



**MINUTES OF THE CONSTITUTION AND ETHICS COMMITTEE
MEETING
HELD AT 6:00PM, ON
WEDNESDAY, 14 JULY 2021
SAND MARTIN HOUSE, PETERBOROUGH**

Present: Councillors Fitzgerald (Chair) Bashir (Vice-Chair), Allen, Simons, Jamil, Hemraj and Sandford

Officers in Attendance: Dan Kalley, Senior Democratic Services Officer
Fiona McMillan, Director of Law and Governance and Monitoring Officer
Amy Brown, Deputy Monitoring Officer
Pippa Turvey, Democratic and Constitutional Services Manager
Rachel Edwards, Head of Constitutional Services

Also in Attendance:

1. APOLOGIES FOR ABSENCE

There were apologies of absence received from Councillor Jones. Councillor Hemraj was in attendance as substitute

2. DECLARATIONS OF INTEREST

There were none.

3. MINUTES OF THE MEETING HELD ON 8 FEBRUARY 2021

The minutes of the meeting held on 8 February 2021 were agreed as a true and accurate record.

4. REVIEW OF PETERBOROUGH CITY COUNCIL'S CODE OF CONDUCT

The Constitution and Ethics Committee received a report in relation to a review of Peterborough City Council's code of conduct.

The Monitoring Officer introduced the report and stated that the report was looked at previously at the last meeting. Guidance had now been published by the Local Government Association (LGA) and had been circulated to members in advance of the meeting. This guidance was to be used in conjunction with the model code itself.

Peterborough City Council (PCC) had adopted its current code in 2012, when the Standards Committee and board were abolished. The Council following this made its own arrangements and a light touch approach was taken in light of advice from the Ministry for Housing, Communities and Local Government (MHCLG). The Committee on Standards in Public Life reviewed the code of conduct template created by the LGA in 2018. It was felt that a more robust model code of conduct was required. The LGA were tasked with creating a new model code of conduct and this was published on 23 December 2019. The basis for the model code of conduct were the Nolan principles plus additional requirements, specifically on member interests, introducing sections on respect, bullying, harassment and confidentiality.

A number of the new sections had previously been a part of the code prior to 2012, however there was no national standards committee and each authority was responsible for carrying out determinations on potential breaches of the code.

In addition, members were informed that the Committee on Standards in Public Life had written to councils asking them to review their current practices and adopt the new model code of conduct were applicable. Members were also informed that the task and finish group had looked at the model code of conduct and had recommended that this be adopted with some minor tweaks, especially in relation to bullying at harassment at Full Council meetings and that training was to be provide on an annual basis.

The Constitution and Ethics Committee debated the report and in summary the key points raised and responses to questions included:

- Some members felt that it was beneficial to move away from prescriptive code of conduct and adopt a light touch approach. The current code in Peterborough set out some clear principles on how councillors should behave. Before 2010 there was a legally prescribed code of conduct, the national standards board at the time had a draconian system of sanctions. This led to a number of tit for tat complaints, which in turn led to a discredited system.
- There were particular concerns around bringing council into disrepute and who would define this. It was important that the public looked at this and were able to hold councillors to account.
- It was important to recognise that independent bodies had recommended the LGA look at this. It was in the Council's interest to go with what was being proposed, especially as task and finish group recommended this.
- Members noted that the situation differs from the previous regime, in that although a number of old elements were brought back into the code the system of determining a breach was still within the hands of the Constitution and Ethics Sub-Committee.
- A worry was around what was the point of the new code if there were no sanctions to enforce.
- Sanctions were the biggest issue as they did not have the weight they should do. The Committee on Standards in Public life have

looked at this but were awaiting the Government's response to the model code before looking at this in further detail.

- It was hoped that an elected councillor would adhere to the advice given by the council. There was a need to put confidence back in the system to give confidence to members of the public.
- Within political groups the hope was that the code of conduct was adhered to by all members.
- The code at PCC could be looked at in the future if there were elements that were not working.
- There was a lot of responsibility on the Monitoring Officer and it was hoped that a high threshold would need to be met before an investigation was carried out.

The Constitution and Ethics Committee considered and **RESOLVED** (unanimous) to:

1. Recommend to Full Council the adoption of the amended code of conduct and LGA guidance.

5. CRIMINAL RECORD CHECKS FOR MEMBERS AND CO-OPTED MEMBERS

The Constitution and Ethics Committee received a report in relation to criminal record checks for members and co-opted members.

The Deputy Monitoring Officer introduced the report and commented that the origin of the report was to try and address the need for consistency over the way the Council addressed the need for criminal record checks.

Members were informed that the principle was to look at members of the Corporate Parenting Committee and any other members that the Constitution and Ethics Committee felt needed to have a criminal record check. It was recommended that for those members a without barred list disclosure could be carried out. It was also possible to carry out checks on a case by case basis where it was deemed necessary.

