

Minutes

Meeting name	Governance Sub Committee 1
Date	Monday, 14 May 2018
Start time	11.00 am
Venue	Parkside, Station Approach, Burton Street, Melton Mowbray LE13 1GH

Present:

Chair Councillor J. Simpson (Chair)

Councillors M. Blase P. Chandler
M. Graham (Substitute)

Observers

Officers Deputy Chief Executive
Solicitor to the Council
Senior Democracy Officer
Administrative Assistant Elections & Member Support

Minute No.	Minute
	<p>Welcome and Introductions</p> <p>The Chair</p> <p>(a) opened the meeting by welcoming everyone and introduced the attending Councillors and Officers;</p> <p>(b) confirmed that the Monitoring Officer would be advising on procedural matters together with the Solicitor to the Council;</p> <p>(c) stated that the purpose of this Sub Committee meeting was to consider the information presented in accordance with the Localism Act 2011 and the Council's processes and make a decision regarding the action to be taken. The three options available to the Sub Committee were :-</p> <ul style="list-style-type: none"> • No action to be taken • The complaint be referred for other action such as training, support, mediation • The complaint be referred for investigation <p>The Sub Committee was reminded that it was not meeting to decide if the Code of Conduct had been breached and that normal Sub Committee rules were applicable.</p> <p>Members of the Public were advised that should the Sub Committee resolve to consider any matter in private session in accordance with Part 1 of Schedule 12A of the Local Government Act 1972 (Access to Information: Exempt Information), the public would be asked to leave the meeting whilst the matter was discussed and would be invited to return to hear the decision.</p>
G8	<p>Apologies for Absence</p> <p>Apologies for absence were received from Councillors Beaken (Councillor Graham attended in her place) and Douglas.</p>
G9	<p>Minutes</p> <p>The minutes of the meeting held on 20 July 2017 were confirmed and authorised to be signed by the Chair.</p>
G10	<p>Declarations of Interest</p> <p>There were no declarations of interest.</p>
G11	<p>Consideration of Member Complaint GOV 53</p> <p>The outcome of the investigation is available here</p>

- (a) submitted and presented a report (copies of which had previously been circulated to Members and it was confirmed that Members had had the opportunity to read the papers fully) which enabled the Committee to consider the complaint received, regarding the conduct of a Council Member and to consider what action should be taken from the following:-
- No Action
 - Other Action such as training, support, mediation
 - Refer for Investigation;
- (b) confirmed that the complaint was being considered in accordance with this Council's Complaints Procedure and Code of Conduct for Members;
- (c) highlighted that
- the complaint against the Subject Member was detailed within Appendices A, A1, A2, A3 and A4 of the report. Colour copies of Appendices A3 and A4 had been circulated prior to the start of the meeting
 - this Council's Complaints Procedure was detailed at Appendix B of the report and included in this was a flow chart of the process. This complaint was currently at the 'Report to Committee' stage.
 - this Council's Code of Conduct was at Appendix C of the report
 - details of the complaint had been shared with the Subject Member, according to usual procedure. He had met with the Subject Member on 5 February 2018 and had supplied an explanation of the Complaints Procedure. A note of the meeting was at Appendix D of the report;
- (d) advised that the Subject Member did not wish to attempt an informal resolution and therefore, the complaint had been referred to this Sub Committee for consideration;
- (e) confirmed that 'fact-finding' had been carried out to assist this Sub Committee in determining the action to be taken in this matter. This included transcripts of the relevant sections of the Planning Committee meetings held on 9 November 2017 and 4 December 2017. These transcripts had been provided by the complainant and verified by this Council. The minutes of the Planning Committee meetings held on 9 November 2017 and 4 December 2017 were at Appendices E and F of the report;
- (f) highlighted that the advice provided by this Council's Assistant Solicitor to the Subject Member prior to the Planning Committee meeting on 4 December 2017 had been given only twenty minutes before the start of the meeting. It may have been helpful for this advice to have been conveyed in writing to the Subject Member and with more time for the Subject Member to absorb. A copy email, outlining the advice provided was at Appendix G of

the report;

