

STANDARDS COMMITTEE

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

Date: Thursday, 11 September
2014

Time: 2.00 p.m.

A G E N D A

1. Apologies for Absence.
2. To determine if the following matters are to be considered under the categories suggested, in accordance with the Local Government Act 1972.
3. To determine any item which the Chairman is of the opinion should be considered as a matter of urgency.
4. Minutes of the previous meeting held on 12th June, 2014 (herewith) (Pages 1 - 5)
5. Update from the Monitoring Officer on the Handling of Complaints of Breaches of the Code of Conduct (Pages 6 - 8)
6. General Update from the Monitoring Officer (report herewith) (Pages 9 - 27)
7. Date and Time of Next Meeting - 11th December, 2014 at 2.00 p.m.

STANDARDS COMMITTEE
12th June, 2014

Present:- Gosling (in the Chair); Councillors Pitchley, Sansome, Sims, Bates and Rowley and also Mr. P. Edler.

Apologies for absence were received from Councillor Godfrey, Middleton and Swann and I. Daines and Porter.

B1 MINUTES OF THE PREVIOUS MEETING

Resolved:- That the minutes of the previous meeting of the Standards Committee held on 13th March, 2014 be approved as a correct record.

B2 UPDATE FROM THE MONITORING OFFICER ON ALLEGATIONS OF BREACHES OF THE CODE OF CONDUCT

Consideration was given to the update presented by Jacqueline Collins, Monitoring Officer, which referred to the handling of complaints of breaches of the Code of Conduct and provided details on:-

1. A complaint that a Borough Councillor had failed to declare an interest in a matter of business at a meeting. The complainant had referred his complaint to the Ombudsman. The complainant was asked for details to substantiate his complaint on two occasions, but failed to do so. In the circumstances the Monitoring Officer wrote to the Ombudsman to confirm that, in the absence of any detail to substantiate the allegation, the matter would not proceed further.
2. A complaint that a Town Councillor had deliberately altered the order of an agenda in order to favour relatives. The matter was considered by the Monitoring Officer and advice from the Independent Person, was sought.

Upon consideration the Monitoring Officer was satisfied that the individuals who were alleged to be relatives of the Town Councillor were not related to him. In addition the action that the Town Councillor was alleged to have taken would not have constituted a breach of the Code of Conduct in any event. The Independent Person concurred with the Monitoring Officer and would not be considered further.

3. A complaint that members of one particular party on a Parish Council had committed misconduct in public office by entering into a contract that was not lawfully executed.

Upon consideration the Monitoring Officer formed the view that the unlawful actions alleged would have been the responsibility of the officers and advisers of the Parish Council. The alleged

transgressions would not be those of the Councillors themselves.

The matter was referred to the Independent Person, whose view was that there was no potential breach of the Code of Conduct and that the offence of misconduct in public office would be a matter to be investigated by the Police. In view of this the matter would not be referred for further consideration.

4. A complaint that a Parish Council had acted unfairly in relation to one of its members; that certain Parish Councillors had acted inappropriately; that there had been impropriety with regard to a transaction and that “resolute actions” needed to be taken by the Chief Executive and Monitoring Officer to prevent the parish becoming a “cauldron of dissent”.

The Monitoring Officer formed the opinion that these were not matters which could be considered under the Code of Conduct and informed the complainant accordingly.

Resolved:- That the report, the steps taken and its contents be noted.

B3**UPDATE FROM THE MONITORING OFFICER ON THE CONFIDENTIAL REPORTING CODE**

Consideration was given to the update presented by Jacqueline Collins, Monitoring Officer, which provided an update on the contents of the Confidential Reporting Code and referrals for the year 2013/2014.

The Council's Confidential Reporting Code (commonly known as the Whistleblowing Procedure) was reviewed annually and was now presented as being fit for purpose.

The Code had also been reviewed in accordance with the British Standards PAS 1998:2008 Whistleblowing Arrangements Code of Practice, and found to be generally compliant. The area where the Council's Code deviated from the British Standard was that it did not provide access to a helpline for confidential enquiries. However, the Code did enable advice to be sought from the Chair of the Standards Committee, the Chief Executive, the Monitoring Officer and the Director of Human Resources. In addition, if the complainant was not satisfied with the actions taken by the Council the matter could be referred externally, to a number of bodies including KPMG, the Council's external auditors. These were considered to be appropriate safeguards which reflect the requirements of the British Standard.

