JOINT STANDARDS COMPLAINTS COMMITTEE

Date: 22 November 2017
Venue: East Northamptonshire House, Cedar Drive, Thrapston
Time: 7.30pm

Present: Andy Mercer (Chairman)  
Arthur Whittaker (Vice-Chairman) (Yarwell Parish Council)

East Northamptonshire Councillors:
Rosalie Beattie  Gill Mercer
Annabel de Capell Brooke  Rupert Reichhold

Town and Parish Councillors:
Derek Lawson  (Higham Ferrers Town Council)
Dave Munday  (Stanwick Parish Council)
Roy Sparkes  (Oundle Town Council)
Robert Tyman  (Raunds Town Council)
Adrian Winkle  (Irthlingborough Town Council)

Vivienne Barnard  Independent Person
Andrew Sortwell  Reserve Independent Person

258. TRIBUTE TO COUNCILLOR GLENN HARWOOD MBE

The Chairman paid tribute to Councillor Glenn Harwood MBE, Deputy Leader of the Council, who had passed away recently and observed that the Council would be diminished greatly by Councillor Harwood’s passing.

The Committee stood in silent tribute to Councillor Harwood.

259. MINUTES

The minutes of the meeting of the Joint Standards Complaints Committee held on 19 July 2017 were approved and signed by the Chairman.

260. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors David Jenney (ENC) and Fiona Cowen (Collyweston Parish Council).

261. DECLARATIONS OF INTEREST

No declarations of interests were made.
262. **QUESTIONS SUBMITTED UNDER PROCEDURE RULE 10.3**

There were no questions submitted under Procedure Rule 10.3.

263. **REQUESTS FOR DISPENSATIONS**

No requests for dispensations had been made.

264. **ACTIVITY REPORT OF THE MONITORING OFFICER**

The Monitoring Officer submitted a report outlining activity in relation to the Standards Framework covering the period from the last meeting of the Committee in July 2017 to date.

Since the last meeting, four new formal complaints had been received. Three had been concluded at the Initial Assessment stage and the outcomes were for one case of no further action; one case for “other action” and one case had been referred for investigation. One complaint remained at the Initial Assessment stage. Since the report had been prepared, two further complaints were now anticipated to be received.

Two of a possible four complaints relating to one Parish Council referred to at the previous meeting had resulted in formal complaints and additional complaints might still be forthcoming.

Problems had been experienced with the investigation of the six complaints reported to the previous meeting which related to issues at the same Parish Council. After consultation with the Chairman, Vice-Chairman, Independent Person and Reserve Independent Person, it had been agreed that the work to date would be reviewed and a further report commissioned for delivery before Christmas. There would be no charge to the Council for the initial work.

The Monitoring Officer reported that a review had been undertaken of the websites for each of the 41 Town and Parish Councils in the District to verify the following:

a) The Council had access to a suitable website if required to do so under the requirements of the Transparency Code for Smaller Authorities (2015). It appeared that seven Councils were in this position and they would be advised of the final round of DCLG funding to assist with the creation of such a website.

b) Where the council had a website they were required to display the Registers of Interest of their Councillors. Most had chosen to link to the ENC webpages as this meant that there was only one page to be maintained. It appeared that three Councils which had websites do not do so.

c) Names of current Councillors agreed with details held by ENC. In a recent case ENC had not received details of vacancies and as a consequence the appropriate procedures to replace the Councillors had not been followed. All names now matched.

d) Where the Council had a website, whether or not the relevant Code of Conduct for their Councillors was published, there was no statutory requirement to publish this although it was best practice to do so. 17 Councils had not published their Codes on their website.

The Monitoring Officer would contact all affected Councils reminding them of the legal requirements.
ENC’s Internal Audit team had carried out an investigation into a complaint on a trial basis and this had proved successful. Further complaint investigations would therefore be commissioned from the Internal Audit team.

It was noted that the current level of investigation activity was significantly depleting the Monitoring Officer Investigation Reserve. It was anticipated that additional funding to support this activity might be required before the end of the current financial year and provision would be included in the Medium Term Financial Strategy to increase the budget for 2018/19 onwards. The investigation costs incurred in the current year would be reported to the next meeting of the Committee.

RESOLVED:

That the report be noted.

(Reason: No further action or decisions are required as a result of this report).

265. RESPONSE TO GOVERNMENT CONSULTATION ON CHANGES TO DISQUALIFICATION CRITERIA FOR COUNCILLORS

The Monitoring Officer reported that the Department for Communities and Local Government was consulting on proposals to update the criteria that barred individuals from becoming or being a local councillor or directly-elected mayor.

