

STANDARDS AND ETHICS COMMITTEE

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

Date: Thursday, 9 March 2017

Time: 2.00 p.m.

A G E N D A

1. Apologies for Absence.
2. Declarations of Interest.
3. To consider whether the press and public should be excluded from the meeting during consideration of any part of the agenda.
4. To determine any item which the Chairman is of the opinion should be considered as a matter of urgency.
5. Minutes of the previous meeting held on 12th January, 2017 (herewith) (Pages 1 - 5)
6. Training for Members of Parish and Town Councillors on Codes of Conduct and Standards and Ethics (report herewith) (Pages 6 - 11)
7. Standards and Ethics Committee Working Group re Code of Conduct and Associated Procedures (report herewith) (Pages 12 - 18)
8. Standards Bulletin (Recent Updates in Standards and Ethics) (report herewith) (Pages 19 - 32)
9. Review of the Terms of Reference for Standards and Ethics Committee (report herewith) (Pages 33 - 42)
10. Standards Complaints Update - Verbal Update.
11. Date and Time of Next Meeting - Thursday, 8th June, 2017 at 2.00 p.m.



S. KEMP,
Chief Executive.

STANDARDS AND ETHICS COMMITTEE
Thursday, 12th January, 2017

Present:- Councillor McNeely (in the Chair); Councillors Allcock, Allen, Khan, and Simpson, Parish Councillor D. Bates and D. Rowley and also Ms. A. Dowdall, Mr. P. Edler and Ms. J. Porter (Independent Co-optees).

Also in attendance were Mr. P. Beavers and Mr. D. Roper-Newman, Independent Persons.

Apologies for absence were received from Councillor Yasseen and Parish Councillor R. Swann.

19. DECLARATIONS OF INTEREST

There were no Declarations of Interest to report at this meeting.

20. MINUTES OF THE PREVIOUS MEETING HELD ON 29TH SEPTEMBER, 2016

Consideration was given to the minutes of the previous meeting held on 29th September, 2016.

With regards to Minute No. 17(2) it was noted that the Chair had met with the Lead Commissioner Sir Derek Myers and communicated the Committee's concerns about the lack of sanctions available to the Committee since the implementation of the Localism Act 2011 and Sir Derek understood the concerns. At that time there was a pending criminal trial of a Borough Councillor and any action was deferred pending the verdict.

The Borough Councillor was subsequently convicted of a sexual assault and resigned. An amended motion was passed at the meeting of Council on 7th December, 2016 concerning the conduct of the Councillor and, in accordance with the resolution, the Chief Executive wrote to the Secretary of State, the details of which were set out in Agenda Item 6. This, therefore, superseded any action by the Commissioners.

Resolved:- That the minutes of the meeting of the Standards and Ethics Committee held on 29th September, 2016 be approved as a true and correct record of the proceedings.

21. REVIEW OF FINANCIAL REGULATIONS AND CONTRACT STANDING ORDERS

Consideration was given to the report presented by Judith Badger, Strategic Director for Finance and Customer Services, and Gary Bandy, Independent Consultant, which provided details on the current review of the Council's Constitution which included the independent review of

STANDARDS AND ETHICS COMMITTEE - 12/01/17

Financial Regulations and Contract Standing Orders. These two components fell within the terms of reference of the Standards and Ethics Committee with the final decision on constitutional amendments made by Full Council.

The review of the existing documents and preparation of the new ones involved comparing the Council's existing arrangements with five other Metropolitan Councils to produce proposals that were up-to-date and practical.

The proposed Financial Regulations had been reduced in length to avoid duplication and the changes reflected:-

- Changing the status of guidance notes (Reg 2.5) so that they could be issued by the Chief Finance Officer at any time, and officers and Members must comply with them.
- Using definitions (Para 3.1) for roles so that it is easier to make changes to the regulations if job titles and management structures change.
- A clear statement that Members and officers should seek value for money (Reg 4.5).
- A duty for officers to consult the Chief Finance Officer about financial matters (Reg 5).
- The virement rules (Reg 7) have been clarified.
- The procurement of goods and services (Reg 10) now lines up with the way the financial system worked by placing the key controls on the authorisation of requisitions and certification of goods or services being received.
- A new Regulation 11 has been introduced to cover grants to voluntary and community sector organisations.
- The writing-off of debts (Reg 13.11) was to be done by the Chief Finance Officer, with arrangements for consultation on larger debts.
- The general assumption about overspends and underspends is that they will not carry forward to the following year's budget (Reg 19);
- A new Regulation 25 had been included about the settlement of claims against the Council.
- The limits for the disposal of land and buildings without separate Member approval have been increased (Reg 27.11).
- Regulation 31 has been added to deal with petty cash imprests.
- Regulation 34 has been added to deal with gifts, loans and sponsorships.
- Regulation 37 has been added to deal with emergency situations.

Discussion ensued on the interpretation and ambiguity to both Regulation 3.1 and 32.1 of the Assistant Director definition and whether this could include support staff and it was suggested the wording be tightened to now read "Assistant Director means an officer who reports directly to a Strategic Director (irrespective of their actual job title) other than a person whose duties are solely secretarial or clerical or are otherwise in the

nature of support services”.

In addition, further clarity was provided on the appropriateness of computer and other systems registered, which should be amended to operated, in accordance with the Data Protection legislation when the Council was a registered Data Controller and the reasons for this.

The Committee also asked if there was any merit including a definition of Best Value given that it appeared several times throughout the regulations and the judgement that had to be made and whether or not a scenario type document could be devised to assist officers. It was suggested that further thought be given to such a document in consultation with the Chief Finance Officer/Monitoring Officer.

Further clarity was also provided on the treatment of underspends/overspends and the carefully managed process to consider these against the overall position of the Authority.

The Chairman also sought clarification and received advice on the use of corporate purchasing cards, whether there was a timeframe for when debts would be written off and settlement claims against the Council.

This led to further discussion for clarification on the types of settlement claims and the scenarios and if this included any complaints process compensatory payments.

A few further suggested amendments were made to the Regulations, namely:-

- 13.1 (Mitigation Column) - Replace the word “Consider” with “Arrange” and for the Committee to receive the results of the new rules once they were reviewed within the year.
- 34 (Gifts, Loans and Sponsorship) to include the Mayoralty.

The Committee continued to consider the proposed Contract Standing Orders and the main changes, which were:-

- Using definitions (SO 32.5) for roles so that it is easier to make changes to the regulations if job titles and management structures change.
- The guiding principles (SO 33) have been extended.
- There is a requirement for Strategic Directors to prepare procurement business cases for each procurement (SO 37).
- The use of approved lists of contractors has been aligned with the Public Contract Regulations 2015.
- The tendering process (SO 42 to 46) reflects the Public Contract Regulations 2015.
- All tendering processes for £25,000 or more should be carried out using the YORTender system and advertised on Contracts Finder

(SO 46).

- All tendering should be done electronically, using the security features and audit trail built into the YORTender system (SO 47.6).
- A new section (SO 52 to 54) has been added to set out what is expected from officers who are appointed as the contract manager for a contract.

The Committee were mindful for local suppliers to be kept fully informed of the publication of approved contractor lists and for the notices inviting applications to be included on the Council's website as well as in the local media.

Resolved:- (1) That the report be received and the amendments as suggested be incorporated.

