



Standards and General Purposes Committee minutes

Minutes of the meeting of the Standards and General Purposes Committee held on Thursday 14 April 2022 in The Oculus, Buckinghamshire Council, Gatehouse Road, HP19 8FF, commencing at 2.00 pm and concluding at 3.30 pm.

Members present

T Broom, M Baldwin, R Carington, B Chapple OBE, S Chhokar, T Green, S Lambert, R Matthews, H Mordue, C Oliver, L Smith BEM, M Smith and D Thompson

Apologies

P Gomm

Agenda Item

1 **Apologies**

Apologies were received from Cllr P Gomm.

2 **Minutes**

The Minutes of the Meeting held on 17 March 2022 were agreed as a correct record.

3 **Declarations of Interest**

There were no declarations of interest.

4 **Annual Review of Code of Conduct and Complaints Procedure**

The Committee received the Annual Review of the Code of Conduct and Complaints procedure. The Committee had oversight of Member Code of Conduct Complaints both for this Council and for parish and town councils. The report provided an annual review of the complaints received during 2021/22 and of the effectiveness of the arrangements for handling them. The report addressed concerns and queries raised by the Committee during the year, which included greater transparency about the timeliness and nature of member code of conduct complaints.

The following points were made by the Principal Governance Officer:-

- The Committee noted in the Autumn that complaints had not always moved on, during the year, as swiftly as envisaged within the procedures. Partly this was due to resourcing, which was supplemented early in the New Year. It was also noted that the earliest stages of the process were important. There

was an essential element of information exchange at these stages: clarifying the complaint, ensuring that the person complained about had an opportunity to respond; and the complainant then being asked if they were satisfied or not.

- Only one breach of the Code was formally found; and the average time taken to complete a case was as follows; average time taken for Buckinghamshire councillors (7 complaints 0 breaches) - 2.5 weeks, and for Parish/Town councillors (27 complaints, 1 breach) -5 weeks
- Other than one town council complaint (raised by seven complainants), which reached Stage 3, all other complaints were concluded at either Initial Assessment or Stage 1.
- The most alleged breach was against the principle of 'Respect'; that a councillor failed to demonstrate respect to an individual or to the community. When looking at information provided by the Standards of Public Life Committee 83-85% of Councils which had complaints said that at least one or two of those had been about the principle of respect in the January 2019 report. The Local Government Association (LGA) guidance stated that respect could be quite subjective. The next largest trigger for a complaint had been a concern about member interests.
- Only eight complaints were currently live, all relating to parish and town councils. Seven of these allegations related to one parish councillor, over four separate matters. They were being taken together and were currently at Stage 2. The eighth was an outstanding matter from 2021/22 which would shortly be concluded within Stage 1.
- Comparatively, the LGA guidance indicated a target of 10 days for Stage 1 and 5 days to review the comments of the subject member. Buckinghamshire Council's target was 20 days to enable a thorough engagement in the first stage of the investigation although this was balanced against the need to be swift as a complaint can be damaging to the reputation of the subject member. It was important that procedures were proportionate. Officers therefore intended to carry out a benchmarking exercise against a range of other authorities' procedures to identify if there were changes that could be made to timeframes or the approach generally. The outcome of that review would be reported to the next meeting of the Committee.
- Given the number of complaints relating to parish and town councils, the Monitoring Officer would also be liaising with the Buckinghamshire and Milton Keynes Association of Local Councils to explore what training could usefully be offered to members of parish and town councils, and their clerks, about code of conduct matters.

During discussion Members made the following points:-

- The Chairman put on record his thanks to officers for dealing with the issues raised by Members at previous meetings.
- A Member expressed concern that Buckinghamshire Council bore the cost of investigations and hearings and that parish and town councils should be made more aware of this and provide good training to avoid complaints

being raised in the first place. He also commented that some complaints could be related to personality clashes. The Service Director Legal and Democratic Services said that he would be liaising with parish and town councils about what training should be provided, including providing bespoke training where required.

- A Member suggested that further detail should be provided about the nature of each complaint (without breaching confidence) and the source of it (e.g. member of the public, councillor or staff) to gain a better understanding of the root causes. Concern was also expressed about the lack of a specific timescale for the initial triaging assessment.
- The Principal Governance Officer reported that 17 of the complaints were made by councillors which was a significant percentage. The benchmarking exercise would provide useful background to a review of timescales.
- The Service Director Legal and Democratic Services reported that it was important to respect confidentiality although the complaint could be made public at stage 3
- It was considered that it would be helpful to have some comparative information over previous years to identify whether processes were improving.
- A suggestion was made that regular training should be given to town and parish councils as councillors, clerks and policies changed. In addition it was difficult to mention locations as many parish councils were quite small and it would make it easy to identify individuals. The first stage of the investigation should be thorough with reasonable timescales to avoid moving into Stage 2.
- With reference to 2.18 of the report Members noted that not all Parish and Town Councils were members of the Bucks and Milton Keynes Association of Local Councils therefore training should also be offered through the Society of Local Council Clerks. The Member also expressed concern about respect in the Council Chamber and suggested it would be helpful to have further training on this. The Service Director Legal and Democratic Services reported that regular training was given to parish and town clerks and also bespoke training was offered to those Council who were not affiliated with BMKALC. Annual refresher training would be given for unitary councillors after the Annual Council in May which would include code of conduct training. The Chairman reported that robust and vigorous debate was expected in the Council chamber which was managed by the Chairman who would intervene if any Members were disrespectful.
- In response to a question as to whether parish and town councils should have their own policy to deal with complaints, the Service Director responded that the Localism Act 2011 stated that the upper tier authorities should deal with the code of conduct and complaints. In terms of getting parish and town councils to deal with the complaint in the first instance where relevant the Council had sometimes put them in touch with mediators to help resolve issues such as a breakdown of relationships or personality clashes.
- Clarity was given that the complaints reported at the meeting had been made from a number of sources including residents. Following this a Member

