the meeting held on Thursday 25 July 2013 were accepted as a true record.

8. Independent Person

The Chairman welcomed Mr John Baggaley to the meeting explaining that following a selection process he had recently been appointed as the Council's Independent Person. Mr Baggaley introduced himself to the Committee providing a short summary of his experience and background and his work within the ethical standards framework. He explained that he also acted as the independent person for Gedling Borough Council and it was through this capacity that he had been introduced to Rushcliffe Borough Council's Monitoring Officer via networking and discussions about the newly formed standards regime. Consequently he had become aware of the vacant Independent Person position at Rushcliffe to which he had recently been appointed.

Members of the Committee welcomed Mr Baggaley and thanked him for providing details of his experience and background. They agreed that in future it would be useful to invite him to committee meetings so that he was aware of its role and work programme.

RESOLVED that Mr Baggaley be welcomed as the Council's Independent Person and be invited to attend future scheduled meetings of the Committee.

9. **Code of Conduct – A Practical Understanding**

The Monitoring Officer gave a presentation which aimed to assist the Committee in its practical understanding of the Code of Conduct and the Standards regime. He explained that the new arrangements had now been in place since July 2012 and were based around the Code agreed by Council in June 2012. He reminded the Committee of its involvement in the development of the Council's Code which had been formulated using illustrative text from the Department for Communities and Local Government and also guidance from the Local Government Association, as there was no model code. Commenting further he set out the key areas of difference between the new regime and the old system particularly in relation to the previous assessment and review process for complaints.

Commenting further the Monitoring officer stated that the Code was based around the seven Nolan principles of public life. It also contained provision for registering pecuniary interests but it did not require the registration of other interests beyond those specified as a Disclosable Pecuniary Interests (DPI). He explained that details of what constitutes a pecuniary interest were set out in the schedule within the Code which was consistent with the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012. He added that the Borough Council and the Parish Councils were required to publish the register and these were available from the Borough Council's website.

The Monitoring officer referred to the previous arrangements for the register and disclosure of interests within the model code and how this compared with the new arrangements in relation to DPI's, non-participation and which interests needed to be registered. He added that the new regime required DPI's to be registered for a Member's interest or interests of a spouse or civil partner, a person they are living with as husband or wife, or a person they are living with as a spouse of civil partner. He added that this differed from the old regime which referred to interests of the Member or their family members and /or close associates.

The Monitoring officer recognised that the new system was not as prescriptive in terms of potential 'prejudicial' interests as defined by the old code particularly in terms of interests which were not a DPI but could be perceived as contrary to high standards of behaviour by members of the public. Explaining further he stated that whilst the new arrangements carried no provision for the previous personal and prejudicial interest test the Council's code did set out an expectation that Councillors would act in a way that takes reasonable steps to safeguard the public interest. He referred the Committee to paragraph six within the Council's code which set this out in more detail. Members of the Committee discussed this point recognising that whilst the new code did set out clear requirements for Councillors in terms of DPI's it placed a reliance on them making a personal judgement on other interests which may be viewed as conflicting with the public interest. The Committee indicated that this process correctly placed the responsibility on the individual when making decisions who had to give regard to safeguarding the public

interest and if they found themselves in a conflicting situation they were required to take the necessary steps.

The Senior Solicitor outlined details of the Council's 'Councillor Complaints Procedure' which had been developed by the Committee prior to approval by full Council. He added that this set out the role of the Independent Person and highlighted the importance of having clear and agreed lines of communication with both the Monitoring Officer and the subject member. Commenting further he outlined how sanctions within the new system differed from those under the old regime in that compliance was not mandatory. However in relation to misconduct regarding DPs there was a potential criminal sanction which was created by statute.

In conclusion the Senior Solicitor explained the arrangements for a hearing within the new regime, the potential sanctions available and the mechanisms for dealing with more significant complaints of a complex or high profile nature. The Monitoring Officer explained that it was clear the new regime was less bureaucratic than the old one and had been developed in such a way as to prevent and deter misuse. Since its inception it had shown to provide flexibility enabling a pragmatic way of dealing with complaints, particularly those which centred around personalities and behaviours. On this basis he believed it was working well but nationally he was aware of viewpoints indicating the regime was not sufficiently robust to deal with more serious issues and was flawed because of the fact that Standards Committees were now politically balanced, whereas before they were not. This could lead to a situation where Members adjudicating on a complaint were predominantly from the same political party as the subject Member of the complaint.

