

CONDUCT COMMITTEE



27 JULY 2012 - 10:00AM

PRESENT: Councillor F H Yeulett, Chairman; Councillors M J Humphrey (from 10.05am), R Skoulding and W Sutton.

Officers in attendance: Alan Pain (Corporate Director and Monitoring Officer), Ian Hunt (Chief Solicitor) and Elaine Cooper (Member Support Officer).

*** FOR INFORMATION OF THE COUNCIL ***

CND1/12 OVERVIEW OF NEW CONDUCT ARRANGEMENTS

Members received an overview of the new conduct arrangements for the Council and were informed that:

- the role of the committee is set out in the articles to the Constitution, but it has two primary roles; acting as a conduct champion for the Council; and the management and resolution of any complaints against District, Parish and Town Councillors;
- the management of complaints is the most contentious part of the role, but the new regime provides for more flexibility and discretion to achieve a resolution, with there being a right to reply in writing by the subject member and if there is no agreement it would be referred to the committee to decide the level of any investigation that may be required;
- if the complaint is regarding a disclosable pecuniary interest, this is a criminal matter which would be referred to Cambridgeshire Constabulary and could result in prosecution in the Magistrates Court. Contacts have been established with Cambridgeshire Constabulary in this regard;
- if an investigation is required, this will be subject to timescales, will involve both parties, a draft report will be produced which will be shared with the relevant people and then the matter will come before this committee;
- a member at a hearing can be represented if they wish, but this is at their own choosing and cost. The Investigating Officer will outline their findings, the subject member has the right to respond and can call witnesses to support them;
- the powers of the committee in terms of sanctions are limited, with the main finding being a Breach of the Code of Conduct, but in addition the committee can recommend to Group Leaders that a member be removed from committees, make a recommendation to Council for censure and recommend training, although these recommendations are not enforceable;
- the entire work of the committee will be in the public area. It will only be in exceptional circumstances where parts of reports may be confidential;
- the processes and procedures of the committee will be refined as the process evolves;
- training sessions have been held for Town and Parish Council Clerks and Councillors, with

the message being that officers are available to help and advise them on these new arrangements.

Members made comments, asked questions and received responses as follows:

- would the committee be made aware of any complaints referred to the Police? Officers advised that as far as they can, but there could be sensitivities attached to these complaints. Where the issue is not a Police matter, the committee will be kept fully up to date;
- will the hearings panel consist of all members of the committee? Officers advised that there is flexibility with this, but as the committee is only 4 members it is expected that the full committee would deal with all issues;
- the point was made that this is an important and responsible position as it concerns members' reputation and justice. Members need the ability and willingness to make an independent decision based upon the facts presented to them;
- can the committee have a package of documents consisting of the Code of Conduct and any guidance that it is deemed relevant to its workings, so that this information is all in one place and readily to hand? Officers advised that they will pull together a package of core documents that the committee will be using and it may be beneficial to use some of the guidance used under the old scheme in terms of phraseology, such as what constitutes bullying and harassment;
- are there any guidelines on making a judgment against a good friend or would this be left to members to decide? The point was made that by sitting on this committee as a District Councillor there will always be occasions where you are deciding a complaint against one of your fellow councillors and unless you regularly socialise with this member you would have to deal with the complaint objectively. Officers advised that if a committee member knew a member more than just as a fellow councillor, the member would need to declare a non-pecuniary interest, but could still take part, however, it is a judgment in relation to public perception on whether that member should remove themselves from the committee. The point was made that this needs to be judged as it arises and decisions can be difficult and uncomfortable. Officers advised that if a complaint arises in relation to something that happened at a committee meeting and a member of this committee sat on that meeting, it may not be advisable to sit on a complaint as it could be seen as being closely aligned, although it could be viewed as being of benefit, and there will be different scenarios that members need to consider in whether it is appropriate to take part in a complaint.

Members noted the information reported and decided that a pack of information be collated and distributed to members to assist them in their roles.

CND2/12 INDEPENDENT PERSON RECRUITMENT

Members considered the approach to the recruitment of the Independent Person and were informed that:

- under the terms of the Localism Act 2011, the committee must consult with an Independent Person on a complaint, this person would have no voting rights, and would only be able to support, advise and provide comments to the committee;
- the Independent Person cannot be a councillor, co-opted member or officer of the District, Town or Parish Council within the previous five years, except that the transitional arrangements allow existing independent members of the Standards Committee to become

an Independent Person for the first year only;

- the Council is proposing that it has two Independent Persons, with one acting as a Deputy, which would account for situations where there are conflicts of interests or absences;
- a potential pack for recruitment, which was circulated to members, has been produced, with the aim to recruit two people who have an independent view, but can assimilate information, have good judgment skills and an understanding of analytical reasoning;
- the posts will be advertised in the local paper and the interview process can either be with the whole committee or delegated to the Chairman, an officer and one other. The appointment of the Independent Person needs to be ratified by Full Council.

