

STANDARDS AND ETHICS COMMITTEE

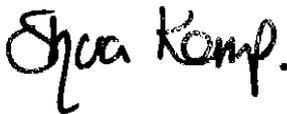
Venue: Town Hall, Moorgate
Street, Rotherham. S60
2TH

Date: Thursday, 13 September
2018

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 14th June, 2018 (herewith) (Pages 1 - 5)
6. The Whistleblowing Policy and Modern Slavery (Pages 6 - 11)
7. A Review of Concerns raised pursuant to the Whistleblowing Policy (Pages 12 - 18)
8. Standards and Ethics Committee - Consideration of Complaints (Pages 19 - 23)
9. Outcome of a Standards and Ethics Sub-Committee Hearing Regarding an Alleged Breach of the Code of Conduct (Pages 24 - 35)
10. Date and Time of Next Meeting - Thursday, 13th December, 2018 at 2.00 p.m.



S. KEMP,
Chief Executive.

STANDARDS AND ETHICS COMMITTEE

Thursday, 14th June, 2018

Present:- Councillor McNeely (in the Chair); Councillors Brookes, Clark, Fenwick-Green, Simpson, Vjestica, Mr. D. Bates and Mr. D. Rowley (Parish Representatives), Mr. P. Beavers (Independent Person) and also Mr. P. Edler (Independent Co-optee).

Apologies for absence were received from Councillor Ireland, Mr. R. Swann (Parish Representative), Mrs. J. Porter (Independent Co-optee) and Mr. D. Roper-Newman (Independent Person)

1. DECLARATIONS OF INTEREST

There were no Declarations of Interest to report.

2. EXCLUSION OF THE PRESS AND PUBLIC

Resolved:- That under Section 100(A) 4 of the Local Government Act 1972, the public be excluded from the meeting for the appendices for Minute Nos. 75 and 76 on the grounds that they involve the likely disclosure of exempt information as defined in paragraph 3 of Part 1 of Schedule 12(A) of such Act indicated, as now amended by the Local Government (Access to Information) (Variation) Order 2006.

3. MINUTES OF THE PREVIOUS MEETING HELD ON 1ST MAY, 2018

Consideration was given to the minutes of the previous meeting held on 1st May, 2018.

Mr. P. Beavers, Independent Person, pointed out he was present at the meeting.

Reference was made to Minute No. 62 (Membership of the Committee) and the outstanding review of the Committee's terms of reference. It was noted that the Constitution Working Group was scheduled to meet in early July, 2018.

In terms of the resolution of Minute No. 62 the Monitoring Officer confirmed Council agreed the appointment of the current Town and Parish Council representatives, the current Independent Co-opted Members and the current Independent Persons at its meeting on the 23rd May, 2018 for the 2018/19 municipal year.

At the Parish Council Network Group held on 5th June, 2018, Town and Parish Councils were invited to nominate three representatives to be members of the Committee until May, 2020.

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With regards to Minute No. 63(3) (Work Plan) it was noted the Chair of the Committee and Monitoring Officer had attended the Parish Council Network Group on 5th June, 2018.

The response to the consultation as per Minute No. 64 (Review into Ethical Standards in Local Government) would be circulated to all members of the Standards and Ethics Committee.

Sub-Committee Hearings in relation to Minute No. 66 (Consideration of Complaints) would be arranged as soon as practically possible in accordance with relevant Members' diaries. However, it was noted that wherever possible reasons for delays in scheduling hearings be documented.

Resolved:- That the minutes of the meeting of the Standards and Ethics Committee held on 1st May, 2018 be approved as a true and accurate record of proceedings, subject to the inclusion of Mr. P. Beavers in the attendance.

4. TRAINING PLAN - VERBAL UPDATE FROM MONITORING OFFICER FOLLOWING PARISH LIAISON GROUP

Dermot Pearson, Monitoring Officer, provided an update following the attendance of him and the Chair of the Standards and Ethics Committee at the Parish Council Network Group on 5th June, 2018.

A worthwhile discussion had taken place on the training needs of Town and Parish Councillors where it was requested that training sessions be co-ordinated to avoid duplication and spread out evenly throughout the year.

It was suggested that liaison take place with the Yorkshire Local Councils Association to determine their training schedule to enable the Borough Council to align its own proposed training sessions accordingly. This would then enable the briefing on the new Waverley Parish Council and the seeking of nominations to be scheduled accordingly.

Resolved:- That the information be received and duly noted.

