

## **BATH AND NORTH EAST SOMERSET**

### **STANDARDS COMMITTEE**

#### **MINUTES OF THE MEETING OF THURSDAY, 21ST MARCH, 2019**

##### **PRESENT:-**

**Independent Members:** Dr Cyril Davies, Dr Axel Palmer and Deborah Russell

**Parish Representatives:** Tony Crouch and Clive Fricker

**Bath and North East Somerset Councillors:** Sarah Bevan, Sally Davis, Brian Simmons and Geoff Ward

**Officers:** Maria Lucas (Director of Legal and Democratic Services and Monitoring Officer) and Marie Todd (Democratic Services Officer)

**Independent Person:** Tony Drew

#### **36 APPOINTMENT OF CHAIR**

RESOLVED: To appoint Dr Axel Palmer as Chair of the Committee. Dr Axel Palmer was welcomed to his first meeting as an independent member.

#### **37 WELCOME AND INTRODUCTIONS**

The Chair welcomed Parish Representative, Cllr Clive Fricker, to his first meeting of the Standards Committee.

#### **38 EMERGENCY EVACUATION PROCEDURE**

The Democratic Services Officer announced the emergency evacuation procedure.

#### **39 APOLOGIES FOR ABSENCE AND SUBSTITUTION**

Apologies for absence were received from Parish Representative, Cllr Veronica Packham.

#### **40 DECLARATIONS OF INTEREST**

There were no declarations of interest.

#### **41 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR**

There was no urgent business.

**42 ITEMS FROM THE PUBLIC - TO RECEIVE DEPUTATIONS, STATEMENTS, PETITIONS OR QUESTIONS (COMPLAINTS MUST GO THROUGH THE STANDARDS COMPLAINTS PROCEDURE)**

Mr Alex Hansen, from the Woodland Grove Community Group, made a statement regarding the way that the Council records and retains members' declarations of interest. He also spoke about the time restriction on complaints, which should normally be brought within 6 months of the decision or action complained of. A copy of Mr Hansen's statement is attached as *Appendix A* to these minutes.

**43 ITEMS FROM COUNCILLORS AND CO-OPTED AND ADDED MEMBERS RELATING TO THE GENERAL BUSINESS OF THE COMMITTEE**

There were no items from Councillors.

**44 MINUTES OF THE MEETING OF 22ND NOVEMBER 2019**

The minutes of the meeting held on 22 November 2018 were confirmed and signed as a correct record.

**45 PROTOCOL BETWEEN BATH AND NORTH EAST SOMERSET COUNCIL AND AVON AND SOMERSET CONSTABULARY**

The Monitoring Officer presented the report which asked the Committee to consider and approve the use of a protocol between B&NES Council and Avon and Somerset Constabulary. The Constabulary had prepared their own protocol and the Monitoring Officer welcomed this opportunity for collaboration.

During discussion the following matters were discussed:

- The protocol would operate between the Police and the Council and provided a framework for dealing with offences. If necessary some matters could be referred on to specialist teams as appropriate.
- The Monitoring Officer confirmed that point number 5 referring to "interests held by family members living at the same address" was correct and referred to co-habiting. This was in line with the definition in the Localism Act.
- The "Guardian/Niche" system was a system used by the Police Service.
- The Monitoring Officer had, so far, not referred any offences to the Police but had informed them of one allegation received and of her decision not to take the matter any further.

On a motion by Dr Axel Palmer, seconded by Cllr Geoff Ward it was:

RESOLVED: To approve the use of the Protocol between B&NES Council and Avon and Somerset Police, for Investigations and Offences under the Localism Act 2011 Section 34, as set out in Appendix 1 of the report.

## **46 REPORT ON MEMBER'S GIFTS AND HOSPITALITY**

The Monitoring Officer presented the report which asked the Committee to consider the proposed guidance for Councillors on registering gifts and hospitality and to recommend the guidance to the Council.

