

Standards Committee

26th October 2020

Recent Case Review in Respect of a Standards Issue

Summary of report:

This report looks at recent matters involving code of conduct matters to assist Councillors with learning around conduct matters.

Background papers:

None.

Recommendation:

1. That member note the report

1.0 Background

- 1.1 There is a requirement for Councils to promote and maintain high standards of behaviour by its Members and Co-Opted Members whenever they are acting in the capacity of Councillor. The Code of Conduct should be based upon the “Nolan” principles of standards in public life. These are selflessness, integrity, objectivity, accountability, openness, honesty, and leadership. There is an element of discretion however as to what is in the Code of Conduct and the Arrangements for investigating complaints.
- 1.2 In order to promote the high standards the Council offers elected members training in relation to the code of conduct and standards cases. In addition the council has started to produce a quarterly newsletter entitled “Standards Matters” to provide information to elected members to address any issues that may have arisen from the consideration of complaints against Elected Members; national and local developments in relation to standards issues; and practical advice to assist members in fulfilling their roles as councillors.
- 1.3 A recent reported case involving a former Councillor raised some interesting points in relation to when the code of conduct applies to a councillor which permits them to be sanctioned for breaching the said code, and the provisions for the disqualification of a councillor. This was the case of former Councillor Alex Kear of Wakefield Council who pleaded guilty to sexual offences involving a child under the age of 13 at Leeds Crown Court in July 2020. Wakefield Council’s chief legal officer, said after the court hearing: “Central government has essentially left local councils powerless to take action in these situations.

“We do not have any authority to remove elected members from their position, regardless of the severity of their alleged crimes unless they receive a significant custodial sentence. “Therefore unless Kear chooses to resign, he remains a councillor. This will be reviewed when he is sentenced. “As soon as we were made aware of the investigation by West Yorkshire Police we took all the appropriate safeguarding measures within our control and we will continue to do so.”. The Council was right in its approach. In England, a councillor cannot be disqualified unless he is (i) in the paid employment of the authority (section 80(1)(a) of the 1972 Act); (ii) convicted of any offence and sentenced to imprisonment for at least three months (section 80(1)(b) of the 1972 act); or (iii) convicted of an offence under section 34(1) of the 2011 act [offences regarding failing to disclose a disclosable pecuniary interest or having such an interest participating in a discussion or vote] and thereafter made the subject of a disqualification order by the magistrates.’

- 1.4 This again also raises the question of how to deal with Councillors whose behaviour is poor as a private individual outside of them acting in their capacity as councillor.
- 1.5 Over the last few months the council has been conducting virtual committee meetings in accordance with the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority Police and Crime Panel Meetings) (England and Wales) Regulations 2020 No.392 (“the Regulations”). On the whole these meetings have gone very well and elected members should be commended for the way in which they have embraced the new technology and training. Holding meetings virtually does however come with risks and there have been a number of reported issues with such meetings. When South Somerset Council held its first virtual planning meeting, with the public able to log in and watch proceedings, discussions were interrupted by people joining under suggestive names or using abusive language. At one point, audio from a pornographic film could be heard, and homophobic language was also used by one online user. In another reported case a councillor had to apologise for smoking in a virtual meeting when the council has a responsibility for public health. A councillor resigned for driving his lorry whilst attending a virtual cabinet meeting.
- 1.6 All these cases tell us that even though we are conducting council committee meetings virtually we should all treat those meetings with the same respect and standards that we would if attending physical meetings in the council house.

2.0 Resource and legal considerations:

There are no resource or legal considerations to this report.

3.0 Performance and Risk Management issues:

- 3.1 Performance and risk management are a feature of all council functions.
- 3.2 In terms of performance it is important that both Elected Members have a clear framework of standards to follow in delivering services to the community. These frameworks provide accountability and transparency in respect of the way in which the council delivers services.

4.0 Reducing Inequalities:

- 4.1 In maintaining up to date policies and procedures the council will ensure that services are delivered fairly in an open and transparent manner. There are specific requirements in both codes that elected members and officers observe equalities. It is important that complaints are dealt with in a fair and transparent manner.

5.0 Consultation:

- 5.1 There is no requirement to consult on this report.

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