- (g) advised that part of the complaint referred to the democratic process and how the Subject Member voted. Each Councillor was entitled to comment and vote as they consider appropriate, in respect of a planning application under consideration. It was considered that this part of the complaint was not relevant to the Code of Conduct;
- (h) confirmed that he had sought the view of an Independent Person on this matter and this was attached at Appendix H of the report;
- (i) advised that this Sub Committee was asked to consider the complaint in relation to each individual element of the complaint, in order to decide what action should be taken. He highlighted a correction at Paragraph 3.10 (second bullet point) of the report, stating that this should read 'The complaint be referred for other action such as training, support, mediation (there is insufficient evidence to justify referral for investigation)';
- (j) highlighted that at this stage of the Complaints Procedure, this Sub Committee would not consider whether there had been a breach but whether there was sufficient evidence to warrant further investigation of the complaint.

A Member asked whether informal resolution had been refused by both the Subject Member and the complainant. The Monitoring Officer referred to the Note of Meeting with the Subject Member, as detailed at Appendix D of the report and stated that at this meeting, he discussed with the Subject Member the opportunity for informal resolution, which could include the Subject Member drafting a written response to the concerns raised in the complaint. The Subject Member had reflected on this option and had decided he did not wish to pursue it.

The Monitoring Officer read through each of the Code of Conduct Principles and complaint elements, as detailed at Appendix A3 of the report and advised that an extract of an email from Clawson in Action dated 8 May 2018 had been circulated (prior to the start of the meeting) for Members attention. The email provided comments from the complainant on points two and five of Appendix D.

A Member commented that points two and five of Appendix D and the comments within the email from Clawson in Action provided Members with two different views. Which was the correct view? What was the legal standing of the Melton Local Plan at that time?

The Monitoring Officer and Chair referred Members to the Planning Committee Minutes, as detailed at Appendix F of the report and Minute Number PL66, which stated 'the Neighbourhood Plan carries significant weight, owing to the stage it has reached, having passed examination.

A Member noted the tremendous work carried out by the complainant and advised that they could understand why the complainant had been upset by the Subject

Member's inappropriate comments at the Planning Committee meeting, held on 9 November 2018, as detailed at Appendix A1 of the report.

Another Member agreed, stating that the Subject Member's comments were unhelpful.

The Solicitor to the Council clarified that the Subject Member's comments, as referred to by Members and detailed at Appendix A1 was an element of the complaint to be considered in the due course of the meeting (if elements of the complaint were to be taken in order). Returning to the earlier query raised, concerning the legal standing of the Neighbourhood Plan, she advised that the Assistant Director for Planning and Regulatory Services had addressed this point at the start of the Planning Committee meeting and she reiterated that the Neighbourhood Plan had passed examination stage.

The Monitoring Officer and the Chair referred to Principle 1 (Selflessness) of the Code of Conduct, as detailed at Appendix A3 and advised Members to consider if there was any evidence to warrant further investigation of the Subject Member in relation to the allegation made. The Monitoring Officer highlighted Paragraph 7 of the Opinion of Independent Person, as at Appendix H of the report, which focused on this.

The Chair asked whether a vote should be made on each element of the complaint separately and the Solicitor to the Council advised that as Members were considering each element separately, it would be sensible to vote this way.

The Member who raised the matter of the Subject Member's comments on 9 November 2017, reiterated that determination of what if any further action would be taken against the Subject Member centred on the comments and they believed that the Subject Member had 'pre-determined' themselves.

The Solicitor to the Council advised that bias and pre-determination were not to be considered under the Code of Conduct (and at this meeting). Members were directed to consider each element of the complaint and decide what action, if any to take.

A Member referred to Paragraph 7 of the Opinion of Independent Person, agreeing that voting in the way the Subject Member had done was part of the democratic process and they were of the opinion that no further action should be taken against the Subject Member in relation to this element of the complaint.

