



## Standards and General Purposes Committee minutes

Minutes of the meeting of the Standards and General Purposes Committee held on Thursday 25 February 2021 in Via Video Conference: Accessible to members of the public at <https://buckinghamshire.publici.tv/core/portal/home>, commencing at 2.00 pm and concluding at 3.50 pm.

### Members present

J Waters, H Mordue, M Appleyard, J Bloom, A Collingwood, C Etholen, G Harris, M Knight, S Lambert, G Moore, L Smith BEM and M Stannard

Independent Person: T Dobson

### Agenda Item

#### **1 Apologies**

Apologies were received from Cllr Adoh and Stephanie Boyce, Independent Person.

#### **2 Minutes**

The Minutes of the Meeting held on 10 December 2021 were agreed as a correct record.

#### **3 Declarations of Interest**

There were no declarations of interest.

#### **4 Buckinghamshire Electoral Review - Final Council numbers submission**

The Committee noted that the Boundary Commission wished to undertake an Electoral Review of Buckinghamshire Council. The first phase of that Review sought to determine what should be the appropriate size of the Council in terms of the number of Councillors. The process required the Commission to seek representations to assist its deliberations.

In July 2020 the Standards & General Purposes Committee established a Member Working Group to formulate the Council's response and recommendations to the Boundary Commission's Electoral Review of the Council. That Working Group has met 10 times since July 2020 and has sought the advice and guidance of the Boundary Commission in the formulating of the Options paper who have attended many of its meetings. The Options paper, together with the completed Council size template, was the culmination of the Working Group's deliberations and concluded with a recommendation that the Council should submit to the Commission a proposal for a Council size of 120 elected Members.

The Director of Legal and Democratic Services reported on the submission as follows:-

- The Executive Summary was circulated in a supplementary agenda.
- The supporting annexes in the paperwork illustrated the role of the councillor in the governance structure and their role in the community they served, both critical to the work of the Council.
- Background information had been included such as demographic data and housing growth, plans on how the Council should be led and work carried out through regulatory functions.
- There was no scientific calculation in terms of the final proposal so the Working Group agreed to formulate an Options Paper with their thinking and rationale in terms of strategic and community leadership for a Council of this size. This included the future agenda for the Council; its ambitions concerning the involvement of Members in the strategic direction of the Council; the Scrutiny and Regulatory functions; and the role of Members as leaders in their localities.
- Evidence was provided of comparator unitary Councils largely drawn from recent data, but also referencing the earlier Ernst & Young report and the Unitary proposal from the former Buckinghamshire County Council.
- Phase 2 would look at ward boundaries.

During discussion the following points were made:-

- A Member commented that he considered 120 to high and suggested 80 or 90 councillors and referred to the previous county council unitary business case which had proposed 98 councillors.
- A representative of the Member Working Group commented that they had looked at all the detailed evidence and had come up with a logical proposal. With the new Council there would still be the same workload in relation to meetings and partnership work and it was important to recognise the consequences of moving to 120 councillors and individual workload. At current casework levels each councillor had 21 hours per week on average which would go up to 32 hours per week with 120 councillors. This was almost a full time job and would put off attracting new councillors who worked. He asked that the increase in hours be highlighted (point 24).
- Another Member supported the comment with regard to 120 councillors and that this could not be reduced any further as it would mean that only retired people would apply or those of independent means. He supported the strong conviction of the Working Group that Councillors should be drawn from the widest range of backgrounds, ages, knowledge and experience to better represent the communities served and that the amount of time required to be an effective Councillor – to prepare for and attend meetings and attend to casework - should not be at a level that was prohibitive, particularly for those who are employed or in a caring role, or just wish for a balanced life. It should not be considered a full time role.
- A Member commented that the previous unitary business case of 98 Members related to governance roles only and not the role of the local

member.