(2) That Full Council be recommended to approve the constitutional amendments relating to the Financial Regulations and Contract Standing Orders set out in Appendices 1 and 2 to this report.

22. RESOLUTION OF FULL COUNCIL FOLLOWING THE CONVICTION OF A COUNCILLOR

Consideration was given to the report presented by Dermot Pearson, Monitoring Officer, which set out the action taken following the recent conviction of former Councillor.

The circumstances relating to the former Councillor conviction were outlined for the benefits of the Committee.

A motion submitted to Council on the 7th December, 2016 raised further the concerns of this Committee about the limitations of the current national Standards regime with the Government, as illustrated by this case and how the Council would have no ability to deal effectively with the former Councillor had he chosen not to resign.

As such, the Chief Executive wrote to the Department of Communities and Local Government on 9th December, 2016 echoing the concerns. Any response received would be reported back to the Standards and Ethics Committee in due course.

The Committee welcomed the course of action and suggested the letter from the Chief Executive be forwarded onto the three Rotherham Members of Parliament and also the Chairman of the Committee on Standards in Public Life.

Resolved:- (1) That the contents of the letter sent to the Department of Communities and Local Government dated 9th December, 2016 be noted.

(2) That the letter also be forwarded onto three Rotherham Members of Parliament and also the Chairman of the Committee on Standards in

Public Life.

23. UPDATE FROM THE MONITORING OFFICER REGARDING COMPLAINTS

The Assistant Director, Legal Services (and Monitoring Officer) submitted a report detailing the progress with the handling of complaints relating to breaches of the Council's Code of Conduct for Members and Co-opted Members. The report listed twelve current cases of complaint and the action being taken in respect of each one.

The Committee discussed the cases highlighted within the submitted report.

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

(2) That the progress in respect of each case be noted.

24. REVIEW OF CODE OF CONDUCT - VERBAL REPORT TO INCLUDE TRAINING INFORMATION AND THE ESTABLISHMENT OF A WORKING GROUP

The Committee received information from Stuart Fletcher, Service Manager, on the timely review of the Code of Conduct and sought views as to whether a Working Group should be established.

It was also suggested that as part of such a review this also be extended to the procedures for complaints.

A useful bulletin had been provided by one of the Independent Persons and the contents would be shared at the meeting of the Working Group.

Volunteers for the Working Group were sought.

Resolved:- (1) That the Working Group membership include Councillors Allen, McNeely and Simpson, Mr. P. Beavers, Independent Person, Mr. P. Edler, Independent Co-optee, and Parish Councillor D. Rowley.

(2) That the first meeting of the Working Group take place on Tuesday, 31st January, 2017 at 10.00 a.m. at the Town Hall.

25. DATE AND TIME OF NEXT MEETING - THURSDAY, 9TH MARCH, 2017

Resolved:- That the next meeting of the Standards and Ethics Committee take place on Thursday, 9th March, 2017 at 2.00 p.m.

Summary Sheet

Standards Committee Report

Standards Committee 9 March 2017

Title

Training for Members of Parish and Town Councillors on Codes of Conduct and Standards and Ethics

Is this a Key Decision and has it been included on the Forward Plan?

No

Strategic Director Approving Submission of the Report

N/A

Report Author(s)

Sumera Shabir, Legal & Democratic Services, Riverside House, Main Street,
Rotherham S60 1AE
Tel : 01709 823568

Dermot Pearson, Assistant Director Legal Services, Riverside House, Main Street,
Rotherham S60 1AE

Ward(s) Affected

All

Executive Summary

A report updating on recent training provided to members of Parish and Town Councils (8 February 2017) on codes of conduct and standards and ethics generally.

Recommendations

That the Committee notes the information about the training session, further notes the actions to be taken following the training session and identifies future training initiatives to be undertaken with Parish and Town Councils.

List of Appendices Included

Appendix 1 - Copy of training material (to be distributed at the meeting).

Background Papers

None

Consideration by any other Council Committee, Scrutiny or Advisory Panel

None

Council Approval Required

No

Exempt from the Press and Public

No

Title

Training for Members of Parish and Town Councillors on Codes of Conduct and Standards and Ethics

1. Recommendations

- 1.1 That the Standards Committee:
- i) notes the information about the training session
 - ii) notes the actions to be taken following the training session
 - iii) identifies future training initiatives to be undertaken with Parish and Town Councils

2. Background

- 2.1 Following discussions with the Standards and Ethics Committee and the Chair of the Committee, training was provided to members of Parish and Town Councillors (together with clerks) on the Code of Conduct and standards and ethics generally, as referred to below. The training was delivered by Dermot Pearson, Sumera Shabir, the Chair of the Committee and the two Independent Persons.

Attendees

- 2.2 All Parish and Town Councils were invited and the session was well attended with representatives from:
- i) Aston Parish Council (following the NALC code of conduct)
 - ii) Anston Parish Council (following the Rotherham code of conduct)
 - iii) Dalton Parish Council (following the Rotherham code of conduct)
 - iv) Dinnington Town Council (following the Rotherham code of conduct)
 - v) Laughton en le Morthen Parish Council (following the NALC code of conduct)
 - vi) Maltby Town Council (merging the Rotherham and NALC code of conduct)
 - vii) Wales Parish Council (following the Rotherham code of conduct)
 - viii) Woodsetts Parish Council (following the Rotherham code of conduct)
 - ix) Ulley Parish Council (following the Rotherham code of conduct)
- 2.3 Most of the Parish and Town Councils had a website (albeit being updated).

Content

- 2.2 The session comprised of a series of scenarios based on standards and ethics dilemmas; linked to the Nolan (Seven) Principles of Public Life and this was followed by a short presentation on standards and ethics arising in relation to codes of conduct.
- 2.3 Discussions covered the role of the Independent Persons, borough Councillors and social media.

- 2.4 After the conclusion of the session, the Monitoring Officer invited the individual clerks (new and existing) to discuss their experiences and common strategies.

Outcome

- 2.5 The training highlighted the need for good governance and general discussion was facilitated around transparency and use of websites.
- 2.6 The clerks agreed that it would be beneficial to arrange a further separate meeting could be convened with all the clerks; where the Monitoring Officer could offer support and facilitate new and existing clerks to form a network. This is currently being arranged at a suitable location for the clerks.

Feedback

- 2.7 The training was very well received as attendees were able to network with others in the session in groups, though feedback highlighted:
- 2.7.1 the temperature and acoustics could have been better
 - 2.7.2 the session could have been longer to allow more open discussion
 - 2.7.3 more sessions would be appreciated, particularly an evening session
 - 2.7.4 quarterly workshops would be ideal at varying locations
 - 2.7.5 could separate training for clerks and Councillors
- 2.8 It was suggested that future themes could include:
- 2.8.1 social media
 - 2.8.2 conflicts of interest
 - 2.8.3 planning
 - 2.8.4 local government law generally
 - 2.8.5 chairing of meetings
 - 2.8.6 code of conduct
 - 2.8.7 running disciplinary and grievance panels
 - 2.8.8 advertising Parish and Town Council vacancies and the publishing of minutes and accounts
- 2.9 There was an invitation to observe some Parish and Town Council meetings.

3. Key Issues

- 3.1 Frequency and content of future training.

4. Options considered and recommended proposal

- 4.1 Recommendations have been referred to above.

