

STANDARDS COMMITTEE

Date and Time: Tuesday 3 November 2020 at 5.00 pm

Place: Council Chamber

Present:

Ambler, Bailey, Clark, Clarke, Dorn, Kennett and Monks

Officers: Phillips

6 MINUTES OF PREVIOUS MEETING

The Minutes of the meeting of 13 August 2020 were confirmed (with minor typographical corrections) and signed as a correct record.

7 APOLOGIES FOR ABSENCE

Apologies had been received from Councillor Neighbour, David Argent and Peter Kern.

8 DECLARATIONS OF INTEREST

None declared.

9 HART MEMBERS' CODE OF CONDUCT - UPDATE

The Committee considered the updated Hart District Council Members' Code of Conduct and discussed the Parliamentary Committee on Standards in Public Life and the Local Government Associations recommendations about when the Code should apply: whilst members are entitled to privacy in their personal lives, the Code nevertheless applies to a member when they claim to act, or give the impression they are acting, in their capacity as a member or as a representative of the local authority. This includes statements made on social media even if the Councillor had posted a 'disclaimer' to suggest that the account is a personal one. The Committee specifically discussed the following issues

- the distinction between making comments in private rather than acting as a councillor
- can some clarity be given to the application of Article 10 of the European Convention on Human Rights and the Freedom of speech/expression
- should those making political grouping posts be subject to the Code?
- how does the current version of the Code relate to the draft LGA model Code?
- will the proposed changes give grounds to generate more or less complaints?

Overall, subject to some adjustments (to be circulated to the Members of the Committee for comment) the Committee supported the draft Code.

DECISION

That the revised Hart District Council Members' Code of Conduct (as amended) be recommended to Full Council for adoption.

10 GUIDANCE ON THE CODE OF CONDUCT - PUBLIC INTEREST TEST

The Committee discussed the Parliamentary Committee on Standards in Public Life best practice recommendation that Councils should publish a clear and straightforward public interest test against which allegations are filtered. Recent cases were used as examples.

The Committee did not support the recommendation that the Hart Code of Conduct Arrangements for dealing with Allegations should be amended to include reference to complaints related to the Member's democratic role being judged by the electorate and not investigated further. The Committee, however, did agree that resources should not be used to investigate matters which are trivial, or which have little or no impact on the public. The Committee recommended that the decision whether to investigate should comprise a proportionate response to the issues raised in any complaint assessed against expected outcomes taking into account the wider public interest and the costs of undertaking an investigation - the complainant had to have suffered significant personal injustice as a direct result of the actions of the Councillor complained about. The Committee also felt that if a councillor has made a genuine error despite taking having taken reasonable care, then it would not necessarily be in the public interest to investigate a complaint simply because it so happened that a breach of the Code of Conduct may have occurred as a result of that error.

Overall, subject to some adjustments (to be circulated to the Members of the Committee for comment) the Committee supported the draft Guidance on the Code of Conduct – Public Interest Test.

DECISION

It be recommended to Full Council that

- A. the public interest test as set out in Appendix 1 be used in the consideration of allegations that a member has broken the Code of Conduct; and
- B. The Hart Code of Conduct Arrangements for Dealing with Allegations be amended to include:
 - Public interest – the decision whether to investigate will be a proportionate response to the issues raised and expected outcomes taking into account the wider public interest and the resources require to carry out an investigation. Complaints will only be investigated where the allegations are reasonably considered to be serious matters and in accordance with the public interest tests as set out in Appendix 1).

- Alternative course of action – a complaint will only be investigated where there is no other action which could be taken which would achieve an appropriate outcome in the circumstances of the case.

The meeting closed at 6.00 pm