One referral had been received under the Confidential Reporting Code which was dealt with by the Monitoring Officer. The allegation was of financial mismanagement at a school and was investigated by the Council's Internal Audit team. The allegations of fraudulent mismanagement were not substantiated.

The Committee asked a number of questions relating to the availability and access to the Confidential Reporting Code for staff, whether its revisions and availability should be publicised again, how anonymous complaints were dealt with, whether partner agencies were also covered by this or their own similar Codes and whether it was permissible to use evidence captured by images either overtly or covertly.

The Monitoring Officer confirmed she would take steps to publicise the Code via a Manager's Briefing and ensure that this was cascaded to staff and that investigate and report back to the next meeting on reporting procedures for partner agencies and whether or not images or C.C.T.V. could be used in evidence.

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

(2) That a Manager Briefing be circulated on the Confidential Reporting Code.

(3) That further information be presented to the next meeting of the Standards Committee on the confidential report procedures for partner agencies.

B4 REQUEST FOR A DISPENSATION FROM THE REQUIREMENTS OF THE CODE OF CONDUCT

Consideration was given to a report presented by Jacqueline Collins, Monitoring Officer, which detailed a request for a dispensation from Councillor Scholey of Maltby Town Council from the requirements of the Code of Conduct.

Councillor Scholey was currently on the committee of the Town Council which was overseeing bowling greens and who was also a member of Coronation Parks Retired Persons Bowling Club. This constituted a personal interest and disclosable upon Councillor Scholey's Register of Interests.

In these circumstances Councillor Scholey would have to declare his interest at any meeting considering issues connected with the Retired Persons Bowling Club and then proceed to consider whether that interest was of such significance as to warrant withdrawal from the meeting. A request had been received which asked the Committee to consider Councillor Scholey's request for a dispensation. The dispensation could be granted either on the basis that it was in the interests of persons living in the Council's area or that it was otherwise appropriate to grant such a dispensation.

The Committee considered the request and were of the opinion that Mr. Scholey's involvement in bowling green discussions could add value and on this basis were happy to grant his request.

Resolved:- That the request for a dispensation be granted.

B5 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).

B6 CONFIDENTIAL UPDATE FROM THE MONITORING OFFICER

Consideration was given to a report presented by Jacqueline Collins, Monitoring Officer, which provided an update with regard to the progress of an investigation into an allegation of a breach of the Code of Conduct and to report upon the outcome of the appointment process for two new Independent Members.

The Monitoring Officer had now received the investigatory report regarding this incident and due to the Council's two Independent Persons having been involved in this case it was felt appropriate to seek the advice of a different Independent Person. A Sub-Committee would now be convened to consider the matter further.

Mr. P. Beavers, Independent Person, also gave an update on his current involvement, his engagement with the public and Parish Council and his commitment to working with all those involved over the coming few months.

The Committee noted the difficulties that this particular Parish Council had encountered, but wished to see the Parish Council work democratically together to serve the needs of its electorate.

The Monitoring Officer also outlined the recent recruitment process and the satisfaction of the Interviewing Panel that the two people who had submitted applications to become Independent Members met the criteria in the person specification. The Panel were now happy to forward to Council their recommendations to approve the two Independent Members of the Standards Committee.

(1) Resolved:- That the steps taken with regard to the investigation be noted.

(2) Recommended:- That Ms. Adele Dowdall and Mrs. Catherine Saltis be appointed as Independent Members to the Standards Committee.

B7 DATE AND TIME OF NEXT MEETING

Resolved:- That the next meeting of the Standards Committee take place on Thursday, 11th September, 2014 at 2.00 p.m.

ROTHERHAM BOROUGH COUNCIL – REPORT TO MEMBERS

1.	Meeting:	Standards Committee
2.	Date:	11th September 2014
3.	Title:	Update from the Monitoring Officer on the Handling of Complaints of Breaches of the Code of Conduct
4.	Directorate:	Resources

5. Summary

To update the Committee with regard to the handling of complaints of breaches of the Code of Conduct

6. Recommendations

That the Committee notes the steps that have been taken to resolve the complaints.

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 determining whether a complaint should be referred to a panel of independent members of the Standards Committee for further consideration. This is an update on the exercise of that function.

The following complaints have been received by the Monitoring Officer and dealt with in the following way:-

1. A complaint with regard to a member of Anston Parish Council, that the member's conduct had been disdainful and threatening.

Following consultation with the independent person, Phillip Beavers, the matter has been referred to formal resolution, with the other issues arising from Anston Parish Council.

2. A complaint that a member of Anston Parish Council has disclosed confidential information, in breach of the requirements of the Code of Conduct.

