

# TEWKESBURY BOROUGH COUNCIL

**Minutes of a Meeting of the Standards Committee held at the Council Offices,  
Gloucester Road, Tewkesbury on Monday, 30 April 2018 commencing at 2:00 pm**

## **Present:**

Tewkesbury Borough Council  
Members:

Councillor M Dean  
Councillor Mrs S E Hillier-Richardson  
Councillor T A Spencer  
Councillor M G Sztymiak  
Councillor H A E Turbyfield and  
Councillor M J Williams (Chair)

Non-Voting Independent Persons: Mr P J Kimber

Non-Voting Parish Representatives: Mr D J Horsfall

## **ST.11 ANNOUNCEMENTS**

11.1 The evacuation procedure, as noted on the Agenda, was advised to those present.

## **ST.12 APOLOGIES FOR ABSENCE**

12.1 Apologies for absence were received from Councillor P D Surman and Independent Person, Mr M Jauch.

## **ST.13 DECLARATIONS OF INTEREST**

13.1 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.

13.2 There were no declarations of interest made on this occasion.

## **ST.14 MINUTES**

14.1 The Minutes of the meeting held on 18 September 2017, copies of which had been circulated, were approved as a correct record and signed by the Chair.

## **ST.15 REVIEW OF LOCAL GOVERNMENT ETHICAL STANDARDS**

15.1 The report of the Monitoring Officer, circulated at Pages No. 4-18, invited Members to consider submitting a response to the consultation being undertaken by the Committee on Standards in Public Life in response to its review of local government ethical standards.

15.2 The Committee was reminded that the current standards regime had been introduced through the Localism Act 2011. Changes made at that time saw the abolition of Standards for England, which had dealt with serious allegations of Councillor misconduct, and local authorities being given the freedom to adopt their own local Code of Conduct (including statutory requirements in respect of Disclosable Pecuniary Interests). In addition, local authorities were required to make and maintain their own arrangements for dealing with any allegations of breaches of the Code of Conduct by their Councillors and, in the case of District Councils, Parish Councillors. The previous sanctions of disqualification and suspension of Councillors in respect of serious breaches were removed, although new criminal sanctions were introduced for breaches of the statutory requirements on Disclosable Pecuniary Interests.

15.3 The Terms of Reference for the review included: to examine the structures, processes and practices in local government in England for a) maintaining the Codes of Conduct for local Councillors, b) investigating alleged breaches fairly and with due process, c) enforcing codes and imposing sanctions for misconduct, d) declaring interests and managing conflicts of interest and e) whistleblowing; to assess whether the existing structures, processes and practices were conducive to high standards of conduct in local government; to make any recommendations for how they could be improved; and to note any evidence of intimidation of Councillors and make recommendations for any measures that could be put into place to prevent and address such intimidation. It would also examine the role of the Independent Person, introduced by the Localism Act 2011, whose views had to be taken into account before an authority took a decision in relation to any complaints against Councillors that had been investigated.

15.4 The public stakeholder consultation was open for responses until 18 May 2018 and the Committee for Standards in Public Life was seeking concise submissions from a wide range of stakeholders including all tiers of local government. It was interested in current arrangements and in views as to what changes could be made to improve local authority ethical standards. The eleven questions contained within the consultation were attached to the report at Appendix 1 and, at Appendix 2, the Monitoring Officer had set out some initial comments to each question for discussion by Members in considering what response the Council may wish to make to the consultation. It was the intention that the Monitoring Officer would frame the views into a letter as the Committee had asked for quite short submissions.