During discussion the following matters were raised:

- It was noted that paragraph 4(e) refers to the register of interest setting out all relevant declarations covering both the current and immediate previous terms of the Councillor. It was felt that this addressed some of the concerns raised by the public speaker earlier in the meeting.
- The Monitoring Officer agreed to ensure the Parish Clerks are aware of the guidance and, in particular, of the requirement to register gifts and hospitality in excess of £25. Members felt that it would be sensible if Parishes were to take the same approach.
- The Monitoring Officer explained that the Committee for Standards in Public Life suggested that registrations should be made for amounts in excess of £50. However, individual local authorities could decide on a different amount if they felt that this was appropriate. It was noted that the recommendations of the Committee for Standards in Public Life had not yet been adopted and members felt that there was no harm in B&NES taking a more stringent approach. If necessary, this could be reviewed at a later date.
- Deborah Russell proposed that paragraph 6, should be amended to specify a maximum value for cumulative gifts and hospitality stating that those “over a value of £100 should be declined.”

On a motion by Cllr Sally Davis, seconded by Cllr Sarah Bevan it was:

RESOLVED: Subject to the inclusion of wording specifying that cumulative gifts and hospitality over a value of £100 should be declined, to recommend the Council to approve the proposed guidance on registering gifts and hospitality as set out in Appendix 1 of the report.

## **47 REVIEW BY COMMITTEE ON STANDARDS IN PUBLIC LIFE**

The Monitoring Officer presented the report which set out details of the Review by the Committee on Standards in Public Life. The Standards Committee was asked to consider the recommendations and best practice suggestions set out in the report.

Members briefly discussed the recent case of R (Harvey) v Ledbury Town Council [2018]. The court held that a council cannot run a grievance procedure alongside, or as an alternative to, a standards regime procedure under the Localism Act 2011, and that complaints regarding a councillor's conduct have to be dealt with under the authority's standards arrangements. The Monitoring Officer agreed to send a copy of this case to the Chair for information.

The Committee discussed each of the best practice recommendations which were directed to local authorities. It was noted that the Council already complies with Best Practice Recommendations 5, 7, 8, 9, 10, 12, 13 and 14.

RESOLVED: To take the following actions in respect of the best practice recommendations set out in the Review:

- **Best Practice 1** – *Local authorities should include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition.*

**Action** – To ask the Monitoring Officer to bring a report to the next meeting setting out a proposed list of examples of the sort of behaviour covered by the definition of bullying and harassment.

- **Best Practice 2** – *Councils should include provisions in their code of conduct requiring councillors to comply with any formal standards investigation, and prohibiting trivial or malicious allegations by councillors.*

**Action** – To ask the Monitoring Officer to bring a report to the next meeting setting out revisions to the code of conduct to include these.

- **Best Practice 3** – *Principal authorities should review their code of conduct each year and regularly seek, where possible, the views of the public, community organisations and neighbouring authorities.*

**Action** – To add an annual review of the code of conduct to the Standards Committee's work plan.

- **Best Practice 4** – *An authority's code should be readily accessible to both councillors and the public, in a prominent position on a council's website and available in council premises.*

**Action** – To ask the Monitoring Officer to ensure that the code of conduct is in a prominent position on the council website as part of the current website review that is taking place. To ask the Monitoring Officer to carry out a review of Parish Councils to check if they are also compliant with this recommendation.

- **Best Practice 6** – *Councils should publish a clear and straightforward public interest test against which allegations are filtered.*

**Action** – To request the Monitoring Officer to review the Council's public interest test as part of the annual review.

- **Best Practice 11** – *Formal standards complaints about the conduct of a parish councillor towards a clerk should be made by the chair or by the parish council as a whole, rather than the clerk in all but exceptional circumstances.*

**Action** – To ask the Monitoring Officer to draw this to the attention of Parish Councils.

- **Best Practice 15** – *Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.*

**Action** – To ask the Monitoring Officer to meet at least twice yearly with Group Leaders to discuss standards issues.

## 48 COUNCILLOR ROLE PROFILES

The Committee considered a report which set out Councillor Role Profiles which were designed to provide clarity for Councillors about their roles and responsibilities and requested the Committee to recommend that these were included in the Code of Conduct.