This complaint has been forwarded to the member concerned, who has been asked to provide written comments. Following the receipt of those comments the Monitoring Officer will consider whether the matter should be referred by a sub-committee of the Standards Committee for a formal investigation.

3. A complaint concerning a borough councillor, of misconduct in public office.

The Monitoring Officer asked for further information from the complainant on 14th July and no further details have been received. The Monitoring Officer proposes that this matter should now be closed and the complainant informed accordingly.

4. A complaint that a member of Anston Parish Council had incorrectly taken the Chair at the meeting.

Following correspondence with the complainant, the Monitoring Officer was satisfied that this complaint did not fall within the remit of the Code of Conduct as a potential breach of the Code of Conduct.

5. A complaint that an Anston Parish Councillor had behaved in a way to bring the office of councillor into disrepute, failed to declare an interest improperly conferred an advantage on a friend.

This matter has been referred to the Councillor concerned for written comments, following which the Monitoring Officer will form a view as to whether this matter should be considered by a sub-committee of the Standards Committee as to consider a formal investigation is required.

6. A complaint that a member of Anston Parish Council was involved in offensive and potentially defamatory conduct.

This matter has been referred to the Councillor involved for written comments, prior to the Monitoring Officer determining whether this should be referred to a sub-committee of the Standards Committee to consider whether a formal investigation is required.

8. Finance

None

9. Risks and Uncertainties

None

10. Background Papers and Consultation

None

Contact Name: *Jacqueline Collins, Director of Legal and Democratic Services, telephone 01709 8255768 or e-mail jacqueline.collins@rotherham.gov.uk*

ROTHERHAM BOROUGH COUNCIL – REPORT TO MEMBERS

1.	Meeting:	Standards Committee
2.	Date:	11th September 2014
3.	Title:	General Update from the Monitoring Officer
4.	Directorate:	Resources

5. Summary

To update the Committee with regard to the Confidential Reporting code and related issues

6. Recommendations

- i) That an appropriate consultation response be provided to BIS.

7. Proposals and Details

At the meeting held on the 12th June the Committee requested wider publicising of the confidential reporting code, including Partner agencies.

Since the last meeting a reminder has been sent to all Rotherham Borough Council staff with regard to the availability of the confidential reporting code. In addition correspondence has been sent to the major Partner agencies to remind them of their need to act appropriately with regard to employment matters and asking them to further publicise the confidential reporting code with their employees.

The Department for Business, Innovation and Skills has produced a consultation document on the annual reporting requirement Appendix A, the purpose of the consultation is to seek views as to how annual reporting on whistleblowing issues should be implemented.

The committee is asked to consider the consultation document and how it should respond to the consultation.

8. Finance

None

9. Risks and Uncertainties

None

10. Background Papers and Consultation

None

Contact Name: *Jacqueline Collins, Director of Legal and Democratic Services, telephone 01709 8255768 or e-mail jacqueline.collins@rotherham.gov.uk*



Department
for Business
Innovation & Skills

**SMALL BUSINESS, ENTERPRISE
AND EMPLOYMENT BILL**

Prescribed persons: annual
reporting requirements on
whistleblowing

AUGUST 2014

Contents

1. Executive Summary.....	4
3. How to respond	5
4. Confidentiality & Data Protection	6
5. Help with queries Questions about the policy issues raised in the document can be addressed to:....	6
6. The proposal	7
7. Next Steps.....	8
8. Consultation principles	9
10. Impact Assessment of the requirement on prescribed bodies to report annually.....	10
11. Consultation Questions	12

Prescribed Persons: Annual Reporting Requirements on Whistleblowing

This consultation has been issued to seek views on the practical implication of a legal power contained in the Small Business, Enterprise and Employment Bill to require certain prescribed persons to report annually on public interest disclosures (whistleblowing disclosures) that they receive.

It is relevant to those bodies listed in the Public Interest Disclosure (Prescribed Persons) Order 1999. It will also be relevant to those organisations that take an interest in whistleblowing legislation, which was introduced by the Public Interest Disclosure Act 1998 and is contained in the Employment Rights Act 1996.

The Government took steps in March this year to add Members of Parliament (MPs) to the list of prescribed persons; however the duty to report will not apply to MPs or Ministers of the crown.

