

Minutes of the meeting of Standards Panel held at Conference Suite, County Offices, Plough Lane, Hereford, HR4 0LE on Wednesday 12 January 2022 at 10.00 am

Present: Claire Jenkins, Independent person for standards (Chairperson)

Councillors: Peter Jinman, Nigel Shaw and Christy Bolderson
Councillor Richard Gething, Herefordshire Association of Local Councils nominated representative

Officers: Director of governance and law, Interim head of legal services and Head of Law and Business Partner (Adults)

23. APOLOGIES FOR ABSENCE

None.

24. DECLARATIONS OF INTEREST

Councillor Bolderson stated that she was named in one of the complaints because she provided advice to submit the complaint to the complainant.

25. EXCLUSION OF PRESS AND PUBLIC

During the discussion of whether the review meeting should be held in public or private, the following points were raised:

- Previous panel meetings had been held in public and personal information was not discussed.
- The panel were reviewing the process but not the content of the complaint which is why individuals did not have to be named.
- If there is a need for a detailed conversation where personal information would need to be disclosed, the panel could move into private session.

RESOLVED That

the meeting of the standards panel held on 12 January 2022 be held in public.

26. SAMPLING OF MONITORING OFFICER RESOLUTION DECISIONS BETWEEN 1 APRIL 2020 AND 1 MAY 2021

The director of law and governance presented the report and highlighted:

- 42 complaints had been received during 2020/21
- There were 2 outstanding appeals.
- The complaints were typical in number and types of complaints.
- 2020/21 had been an extraordinary due to Covid-19, staff changes, the court judgement in children's services.

- There had been a number of different decision makers as both the monitoring officer and deputy monitoring officer had been dealing with other high priority issues. It was also noted that the administrator for code of conduct complaints had also been supporting the court case.
- Due to the above there had been issues with timeliness on the complaints being reviewed. The normal process took 55 working days. The average complaint was 87 days, but one complaint was resolved in 171 days and the other was resolved in 15 days. This was not satisfactory
- It was acknowledged that there would need to be more officers involved in the complaints process. This would also allow the monitoring officer and deputy monitoring officer to meet complainants/subject members whilst others then dealt with the complaint.
- The panel which had been scheduled for 28 January would be re-arranged.
- The reasons for delay in dealing with complaints was now being tracked and would form part of the tracking spreadsheet presented to panel at review meetings.
- The panel were reviewing all closed complaints received in 2020/21.

A member of the panel commented that that if the council informed the public and those subject to complaint of the delay, complaints may have been minimised.

Appendix 2

The complaint had been rejected as there had been no evidence provided that the councillor had been acting as a councillor at the time. It was acknowledged that this would be difficult for complainants to tell the difference.

The issue went to the heart of the Nolan principles and councillors should consider these principles carefully.

The issue of maladministration, pre-determination and parish council procedures were all outside of the remit of the code of conduct.

Appendix 3

The decision on this complaint had been to find a breach of code of conduct. This was in relation to NDP regulations, no bad faith had been evident but there had been a finding that there was a failure to uphold the code. The councillor had apologised unreservedly.

If the councillor had written in their personal/private capacity, then there would not have been a breach of the code. However, if they had been using information which was only available to them as a councillor, then there was a potential link to the code or it could be considered as bringing the council into disrepute.

Appendix 4

This was similar to appendix 2 in relation to a councillor acting in their personal capacity and pre-determination.

Councillors are not normally made aware of complaints against them which have been rejected.

The monitoring officer can only recommend that appropriate training is undertaken but there is no legal obligation for the councillor to comply.

It was noted that:

- Herefordshire Council could disseminate best practice to clerks.
- The monitoring officer has been invited to town councils to deliver code of conduct training and had previously delivered training to parish councillors.
- HALC could also disseminate best practice to their membership.

Appendix 5

The complaint was planning related and the use of language in a committee meeting. The finding had been no breach of the code.

The councillor had been able to reflect on the language used and did apologise.

Appendix 6

This complaint was similar to appendix 5 and related to the same meeting.

It was noted that it was useful to look at the YouTube stream when considering complaints in connection with conduct at a public meeting.

The concerns raised were about the language and objectivity of the councillor.

Appendix 7

This complaint dealt with the issues of when a councillor is acting in an official capacity on social media. There was also added elements of the use of language and acronyms. In this particular case, the councillor had 2 social media accounts which were personal and councillor. On balance, the decision had been no breach of the code but there was a recommendation to provide an apology for the language use. As this was a finding of no breach of the code, the recommendation was not tracked.

Appendix 8

This complaint was dealt with under other course of action.

An explanation of how other course of action worked and relevant case law was discussed

It was noted that the monitoring officer or deputy monitoring would have rejected the complaint but the lawyer dealing with the matter looked at the issues further

Appendix 9

This complaint related to the declaration of interest at a meeting and was against a councillor and the clerk.

