



Standards and General Purposes Committee minutes

Minutes of the meeting of the Standards and General Purposes Committee held on Thursday 7 October 2021 in The Oculus, Buckinghamshire Council, Gatehouse Road, HP19 8FF, commencing at 2.00 pm and concluding at 3.10 pm.

Members present

T Broom, M Baldwin, B Chapple OBE, S Chhokar, T Green, H Mordue, C Oliver, L Smith BEM and M Smith

Apologies

R Carington, P Gomm, S Lambert, R Matthews and D Thompson

Agenda Item

1 Minutes

RESOLVED That the minutes of the meeting held on 7th July 2021 be approved as a correct record.

2 Declarations of Interest

There were no declarations of interest.

3 Code of Conduct - Breaches of the Code and Freedom of Expression

The Committee received a report on the Code of Conduct regarding breaches of the code and freedom of expression. The reason for the report was to inform Members of recent case law involving a legacy council R (Robinson) V Buckinghamshire Council. In summary, the allegation was that a Parish Councillor had misrepresented a fellow councillor's intentions by alleging that they were keen to see building in the green belt. The then Monitoring Officer, after an investigation, concluded that this showed a lack of respect and brought the Council into disrepute. The Councillor challenged the decision and the Court concluded that the Councillor's comments attracted the 'enhanced protection afforded to political speech and debate under Article 10 of the European Convention of Human Rights'.

The Service Director Legal and Democratic Services summarised the key principles from the case law and asked for Member comments on whether the guidance should be amended to reflect them.

During discussion the following points were made:-

- A Member referred to the use of social media by councillors during meetings. The Service Director reported that councillors were permitted to ‘tweet’ during meetings. The social media guidance had been reviewed prior to May 2020. Another Member commented that it would be helpful to refer to the social media guidance in the code of conduct to make a clear link between the two in terms of expected behaviour. Whilst the guidance referred to the code the code did not refer to the guidance. If the person was posting a comment in a personal capacity not as a ‘councillor’ then the code would not necessarily apply but it would depend on the content of what information was posted. The Service Director reported that they would look to amend the code to make reference to the social media guidance and would bring it back to the Committee for discussion. Another Member suggested it would be helpful to have an annex to the code of conduct on the do’s and don’ts of social media. The Service Director reported that the guidance covered this.
- In relation to a Member making a personal derogatory comment about a named individual this could be subject to challenge.
- The law does make a distinction between comments made as a councillor and comments made in a personal capacity. The Service Director referred to a previous case involving Ken Livingstone. Context was important in terms of private and public life.

RESOLVED that the legal principles be noted that apply when giving consideration to freedom of expression and Code of Conduct issues and that a report be submitted to the next meeting on linking the social media guidance into the code of conduct.

4 Standards Complaints Monitoring Report

The Committee received a report which gave an overview of the number and nature of the complaints received about Members under the Code of Conduct from April 2021 along with details of other complaints which were being processed or have been concluded. In terms of complaints received since April 2021 the Monitoring Officer had received 15 complaints. Six of these related to a Buckinghamshire Council Member. There remained five complaints opened against a Buckinghamshire Council Member although it was expected that these would be resolved and closed shortly.

The Principal Governance Solicitor reported that whilst some complaints covered more than one theme, the majority of new complaints related to behaviour at meetings and interests/bias. Bullying or respect was mentioned in 7 complaints with 4 complaints relating to misleading information. One complaint related to failure to respond to enquiries. Appendix 1 of the report provided a summary of the complaints. Appendix 2 showed a breakdown of complaints. In terms of those under initial assessment it showed 12, however 5 of those complaints have now been closed. One complaint had been left open against a unitary councillor and another complaint was expected to be received. All the other complaints related to town and parish councillors. There were 7 stage 3 complaints but this related to one issue. This would proceed to a Hearings Sub-Committee.

