



Buckinghamshire Council

Standards and General Purposes Committee

Minutes

MINUTES OF THE MEETING OF THE STANDARDS AND GENERAL PURPOSES COMMITTEE HELD ON THURSDAY 8 OCTOBER 2020 IN VIA VIDEO CONFERENCE, ACCESSIBLE TO MEMBERS OF THE PUBLIC AT [HTTPS://BUCKINGHAMSHIRE.PUBLICI.TV/CORE/PORTAL/HOME](https://BUCKINGHAMSHIRE.PUBLICI.TV/CORE/PORTAL/HOME), COMMENCING AT 2.00 PM AND CONCLUDING AT 3.30 PM

MEMBERS PRESENT

J Waters (Chairman), H Mordue (Vice Chairman), S Adoh, M Appleyard, J Bloom, A Collingwood, C Etholen, G Harris, M Knight, S Lambert, L Smith BEM and M Stannard

INDEPENDENT PERSONS: S Boyce and T Dobson.

APOLOGIES: B Adams and G Moore.

1 MINUTES RESOLVED –

That the Minutes of the meeting held on 2 July, 2020, be approved as a correct record.

2 CSPL REPORT ON LOCAL GOVERNMENT ETHICAL STANDARDS

The Committee on Standards in Public Life (CSPL) advised the Prime Minister on ethical standards across the whole of public life in England. It monitored and reported on issues relating to the standards of conduct of all public office holders and promoted the 7 principles of public life. In 2018, the CSPL had carried out a review into the ethical framework for local authorities which included stake holder consultation.

On 2 July 2020, the Committee had considered a report relating to the CSPL review. The main findings, observations and conclusions of the CSPL had been summarised and set out in the report. It had also included the 15 best practice recommendations directed at local authorities together with details of the current position at Buckinghamshire Council in terms of compliance with these recommendations and RAG rating.

Members requested that a report come back to the Committee on the progress made in implementing the CSPL best practice recommendations (amber ratings). Appendix 1 set out each of the recommendations, position and RAG rating at the time of the report and detailed the proposed action(s) and comments/explanation. All recommendations had been included to provide an overview. Whilst recommendation 8 was considered to be complied with already,

some amendments have been made to provide clarity.

The Council's Constitution was due to be reviewed in April 2021 and this would include a review of the Code of Conduct. It was also anticipated that a Model Code of Conduct would be introduced. In view of this the proposed actions in Appendix 1 were interim measures pending a full review. The proposed actions related mainly to updating the Guidance on Dealing with Member Complaints. The proposed amendments to the Guidance to implement the relevant best practice recommendations were detailed in Appendix 2 as tracked changes, in red typeface.

The Guidance on Dealing with Member Complaints had also been approved on 2 July 2020 and the Committee had the power to update it, as appropriate. Whilst it would be preferable to have the actions and measures dealt with in the Code of Conduct itself, it was considered that the proposed changes to the Guidance were sufficient to ensure that best practice was followed until such time as the Code of Conduct was updated.

Members sought additional information and were informed:-

- (i) Appendix 1 – that the updating of the guidance on dealing with Member complaints was likely to change many of the amber RAG ratings to green.
- (ii) Appendix 1(Action 3) – that while it was mentioned that the Constitution was to be reviewed in April 2021, Members would be informed later in the agenda about the intention to put together a Constitution Member Working Group to review possible changes. It was anticipated that work could be completed as soon as possible and well in advance of the 2021 local elections.
- (iii) Appendix 1 (Action 11) – an explanation was provided of the exceptional circumstances where it might be appropriate for a Parish Clerk's standards complaint to be made to the Buckinghamshire Council rather than to the relevant Parish Council.

RESOLVED –

- (1) That the progress made in implementing the best practice recommendations of the Committee on Standards in Public Life (CSPL) on Local Government Ethical Standards be noted.
- (2) That the proposed actions on the recommendations, as detailed at Appendix 1, and the updating of the Guidance on Dealing with Member Complaints as proposed at Appendix 2 be approved.

3 GUIDANCE ON REQUESTS FOR DISPENSATIONS

The Committee received a report which sought approval of the criteria for considering whether to grant a dispensation, guidance for members seeking a dispensation and the application form to request a dispensation.

The Localism Act 2011 stated that a councillor or co-opted member who had a disclosable pecuniary interest (DPI) could not participate in a meeting for that item and could not vote on the item. The Council's Code of Conduct also required a member to withdraw from the meeting where they have a DPI.

If a member had a prejudicial interest the Council's Code of Conduct also required them to withdraw from the meeting, not to participate and to not vote on the item.