5. LOCAL CODES AND PROTOCOLS

Consideration was given to the report presented by the Monitoring Officer which sought the views on what work the Committee might wish to do on the development of local codes and protocols to supplement the existing Code of Conduct for Members and Co-opted Members and the Member/Officer Protocol.

The topics which were covered by such protocols and codes could include:-

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- Planning Protocol [usually a matter for an Authority's Planning Board].
- Use of Resources Guidance for Members.
- Gifts and Hospitality Guidance for Members.
- Social Media Guidance for Members.

The Committee, in considering the suggestion, believed prioritisation should be given to social media guidance for development, but welcomed the potential opportunity to poll all Members to seek their views rather than a small working group to develop new codes.

The Monitoring Officer pointed out that the adoption of such protocols would allow the Town and Parish Councils to adopt or not.

Resolved:- That a poll/survey of Borough Councillors be undertaken with various options for consideration in consultation with the Chair of the Standards and Ethics Committee and other Members of the Committee where appropriate.

6. ANNUAL REPORT

Consideration was given to the report presented by the Monitoring Officer which summarised the work undertaken by the Standards and Ethics Committee during the Municipal Year 2017/2018.

The Chair of the Committee asked Members to consider when the Annual Report should be produced. It was her view that this should be at the end of the Municipal Year which would allow for looking back at what had been achieved and in looking forward for the Work Programme for the coming year.

The Committee were in agreement that this should be at the end of the municipal year in case the membership changed for the following year and welcomed further consideration of the membership moving forward, the boundary changes and the challenges that 2020 would bring.

Resolved:- That the work undertaken in the municipal year 2017/2018 be noted.

7. CURRENT ISSUES IN LOCAL GOVERNMENT STANDARDS

Consideration was given to the report presented by the Monitoring Officer which detailed information about current issues and developments in Local Government standards and related issues which affected Local Government. It drew on material published by North Yorkshire County Council's Standards Committee, with permission, as a useful baseline.

This related to how in December 2017 the Committee on Standards in Public Life [CSPL] published "*Intimidation in Public Life – A Review by the CSPL*". This was in response to a request from the Prime Minister for the

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CSPL to undertake a review on the intimidation of Parliamentary candidates, considering the wider implications for public office-holders. The issue of intimidation of councillors was raised in the recent CSPL consultation to which this Committee responded.

The recommendations made by the CSPL were set out in the Appendix to this report. The Government issued a press release on 6th February, 2018 announcing it would consult on plans to remove the requirement for candidates standing as councillors in local elections to have their addresses published on ballot papers, in time for local elections in May 2019; and on a new electoral law offence of intimidating parliamentary candidates and their campaigners.

The recommendations of particular interest in a local government context were:-

- The government should bring forward legislation to remove the requirement for candidates standing as local councillors to have their home addresses published on the ballot paper. Returning Officers should not disclose the home addresses of those attending an election count; and
- Local Authority Monitoring Officers should ensure that members required to declare pecuniary interests are aware of the sensitive interests provisions in the Localism Act 2011.

The Council's Code of Conduct for Members and Co-opted Members reflected the relevant provisions in the Localism Act 2011 and provided:-

You need not disclose the nature of any personal interest or disclosable pecuniary interest in an item of business where the Council's monitoring officer considers that disclosure of the details of the interest ("a sensitive interest") could lead to you or a person connected with you being subject to violence or intimidation.

The Committee considered the merits of publicising addresses and whether for safety reasons it not be included on material or on relevant websites. There needed to be due diligence to ensure the requirements were met whether this be by the Clerk of a Parish Council, the Elections Officer or the political selection party.

Resolved:- That the matters set out in the report be noted.

8. STANDARDS AND ETHICS COMMITTEE - CONSIDERATION OF COMPLAINTS

Consideration was given to the report presented by the Monitoring Officer, detailing the progress with the handling of complaints relating to breaches of the Council's Code of Conduct for Members and Town and Parish Councillors. The report listed the current cases of complaint and the action being taken in respect of each one.

Details of each related case and recommended outcome were highlighted, some of which required the arrangement of a sub-committee hearing. These would be arranged soon as possible in line with the relevant procedure.

The Committee asked if dates of actions taken could be included within the schedule as this would then identify if there were particular issues.

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

(2) That the progress in respect of each case be noted pursuant to the Standards and Ethics Committee Complaints Procedure.