Following the presentation members of the Committee made a number of comments particularly in relation to:

- The importance of any contact with the Independent Person being co-ordinated in order to ensure it was controlled and the appointed person wasn't contacted inappropriately or for the wrong reasons
- Sanctions which were not mandatory placed a reliance on 'peer pressure' to drive and maintain standards of behaviour. However most public officials, particularly Councillors were well aware of the need to maintain high standards and act with objectivity and integrity
- The new system provided the Monitoring Officer with more practical ways of resolving issues particularly those that related to conflicting personalities. This was welcomed as it ensured the regime was not misused, but it was important for the Committee to empower the Monitoring Officer with the flexibility and discretion to effectively administer local resolution when it presented the most appropriate
- The DPs system placed a heavy reliance on Councillors making an informed judgement for other interests ensuring they took actions to safeguard the public interest. As this placed the responsibility on an individual's 'moral conscience' it was important to consider public

perception when making decisions in order to ensure an informed judgement was made

- The new complaints procedure was working well and was less burdensome than the previous regime. This provided much greater flexibility and supported practical ways to resolve complaints. It also helped people understand what they could expect and assisted the Monitoring Officer having a straightforward and matter of fact approach to complaint resolution
- It would be useful for Standards Committee members to have a better understanding of what might constitute a breach of the code. Under the old regime training videos were provided by Standards Board for England and these had been helpful. However these related to potential breaches of a model code. Therefore officers should consider how they could provide training for the Committee as part of its future work programme

Having considered the information now reported and the subsequent discussion Members of the Committee thanked the Monitoring Officer and the Senior Solicitor for their helpful and informative presentation.

RESOLVED that:

- (i) the information now reported in respect of the code and its practical application be noted, and
- (ii) that as part of the Committee's future work programme training be provided to Committee members on potential breaches of the code and the circumstances in which these might occur.

10. **Update on Cases**

The Monitoring Officer reported verbally on the number of cases that had been received since the implementation the new regime in July 2012. He expanded on the information previously reported to the Committee at its meeting in July 2013 when details of the cases received at that point had been discussed.

The Monitoring Officer explained that the majority of the cases related to parish councillors; in particular there had been five cases relating to one parish council where it appeared there was a dispute between two groups of people. However, since May 2013 there had been no further complaints relating to this parish council.

In total 11 complaints had been made since July 2012, with one enquiry not being classed as a complaint because of the nature of the allegation and the opportunity to resolve it without the need to invoke a formal process. In this instance the enquirer had indicated they did not wish to make a formal complaint but did want to make the parish councillor concerned aware of how their behaviour had been perceived.

In response to a question regarding how complaints were submitted, the Monitoring Officer indicated that most were received by way of telephone call or email. Often enquirers were initially referred to the Council's complaints procedure so they were able to understand how the process worked before making a formal complaint. It was also usual for the initial discussion to consider the relevant code of conduct particularly in relation to parish councils in order to determine the nature of the alleged breach and how it was substantiated.

When asked if the new regime was less burdensome than the old one the Monitoring Officer indicated that it provided a much more practical way of resolving things without the need to resort to a formal assessment and review process. It also meant that there was a much greater emphasis on local resolution based on a mature and pragmatic approach, reducing the previous problem of having to resort to formal investigations which often resulted in a recommendation of no action.

In conclusion members of the Committee noted the update on cases and having considered the information reported indicated that the regime was working well and provided a practical and simple replacement for the old system. They believed it placed a reliance on a common sense approach which had helped to improve public confidence in the process for maintaining and preserving standards of behaviour, without the need for a burdensome and bureaucratic system.

Having considered the information reported, the Committee agreed that it should formalise arrangements for its meetings so that they take place in January and June each year. This would help to ensure its work programme provided for an update on cases every six months. It would also help to ensure the Committee were kept informed of any significant developments in the ethical standards regime and, where necessary, provided with training on the code and its practical application.

RESOLVED that the information reported regarding cases be noted and meetings of the Committee be scheduled to take place in June and January each year.

The meeting closed at 6.00 pm.