

## **NORTHUMBERLAND COUNTY COUNCIL**

### **STANDARDS COMMITTEE**

At a meeting of the **Standards Committee** held in the Council Chamber, County Hall, Morpeth on Thursday, 14 July 2022 at 2.00 pm.

#### **PRESENT**

Mr J. Jackson  
(Independent Chair, in the Chair)

#### **COUNTY COUNCILLORS**

Bridgett, S.	Gallacher, B. (substitute)
Cessford, T.	Grimshaw, L.
Dunn, L.	Reid, J.
Flux, B.	Stewart, G.
Hardy, C. (substitute)	

#### **ALSO IN ATTENDANCE**

Broadfoot, S	QC
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#### **OFFICERS**

Bennett, Mrs L.M.	Senior Democratic Services Officer
Masson, N.	Deputy Monitoring Officer

### **22. MEMBERSHIP AND TERMS OF REFERENCE**

The membership and terms of reference were noted.

The Chair reported that Councillors C. Hardy and B. Gallacher were attending the meeting as substitutes for Councillors Towns and Wilczek.

### **23. APOLOGIES FOR ABSENCE**

Apologies were received from Councillors D. Towns and R. Wilczek.

### **24. MINUTES**

**RESOLVED** that the minutes of the meeting of the Standards Committee held on Thursday, 10 February 2022, as circulated, be confirmed as a true record and signed by the Chair.

## REPORT OF THE MONITORING OFFICER

### 25. APPOINTMENT OF PARISH COUNCIL REPRESENTATIVES AND ADDITIONAL INDEPENDENT PERSONS TO THE STANDARDS COMMITTEE – NOTE OF CHANGE TO THE INTERVIEW PANEL

It was reported that Councillor A. Wallace who had been appointed to both of the interview panels was no longer a member of the Standards Committee. His place on the interview panels would be taken by Councillor L. Dunn.

**RESOLVED** that the appointment of Councillor L. Dunn to the interview panels with regard to the appointment of the three Parish Council representatives and the appointment of two additional Independent Persons, be ratified.

### 26. PRELIMINARY HEARING

The Chair introduced Samantha Broadfoot, QC, to the meeting. Ms. Broadfoot would provide independent legal advice to the Standards Committee.

Neil Masson, Deputy Monitoring Officer, reported that there were three Code of Conduct complaints that had been investigated and would progress to a local hearing. Following the Caller Report and S.114 report there was now an issue as to whether these should continue to a local hearing or not. This type of decision was normally made by the Monitoring Officer, but due to the nature of these items, the function had been delegated to Mark Heath of VWV acting for the Monitoring Officer. He had decided to refer this decision to the Committee. If the Committee decided to proceed, then the next step would be to hold a full preliminary hearing to decide on those matters that needed determination before the local hearing could be heard.

Ms. Broadfoot stated that she had been instructed by Mark Heath, external Monitoring Officer, and author of the report before Members. She explained that she disagreed with what had been suggested as possible in the report. She made the following points:-

- She appreciated the thinking behind the proposal in the report. She had read the Caller and S.114 reports which identified governance difficulties and referred to the Code of Conduct system being misused by some people at various points, and the desire to re-set and for the Council to move forward.
- There were difficult legal questions here as there was no precedent. The County Council was in a unique position.

Ms. Broadfoot reported that she had drawn the following conclusions:-

- There were several stages in the local arrangements required by the Localism Act, from the receipt of the complaint, the investigation if required, then the next steps by the Monitoring Officer
  - If there was no evidence of potential breach and the Monitoring Officer was satisfied this was the case, then no further action was required.
  - If there was evidence of a potential breach, then the Monitoring Officer would either seek local resolution or move to a local hearing.
- A local resolution was not appropriate in this particular situation.
- Under the local arrangements, the Monitoring Officer had the discretion not to move to a local hearing if they were of the opinion that
  - the nature of the failure to comply with the Code of Conduct did not justify the time and cost of a local hearing, or
  - for other reasons particular to the complaint.
- The Standards Committee was being asked to consider whether there were reasons particular to these complaints which meant that the process should be stopped.
- Mark Heath had set out the reasons why he felt that the process should be stopped. This was because the Caller Report stated that there had been excessive and inappropriate use of the Code of Conduct procedure. There had been inappropriate complaints by Senior Officers against Members and that these were sufficient reasons particular to the complaint to take this decision.
- She did not agree with this analysis. She did not feel that the reasons given were particular to the complaints and were just general reasons. The Caller Report did not say that all of the complaints had been inappropriate and unless Members knew more about these complaints, then Members could not legally exercise that discretion as they did not have the necessary information.
- Under the arrangements, this discretion would normally be exercised by the Monitoring Officer. The Monitoring Officer would know exactly what was in the reports as they would have read the Investigation Report before deciding what to do.
- She added that it was not unusual for two lawyers to disagree.

Members raised a number of issues and received the following responses:-

- Ms. Broadfoot stated that she had deliberately not seen the contents of the three complaints and did not know who the complainants were or the Subject Members. All she knew was what Members had also been told within the Committee report. Members were being asked to make a decision on a matter of principle and so she had taken the same view for herself.
- The only people who knew the contents of the investigation report were the Monitoring and Deputy Monitoring Officers, the Subject Member and Complainant.
- The Standards Committee would need to know the contents of the

- investigations before deciding whether to move on to a Hearing.
- The cost of the three investigations was not currently to hand.
- The contents of the reports would remain confidential until any Hearing was held. The parties involved were expected to adhere to that request. There could never be any guarantee about what a person may do, however.
- Regardless of the contents of the Caller Report, the Standards Committee had the power not to send a matter for local Hearing as this was contained in the local arrangements. The issue was whether or not there were circumstances particular to these complaints and that was where this power could be exercised. Mr. Heath's argument was that there was sufficient information in the Caller Report to say that the reasoning in the Caller Report was particular to these reports. Even without the Caller Report it was possible that the Monitoring Officer may have decided not to progress to Hearings.

Members were in agreement that the three complaints should progress to a Local Hearing.

It was proposed by Councillor J. Reid, seconded by Councillor L. Dunn and unanimously **RESOLVED** that the three Code of Conduct complaints should continue to a local Hearing.

## 27. CODE OF CONDUCT COMPLAINTS – PROGRESS REPORT

Members received a report on the progress with complaints received by the authority under the arrangements adopted by the authority for dealing with standards allegations under the Localism Act 2011. An updated report was circulated at the meeting for Members' information.

Members suggested that more information be provided which may show a pattern such as the same person making multiple complaints. The Chair stated that it was planned to review the system and how it was operated, and Members' views would be taken into account. Ms. Broadfoot added that the desire for this type of information was understood, however, it was important to ensure that future complaints were not prejudiced and that some of the complaints may be valid.

**RESOLVED** that the report and Members' comments be noted.

## 28. DATE OF NEXT MEETING

The next meeting will be held on Thursday, 13 October 2022 at date to be confirmed.

**CHAIR**.....

**DATE**.....