5. Consultation

- 5.1 N/A

6. Timetable and Accountability for Implementing this Decision

6.1 None

7. Financial and Procurement Implications

7.1 None

8. Legal Implications

8.1 The Council and Standards Committee have a statutory duty to uphold ethical standards. As such, training Parish and Town Councillors (together with clerks) assists in fulfilling this duty.

9.0 Human Resources Implications

9.1 None

10.0 Implications for Children and Young People and Vulnerable Adults

10.1 None

11.0 Equalities and Human Rights Implications

11.1 The training applies equally to all Parish and Town Councils.

12. Implications for Partners and Other Directorates

12.1 None

13.0 Risks and Mitigation

13.1 None

14. Accountable Officer(s)

Dermot Pearson, Assistant Director, Legal Services

Approvals Obtained from:-

Assistant Director Legal Services and Monitoring officer
Dermot Pearson

Appendix 1 - Copy of training material (to be distributed at the meeting)

Summary Sheet

Standards and Ethics Committee Report

Standards and Ethics Committee Meeting 9th March 2017

Title

Standards and Ethics Committee Working Group re Code of Conduct and Associated Procedures

Is this a Key Decision and has it been included on the Forward Plan?

No

Strategic Director Approving Submission of the Report

N/A

Report Author(s)

Stuart Fletcher, Legal & Democratic Services, Riverside House, Main Street,
Rotherham S60 1AE
Tel : 01709 823523

Dermot Pearson, Assistant Director Legal Services, Riverside House, Main Street,
Rotherham S60 1AE

Ward(s) Affected

All

Executive Summary

A report updating the Committee on the progress of the Standards and Ethics Committee Working, in its review of the Code of Conduct and associated procedures.

Recommendations

That the Committee note the minutes of the Standards and Ethics Working Group of 31st January, 2017.

List of Appendices Included

Appendix 1 - Minutes of the Standards and Ethics Working Group Meeting of 31st January 2017

Background Papers

None

Consideration by any other Council Committee, Scrutiny or Advisory Panel

None

Council Approval Required

No

Exempt from the Press and Public

No

Title

Standards and Ethics Committee Working Group re Code of Conduct and Associated Procedures

1. Recommendations

- 1.1 That the Committee note the minutes of the Standards and Ethics Working Group of 31st January, 2017.

2. Background

- 2.1 At the last meeting of the Standards and Ethics Committee on 12th January 2017, a Working Group was established to review the Council's Code of Conduct and associated procedures.
- 2.2 A meeting of the Working Group took place on 31 January 2017. The minutes of that meeting are at Appendix 1. At that meeting the Council's current Code of Conduct was considered along with versions of a simpler Code of Conduct which are used in other authorities.
- 2.3 It was agreed that the consultation should take place with the Lead Commissioner Sir Derek Myers, about his views of the Code of Conduct and the nature of the Code be further considered at the next meeting of the Working Group.
- 2.4 The next meeting of the Working Group is arranged for 6 March 2017. At this meeting the current procedures for investigating allegations of breaches of the Code of Conduct will also be considered, along with more streamlined versions from organisations such as Bradford Council and Doncaster Council. As stated above, the content of the Code of Conduct itself will be further considered at the Working Group meeting. The substance of the discussions the conclusions reached and any recommendations made will be reported to the meeting of the Standards and Ethics Committee on 9th March 2017.

3. Key Issues

- 3.1 The key issues are referred to above.

4. Options considered and recommended proposal

- 4.1 Options as to the content of the Code of Conduct and associated procedures are being considered by the Standards and Ethics Working Group, who will make appropriate recommendations to the Standards and Ethics Committee.

5. Consultation

- 5.1 Any recommendations of the Standards and Ethics Working Group to change the Code of Conduct would need to be considered by the Standards and Ethics Committee and if approved full Council.

6. Timetable and Accountability for Implementing this Decision

6.1 None at this stage

7. Financial and Procurement Implications

7.1 None

8. Legal Implications

8.1 The Council and the Standards and Ethics Committee have a statutory duty to maintain and promote ethical standards. Pursuant to the Localism Act 2011, the Council is required to adopt an appropriate Code of Conduct and arrangements for the investigation of allegations of breach of the Code of Conduct.

9. Human Resources Implications

9.1 None

10. Implications for Children and Young People and Vulnerable Adults

10.1 None

11. Equalities and Human Rights Implications

11.1 None

12. Implications for Partners and Other Directorates

12.1 None

13. Risks and Mitigation

13.1 None

14. Accountable Officer(s)

Dermot Pearson, Assistant Director, Legal Services

Appendix 1

Minutes of the Standards and Ethics Working Group Meeting 31st January 2017

**STANDARDS AND ETHICS COMMITTEE WORKING GROUP
Tuesday, 31st January, 2017**

Present:- Councillor McNeely (in the Chair); Mr. P Beavers, Mr. P. Edler and Mr. D. Rowley.

Apologies for absence were received from Councillors Allen and Simpson.

22. REVIEW OF THE CODE OF CONDUCT

Consideration was given to the report submitted and presented by Stuart Fletcher, Deputy Monitoring Officer, which detailed how the Standards and Ethics Committee Terms of Reference required that a review of the Members' Code of Conduct be undertaken periodically. The Code of Conduct was revised last year as part of the overall review of the Standards Committee arrangements.

The current Code of Conduct was based on the previous National Model Code issued in 2007 and an addendum added by Commissioner Sir Derek Myers, approved by Council on the 9th December, 2015.

The Working Group, were, therefore, as part of the Standards and Ethics Committee's workplan, asked to review the Code of Conduct and in doing so consider different styles of Code of Conduct from a variety of Authorities, these being Bradford, Manchester, Leeds and Sheffield, which included simplified versions of the Code of Conduct.

If there were to be any changes to the Code of Conduct, these would need to be firstly approved by the Standards and Ethics Committee, and subsequently by the full Council as this would require a change to the Council's Constitution. Clearly then any amendments would need to be properly communicated to all Members and those Parish Councils and Town Councils who have adopted the Council's Code of Conduct.

The Working Group sought clarification on the adoption of the Council's Code of Conduct by Parish Councils and tasked the Deputy Monitoring Officer with an audit to write out to all Parish Clerks seeking a copy of their current Code to be kept on file by Legal Services.

Whilst the Working Group acknowledged the need to review the Code of Conduct it was mindful that the Council was still subject to intervention and, simplifying the Code when it had been approved by the Commissioners, may not be appropriate at this time.

Working Group Members, whilst expressing their disappointment at the sanctions available within the Standards regime, were more concerned with the procedures for investigating allegations made in respect of the Code of Conduct, rather than the Code of Conduct itself. It was noted that the Chief Executive had written to the Secretary of State regarding

the lack of sanctions following a breach of the Code, but until the legislation was changed there was little the Standards and Ethics Committee could recommend or impose in terms of sanctions.

The Group were in total agreement that the procedures could be simplified further for complaints in the absence of any real sanctions that could be enforced to avoid any undue time consuming complications for investigating officers.

Further consideration was given to any inclusions such as predetermination/predisposition.

It was suggested that, any proposed amendments to the Code of Conduct, be deferred and an appropriate consultation with the Lead Commissioner be undertaken to ascertain his view.

Agreed:- (1) That the Working Group places on hold its consideration of the different Codes of Conduct to allow consultation to take place with the Lead Commissioner to ascertain his view.

