

TEWKESBURY BOROUGH COUNCIL

Minutes of a Meeting of the Standards Committee remotely on Thursday, 26 November 2020 commencing at 2:00 pm

Present:

Tewkesbury Borough Council
Members:

Councillor C M Cody
Councillor M Dean (Vice-Chair)
Councillor J W Murphy
Councillor C Reid
Councillor P E Smith
Councillor P D Surman (Chair)

Non-Voting Independent
Person(s):

M Jauch
P J Kimber

Non-Voting Parish Representative: D J Horsfall

ST.6 ANNOUNCEMENTS

- 6.1 The Chair advised that the meeting was being held under the emergency provisions of the Coronavirus Act 2020 and, specifically, The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020. The meeting was being broadcast live via the internet, it was not being recorded by the Council but, under the usual transparency rules, it may be being recorded by others.

ST.7 APOLOGIES FOR ABSENCE

- 7.1 Apologies for absence had been received from Councillor L A Gerrard.

ST.8 DECLARATIONS OF INTEREST

- 8.1 The Committee's attention was drawn to the Tewkesbury Borough Council Code of Conduct which was adopted by the Council on 26 June 2012 and took effect from 1 July 2012.
- 8.2 There were no declarations of interest made on this occasion.

ST.9 MINUTES

- 9.1 The Minutes of the meeting held on 11 August 2020, copies of which had been circulated, were approved as a correct record.

ST.10 COMMITTEE ON STANDARDS IN PUBLIC LIFE - PROGRESS ON BEST PRACTICE RECOMMENDATIONS

- 10.1 The report of the Borough Solicitor, circulated at Pages No. 5-14, provided an update on the Council's progress in relation to the best practice recommendations of the Committee on Standards in Public Life in its report of 30 January 2019. Members were asked to consider the progress outlined and determine the response to be made to the Committee on Standards in Public Life.
- 10.2 The Monitoring Officer explained that the Committee on Standards in Public Life had undertaken a review of ethical standards in 2018 and the subsequent report had made a number of recommendations to the government for changes to legislation as well as asking the Local Government Association to produce a Model Code of Conduct. In addition, the report had identified 15 recommended areas of best practice which the Committee on Standards in Public Life considered did not require any changes to legislation and could be implemented voluntarily by local authorities. The Committee on Standards in Public Life had asked all local authorities to provide an update on their progress against the best practice recommendations by 30 November 2020 and had provided a format for how that should be done.
- 10.3 Using the template provided, the Monitoring Officer had set out the Council's progress in a draft response at Appendix 1 to the report which the Committee was asked to consider. The responses provided would be published on the Cabinet Office website and the Committee on Standards in Public Life website so it was considered that Members needed to approve the detail. The table set out within the report at Paragraph 2.2 included the commentary for the Council's position and Appendix 1 set out the specific response to be made to the Committee on Standards in Public Life.
- 10.4 Referring to the draft responses, the following comments were made:
- *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.* The Monitoring Officer explained that the Council's Code did have a prohibition on bullying but did not have a definition, the ACAS definition was the industry norm and was used when considering allegations. The Local Government Association's model Code was expected at the beginning of December and this would provide the opportunity to include a prohibition against harassment and a definition of bullying. The suggested response was agreed.
 - *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 –* The Monitoring Officer advised that Councillors were required to comply with investigations. The fact that the Council would not consider trivial or malicious allegations was not included in the Code and she did not feel it was correct to include it as people making the complaint would not feel their issues were trivial or malicious – this was however considered by the Monitoring Officer and Independent Persons after the complaint was made. The suggested response was agreed.

- *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* – The Monitoring Officer advised that the Council's Code had not been formally reviewed since 2012; however, it was looked at every time a complaint was made so a review on an annual basis seemed unnecessary – when the Model Code was released it would consider a mechanism for review and that would be looked at for Tewkesbury Borough Council's Code. The Independent Person agreed with that view and felt an annual review made no sense when the Code was continually monitored anyway. The suggested response was agreed.
- *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 the Council premises* – it was confirmed this was already the case. The suggested response was agreed.
- *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* – The Monitoring Officer advised that the Council had a register but it was rare for Councillors to accept gifts so there was not much in it. It was made public on request and it was not in a CSV format but that could be looked at. The suggested response was agreed.
- *6 – Councils should publish a clear and straightforward public interest test against which allegations are filtered* – The Monitoring Officer confirmed that this was not currently published but a public interest assessment was carried out for all complaints in consultation with the Independent Persons; this could be published when the procedures were updated. The suggested response was agreed.
- *7 – Local authorities should have access to at least two Independent Persons* – The Council had two. The suggested response was agreed.
- *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* – The Monitoring Officer confirmed that it was quite rare for the Council to have to undertake a formal investigation but the Independent Persons were consulted on every complaint/investigation so Tewkesbury Borough Council already exceeded that standard. The suggested response was agreed.
- *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* – The Monitoring Officer confirmed that a decision notice was already produced for public inspection so could easily be published on the website; this would be reviewed as part of the new processes. The suggested response was agreed.

- *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* – The Monitoring Officer indicated that the Council did comply but did not provide an estimated timescale for investigation and outcomes formally within the procedure; complainants etc. were advised of the likely timescale at the beginning of the investigation process but this was an indication only, as the length of time depended on the number of people involved, interviews etc. The Monitoring Officer felt it did not make sense to constrain the investigation to a specific timescale but could include guidance on how complainants would be advised of the likely timescale. The suggested response was agreed.
- *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* – This was an issue the Monitoring Officer was aware of and accepted it would generally be the correct way forward; however, it could have the unfortunate effect of meaning the Clerk could not make a complaint themselves and this may not be appropriate in all circumstances. The suggested response was agreed.
- *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* – The Council already complied with this in full. The suggested response was agreed.
- *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* - The Monitoring Officer did not undertake investigations herself; however, the Council's procedure did allow it to ask a Monitoring Officer from another authority for help should it be needed. The suggested response was agreed.
- *14 – Councils should report on separate bodies they have set up 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 Principles of openness, and publish their Board Agenda and Minutes and annual reports in an accessible place* – The rationale behind this was about conflicts of interest. The Council did include this information in its Annual Governance Statement but more work needed to be done on ensuring those bodies published the Council's report. The suggested response was agreed.
- *15 – Senior Officers should meet regularly with political group leaders or group whips to discuss standards issues* – The Monitoring Officer and Members had never felt it necessary to have regular meetings as a matter of course but they could be arranged should anyone so wish. A Member suggested that Group Leaders could be asked their view on the issue and the Monitoring Officer agreed this could be added to the comment.

10.5 Accordingly, it was

RESOLVED

That the suggested response, as set out at Appendix 1 to the report, be submitted to the Committee on Standards in Public Life as the Council's position regarding the implementation of best practice recommendations, subject to the Monitoring Officer confirming the position with Group Leaders regarding whether or not they wished to have regular meetings with senior Officers to discuss standards issues.

The meeting closed at 2:35 pm