

# STANDARDS AND CONSTITUTIONAL OVERSIGHT COMMITTEE

Wednesday, 7 November 2018

Present:

Councillor	B Mooney (in the Chair)	
Councillors	C Blakeley T Cox G Ellis P Gilchrist	C Jones B Kenny J McManus A Davies
Independent Persons	Prof RS Jones Mr G Kerr	

## 11 MEMBER DECLARATIONS OF INTEREST

No declarations of interest were received.

## 12 ARRANGEMENTS FOR DEALING WITH COMPLAINTS AGAINST MEMBERS

A report by the Director: Governance and Assurance informed that a Special meeting of the Committee had been called by some of its Members in order to discuss the Council's failure to follow the Code of Conduct Protocol which detailed arrangements for investigating and making decisions in relation to allegations made under the Members' Code of Conduct. This had resulted in unacceptable delays to the standards process.

In 2014 the Council had adopted a Members' Code of Conduct and a process for dealing with complaints made under that code following the changes to the ethical standards regime introduced by the Localism Act 2011. Since 2014 there had been experience of dealing with complaints which had highlighted areas for improvement and clarification in the arrangements for dealing with complaints against Members. In particular, issues had been raised in relation to the timeliness with which complaints had been dealt with under the current Protocol. The Director's report sought authority to adopt a revised procedure for investigating and making decisions in relation to allegations made under the Members' Code of Conduct.

Councillor Chris Blakeley reported that the meeting had been requisitioned because Members believed that the current Protocol was not adhered to by officers. The meeting had been called to consider this Protocol which was appended to the Director's report as Appendix A and not those of North

Lincolnshire and Manchester City Councils that had been appended to the report as Appendix B and C.

Councillor Bernie Mooney informed that as Members were not happy with the Council's own Protocol it was appropriate for the Committee to also consider those of other councils that were considered to be best practice.

The Director: Governance and Assurance reported that over the last six years Council officers had failed to comply with the Protocol 90% of the time. He informed that he would deal with this and put it right. The Director, in doing this, would have regard to the current Protocol, identify why it was not doing its job and suggest improvements. Members would be involved in this process.

Councillor Phil Gilchrist informed that he had not seen an analysis of the delays in administering complaints against Members along with the reasons for them. He knew that the reasons may include difficulties in collecting evidence, getting people to give evidence etc. He would like to have seen a list of particular cases along with the reasoning for not progressing them within the timescales laid down.

Councillor Chris Blakeley provided details of numerous complaints known to him where the timescales within the Protocol had not been adhered to and raised concerns about the effect delays had on subject Members. He made reference to the following paragraph contained within the North Lincolnshire Council's Protocol:

'The Monitoring Officer will acknowledge receipt of your complaint within 5 working days of receiving it. A full copy of your complaint will, subject to any ruling on disclosure, ordinarily be sent to the Member complained of inviting their written comments within 10 working days. Thereafter, arrangements will be made for your complaint to be assessed as soon as practicable in accordance with the procedures detailed in paragraph 4.'

Councillor Chris Blakeley informed that this could be adopted and instead of using the words, as soon as practicable, a timescale, with steps built in, could be included.

Councillor Angela Davies was of the view that there should be a tracker on each complaint about a Member so progress could be monitored along with the reasons for any delays. She asked if the Monitoring Officer had a list of ongoing complaints.

It was reported that all complaints against Members were now stored within an electronic management system. All complaints, with the exception of one received this week, had been dealt with. There had been 58 complaints

against Members received since 2012 and the majority of them had been dealt with by local resolution.

Councillor Angela Davies considered that a system that was monitored was required for complaints against Members and any delays/exceptions should be drawn to the attention of the Chair of the Committee.

Councillor Tony Cox referred to the 90% failure rate which was embarrassing for the Council and asked what improvement plans were being put in place to increase the rate of compliance. He hoped that the complaints against staff were administered within the appropriate timescales and that there were not the delays there were with those against Members. Councillor Cox asked if the hold ups were due to vexatious claims or the level of complexity of the complaints.