(2) That the arrangements (Procedures) for investigating allegations made in respect of the Code of Conduct be reviewed at the next meeting of the Working Group.

(3) That the next meeting of the Working Group take place on Monday, 6th March, 2017 at 2.00 p.m.

Summary Sheet

Standards Committee Report

Standards Committee 9 March 2017

Title

Standards Bulletin (Recent Updates in Standards and Ethics)

Is this a Key Decision and has it been included on the Forward Plan?

No

Strategic Director Approving Submission of the Report

N/A

Report Author(s)

Sumera Shabir, Legal & Democratic Services, Riverside House, Main Street,
Rotherham S60 1AE
Tel : 01709 823568

Dermot Pearson, Assistant Director Legal Services, Riverside House, Main Street,
Rotherham S60 1AE

Ward(s) Affected

All

Executive Summary

A bulletin reporting on recent and key updates in standards and ethics.

Recommendations

That the Committee notes the bulletin and recommends distributing it to Parish and Town Councils in Rotherham.

List of Appendices Included

Appendix 1 - North Yorkshire Fire and Rescue Authority - Standards Bulletin

Background Papers

None

Consideration by any other Council Committee, Scrutiny or Advisory Panel

None

Council Approval Required

No

Exempt from the Press and Public

No

Title

Standards Bulletin (Recent Updates in Standards and Ethics)

1. Recommendations

- 1.1 That the Standards and Ethics Committee:
- i) notes the content of the bulletin
 - ii) recommends distributing the bulletin to Parish and Town Councils in Rotherham

2. Background

- 2.1 Following discussions with the Standards and Ethics Committee and conclusion of training to members of Parish and Town Councils in Rotherham, it was felt that a recent bulletin reporting on key updates in standards and ethics (produced by the North Yorkshire Fire and Rescue Authority Bulletin) ought to be distributed widely to members of Parish and Town Councils in Rotherham

3. Key Issues

- 3.1 Frequency and content of future bulletins and material distribution.

4. Options considered and recommended proposal

- 4.1 Recommendations have been referred to above.

5. Consultation

- 5.1 N/A

6. Timetable and Accountability for Implementing this Decision

- 6.1 None

7. Financial and Procurement Implications

- 7.1 None

8. Legal Implications

- 8.1 The Council and Standards Committee have a statutory duty to uphold ethical standards. As such, training Parish and Town Councillors (together with clerks), assists in fulfilling this duty.

9.0 Human Resources Implications

- 9.1 None

10.0 Implications for Children and Young People and Vulnerable Adults

10.1 None

11.0 Equalities and Human Rights Implications

11.1 The bulletin applies equally to all Parish and Town Councils.

12. Implications for Partners and Other Directorates

12.1 None

13.0 Risks and Mitigation

13.1 None

14. Accountable Officer(s)

Dermot Pearson, Assistant Director, Legal Services

Approvals Obtained from:-

Assistant Director Legal Services and Monitoring officer
Dermot Pearson

Appendix 1 - North Yorkshire Fire and Rescue Authority - Standards Bulletin

STANDARDS BULLETIN

INTRODUCTION

THE STANDARDS SUB-COMMITTEE

The Members of the Standards Sub-Committee are:

- **County Councillor Andrew Backhouse (Chairman)**
- **County Councillor Margaret-Ann de Courcey-Bayley**
- **City Councillor Danny Myers**
- **City Councillor Tony Richardson (Vice-Chairman)**

Also invited to meetings of the Sub-Committee are:

- **Mr Phil Beavers**, Independent Person for Standards
- **Mrs Shirley Chapman**, Independent Person for Standards
- **Mr Ronald Humphrys**, substitute Independent Person for Standards (in the absence of Mr Beavers and Mrs Chapman)

If in doubt, please seek advice from the Monitoring Officer Team:

Barry Khan, Monitoring Officer
Tel: 01609 532173
Fax: 01609 780447
E-mail: barry.khan@northyorks.gov.uk

Ruth Gladstone
Principal Democratic Services Officer
North Yorkshire Legal & Democratic Services
Tel: 01609 532555
(ruth.gladstone@northyorks.gov.uk)

Moira Beighton, Senior Lawyer (Governance)
North Yorkshire Legal & Democratic Services
Tel: 01609 532458
Fax: 01609 780447
E-mail: moira.beighton@northyorks.gov.uk

The Committee on Standards in Public Life is continuing to maintain 'a watching brief' of the standards regimes in local government and the changes resulting from The Localism Act 2011. The Sub-Committee has published further information on key issues, details of which are set out in the Bulletin.

Members will be kept informed of developments.

Should you wish to discuss any standards matter, please do not hesitate to contact the Monitoring Officer or any of his Team.

County Councillor Andrew Backhouse
Chair of the Standards Sub-Committee

IN THIS ISSUE:

- House of Commons Briefing Paper on Local Government Standards in England
- Disqualification of Councillors
- Local Government Ombudsman - Review of Local Government Complaints 2015-16
- Committee on Standards in Public Life (CSPL)
- CSPL Review of Ethics for Regulators
- Law Commission Consultation on Misfeasance in Public Office
- CSPL – Annual Report 2015-2016 and Forward Plan 2016-2017
- Councillor Commission Interim Report
- Interests' regime
- Members' Gifts and Hospitality
- Standards cases

House of Commons Briefing Paper - Local Government Standards In England

The House of Commons Library has published a Briefing Paper, Number 05707, 27 June 2016, on Local Government Standards in England:

<http://researchbriefings.files.parliament.uk/documents/SN05707/SN05707.pdf>

The Paper looks at the following areas:

1. Councillors' conduct and interests
2. Codes of conduct
3. Complaints about breaches of codes of conduct
4. The standards regimes in devolved areas

and is a brief summary of the current ethical framework. It recognises that whilst, in the past, it was anticipated, there is no statutory model code of conduct for local government officers and it is for local authorities to decide on these issues.

Disqualification of Councillors

In response to written question 28793 on the Parliament website (<http://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2016-02-29/28793/>), the Government has indicated its intention to review the legislation surrounding the disqualification of Members and will also consider this in the context of the Localism Act 2011 (which sets out the ethical framework). Members will be kept updated as to developments.

Members will be kept informed of developments.

LGO – Review of Local Government Complaints 2015-16

The Local Government Ombudsman (LGO) has published a report re its review of Local Government Complaints for 2015-16. Key findings from the report are:

- 1) 19,702 complaints and enquiries received
- 2) 51% investigations upheld
- 3) 3,529 recommendations to put things right and remedy injustice
- 4) the area most complained about is education and children's services
- 5) Significant changes on previous year (complaints and enquiries received):
 - up 13% for education and children's services
 - down 7% for housing
- 6) 99.9% of LGO recommendations were complied with across all local authorities

The full report is available from the LGO website at <http://www.lgo.org.uk/information-centre/news/2016/jul/ombudsman-upholding-more-complaints-about-local-government>

Committee on Standards in Public Life (CSPL)

The Committee on Standards in Public Life ("CSPL") is an advisory Non-Departmental Public Body (NDPB) sponsored by the Cabinet Office. The Chair and members are appointed by the Prime Minister. It advises the Prime Minister on national ethical standards issues regarding standards of conduct of public office holders.

