

JOINT MEETING OF CIVIC AFFAIRS AND STANDARDS COMMITTEE

27 June 2012
6.00 - 7.35 pm

Present: Councillors Boyce (Chair), Ashton, Benstead, Dryden, Herbert, Marchant-Daisley, McPherson, Pitt, Rosenstiel, Swanson and Tucker

Independent Members of the Standards Committee - Dr Clark and Mr Williams

Officers Present

Head of Legal Services – Simon Pugh
Committee Manager – Martin Whelan

FOR THE INFORMATION OF THE COUNCIL

1 Apologies

Prior to the formal start of the meeting Councillor Herbert questioned the status of the meeting. The Head of Legal Services clarified the status of the meeting, and that it was hoped that consensus could be reached on each item. It was noted that if votes were required, separate votes would be required for the members of Civic Affairs and the members of Standards Committee.

Apologies were received from Councillor Smart and Mr Dasgupta.

2 Declarations of Interest

It was noted that the existing independent members were eligible to apply for the role of the “Independent Member” for a transitional period up until 1st July 2013, and therefore the existing independent members may wish to leave the meeting for consideration of item 5 if they were considering applying for the role.

Dr Clark confirmed that he would be not be applying for the role.

Mr Williams withdrew from the meeting during Item 5 in case he decided to apply for the role.

3 Notification and Declaration of Interests

The committee received a report from the Head of Legal Services regarding changes to the notification and declaration of interests by councillors. The changes took effect from 1 July 2012 and replaced the current regime of “personal and prejudicial interests” with a category of “disclosable pecuniary interests”.

The report also asked for delegated powers to the Monitoring Officer to determine applications for dispensations to speak and/or vote when members had a disclosable pecuniary interest.

Key changes included:

- Failure to notify or disclose a disclosable pecuniary interest is a criminal offence punishable by a fine and/or disqualification.
- The definition of a disclosable pecuniary interest includes interests held by councillors and their “partner”.
- There is no longer a test of whether an interest is “prejudicial”. If a member has a “disclosable pecuniary interest” in a matter, they may not participate unless they obtain a dispensation.

The Head of Legal Services mentioned that the scope of a declarable pecuniary interest was much narrower than that of a personal interest. However, the new Code of Conduct recommended later in the agenda sought to retain the current requirements to register and declare interests that were not disclosable pecuniary interests.

Members of the committee raised a number of queries concerning the circumstances in which a declarable pecuniary interest might arise. Members also expressed concern that the requirement to register interests held by a partner would infringe partners’ rights to privacy.

Members agreed that delegating consideration of dispensations to the Monitoring Officer made sense but asked that the Chair and Spokesperson(s) for Civic Affairs continue to be consulted after the appointment of the "Independent Person". They also recognised that consultation would not be possible if an application for a dispensation was made at short notice. In these circumstances, the Monitoring Officer should be authorised to determine the application but should report the decision to the next meeting of Civic Affairs.

COUNCIL IS RECOMMENDED (Nem Con)

- i. That, pending the appointment of an "Independent Person", the Monitoring Officer is authorised to determine applications for dispensations to speak and or vote from members with declarable pecuniary or other Code of Conduct interests, subject to the Monitoring Officer first consulting the Chair and Opposition spokesperson for Civic Affairs.
- ii. That the Monitoring Officer shall consult the Independent Person, when appointed, before determining applications for dispensations, as well as the Chair and Opposition Spokesperson for Civic Affairs (or appropriate alternative councillor if either is directly affected).
- iii. That the Monitoring Officer is authorised to deal with applications for dispensations at short notice, where it is not practical to consult the Independent Person, Chair or Opposition Spokesperson subject to the decision being reported to members of Civic Affairs Committee thereafter.
- iv. That the Civic Affairs Committee keeps this arrangement under review.

4 Adoption of a Code of Conduct

The committee received a report from the Head of Legal Services explaining that the standards provisions in the Localism Act meant that the Council had to adopt a new Code of Conduct. The Head of Legal Services said that the draft Code circulated with the agenda for the meeting was not the correct version and he circulated the correct version.

The Head of Legal Services explained that there were several model codes in circulation and drew attention to the codes issued by the Local Government Association and by the Department for Communities and Local Government. Both model codes were attached to the report.

The code recommended for adoption was based on the current code, amended only to include the new requirements for notification and declaration of “declarable pecuniary interests”. All Cambridgeshire local authorities, with the exception of Huntingdonshire, were considering basing their codes on the current code, although the final versions adopted by authorities were likely to differ in the detail.

Members discussed the merits of the more detailed approach taken by the proposed code and the merits of the “lighter touch” approach taken by the other two model codes.