commented that the number of complaints was quite low when looking at the number of parish, town and unitary councillors in Buckinghamshire which demonstrated a robust system.

- The process for making a complaint was on the website which included an online form <https://www.buckinghamshire.gov.uk/your-council/contact-and-complaints/complain-about-councillor/>. Council staff, Parish and town clerks would also give out the Monitoring Officer's email address when requested.
- A Member referred to Appendix 1 of the report and the instances where the Appendix referred to the Code principle of 'Respect' and then said either 'No breach' or 'Not within Code'; the Member asked what this differentiation meant.
- The Principal Governance Officer reported that those mentioning 'Not within Code' was an outcome of the initial triaging assessment; whereas those referring to 'No breach' indicated those which passed the triage but were then found not to have substance under the formal procedures.
- A suggestion was made that it would be helpful to have a contact number where the complaint could be discussed in the first instance as an informal resolution to the complaint may be found earlier before a formal complaint was made. The Service Director Legal and Democratic Services reported that both he and the Principal Governance Officer did speak to people on the phone as part of an initial triage of complaints where appropriate.
- It was confirmed that standards of dress for formal meetings would not ordinarily be a matter for the Code of Conduct; and that should this ever be necessary, it would be a matter of informal guidance, as had occurred when formal meetings were held solely online during the pandemic.

RESOLVED that the annual review of the Member Code of Conduct complaints for 2021/22 be noted including the proposed actions for 2022/23 regarding procedures, timeframes, and training (in paragraphs 2.17-2.18).

5 Constitutional Changes

The Committee received a report on the proposed updates to the Council's constitution to allow for better and more transparent decision making. Under s9P Local Government Act 2000 the Council was required to prepare and keep up to date a Constitution containing the standing orders of the Council and such other information as was required or was desirable. Buckinghamshire Council's Constitution was effective as from 1 April 2020 and was regularly reviewed to ensure the Council's operation was properly supported and governed by the Constitution. The last review took place in April 2021.

Oversight of the Constitution was shared between the Audit and Governance Committee and the Standards and General Purposes Committee. The power to change the Constitution was reserved to full Council via recommendation from the Standards and General Purposes Committee. The Monitoring Officer also had delegated authority to make amendments to ensure the Council conducted itself lawfully, and minor amendments where appropriate.

A Constitution Members Working Group consisting of the Chairmen and Vice-Chairmen of both the Audit and Governance Committee and the Standards and General Purposes Committee had met a number of times to consider proposed changes and provided initial comments to help inform the review of the Constitution as required by full Council.

During discussion the following points were noted:-

- A Member expressed concern about the high level text used in Appendix 1 of the report. The Service Director Legal and Democratic Services reported that the changes were set out in principle to allow drafting of the proposed changes to take account of member feedback, further legal input or ensure other affected parts of the Constitution could be amended accordingly. It was therefore recommended that the Monitoring Officer determined the final wording of the in-principle proposals and any associated/incidental amendments with the approval of the Constitution Working Group, and to then change the Constitution accordingly together with any other necessary incidental amendments.
- The Member then further expressed concern about the change to Community Boards which was to provide a comprehensive Terms of Reference for Community Boards to include provision for membership in the Constitution. The Service Director Legal and Democratic Services reported that the framework document for Community Boards had been formulated and the terms of reference would be drafted in accordance with that practice and enshrined in the Constitution therefore there would be no change to the current working of Community Boards. The Constitution was constantly under review and any changes could be made in the forthcoming year if there were any concerns about the drafting. Another Member commented that Community Boards did operate on a different basis across Buckinghamshire and it would be good to find the optimal model. Concern was expressed about the transparency of the budgetary process which could be undertaken via email but then still had to go through a process with the Cabinet Member for Communities with no recall back to the Board. The review of the terms of reference was a big piece of work as the Community Boards were the main mechanism linking into communities. A scrutiny review had also been undertaken on Community Boards where the terms of reference had been discussed and this information could be used as part of this review. A proposal was then put that the terms of reference of Community Boards should be reviewed by the Constitution Working Group.
- Reference was made to the Planning changes particularly extending the right of Call in to 'Permission in Principle' planning applications which were currently only dealt with by officers. Those did not extend to how a Chairman of a Planning Committee could prevent an item going to Committee because of their role when Members wanted it to go to Committee. The Member had specifically asked for that change. Another Member expressed concern about call-in and that this was a decision for the Chairman in consultation with the lead officer if one Member called-in the decision. If three Members called it

