

STANDARDS COMMITTEE held at COMMITTEE ROOM - COUNCIL OFFICES, LONDON ROAD, SAFFRON WALDEN, ESSEX CB11 4ER, on WEDNESDAY, 21 SEPTEMBER 2022 at 5.00 pm

Present: Councillor G LeCount (Chair)
Councillors H Asker, S Barker, A Dean, M Foley, N Gregory, A Khan, M Lemon and B Light

Officers in attendance: N Coombe (Locum Senior Lawyer and Deputy Monitoring Officer), A Lindsell (Democratic Services Officer), J Reynolds (Assistant Director of Governance and Legal) and E Smith (Solicitor)

Independent Persons: Mrs G Butcher-Doulton, Mr D Pearl and Mrs C Wellingbrook-Doswell

ST1 APOLOGIES FOR ABSENCE AND DECLARATIONS OF INTEREST

Apologies for delayed arrival were received from Councillor Foley.

Councillor Barker declared a personal interest as a member of Essex County Council which had already adopted the new LGA Code of Conduct.

ST2 MINUTES OF THE PREVIOUS MEETING

As Members who had attended the previous meeting, Councillors Barker, Gregory and Khan agreed that the minutes of the meeting held 16 March 2020 were an accurate record.

The minutes of the meeting held 16 March 2020 were approved as an accurate record.

ST3 REVIEW OF THE STANDARDS CODE OF CONDUCT

The Assistant Director of Governance and Legal presented the new Model Councillor Code of Conduct (the Model Code) produced by the Local Government Association (LGA), and accompanying LGA Guidance.

She recommended:

- That the new Model Code and associated LGA Guidance was adopted or that the current Code of Conduct was retained.
- That following Committee's decision the Assistant Director of Governance and Legal be given authority to draft any amendments needed to the current Constitution and or procedure for dealing with Code of Conduct complaints, organise an equality impact assessment of the same, and commission the design of a short post complaint survey for participants,

and bring those amendments / copy of survey back to the Committee in a report to Full Council

The Independent Person said that a number of authorities had adopted the new model Code of Conduct. His personal view was that he doesn't see a particular reason to adopt the new code as he felt that Uttlesford's current Code of Conduct went through a great deal of work five years ago, had worked perfectly well and did not require amendment at this time.

He said that he thought that the procedure for considering a complaint needed considerable work to introduce examples that were not currently included but were in the LGA guidance and could be adopted.

The Chair asked whether social media, bullying and harassment was covered in the current Code of Conduct.

The Independent Person said that it could be incorporated into the procedure as was demonstrated with examples in the LGA guidance.

Members discussed:

- The need to identify the differences between the current and proposed Codes of Conduct
- The significance of the relationship with the Nolan Principles, and where they impinge on the Code of Conduct
- The benefits of a level playing field between authorities, all operating within the same Code of Conduct
- The definition of lying in relation to the Nolan Principles, the omission of a requirement for honesty/candour from them and the need to underpin acceptable behaviour within the Code of Conduct
- The benefits and flaws of the simplified model Code of Conduct
- The permanence of the Nolan Principles
- The need to focus on the management of bullying on social media
- The need for the inclusion of silence and omissions within the Code of Conduct

Councillor Foley joined the meeting.

The Assistant Director of Governance and Legal said that the Nolan Principles required that people in public life adhere to them, and that a statement could be added to the Code of Conduct to restate it.

The Independent Persons agreed:

- They had been part of the development of the Code of Conduct and had assessed the Code with the then Assistant Director of Governance and Legal
- The Nolan Principles were embedded within the Code of Conduct
- They had worked towards a resolution to prevent spending huge sums of money on hearings and resolutions
- The new Code was much lighter in its approach than the existing Code.
- Some of the examples in the model Code were very valuable
- The new model Code worked well

- It was imperative that everyone understood the Code of Conduct and how it could be used to put together a complaint. Often evidence had not been gathered for a complaint and that concerns could have been addressed through training.
- The new LGA guidance defined bullying and harassment, based upon the ACAS definition, and could be adopted and put into the Council's documents.

The Assistant Director of Governance and Legal said that either the current or model Code of Conduct could be amended.

Councillor Khan said that Members should be clear on the approach they were taking in relation to bad behaviour and role modelling. He said that debate and alternative views demonstrated a healthy democracy and could be conducted in a robust and civil manner. He said that on occasion Members raised a point of order when this happened, which was unacceptable and often escalated to ridiculous Standards complaints which should have been better managed by the Chair of the meeting.

Councillor Barker said that some Members did not understand what a Point of Order was.

Councillor Foley proposed approval of the recommendations as set out on the agenda.

This was seconded by Councillor Lemon.

The Chair requested and moved to a vote.

RESOLVED:

- To adopt the new Model Code and associated LGA Guidance
- The Assistant Director of Governance and Legal be given authority to draft any amendments needed to the current Constitution and or procedure for dealing with Code of Conduct complaints, organise equality impact assessment of the same and commission the design of a short post complaint survey for participants and bring those amendments / copy of survey back to the Committee in report to Full Council

Members agreed that training on the new Code of Conduct would be required to enable Members to understand the changes.

The Assistant Director of Governance and Legal said that the recommendation would be debated by Full Council and that there would be a further report for Council incorporating amongst other things comments made at this meeting. She said that training would follow the decision made.