The Prime Minister has recently made two new appointments to the CSPL, Jane Ramsey and Dr Jane Martin, following an open competition. Full details are published on the CSPL website at <https://www.gov.uk/government/news/new-members-appointed-to-committee>

CSPL Review of Ethics for Regulators

The CSPL announced that it had finished its review of ethics for regulators (looking at how UK regulatory bodies uphold the Seven Principles of Public Life) and in September published its report "Striking the Balance - Upholding the Seven Principles of Public Life in Regulation":

<https://www.gov.uk/government/publications/striking-the-balance-upholding-the-7-principles-in-regulation>

The CSPL states that it is reassured that, generally, regulators are committed to upholding the Principles however there are instances where this is not the case and retrospective action is being taken to deal with issues as they emerge. The CSPL welcomes good practice but in the report warns against complacency. In particular, the CSPL felt more could be done to maintain integrity through strengthening the appearance of independence and avoiding conflicts of interest.

The report makes a series of best practice recommendations to ensure fairness and integrity in processes and also recommendations to Government, all to increase public trust in UK regulation.

Key highlights from the report are as follows:

- a) *...regulation plays a key role in public life ... a regulatory body should conduct itself in ways which are – and are seen to be – ethically acceptable. This is an important aspect of its overall effectiveness.*
- b) *The commonality shared by all regulators is the need to maintain their integrity through independence – both from government and those they regulate – avoiding undue influence and ensuring the decisions they make are fair, well-reasoned and evidence-based. It is a complex space to negotiate and a difficult path to tread.*
- c) *In light of the result of the June 2016 referendum in which the British people voted to leave the European Union (EU), the UK's regulatory landscape is likely to be substantially restructured in the coming years. ... domestic regulatory bodies are likely to become all the more important as the UK withdraws from the EU's legal framework. In this context, the Committee believes that maintaining the highest ethical standards within regulatory bodies continues to be of the utmost importance.*
- d) *During the course of the review, however, we came across variances in ethical standards which cause us some concern. Recognising the breadth and range of regulatory bodies, we do not*

envisage a 'one size fits all' approach. But across all regulators, we believe strongly that the adoption of good practice identified by the Committee would enhance ethical standards of regulators which, in turn, would have a significant impact on regulatory effectiveness

- e) *The Committee has grouped this best practice into six key areas, so that all regulatory bodies can check the approach of their own organisation to the ethical standards they should be upholding*

The best practice recommendations made in the report relate to the following areas and examples are set out below:

Governance

- The regulatory board is responsible for providing leadership and setting standards on ethical behaviour within the organisation. The board should seek regular evidence-based assurance that the highest ethical standards are being upheld.
- Non-executive and lay members of boards have an important role to play in ensuring that the regulatory body is beyond reproach in following the Principles of Public Life. All board members have a responsibility to ensure that adequate discussion of issues occurs before decisions are made.
- Corporate governance arrangements should have proactive governance arrangements to minimise the risk of conflicts of interest and individuals acting for private gain.
- Compliance with standards of conduct should be confirmed in the published annual certification by accounting officers. Regular, published information should include up-to-date registers of meetings, conflicts of interest and gifts and hospitality. These should be publicly accessible.

Code of Conduct

- At least one code of conduct should cover all personnel, including board members, employees, secondees, consultants, and contractors.

- The code should reflect the ethical risks faced by the body.
- The standards established in the code of conduct should be evident in the recruitment and appraisal processes and in their induction and regular training.

Revolving door

- Policies and procedures should be in place to manage 'revolving door' situations at all levels of the organisation where individuals come from, or go to, the regulated sector.
- At every board meeting, members should be asked to declare any actual or potential conflict of interest and these should be publicly recorded. Where the board agrees that a conflict is inappropriate, the member should be recused from both the discussion and decision making.
- Particular care should be taken where non-executive board members have a live, concurrent post which could give rise to conflicts of interest. Any conflict of interest for non-executives should be established at the start of the selection process and actively managed to ensure there are no material factors impeding independence of judgement.

Independence

- The operational independence of regulators must be upheld. Ministerial guidance on operational aspects may be transparently considered, but should not be treated as binding, unless there are statutory provisions for such guidance.
- Ministerial appointments to regulatory bodies must be timely, transparent, on merit, without patronage and with proper regard to the needs of the organisation.
- Regulators should ensure that staff at all levels are clearly aware of conflicts of interest and are explicitly advised about the risks of bias in decision-making.
- Regulatory bodies should demonstrate that funding mechanisms do not have an impact on their independence and integrity

Transparency

- Regulators should publish and update their corporate governance documents.

These should include minutes of meetings, registers of interests, annual reports, their rules and guidance and their decision making processes.

- Any body with regulatory functions not designated a 'public authority' under the Freedom of Information Act 2000, should have a publication scheme in line with the best practice established by the Information Commissioner's Office.

External leadership

- Regulators should actively engage with those they regulate and take a leadership role by encouraging positive attitudes towards compliance.
- Such promotion of an ethical approach to compliance would be supported by a suitable amendment to the Regulators' Code.

The Standards Sub-Committee has considered the approach of the Authority to the ethical standards it should be upholding. It believes that the Authority maintains a strong ethical framework, shaped by its Code of Conduct and accompanying standards documents, underpinned by support from the Authority's leadership.

Law Commission Consultation on Misfeasance in Public Office

In the last Bulletin, Members were briefed about the Law Commission consultation on the law of misconduct in public office.

The Commission has very recently published its second, detailed consultation document (over 200 pages) on options for law reform in this area. The full document is available on the Law Commission website (<http://www.lawcom.gov.uk/project/misconduct-in-public-office/>).

The website states that the reform objectives are "to decide whether the existing offence of misconduct in public office should be abolished, retained, restated or amended and to pursue whatever scheme of reform is decided upon."

In terms of law reform options, the Law Commission states on its website:

The problems identified in the existing law clearly show that it would be undesirable either to retain the existing offence or to attempt to codify it in statute. All the options in the Consultation Paper therefore assume that the common law offence of misconduct in public office is to be abolished.

The underlying issue tying together the problems with the current offence is that it is not clear what mischief the current offence targets and therefore what form the offence should take.

In our consultation paper we conclude that a reformed offence, or offences, could address one or both of the following wrongs: breach of duty leading to a risk of serious harm; and corrupt behaviour – the abuse of a position for personal advantage or to cause harm to another.

For the purpose of devising any offence or offences to replace misconduct in public office, we need to devise a more rigorous definition of public office. The current, vague definition is a major problem with the present offence. We discuss in the Consultation Paper four possible methods of defining public office. Any new offence will need to be underpinned by the concept of public office. However depending on the particular model of offence, not every form of the replacement offence needs to apply to all public office holders. It may be that certain types of new offence need only apply to a subset of public office holders.

We consider two possible new offences to replace the current offence of misconduct in public office. Option 1 involves a new offence addressing breaches of duty that risk causing serious harm, when committed by particular public office holders (those with duties concerned with the prevention of harm). Option 2 involves a new offence addressing corrupt behaviour on the part of all public office holders. Options 1 and 2 are separate but compatible. That is, it would be possible to implement Option 1 on its own, Option 2 on its own or both together.

Law reform Option 3 involves abolition of the current law without replacement. At this stage, it is our view that reform of this nature would be likely to leave unacceptable gaps in the law.

