

Meeting of the Standards Committee

Wednesday, 6 September 2023,
2.30 pm



SOUTH
KESTEVEN
DISTRICT
COUNCIL

Committee Members present

Councillor Sarah Trotter (Vice-Chairman)
Councillor Ashley Baxter
Councillor Richard Dixon-Warren
Councillor Zoe Lane
Councillor Charmaine Morgan
Councillor Chris Noon
Councillor Max Sawyer
Councillor Vanessa Smith
Councillor Lee Steptoe
Councillor Mark Whittington

Other Members present

Councillor Phil Dilks
Councillor Tim Harrison
Councillor Penny Milnes

Independent Members Present

Mr Fred Mann

Officers

Graham Watts, Assistant Director of Governance (Monitoring Officer)
Debbie Mewes, Paralegal
James Welbourn, Democratic Services Manager

1. Introductions and welcome

The Vice-Chairman, Councillor Sarah Trotter commenced the meeting, and sent warm wishes on behalf of the new Standards Committee to the Chairman, Councillor Harrish Bisnauthsing as he recovered from an operation.

Prior to the start of the formal agenda, a minute's silence was held to mark the recent passing of Councillor Ray Wootten, who had served the St. Wulfram's Ward.

The Assistant Director of Governance and Monitoring Officer advised Members of the location of the Terms of Reference for the Standards Committee at Article 10 of Part 2 of the Constitution. The main role of the Standards Committee would be to promote and maintain high standards of conduct between Members, as well as Town and Parish Councils within the District. In addition the Committee would strive

to develop a culture of openness, transparency, trust and confidence between Members and in Member and Officer relationships and embed a strong culture of ethical and corporate governance at all levels of the authority.

2. Apologies for absence

Apologies for absence had been received from Councillor Harrish Bisnauthsing, and he was substituted at the meeting by Councillor Charmaine Morgan.

3. Disclosures of interests

There were no declarations of interests.

4. Councillor Code of Conduct Complaints – Overview of Cases

The Monitoring Officer introduced the report, outlining that it covered the municipal years 2021-2022, 2022-2023, and 2023 to date. The Code of Conduct complaints were broken down into those involving District Councillors, and those that involved Parish and Town Councillors.

Prior to the Standards Committee being re-established at South Kesteven District Council, these complaints would not necessarily have been reported anywhere, although they were all recorded by the Monitoring Officer and his team. Reporting Code of Conduct complaints directly to the Standards Committee facilitated a useful interaction between the Committee and the Independent Person(s).

There were many reasons why complaints were submitted to the Monitoring Officer. For example, where committee debates between Councillors became heated, there could be complaints submitted around disrespect. However, debate in the Council Chamber between Members was considered by the Local Government Association to warrant a higher level of tolerance in the promotion of robust political debate.

Many complaints received did not necessarily require formalising, but sometimes discussion and mediation on the part of the Monitoring Officer was necessary.

In the future, case studies could be brought before the Standards Committee subject to no individuals being identified, and where there were significant studies in the media they could also be used.

The following points were raised during debate:

- A motion had been tabled at Full Council early in 2023 requesting that a Standards Committee be formed, to ensure the highest standards of integrity and probity were followed. The motion had asked that the Local Government Association (LGA) guidelines on Standards were followed in full.
- Whilst it was key that the Council looked forwards in terms of Standards, there were lessons to be learned from past cases.

- The Standards Committee had the power to determine the outcome of a complaint. The procedure being proposed later in the agenda was an assessment of complaints; as part of this if, following consultation with the Independent Person(s) the Monitoring Officer deemed an investigation necessary, then this would proceed. The Standards Committee would normally appoint a Hearing Review Panel to determine an alleged breach of the Councillor Code of Conduct, however, the Committee could agree to sit itself and consider any case if deemed appropriate.
- The Monitoring Officer would only utilise the services of external providers if he or his deputy were conflicted in any way, or where specialist training was required as part of any sanctions imposed by a Review Panel or Committee.
- There had previously been a culture of sending out Code of Conduct complaints to external legal providers, which of course had a cost attached. This had not been the case since June 2021, unless a conflict had arisen. Presently, every complaint was dealt with by the Monitoring Officer and his team.
- Every complaint was subjected to an assessment process; there could sometimes be a pattern emerging where complaints occurred closely together.
- The Monitoring Officer did not need to receive a complaint to investigate a perceived breach of the Code of Conduct and could undertake investigations himself if he deemed it necessary.
- The cost of any sanctions, training and external advice was borne by the Council.
- The Monitoring Officer and his team intended to visit Town and Parish Councils over the course of the current municipal year to facilitate further sessions on the Councillor Code of Conduct.
- Although there were a number of Code of Conduct complaints contained within the report related to the subject of 'equality and diversity', it was confirmed that a number of these related to the same incident.
- Whilst it was true that there were always subjective cases, there were two Independent Persons to consult with who would provide their views on the subject. If there was any element of doubt after consulting with the Independent Persons, then the case would proceed to the next stage, which would be to undertake a formal investigation. This did not mean that a hearing would be absolutely necessary, rather the opportunity to investigate further before reaching a conclusion.
- If Members acted honourably then there should be nothing to fear from Code of Conduct complaints. Conversely, if defamatory language was used against other Members or individuals then there could be consequences as a result of the complaints process.
- Both Independent Persons serving South Kesteven served on a number of other Local Authorities. It was reported that the number of complaints considered by South Kesteven District Council over the reporting period was large compared to these other authorities, particularly those submitted by District Councillors.
- Parish Council complaints involved issues amongst Parish Councillors, and sometimes the clerks, which could mean that employment legislation was

involved. It could sometimes be difficult to arrive at a final decision on a matter, and a great deal of officer time was involved with each issue. There was also the issue of the cost of investigations, although if a case merited a full investigation, then of course this should take place.

