

STANDARDS COMMITTEE

Venue: Town Hall, Moorgate
Street, Rotherham. S60
2TH

Date: Thursday, 13 June 2013

Time: 2.00 p.m.

A G E N D A

1. To determine if the following matters are to be considered under the categories suggested, in accordance with the Local Government Act 1972.
2. To determine any item which the Chairman is of the opinion should be considered as a matter of urgency.
3. Apologies for Absence.
4. Minutes of the previous meeting held on 14th March, 2013 (herewith) (Pages 1 - 4)
5. Update from the Monitoring Officer regarding the referral of matters under the Code of Conduct (report herewith) (Pages 5 - 7)
6. Confidential Reporting Code (report herewith) (Pages 8 - 18)
7. Exclusion of the Press and Public.
The following items are likely to be considered in the absence of the press and public as being exempt under Paragraph 1 of Part 1 of Schedule 12A to the Local Government Act 1972 (as amended March 2006) (information relates to an individual).
8. Appointment of an Additional Independent Person (report herewith) (Pages 19 - 21)
9. Allegations of Breaches of the Code of Conduct (report herewith) (Pages 22 - 32)
10. Date and Time of Next Meeting - Thursday, 12th September, 2013 at 2.00 p.m.

**STANDARDS COMMITTEE
14th March, 2013**

Present:- Councillor Gosling (in the Chair); Councillors Beck, Gilding, Middleton, Pitchley, P. A. Russell and Sims and also Parish Councillors Bates and Rowley and also Mrs. A. Bingham, Mr. I. Daines and Ms. J. Porter.

Apologies for absence were received from Councillor Tweed, Parish Councillor R. Swann and Mr. P. Edler.

B14 MINUTES OF THE PREVIOUS MEETING HELD ON 13TH DECEMBER, 2012

Resolved:- That the minutes of the meeting of the Committee held on 13th December, 2012 be approved as a correct record.

B15 UPDATE FROM THE MONITORING OFFICER - BALLOT OF PARISH COUNCILS, DISPENSATIONS AND THE REPORT OF THE COMMITTEE ON STANDARDS IN PUBLIC LIFE, STANDARDS MATTER

Consideration was given to the update presented by Jacqueline Collins, Monitoring Officer, which provided details on:-

- Ballot of Parish Councils and the appointment of three representatives to the Standards Committee.
- Dispensations and the powers delegated by the Council to grant dispensations from the Code of Conduct in certain circumstances. In accordance with that delegated power dispensations had been granted to all Members of Rotherham Borough Council to participate in the discussion and vote in respect of housing rents and facilities charges, district heating charges and setting of the Council Tax on the 28th January, 2013 for a period of four years and also to Parish Councillors Daines and Hays of Thorpe Salvin Parish Council to participate and vote on matters relating to wind turbines at Clay Pit Lane for a period of two years.
- Standards Committee authority to grant dispensations and the requests that had been submitted by:-
 - Councillor G. Jarvis from Anston Parish Council - to allow him to remain in any Parish Council meetings to discuss matters relating to allotments, but not to vote.
 - Councillor M Richardson, Vice Chairman of Maltby Town Council – to allow him to remain in any Parish Council meetings to discuss matters relating to bowling, but not to vote.

- Standards Matter – the report of the Committee on Standards in Public Life, which was a review of best practice in promoting good behaviour in public life.

The Committee considered in detail the applications for dispensations and whilst mindful that discussions involving the matters referred to were of interest to the Parish Councillors, were content that as both gentlemen were not wishing to participate in the vote, their contribution to the discussions could be of some value.

Reference was also made to the report on “Standards in Public Life” and the need to maintain high standards in the interests of society as a whole and the need to pay greater attention than before to standards of behaviour in internal systems.

Information was also shared relating to an Ethical Standards Survey that used to be presented to the Committee. Further investigation would take place to ascertain the existence of such a survey, especially as Lord Justice Leveson’s report also raised the importance of standards regulators being both demonstrably independent and armed with robust sanctions.

