

DURHAM COUNTY COUNCIL

STANDARDS COMMITTEE

At a Meeting of **Standards Committee** held in Committee Room 1A , County Hall, Durham on **Friday 10 June 2022 at 9.30 am**

Present:

Councillor J Nicholson (Chair)

Members of the Committee:

Councillors J Atkinson, L Maddison (Vice-Chair), A Savory, T Smith, T Stubbs and C Varty

Co-opted Members:

Town Councillor T Batson

1 Apologies for Absence

Apologies for absence were received from Councillors M Abley, L Mavin, G Smith and Parish Councillor R Harrison.

2 Declarations of Interest

There were no declarations of interest.

3 Minutes

The Minutes of the meeting held on 11 March 2022 were agreed as a correct record and signed by the Chair.

4 Committee Work Programme

The Committee considered a report of the Head of Legal and Democratic Services and Monitoring Officer which asked Members to consider progress against the Work Programme for 2021/2022 and sought agreement to the proposed Work Programme for 2022/2023 (for copy see file of Minutes).

The Governance Lawyer was in attendance to present the report and advised Members that there was no requirement for the Committee to have a work

programme but it was considered to be good practice to demonstrate the work done by the Committee in promoting and maintaining high standards of ethical conduct throughout the year.

A copy of the Work Programme for 2021/22 was circulated. In addition to the meetings reported there had been an informal meeting of the Standards Committee on 15 February 2022 for Members of the Committee to consider the arrangements for the appointment of the Co-opted Members of the Standards Committee.

The Standards Committee undertook a review of the local assessment procedure and process to allow the introduction of a do it online form available through the Council website, that was now operational.

A copy of the Work Programme for 2022/23 had been circulated with the report. It was proposed that there was a review of the local determination procedure to ensure that it remained fit for purpose, legally compliant and consistent with best practice.

Town Councillor T Batson commented on the arrangements for the appointment of the Co-opted Members. The Head of Legal and Democratic Services and Monitoring Officer advised that the matter had been discussed at the previous meeting where the process was documented for CDALC to invite expressions of interest for town/parish council representatives to sit on the Standards Committee.

Resolved:

- (i) That progress against the Work Programme for 2021/2022 be noted.
- (ii) That the proposed Work Programme for 2022/2023 as attached at Appendix 3 of the report, be agreed.

5 National Picture

The Committee considered a report of the Head of Legal and Democratic Services and Monitoring Officer which informed Members of the national picture on standards issues affecting Local Government (for copy, see file of minutes).

The Head of Legal and Democratic Services and Monitoring Officer was in attendance to present the report and referred to the costs of the investigation for Handforth Town Council which was considered to be disproportionate when considered alongside the potential sanctions. The Principal Authority had a statutory obligation to investigate and was unable to recover costs of investigations.

The Head of Legal and Democratic Services and Monitoring Officer then referred to the case study from Wrexham County Borough, which operated under the Welsh standards regime which was different to the regime in England. In Wales, there was the power to suspend Councillors and there was a right of appeal. It was helpful for the Committee to have an awareness of issues arising in other jurisdictions and this may help inform any future consultation exercise in relation to the standards regime in England.

On 18 March 2022 the Government provided its response to the Committee for Standards in Public Life (CSPL) report into local government ethical standards. A copy of the Government's full response to all the recommendations had been circulated with the report. The Government was not minded to amend the legislation to require all Councils to adopt a model code but noted that the Local Government Association (LGA) had produced a model code, but it was for individual Councils to determine whether or not to adopt it.

The Standards Committee had previously considered the model code and decided not to adopt the model but ensure that the Council's code reflected all of the CSPL best practice recommendations.

The Head of Legal and Democratic Services and Monitoring Officer outlined the Government response to the CSPL review of local government ethical standards, in particular the recommendations on sanctions.

Members were advised that the LGA welcomed the response, however the CSPL were disappointed with the response.

Town Councillor T Batson indicated that all councillors were elected and there should be no difference between parish councils and principal authorities, and he had written to his local MP in this regard. He asked for views on the differences between parish and principal authorities' available sanctions.