The Assistant Director of Governance and Legal provided an update on both the Best Practice Points and the Governments response to the twenty-six recommendations.

She recommended that the Committee:

- Note the Best Practice Points
- Agree that the Assistant Director of Governance and Legal progress implementation of those not already implemented as laid out in the report and report back to Committee at its next meeting
- Received the Government's response of March 22nd 2022

The Assistant Director of Governance and Legal identified the following recommendations that had not yet been actioned:

- 1. If the decision was to maintain the current Code then the matter would be addressed. It was already in place in the model Code of Conduct
- 3. Members would start annually reviewing the Code of Conduct, once it has been considered by Full Council
- 6. This would be added to the website
- 9. The Solicitor – Litigation said that decision notices were published for Licensing and that she saw clear merit in repeating this for Standards. The Assistant Director of Governance and Legal said that she felt that the Chief Executive would support this, although there was no legal requirement to do so
- 11. The Independent Person did not think that this was a good idea, which was echoed by Members
- 14. The Assistant Director of Governance and Legal said that she wanted to consult with the Corporate Management Team to ensure compliance
- 15. Members agreed that this would be good practice

Members discussed the need to consult on several matters at a time, some of general interest, to encourage participation from members of the public.

Following questions from Members the Assistant Director of Governance and Legal confirmed that although feedback from the public regarding this process had been considered, consultation had not yet been undertaken with neighbouring authorities because it was for the District Council to decide which Code of Conduct they adopted. She said that Parish Council views would be sought at the Local Council Liaison Forum, and that the vast bulk of complaints were between Members.

Members noted the Best Practice Points and agreed that the Assistant Director of Governance and Legal progress implementation of those not already implemented as laid out in the report and report back to Committee at its next meeting.

ST5

CODE OF CONDUCT COMPLAINTS SUMMARY

The Assistant Director of Governance and Legal presented the Code of Conduct Complaint Summary submitted and dealt with since July 2020.

She recommended that the Committee:

- Accepted the report
- Considered whether to refer the report with any further recommendations to Full Council for consideration.

The Independent Person said:

- The report made grim reading despite the robust complaints system in place
- A number of the complaints were “tit for tat”
- There were very few complaints from the general public
- There were a number of complaints against Parish Councils
- Some of the complaints were valid, and some not
- During the two year period covered, the cost of staff employed investigating the thirty seven complaints was in the region of £150k-£200k. This money would be far better spent within constituencies
- The Independent Persons worked tirelessly to achieve full resolution, but certain Parish Councils would not adhere to the process
- There had been some success bringing about informal resolution to save money and limit damage to the reputation of the authorities involved

She asked Members to carefully provide guidance to the parishes to ensure Parish Councils are recognised for the good work they do.

The Assistant Director of Governance and Legal said that a further four complaints had come in since the report was published, bringing the total number to forty one. She said that it was worth noting that twenty two were dismissed, took up an awful lot of time and didn't amount to anything. She said that the vast bulk of Parish Councils operated effectively within the Code of Conduct and that broadly speaking this report covered only three Parish Councils.

Members discussed the need:

- To encourage Members to discuss the Code of Conduct with Parish Councils
- To contact Clerks to introduce further discussion about the Code of Conduct
- To provide training to Members, possibly through a webinar which could be accessed at the Members convenience
- To identify to the individuals that they were spending public money erratically without concern

Following questions from Members the Assistant Director of Governance and Legal said:

- That the LGA have prepared a training package which could be rolled out to Members.
- When complaints do not meet the public interest test for progression, but involved unacceptable behaviour, there were mechanisms in place, but that they were not very effective. She said that mechanisms needed to be called out by Members where necessary

- The Council did not have the power to compel conflicted Parish Council Chairs and Clerks to accept support and assistance, although they could engage with their independent bodies, who varied in efficiency
- An invoice had been forwarded to a particularly entrenched authority to demonstrate the extremity of the situation, but no response had been forthcoming.
- The details of the costs incurred were in the public domain
- Individuals making persistent vexatious complaints could be invoiced, but could not be pursued for payment of the invoice

Councillor Khan proposed approval of the recommendations as set out on the agenda.

This was seconded by Councillor Light.

This was unanimously approved.

RESOLVED:

- To accept the report
- To refer the report with any further recommendations to Full Council for consideration

ST6 STANDARDS OF DISCOURSE IN PUBLIC LIFE

The Independent Person said that the Independent Persons had been asked to observe members behaviour within Council meetings in order to move forward in improving challenging behaviour.

Members said that:

- It would be helpful for the Council in place following the May 2023 elections to be trained, as well as current Members
- Regular Standards meetings would be reinstated
- Historically, training sessions that included role-play had been the most useful.

The Assistant Director of Governance and Legal said that:

- Turn out for the most recent Standards training had been poor at the most recent session and would have to be run again to ensure there was an adequate pool of Members to meet demand for a hearing

The Independent Person said that:

- There had been a lack of appropriate training in every part of the Council and Parish Councils, which needed addressing effectively to resolve the issue.
- Standards were getting more robust at challenging inadequately evidenced complaints.
- The Independent Persons were uneasy about the quality of training available, particularly around Standards training and that the training would require a real commitment to change and understanding the Code.

- If all the Chairs were trained and effective the meetings would be better controlled.

The Chair thanked everyone for their input and comments, particularly the Independent Persons, the Assistant Director of Governance and Legal and her team.

The meeting ended at 7:15pm.