- It was very difficult to make comparisons across authorities e.g. comparing Birmingham to Cornwall but 120 was right for Buckinghamshire.
- The timing of the review was unfortunate – not one single day of the unitary authority had been in normal times as the pandemic hit in March. There would be a reduction in May 2021 to 147 and it was unclear what this impact would have on councillor’s workloads. The review had been undertaken too quickly and the Council should have been allowed a year of normal operation with 147 Members before they were asked to provide evidence.
- One Member commented that this decision had been made back to front and that a decision should be taken first on the number of Members per ward and the number of wards. Some additional time should be given in the first year to provide evidence with 147 councillors. Members noted it was statutory guidance that the Boundary Commission reviewed the number of councillors first and then went on to look at warding arrangements.
- This Council would be radically different especially being the first unitary authority post-covid. The casework for councillors had increased exponentially since the pandemic started and with this proposal the number of councillors would be halved. In response it was noted that the document referred to the impact on the business of the Council including town centres with the pandemic rather than casework but a sentence could be added to reflect this.
- There needed to be a clear definition between the difference 120 councillors would make compared to 98 and that the Council would have to operate completely differently to deliver services and to remain directly connected to residents in their communities. There was particularly a heavy workload in relation to regulatory committees. The Working Group has undertaken an analysis of workload on Councillors by reference to Council size and outlined their concern that a smaller size could increase workload to such an extent that it would necessitate a departure from its ‘Member-led’ ambitions.
- Once the number of councillors had been reduced it would be difficult to increase the number.

Once agreed a letter could be written by the Chairman to the Boundary Commission with the Options paper and the council size template informing them of the Committee’s decision.

The Committee thanked officers for their in depth report. On a vote being taken it was **RESOLVED** (with one Member against) :-

- 1 That the work of the Member Working Group set up by this Committee in July 2020 to consider its response to the first phase of the Boundary Commission’s Electoral Review be noted.**
- 2. That the completed Council size template for submission to the Boundary Commission be approved.**
- 3. That the Working Group’s Options paper and recommendation as to the appropriate Council size of 120 (one hundred and twenty) Councillors to the**

**Boundary Commission be approved.**

4. **That authority be delegated to the Director of Legal & Democratic Services in consultation with the Chairman of this Committee to make any amendments to the submissions to the Commission in the light of any further comments from the Committee and any minor/typographical changes.**
5. **That the Working Group should continue to meet so as to address any queries or questions that the Boundary Commission may have regarding the submission, and to plan for Phase 2 of the Electoral Review.**

## **5 Model Member Code of Conduct**

The Committee noted that on 19 January 2021 the Local Government Association published a model Councillor Code of Conduct (the Model Code) which was “designed to protect our democratic role, encourage good conduct and safeguard the public’s trust in local government”.

The publication of the Model Code had co-incided with the timings of the review into the Council’s Code of Conduct and this report presented the Model Code (Appendix A of the report), compared it to the Council’s current Code of Conduct (at Appendices C and D) and raised specific issues to consider in relation to suggested amendments.

When researching the local Codes of Conduct, the Committee on Standards in Public Life found there was considerable variation in the length, quality and clarity of codes of conduct. They believed that this created confusion among members of the public, and among councillors who represent more than one tier of local government. The Model Code of Conduct should help with consistency across all levels of local government within the Buckinghamshire Council area.

A supplementary pack was published which included a revised version of Appendix D (Comparison of Obligations) in relation to the model code of conduct – the changes were shown in yellow under the second heading ‘obligations’.

The Principal Solicitor reported that in summary the Model Code: -

- Continued to require upholding the seven principles of public life (the Nolan Principles) and translated these to general principles of conduct
- Contained 10 general obligations (broken down into 21 specific obligations) with guidance and explanation
- Set out legal requirements
- Defined a councillor as a member or co-opted member of a local authority
- Set out when the Code applies and in addition to ‘acting in capacity as a councillor or representative of the Council’, includes when actions ‘would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a councillor’
- Introduces:
  - Concept of acting with civility