Resolved:- (1) That the report be received and the information be noted

(2) That Parish Councillors David Rowley, Dennis Bates and Richard Swann be welcomed to the Committee as co-opted, voting members, serving for a period of four years.

(3) That dispensations be granted for the applications as submitted for Parish Councillors Jarvis and Richardson for a period of four years.

(4) That the “Standards in Public Life” document be monitored and the status of the Ethical Standards Survey be established.

B16

AMENDMENTS TO THE CODE OF CONDUCT

Further to Minute No. B11 of the meeting of this Committee held on 13th December, 2012, consideration was given to a report presented by Jacqueline Collins, Monitoring Officer, which proposed changes to the Code of Conduct in respect of personal interests.

The Committee asked that an amendment to the Code should be introduced to ensure that Members should disclose personal interests at meetings where business affecting those interests was discussed. Previously it was only necessary to disclose those personal interests which had not already been notified to the Monitoring Officer.

Where a personal interest was “of such significance that it warranted withdrawal” a Member should consider not participating in the discussion and withdrawing from the meeting. A copy of the changes was circulated with the report.

In these circumstances consideration was given to the Chairman of a meeting taking the final decision regarding the withdrawal of the Member. However, as the failure to withdraw from a meeting in these circumstances may result in a breach of the Code of Conduct, the final decision regarding withdrawal must rest with the Member concerned. The responsibility for taking that decision could not appropriately be shared with the Chairman or anybody else.

The Committee noted that these amendments were only relevant in respect of the Council's Code. The National Association of Local Council's Code, which had been adopted by seven Town and Parish Councils in the Borough, had different requirements with regard to the declaration of disclosable pecuniary interests and other interests. The issue of whether there should be a common Code of Conduct in operation throughout the Borough would be considered at a future meeting.

Resolved:- That the proposed amendments to the Code of Conduct be approved.

B17 EXCLUSION OF THE PRESS AND PUBLIC

Resolved:- That, under Section 100A(4) of the Local Government Act, 1972, the press and public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Paragraph 1 of Part I of Schedule 12A to the Local Government Act (as amended March, 2006) (information relates to an individual).

B18 UPDATE FROM THE MONITORING OFFICER REGARDING THE REFERRAL OF MATTERS UNDER THE CODE OF CONDUCT

Consideration was given to a report presented by Jacqueline Collins, Monitoring Officer, which provided an update in respect of five matters that had been referred to the Monitoring Officer under the Code of Conduct.

The five matters were outlined in detail and the recommendations by the Monitoring Officer taken into account.

Discussion ensued on the matters, as set out in the report, and it was suggested that for future reports the comments of the Independent Person be incorporated where they had been consulted.

The recommendations of the Monitoring Officer were accepted, but it was suggested that consideration be given to a training session for Elected Members, with an invitation being extended to Parish Councillors, on sensitivities around social media networks.

Resolved:- That the report be received and the actions taken with regards to referrals under the Code of Conduct be noted.

(Parish Councillor D. Bates left the room whilst matters relating to Complaint 5 were discussed on the basis that he was also a member of the same Parish Council)

B19 LOCALISM ACT 2011 AND THE STANDARDS REGIME - APPOINTMENT OF INDEPENDENT PERSON

Consideration was given to a report presented by Jacqueline Collins, Monitoring Officer, which set out details of the recruitment process undertaken to appoint an Independent Person and the options for appointment.

As the Council has only authorised the appointment of one Independent Person to offer support and guidance on ethical issues, authority would need to be sought should the Committee wish to recommend the appointment of more than one Independent Person.

Discussion ensued on the calibre of the candidates, the recommendation on who should be appointed and the possibility of appointing an additional Independent Person of a similar status to the first, which could provide Rotherham with the experience and expertise to deal with any issues that may arise.

Recommended:- (1) That David Roper-Newman be appointed as Independent Person, for a period of four years.

(2) That consideration be given to the appointment of an additional Independent Person, giving the Council two in total to deal with any issues that may arise.

