



STROUD DISTRICT COUNCIL

Council Offices • Ebley Mill • Ebley Wharf • Stroud • GL5 4UB

Tel: (01453) 754 351/754 321

www.stroud.gov.uk

Email: democratic.services@stroud.gov.uk

EXTRAORDINARY AUDIT AND STANDARDS COMMITTEE

25 August 2020

7.03 pm – 9.04 pm

Remote Meeting

Minutes

3

Membership

| | | | |
|--|---|---------------------------|---|
| Councillor Nigel Studdert-Kennedy (Chair) | P | Councillor Stephen Davies | P |
| Councillor Tom Williams (Vice-Chair) | P | Councillor Karen McKeown | A |
| Councillor Dorcas Binns | P | Councillor Keith Pearson | P |
| Councillor Miranda Clifton | P | Councillor Mark Reeves | P |
| Councillor Rachel Curley | P | | |

A = Absent P = Present

Officers in Attendance

| | |
|---|---|
| Interim Head of Legal Services and Monitoring Officer | Corporate Policy and Governance Manager |
| Strategic Director of Resources | Democratic Services and Elections Officer |

Other Member(s) in Attendance

Councillor Mattie Ross

AC.020

APOLOGIES

An apology for absence was received from Councillor McKeown.

AC.021

DECLARATIONS OF INTEREST

There were none.

AC.022

PROPOSED AMENDMENTS TO THE CODE OF CONDUCT FOR MEMBERS AND THE ARRANGEMENTS UNDER WHICH ALLEGATIONS CAN BE INVESTIGATED

The Interim Head of Legal Services and Monitoring Officer advised that the report was written following a Motion to Council on the 16 July 2020 and that the background was set out in section 1.1 of the report. He confirmed that the Terms of Reference of the Audit Committee state that it is the Audit and Standards Committees responsibility to consider amendments to the Code of Conduct and make a recommendation to Council. The other two parts of the motion included looking at the arrangements for investigating complaints and providing a response to the Local

Government Association Draft Model Code of Conduct Consultation, the Interim Head of Legal Services and Monitoring Officer apologised that due to restricted timescales he was unable to respond to the Model Code of Conduct on behalf of the Council.

It was advised that the amended Draft Code of Conduct included in the document pack had been colour coded, amendments made as a result of the Motion to Council were highlighted in grey and amendments that had been suggested by the Monitoring Officer were set out in yellow. The Interim Head of Legal Services and Monitoring Officer brought the Committee's attention to the proposed amendments included in the purpose and Part One section on Pages 13 and 14 and invited questions from Members on these sections.

Councillor Pearson raised concerns with paragraph 1.3, the Interim Head of Legal Services and Monitoring Officer advised that it would only apply when someone was acting in their capacity as a Member and that Members were not always 'on duty' as held in the Ken Livingstone Court case. Councillor Curley advised that the wording in paragraph 1.3 had been to Council and had been strongly recommended to the Audit and Standards Committee, she advised that Members had not raised any questions at the Council meeting. Councillor Pearson clarified that he voted at the Council meeting to bring the amended Code of Conduct to the Audit and Standards Committee to be considered, he did not vote to approve the exact content of the amended Code of Conduct.

Councillor Davies asked whether using wording from the Welsh Code of Conduct in Paragraph 1.3 would present any legal issues. The Interim Head of Legal Services and Monitoring Officer advised that he had been impressed with how the Public Service Ombudsman for Wales had dealt with Code of Conduct Complaints and that on the basis that England did not have a Standards Board it would be appropriate to compare with other jurisdictions, however he also advised that there were differences in the law in England and Wales. In England the Code of Conduct would only apply when a Member is acting in their official capacity, whereas in Wales this is extended to apply at any time if a person brings the Council or Office into disrepute.

Councillor Reeves agreed with Councillor Pearson's comments and raised further concerns regarding Paragraph 1.3 and asked for clarification on the decision and whether they had an opportunity to comment and propose amendments to the document. The Interim Head of Legal Services and Monitoring Officer confirmed that the Committee were being asked to look at the document in depth and suggest any amendments before recommending that Council adopt the Code of Conduct. He also clarified the legal position in terms of Paragraph 1.3 and 1.1(d), he advised that these two amendments take the Code of Conduct further than the law intended.

