

## **Minutes of the meeting of Standards Panel held at On line meeting only on Thursday 20 August 2020 at 2.30 pm**

**Present:** Claire Jenkins, independent person for standards (chairperson)

**Councillors:** Peter Jinman, Diana Toynbee, Yolande Watson and Richard Gething (HALC nominated representative)

**Officers:** Monitoring officer and deputy monitoring officer

### **19. APOLOGIES**

There were no apologies for absence.

### **20. DECLARATIONS OF INTEREST**

Councillors Peter Jinman and Yolande Watson both declared that one parish council within their ward had been identified but that there was no close personal association.

Councillor Jinman also declared that one subject member was known to him but that there was no close personal association. Councillor Jinman confirmed that he had sought the advice of the monitoring officer to ensure his understanding of the rules.

### **21. EXCLUSION OF PRESS AND PUBLIC**

The panel discussed whether the meeting should be held in public or private. During the course of the discussion, the following points were made:

- The meeting should be held in public as much as possible.
- If there were any complaints which would need to be discussed in more detail which would mean identifying the complainant or subject member, those complaints should be clustered together and discussed in private session at the end of the meeting.
- It was the process of dealing with code of conduct complaints which was being discussed so the meeting should be held in public to provide openness and transparency.

#### **RESOLVED That**

**the meeting of the standards panel held on 20 August 2020 be held in public.**

### **22. SAMPLING OF MONITORING OFFICER RESOLUTION DECISIONS BETWEEN 1 NOVEMBER 2019 TO 30 APRIL 2020**

The monitoring officer presented the report and highlighted that it was a function of the panel to undertake a sample review of code of conduct complaints dealt with under monitoring officer resolution. These complaints included parish, town and county

councillors and all complaints received and closed during the period were included as appendices to the report.

It was confirmed that if a complaint was withdrawn, then it would not be considered by the standards panel as a decision had not been taken by the monitoring officer.

As outlined in the annual governance statement, a review of the arrangements for dealing with code of conduct complaints would be undertaken during the year 2020/21.

Taking appendices 2 to 15 in order:

#### Appendix 2

A failure to declare an interest was a common complaint against councillors. In this instance, the monitoring officer had met with the councillor and it was clear that there was a lack of training and understanding of the code of conduct. There was no personal gain involved and therefore the resolution was training which had been undertaken by the councillor concerned.

It was noted that the time taken to conclude this complaint was 85 working days and the process was 55 working days. However, it was difficult to conclude complaints within 55 working days if they were complex. It was acknowledged that was not nice to be the subject of a complaint and any delays would always look as if they lay with the monitoring officer.

It was noted that declarations of interests were always the responsibility of the individual councillor but that it was always better to declare an interest than not.

The panel noted that in this instance there had been some naivety about the declaration and it was unfortunate that it had not been dealt with appropriately by the council before it became a formal complaint.

It was noted that this matter had been appealed but that the deputy monitoring officer had upheld the decision as there were no new facts to justify an appeal.

#### Appendix 3

This was a complaint against a failure to declare. The councillors had provided a full response. The matter had been appealed but no new evidence had been submitted in order to uphold it.

It was confirmed that when the decision notice was sent to complainants and councillors, details of how to appeal were included. It was noted if there were new allegations contained within an appeal, this would be considered as a new complaint.

The panel requested that details of appeals received and rejected were included within appendix 1 in future.

#### Appendix 4

This complaint had been resolved under Any Other Course of Action. The councillor had resigned and a public interest test had been undertaken in relation to continuing the complaint as complaints were not automatically discontinued when councillors resigned. In this matter, the monitoring officer had already recommended that the council undertake code of conduct training and this complaint would not add to that intervention.

It was noted that there is no legal requirement for councillors to undertake training. It was confirmed that if there was a recommendation that a council undertake code of conduct training that all members of the council were required to do so. Failure to do

so, could result in the matter being referred to a standards panel as the monitoring officer will have been unable to resolve the complaint.