The Director reported that the majority of the delays were the result of the huge number of responsibilities that the Council's Monitoring Officer had which meant that he had to constantly assess his work and re-assign his priorities. Complaints against Members were not always his top priority because of the extreme importance of other matters which often required his immediate attention. The Director informed that to ensure complaints against Members received a high priority and to alleviate delays he had taken the following three actions: He had

- drawn up a clear procedure flow chart;
- ensured that complaints were now put into a case management system; and
- delegated the work concerned to officers less likely to be moved onto other tasks. A dedicated officer team had been established to deal with the work generated by the complaints.

The Director informed that if the Committee considered that an Assessment Panel should be introduced into the complaints process he would be happy to include some consultation within the Protocol e.g. something along the lines of 'if the investigation takes longer than three months an Independent Person and/or the Committee will be asked whether additional time should be allocated to determining the complaint in the light of the circumstances associated with it or should the process be wound up regardless.'

Councillor Chris Blakeley proposed that rather than adopting another Council's Protocol, the Council's own Protocol should be reviewed and revised and an Assessment Panel should be built into what would become a new bespoke Protocol.

Councillor Bernie Mooney considered that the Council's Protocol was weak in places and proposed that officers should work on it and look at ways to strengthen it by introducing an Assessment Panel so Members could obtain an oversight into what was happening in respect of the complaints against

Members that had been received. The Protocol should include a caveat that if interviewees did not turn up as arranged the Investigation would proceed in their absence. The revised Protocol should be presented for consideration and adoption by the Committee early in the New Year, with a further review of it taking place after it has been in operation for twelve months.

The Director reported that there had not been enough time to draft a new Protocol before this meeting was due to take place. Therefore, he had included the two Protocols from North Lincolnshire and Manchester City Councils because they were better than the one the Council used. He informed that some councils no longer included the right of appeal in its complaints process probably because the sanctions that could be taken against Members were limited and they could no longer be suspended. However, some Members were of the view that natural justice meant that there should continue to be a right of appeal outlined within the Protocol.

Councillor Chris Blakeley considered that the timescales set out within the Council's Protocol should be reduced so that they were more reasonable and avoided unnecessary delays and a right of appeal should be included. He felt that the aim should be that complaints against Members should be dealt with within a six month period. Any complaints involving complex issues should be considered by the Assessment Panel who could extend the time period if it considered it necessary in the circumstances of the case.

Councillor Brian Kenny suggested that complaints against Members should 'normally' be dealt with within six months. Councillor Tony Cox informed that a six month cut off period made perfect sense and would avoid the possibility of someone being re-elected to the Council when they may not be considered fit to hold public office.

Councillor Phil Gilchrist wanted to ensure that the Standards Panel received input from one of the Independent Persons and considered that an informal pre-hearing could be included within the bespoke Protocol.

The Director enquired whether the Committee wanted its Working Group to have an input into the new bespoke Protocol it wanted to commission. Councillor Bernie Mooney informed that this would not be necessary as Members were in agreement that officers would work with the Protocol the Council already had, tweak it as it was considered appropriate and set out within it the parameters that were required. The Committee would consider the revised Protocol at a meeting after Christmas, decide whether to include an appeal process therein and, subject to any amendments, adopt it as its new bespoke Protocol. After it had been in operation for 12 months, Members agreed that it would be the subject of a review.

Professor RS Jones informed the Committee that he did not see much wrong with the Council's current Protocol. He considered that the problems identified were down to human failings.

**RESOLVED: That**

- (1) the Committee is delighted that there is now a dedicated officer team in place to deal with complaints against Members;**
- (2) officers be requested to draw up a new bespoke Protocol which details arrangements for investigating and making decisions in relation to allegations made under the Members' Code of Conduct, by reviewing and revising its current one and taking account of the views expressed and proposals and suggestions put forward by Members at this meeting; and**
- (3) a Special meeting of the Committee be convened in January 2019 to consider and adopt the new bespoke Protocol.**