Members **NOTED** the Code of Conduct Complaints review.

5. Procedure for dealing with complaints against Councillors

When introducing the item, the Monitoring Officer outlined that the complaints procedure against Councillors was not currently part of the Constitution, and it was suggested that any approved procedure should form part of Part 5 of the Constitution, Codes and Protocols.

The Local Government Association Guidance was extremely comprehensive, and this had been factored in when re-writing the complaints procedure. The latest version of the LGA guidance would always be read alongside South Kesteven's complaints procedure when considering complaints involving Councillors.

The 'new' first assessment stage before Councillors gave more clarity for people reading the procedure. For example, this stage would make clear whether a Councillor was acting in that capacity, or whether they were just going about their business as a resident, meaning that the Code of Conduct was not engaged. In all cases, the Monitoring Officer would share these complaints with the Independent Persons.

The second assessment stage dealt with the complaint after it had been determined that the Councillor was acting in such a capacity, and that the Code of Conduct was engaged. This stage would also determine whether the complaint merited further investigation.

Decision notices had not been used for all complaints previously, but decision notices would now be issued for any Code of Conduct complaints, including those where no breach had been found. Decision notices for any hearings would be placed online, whereas currently those issued to individuals and relevant parties involved in a complaint as part of the assessment stages were not.

The following points were highlighted during debate:

- For the Code of Conduct to be engaged in social media disputes, a Member would have to post something online that had a direct link to their role as a Councillor, or the authority that they were a Member of. If a Councillor was posting something on a private account but the material posted was linked to Council business, then then the Code of Conduct would still be engaged.
- Councillors were still entitled to freedom of speech; the Code of Conduct could not supersede the rights of individuals under the Human Rights Act

1998. However, it was advocated that Councillors use their freedom of speech in a respectful manner.

- The Monitoring Officer, under the proposed procedure would be entitled to dismiss a complaint relating to an incident that occurred over six months prior to the date of the complaint, and in the opinion of the Monitoring Officer was not serious enough to justify further investigation.
- The training that Members received on Standards confirmed that pre-hearings should take place well in advance of any formal hearing, and as often as required.
- Any advice on excluding the public and press from a Hearing Panel would be specific to the case in question. Ultimately it would be the decision of the Panel on the day as to whether the use of exemptions in place was correct.
- Any amendment to the Code of Conduct Complaints Procedure would be within the gift of the Standards Committee.
- There was no right of appeal through the complaints process, and it was important to distinguish between the Code of Conduct complaints process and court proceedings. If an individual believed that the process had not been followed correctly, then this could be explored through the Member/Officer Protocol. This would be reported to the Chief Executive, and beyond this stage, to the Local Government Ombudsman. The Code of Conduct process would not affect any other rights an individual had, which included Judicial Review and referrals to the Local Government Ombudsman.
- Where there was any conflict between the Council's adopted procedure and the LGA guidance, then the latest LGA guidance would take precedence. This distinction would be added into point 9 of the procedure. However, it was noted that the LGA guidance was lengthy, and it would be problematic to adopt the LGA guidance in its entirety as it was aimed at all Local Authorities and was not specific to South Kesteven District Council.

Note: The meeting adjourned at 4:20pm and reconvened at 4:31pm.

- Any sanctions placed on a Group Leader were only recommendations. However, it could be considered a further breach of the Code of Conduct if these recommendations were not met.

Two amendments had been suggested to form part of the formalised Complaints Procedure:

- Any complaint about the process not being followed correctly would form part of paragraph 8, under 'Appeals'.
- An addition to paragraph 9 in relation to the LGA guidance to say that in the event of any conflict between this guidance and the South Kesteven District Council Code of Conduct Complaints procedure, the LGA guidance would take precedence.

The recommendation, encompassing the above amendments was duly moved, seconded, and following a vote it was **AGREED**:

DECISION:

That the Standards Committee approves the revised procedure for dealing with complaints against Councillors and recommends to Full Council that this document forms part of the Constitution under Part 5 (Codes and Protocols).

6. Training

Members considered a verbal update on Member training.

Training for Members was an expectation; some sessions, such as Equality and Diversity were billed as 'mandatory', but officers could not compel Members to attend. However, mandatory training sessions such as those offered for Licensing, Planning and Governance and Audit Committees were essential for relevant committee members in order to be able to sit on those committees. It was also a requirement as part of the Councillor Code of Conduct to attend training on the Code.

Over the previous year the Monitoring Officer had held sessions on the model Code of Conduct in Grantham, Bourne, Market Deeping and Stamford. These sessions were well received and it was hoped that they could be run again in the future.

Standards Committee training was offered as part of the Member Training Programme following the May 2023 election. The session was run by an experienced Monitoring Officer who was part of a legal firm. Any opportunity for further Standards Committee training would be signposted to Members by officers.

Independent Persons also had training options, and the two South Kesteven District Council Independent Persons attended a training day once a year. Attempts were being made to form an Independent Person group within Lincolnshire.

7. Any other business, which the Chairman, by reasons of special circumstances, decides is urgent

None.

The meeting closed at 4:50pm.