At the end of the Consultation Paper we discuss two other possible legal reforms which had been raised by consultees during the first phase of consultation. These additional legal reforms could complement any of our Options 1, 2 or 3. The first involves reform of the sexual offences regime. The second involves treating the fact that a defendant is a public official as an aggravating factor for the purposes of sentencing his or her criminal conduct.

Regarding Option 1 (breach of duty model), this is likely to cover those public office holders with duties relating to the prevention of harm, including:

- where they have powers of physical coercion, including arrest, detention and imprisonment;
- where their role involves the protection of vulnerable individuals from harm.

It is suggested that the type of harm should be restricted to:

- death;
- serious physical or psychiatric injury;
- false imprisonment;
- serious harm to public order and safety; and
- serious harm to the administration of justice.

The fault element of this new offence would be:

- (1) knowledge or awareness of:
 - (a) the circumstances that would mean that the person held a public office; and
 - (b) the circumstances relevant to the content of any particular duties of that office concerned with the prevention of harm; and
- (2) subjective recklessness as to the risk the conduct might cause one of the types of harm specified.

For Option 2, the consultation proposes the creation of a new offence that takes some aspects from the existing offence of police corruption, but applies it to all public office holders and improves the offence definition.

The offence under Option 2 would be committed when a public office holder (as

defined in statute) abuses his/her position/power/authority with the purpose of achieving an advantage for the office holder/another or causing detriment to another; and the exercise of that position for that purpose is seriously improper.

The consultation was due to close on 28 November 2016 but has now been extended to 3 January 2017.

The final report will be published in 2017. Members will be kept informed of developments.

CSPL Annual Report 2015-2016 and Forward Plan 2016-2017

The Committee on Standards in Public Life has published its Annual Report 2015-2016 and Forward Plan 2016-2017.

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/543819/CSPL_Annual_Report_2015-2015.pdf

The report provides an overview of the CSPL's activities over the year in question and sets out its forward work programme for the coming year.

In terms of monitoring standards issues, the CSPL intends to:

- *Maintain a watching brief to identify emerging or persistent standards issues and respond promptly to them.*
- *Undertake independent quantitative and qualitative research into public perceptions of ethical standards.*
- *Respond to consultations and key policy announcements and legislation where these impact on ethical standards and we have an informed contribution to make.*

and, in addition to monitoring standards issues, the CSPL will "take steps to ensure our voice is heard promoting high ethical standards".

The Report also sets out the CSPL's views on the Law Commission consultation on Misfeasance in Public Office, referred to earlier in this report.

Paragraphs 78 to 82 of the Report set out the CSPL's commitment to maintaining a watching brief over the standards regime. The CSPL notes that the role of the independent person is "generally well received" and that vexatious complaints are falling; however, the effectiveness of the sanctions regime is still a concern.

The CSPL invites councils to consider whether their own local standards frameworks are sufficient to address standards breaches and build public trust and these are issues which the Standards Sub-Committee considers on behalf of the Authority.

Councillor Commission Report

The Councillor Commission, run by De Montfort University's Local Government Research Unit, in partnership with The Municipal Journal, is undertaking an independent review of the role and work of councillors through discussions and interviews with, and submissions from, councillors throughout the country.

In October, the Commission published an Interim report:

<http://www.dmu.ac.uk/documents/business-and-law-documents/cc-interim-report-oct-16-final-3.pdf>

Some of the results referred to in the report are:

- the increasing workload and time commitments that their duties demand. It is difficult for councillors to sustain their roles in conjunction with working full time and this could be a deterrent to younger people to stand for election.
- Non-executive councillors feel distanced from policy making.
- There are also frustrations over councillor access to information.
- Councillors experience frustration by expectations of constituents and the media and the lack of understanding of what councillors can actually achieve in their role.

- A new and developing feature of the role of the councillor is the increasing need with which they are required to interact in complex networks of organisations beyond the council as well as the changing face of service delivery at the local level.
- Councillors make considerable personal sacrifices in serving local people.

The Commission's final report will be presented to Government.

More information is available on the Unit's website:

<http://www.dmu.ac.uk/research/research-news/2016/january/overworked-underpaid-and-unpopular-%E2%80%93-why-would-anyone-be-a-councillor-most-comprehensive-ever-review-aims-to-find-out.aspx>

Members will be kept informed of developments.

Interests Regime

Under the ethical framework, Members must register the statutorily prescribed **disclosable pecuniary interests** and also register any **trade union/professional association membership** (as an 'interest other than a disclosable pecuniary interest'), as required under revised DCLG guidance.

A pecuniary interest is a disclosable pecuniary interest ("DPI") if it is of a description specified in regulations ie

- Employment, office, trade, profession or vocation (for profit or gain)
- Sponsorship
- Contracts
- Land
- Licenses
- Corporate tenancies
- Securities

(please see the Code of Conduct for Members) for the detailed descriptions)

AND either:

- it is the Member's interest or
- an interest of—

- the Member's spouse or civil partner
- a person with whom the Member is living as husband and wife, or
- a person with whom the Member is living as if they were civil partners

AND the Member is aware of the interest.

A Member with a DPI may not participate in the discussion of, or vote on, Authority business (unless a dispensation is granted) and must withdraw from the meeting room.

The Register of Members' Interests is maintained by the Monitoring Officer and is available for public inspection in Rm 11, County Hall.

Electronic copies of Members' interests forms (redacted to remove signatures) are also published on the North Yorkshire Fire and Rescue Service's website at:

<http://www.northyorksfire.gov.uk/about-us/key-documents/links-registers/register/>

Members must, within 28 days of becoming aware of a new interest or a change to an existing interest, register the necessary details by providing written notification to the Monitoring Officer.

PLEASE NOTE: a Member commits a **criminal offence** if, without reasonable excuse, s/he —

- fails to:
 - ❖ register disclosable pecuniary interests
 - ❖ disclose an interest to a meeting where required
 - ❖ notify the Monitoring Officer of an interest disclosed to a meeting
- participates in any discussion or vote where prohibited
- an individual Member decision taker takes any steps in relation to a matter where prohibited

A Member also commits a **criminal offence** if, in relation to the registration/disclosure of interests, s/he provides information that is false or misleading and —

- knows that the information is false or misleading, or

- is reckless as to whether the information is true and not misleading.

A court may also disqualify the person, for a period not exceeding five years, for being or becoming (by election or otherwise) a member or co-opted member of the relevant authority in question or any other relevant authority.

Please therefore keep your interests form under review to ensure it is up to date. Should you wish to amend your interests form, please contact Julie Robinson on ext 2953 to make the necessary arrangements or call in to Room 11 in County Hall, Northallerton.

Please do not hesitate to contact the Monitoring Officer or any of his team should you have any queries.

Members' Gifts and Hospitality

Although gifts and hospitality offered and declined or received are no longer required to be registered in the Register of Members' Interests, Members do still need to register them with the Monitoring Officer, by completing the appropriate form and returning it to the Monitoring Officer.

Should you have any queries in relation to the registration of your interests or of any gifts or hospitality received/offered, then please feel free to contact the Monitoring Officer or any of his team.

CASES

1. A former councillor was convicted of housing fraud (failure to disclose information and notify a change in circumstances) and received a 22 week custodial sentence. He was disqualified from being a councillor under the provisions of the Local Government Act 1972.