9. A REVIEW OF CONCERNS RAISED PURSUANT TO THE WHISTLEBLOWING POLICY

Consideration was given to the report and appendix presented by the Monitoring Officer, which provided an overview of the Whistleblowing cases which have been received over the past year.

The appendix to the report set out clearly the description of the concerns received and action.

The Committee welcomed the report and considered the reported matters in detail which would identify if there were any particular trends or issues. However, the Committee asked if more information could be provided on how the information was used, an activity log for timescales and whether or not a target date for completion would assist in preventing any unnecessary delays.

The Monitoring Officer agreed to speak with Human Resources and Audit to ascertain what could and could not be shared as some of the concerns raised were outrageous and vexatious.

Resolved:- (1) That the Whistleblowing concerns raised over the previous year and the actions taken to address these matters be noted.

(2) That liaison take place with relevant services as to whether any additional information could be included for the Committee's consideration.

10. DATE AND TIME OF NEXT MEETING

Resolved:- That the next meeting of the Standards and Ethics Committee take place on Thursday, 13th September, 2018 at 2.00 p.m.

Summary Sheet

Name of Committee and Date of Committee Meeting

Standards and Ethics Committee – 13 September 2018

Report Title:

The Whistleblowing Policy and Modern Slavery

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 Services
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Ward(s) Affected

All

Executive Summary

The report briefs the Standards and Ethics Committee on the Motion adopted by Council at its meeting on 25 July 2018 in relation to modern slavery and recommends an amendment to the Whistleblowing Policy so that it makes explicit reference to modern slavery.

Recommendations

That the Committee notes the Motion adopted by Council at its meeting on 25 July 2018 and amends the Whistleblowing Policy to make explicit reference to modern slavery as set out at paragraph 3.3 of this report.

List of Appendices Included

None

Background Papers

Whistleblowing and Serious Misconduct Policy

Consideration by any other Council Committee, Scrutiny or Advisory Panel

None

Council Approval Required

No

Exempt from the Press and Public

No

The Whistleblowing Policy and Modern Slavery

1. Recommendations

- 1.1 That the Committee notes the Motion adopted by Council at its meeting on 25 July 2018 and amends the Whistleblowing Policy to make explicit reference to modern slavery as set out at paragraph 3.3 of this report.

2. Background

- 2.1 At its meeting on 25 July 2018 the Council adopted a Motion in relation to modern slavery in the following terms:

18. NOTICE OF MOTION - MODERN SLAVERY

This Council notes:-

- *Though slavery was abolished in the UK in 1833, there are more slaves today than ever before in human history. Figures from the International Labour Organisation (ILO) suggest that there are more than 40 million people in modern slavery across the world, with nearly 25 million held in forced labour.*
- *There were 3,805 victims of modern slavery identified in the UK in 2016. A rising number but still well below the 10,000 and 13,000 potential victims estimated by the Home Office. In Rotherham a small number of victims have already been identified.*
- *Modern Slavery is happening nationwide. Traffickers and slave masters use whatever means they have at their disposal to coerce, deceive and force individuals into a life of abuse, servitude and inhumane treatment. This can include sexual and criminal exploitation.*

This Council believes:-

- *That action needs to be taken to raise awareness of modern slavery and the fact that it is happening all over the UK.*
- *That the current support for victims is not sufficient and needs to go beyond the 45 days they are currently given by the government.*
- *That councils have an important role to play in ensuring their contracts and supplies don't contribute to modern day slavery and exploitation.*

This Council resolves:-

- *That the Co-operative Party's Charter against Modern Slavery be adopted to ensure that our practices don't support slavery.*
- *That the Corporate Procurement Team be trained to understand modern slavery through the Chartered Institute of Procurement and Supplies (CIPS) online course on Ethical Procurement and Supply.*
- *That contractors be required to comply fully with the Modern Slavery Act 2015, wherever it applies, with contract termination as a potential sanction for non-compliance.*

- *That any abnormally low-cost tender be challenged to ensure that they do not rely upon the potential contractor practising modern slavery.*
- *That suppliers be advised that contracted workers are free to join a trade union and should not be treated unfairly for belonging to one.*
- *That the whistleblowing system for staff to blow the whistle on any suspected examples of modern slavery be publicised.*
- *That tendered contractors be required to adopt a whistleblowing policy which enables their staff to blow the whistle on any suspected examples of modern slavery.*
- *That contractual spending be reviewed regularly to identify any potential issues with modern slavery.*
- *That suppliers be advised of any risk identified concerning modern slavery and refer them to the relevant agencies to be addressed.*
- *That any contractor who is identified as a cause for concern regarding modern slavery be referred for investigation via the National Crime Agency's national referral mechanism.*
- *That a report on the implementation of this policy be published annually.*

2.2 The government's definition of modern slavery, as set out in "*How to report modern slavery*" [December 2016] is:

Modern slavery is a serious crime. It encompasses slavery, servitude, and forced or compulsory labour and human trafficking. Modern slavery victims can often face more than one type of abuse and slavery, for example if they are sold to another trafficker and then forced into another form of exploitation.