B20 DATE AND TIME OF NEXT MEETING

Resolved:- That a further meeting be held on Thursday, 13th June, 2013, commencing at 2.00 p.m.

ROTHERHAM BOROUGH COUNCIL – REPORT TO MEMBERS

1. Meeting:	Standards Committee
2. Date:	13th June 2013
3. Title:	Update from the Monitoring Officer regarding the referral of matters under the Code of Conduct
4. Directorate:	Resources

5. Summary

To update the Committee in respect of matters that have been referred to the Monitoring Officer under the Code of Conduct.

6. Recommendations

That the Committee notes the steps that have been taken with regard to referrals under the Code of Conduct.

7. Proposals and Details

The Monitoring Officer has the responsibility to seek resolution of allegations of breaches of the Code of Conduct without formal investigation wherever practicable and for determining whether a complaint should be referred to a panel of independent members of the Standards Committee for further consideration. This report updates the Committee on the exercise of that function.

1. A complaint that a Borough Councillor had inaccurately completed their Register of Interests form and in doing so “plainly intended to deceive”.

Following consideration of the interests declared the Councillor submitted a revised Register of Interests form.

The Monitoring Officer was satisfied that the Councillor had not fully understood the requirements of the Register and there had been no intention to deceive.

2. A complaint in respect of poor chairmanship of a Parish Council.

The Monitoring Officer considered that this did not raise any issue that could constitute a breach of the Code of Conduct and therefore no further action was taken.

3. A complaint that a defamatory letter had been written by a parish councillor.

The Monitoring Officer determined that as the letter was written by the Parish Councillor in their private capacity the Code of Conduct was not engaged. The Independent Person, who also considered the documents, reached the same conclusion.

4. As reported to the Committee at its last meeting there have been numerous complaints and counter-complaints regarding the standards of behaviour of Anston Parish Councillors. To date over 15 allegations have been received. The allegations cover a range of matters including poor conduct, inappropriate conduct, derogatory comments and discrimination in the application of Standing Orders.

The Monitoring Officer has determined that all of those matters should be dealt with informally by local resolution.

To date the Independent Person and Deputy Monitoring Officer have attended a Parish Council meeting. The Independent Person has met with one of the Councillors complained about for an informal discussion regarding standards. It is proposed that the Independent Person will meet with members of the public in the parish and then have a further meeting with the Parish Councillors. It is envisaged that this will conclude the informal resolution of the complaints.

8. Finance

None

9. Risks and Uncertainties

The proper consideration and treatment of complaints under the Code of Conduct will enhance the reputation of all Councils within the Borough and their members.

10. Policy and Performance Agenda Implications

None

11. Background Papers and Consultation

None

Contact Name : *Jacqueline Collins, Director of Legal and Democratic Services, telephone 01709 255768 or e-mail: jacqueline.collins@rotherham.gov.uk*

ROTHERHAM BOROUGH COUNCIL – REPORT TO MEMBERS

1. Meeting:	Standards Committee
2. Date:	13th June 2013
3. Title:	Confidential Reporting Code
4. Directorate:	Resources

5. Summary

To update the Committee on the contents of the current Confidential Reporting Code and the referrals for the year 2012-13.

6. Recommendations

That the Committee notes the content of the Confidential Reporting Code.

7. Proposals and Details

At its last meeting questions were raised by the Committee with regard to an update on referrals under the Confidential Reporting Code (the “Whistle Blowing” Policy) being provided.

The Monitoring Officer holds responsibility for the Code, which is attached at appendix A. The Code is reviewed annually and this has just been done.

Referrals made under the procedure are reported nationally under the Audit Commission Fraud Corruption Survey. There were no referrals made to the Monitoring Officer during the year 2012-13.

It is timely to enhance prominence of confidential reporting and anti-fraud measures within the Council and this is to be done by way of manager briefings. The Committee should note that the responsibility for reviewing strategy and initiatives rests with the Audit Committee.

8. Finance

None

9. Risks and Uncertainties

As contained in the report.