The monitoring officer cannot consider complaints against clerks. The complaint against the councillor had been discontinued due to their resignation.

Appendices 10, 11 and 12

This complaint was in relation to a number of councillors. There had been a finding of no breach of the complaint.

There had been an observation in the decision notice that care needed to be taken with regard to comments as they could be misinterpreted.

Appendix 13

This complaint was in relation to the tone and behaviour of councillors and how it is interpreted by members of the public.

Appendix 14

This was a planning related complaint.

The issue of providing guidance to parish councillors was discussed as not every parish council was a member of HALC. It was noted that the monitoring officer normally arranges annual training to disseminate learning.

Appendix 15

This complaint related to who could make a complaint, e.g. the chairperson of a meeting in upholding the code. It was noted that monitoring officer and deputy monitoring officer may have reached a different view of the matter.

During the conversation, it was noted that where there was a specific incidence re leadership role and they are being made aware of actions which may lead to the council being in dispute, then a chairperson should be able to make a complaint as part of the Leadership in the Nolan principles.

It was also noted that the monitoring officer could also refer a complaint in. In this instance, any complaint would be outsourced to another council in line with the arrangements

Appendix 16

This complaint related to issues of governance of a council so had been rejected.

Appendix 17

This complaint had rejected as on balance the officer dealing with the matter had concluded that it was not serious enough to proceed.

Appendix 18

This complaint had been rejected because it was a neighbour dispute so would be acting in their personal / private capacity. The complaint had been referred to the Local Government Ombudsman who could not find any fault with the decision.

Appendix 19

This complaint related to issues of governance of a council so had been rejected.

Appendix 20

The complaint had been rejected because it was similar to the complaint at appendix 16.

It was noted that this was a different complaint but the same facts so there should have been more information in the outcome letter.

Appendix 21

The finding in this complaint had been breach of the code and confirmation had been received that the training had been undertaken.

Appendix 22

This complaint concerned a councillor conduct during a pandemic. The councillor had agreed to provide an apology so there was no further action.

Appendix 23

The finding of this complaint had been a finding of a breach of the code.

Appendix 24

This complaint was in relation to councillor interaction with a member of the public who felt it was unreasonable.

Appendix 26

This complaint was substantially similar to another complaint It was noted that a learning point should be to look at the wording of similarly substantial where there is an appeal so that the complaint is delayed.

Appendix 26

The finding in this complaint had been no breach and had been appealed. The monitoring officer had considered the appeal and as no new information had been received, it had been rejected.

Appendix 27

This complaint dealt with conduct at a meeting. The officer had viewed the recording of the meeting.

Appendix 28

This complaint related to complainant who felt that they had been unfairly dealt in relation to an informal meeting.

The second complaint on this complaint had been rejected because the facts did not engage the code.

Appendix 29

This was a planning related complaint which involved whether there was a close personal association. It was noted that just knowing someone did not mean that there was a close personal association but the public perception may be that there is.

Appendix 30

This complaint dealt with social media comments and the monitoring officer agreed to look at the wording in arrangements for dealing with complaints relating to the trivial criteria.

Appendix 31

When taking into account the evidence provided, it was considered that the email was not a breach of the code.

General discussion

During the general discussion of the complaints procedure, the following points were raised.

- The word “trivial” could be replaced with “is not sufficient to show that the code of conduct is engaged.”
- There were now model arrangements for dealing with councillor complaints from the Local Government Association.
- There were 1-2 parish councils who have consistent issues but there were very limited outcomes / sanctions available. The emphasis had to be on prevention.
- There is no client relation between the monitoring officer and parish councils so advice could not be given.
- Parish Council clerks do have to undertake training and be professionally qualified.
- Independent person support was available for councillors.
- A request to consider whether the form could make it clear that there are no powers to suspend or remove a councillor.
- A request to consider whether in the decision notices wording is included to say what powers the monitoring officer does or does not have.

RESOLVED that

The following recommendations be made to the audit and governance committee meeting to be held on 25 January 2022. That:

- 1. information on best practice, especially in relation to planning issues, be circulated to parish councils through the council’s normal communication route.**
- 2. the arrangements for dealing with code of conduct complaints be amended to remove the word ‘trivial’ and to replace with “not sufficient to show that the code of conduct is engaged”.**
- 3. the Nolan Principles be sent to all town and parish councils with a request that they consider including them in all agendas to remind councillors of expected behaviour.**
- 4. the Nolan Principles be checked for updates and all relevant Council documentation be updated accordingly.**
- 5. the arrangements for dealing with code of conduct complaints be amended to make it clear who can make a complaint.**
- 6. the monitoring officer review the wording used when rejecting complaints in respect of similarity to previously resolved complaints.**
- 7. decision notices include details as to the powers and sanctions available to the monitoring officer.**
- 8. advice be provided to all councillors with regard to the use of social media and when acting as a councillor.**