The Interim Head of Legal Services and Monitoring Officer gave a brief introduction to Part 2 of the amended Code of Conduct and drew the Committee's attention to the proposed amendments in Part 3.

The Interim Head of Legal Services and Monitoring Officer answered questions regarding the following topics:-

- Protected characteristics and the Public Sector Equality Duty
- Paragraph 4.2(ii) and the requirement of recording 12 months of expenses
- Register of Members gift and hospitality and the length of time between publishing updates
- The penalties for Members if they don't declare interests
- The differences between the current adopted Code of Conduct and the proposed amended Code of Conduct, he advised that the amended Code of Conduct is likely to lead to an increase in complaints, more interpretation and create some uncertainty for members.

Following a question from Councillor Davies regarding reporting gifts and hospitality the Monitoring Officer advised that should Council adopt the amended Code of Conduct in October, training sessions would be provided for Members in the late autumn.

The Chair asked for confirmation as to who decided what was reasonable. The Interim Head of Legal Services and Monitoring Officer confirmed that the current arrangements ask the Monitoring Officer to carry out an initial assessment of the complaint and do not require the Monitoring Officer to discuss with the Independent Person, however in the amended version the Independent Person would be involved from the outset and therefore the Independent Person and the Monitoring Officer would decide what was reasonable.

The Interim Head of Legal Services and Monitoring Officer introduced the arrangements for dealing with complaints in Appendix B.

In response to Councillor Curley's questions the Interim Head of Legal Services and Monitoring Officer confirmed the following: -

- Paragraph 5.3 on page 39 would be amended from "may produce a draft report" to "will produce a draft report"
- Paragraph 3.4 on page 36 would be amended to include the wording "unless a pattern is shown to be indicated" to the end of the first bullet point to ensure that similar complaints would not be rejected in that instance.

The Interim Head of Legal Services and Monitoring Officer also confirmed that if the Committee agreed to the amendments then the Independent Person would be involved in all complaints from the very initial stages.

Councillor Pearson asked whether complaints between Members could be dealt with more informally and with the Group Leaders in the first instance rather than notifying the Independent Person. The Interim Head of Legal Services and Monitoring Officer confirmed that the Committee could look at proposing an amendment to this.

The meeting was paused at 8:32pm until 8.36pm to allow for Councillor Williams to regain connection.

Councillor Davies asked for clarification as to whether the change regarding the process for complaints between Members could be made. The Interim Head of Legal Services and Monitoring Officer advised that he would circulate wording to the Committee and if they were happy with the proposed amendment this could be included in the recommendation to Council in October.

Councillor Pearson advised that he would like Paragraph 1.3 and 1.1(d) on Page 14 to be removed. The Chair confirmed that he was also concerned with Paragraph 1.1(d) following the advice provided by the Monitoring Officer. Councillor Reeves confirmed that he also believed 1.1(d) and 1.3 stepped over the line and would support the removal of both Paragraphs.

Councillor Clifton advised that she would be happy to remove 1.1(d) if it was open to challenge however asked that 1.3 remained as it may cover the use of social media. Councillor Curley agreed with Councillor Clifton's proposal. Councillor Davies proposed a change to 1.3 to include the word 'public' before the word 'comments' so that it would not cover conversations. The Chair confirmed with the Committee that they were happy to agree this proposed amendment.

The motion was proposed by Councillor Pearson and was Seconded by Councillor Davies.

On being put to the vote, the Motion was carried unanimously.

The Chair thanked the Interim Head of Legal Services and Monitoring Officer for the hard work he had put into the report.

**RECOMMENDED
TO COUNCIL**

- a. **Consider the draft amended Code of Conduct and Arrangements for investigating complaints appended to this report and, subject to any changes it wishes to make, recommend them to the next meeting of Council for adoption**
- b. **Authorise the Monitoring Officer to provide town and parish councils with the proposed process for investigating complaints for information and comment prior to consideration by Council at its next meeting**
- c. **Instruct the Monitoring Officer to ensure that the register of members gifts and hospitality is updated and published quarterly**
- d. **That where applicable, a report on any separate bodies set up or owned by the Council should be provided as part of the Annual Governance Statement to the committee and giving a full picture of its relationship with those bodies.**

The meeting closed at 9.04 pm.

Chair