

Constitution and Ethics Committee Minutes

Date: 25 February 2022

Time: 10:00 am.-12:34 pm.

Venue: New Shire Hall, Alconbury Weald, Huntingdon, PE28 4YE

Present: Councillors Sebastian Kindersley (Chair), Alex Bulat (Vice-Chair), David Ambrose Smith, Lorna Dupré, Mac McGuire, Kevin Reynolds, Tom Sanderson, and Philippa Slatter (substituting for Councillor Gough)

16. Apologies for Absence and Declarations of Interest

Apologies were received from Councillors Neil Gough and Jan French.

Councillor Dupré declared a non-statutory disclosable interest as Chair of the County Farms Working Group.

Councillor Ambrose-Smith declared a non-statutory disclosable interest as a tenant of the County Farms estate.

17. Minutes – 29 September 2021

The minutes of the meeting held on 29 September 2021 were agreed as a correct record and signed by the Chair.

18. Code of Conduct Investigation

The Committee received a report on the outcomes of an independent investigation into the conduct of former Councillor, Roger Hickford, in relation to his tenancy of the Manor Farm estate. It was emphasised that as Mr Hickford was no longer a Councillor, no sanctions could be applied if the investigation concluded that he had breached the Council's Code of Conduct. However, the Committee was informed that, in response to the findings of a separate report produced by Mazars LLP, the Council had: reviewed and updated its Respect@Work policy; improved the ease of access to documents on the Council's policies and processes; held training for Members on the Code of Conduct; produced a Conflict of Interest Guidance document for Members; and updated the Council's Whistleblowing Policy.

It was resolved unanimously under paragraph 3 Schedule 12A of the Local Government Act 1972 as the report referred to information relating to the financial or business affairs of any particular person (including the authority holding that information) that the press and public be temporarily excluded from the meeting to allow the Committee to consider recommendations (b), (c) and (d) of the report.

The Committee resumed in public session following the consideration of objections and the requirement for hearing.

The Chair announced that the Committee had considered the representation from former Councillor Hickford asking for an extension of time to consider the report before responding. The Committee had agreed a process for considering the matter at its meeting in July 2021 which was communicated to Mr Hickford at the time and the timescales set out in the procedure had been followed. It was therefore believed this allowed adequate time for responding to the report. There were no extenuating circumstances provided which would necessitate an adjournment and there was public interest in bringing this matter to a conclusion without undue delay. No objections to the report were received or any request for participation in a local hearing. The Committee therefore agreed unanimously to proceed with the item.

The Chair reported that the Committee had been asked to consider, in relation to confidential Appendix B, if the public interest in maintaining the exemption outweighed the public interest in disclosing the information. The Committee had taken legal advice on this issue and considered the data protection rights of any individuals named or identifiable from the report. The legal advice was clear that a final report into, and determining whether, former Councillor Hickford had breached the Code was likely to be publishable in compliance with the Council's GDPR and other obligations. The Committee therefore resolved unanimously that the public interest in publishing the report outweighed the public interest in maintaining the exemption on the basis of the very strong public interest in transparency on issues concerning the conduct of elected officials.

The Committee adjourned to allow for the publication of Appendix B.

Following the publication of Appendix B, the report was presented to the Committee. The investigating officer noted that the length of the report was due to the inclusion of extensive information detailing the relationships between Mr Hickford and officers. The investigation had concluded that he was acting in his official capacity when dealing with officers in respect of the tenancy of Manor Farm, Girton, and therefore the code was engaged. The investigator concluded that the following breaches of the Code of Conduct were committed by Mr Hickford with respect to his conduct towards officers and in relation to his tenancy of Manor Farm, Girton:

- (a) Respect (paragraph 2.1) – he failed to treat officers and others acting on behalf of the Council with respect;
- (b) Bullying (paragraph 2.2(b)) – he used a bullying manner in order for the Council to pay for works that would otherwise be the responsibility of the tenant. He also used a bullying manner in order to set the terms of the Lease for Manor Farm;
- (c) Impartiality (paragraph 2.2(d)) – he compromised officers and others' impartiality in his dealings with regard to Manor Farm;

- (d) Disrepute (paragraph 2.2(e)) – his conduct towards officers and others and his conflict of interest would have reduced the public’s confidence in him being able to fulfil his role or the Council being able to discharge its functions;
- (e) Improper use of position (paragraph 4.1) – he used his position as Deputy Leader to receive concessions that the Council would not otherwise have agreed to;
- (f) Interests (paragraphs 8 and 10) – he failed to register a disclosable pecuniary interest (the tenancy of manor Farm) within 28 days and he failed to declare a non-statutory disclosable interest in meetings with regard to County Farms matters.