A person is trafficked if they are brought to (or moved around) a country by others who threaten, frighten, hurt and force them to do work or other things they don't want to do.

3 Key Issues

3.1 The Motion commits the Council to ensuring that the whistleblowing system for staff to blow the whistle on any suspected examples of modern slavery be publicised. The current wording of the Whistleblowing Policy covers criminal activity and anyone could use the whistleblowing procedures to raise concerns about modern slavery but the Policy does not specifically identify modern slavery as a matter which can be raised via whistleblowing procedures. Given the Council's commitments in relation to modern slavery it is therefore proposed that the wording of the Policy be amended to make explicit reference to modern slavery.

3.2 The Policy includes the following in relation to the sort of matters which might be raised via the whistleblowing procedures:

- 1.4 *Where a Rotherham Metropolitan Borough Council employee, a worker for a Council contractor (including seconded council employees) is aware of any serious wrongdoing, such as:*

- *breach of a legal obligation;*
- *any criminal activity, including incitement to commit a criminal act;*
- *corruption or fraud;*
- *a miscarriage of justice;*
- *a danger to the health or safety of any individual or damage to the environment;*
- *abuse of power or authority;*
- *failure to comply with professional standards, Council policies or codes of practice/conduct;*

Committed by or related to the actions of:-

- *Rotherham Metropolitan Borough Council employees;*
- *Borough Councillors; and/or*
- *Contractors, agency staff, suppliers or consultants of Rotherham Metropolitan Borough Council in the course of their work for the Council;*

and reports it, the Council will investigate any such allegations and, where appropriate, take action. The Council is also committed to preventing any harassment, victimisation or unfair treatment of any person arising from their whistleblowing, and where appropriate, take disciplinary action against any member of staff responsible for such harassment, victimisation or unfair treatment against a whistleblower.

Paragraph 8.2 of the Policy confirms that whistleblowing disclosures by members of the public in respect of serious misconduct should be handled in the same way as disclosures made by employees.

- 3.3 It is proposed that the following wording should be added to the list of examples of serious wrongdoing in paragraph 1.4 of the Policy:
- *Modern Slavery [including slavery, servitude, and forced or compulsory labour and human trafficking]*

4. Options considered and recommended proposal

- 4.1 The recommendation is to amend the Whistleblowing Policy as set out at paragraph 3.3 above. That is not explicitly required by the Motion adopted by Council but would make it clearer to those who are concerned about an issue of modern slavery that they can raise those concerns via the Whistleblowing Policy.

5. Consultation

- 5.1 Not applicable.

6. Timetable and Accountability for Implementing this Decision

- 6.1 If the recommendation is accepted the amended Whistleblowing Policy will be published on the Council's website and intranet and a briefing will be prepared to draw the amended Policy to the attention of Council officers and contractors.

7. Financial and Procurement Implications

7.1 Any legal resources required to implement this decision will be found within existing budgets.

8. Legal Implications

8.1 The Council has a statutory duty to provide an appropriate Whistleblowing Policy and arrangement for dealing with concerns raised through the policy.

9. Human Resources Implications

9.1 The amended Policy will make it clearer to Council officers that modern slavery concerns can be raised via whistleblowing procedures.

10. Implications for Children and Young People and Vulnerable Adults

10.1 Children, young people and vulnerable adults can be subject to exploitation via modern slavery. Greater awareness of modern slavery and clarity that concerns can be raised via whistleblowing procedures would assist in tackling the issue.

11. Equalities and Human Rights Implications

11.1 The Whistleblowing Policy is available to all employees, workers and contractors of the Council and to the public.

12. Implications for Partners and Other Directorates

12.1 Not applicable.

13. Risks and Mitigation

13.1 Not applicable.

14. Accountable Officer(s)

Dermot Pearson, Assistant Director, Legal Services

Summary Sheet

Name of Committee and Date of Committee Meeting

Standards and Ethics Committee – 13 September 2018

Report Title

A Review of Concerns raised pursuant to the Whistleblowing Policy

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)

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Ward(s) Affected

All

Executive Summary

A report regarding concerns raised pursuant to the Whistleblowing Policy and the actions taken to address these matters.