15.5 The following comments were made in respect of each consultation question:

a) *Are the existing structures, processes and practices in place working to ensure high standards of conduct by local Councillors? If not, please say why and b) What, if any, are the most significant gaps in the current ethical standards regime for local government?* - Members agreed with the Monitoring Officer's comments that one of the advantages of the current regime was that there was discretion to resolve complaints informally; however, they also strongly agreed that the lack of sanctions to address serious breaches of the Code of Conduct was a significant gap in the current regime which needed to be addressed.

c) *Are local authority adopted Codes of Conduct for Councillors clear and easily understood? Do the Codes cover an appropriate range of behaviours? What examples of good practice, including induction processes, exist?* - Members generally agreed with the Monitoring Officer's comments that the Council's Code of Conduct worked well and that sufficient training was provided; however, one Member suggested that there might be something to gain from people understanding there was a Code of Conduct before they stood for Office. He also questioned whether the Borough Council charged a fee for any training it provided to Parish and Town Councils. In response the Monitoring Officer indicated that it did charge in some instances e.g. bespoke training for a particular Parish/Town

Council; however, there was no charge for the training provided at the beginning of each term of the Council, or the refresher session half way through the term. In addition, she confirmed that people were made aware of the Code prior to being elected; particularly if they were standing as a Councillor for a political party. Another Member suggested more frequent refresher training may help with Parish issues and, in response, the Monitoring Officer indicated that she would consider this approach, although experience had shown that that it would not necessarily make a difference.

d) *A local authority has a statutory duty to ensure that its adopted Code of Conduct for Councillors is consistent with the Seven Principles of Public Life and that it includes appropriate provision (as decided by the local authority) for registering and declaring Councillors' interests. Are these requirements appropriate as they stand? If not, please say why* - Members agreed with the Monitoring Officer's comments that it would be helpful to have a national standardised Code of Conduct as this would particularly help those that were Members of more than one authority.

e) *Are allegations of Councillor misconduct investigated and decided fairly and with due process? (i) What processes do local authorities have in place for investigating and deciding upon allegations? Do these processes meet requirements for due process? Should any additional safeguards be put in place to ensure due process? (ii) Is the current requirement that the views of an Independent Person must be sought and taken into account before deciding on an allegation sufficient to ensure the objectivity and fairness of the decision process? Should this requirement be strengthened? If so, how? (iii) Monitoring Officers are often involved in the process of investigating and deciding upon Code breaches. Could Monitoring Officers be subject to conflicts of interest or undue pressure when doing so? How could Monitoring Officers be protected from this risk?* - Members questioned the approximate cost of investigations. In response, the Monitoring Officer indicated that the most expensive had been approximately £3,000 but generally they were between £1,500 and £3,000. There was not really an opportunity to recharge those costs. Whilst Members agreed with the Monitoring Officer's comments, they also agreed that an additional sentence should be included around the fact that the costs of investigations were an unfair burden on small authorities.

f) *Are existing sanctions for Councillor misconduct sufficient? (i) What sanctions do local authorities use when Councillors are found to have breached the Code of Conduct? Are these sanctions sufficient to deter breaches and, where relevant, to enforce compliance? (ii) Should local authorities be given the ability to use additional sanctions? If so, what should these be?* - Members agreed with the Monitoring Officer's comments that complainants expected sanctions which matched the seriousness of their complaints and often this was not felt to be the case in the current regime. One Member expressed the view that, if the complaints were serious, criminal or repeated, they should trigger a by-election. In response, the Monitoring Officer felt that, whilst this was an interesting idea, it would not be workable; although it should be borne in mind that a criminal conviction may disentitle a person to be a Councillor. Another Member suggested that this could be fed back through the consultation. He also felt that apologies made for serious complaints should be publicised so that residents could see how their local Councillors were behaving. In response, the Monitoring Officer felt this was something the Council may be able to do anyway via press releases and she undertook to consider this option.