in then it would be automatically considered by the Committee. The length of time objectors had to speak at the Planning Committees should also be reviewed, particularly with large developments as currently the speaking time was not adequate. The Service Director Legal and Democratic Services reported that the Planning Committee was quasi-judicial and all parties had to have the same amount of time. If this should be increased this would need to be discussed by the Planning Committee Chairman in the first instance. The call in facility was essentially a request by Members for the Committee to make a decision on a planning application rather than an officer making the decision under their delegated authority. The Member was obliged to consult with the Chairman as to whether it should be called in. There had to be some material issue for calling in a decision. The particular change in the constitution being made in Appendix 1 related to permission in principle which was not a planning consent but related to initial inquiries from applicants where the officers could give permission in principle for them to do further feasibility work before it came forward for planning permission. At the moment this power rested with the officer but was now being extended to councillors.

- A Member commented that responsibility for reviewing the Constitution should be either under Audit and Governance or Standards and General Purposes not both Committees. In addition, the Opposition Group Leaders should be consulted on the changes to the Constitution. The Chairman clarified that the responsibility for making recommendations to Full Council did rest with the Standards and General Purposes Committee. However, because the Constitution was linked to the business of the Audit and Governance Committee any proposed changes were passed to them for comment. The other changes that had been suggested but were not included in the Appendix had been considered by the Working Group but not taken forward. Representations could be made when the final report was considered by Standards and General Purposes Committee and then submitted to Full Council for approval. The Member expressed concern that some Members of the Opposition Group were not called to ask their question at Full Council because of time pressures which did not allow them to air their views in full; it would be better to involve them at an earlier stage in the process. In response it was noted that if Opposition Members had any concerns with the running of Full Council they should contact the Chairman of the Council.
- With regard to the anomaly in terms of the deadline for questions for Select Committees, this had been included in the changes to the constitution so that the public could submit their question after having sight of the agenda. This would be similar to the change made to the cabinet deadline for questions with 3 clear days.
- A suggestion was made that Committees should elect Vice-Chairman rather than the Chairman appoint them.
- Another Member commented that the role of the Vice-Chairman should be clarified.
- In response to a question it was noted that the Constitution Working Group

had met approximately three times as and when required.

- A Member welcomed the changes and commented that the Constitution was a living document. Particular reference was made to considering changes for those councillors who worked and could not attend pre-arranged group visits where a video recording of the site visit could be made available.

It was proposed by Cllr B Chapple, seconded by Cllr R Carington and following a vote (with two abstentions);-

RESOLVED

1. That the proposed changes to the Constitution as set out in Appendix 1 be noted and endorsed; and

RECOMMENDED that Full Council

2. adopt the proposed changes; and
3. approve the appropriate delegations to the Monitoring Officer, in consultation with the Members' Constitutional Working Group, to finalise the textual changes to the constitution following approval of the principles as set out in Appendix 1 of the report.

6 Buckinghamshire Electoral Review Update

On 17 March, the Committee agreed a draft submission to the Local Government Boundary Commission for England on a pattern of wards. In doing so, the Committee also recommended that Full Council on 27 April endorse the draft proposal for final submission to the Commission.

The draft submission was made to the Commission ahead of the 4 April consultation deadline. The Committee had also agreed that the Electoral Review Working Group should continue to meet throughout the remaining stages of the electoral review. This was so that the Group could continue to play a useful cross-party role in refining the proposals in those respects where the Committee had agreed further work was needed; as well as advising the Committee by working alongside the Commission during its own information gathering phase and in considering the Commission's own proposal, due to be consulted upon between July and September.

The Committee agreed the proposed meeting dates for the Electoral Review Working Group as follows:

12 May 2022
16 June 2022
25 July 2022 (Monday)
11 August 2022
8 September 2022

7 Draft Work Programme 2022/23

The draft Work Programme for 2022/23 was noted.

An update was given on the Election Petition challenging the results of the Totteridge and Bowerdean ward election held on 6 May 2021 by an unsuccessful candidate. There was a hearing in the High Court on 29 September 2021 following which the petitioner had been considering what action they would like to take. Respondents to the petition had subsequently applied for the petition to be dismissed and a hearing would be heard at the beginning of May 2022 to consider the application for dismissal. The Committee would be updated once the hearing had taken place.

8 Date of Next Meeting

The dates of next meetings were noted as follows subject to approval at Full Council:-

- 14 July 2022 – provisional
- 20 October 2022 – provisional
- 8 December 2022 – provisional
- 13 April 2023 – provisional