These statutory requirements and rules were in place to ensure members took decisions in the public interest. There were however situations when it may be appropriate for a councillor or co-opted member to still take part in the debate or take part and vote on the matter. The Localism Act 2011 set out 5 instances when a dispensation for a DPI might be granted. These were set out as part of the Criteria (see Appendix 1). One of these instances must be found to apply in order for a dispensation to be granted.

The Council's Constitution gave the Monitoring Officer and the Standards and General Purposes Committee delegated authority to grant dispensations. It was expected that for speed the majority of dispensations would be given by the Monitoring Officer. It was good practice to adopt criteria for considering dispensation requests to ensure consistency and approval of the criteria by the Committee would ensure appropriate oversight and transparency.

As each request for a dispensation should be considered on its own merits the criteria could not be exhaustive therefore the criteria was deliberately high level to allow all applicable circumstances to be taken into account. Alongside the criteria, the proposed Guidance for Members was detailed at Appendix 2 and had the following sections:

- When it might be appropriate to request a dispensation?
- What are the circumstances in which I ask for a dispensation?
- What are the circumstances in which I ask for a dispensation?
- Does the request for a dispensation have to be granted?
- Are there any circumstances when a dispensation will not be granted?
- How do I make a request for a dispensation?
- How much notice is needed to consider my request?

These sections gave more detail on the criteria and would also be used as further guidance alongside the criteria when considering requests for dispensations. The proposed application form at Appendix 3 had been drafted to ensure that requests contained all relevant information the Monitoring Officer would need to consider requests.

The Committee was informed that blanket or general dispensations could also be granted to cover all applicable members. This might apply in relation to a particular project or scheme which, due to its nature, was likely to engage a large proportion of members and therefore engage one or more of the instances required in order to grant a dispensation in the Localism Act. In such a case, the criteria and guidance were still relevant, however councillors would not have to make individual requests. Although the current delegation to the Monitoring Officer would cover granting a blanket or general dispensation, it was expected that this would normally be referred to the Committee for decision or the Chairman would be consulted before making a decision.

Members sought additional information and were informed:-

- (i) that the guidance and report set out the principles for considering whether to grant a dispensation as it was not possible to make provision for every eventuality that might occur.
- (ii) that the Criteria for Granting Dispensations (Appendix 1) explained that :
 - a dispensation would not normally be granted to a Member who had a disclosable pecuniary interest, or a prejudicial interest arising as a result of the effect of the decision on their personal financial position or that of a relative or close associate.
 - a dispensation was more likely to be granted where a prejudicial interest arose

from the financial effect the decision might have on a public body of which they were a member.

- (iii) that if a Community Board had to consider a matter that led to it becoming inquorate due to a number of Members declaring DPIs, then it would be appropriate to consider whether to grant dispensation(s) to Members.
- (iv) that where a Member at a virtual meeting declared a DPI, they would be required to withdraw from the virtual meeting while that matter was considered. The process for dealing with such instances would be managed by the Democratic Services staff.

RESOLVED –

- (1) That the criteria for granting a dispensation (Appendix 1), guidance to Councillors (Appendix 2) and Application form (Appendix 3) be approved and adopted.
- (2) That authority be delegated to the Monitoring Officer, in consultation with the Chairman (or in their absence, the Vice Chairman) of the Standards and General Purposes Committee, to make minor amendments to the criteria, guidance and application.

4 LOCAL GOVERNMENT OMBUDSMAN COMPLAINT REPORT

The Council was required to bring to the attention of Members the report of the Local Government and Social Care Ombudsman. The Standards Committee had been identified as the most appropriate forum to consider the Report and the accompanying progress update.

The Committee received a report which provided a summary of a recent Local Government and Social Care Ombudsman Report, published on 24 July 2020, that had found the Council to be at fault for the way in which it provided home to school transport for 2 children with Special Educational Needs and Disabilities. The Council was required to provide free home to school transport for children of compulsory school age.

The Ombudsman's report had concluded that the Council, in this case, did not meet its statutory duty to provide free home to school transport for children of school age who were eligible. The Council had accepted the findings of the ombudsman. The report detailed the progress made in implementing the recommendations identified in the Ombudsman's report.

Members were informed that a parent of 2 children with Education, Health and Care Plans had made a complaint to the Local Government and Social Care Ombudsman (LGO) in April 2019 about their home to school transport arrangements. The Council had been unable to provide suitable transport for the 2 children who were eligible for free transport due to their Special Educational Needs and Disabilities. The parent had been receiving 2-way mileage to transport them herself to a school 8 miles away. The parent argued that this did not amount to free transport as her return journey home was not covered by the mileage allowance and it was unreasonable to expect her to wait at the school all day.