The investigation concluded that the following breach considered in the investigation had not been committed by Mr Hickford:

- (g) Misuse of Council resources (paragraph 5.1(a)).

In response to the report, Members raised the following issues:

- Queried whether either bullying officers to arrange for the Council to pay for work that would normally be the responsibility of tenants, or the misuse of officers’ time, should be considered a misuse of resources. The investigator clarified that a misuse of resources as detailed in (h) above typically meant a misuse of items granted to Councillors for use as a Member of the Council such as a Council laptop or printing.
- Questioned whether Mr Hickford’s illness over the investigative period had been considered in the same way as the Chief Internal Auditor’s. The investigator informed the Committee that he had not been made aware of issues concerning Mr Hickford’s health. However, reference to the Chief Internal Auditor’s period of sickness existed only to provide context for the commissioning of the Mazars report.
- Highlighted further to the Committees and Boards listed in the report that Mr Hickford had also represented the Council on the Combined Authority’s Housing and Communities Committee but this was not included in the report.
- Asked why Councillor A had not responded to the investigation. It was noted that Councillor A had been contacted for evidence twice by email and once by letter. He had not responded to the communication.
- Queried whether the investigator knew if Councillor A had spoken to the former Leader of the Council. In response the investigator drew attention to the documented evidence: “On 10 May 2018, Deputy Chief Executive wrote that he had spoken to Councillor A about Roger Hickford’s behaviour, and that Councillor A would talk to Councillor ____, the Leader. We were told it was up to us to formalise a complaint.’ The officer also clarified that in Officer C’s statement on p.107 13.2 [ss] that in May 2018 the Chief Executive had told Officer B and C it was ‘up to them’ to formalise a complaint.”
- Queried why the Investigator had not contacted the previous Leader of the Council. Members were informed that in balancing proportionality and robustness, the

Investigator had not considered it sufficiently relevant to speak to the former Leader of the Council. It was noted that he was not referred to in the evidence obtained and the investigation related to Mr Hickford's relationship with officers.

- Confirmed that the investigation into the whistleblowing allegation had been completed and the audit report which led to the police referral was submitted in draft form as a result of staff sickness.

The Chair moved to the debate, during which Members commented on:

- Mr Hickford's behaviour: Stated that Mr Hickford had breached a Councillor's duty of care, demonstrating a lack of respect to officers and an abuse of his position for personal gain. Members stressed that this behaviour was inexcusable and expressed frustration that this public hearing was the only way in which the Council could hold him to account.
- Senior officers: Considered to what degree senior officers should be held responsible for the events and expressed concern over their failure to support junior officers. It was suggested that a more effective use of the officer chain of command could have prevented the escalation of events.
- Senior councillors: Considered senior Councillors' responsibility, with key questions raised surrounding their general absence in the report and to what extent senior Conservative Group members had been aware of, or condoned, the events. Some Members expressed a desire for the former Leader of the Council to respond to the report and apologise.
- Councillor conduct: It was suggested that the course of events set out in the investigation should provide learning for all Councillors. The Committee reflected on the negative behaviour that had been witnessed, including: absences from the Members' Code of Conduct training session; truancy; passive aggressive group emailing; the use of bullying as a political tactic; and the bullying of officers in previous Full Council meetings. The Committee also reflected on the benefits of positive behaviour, such as: encouraging trust in the Council; fostering community interest in local democracy; and encouraging a more diverse selection of electoral candidates.
- Constitution: Expressed concern that the Council's Constitution permitted recommendations of such significant interest and personal gain to individual Councillors without participating Councillors being aware of the circumstances. It was noted that this related to the fact that former Councillor Hickford's interest in Manor Farm had not come to light until the item had been referred from the Commercial and Investment Committee to General Purposes Committee.
- Council culture: Debated whether the problems identified in the investigation were limited to Mr Hickford or endemic. It was suggested senior councillors, the Chief Executive and Full Council should address underlying concerns, and that the culture of the Council needed to change to prevent a recurrence. Creating a healthy working environment would involve generating an atmosphere of sensitivity, transparency and honesty in which people felt able to learn from their mistakes, with

Councillors viewed as approachable, and officers able to champion one another and give gentle criticism.

