

Standards Committee Minutes

Date: 9 October 2018

Time: 6.15 - 6.35 pm

PRESENT: C Etholen In the Chair)

Councillor: K Ahmed, D Carroll, M Clarke, J Savage and R Scott

Parish Cllr A Cobden, T Nolan and Mrs H Stearn

Independent: C Morley

9 APOLOGIES FOR ABSENCE

Apologies for absence were received from A R Green, R Newman and G Houalla.

10 MINUTES OF PREVIOUS MEETING

RESOLVED: That the minutes of the meeting of the Standards Committee held on 5 June 2018 be confirmed as a true record and signed by the Chairman.

11 DECLARATIONS OF INTEREST

Parish Cllr Tim Nolan disclosed that he was a member of the same parish council as the subject member in the completed complaint reported at Item 6 on the Agenda.

12 WELCOME

The Chairman extended a warm welcome on behalf of the whole Committee to Mr Chris Morley, the newly appointed Independent Person to his first meeting of the Standards Committee. The Chairman thanked Mr Morley for contributing his time to the work of the Committee and hoped that it would be an enjoyable experience. Members of the committee and Mr Morley introduced themselves.

13 CSPL - GOVERNMENT CONSULTATION ON INTIMIDATION IN PUBLIC LIFE

A report was submitted which provided an update with regard to the Government's current consultation on its proposals to address the CSPL's recommendations on the problem of intimidation in public life. Members were invited to note the current position and were reminded of the need to submit any responses to the consultation should they be minded to do so by 22 October 2018. These could be submitted individually or through their groups.

As outlined in the report the Committee on Standards in Public Life (CSPL) had undertaken consultation work which proposed changes to electoral law and practice as part of a package of measures to address the issue of intimidation in public life and the Committee had considered an earlier report in March 2018.

The report stated that in the early part of the year the (CSPL) made a total of 33 recommendations to the Government as to how to improve the situation, one of which had been to remind members that there may be an exemption to their duty to have published certain pecuniary interests under the Localism Act 2011 where there may be a likelihood of violence or intimidation if they were published.

In the published response to the CSPL the Government committed to action on most of the recommendations, and launched a public consultation on this with a closing date of 22 October. The consultation was based on three main areas.

Firstly views were sought on a proposal for a new electoral offence which would be aimed at tackling threats and abuse towards those standing for election. Secondly, views were sought on clarifying the electoral offence of undue influence of votes, noting that currently a person was guilty of undue influence if they threatened an elector to vote a certain way or prevent them from voting. The new law if introduced could result in convicted persons being stripped of their right to stand for or hold public office, or in extreme cases being given a custodial sentence. Thirdly, the consultation also explored whether the requirement to have imprints added to election material to show who was responsible for its production should also be extended to digital communications, which would have the benefit of increasing transparency in digital campaigning in the light of recent concerns about the risks of “fake news” and foreign interference in future ballots.

Members noted that the Chief Executive in her capacity of Returning Officer had sent a separate response to the consultation.

It was confirmed that a further report would be presented to Members at an appropriate time when the Government had considered the responses and determined the way forward.

Members considered the report before them. It was requested that a copy of the Returning Officer’s response to the consultation which had already been sent be circulated to members of the Standards Committee for information.

RESOLVED: That

That the report be noted along with the closing date of 22 October 2018 for submission of responses.

14 CASE LAW UPDATE - HARVEY V LEDBURY TOWN COUNCIL 2018

A report was considered which detailed the background to the case of Harvey v Ledbury Town Council which was heard by the High Court in May 2018. This dealt

with the issue of sanctions against elected members, and the process through which sanctions could legally be imposed in respect of perceived misconduct.

Complaints had been made in relation to the alleged conduct of Councillor Harvey, a member of Ledbury Town Council, by the Town Clerk, who lodged a grievance alleging that Councillor Harvey had bullied, intimidated and harassed staff. The grievance was subsequently heard by a panel of senior Town Councillors. Councillor Harvey did not attend, indicating that she did not recognise the authority of the Panel, and had requested that the matter be properly investigated under the Standards procedure. The Monitoring Officer had also advised that the Standards process be used to handle the complaint, but the Town Council's Panel did consider the grievance and imposed a number of sanctions and restrictions for a 12 month period. An appeal by Cllr Harvey was rejected, and the restrictions were implemented and, following a review at the end of the 12 months, at which Cllr Harvey was also not present, expanded, to prevent her from communicating with all staff.

Following self-referral of the complaint concerning her alleged conduct to the Monitoring Officer and subsequent investigation by an external investigator, it was established that there had been no breach of the Town Council's Code of Conduct.

A challenge by Cllr Harvey by way of judicial review led to the court upholding her claim, making it clear that a Council could not pursue a grievance procedure against a Councillor alongside or as an alternative to a standards regime procedure, and that the imposition of the restrictions were outside the Town Council's powers. Furthermore the decision making process was held to have been unfair both substantively and procedurally.

A Member asked if the case in question would be applicable to District Councillors in addition to Parish Councillors. This was confirmed in the affirmative.

Another Member expressed the view that the current framework for regulating Member complaints and conduct following the introduction of the 2012 standards regime had taken away the power of Councils to impose a number of sanctions unless the misconduct was of a criminal nature. The Monitoring Officer stated that the effectiveness of sanctions was an ongoing debate and that negative publicity was considered to be the most effective deterrent to misconduct.

The Monitoring Officer outlined the implications of this case, which she stated clarified the process used to consider alleged misconduct, establishing an important principle for standards cases. She emphasised that if a breach was found to have occurred sanctions could only be imposed under the Code of Conduct process, and not through a grievance procedure. Furthermore it was highlighted that the process had to be fair and in accordance with the rules of natural justice. This case would be borne in mind in the provision of advice in any future cases.

RESOLVED: The report be noted.

A report was submitted which provided an overview of recent Member conduct complaint cases since the last meeting held on 5 June 2018. The Monitoring Officer confirmed that the one complaint which was outstanding had now been dealt with as set out in the Appendix to the report. This complaint had not been referred for investigation as it was not deemed to be in the public interest to have done so. There were currently no other complaints which were outstanding.

The Monitoring Officer stated that overall there continued to be a relatively small number of complaints referred for investigation which suggested that the need for good standards of behaviour was being taken seriously locally.

RESOLVED: That the report be noted.

Chairman

The following officers were in attendance at the meeting:

Iram Malik - Democratic Services Officer
Julie Openshaw - District Solicitor