During discussion the following points were made:-

- A Councillor suggested it would be helpful to break down the information between unitary and parish and town councillors. He also asked a question on whether town and parish councils could be recharged the cost of administering complaints. In response it was noted that this was not allowed. Another councillor emphasised the importance of showing the breakdown as complaints had now increased to 22 (this was now 17 as 5 cases had been closed). This would be undertaken for the next report.
- A further question was asked about malicious/vexatious complainants. The Principal Governance Solicitor reported that the Council could refuse to accept malicious complaints after an initial assessment had been undertaken.
- Complaints were administered by the Service Director and the Principal Governance Solicitor. Some of the complaints could be quite detailed and involve witnesses. The Council was bolstering support in the governance area in particular to help deal with Member complaints, and was currently going through a recruitment process.
- Concern was raised with regard to the number of outstanding cases at the end of each month. The Principal Governance Solicitor reported that this could be related to how numbers were reported eg 7 complaints had been recorded against one councillor on the same issue. There was no control over town and parish councillor complaints. Complaints could also be made by members of the public. There were very few complaints that go past Stage 1. Stage 3 involved a formal investigation. In terms of the process once the complaint has been received it was logged, it could then take a while to clarify the complaint with the complainant and then obtain a response from the councillor. Some Parish Councils have relationship issues and therefore this would increase the likelihood of formal complaints being made.
- Another Member made reference to the number of outstanding complaints and suggested that there was a resource issue. There was a range of complaints between 0-8 a month and it could be helpful to look at streamlining the process and prioritising more serious complaints. In response it was noted that complaint figures would also look high because complaints rolled forward from one month to the next while they were waiting for a response from the subject councillor. They were given four weeks to reply. Complaints would usually take two months as once a response had been received from the subject councillor then this response would then need to be considered by the complainant where they were given another four weeks.
- A Member asked whether Parish Councils tried to sort out the situation locally. They could try and resolve issues informally however it was a right to complain to the Monitoring Officer. The Council had no jurisdiction over Parish Council decisions just conduct issues.
- A Member asked a question about what role political groups played in the complaints process. The Service Director reported that each political group had their own disciplinary process. All Members of Buckinghamshire Council

were in a political grouping. The Group Leader had a responsibility for maintaining high standards of conduct. There could also be some areas where the Group could take action over an individual which was not covered by the Code e.g. making a comment in their private life. Officers would speak to Group Leaders if they had any concern about the behaviour of an individual councillor.

- A question was asked about the number of Stage 3 complaints where an investigation was required. The Principal Governance Solicitor reported that this was the first Stage 3 that the Council had looked at which only related to one complaint. Most complaints were dealt with at Stage 1. The Stage 3 complaint was a complex case.

Members suggested that it would be helpful to look at why the Council presented all complaints on one case as several complaints. It would also be helpful to have an average time on how long complaints spent on each stage of the process to look at the framework of reporting.

RESOLVED that the report be noted relating to dealing with complaints against councillors for the period April 2021 to October 2021.

5 Local Government Boundary Commission for England Electoral Review Update

The Committee received a report on the Boundary Commission's review. In February 2021 the Committee submitted its response to the first part of the Boundary Commission's Review on Council size indicating that it considered that the number of councillors appropriate to ensure long-term effective governance of Buckinghamshire Council was 120 Members.

The Service Director Legal and Democratic reported that the Commission had now given consideration to that submission and had concluded that it needed more evidence to ensure that its decision was robust. The Commission have decided to undertake a public consultation to ask local people and organisations for their views on having 120 councillors, 98 councillors or 80 councillors. The consultation had started and would run for eight weeks closing on 1 November 2021. Phase 2 of the review would involve looking at the ward boundaries.

In response to a question the Service Director commented that the report needed to be amended as 98 councillors had been proposed by the legacy County Council and a report commissioned by Buckinghamshire Business First suggested a range of 65-80 councillors. A Member commented that he believed that Bucks Business First had previously received some funding by the legacy County Council.

A Member commented that the 120 figure was not unanimous and that it was important to obtain feedback through the consultation. In response another Member commented that it was important for Members of the public and businesses to understand the amount of work that councillors undertook and that there had been detailed analysis of their workload before the 120 figure had been proposed to the Boundary Commission.

A further comment was made that Buckinghamshire was a large geographical area and often the Commission looked at numbers rather than area. There was a lot more work and travelling involved with a unitary authority.

RESOLVED that the progress of the Electoral Review and the recent consultation undertaken by the Boundary Commission be noted.

6 Election Petition Update: a challenge to the result of the election in Totteridge & Bowerdean Ward (Wycombe area) on the 6 May 2021

The Committee received a verbal update from the Service Director Legal and Democratic on the election petition relating to the Totteridge and Bowerdean Ward. The thrust of the petition was that there should be a recount and an investigation as to whether the spoilt ballot papers had been improperly interfered with. The Service Director had reported at the last meeting that he was confident all the correct procedures had been followed.

The Service Director reported that last week directions were issued by the High Court for the way that the trial would proceed and it would need to take place near the ward in question but not before 1 December 2021. Other directions were given including for witness statements and the Court also ordered that there be a recount of the ward's ballot and that recount took place straight away after the directions were given. The details were confidential. A report would now go to the Commissioner who would consider the matter.

The report was noted.

7 Constitution Working Group (update)

The Service Director Legal and Democratic reported that the Constitutional Working Group had to be postponed as the Chairman of the Audit and Governance Committee was unwell and a future date was being arranged. They would look at suggested changes to the constitution such as the Community Boards, the constitutional matters that relate to the Health and Wellbeing Board, some planning issues and Member questions and the notice procedure used by Cabinet and Full Council.

The report was noted.

8 Work Programme

The draft Work Programme was noted. In addition there could be a Commissioner report on the election petition, a report from the Boundary Commission and also an update from the Constitutional Working Group.