2. A councillor was found to have breached a Town Council's Code of Conduct requirements to treat others with courtesy and respect and sanctions were imposed. The councillor has taken judicial review proceedings against the council despite the sanctions subsequently being removed. Members will be kept informed of developments in this case.

The Local Government Lawyer publication recently published a report on the following case:

A town councillor (X) made a standards complaint against another councillor, in respect of which it was resolved that no action should be taken.

X then requested a copy of the subject member's response to his complaint and later also requested copies of the evidence supplied by the subject member.

The authority refused to disclose the information, relying on the exemption provided under section 41 of the Freedom of Information Act (information provided in confidence).

X appealed to the Information Commissioner (ICO). The authority also then sought to rely on the exemptions provided in FOIA section 21 (information accessible by other means) and section 40(2) (personal information).

The Information Commissioner concluded that the authority had correctly relied on sections 21 and 40(2) as disclosure of the information would be unfair and therefore in breach of the first Data Protection Principle:

- there was a general expectation of privacy for conduct investigations;
- there was a legitimate expectation of privacy;
- disclosure would cause unwarranted damage or distress to the councillor; and
- it was not within the remit of the ICO to consider the merits of the complaint.

X unsuccessfully appealed to the First Tier Tribunal. The FTT agreed that section 40(2) was appropriately engaged and relied on to refuse disclosure of the information:

- The requested information was clearly personal data.
- Even though the material related to the individual's work rather than personal activities, it related to a complaint made against the councillor's behaviour and the council considered whether the behaviour contravened its code of conduct. As such, the information was clearly personal in nature, "in the same way that an

individual's annual appraisal report can be considered to be personal data".

- Disclosure was unwarranted. "Notwithstanding that the councillor held a public office and the withheld information related to the councillor's public function rather than private life, we accept that information relating to complaints against individuals carries a very strong general expectation of privacy. This is due to the likelihood that disclosure could cause the individual distress and potential damage to future prospects and general reputation."
- The FTT accepted that the councillor would have had a legitimate expectation of privacy based on the Tribunal's finding that material provided in relation to an investigation into conduct is "inherently highly personal in nature and the councillor's rights and interests in the privacy of his data need to be respected".
- It was not relevant that neither the requester nor the councillor were no longer in office, "since they might seek to be in future".
- The councillor had a legitimate interest and right to have his personal data withheld from the public because the subject matters attracted a right to privacy.
- The collective weight of interest in disclosure was "vastly outweighed by the councillor's rights and freedoms or legitimate interest in...not disclosing to the world at large material related to a complaint about his conduct where the council did not find the complaint to be merited".

Contributors:

MOIRA BEIGHTON

North Yorkshire Legal & Democratic Services

Resources

Localism Act 2011 and subordinate legislation.

www.gov.uk/government/organisations/the-committee-on-standards-in-public-life

Information published on www.gov.uk

Local Government Lawyer case reports

Summary Sheet

Council Report

Standards and Ethics Committee – 9 March 2017

Title

Review of the Terms of Reference for Standards and Ethics Committee

Is this a Key Decision and has it been included on the Forward Plan?

No

Strategic Director Approving Submission of the Report

Judith Badger – Strategic Director of Finance and Customer Services

Report Author(s)

Dermot Pearson, Monitoring Officer, , Assistant Director Legal Services, Riverside House, Main Street, Rotherham S60 1AE.

Ward(s) Affected

All

Executive Summary

A review of the Council's constitution is currently taking place and the Council has already approved previous amendments to the constitution at the Annual Meeting of Council in May 2016 and at the meetings of Council on 7 December 2016 and 25 January 2017. Standards and Ethics Committee considered revised versions of the Financial Regulations and Contract Standing Orders at its previous meeting on 12 January 2017.

As part of the work of the Constitution Working Group an external review of the Council's Constitution will be carried out by the Association of Democratic Services Officers and a report will be taken to the Annual Meeting of Council. The external review was a recommendation of the Governance Review Working Group. This provides the opportunity for Standards and Ethics Committee to consider the elements of the Constitution which set out its own terms of reference and to consider whether it wishes the Monitoring Officer to invite the external reviewers to report on any appropriate amendments to the Constitution as it relates to the Committee.

This report sets out the relevant elements of the Constitution and identifies elements that might be improved.

Recommendations

That the Standards and Ethics Committee:

- (1) Consider the report and the current constitutional arrangements relating to the Committee; and
- (2) Identify any issues they would wish the Monitoring Officer to raise with the external reviewers

Background Papers

Not applicable

Consideration by any other Council Committee, Scrutiny or Advisory Panel

The outcome of the external review, including any comments in relation to the role of Standards and Ethics Committee, will be reported to the Constitution Working Group which will then make recommendations to Council as to any appropriate amendments to the Constitution.

List of Appendices Included

- Appendix 1 Article 12 of the Constitution
- Appendix 2 Extract from Appendix 9 of the Constitution [The Scheme of Delegation for Members and Officers].

Council Approval Required

As above.

Exempt from the Press and Public

No

Review of the Terms of Reference for Standards and Ethics Committee

1. Recommendations

1.1 That the Standards and Ethics Committee

- Consider the report and the current constitutional arrangements relating to the Committee; and
- Identify any issues they would wish the Monitoring Officer to raise with the external reviewers.

2. Background and Key Issues

2.1 A review of the Council's constitution is currently taking place and Council has already approved previous amendments to the constitution at the Annual meeting of Council in May 2016 and at the meetings of Council on 7 December 2016 and 25 January 2017. Standards and Ethics Committee considered revised versions of the Financial Regulations and Contract Standing Orders at its previous meeting on 12 January 2017.

2.2 As part of the work of the Constitution Working Group an external review of the Council's Constitution will shortly be commenced by the Association of Democratic Services Officers and a report will be taken to the Annual Meeting of Council in May 2017. The external review was a recommendation of the Governance Review Working Group.

2.3 This provides the opportunity for Standards and Ethics Committee to consider the elements of the Constitution which set out its own terms of reference and to consider whether it wishes the Monitoring Officer to invite the external reviewers to report on any appropriate amendments to the Constitution as it relates to the Committee.

2.4 The terms of reference of this Committee are set out in two different parts of the Constitution. At Appendix 1 is Article 12 of the Constitution and at Appendix 2 is an extract from the Scheme of Delegation for Officers and Members.

2.5 The first issue is one of duplication, the membership and terms of reference need only be set out once in the Constitution and the appropriate place would be at Article 12 of the Constitution. The Article should deal with membership, quorum and the roles and responsibilities of the Committee.

2.6 The quorum for the Committee is currently set out in Standing Order 22(3) which states:

The quorum of the Council's statutory Standards Committee shall be four, including at least three independent members, and shall include a parish council representative when parish council matters are being considered.

It would be clearer if this information formed part of the Article.

- 2.7 There is reference in the current Article 12 to parish and town councils which have delegated their powers under Chapter 7 of the Localism Act 2011 to this Council. This requires review as your Monitoring Officer takes the view that while all parish and town councils can adopt their own codes of conduct, responsibility for the arrangements under which allegations that a parish or town councillor has failed to comply with the relevant code of conduct are a matter for this Council and not the individual town and parish councils.
- 2.8 The references in Article 12 to Panels for dealing with complaints will require review in the light of the work being done by the Working Group on procedures for handling complaints.
- 2.9 Article 12 also includes roles in relation to the review of review of the application of Standing Orders and Financial Regulations and the overview of complaints handling and local government ombudsman investigations. The Committee has received reports during this municipal year on Contract Standing Orders, Financial Regulations and the Council complaints procedures. The Committee may have a view on whether they found the debate on those matters useful.