The parent submitted an application to the Transport Exceptions Panel to consider 4-way mileage and when the Panel declined the request, the parent progressed the matter to the Independent Appeal Panel. This Panel also declined her request. During this time there was some confusion around whether the Council could provide suitable transport, particularly for the younger child and therefore whether the parent was voluntarily transporting her children. There was also confusion about whether an assessment of needs had been conducted. Following a number of delays the Council confirmed it could not provide suitable transport for

the eldest child. At the time of the Ombudsman's report, there remained uncertainty about whether the Council could provide transport for the younger sibling.

The Ombudsman upheld the parent's complaint, and identified that 2-way mileage did not equate to free transport provision. The confusion, poor communication, delays in decision-making and errors in administering process were felt to be of no fault of the parent, and had caused unnecessary hardship, anxiety, time and trouble.

The Council had accepted all the findings in the Ombudsman's report and had taken steps to complete the recommended actions. A number of actions were required to be completed within 6 weeks of the report being published (24 July). These actions and the Council's response were fully set out in the Committee report. In summary, the actions were:-

Action 1: Reimburse the parent for the additional journeys taken from September 2018 and pay 4-way mileage going forward.

Outcome: Completed. The client transport profile had also been adjusted to process 4-way mileage for this family for the academic year 2020/21 onwards.

Action 2: Send a letter of apology to the parent with a payment of £50 per week for each week she had transported her children to school from September 2018 – 13 March 2020, in recognition of the time, trouble and anxiety caused.

Outcome: Completed.

Action 3: Assess the younger sibling to see if the Council could provide suitable transport, and pay 4-way mileage to the parent if transport could not be provided.

Outcome: Completed. The assessment had been completed on 20 July and it had been agreed that the parent would continue to transport the children to school and claim 4-way mileage. The client transport profile had been adjusted to process 4-way mileage claims.

The Ombudsman had also made a number of recommendations to be actioned within 6 months of the report being published (by 24 January 2021). Progress against these was summarised as follows:-

Action 4: Review the school transport policy and guidance to ensure that it reflected the Council's statutory duty to provide free transport and that it stated that the Council would pay the full costs of transport to parents where it is unable to provide suitable transport. Where the Council could provide suitable transport and the parent voluntarily agreed a mileage arrangement, this would cover two legs of the journey.

Outcome: Completed. The review had been completed and the Transport Improvement Board had approved the move to 4-way mileage in cases where the Council was unable to provide transport.

Action 5: Review other parents' and carers' mileage arrangements. Where the Council found it was unable to provide suitable alternative transport, and as identified in this case, the arrangement was not voluntary, it should pay the mileage costs of four legs of the journey where relevant.

Outcome: Completed. For new eligible transport applicants the offer of 4-way mileage was also now in place and the website and communications information had been updated accordingly.

Action 6: Take action to address the Council's apparent lack of suitable transport provision to ensure other children who required home to school transport were not adversely affected.

Outcome: An explanation was provided on the range of things the Council was doing to ensure

suitable transport could be provided to more children. The Transport Application and Assessment process had been reviewed and updated. The Home to School Transport Policy and associated Post 16 Transport Policy Statement had been recently viewed and a public consultation on the refreshed content was scheduled for 12 October, closing on 7 December 2020. It was anticipated that the offer of Personal Transport Budgets would further support families to secure the most appropriate transport provision for their child.

Action 7: The Council should report its progress to the relevant committee to ensure that elected members could monitor this. This report fulfilled this requirement.

Outcome: Completed.

Action 8: The Council should update its Local Offer on the Bucks Family Information Service to reflect the transport provision available.

Outcome: The Council was currently reviewing all its website content on transport provision and had updated the Council transport pages to ensure clarity: (<https://www.buckinghamshire.gov.uk/schools-and-learning/schools-index/school-transport/>). The Local Offer was also being reviewed to ensure all information was accessible to families. The planned consultation on our Home to School Transport Policy and associated Statement referred to above also aimed to make information clearer and more accessible for families.

Action 9: The Council should provide the Ombudsman with a report confirming the actions it has taken.

Outcome: On 22 September 2020 the Council had updated the Ombudsman with details regarding the completion of Actions 1 to 3, enclosing relevant evidence. The response had included clarification on how the Council had calculated the sums paid to the complainant (addressed in Actions 1 and 2). A final report would be provided to the Ombudsman once all the actions had been completed, in line with the timescales set out.