Cllr Sarah Bevan expressed some concern around No. 2(d) on the “All Councillors” role description which stated that members worked with partners and outside bodies as a representative of the Council. Cllr Bevan queried whether this was appropriate for an opposition group member whose role was to hold the Council to account.

On a motion by Cllr Geoff Ward and seconded by Deborah Russell it was:-

RESOLVED: To recommend the Council to amend the Code of Conduct to include the following paragraph:

*“Members are expected to work within the Role Descriptions that have been adopted and any Councillor complaints considered by the Standards Committee will use these as a guide.”*

## 49 REPORT ON THE ASSESSMENT OF COMPLAINTS

The Committee considered the report from the Monitoring Officer and noted that four complaints were currently outstanding.

- One complaint, which had been received last year, was at the final stage of investigation.
- Three complaints had been received so far this year:
  - One was ongoing with further clarification being sought.
  - One was at the initial assessment stage.
  - One had been referred to a neighbouring Monitoring Officer to carry out the initial assessment due to a conflict of interest.

The Monitoring Officer stated that there were no particular trends which the Committee needed to be aware of in relation to complaints received.

RESOLVED: To note the report on the assessment of complaints.

**50 WORK PLAN FOR THE STANDARDS COMMITTEE**

RESOLVED: To note the work plan for the Standards Committee.

The meeting ended at 7.25 pm

Chair(person) .....

Date Confirmed and Signed .....

**Prepared by Democratic Services**

Good evening. I represent Woodland Grove Community Group.

While the standards committee should be applauded for the reviews under discussion this evening. There are two further aspects that have not been discussed, and we would like you to consider.

An integral part of the democratic process is expressed in the “Nolan Principals”, Selflessness, Integrity, Objectivity, Accountability, Openness, Honesty and Leadership

The end of Councillors Terms in Office is clearly defined, while some local issues are not. A matter that arises during a term in office can remain a matter of public interest and debate while new representatives are elected.

An important part of this “Open” democracy are the “Public Declarations” made by Councillors during their term in office. They allow all that choose to look, an insight into aspects of Councillors work. The viewer can choose to take a “view” on any details or not.

Currently, it is B&NES policy to remove the declarations during the local election process. Not just removed, but deleted forever, information that “openness” dictates should be available. Newly elected Councillors, some of whom previously served, will therefore have blank “declarations”, where previous information could be relevant to existing and future matters.

For the vast majority, if not all, of re-elected Councillors, we believe maintaining this information would be of little cause for concern.

For the residents it allows continuity and openness.

For possibly the few, it is another aspect to consider.

We would ask the Committee to consider a proposal where returning councillors maintain their declarations from previous terms, on-line. Councillors ending their public service commitment would have their details removed from the public website but reference copies retained within the Council archives.

Secondly. The current policy previously agreed by the Council, sets a time limit on complaints that happened more than six months prior.

That maybe understandable in cases where a clear memory of a conversation that was relevant to the complaint is crucial, in cases where all, or most, of the evidence is available in documents, and any issue would stand or fall, based on the documentary evidence, then the six month rule seems unreasonable. It could be the case that any misdemeanours would fail to be fully assessed and the complainant satisfied, should the matter fail due to the time restriction.

It may be reasonable to consider a time frame of “responsibility”. We would suggest the “Term of Office”, unless the event was “criminal” and a police matter. If the current measure was requested by, and voted for, by councillors, the public may take a view that the Council is unfairly protecting itself, even if that is not true we think it is time to consider a revision. As it currently stands the regulation could hardly be considered to meet the general understanding of “openness” & “accountability, at odds with the principles “Nolan” set out to achieve.