3. Options considered and recommended proposal

- 3.1 The purpose of this report is to invite the Committee to identify issues which it wishes the Monitoring Officer to raise with the external reviewer.

4. Consultation

- 4.1 Not applicable.

5. Timetable and Accountability for Implementing this Decision

- 5.1 The outcome of the external review will be reported to the Constitution Working Group and a report will be taken to the Annual Meeting of Council in May 2017 with any recommendations for amendments to the Constitution.

6. Financial and Procurement Implications

- 6.1 None arising from this report.

7. Legal Implications

- 7.1 The Council has a statutory duty to promote and maintain high standards of conduct by members and co-opted members of the authority. This Committee has a key role in fulfilling that duty and its terms of reference are central to that role.

8. Human Resources Implications

8.1 None arising from this report.

9. Implications for Children and Young People and Vulnerable Adults

9.1 None arising from this report.

10. Equalities and Human Rights Implications

10.1 None arising from this report.

11. Implications for Partners and Other Directorates

11.1 None arising from this report.

12. Risks and Mitigation

12.1 The operation of this Committee is central to gaining and retaining the trust and confidence of local people in the Council. Without the appropriate terms of reference and the work which flows from them there is a risk that public confidence could be undermined.

14. Accountable Officer(s)

Dermot Pearson, Monitoring Officer

15 Appendices

Appendix 1 Article 12 of the Constitution

Appendix 2 Extract from Appendix 9 of the Constitution [The Scheme of Delegation for Members and Officers].

APPENDIX 1

Article 11 of the Constitution

11 The Council's Standards Committee

Membership

(1) The Council's Standards Committee will be composed of –

- eight Councillors other than the Mayor and Leader;
- three members of a town or parish councils within the Borough (parish members) to be appointed by the town and parish councils that have delegated their powers under Chapter 7 of the Localism Act 2011 to the Council; and
- five persons who are not councillors or officers of the Council (independent members).

Independent members

(2) Independent members are not entitled to vote at meetings of the Council's Standards Committee.

Parish members

(3) Town and parish council members are entitled to vote at meetings of the Standards Committees.

Chairing the Committee

(4) The chair and vice-chair of the Committee shall be borough councillors.

Primary roles and functions

(5) The Council's Standards Committee's primary roles and functions are –

- promoting and maintaining high standards of conduct by councillors and co-opted members;
- assisting councillors and co-opted members to observe the Members' Code of Conduct;
- advising the Council on the adoption or revision of the Members' Code of Conduct;
- monitoring the operation of the Members' Code of Conduct;
- advising, training or arranging to train councillors and co-opted members on matters relating to the Members' Code of Conduct;
- granting dispensations to councillors and co-opted members from requirements relating to interests in the Members' Code of Conduct in accordance with the Localism Act 2011 and the Council's previous delegation;

- for a Panel composed of not less than 3 and not more than 5 independent members to receive initial referrals from the Monitoring Officer and consider whether to recommend to the Standards Committee that the matter should be investigated;
- for a Considerations and Hearing Panel formed from voting members of the Standards Committee to consider and determine allegations of breaches of the Code of Conduct that have not been locally resolved;
- to perform similar functions in respect of all town and parish councils within the Borough that have delegated their functions under Chapter 7 of the Localism Act 2011 to the Borough.

Standard's Committee's additional roles

(6) The Standards Committee additional roles include –

- preparing and reviewing protocols, local codes, advice and guidance;
- overview of the whistle-blowing policy (the Confidential Reporting Code);
- review of the application of Standing Orders and Financial Regulations;
- overview of complaints handling and local government ombudsman investigations;
- consideration of any reports or investigation which casts doubt on the honesty and integrity of the Council and recommending action to the Council or Cabinet.

APPENDIX 2

Appendix 9 of the Constitution

STANDARDS COMMITTEE

The Committee is responsible for promoting ethical behaviour and building confidence in local democracy.

TERMS OF REFERENCE

1. To promote and maintain high standards of conduct by the members and co-opted members of the Council.
2. To proactively foster a culture of high standards of conduct and a commitment to ethical behaviour throughout the Council.
3. To assist members and co-opted members of the Council to observe the Council's Code of Conduct.
4. To advise the Council on the adoption and revision of its Code of Conduct, taking into account, guidance and existing good practice within the Council.
5. To monitor the operation of the Code of Conduct and recommend revisions as appropriate, and to ensure that the Code is fully understood and applied throughout the Council.
6. To advise, train or arrange to train members and co-opted members of the Council on matters relating to the Code of Conduct.
7. To authorise dispensations to Members and Co-opted Members of the Council and other related authorities in accordance with the Localism Act 2011.
8. To carry out similar functions to those above in relation to those parish councils that have delegated their functions under the Localism Act 2011 to the Council, or where the Localism Act provides that the Council is the responsible Authority for such matters for which the Council is the responsible authority and the members of those parish councils.
9. To review arrangements as to the declarations of interest of members, co-opted members and officers, to monitor the operation of such arrangements and to offer advice on their application.
10. To review and recommend such other protocols, local codes and guidance as may be considered desirable to build upon the rules contained within the Code of Conduct whilst not forming part of it.

11. To produce an Annual work plan and subsequently Annual Report to Council confirming all relevant issues within these Terms of Reference have been considered by the Committee.
12. To establish a Consideration and Hearing Panel, when required, to consider and determine allegations of breaches of the Code of Conduct that have not been locally resolved.
13. To consider any other recommendations, guidance or direction referred to the Committee or the Monitoring Officer.
14. To consider any application for exemption from political restriction made to the Committee by the holder of any post under the Council and to give directions to the Council requiring it to include a post in the list of political restricted posts maintained by the Council.
15. To establish and monitor the operation of the Complaints Procedures and Whistleblowing Procedures.
16. To review the application of the Council's Standing Orders, Financial Regulations, contract arrangements and other such provisions.
17. To review and comment upon the Council's procedures and codes of practice relating to public access to information, confidentiality and arrangements for data protection.
18. To review the procedures for appointment of Council representatives to outside bodies and to make recommendations to the Council or the Cabinet as necessary.
19. To consider reports arising from , Ombudsman investigations, legal challenges and other sources which cast doubt on the honesty or integrity of the Council, its members or officers, and to recommend action to the full Council or Cabinet as appropriate.
20. To consider and offer advice and guidance as appropriate on other matters which in the view of the Committee or the Council's monitoring officer could have a bearing on public perceptions of the honesty and integrity of the Council, its members, co-opted members and officers.
21. To consider and make recommendations on such other matters as the Committee itself thinks appropriate or which are referred for attention by the Council or the Cabinet which further the aim of promoting and maintaining the highest standards of conduct within the authority.

In these terms of reference "co-opted member of the Council" means a person who is not a member of the Council, but who:-

(a) is a member of any committee or sub-committee of the Council, or

(b) is a member of and represents the Council on any joint committee or joint sub-committee of the Council

and who is entitled to vote on any question which falls to be decided at any meeting of that committee or sub-committee.