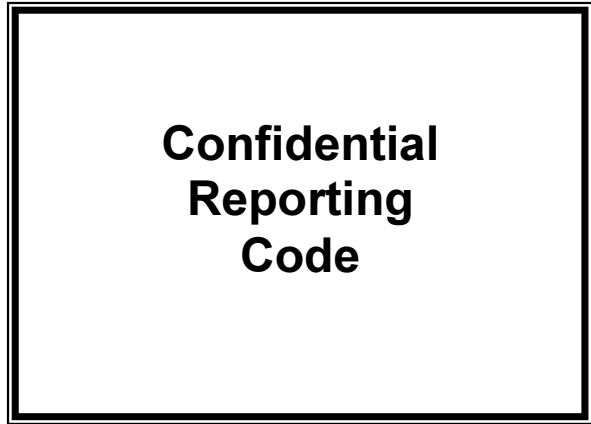
10. Policy and Performance Agenda Implications

None

11. Background Papers and Consultation

None

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LEGAL AND DEMOCRATIC SERVICES
May 2013

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[Appendix 1: Anti – Fraud Strategy – Statement and Procedures](#)

1. **INTRODUCTION**

- 1.1 The Council is committed to the highest possible standards of openness, probity and accountability. In line with that commitment we expect employees, and others that we deal with, who have concerns about any aspect of the Council's work to come forward and voice those concerns. It is recognised that most cases will have to proceed on a confidential basis.
- 1.2 Employees are often the first to realise that there may be something seriously wrong within the Council and have a duty to report such matters. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the Council. They may also fear harassment or victimisation. However, employees should not simply ignore their concerns.
- 1.3 This policy document makes it clear that employees can come forward and express their concerns without fear of victimisation, subsequent discrimination or disadvantage. This Confidential Reporting policy is intended to encourage and enable employees to raise serious concerns **within** the Council. Employees will be commended for raising concerns within the Council rather than overlooking a problem or "blowing the whistle" outside.

- 1.4 Managers should take in to account the translation and interpretation needs of the individual. This Code can be made available in other languages and formats on request.
- 1.5 The policy applies to all employees and those contractors working for the Council on Council premises, for example, agency staff, builders, drivers. It also covers suppliers and those providing services under a contract with the Council.
- 1.6 These procedures are in addition to the Council's complaints procedures and other statutory reporting procedures applying to some Departments.
- 1.7 This policy has been discussed with the relevant trade unions and has their support.

2. AIMS AND SCOPE OF THIS POLICY

2.1 This policy aims to:

- encourage you to feel confident in raising serious concerns and to question and act upon concerns about practice
- provide avenues for you to raise those concerns and receive feedback on any action taken
- ensure that you receive a response to your concerns and that you are aware of how to pursue them if you are not satisfied
- reassure you that you will be protected from possible reprisals or victimisation if you have a reasonable belief that you have made any disclosure in good faith.

2.2 There are existing procedures in place to enable you to lodge a grievance relating to your own employment including any breach of the Council's Equal Opportunities Policies or bullying and harassment. The Confidential Reporting Code is intended to cover major concerns that fall outside the scope of other procedures. These include:

- conduct which is an offence or a breach of law
- disclosures relating to miscarriages of justice
- health and safety risks, including risks to the public as well as other employees
- damage to the environment
- the unauthorised use of public funds
- possible fraud and corruption¹
- sexual or physical abuse of clients, or
- other unethical conduct.²

1 ¹The Council's policy statement on fraud is appended.

2 ²Employees should make themselves familiar with the Code of Practice on Official Conduct.

2.3 Thus, any serious concerns that you have about any aspect of service provision or the conduct of officers or members of the Council or others acting on behalf of the Council can be reported under the Confidential Reporting Policy. This may be about something that:

- makes you feel uncomfortable in terms of known standards, your experience or the standards you believe the Council subscribes to; or
- is against the Council's Standing Orders and policies; or
- falls below established standards of practice; or
- amounts to improper conduct.