The Head of Legal and Democratic Services and Monitoring Officer responded that the codes differed slightly, but the standards regime applied equally to principal authorities and town and parish councils. The application of sanctions within principal councils was potentially more effective because of the party political group structure which did not necessarily exist at town and parish councils. Principal councils may also have more positions of special responsibility than that of town and parish councils, and could therefore have the ability to make recommendations that such roles of special responsibility be removed. The Standards Committee could only make recommendations, there was no power to compel compliance with recommendations. This applied equally at principal and town and parish council levels. At principal council level it was rare for seats not to be challenged but at local parish council level often members were co-opted or unopposed so that there was no accountability at the ballot box. Principal and parish councils in England were subject to the same regime. However, the differences between principal and parish councils meant that the efficacy/outcomes of the standards process may differ.

In response to a further question from Town Councillor T Batson he was advised that 103 of the 104 Parish Councils were affiliated to the County Durham Association of Local Councils (CDALC). The standards regime applied regardless of affiliation. However, where councils were members of CDALC, the Monitoring Officer could call on CDALC to assist in the implementation of recommendations, particularly around procedural issues and training.

Councillor Atkinson spoke on the Handforth Town Council case and commented that he did not want to end up in that situation. He indicated that prevention was better than cure and standing orders were a protection system.

Councillor Varty asked if the details of the Northumberland case could be presented in a future report to the Standards Committee.

The Head of Legal and Democratic Services and Monitoring Officer responded that the Northumberland case related to ethical standards and governance arrangements within the organisation, there were no specific member code issues at the present stage, but there could be in the future. She would review the issues that had come out this week in relation to the S114 notice and the governance review, and would review the documents and determine whether there was relevance in the Standards Committee's terms of reference to bring a report back to the next meeting.

Town Councillor T Batson referred to standing orders and indicated that the Chairs of town and parish councils had no powers nor did Councillors, only the town or parish councils.

The Head of Legal and Democratic Services and Monitoring Officer responded that most standing orders would contain a provision that the Chair of the meeting would determine procedural issues as they arose during meetings. In Durham County Council meetings, she would advise the Chair of the Council on matters, but the Chair could go against that advice. The Clerk at parish and town council level performed a similar role and once a Chair had ruled on a matter, the meeting should move on and the issue not revisited. The Monitoring Officer and CDALC worked with parish councils where they thought the issues arising around conduct stemmed from a lack of understanding of procedures or a lack of procedures being in place. Rather than spend money on an investigation it was often proportionate to work with the councils to provide training and build relationships.

Members discussed the Handforth Town Council case, in particular the costs involved and how parish councils would have the ability to pay if principal councils were able to re-charge town and parish councils for their costs of standards investigations.

The Committee may wish to consider whether to make representations as part of any future consultation that principal councils be able to re-charge town and parish councils for costs incurred in respect of standards issues. At present there was no power and principal authorities had a statutory duty to deal with the complaints and the vast majority were dealt with by formal resolution but when an investigation was required, they cost between £3,000 and £10,000 which the Council could not recover.

In response to a question from Councillor Atkinson, the Head of Legal and Democratic Services and Monitoring Officer indicated that she would be happy to deliver training to parish councils on how a debate should work and motions.

Councillor Smith commented that she would welcome more scrutiny on town and parish councils and that minutes of the meetings were not always shown on the parish web site.

Resolved: That the report be noted, and Officers monitor the progress of the matters referred to and keep the Committee updated.

6 Code of Conduct Update

The Committee considered a report of the Head of Legal and Democratic Services and Monitoring Officer which provided an update on the activity since the last meeting in respect of complaints received by Durham County Council against Councillors (for copy of report, see file of Minutes).

The Governance Lawyer presented the report and advised Members that 16 formal complaints had been received between 28 February 2022 and 31 May 2022. Of those complaints one was rejected on the basis that it was outside of the jurisdiction of the Monitoring Officer for complaints to be considered, namely a Parish Meeting. There had been 11 decision notices issued in the last period, details of which were set out at appendix 2 of the report.

Members were also advised that the online complaints form had successfully been implemented and they would provide feedback on the form at a future meeting. The paper format of the complaints form had also been made available in a larger font.

Members were then advised that training had been delivered to newly elected members of the Council and to a member following a recommendation of informal resolution in respect of a code of conduct complaint.

Resolved: That the contents of the report be noted.