

**MINUTES OF A MEETING OF THE
STANDARDS COMMITTEE
HELD ON 2 MARCH 2020 FROM 7.00 PM TO 8.10 PM**

Committee Members Present

Councillors: John Kaiser (Vice-Chairman), Prue Bray, Gary Cowan, Graham Howe, Imogen Shepherd-DuBey and Wayne Smith

Parish/Town Council Representatives:- Sally Gurney (Co-Optee, Wokingham Town Council) and Roy Mantel (Co-Optee Twyford Parish Council)

Other Councillors Present

Councillors: Keith Baker and Malcolm Richards

Officers Present

Neil Carr, Democratic and Electoral Services Specialist

Jennifer Lee, Senior Solicitor and Deputy Monitoring Officer

Andrew Moulton, Assistant Director, Governance and Monitoring Officer

12. APOLOGIES

Apologies for absence were submitted from John Halsall.

13. MINUTES OF PREVIOUS MEETING

The Minutes of the meeting of the Committee held on 8 July were confirmed as a correct record and signed by the Chairman.

14. DECLARATION OF INTEREST

There were no declarations of interest.

15. PUBLIC QUESTION TIME

There were no public questions.

16. MEMBER QUESTION TIME

There were no Member questions.

17. PARISH / TOWN COUNCIL QUESTION TIME

There were no Parish or Town Council Member questions.

18. COMMITTEE ON STANDARDS IN PUBLIC LIFE - BEST PRACTICE

The Committee considered a report, set out at Agenda pages 9 to 24, which gave details of the best practice examples contained in the report of the Committee on Standards in Public Life (CSPL) on standards in local government.

The CSPL report had concluded that the vast majority of local government Members and Officers wished to maintain the highest standards of conduct. However, there were ongoing examples of bullying, harassment and other disruptive behaviours. The CSPL report contained a list of best practice principles and suggested that each local authority compare its current arrangements against the list.

Andrew Moulton (Assistant Director, Governance and Monitoring Officer) introduced the report and explained that, following discussion by the Committee, a public consultation would take place on the proposed amendments to the Member Code of Conduct. The

results of the consultation would then be reported back to the Committee before final decisions were taken.

The report set out the CSPL best practice list and set out comments and/or recommendations relating to each of the principles as follows:

Best practice 1: Local authorities should include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition.

Comment/Recommendation - Guidance on Bullying and Intimidation is set out in the WBC Member Code of Conduct. It is proposed that guidance on the use and potential misuse of Social Media also be included in the Code of Conduct.

Best practice 2: Councils should include provisions in their code of conduct requiring Councillors to comply with any formal standards investigation, and prohibiting trivial or malicious allegations by Councillors.

Comment/Recommendation – Provisions are included within the WBC Constitution.

Best practice 3: Principal authorities should review their code of conduct each year and regularly seek, where possible, the views of the public, community organisations and neighbouring authorities.

Comment/Recommendation – an annual review of the Code of Conduct to be undertaken by the Standards Committee, with public consultation on significant changes.

Best practice 4: An authority's code should be readily accessible to both Councillors and the public, in a prominent position on a Council's website and available in Council premises.

Comment/Recommendation – Officers to carry out a review of Code of Conduct information on the WBC website and the effectiveness of the online process for registering complaints.

Best practice 5: Local authorities should update their gifts and hospitality register at least once per quarter, and publish it in an accessible format, such as CSV (a data record format).

Comment/Recommendation – The Register to be updated and published in line with Best Practice 5. It is proposed to amend the value of declarable gifts from £25 to £50 or £100 per annum.

Best practice 6: Councils should publish a clear and straightforward public interest test against which allegations are filtered.

Comment/Recommendation – Set out within the WBC Constitution. Each complaint received is considered by the Monitoring Officer, Independent Person and Chairman of the

Standards Committee against a number of criteria including Public Interest – is the public interest served in referring the complaint further.

Best practice 7: Local authorities should have access to at least two Independent Persons.

Comment/Recommendation – WBC currently retains three Independent Persons.

Best practice 8: An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation, and should be given the option to review and comment on allegations which the Responsible Officer is minded to dismiss as being without merit, vexatious or trivial.

Comment/Recommendation – All Code of Conduct complaints are subject to consultation with an Independent Person.

Best practice 9: Where a local authority makes a decision on an allegation of misconduct following a formal investigation, a decision notice should be published as soon as possible on its website, including a brief statement of facts, the provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker, and any sanction applied.

Comment/Recommendation – The current WBC Code of Conduct states that breaches of the Code of Conduct which are resolved informally (e.g. through mediation or a written apology) are not reported publicly. The Committee is asked to consider a change to the Code of Conduct so that all decisions on breaches (resolved formally or informally) are published on the WBC website in line with Best Practice 9.

In relation to Best Practice 9, Members discussed the pros and cons of changing the current arrangement whereby the outcomes of complaints resolved by the Monitoring Officer informally (i.e. without a formal investigation and hearing) were not published on the Council's website. Members noted that none of the other Berkshire Councils had a similar arrangement. It was felt that the public consultation should consider three options: publishing the outcome of complaints resolved informally, removing the informal route altogether and the status quo ante.

Best practice 10: A local authority should have straightforward and accessible guidance on its website on how to make a complaint under the code of conduct, the process for handling complaints, and estimated timescales for investigations and outcomes.

Comment/Recommendation – Guidance is provided on the WBC website. It is proposed that Officers review the guidance in line with Best Practice 10.

Best practice 11: Formal standards complaints about the conduct of a Parish Councillor towards a Clerk should be made by the Chair or by the Parish Council as a whole, rather than the Clerk in all but exceptional circumstances.