Issued: 1 August 2014

Respond by: 30th September 2014

Enquiries to: Louise Evatt

0207 215 1605

louise.evatt@bis.gsi.gov.uk

1 Victoria Street, London SW1H 0ET

1. Executive Summary

The Government committed during the passage of the Enterprise and Regulatory Reform Bill 2013, to review the whistleblowing framework through a call for evidence and to consider any cases for change. At the time of publication, the Government considered the overall framework to work well. However since its introduction in 1998, a number of high profile issues like the Mid Staffordshire NHS Foundation Trust scandal and the financial collapse have taken place, focussing the spotlight on whistleblowing. As such, it was deemed appropriate and timely to consider the effectiveness of the framework against the backdrop of a change in ways of working and a shifting dynamic in the labour market.

The Government carried out significant exploratory work including reviewing 78 responses and holding public discussion sessions in Edinburgh, Birmingham and London.

BIS found through the call for evidence that the confidentiality duty that binds prescribed persons and lack of legal obligation to investigate a disclosure means that whistleblowers do not have confidence that their reports are investigated. This is cited as a reason for the whistleblowing framework 'failing' to protect whistleblowers.

To address this, the Department of Business Innovation and Skills (BIS) is introducing a power in the Small Business Enterprise and Employment Bill to enable the Secretary of State to make regulations to require persons prescribed under section 43F of the Employment Rights Act 1996 to report annually on whistleblowing issues.

The purpose of the reporting requirement is to:

- Ensure more systematic processes across all prescribed bodies in the way public interest disclosures are handled. Thereby working towards a consistent standard of best practice for handling disclosures
- Provide greater reassurance to the whistle-blower that action is being taken by the prescribed person and as a result increase the confidence in the actions of the prescribed person

This consultation is seeking views on how the Government implements this reporting requirement. The conclusions of this consultation will shape the secondary legislation that is developed under the new power in the Small Business, Enterprise and Employment Bill.

2. How to respond

When responding please state whether you are responding as an individual or representing the views of an organisation. If you are responding on behalf of an organisation, please make it clear who the organisation represents by selecting the appropriate interest group on the consultation form and, where applicable, how the views of members were assembled.

You can reply to this consultation online at [insert survey monkey link].

The consultation response form is available electronically on the consultation page: <https://www.gov.uk/government/consultations/whistleblowing-prescribed-persons-reporting-requirements> (until the consultation closes on 30 September 2014). The form can be submitted online/by email or by letter or fax to:

Bertha Eson-Benjamin

Labour Markets Directorate

Department of Business, Innovation and Skills

1 Victoria Street, London SW1H 0ET

Tel: 0207 215 2350

Email: bertha.eson-benjamin@bis.gsi.gov.uk

You may make printed copies of this document without seeking permission.

BIS consultations are digital by default but if required printed copies of the consultation document can be obtained from:

BIS Publications Orderline

ADMAIL 528

London SW1W 8YT

Tel: 0845-015 0010

Fax: 0845-015 0020

Minicom: 0845-015 0030

<https://www.gov.uk/government/publications?departments%5B%5D=department-for-business-innovation-skills>

Other versions of the document in Braille, other languages or audio-cassette are available on request.

3. Confidentiality & Data Protection

Information provided in response to this consultation, including personal information, may be subject to publication or release to other parties or to disclosure in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004). If you want information, including personal data that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence.

In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

4. Help with queries

Questions about the policy issues raised in the document can be addressed to:

Bertha Eson-Benjamin or Louise Evatt

Labour Markets Directorate

Department of Business, Innovation and Skills

1 Victoria Street, London SW1

Tel: 0207 215 1605

Email: bertha.eson-benjamin@bis.gsi.gov.uk; louise.evatt@bis.gsi.gov.uk

The consultation principles are in Annex A.

5. The proposal

As outlined in the Executive Summary, the Department is introducing a power in the Small Business Enterprise and Employment Bill to enable the Secretary of State to make regulations to require persons prescribed under section 43F of the Employment Rights Act 1996 to report annually on whistleblowing issues.

The purpose of the reporting requirement is to:

- ensure more systematic processes across all prescribed bodies in the way public interest disclosures are handled. Thereby working towards a consistent standard of best practice for handling disclosures; and
- provide greater reassurance to the whistle-blower that action is being taken by the prescribed person and as a result increase the confidence in the actions of the prescribed person.

The reports will not provide detail enabling the identity of the worker who made the disclosure or the employer to which the disclosure relates to be identified. However we anticipate that the Regulations will provide that the Reports should cover more generic information such as:

- The number of disclosures that qualify as protected public interest disclosures
- The number of these that did not require any further action
- The number of these that were referred to an alternative body
- The number of disclosures that required further research
- The number of investigations that led to action being taken
- The number of cases where the issue was resolved after first contact with the employer
- The number of organisations investigated that had whistleblowing policies in place

This consultation is seeking views to determine how this reporting requirement should be implemented in practice.

