

**Tendring District Council
Standards Committee
External Case Review**

6th April 2022

Case 1 - Maldon Council again

- September 21, Standards Committee upheld 6 complaints of bullying, and Cllr also found to deliberately attempted to undermine the Code of Conduct process
- November 21, Police called to a Council meeting after Cllr refused to stop saying “point of order”. He was challenging the Council’s consideration of the Report from the Standards Committee. Meeting was abandoned.
- Cllr said he wanted to wear his censure letter as a hat!

Case 1 cont.

- In 2022, Mr Morris was given a eight months prison sentence, suspended for 8 months for breaching a non-molestation order, after being found guilty. The breach offence took place in 2019.
- Section 80 of the Local Government Act 1972 automatically disqualified him from being a Cllr.
- A number of staff and councillors were impacted upon by his behaviour and the sentencing for a private matter stripes him of his right to act as an elected representative.

Case 2. Cost of investigations at Handforth Parish Council – Jackie Weaver!

- A report to Cheshire East's Audit and Governance Committee – external costs had reached in excess of £85,000 plus internal time for the Council's Members and Officers
- Costs increased due to threats of JR and independent advice
- Problem prior to the pandemic but complaints increased following media attention
- Main problem disagreements with Section 85 of the Local Government Act 1972 – 6 month rule

Case 2 cont.

- 3 separate investigation reports – six different Cllrs
- Breaches found and multiple recommendations made
- Appendices in excess of 1000 pages
- Prolonged and repeated delays – Cllrs resigned
- Letter from MO to PC offering to help caused more complaints
- Financial impropriety allegations required input from the Police and Auditors
- External investigation organisations had to implement staff protection protocols
- Complaints continue and Information Commissioner Office now involved

Case 3 – Revised Complaints Procedure

- A Borough Council previously referred all complaints to a Member Assessment Panel unless obviously vexatious, frivolous or politically motivated
- From Jan 2020 to November 2021 – MO dismissed 38 but 12 had to be referred, even if the MO was recommending No Further Action, which the Panel agreed with in every case.
- Revised arrangements now agreed, to prevent the need to arrange a high level of Assessment Panels, causing delays in the process and detrimental impact on limited resources.
- Important to ensure Councils have robust frameworks in place and reports should be given to Councillors on how the delegations are being exercised (also recommended best practice).

Case 4 – Welsh Cllr - member of the Planning Committee breaches Code of Conduct

- Established a café without first securing planning permission. The Cllr applied for permission but decided to open it before the Council decided on the case.
- He ‘defence’ was that he had “*limited or confused knowledge of planning*” despite being on the committee and having undertaken training.
- The Ombudsman determined that his actions brought his office as a Councillor and the Council into disrepute.
- Standards Committee suspended for a month for the ‘serious breach’ (different powers in Wales).

Case 5. High Court quashes decision by Deputy MO – whether Code of Conduct was breached

- The Parish Council accused one of their Cllrs (R) of breaching the PC Code (not behaving in a respectful way and acting in a way that could bring the Council into disrepute).
- The principal basis of the legal challenge was that the decision was in breach of section 6 of the Human Rights Act 1998 as it violated Cllr Robinson's right to freedom of expression under Article 10 of the European Convention on Human Rights.
- The Cllr was also given permission to rely on the contrast between the Principal Council's treatment of two complaints (i.e. the one against him and another Cllr (C)). Both complaints arose from the same meeting. Cllr C – Chairman of the meeting had self referred himself to the MO.

Case 5 cont. Decision and Grounds of Appeal

- External solicitor assessed the papers and made recommendations
- The DMO concluded that Cllr R was in breach of the Code, but also did not warrant a referral for investigation but did not consider Cllr C's actions met the threshold of a breach of the Code.
- Ground A – failed to make any clear findings on what was actually said
- Ground B & C – failed to consider Article 10, incorrect reference was made to the comments would have been treated differently if made in private
- Ground D - different approaches adopted between two Cllrs.

Case 5 – Judgement Mrs Justice Lang

- Ground A – significant failing in the assessment and decision making process, reliance given on private notes taken by the clerk (minutes not being full or accurate) but the inconsistencies were not tested.
- Grounds B and C - DMO's interpretation and/or application of Article 10 was flawed, and she failed to give effect to the enhanced right of political expression. Violation of Article 10 – quashed the decision.
- Ground D – the outcome between the two Cllrs can be different due to circumstances for each complaint however, the approach should have been the same in both.

Government response to Committee on Standards in Public Life Review of Local Government Ethical Standards

- CSPL Report January 2019 – 26 recommendations
- A number required legislative changes by Government and Parliament since Localism Act 2011
- 18.03.22 Letter from Minister for Equalities and Levelling Up Communities responded to the Report.
- Important aspects of the response will be presented in detail to the next meeting of the Standards Committee – looking at all recommendations

Response re. Local Code - Matters under current consideration

Recommendation 1. LGA & Model Code – its is for individual councils to set their own local code, in line with the Act. Recognises the work of the LGA to establish a consistent benchmark that local authorities can amend or add to as they see fit to reflect local circumstances. Remains a local decision on whether this model code is adopted.

Recommendation 4. Members claiming to act or give the impression they are acting, should be covered at a local level within the Code and changes to legislation are not required.

Intimidation in Public Life

Recommendation 2 – DPIs, consideration will be given to amending the Regulations to remove the requirement to publish home addresses to safeguard elected representatives, and will engage with interested parties. In the meantime use the current system.

Recommendation 3 – Official capacity and use of social media. Important to distinguish between strongly felt political debate and unacceptable acts of abuse, intimidation and violence on the other. Recognise the difference between public, private or personal life.

CSPL to undertake a review of Leadership in embedding Nolan Principles

- The review will look at examples of good practice in a range of public sector organisations, including public bodies, charities and those private companies providing services paid for by the taxpayer.
- The Committee Chairman said *“Rules and procedures are necessary to prevent corruption but they are not all that is needed to ensure high standards in public life. After all, its not possible to write a rule book to cover every possible ethical dilemma a public servant may face. Living up to a shared public service ethos – as set out in the Seven Principles of Public Life – helps staff at all levels make the right judgement calls and demonstrate the highest ethical standards as they go about their work on the public’s behalf”*.
- *“Leadership is one of the Seven Principles and is critical to supporting ethical behaviour in an organisation. We will be examining the role of Leadership – at all levels – in embedding the Seven Principles in the approach and practices of public sector organisations”*.