The Head of Legal Services stressed the need for the Council to adopt a code of conduct on 19 July but said that it would be possible to revisit its provisions if members wished to make improvements.

COUNCIL IS RECOMMENDED (Nem Con)

To adopt the Code of Conduct appended to these minutes..

5 Appointment of an "Independent Person"

The committee received a report from the Head of Legal Services setting out the need to appoint one or more “independent persons” in connection with the revised standards regime introduced by the Localism Act 2011. A proposed description of the role, and of the skills and competences needed, was annexed to the report.

The report set out the statutory functions of the Independent Person:

- The IP must be consulted and their views taken into account before the Council makes a decision on any allegation it has decided to investigate.

- The IP may be consulted by the Council in other circumstances related to “standards” issues; e.g. at the point at which a complaint is received, or more generally regarding ethical issues.
- The IP may be consulted by a member of the authority against whom an allegation has been made.

The report recommended that, in addition, a deputy Independent Person should be appointed, to avoid conflicts of interest and to provide resilience.

The proposed allowances were in line with those being recommended to other Cambridgeshire councils.

In response to questions, the Head of Legal Services clarified that the prohibition in the Localism Act that would have barred the appointment of current external members on the Standards Committee as Independent Persons had been lifted. He also indicated that, whilst Independent Persons or other members of the public could be co-opted to a Standards Committee, this would have to be on a non-voting basis.

Members discussed arrangements for advertising the appointments and agreed that they should be advertised in the press, as well as on the Council’s website.

COUNCIL IS RECOMMENDED (Nem Con)

- i. To appoint one Independent Person and one deputy, and that the appointment process is advertised in the press, as well as on the Council’s website.
- ii. To agree that the Independent Person is paid an annual allowance of £1,000 and that the Deputy is paid an annual allowance of £500.
- iii. To agree that the appointments are made for a three year term but with appointments subject to annual ratification at the Annual Meeting of the Council.
- iv. To agree the selection criteria and role description annexed to the report.

- v. To agree that a member panel is appointed to recommend appointments to the Council
- vi. To agree that the Monitoring Officer is authorised to take such reasonable steps as he considers necessary to implement these recommendations.

6 Considering Complaints and Governance Arrangements

The committee received a report from the Head of Legal Services regarding responsibility for the Council's statutory duty to promote high standards of conduct, for overseeing complaints against councillors and for other aspects of standards in local government.

The report explained that the Localism Act revoked the statutory requirement to have a separate standards committee and recommended making the Civic Affairs Committee responsible for these functions. Amended terms of reference for the Civic Affairs Committee were set out in Appendix 1 of the report.

Appendix 2 of the report proposed a procedure for considering complaints that a councillor had breached the Code of Conduct. This sought to adopt a more flexible and less bureaucratic approach to consideration of complaints to that previously required by statute, whilst ensuring external oversight through the role of the Independent Person. The procedure also proposed a right of review by a sub-committee if members of the public were unhappy with decisions made at officer level.

Members discussed approaches to dealing with complaints, including the merits of mediation in appropriate circumstances. Members suggested that the sub-committee that would consider complaints should be referred to as the "Standards Sub-Committee". They also asked for sub-committee decisions to be published in the form of decision notices and that a summary of complaints against councillors should be included in the Annual Complaints Report.

Following discussion, the Committee agreed to amend annex 2 of the report: as follows:

- i. References to Complaints Sub Committees should be replaced with Standards Sub Committee
- ii. That Standards Sub Committees would be 2 Liberal Democrats + 2 Labour in composition and that all members of Civic Affairs should be authorised to be members.

COUNCIL IS RECOMMENDED (Nem Con)

- (i) To agree that a direct replacement for the Standards Committee is not appointed and that the Civic Affairs Committee is made responsible for promoting high standards of conduct by members and officers, for overseeing the procedure for considering complaints against councillors, and for any other aspect of promoting or regulating standards in local government that do not fall within the remit of the Executive or another regulatory committee.
- (ii) To agree that the Council amends the terms of reference for the Civic Affairs Committee as set out in Appendix 1 of the report, and that references to the Standards Committee are deleted.
- (iii) To agree that the procedure for considering complaints against councillors set out in Appendix 2 is adopted as amended.
- (iv) To agree that the Civic Affairs Committee is invited to appoint Standards Sub-Committees (2 LD + 2Lab) to consider complaints (as outlined in Appendix 2), with all members of Civic Affairs Committee authorised to be members.
- (v) To agree that the arrangements proposed are reviewed by the Civic Affairs Committee in 12 months' time.
- (vi) To thank the external members of the Standards Committee for their contribution to the work of the Council in promoting and maintaining ethical standards.

The meeting ended at 7.35 pm

CHAIR