Next Steps

The outcome of this consultation will be used to inform how the Government implements the secondary legislation to require certain prescribed bodies to report annually on whistleblowing issues.

Secondary legislation will be laid in Parliament after the Small Business, Enterprise and Employment Bill receives Royal Assent in 2015

Consultation principles

The principles that Government departments and other public bodies should adopt for engaging stakeholders when developing policy and legislation are set out in the consultation principles.

<http://www.cabinetoffice.gov.uk/sites/default/files/resources/Consultation-Principles.pdf>

Comments or complaints on the conduct of this consultation

If you wish to comment on the conduct of this consultation or make a complaint about the way this consultation has been conducted, please write to:

John Conway,
BIS Consultation Co-ordinator,
1 Victoria Street,
London
SW1H 0ET

Telephone John on 020 7215 6402

or e-mail to: john.conway@bis.gsi.gov.uk

However if you wish to comment on the specific policy proposals you should contact the policy lead (see section 6).

Impact Assessment of the requirement on prescribed persons to report annually

An Impact Assessment is not required since there is no business impact. However the consultation asks questions to understand the impact of the change on the prescribed persons.

Response Form

NOTE: The Department may, in accordance with the Code of Practice on Access to Government Information, make available, on public request, individual responses.

The closing date for this consultation is **30/09/2014**

Name:

Organisation (if applicable):

Address:

Please return completed forms to:

email: bertha.eson-benjamin@bis.gsi.gov.uk

Part 1- Please tick one or more of the boxes below to give the best description of you as a respondent.

	Organisation Type
	Regulator or Prescribed body
	Local Government
	Central Government
	Legal representative
	Large business (over 250 staff)
	Medium business (50 to 250 staff)
	Small business (10 to 49 staff)
	Micro business (up to 9 staff)
	Business representative organisation or trade body
	Charity or social enterprise
	Trade union or staff association
	Individual member of the public
	Other (please describe)

Consultation Questions

Part 2 - How many employees **in total** are there within the organisation in which you work?

	Employees
<input type="checkbox"/>	Over 250
<input type="checkbox"/>	50 to 250
<input type="checkbox"/>	10 to 49
<input type="checkbox"/>	up to 9

Question 1 Do you agree with the proposed content of the report?

A Yes No

B What are your reasons?

Question 2 who should the duty to report apply to?

A All regulators certain regulators

B If certain regulators, which ones?

Question 3 should any other information be included in the report?

A Yes No

B If Yes, what information?

Question 4 We propose that the report should be published on each organisation's websites along with general annual reports (such as accounts and performance). Do you agree?

A Yes No

B What are your reasons?

Question 5 Should this report be contained within existing annual reports of your organisations / the organisation concerned?

A Yes No

Or as a stand-alone report?

B Yes No

C What are your reasons?

Question 6 should this information be reported to Parliament?

A Yes No

B If yes, do you foresee any problems with this?

Yes No

C If so, what are these?

Question 7: At what point of the year would it be most practical and appropriate to publish such information? (for example end of the financial year).

B. What are your reasons for this timing?

Question 8: Does your organisation already collect and report on the data required by this policy change?

A Yes No Not sure

B If yes, what data does your organisation already collect?

Question 9: Considering additional burdens that could be created by this policy change: In a year, how much staff time would your organisation need to comply with this change?

A. For those who can provide staff time: How did you work out the staff time needed to comply with this change?

B. In addition to staff time, would your organisation have to incur any monetary expenditure to comply with this change?

Yes No

C. For organisations that would have to incur monetary expenditure: In a year, how much monetary expenditure would your organisation need to incur to comply with this change?

D. For those who can provide an expenditure figure: How did you work out the expenditure needed to comply with this change?

Question 10: Do you believe that providing information in an annual report will:

A) increase confidence that reports of wrong doing are handled correctly?

Yes No

B) Dispel the belief that the whistleblowing framework is failing whistleblowers?

Yes No

C) Improve the consistency of information across prescribed persons?

Yes No

Question 11: Do you have any further comments or suggestions about the implementation of this duty to report?

Please use this space for any general comments that you may have, comments on the layout of this consultation would also be welcomed.

Thank you for taking the time to let us have your views. We do not intend to acknowledge receipt of individual responses unless you tick the box below.

Please acknowledge this reply

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1 Victoria Street
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