g) *Are existing arrangements to declare Councillors' interests and manage conflicts of interest satisfactory? If not, please say why. (i) Local Councillor is under a legal duty to register any pecuniary interests (or those of their spouse or partner), and cannot participate in discussion or votes that engage a disclosable pecuniary interest, nor take any further steps in relation to that matter, although local authorities can grant dispensations under certain circumstances. Are these statutory duties appropriate as they stand? (ii) What arrangements do local authorities have in place to declare Councillors' interests, and manage conflicts of interest that go beyond the statutory requirements? Are these satisfactory? If not, please say why* - The Monitoring Officer indicated that Members were aware of her views on the requirement to publish the Register of Interest forms including the interests of Councillors spouses – she had always voiced her serious concerns on that point and she felt it was even more of an issue with the introduction of the General Data Protection Regulation (GDPR) as publication would be a serious data breach under that Regulation. Members agreed with that view, and the comments as set out at Appendix 2 to the report, and asked that the Monitoring Officer keep the Committee updated as to the position on the matter.

h) *What arrangements are in place for whistleblowing, by the public, Councillors and officials? Are these satisfactory?* Members agreed with the Monitoring Officer's comments that the Council had its own policy which seemed to be satisfactory.

i) *What steps could local authorities take to improve local government ethical standards?* - Members were happy with the approach that the Council currently took in terms of ethical standards – as set out in the Monitoring Officer's comments.

j) *What steps could central government take to improve local government ethical standards?* - Members agreed with the Monitoring Officer's comments that improved sanctions for breaches of the Code of Conduct was really the only thing the government could do to improve local government ethical standards.

k) *What is the nature, scale and extent of intimidation towards local Councillors? (i) What measures could be put in place to prevent and address this intimidation?* - The Monitoring Officer had not felt that she could answer this particular question. A Member was of the view that it was important to understand from Councillors themselves whether they felt intimidated and what measures could be put in place to prevent and address that. The Monitoring Officer felt that this may be something individual Councillors should respond to so that the Committee for Standards in Public Life could see the extent of any problem. Members agreed that the Council's response would include a statement that the Council "did not collect information about the nature, scale and extent of intimidation towards Councillors in terms of social media use but, if there is evidence at other authorities, the Council would expect the government to put something in place to address it".

15.6 During the discussions, a Member questioned whether it would be possible to get clarification on the Chair's role in declarations of interest, conversations with planning applicants and pre-determination. In response, the Monitoring Officer expressed the view that it was not the Chair's responsibility to ensure Members made declarations; this had to be the obligation of the individual Member as there could be interests to be declared that other people did not know anything about. In addition, the Code of Conduct as it related to interests was very specific in the need for a Councillor to make declarations relating to family/friends where they were affected more than a normal resident. She felt the Borough Council's Code was very clear and it was up to individuals to declare their interests. In response to a question as to whether the informal resolution of complaints actually worked, the Monitoring Officer explained that any informal resolutions were made following a particular procedure whereby she received the complaint and, if appropriate, asked

the Councillor to apologise; she felt there was merit in intervening before the complaint went too far. As previously noted, investigations could be quite costly so she had to take a view on whether an investigation would be in the public interest.

15.7 The Monitoring Officer thanked Members for their comments and undertook to put together a letter, in consultation with the Chair, to address all of the points raised.

15.8 Accordingly, it was

**RESOLVED** That the Borough Solicitor/Monitoring Officer, in consultation with the Standards Committee Chair, be authorised to finalise the Council's response to the consultation and submit that to the Committee for Standards in Public Life as required.

#### **ST.16 SEPARATE BUSINESS**

16.1 The Chair proposed, and it was

**RESOLVED** That, under Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting for the following items on the grounds that they involve the likely discussion of exempt information as defined in Part 1 of Schedule 12A of the Act.

#### **ST.17 SEPARATE MINUTES**

17.1 The separate Minutes of the meeting held on 18 September 2017, copies of which had been circulated, were approved as a correct record and signed by the Chair.

#### **ST.18 CODE OF CONDUCT COMPLAINTS**

*(Exempt – Paragraph 1 of Part 1 of Schedule 12A of the Local Government Act 1972 – Information relating to any individual)*

18.1 The Committee considered an update report on complaints received.

The meeting closed at 3:25 pm