3. ANONYMOUS ALLEGATIONS

3.1 This policy encourages you to put your name to your allegation whenever possible.

3.2 Concerns expressed anonymously are much less powerful and more difficult to investigate, however, these will still be considered but will be assessed on the:

- seriousness of the issues raised
- credibility of the concern; and
- likelihood of confirming the allegation from attributable sources.

4. CONFIDENTIALITY

4.1 All concerns will be treated in confidence and every effort will be made not to reveal your identity if you so wish. At the appropriate time, however, you may need to come forward as a witness.

5. SAFEGUARDS

5.1 Harassment or Victimisation

5.2 The Council is committed to good practice and high standards and wants to be supportive of employees.

5.3 The Council recognises that the decision to report a concern can be a difficult one to make. If what you are saying is in good faith, you should have nothing to fear because you will be doing your duty to your employer and those for whom you are providing a service.

5.4 The Council will not tolerate any harassment or victimisation (including informal pressures) and will take appropriate action to protect you when you raise a concern in good faith.

5.5 Any investigation into allegations of potential malpractice will not influence or be influenced by any other employment procedures that already affect you.

- 5.6 The Public Interest Disclosure Act 1998 gives legal protection to employees who disclose information, in good faith, about alleged wrongdoing.

6. UNTRUE ALLEGATIONS

- 6.1 If you make an allegation in good faith and with reasonable belief, but it is not confirmed by the investigation, no action will be taken against you. If, however, you make an allegation frivolously, maliciously or for personal gain, disciplinary action may be taken against you.

7. HOW TO RAISE A CONCERN

- 7.1 You should raise concerns with the Director of Legal & Democratic Services, Director of Human Resources or the Chief Executive. Concerns may be raised verbally or in writing. Employees who wish to make a written report are invited to use the following format:

- please mark envelope “to be opened by addressee only”
- the background and history of the concern (giving relevant dates);
- the reason why you are particularly concerned about the situation.

- 7.2 The earlier you express the concern the easier it is to take action.

- 7.3 Although you are not expected to prove beyond doubt the truth of an allegation, you will need to demonstrate to the person contacted that there are reasonable grounds for your concern.

7.4 Obtain advice/guidance on how to pursue matters of concern from the Director of Human Resources, Director of Legal & Democratic Services, the Chief Executive or the Chairman of the Standards Committee.

- 7.5 You may wish to consider discussing your concern with a colleague or your trade union first and you may find it easier to raise the matter if there are two (or more) of you who have had the same experience or concerns.

- 7.6 You may invite your trade union, professional association representative, work colleague or a friend to be present during any meetings or interviews in connection with the concerns you have raised.

8. HOW THE COUNCIL WILL RESPOND

- 8.1 The Council will respond to your concerns. Do not forget that testing out your concerns is not the same as either accepting or rejecting them.

- 8.2 Where appropriate, the matters raised may:

- be investigated by management, internal audit, or through the disciplinary process
 - be investigated by the Council's Standards Committee if the complaint concerns an Elected Member
 - be referred to the police
 - be referred to the external auditor
 - form the subject of an independent inquiry
- 8.3 In order to protect individuals and those accused of misdeeds or possible malpractice, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. The overriding principle which the Council will have in mind is the public interest. Concerns or allegations which fall within the scope of specific procedures (for example, child protection issues) will normally be referred for consideration under those procedures.
- 8.4 Some concerns may be resolved by agreed action without the need for investigation. If urgent action is required this will be taken before any investigation is conducted.
- 8.5 Within ten working days of a concern being raised, the person to whom it is expressed will write to you:
- acknowledging that the concern has been received
 - indicating how we propose to deal with the matter
 - giving an estimate of how long it will take to provide a final response
 - telling you whether any initial enquiries have been made
 - supplying you with information on staff support mechanisms, and
 - telling you whether further investigations will take place and if not, why not.
- 8.6 The amount of contact between the officers considering the issues and you will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, the Council will seek further information from you.
- 8.7 Where any meeting is arranged, off-site if you so wish, you can be accompanied by a union, professional association representative, work colleague or a friend.
- 8.8 The Council will take steps to minimise any difficulties which you may experience as a result of raising a concern. For instance, if you are required to give evidence in criminal or disciplinary proceedings the Council will arrange for you to receive advice about the procedure.
- 8.9 The Council accepts that you need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, we will keep you informed of developments every twenty-eight days and the outcome of any investigation.