Members expressed concerns with Action 5 and commented that the Council could perhaps have been more proactive and considered offering a refund to all parents affected by the policy. The Committee was informed that, in line with the recommendation from the Ombudsman's report, the Council had identified all parents/carers who were in receipt of 2-way mileage payments and written to them on 19 August 2020 making an offer to pay 4-way mileage from September 2020 onwards if they wished to continue with the mileage arrangements.

The Committee requested that further information on Action 5 be reported back to the next meeting in December 2020 on the options that had been considered to assess other parents / carers mileage arrangements, including any associated risks and financial implications for the Council.

RESOLVED –

- (1) That the Local Government and Social Care Ombudsman's report of 24 July 2020 be noted.
- (2) That the progress made in implementing the recommendations required by the report at recommendation (1) be noted.
- (3) That the remaining recommendations should continue to be progressed with a view to completing them by 24 January 2021. The outstanding actions being:
 - (i) To review other options that had been considered to assess other parents' and carers' mileage arrangements, including any associated risks and financial

implications for the Council. (Action 5)

- (ii) To continue to work with providers via the Dynamic Purchasing System to ensure a broad range of client needs can be accommodated (Action 6)
 - (iii) To review and update the transport provision sections of the Local Offer (Action 8)
 - (iv) To provide a report to the Ombudsman once all the actions are completed (by 24 January 2021) (Action 9)
- (4) That a further progress report to be submitted to the Standards and General Purposes Committee on 10 December 2020, with a view to Members being able to accept and agree that they have fulfilled their requirement to monitor progress, and that any actions not yet completed will be completed in the coming months.

5 STANDARDS COMPLAINTS (UPDATE)

The Committee received a report setting out details of the number of complaints received against councillors since 1 April 2020, the nature or themes of complaints received and the outcome of those complaints. Except where a breach had been found to have taken place and a formal Decision Notice had been published no personal details would be provided.

Under the Localism Act 2011, the Council had a duty to promote and maintain high standards of conduct amongst its Members and co-opted Members. As part of this duty the Council was required to have a Code of Conduct for Members which set out the standard of behaviour of Members when acting as a Member or on behalf of the Council.

The Council's Code of Conduct was at Section 2 Part H of the Constitution. Whilst Town and Parish Council could adopt the Buckinghamshire Council Code they did not have to. The Arrangements for Dealing with complaints under the Code of Conduct was at Section 3 Part H of the Constitution and applied to complaints against all councillors, including Town or Parish Councillors. Further guidance on dealing with complaints had been approved by the Committee on 2 July 2020.

In summary, the arrangements for handling complaints required an initial assessment to check whether the complaint could be considered (e.g. the complaint related to the conduct or behaviour of a councillor when acting in an official capacity) and whether it should be accepted (ie the nature of the complaint warranted it being considered further). Stage 1 of the process involved contacting the Subject Member for their response to the complaint and suggestions for resolution. If this was not accepted the complaint moved to Stage 2 when the complaint was formally considered by the Monitoring Officer or a Deputy Monitoring Officer. The Chairman/Vice-Chairman of the Committee would be informed of the complaint and could also consider the complaint together with an Independent Person. Stage 3 was implemented if the matter went to a formal investigation and could include consideration by a Sub-Committee or full Committee.

Appendix 1 detailed the cumulative total of complaints received since 1 April 2020. The Monitoring Officer had received 19 formal complaints with a further 2 carried over from legacy councils. 13 of these related to Buckinghamshire or legacy council members with 8 against Town or Parish councillors. Consultation with an independent person was due to take place to consider whether to progress in a few cases. None of the closed complaints progressed to a formal Stage 1 consideration, having either been rejected, considered not in the public interest to progress or informally resolved. Accordingly there had been no finding of a breach having occurred.

Although some of the complaints were duplicated, the main themes of the complaints related to disrespect followed up closely by disrepute and bullying. There were 3 complaints about personal interests, although 2 of these related to the same matter.

Members discussed the reporting format and information and it was agreed that future reports should provide case study examples of behaviours and how they had been dealt with. It would also be helpful to provide information on trends, for example, number of complaints that were currently at Stages 1, 2 and 3, and on the amount of time it was taking to deal with complaints.

RESOLVED –

That the report on dealing with complaints against Councillors since 1 April 2020 be noted.

6 CONSTITUTION REVIEW UPDATE

The Service Director (Legal and Democratic Services) informed Members that the terms of reference for both the Standards and General Purposes Committee and the Audit and Governance Committee included for them to recommend changes to the Council's Constitution to full Council. Any changes proposed by the Audit and Governance Committee had to be recommended via the Standards and General Purposes Committee.