- The word 'harassment' and a definition of bullying and harassment
- Under the Obligation to comply with the Code of Conduct: to undertake Code of Conduct training, co-operate with any investigation or determination, not to intimidate persons administering or investigating a complaint and to comply with any sanctions
  - Included reference to social media
  - Required employees of the Council, partners and volunteers for the local authority to be treated with respect
  - Required registration of gifts and hospitality with a value of £50 and over
  - Maintained the concept of 'bringing the council into disrepute'
  - Codified the position on declaration and participation in relation to personal interests

#### Scope and Social Media

It was considered that the Model Code would apply in the same circumstances and situations as the Council's Code and provided a clear, objective and reasonable test of applicability on a case by case basis. The Model Code did not, however, cover the situation when acting as a representative of the Council on another authority or body and there was another Code of Conduct applicable (this was in paragraph 2.4 of the Council's Code). This could be amended in the Model Code to make this clear. The Principal Solicitor reported that when you act as a representative of the Council on another authority you must comply with that other authority's code of conduct.

**The Committee suggested that the current council code should be used.**

#### Obligations

Although set out differently the general principles and general obligations were comparable with those in the Council's Code. Whilst it did not contain the detail in paragraph 2.7 of the Council's Code relating to exercising independent judgement and taking decisions for good and substantial reasons it did have a general obligation to impartially exercise responsibilities in the interests of the local community.

**The Committee suggested that the current council code should be used.**

#### Gifts and Hospitality Threshold

The monetary threshold of £50 and over for registration of gifts and hospitality in the Model Code was more than the £25 threshold in the Council's current Code. The Principal Solicitor reported that:-

- The LGA reports that over 7 in 10 respondents (72%) supported £25 as the threshold for registering gifts and hospitality. 9% of respondents thought that the threshold should be lower than £25 while 16% felt that it should be higher.
- Neighbouring authorities limits (currently) range between £25 (Central Bedfordshire Council) and £100 (Milton Keynes Council).

A Member commented that the Council should adopt the same threshold as Milton Keynes Council as they were a similar authority. In addition with the cost of living and inflation etc. £25 was a small amount. The Principal Solicitor commented that the threshold related to registering gifts and hospitality not that councillors were precluded from accepting gifts of that value. The lower thresholds provided greater

transparency but it had been at this level for a number of years and did not take account of inflation.

**The Committee suggested that the threshold should be set at £50.**

#### Co-opted members

The Committee may want to consider whether the Code should extend to co-opted members who do not have voting rights. It was expected this would mainly apply to representatives of other organisations on Committee's who may however be subject to their own Codes of Conduct or conduct requirements which were likely to be comparable.

**The Committee suggested that it should be extended to co-opted Members who did not have voting rights.**

#### Dealing with disrespect

Under the obligation of respect, the Model Code advised councillors to 'report' members of the public who were abusive, intimidatory or threatening to the local authority. Given the jurisdiction of the local authority and the police for example, consideration could be given to whether the word 'report' was amended to 'seek guidance from'.

Members discussed whether 'seek guidance from' was robust enough. The Director of Legal and Democratic Services reported that if there was any criminal liability it would not be a matter for the Council. In terms of harassment there may be civil action. The words 'seek guidance from' implied that there could be a number of actions which could result in reporting to the police. The expectation, as the Council had a zero tolerance policy, was that matters such as this would be reported to the police. The Director of Legal and Democratic Services reported that a statement could be included in the code.

**The Committee suggested using the word 'seek guidance with a view to ...'.**

#### Personal Interests and Participation

The Model Code included the Disclosable Pecuniary Interests (DPI) as set out in Regulations and which are the same as detailed in the Council's Code. In relation to other interests a comparison of the requirements was set out in Appendix D of the report which showed that the provisions were broadly comparable, however the Council's Code included definitions and was slightly more detailed, the advantage of which was clarity but the disadvantage was that it was prescriptive.