Recommendations

1. That the Committee notes the Whistleblowing concerns raised over the previous year and the actions taken to address these matters.

List of Appendices Included

Appendix 1 Schedule of Whistleblowing Concerns

Background Papers

None

Consideration by any other Council Committee, Scrutiny or Advisory Panel

None

Council Approval Required

No

Exempt from the Press and Public

The Appendix to this report will be considered in the absence of the press and public as being exempt under Paragraph 1 of Part 1 of Schedule 12A to the Local Government Act 1972 (as amended March 2006) (information relating to an individual).

A Review of Concerns raised pursuant to the Whistleblowing Policy

1. Recommendations

- 1.1 That the Committee notes the Whistleblowing concerns raised over the previous year and the actions taken to address these matters.

2. Background

- 2.1 This report provides an overview of the Whistleblowing cases which have been received over the past year.

- 2.2 A description of the concerns received over the past year, along with the relevant action to address these matters is at Appendix 1. This is appropriately anonymized in order not to identify the whistleblower, pursuant to the policy in respect of confidentiality.

3. Key Issues

- 3.1 Matters reported are described within Appendix 1. It is important for there to be oversight of matters being reported pursuant to the Whistleblowing Policy.

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 N/A

7. Financial and Procurement Implications

- 7.1 Any work undertaken by Legal Services in dealing with these matters is within the budget for Legal Services.

8. Legal Implications

- 8.1 The Council has a statutory duty to provide an appropriate Whistleblowing Policy and arrangements for dealing with concerns raised through the policy.

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 The Whistleblowing Policy is available to all employees, workers and contractors of the Council.

12. Implications for Partners and Other Directorates

12.1 None

13. Risks and Mitigation

13.1 There is a risk that if serious misconduct is not reported pursuant to the Whistleblowing Policy, serious issues will not be appropriately investigated and addressed.

14. Accountable Officer(s)

Dermot Pearson, Assistant Director, Legal Services

By virtue of paragraph(s) 1 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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Summary Sheet

Name of Committee and Date of Committee Meeting

Standards and Ethics Committee Meeting – 13 September, 2018

Report Title

Standards and Ethics Committee - Consideration of Complaints

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)

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Ward(s) Affected

All

Executive Summary

A report updating the Committee on the Complaints received against Members of the Council, and Town and Parish Councillors alleging a breach of the Code of Conduct.

Recommendations

That the Committee notes the Complaints received, and the actions taken to deal with those complaints, pursuant to the Standards and Ethics Committee Complaints Procedure.

List of Appendices Included

Appendix 1 Schedule of Complaints and actions taken

Background Papers

None

Consideration by any other Council Committee, Scrutiny or Advisory Panel

None

Council Approval Required

No

Exempt from the Press and Public

The Appendix to this report will be considered in the absence of the press and public as being exempt under Paragraph 1 of Part 1 of Schedule 12A to the Local Government Act 1972 (as amended March 2006) (information relates to an individual).

Standards and Ethics Committee - Consideration of Complaints

1. Recommendations

- 1.1 That the Committee notes the Complaints received, and the actions taken to deal with those complaints, pursuant to the Standards and Ethics Committee Complaints Procedure.

2. Background

- 2.1 A Schedule of complaints received and actions taken in respect of those complaints is at Appendix 1.
- 2.2 As the schedule includes unproven allegations, it is anonymised in order to prevent identification of the relevant subject member.

3. Key Issues

- 3.1 The nature of each complaint is set out in the Schedule at Appendix 1. Any common themes arising from the Committee's overview of complaints should be identified. Further the members of the Committee may make suggestions in relation to means of addressing common issues which arise in the complaints.

4. Options considered and recommended proposal

- 4.1 Options for dealing with the complaints are set out in the Complaints procedure and the action taken in respect of each complaint is set out in the Schedule.

5. Consultation

- 5.1 One of the Standards and Ethics Committee Independent Persons is consulted in respect of each complaint.

6. Timetable and Accountability for Implementing this Decision

- 6.1 N/A

7. Financial and Procurement Implications

- 7.1 The officer time in dealing with these complaints is met within existing Legal Services resources.

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

By virtue of paragraph(s) 1 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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By virtue of paragraph(s) 1, 2 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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