9. THE RESPONSIBLE OFFICER

9.1 The Director of Legal & Democratic Services has overall responsibility for the maintenance and operation of this policy. That officer maintains a record of concerns raised and the outcomes (but in a form which does not endanger your confidentiality) and will report as necessary to the Council. All officers dealing with concerns raised under this procedure will submit reports on these concerns and of the outcomes to the Director of Legal & Democratic Services.

10. HOW THE MATTER CAN BE TAKEN FURTHER

10.1 This policy is intended to provide you with an avenue within the Council to raise concerns. The Council hopes you will be satisfied with any action taken. If you are not, then you can request the Director of Legal & Democratic Services to refer the matter for consideration by the Council's Standards Committee. If, having exhausted all internal processes, you feel it is necessary to take the matter outside the Council, the following are possible contact points:

- KPMG (see footnote 1 below)
- your trade union
- your local Citizens Advice Bureau
- relevant professional bodies or regulatory organisations
- a relevant voluntary organisation
- the police

10.2 You are advised that disclosure to the press is not encouraged and will not normally be legally protected.

Footnotes

1. KPMG can be contacted by post, telephone or email:

Stephen Clark or Rashpal Khangura
KPMG (Regional Office)
St. James Square
Manchester

Telephone 0161 2464281 or 0113 2313396
e-mail: Stephen.clark@kpmg.co.uk
or Rashpal.Khangura@KPMG.co.uk

ANTI-FRAUD STRATEGY - STATEMENT & PROCEDURES

The Council is committed to the proper accountability of public funds and condemns all actions that are of a fraudulent and corrupt nature. As part of this commitment to public accountability the Council expects that :-

1. Members

Shall fulfil their duties in accordance with the requirements of "the Council's Code of Conduct for Members and Co-opted Members".

2. Employees

Act in accordance with the Code of Official Conduct as issued to employees and contained in the Local Conditions of Service

Declare to their line manager any other form of employment in addition to their function within the Council. The details are to be entered in the "Departmental Register of Interests Declared by Employees", copies of which are held in each Department.

3. Members and Employees

Protect public interest and confidence as the over-riding factor when decisions are to be made in relation to matters that involve an element of private interest. Where doubt exists over the correct procedure, advice should be sought from the appropriate Director.

When making decisions regarding public appointments or recommending individuals for awards or benefits, both monetary and otherwise, that the decision taken is based purely on merit in accordance with defined guidelines.

Be accountable to the public for their decisions and actions including subjecting themselves to whatever scrutiny is appropriate to their office. To openly give reasons for their decisions and actions except in cases where the wider public interest requires a restriction of such information.

Declare any private interest which is relevant to their public duties by making an appropriate entry in the Register of Interests. Private interest is defined as both of a monetary and non-monetary nature, where the interest might be perceived by the public to influence the decision making process.

Make decisions solely in pursuance of the Council's statutory functions and declared policies at the exclusion of private and personal interest.

Comply with the Financial Regulations and the Standing Orders of the Council at all times.

Award contracts in accordance with the Council's Financial Regulations and Standing Orders and that successful tenderers are selected in accordance with defined guidelines relating to the evaluation of contracts.

Avoid placing themselves under any obligation to external individuals or organisations that may influence, or be perceived to influence them, in the performance of their duties.

Accept offers of hospitality and gifts only in cases where it can be readily justified on the basis that by accepting the offer the Council will derive direct benefit from such actions. All offers of hospitality and gifts that are accepted must be entered in the Register of Gifts, Legacies and Hospitality.

(Reviewed May 2013)

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