The Government was proposing to amend the disqualification criteria so that anyone convicted of a serious crime, regardless of whether a custodial sentence was imposed, would not be able to serve as a councillor. Individuals would be barred from standing for office if they were subject to:

- the notification requirements set out in the Sexual Offences Act 2003 (‘being on the sex offenders register’);
- a civil injunction granted under s.1 of the Anti-Social Behaviour, Crime and Policing Act 2014 (the 2014 Act); or
- a Criminal Behaviour Order made under s.22 of the 2014 Act.

In addition, the Committee on Standards in Public Life had announced that it intended to undertake a review of local government standards during 2017-18. Concerns had been raised by various other bodies and individuals in relation to the efficacy of the current standards regimen in relation to the possible sanctions for behaviour of councillors where there are cases of:

- misusing their public office or appointments;
- reckless behaviour resulting in the Council suffering a loss;
- persistently or materially acting against the interests of the Council (and/or partners and the public) and bringing the office of councillor or the Council into disrepute.

In terms of the government consultation, whilst the changes were welcomed, it was noted that the proposed revisions which sought to prevent those affected by certain types of orders from standing as Councillors only dealt with some of the issues that might be perceived by the public to indicate unsuitability to serve as a Councillor. A particular area of concern was where there were convictions for other sorts of abuse such as racial harassment. Councillors were also unhappy that that some existing Councillors whose behaviour was covered by the restrictions proposed would not be disqualified until after the end of the their current term of office which could be up to 3 years.
There was also concern that a lot of public resources could be put into resolving complaints under the current Code of Conduct but that the range of sanctions was so limited as to be often ineffective which provided poor value for money.

**RESOLVED:**

That the Monitor Officer, in consultation with the Chairman and Vice-Chairman, should respond to the consultation to note the concerns expressed in the discussion.

*(Reason: To enable any views of this Committee to be submitted to DCLG).*

**266. PROPOSED CHANGES TO PART 9 OF THE CONSTITUTION – PROCEDURE FOR ASSESSMENT**

The Monitoring Officer reported that following a review of the procedure contained in Part 9 of the Council’s Constitution, the ability to appeal should the outcome of the Initial Assessment be for referral for investigation had been removed in April this year. At the last meeting of the Committee it had been decided not to make any further changes to the appeal arrangements.

At the July 2017 Council meeting, Mr Jonathan Goolden (an external lawyer with significant experience of Code of Conduct matters) had been appointed as a Deputy Monitoring Officer. As part of Mr Goolden’s consideration of complaints for this Council, he had commented on this Council’s process and suggested that the Council removed the right of appeal for no or ‘other action’ at Initial Assessment stage.

It was noted that the complainant or Councillor(s) complained against was able to refer the matter to the Local Government Ombudsman should they feel that the Council’s procedure had not been followed or if the outcome proposed was not considered appropriate.

At present, 20 working days was allowed for the appeal period. This extended the period of uncertainty for the complainant or councillor(s) complained about and it was suggested that this could be reduced to reduce the delay, whilst allowing for the parties involved to be on holiday.

**RESOLVED TO RECOMMEND TO THE GOVERNANCE AND AUDIT COMMITTEE:**

That the following changes to Part 9 of the Constitution be approved.

*(Reason: To ensure that the procedure followed for Complaints against Councillors is proportionate and fair).*

**6.0 Stage 4 – Appeals**

**6.1 Initial Assessment Outcome**

An appeal may be made in respect of Initial Assessment where the outcome is either no further action or ‘other action’ only where the complainant or councillor(s) complained about feels that

a) the process outlined in this procedure has not been followed
b) the outcome proposed is considered inappropriate; or
c) significant new evidence is available which has not been considered during the previous process.
An appeal may not be made against an Initial Assessment decision to refer for further investigation as no finding has been made at this stage.

Any such appeal should be made in writing (by letter or e-mail) to the Monitoring Officer within 20 working days of the receipt of the notification of the relevant decision.

6.2 Hearing Outcome

An appeal may be made where the complainant or councillor(s) complained about feels that:

a) the process outlined in this procedure has not been followed
b) the outcome proposed is considered inappropriate; or
c) significant new evidence is available which has not been considered during the previous process.

Any such appeal should be made in writing (by letter or e-mail) to the Monitoring Officer within 20 working days of the receipt of the notification of the relevant decision.

Chairman