It was noted that code of conduct training was mandatory for councillors of Herefordshire Council. Herefordshire Association of Local Council (HALC) undertakes a range of training which parish councils can undertake and it was confirmed that the vast majority of parish councils in Herefordshire did undertake training. However there was no mandatory training required by parish councillors.

It was further noted that tracking and compliance of monitoring officer recommendations formed part of the annual code of conduct complaint to the audit and governance committee.

#### Appendix 5

This complaint related to a failure to disclose a close personal association but no evidence had been provided.

#### Appendix 6

This related to disclosure of interests in relation to members of family. The monitoring officer looked whether there was a direct interest in the matter and what would be considered a conflict or an interest. There was no evidence of an actual breach in this case.

The issues with regard to planning complaints were interesting as they could cut cross code of conduct, the council's corporate complaints process and potentially judicial review. The monitoring officer needed to ascertain which parts of any complaint related to code of conduct.

#### Appendix 7

This related to an allegation that a councillor did not having an open mind. It was noted that councillors do have the right to an opinion as a person as long as they attend meetings with an open mind. No evidence of a breach of the code had been provided.

#### Appendix 8

This related to a long standing planning issue but no evidence had been provided to show pre-determination or bias.

The panel thought that this may be an opportunity for the cabinet member for parish support to highlight the benefits of joining and registering with the BBLP lengthsmen scheme. The panel agreed to recommend to audit and governance committee that consideration should be given to encouraging parish councils joining HALC.

#### Appendix 9

This complaint had been resolved under Other Course of Action and there was already a recommendation in place for the parish council to undertake code of conduct training.

#### Appendix 10

This complaint was in relation to a subject member disclosing information about a code of complaint made against them. It was noted that the complaints process was confidential but it was the councillor's information. The monitoring officer had considered whether the actions had brought the council into disrepute.

It was confirmed that the monitoring officer did now have in place a budget for mediation.

#### Appendix 11

With regard to this complaint, although the conduct could have been considered to have been acting in the councillor's personal capacity, the monitoring officer had linked it to

what was being discussed at parish council meetings. This had led to a finding of a breach of the code of conduct.

#### Appendix 12

This related to the failure to declare a close personal association and a great deal of information had been provided but no evidence. An appeal had been received but no new substantial information or evidence had been received so the deputy monitoring had upheld the monitoring officer's decision.

#### Appendix 13

The councillor upon receiving the complaint had apologised. It is a matter for the councillor to reflect on what had been said.

The panel agreed that a recommendation should be made to the audit and governance committee to include a question over what actions complainants were seeking.

#### Appendix 14

This was a self referral in from a councillor and the monitoring officer confirmed that self-referrals were accepted. This related to whether or not a councillor was acting in a personal or councillor capacity and it was determined that they were acting in a personal capacity but some advice had been provided about what wording could be used in future to make it clear that they were acting in a personal capacity.

#### Appendix 15

This complaint had been resolved under Other Course of Action and there was already a recommendation in place for the parish council to undertake code of conduct training.

This concluded the review of monitoring officer resolutions under the arrangements for dealing with code of conduct complaints. It was agreed that the municipal year 2019/20 be closed down, acknowledging that 5 complaints remained opened. The standards panel function was to review a sample of complaints and not all complaints. However, if there were significant issues arising which needed to be brought to the attention of the audit and governance committee, then this would be done.

### **RESOLVED that**

**The following recommendations be made to the audit and governance committee:**

- 1. To consider promoting membership of HALC to parish councils;**
- 2. Consider whether if a template could be used for appeals under the arrangements for dealing with code of conduct complaint;**
- 3. Consider adding a question to the code of conduct complaints form to ask what resolution complainants are seeking; and**
- 4. Close the complaints for the municipal year 2019/20 accepting that standards panel have not reviewed 5 complaints received during the year. Any identified significant issues will be brought to the attention of the audit and governance committee.**

The meeting ended at 16:02 pm

**Chairperson**