It was considered that the provisions in the Model Code relating to interests may be confusing in practice: as well as DPI's it referred to other interests and non-registerable interests but did not give much detail. In addition, the Model Code also sets out that members were not to participate or vote on any business in which they have a personal interest except where a dispensation had been granted. This was a departure from the Council's Code and that of many other authorities which usually allow both participation and voting for a personal interest which was not prejudicial. The advantage of not allowing any participation with an interest was that it took away any confusion over the type of interest for the member and a dispensation

could be requested where a member still wished to take part with greater transparency.

The other side of this was that dispensations for DPI's could only be granted in defined circumstances which may need to be extended in respect of personal interests. If this was done it would result in differing rules in any event (so a determination on the type of interest was still required), an increased number of requests for dispensations and move the onus of deciding the appropriate participation in the case of personal as well as pecuniary interests to the Monitoring Officer.

A comment was made that if the code was made too ambiguous then Members could be more likely to breach the code and claim that it was not clear. There was a concern as the Model Code provided very little detail on this area.

Another Member expressed concern about not being able to speak on any personal interest as often interests were declared at Parish Councils because they also acted as Buckinghamshire councillors and reference was also made to Planning Committees.

**The Committee suggested that the current council code should be used as it provided more clarity than the model Code of Conduct.**

#### Guidance

The current Arrangements for dealing with complaints and the associated Guidance may require updating if the Model Code was adopted (with or without amendments). It was suggested that this could be most easily done under a specific delegated power once the final Code was determined.

The Director of Legal and Democratic Services reported that there would always be a tension between putting forward political views and the freedom of speech versus civility and this could be resolved by a complaint informally through the Monitoring Officer or through the Standards process. There was also the issue of when a councillor was putting forward views as a councillor or in their own personal interests. The law accepts that a councillor will be putting views forward in meetings or sitting on a Board or Committee. It was less clear in putting forward views via social media and councillors were given guidance on this issue. The model code of conduct does go further to give advice on whether a reasonable member of the public would consider whether they were acting as a councillor at that particular time when the conduct occurred. In relation to interests the model code was scant compared to the Council's current code and it was important to have clarity in this area to ensure good governance and decision making. Having more detail was also beneficial to officers when given advice to councillors.

The Principal Solicitor reported that the model code of conduct said that "As a councillor, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack."

During discussion the following general points were made:-

- A Member asked whether the current code was a mixture of good practice within the legacy Council codes. The Director of Legal and Democratic Services reported that most Councils had previously adopted a Model Code of Conduct so there would not have been significant differences between the legacy Councils. Town and Parish Council codes could be significantly different. A Member commented that it would make sense to have more consistency across all Councils.
- A Member asked for clarification where it said that the Model Code of Conduct could be amended to include local issues and what this included. The Director of Legal and Democratic Services referred to the previous National Standards Committee which was amended to ensure more local arrangements so that local councils could adopt their own code.
- Subject to amendments at the meeting, a proposed code would be brought back to Members for agreement.
- It was essential that the code was reviewed once a year so that it was an evolving document not static. It was also important that it provided detailed guidance on social media.

#### **RESOLVED**

**That the Model Code of Conduct be updated with the agreed suggestions above and be brought back to the next meeting of the Standards and General Purposes Committee so that a final document could be recommended to Full Council for adoption.**

#### **6 Constitution Working Group - Update**

The Committee noted that a Working Group had been formed to discuss possible changes to the Constitution which would need to be discussed by this Committee and also Audit and Governance Committee. The Working Group had undertaken some work following the Notice of Motion discussed at Full Council relating to planning aspects which would help with drafting changes to the constitution. In addition, there were other changes including procedures for Committees and adding information on the governance and terms of reference of Community Boards. Further work was required on these constitutional changes. A further meeting would be arranged before the next full council on 21 April so this Committee can make recommendations.

#### **7 Work Programme**

Work Programme

8 April

Review of constitution including the code of conduct

15 April

1. Annual Review of Code of Conduct and Complaints Procedure

2. LGO Annual Report

3. Bucks Electoral Review: Member Working Group update (if required)
4. Compliments and Complaints Report 2020-21 (Mid Year update)
5. Constitution Working Group (Update)
6. Draft Work Programme for 2021-22