Another Member suggested that the elements of the complaint be considered together, rather than individually and the Solicitor to the Council advised that this was a matter for Members to agree on.

Councillor Blase proposed a brief adjournment to the meeting, in order to decide whether to consider the elements of the complaint together or individually. Councillor Chandler seconded and upon being put to the vote, Members were

unanimously in favour.

[The meeting adjourned at 11:35 and re-convened at 11:43]

The Chair and the Solicitor to the Council advised that during the adjournment, a discussion had been held concerning the process of dealing with the complaint at this stage. It had been agreed that following consideration of each element of the complaint individually, Members would decide whether to vote on the individual elements or on the complaint as a whole.

The Chair remarked that element one of the complaint had been considered and asked if Members had any further comments to add. There being no further comments or questions forthcoming from Members, the Monitoring Officer drew Members attention to Principle 4 (Accountability) of the Code of Conduct, which involved the next three elements of the complaint.

A Member commented that determination of the Melton Local Plan involved consideration of a number of elements. When a vote was made, it was for/against the Plan as a whole. It was acceptable to vote for the Plan but disagree with part of it.

The Member further commented that the Planning Committee was made up of individuals who could only be influenced and not forced to vote a certain way. There was no case to answer for this element of the complaint.

A Member commented that they thoroughly agreed that the Subject Member 'went against the core principles of the NPPF, in which he should be well versed'. The Planning Committee was 'the face' of this Council. We had to lead in the core principles of the NPPF. Another Member stated their agreement with these comments.

The Monitoring Officer again highlighted number seven of the Opinion of Independent Person for Members to consider in relation to this element of the complaint.

The Monitoring Officer drew Members attention to Principles 5 and 6 (Openness and Honesty) of the Code of Conduct, which related to the fifth element of the complaint and a Member advised that they agreed with the allegation. The Solicitor to the Council reminded that it was not for Members of this Committee to decide whether the Code of Conduct had been breached but to consider if there was evidence to warrant further investigation. The Member reiterated that they did not believe that the reasons given by the Subject Member for permitting the Canal Lane application were considered planning reasons.

The Monitoring Officer advised Members that Paragraph 8 of the Opinion of Independent Person related to this element of the complaint.

The Monitoring Officer highlighted the General Obligations under the Code of

Conduct and referred Members to the verbatim transcripts, as detailed at Appendices A1 and A2 of the report and to Paragraph 9 of the Opinion of Independent Person.

A Member advised that they had read Appendix A1 with horror, finding it difficult to believe that any Councillor would say this. The comments made showed a lack of respect.

The Solicitor to the Council reminded Members to consider if there was sufficient evidence to warrant referral of the complaint for further investigation.

A Member stated that they believed this Council's Assistant Solicitor had advised the Subject Member to apologise for their comments made on 9 November 2017 but that the statement made on 4 December, as detailed at Appendix A2 did not constitute an apology. Other Members agreed with this statement. The Chair highlighted that Paragraph 9 of the Opinion of Independent Person, related to this element of the complaint.

There being no further comments or questions forthcoming from Members, Councillor Chandler proposed that no further action be taken in relation to element one of the complaint. This was seconded by Councillor Graham and upon being put to the vote, Members were unanimously in favour.

Members agreed to vote on the remaining seven elements of the complaint collectively and Councillor Blase proposed that these elements be referred for investigation. Councillor Graham seconded and upon being put to the vote, Members were unanimously in favour.

The Solicitor to the Council advised Members that the Monitoring Officer would commission an investigation and appoint an Investigating Officer. The Investigating Officer's report would be considered by Governance Sub Committee 2 (date and time to be confirmed).

RESOLVED that

- (1) no action be taken in relation to Principle 1 – Selflessness;
- (2) the complaint be referred to the Monitoring Officer for investigation, in relation to
 - Principle 4 – Accountability
 - Principles 5 and 6 – Openness and Honesty
 - General Obligations

The meeting closed at: 12.04 pm

Chair