Members expressed belief that the Council should go further than the response seen in the report and address incidents, regardless of whether they were considered singular or minor. They suggested implementation of changes within the Council that responded to the report be tracked publicly to improve public confidence.

The Committee noted that the findings in the report would be used to deliver enhanced services in the future and improve the moral direction of the Council. This would be a cross-council and cross-Cambridgeshire priority.

The Chief Executive, who had only joined the Council on 22 February 2022, addressed the Committee, recognising the importance of workplace culture, as well as policy and procedure, in making staff feel safe and heard. He highlighted that any measures implemented should protect Councillors and employees of all levels to improve the robustness of the workforce. He proposed these measures be reviewed by the Strategy and Resources Committee, irrespective of any further recommendations made by the Constitution and Ethics Committee.

While considering recommendation e), it was moved by Councillor Dupré, seconded by Councillor Ambrose Smith and agreed unanimously that the Committee:

- (i) View it as a cross-council priority to address the issues raised in this report;
- (ii) Refer the investigation to the Strategy and Resources Committee with a request that they establish a programme of action to resolve these issues and prevent a recurrence;
- (iii) Invite the Strategy and Resources Committee to refer the matter to Full Council if necessary; and
- (iv) Take up the issue with colleagues in councils across Cambridgeshire, to improve standards of behaviour in public life more widely throughout the County.

Noting that the previous Chief Executive had issued a private apology to impacted officers in advance of the investigation conclusion, it was proposed by the Chair and agreed unanimously to ask the Chief Executive to explore the possibility of issuing a public apology.

Recommendations b) to e) had been considered previously and were set out above, in relation to recommendation a) it was resolved unanimously to:

- a) Note the external investigation report at confidential Appendix B into whether there was a failure by former councillor, Roger Hickford, to comply with the Council's Code of Conduct whilst he was a Member of the Council;

In conclusion, the Chair on behalf of the Committee thanked the investigator for his report.

19. Motions on Notice

The Committee received a report which proposed amending the Constitution to prevent the consideration of planning motions at Full Council. This would address the danger of Planning Committee members pre-determining applications or suggesting bias, potentially increasing the risk to the Council of legal challenge.

While discussing the report, Members:

- Clarified that the proposed amendment would not affect the outcomes of pre-existing motions.
- Showed support for the motion, noting planning officer concerns, which related to the way planning motions could be used by applicants to make legal challenges and possibly lead to quorum issues at future Planning Committees.

It was resolved unanimously to:

Recommend the proposed amendments to the Constitution, as set out in Section 2.9 of the report, to Full Council.

20. Officer's Code of Conduct

The Committee received a report which proposed incorporating the Officer's Code of Conduct into the Constitution. While the Code was not an exhaustive list of the standards, it covered a selection of expectations. Its inclusion in the Constitution would result in the Constitution and Ethics Committee having oversight of any future changes.

While discussing the report, Members:

- Noted the Chief Executive's endorsement of the proposal.
- Expressed concern that the change could lead to officers feeling pressured, but noted that it could also make junior officers feel more able to challenge the behaviour of other officers.
- Suggested that the incorporation could improve managerial diversity and equality training.

It was resolved unanimously to:

Recommend to Full Council the incorporation of the Officers' Code of Conduct into the Constitution, as set out in Appendix 2 of the report.

21. A Review of the Complaints Received Under the Members' Code of Conduct

The Committee received a report detailing two ongoing and two concluded complaints regarding Members' Code of Conduct. It was noted that such reports anonymised the subjects of complaints until a breach of the Code of Conduct had been confirmed.

While discussing the report, Members:

- Established that the complaints procedure was detailed on the Council's website.
- Clarified that the confidentiality process for complaints (agreed by the Committee in 2018) ensured that the subject of a complaint would be informed immediately, and the Committee would be informed of this identity if a breach of the code of conduct was identified.

It was resolved unanimously to:

Note the contents of the report.

22. Constitution and Ethics Committee Agenda Plan

The Committee resolved unanimously to note its agenda plan.

Chair