Members made comments, asked questions and received responses as follows:

- does the Independent Person undertake their consultation role at the committee meeting in the public domain? Officers advised that they could do, but it depends upon how members want to approach it, with the rules stating that before a final determination is made on a case you must have regard to the recommendation of the Independent Person. Members may want to have dialogue and engage with the Independent Person as their role is to help the committee. A secondary role of the Independent Person is to advise the committee at any point it thinks it appropriate, such as a review of the conduct arrangements, and councillors subject to a complaint have the right to contact the Independent Person to seek support and advice, although it will be limited advice that can be given;
- the level of fees were questioned, as it is understood that the County Council is proposing to pay its Independent Person £500, although acknowledging that the District Council has to consider complaints about Town and Parish Councillors also, would it, therefore, be more beneficial to have two Independent Persons and pay them each £500? Officers advised that the fee level will be re-checked with colleagues in Cambridgeshire as it was the aim to set a benchmark figure across the area. The way the legislation has been written is that the Independent Person has to be consulted every time so if you have two, two people need consulting each time. The point was made that the fees can be reviewed after a year, which would allow assessment of the number of complaints that have been received and the work that is involved in this role;
- how long is the appointment of the Independent Person for? Officers advised that this is open to the committee, except where it involves the appointment of a previous Independent Member of the Standards Committee which could only be up to 30 June 2013. The appointment could be for a year, with the option of extending it, although there would be cost implications to recruitment on an annual basis;
- why is there a requirement for previous Independent Members of the Standards Committee to only serve for a year as there seems to be logic in keeping these members who already possess the skills and knowledge? Officers advised that initially when the legislation was drafted there was no scope for Independent Members of the Standards Committee to be an Independent Person, but the Government has introduced transitional arrangements for the first year due to this issue. There is also scope to swap the Deputy to a Principal, if the Principal leaves, to retain experience.

Members noted the information reported and decided that:

- **authority be delegated to the Chairman, in conjunction with officers, to take the recruitment process forward;**
- **the whole committee, if available, takes part in the recruitment interviews;**

- a review of the new arrangements takes place after the first year of operation.

CND3/12 PARISH/TOWN COUNCIL REPRESENTATIVES

Members considered the approach to appointing Parish and Town Council representatives to the committee and were informed that:

- the new arrangements do not require the committee to have any representatives from Parish/Town Councils, however, the committee still has to deal with complaints regarding Parish/Town Councillors so it seems incorrect to make a judgment on these councillors without involvement of Parish or Town Councillors;
- to bring Parish/Town Council representatives onto the committee they have to be co-opted, with only speaking rights, and as these members do not have voting rights they can only assert an influence on the committee;
- in the Constitution it states that up to two Parish/Town Council representatives can be appointed to the committee and the committee may wish for one to be a Town representative and the other to be a Parish representative?;
- the idea has been discussed of an open advert to allow any Parish or Town Councillors to come forward, with them providing a brief personal statement of why they believe they are suitable for the role, and depending on the number that apply the committee may wish to structure the appointment to allow for continuity.

Members made comments, asked questions and received responses as follows:

- is it feasible to have a pool of Parish/Town Council representatives? Officers advised that the only issue is that the Constitution states that only two can be appointed, so it would have to be changed and the powers extended if this is taken forward. There is also an issue of how do you select a member from a pool to come forward to sit on a committee meeting? It was questioned as to why a pool was required and it was stated that the issue was raised due to concern about a councillor sitting in judgment on someone from their own Council, but it has been pointed out that this could be beneficial due to local knowledge;
- the point was made that if you ask for a nomination from a Parish/Town Council only one nomination would be received, whereas an open advert would attract any member interested. Officers advised that the clerks can be asked to circulate the information to all their Parish/Town councillors, which could make appointment more challenging if a larger number of councillors came forward, which means that comments need to be obtained from that member in support of their application.

Members decided that authority be delegated to officers to produce the paperwork in relation to Parish/Town Council representation on the committee to distribute, via clerks, to all Parish and Town Councillors.

CND4/12 FUTURE WORK PROGRAMME

Members considered the future work programme of the committee and were informed that the previous Standards Committee had a set pattern of meetings that dealt with policies and case law, together with ad hoc meetings to deal with complaints, and it depends upon how the committee plans to work and how extensively it wants to promote conduct in its remit as to the number of meeting it requires.

Members made comments, asked questions and received responses as follows:

- how can the committee add value to what the Council does, without interfering or creating unnecessary work, and will there be opportunities for the committee to look at recommendations? Officers advised that it will be interesting to see how the work develops throughout the course of the year, but as a fully constituted committee of the Council if ideas do arise that it wants to share with Full Council there is a mechanism where this can be undertaken;
- having a regular pattern of meetings does not fit in with how complaints come in and is it planned that four members of the committee sit on the committee on every occasion as some members may find it difficult to make all meetings? Officers advised that in terms of quorum three members would be required to proceed, but it would be endeavoured to have all four;
- the committee needs to be mindful not to delay cases and when are the cases that are already in the system to be considered? Officers advised that two new complaints have been received and a meeting could be convened in the next 2-3 weeks to consider these cases. However, the two existing cases still under investigation would need the input of the Independent Person before these could be determined, with all parties being aware of this situation.

Members had a discussion on the number of meetings they felt were required, together with the preferred day and time for these meetings to be held.

Decided that:

- **there be two fixed meetings during the year in January and May;**
- **the meetings be held on Tuesday morning at 10.00am;**
- **the meeting in May considers a review of the arrangements following the first year of operation.**

11.45am

Chairman