The Constitution and Ethics Committee debated the report and in summary the key points raised and responses to questions included:

- There had been an extreme examples of people having to undergo severe check within other organisations and bodies which had led to confusion and complications.
- It was possible to construct an argument that all Councillors had to have a basic criminal check, however to counter this an argument could be made that if a potential candidate had a conviction then they would not be allowed to be a Councillor.
- There was concern over the need to require an enhanced DBS check. This was usually reserved for when someone was discharging a function, most notably social workers, however in the case of members it might be difficult to quantify having an enhanced DBS check.

- By sitting on a Scrutiny Committee this would not involve, or only minimal, contact with vulnerable people. The policy was more appropriate for members of the Corporate Parenting Committee and some Cabinet Members.
- Having an enhanced criminal check might bring up small petty issues that happened in the past which were no longer appropriate to people, but may prevent them from wanting to become a Councillor or sit on a specific committee.
- There needed to be a sensible approach to carry out criminal record checks. It was important that a risk assessment was carried out before any checks were undertaken.
- It was important that the Council was cautious around vulnerable people and it was appropriate in some situations for a criminal check to be carried out.
- There were suggestions that a criminal check should be carried out when there was a clear case for doing so and there was a need to mitigate potential risks.
- It was important that the policy was correct and the wording around when a criminal check was needed was clear for members to understand. At the current time it was felt more work needed to be carried out.
- Members were informed that the proposal came from a senior officer within the authority and had been a recommendation following an inquiry into Rotherham Metropolitan Borough Council's handling of its social services.
- There were potentially cost implications for carrying out the checks. It was £23 for a basic criminal check and £40 for an enhanced check. Costs of this would be minimal and might be a bit an extra
- There was agreement that the report needed to go back to officers for further work before coming back to committee.

The Constitution and Ethics Committee considered and **RESOLVED** (Unanimous) to:

1. Defer the criminal checks for members and get more information from officers and a revised policy be presented at a future meeting if applicable.

6. UPDATE TO PETITION SCHEME

The Constitution and Ethics Committee received a report in relation to a proposed update to the petition scheme.

The Democratic and Constitutional Services Manager introduced the report and stated that a report had been presented to committee in October 2020 as part of a scheme of proposals. This report asked members to consider an addition to the scheme, whereby adding a further criteria for petitions to be rejected. This had arisen as a response from members and officers, responding to a petition where the Council were unable to take a different decision. This addition would make the scheme more realistic for officers and members of the public to deal with.

The Constitution and Ethics Committee debated the report and in summary the key points raised and responses to questions included:

- There were very few instances or decisions that would fall under this new proposal. For example some decisions, although not possible to overturn or take a different decision, there may be other services within the Council that could be petitioned whereby the petition could affect a decision already taken.
- There was a risk that by including the provision as set out would restrict people from getting involved with local democracy and having a voice with which to communicate their opinions to the Council. One such example was over Rhubarb Bridge, by which a petition had successfully altered a decision that had been taken.
- A lot of petitions involved emotive topics, restricting people's ability to petition the Council was not a good example of democracy.
- There was a worry that if a provision was not included where a decision had been taken and there was no possibility of a different decision being taken it could potentially stop or slow down the Council's ability to take action in certain areas, especially if there was a time limit involved.
- It was important for people to get their petitions in before a decision was due to be taken in order to get the best effect and try and change the course of a decision.
- Members debated a number of different alterations and additions to the proposed amendment to the scheme, however there was no agreement on these.

The Constitution and Ethics Committee considered and **RESOLVED** (4 for, 3 against) to recommend to Full Council the proposed amendment to the Petition Scheme so as to include grounds for refusing a petition in circumstances where it related to a decision by the Council that had already been taken and there was no realistic possibility of a different decision being taken.

7. DISPENSATIONS ISSUES

The Constitution and Ethics Committee considered and **RESOLVED** (Unanimous) to note that there had been no dispensations granted since the last meeting

8. UPDATE ON NATIONAL ISSUES (LGA MODEL CODE OF CONDUCT)

The Constitution and Ethics Committee considered and **RESOLVED** (Unanimous) to note that there had been no further updates on issues of national interest since the last meeting

9. CODE OF CONDUCT COMPLAINTS RECEIVED SINCE FEBRUARY 2021

The Constitution and Ethics Committee received an update report on the code of conduct complaints received by the Monitoring Officer since the last meeting in February 2021.

It was noted that there was a need for a high threshold being reached before complaints were being investigated, especially when it was one councillor against another

The Constitution and Ethics Committee considered and **RESOLVED** (Unanimous) to note the report on complaints received/being handled by the Monitoring Officer since the Committee's last meeting in February 2021.

10. WORK PROGRAMME, FUTURE DATES AND MEMBER ISSUES

The Constitution and Ethics Committee received a report in relation to the Committee's Work Programme for the Municipal Year 2021/22.

The Senior Democratic Services Officer introduced the report and confirmed that the work programme was up to date for the next municipal year and items could be added at any stage.

A further item on the Full Council agenda and motions might be an item depending on discussions at Group Leaders and how the current system operated at the Full Council meeting in July.

The Constitution and Ethics Committee considered and **RESOLVED** (unanimous) to note the Committee's work programme as at 14 July 2021.

6:00pm – 7.19pm

Chairman