Comment/Recommendation Agree in principle, subject to further consultation with Town and Parish Councils.

Best practice 12: Monitoring Officers' roles should include providing advice, support and management of investigations and adjudications on alleged breaches to Parish Councils within the remit of the principal authority. They should be provided with adequate training, corporate support and resources to undertake this work.

Comment/Recommendation – This is part of the WBC Monitoring Officer's role. Training and support are provided.

Best practice 13: A local authority should have procedures in place to address any conflicts of interest when undertaking a standards investigation. Possible steps should include asking the Monitoring Officer from a different authority to undertake the investigation.

Comment/Recommendation – Procedures are currently in place in line with Best Practice.

Best practice 14: Councils should report on separate bodies they have set up or which they own as part of their annual governance statement, and give a full picture of their relationship with those bodies. Separate bodies created by local authorities should abide by the Nolan principle of openness, and publish their board agendas and minutes and annual reports in an accessible place.

Comment/Recommendation – Regular reports are currently submitted to the WBC Executive which provide updates on finance, operational matters and changes to company directors. It is proposed to review the accessibility of company agendas, minutes and reports in line with Best Practice 14.

Best practice 15: Senior Officers should meet regularly with political Group Leaders or Group Whips to discuss standards issues.

Comment/Recommendation - Best Practice 15 to be formalised through more regular meetings between senior Officers and Group Leaders/Whips, including an annual meeting.

Proposed amendments to the Code of Conduct for Councillors (Chapter 9.2 of the Council's Constitution) were set out in an Annex to the report.

The Committee considered the CSPL best practice examples and raised the following issues:

In relation to the proposed addition to Para 9.2.1 of the WBC Constitution:

“Councillors should be presumed to be acting in an official capacity in their public conduct, including statements on publicly accessible social media.”

There was concern that this would impact on Members who used social media in a work related capacity. It was important to maintain a separation between personal and professional statements on social media. It was suggested that the proposed addition to Para 9.2.1 be amended to read:

“Councillors should be aware that their behaviour in public is, rightly, under public scrutiny and should adhere to the provisions of Code of Conduct. This included statements on publicly accessible social media.”

It was suggested that Officers review private sector policies on social media for examples of best practice.

In relation to the proposed amendment to Para 9.2.8.8 of the WBC Constitution (gifts and hospitality) it was suggested that the qualifying amount be an estimated value of £100.

John Kaiser stated that the consultation process should highlight the significance of potential changes impacting on Town and Parish Councils, specifically Best Practice 9 (publication of complaint outcomes) and Best Practice 11 (complaints about the conduct of a Town/Parish Councillor towards a Clerk).

RESOLVED That:

- 1) the proposed best practice changes to the Councillor Code of Conduct, as amended by the Committee, be the subject of a public consultation exercise;
- 2) the draft Consultation document be circulated to the Committee for comment prior to public distribution;
- 3) Town and Parish Councils be alerted to two specific changes relating to Best Practice 9 (publication of complaint outcomes) and Best Practice 11 (complaints about the conduct of a Town/Parish Councillor towards a Clerk);
- 4) the threshold for declaration of gifts and hospitality (Para 9.2.8.8) be increased to £100;
- 5) the Committee consider the results of the public consultation prior to making final decisions on amendments to the Code of Conduct;
- 6) following agreement by the Committee, the proposed amendments to the Code of Conduct be submitted to the Constitution Review Working Group prior to approval by the full Council.

19. UPDATE ON COMPLAINTS AND FEEDBACK

The Committee considered a report, set out at Agenda pages 25 to 28, which gave details of progress relating to Code of Conduct complaints since the previous meeting.

The report stated that, since the previous meeting (July 2019), four new complaints had been received and two pre-existing complaints had been resolved.

Andrew Moulton introduced the item and stated that, following the despatch of the Agenda, a further two complaints had been received. These related to a Member's declaration of interests and a Member's handling of a service request.

Appended to the report was a summary of progress against each of the complaints. Four of the six complaints included in the Agenda had been resolved and two were still under consideration. In addition the two new complaints would be addressed as quickly as

possible. Andrew confirmed that a further complaint had been lodged and subsequently withdrawn.

Prue Bray asked if there were any discernible trends relating to politically motivated complaints. Andrew commented that there were examples of Councillors complaining about other Councillors. However, each complaint was investigated on its individual merits.

RESOLVED: That the update report on Code of Conduct complaints be noted.

20. STANDARDS COMMITTEE ANNUAL REPORT 2019-20

The Committee considered its Annual report to Council, set out on Agenda pages 29 to 36.

The Annual Report set out the role of the Standards Committee in promoting and maintaining the highest standards of conduct be elected Members across the Borough. The Committee also promoted the seven principles of public life (the Nolan Principles) which were selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

The report gave details of complaints activity during 2019/20 which comprised complaints relating to:

- the alleged disclosure of confidential information;
- the use of social media by two elected Members;
- the conduct and behaviour of a Member at a Council meeting;
- an allegation of disrespect and bullying of a member of the public;
- the conduct of a Member at a meeting of the Planning Committee.

The report stated that, whilst the number of complaints was low, the Committee recognised the importance of dealing with each one in a serious and expeditious manner.

Andrew Moulton confirmed that the draft report would be amended to include details of the new complaints discussed at the meeting.

Andrew also confirmed that efforts would be made to fill the existing Town/Parish Councillor vacancy on the Committee.

RESOLVED: That the Standards Committee's Annual Report for 2019/20, as amended, be approved for submission to the March 2020 WBC Council meeting.