A number of Member concerns relating to small / minor or procedural issues had been brought to the attention of the Service Director. In response, it had been agreed that a Constitution Member Working Group consisting of the Chairman and Vice Chairman of both the above Committees would meet to discuss and review the issues. Any proposed changes would then need to be reported back to the Committees, as appropriate, before any recommendations could be made to full Council. The first Working Group meeting would be held in October 2020.

RESOLVED –

That the report be noted, including that an update on the Working Group would be reported back to the Committee in due course.

7 ELECTORAL REVIEW MEMBERS' WORKING GROUP (UPDATE)

The Committee had received a report on 2 July, 2020, explaining that with the establishment of the new unitary Council the Local Government Boundary Commission for England (LGBCE) had indicated that it intended to conduct an electoral review of Buckinghamshire Council. Any changes would not come into effect until the 2025 Buckinghamshire Council elections although the precise timeframe for the stages of the Review still needed to be confirmed.

The Committee had agreed that a Member Working Group (MWG) of 9 Members (to allow for cross party representation) should be established to oversee the work of officers in the preparation of the statistical and other information required by the LGBCE. The membership had now been confirmed as Councillors Waters (Chairman), Mordue, Adoh, Collingwood, Etholen, M Knight, Lambert, L Smith and Stannard.

On 4 August, 2020, the MWG had met remotely with the LGBCE and received a presentation on their approach to the Review, the process that would be followed and the timetable. A similar presentation was given to all Members on 23 September. The briefing session had attended by 90 Councillors. It had also been recorded so that those Members who were unable to attend could also view it.

The LGBCE's initial review timetable proposed a deadline for the Council to make a submission on the final Council size numbers in November 2020, and for the second part of the review looking at Warding arrangements to commence on 11 May 2021.

The MWG had expressed concerns to the LGBCE on both deadlines and asked for more time to be allowed to gather evidence and put together the first submission, and for the Warding submission to commence in June 2021 rather than May. The LGBCE had responded that it was amenable to the submission date on the final Council size numbers being deferred until the beginning of March 2021, and for the second stage of the review to commence in June 2021, to allow a period of time after the elections for things to settle.

The MWG had met on 3 occasions and received information from Officers who had started to populate the template provided by the LGBCE and that they required the Council's submission to be made on. The template and information was still at a draft stage and it was hoped that a fuller version would be reported to the Standards and General Purposes Committee's next meeting in December.

The Standards and General Purposes Committee would need to approve the final Council size numbers submission to the LGBCE in due course and, as such, it was recommended that an additional meeting of the Committee was timetabled to be held on 25 February 2021 for this purpose.

Members were informed that it was important for the submission to be evidence based as much as possible and to this end the information provided by the Officers had focussed on statistical / factual information. However, part of the template (Section 9) related to the community involvement and leadership role of Councillors, where the LGBCE required information on how Members undertook their role, their involvement in Council work and the community, and the time commitment. This included the range of meetings attended and how Members deal with their casework.

A survey (Appendix 1) had been sent to all Members on 24 September following the all Member briefing with the LGBCE. To date, 37 Members had completed the survey.

Separately, the MWG had also been engaging with the Cabinet to help include information with the submission on what the future expectations would be for the Cabinet and the Cabinet Member role, and what other support the role might require.

RESOLVED –

- (1) That the update, including the work undertaken by the Member Working Group since 2 July 2020, be noted.
- (2) That an additional meeting of the Standards and General Purposes Committee be held on 25 February 2021, to approve the Council's final submission to the Local Government Boundary Commission for England on Council size numbers.

8 WORK PROGRAMME 2020/21

The Committee considered their future work programme, which was updated during the course of the meeting.

RESOLVED –

That the future work programme be approved, as follows:

10 December 2020

1. Local Government and Social Care Ombudsman Report – Progress Report.
2. Protocol on the Role of the Monitoring Officer.
3. Review of Social Media Guidance for Councillors.
4. Review of Member Induction and Training on standards of conduct.
5. Electoral Review Members' Working Group (Update).
6. Constitution Working Group (Update).

25 February 2021

1. Electoral Review: Final submission of Council size numbers to the LGBCE

8 April 2021

1. Annual Review of Code of Conduct and Complaints Procedure.
2. Standards Complaints Monitoring Report 2020/21.
3. LGO Annual Report.
4. Electoral Review Members' Working Group (Update).
5. Constitution Working Group (Update).
6. Draft Work Programme for 2021/22.