

STANDARDS AND ETHICS COMMITTEE

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

Date: Thursday 9 November 2023

Time: 2.00 p.m.

A G E N D A

1. Apologies for Absence
To receive the apologies of any Member who is unable to attend today's meeting.
2. Declarations of Interest
To receive declarations of interest from Members in respect of items listed on the agenda.
3. Exclusion of Press and Public
To consider whether the press and public should be excluded from the meeting during consideration of any part of the agenda.

The appendices of Agenda Items 8 and 9 are exempt from the press and public.
4. Minutes of the previous meeting held on 15th June, 2023 (Pages 3 - 6)
To consider and approve the minutes of the previous meeting held on 15th June, 2023 as a true and correct record of the proceedings.
5. Civility and Respect Pledge - Update (Pages 7 - 10)
To receive an update on the Civility and Respect Pledge.
6. Standards and Ethics Committee - Hearings Panel - Order of Proceedings (Pages 11 - 16)
To review the Standards and Ethics Committee Sub-Committee Hearing Procedure
7. Training Update
To receive the latest training update.
8. A Review of Concerns Raised Pursuant to the Whistleblowing Policy (Pages 17 - 24)
To give consideration to a report regarding concerns raised pursuant to the Whistleblowing Policy and the actions taken to address these matters.

9. Consideration of Complaints (Pages 25 - 30)
To give consideration to 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.

10. Urgent Business
To determine any item which the Chair is of the opinion should be considered as a matter of urgency.

11. Date and Time of Next Meeting
The next meeting of the Standards and Ethics Committee will take place on Thursday, 18th January, 2024, commencing at 2.00 p.m.

A handwritten signature in black ink that reads "S. Kemp". The signature is written in a cursive, slightly slanted style.

S. KEMP,
Chief Executive.

STANDARDS AND ETHICS COMMITTEE
Thursday 15 June 2023

Present:- Councillor McNeely (in the Chair); Councillors Griffin, Bacon, Z. Collingham, Hughes, Sansome, Tarmey, Buckley, Carroll and Mr. R. Swann and also Mrs. A. Bingham, Mr. P. Edler and Mrs. K. Penney.

Apologies for absence were received from Councillors Yasseen and Mrs. M. Evers.

1. DECLARATIONS OF INTEREST

There were no declarations of interest.

2. EXCLUSION OF PRESS AND PUBLIC

Resolved:- That, under Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting for (insert item of business) on the grounds that it involves the likely disclosure of exempt information as defined in Paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972.

3. MINUTES OF THE PREVIOUS MEETING HELD ON 19TH JANUARY, 2023

Resolved:- That the minutes of the previous meeting held on 19th January, 2023 be approved as a true and correct record of the proceedings.

4. TRAINING UPDATE

Consideration was given to a verbal update on proposed training planned with Town and Parish Councils and the details shared with the Committee.

It was explained that arrangements were being made for Code of Conduct training to be arranged to take place in July and August 2023. This training would be available to all parish councillors. The training would be delivered remotely however consideration could be given to conducting the training in a hybrid manner. Following discussions, it was agreed that when notification of the training was issued, views would be sought on the delivery method for the training. This training would also be offered to any independent members.

Resolved:- That the details of the training be received and the contents noted.

5. CONSIDERATION OF GRANTING OF A DISPENSATION RELATING TO HOUSING MATTERS

Consideration was given to the report presented by the Service Manager which set out in detail the granting of dispensations to enable Members of the Council who have Council tenancies to participate and vote on Council business related to Housing.

The Localism Act and the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 introduced "Disclosable Pecuniary Interests" and new rules on the grant of dispensations to allow Council Members to take part in decisions or vote on matters in which they have a Disclosable Pecuniary interest ("DPI").

The grounds for the grant of a dispensation under Section 33(2) of the Localism Act were, if, after having regard to all relevant circumstances, the Council considers the five grounds set out in detail as part of the report.

In order to obtain a dispensation on any of the five grounds set out under Section 33 of the Localism Act, a Member must make a written request to the Council's Monitoring Officer. Any grant of a dispensation must specify how long it lasts for, up to a maximum period of four years.

A discussion ensued that highlighted the dispensation could last for a period of four years. The proposal was seeking to widen the democratic process which would give every councillor the ability to speak within the debate. Following concerns being raised it was suggested that the dispensation was reviewed at the first meeting of the Standards and Ethics Committee following an Election.

Resolved:- (1) That any Members of the Council who are tenants of Rotherham Borough Council be granted a dispensation pursuant to Section 33(2) (e) of the Localism Act to allow them to participate and to vote on matters in relation to housing (provided that those functions do not relate particularly to the tenancy or lease of the Council Member concerned). Such requests should be submitted in writing to the Monitoring Officer.

(2) That a review of the dispensation granted pursuant to Section 33(2) (e) of the Localism Act be carried out at the first meeting of the Standards and Ethics Committee following an Election.

6. OUTCOME OF STANDARDS AND ETHICS SUB-COMMITTEE HEARING RE ALLEGED BREACH OF THE CODE OF CONDUCT - MALTBY TOWN COUNCILLOR

Consideration was given to the report presented by the Service Manager which set out the outcome of a Standards and Ethics Sub-Committee Hearing which took place on 4th April 2023 in relation to an alleged breach

of the Code of Conduct by Maltby Town Councillor Christopher McMahon.

Attached to the report was the full Decision Notice and the minutes of the hearing itself.

As part of the discussions it was confirmed that the training offered was not compulsory but was available for all parish councillors to attend.

Resolved:- That the report be received and the outcome of the Standards and Ethics Sub-Committee Hearing on 4th April 2023 be noted.

7. CONSIDERATION OF COMPLAINTS

Consideration was given to the report presented by the Service Manager, 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.

Reference was made to each related case and recommended outcomes/actions identified were highlighted.

The involvement of the Independent Persons in this process was welcomed and deemed very beneficial.

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

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

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

Particular reference was made to the appendix to the report which set out clearly the description of the concerns received and action taken.

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

9. URGENT BUSINESS

The Chair advised that there were no urgent items of business requiring the Committee's consideration.

10. **DATE AND TIME OF NEXT MEETING**

Resolved:- That the next meeting of the Standards and Ethics Committee be held on Thursday, 14th September, 2023 commencing at 2.00 p.m.

Public Report
Standards and Ethics Committee

Committee Name and Date of Committee Meeting

Standards and Ethics Committee – 09 November 2023

Report Title

Civility and Respect Pledge - Update

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, Service Manager, Legal Services
01709 823523 - stuart.fletcher@rotherham.gov.uk

Ward(s) Affected

Borough-Wide

Report Summary

A report providing an update on the adoption of the Civility and Respect Pledge by local (Parish and Town) Councils.

Recommendations

1. That the Committee notes the content of the report in particular the adoption of the Civility in Respect Pledge by local councils in the Borough.

List of Appendices Included

None

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

Civility and Respect Pledge - Update

1. Background

- 1.1 Members will recall the report to the Standards and Ethics Committee in January 2023, in respect of the Civility in Respect Pledge (“the Pledge”). As set out in that report, the Pledge is the response by the National Association of Local Councils (NALC) to the growing concerns about the impact bullying, harassment, and intimidation are having on local (parish and town) councils, councillors, clerks and council staff and the resulting effectiveness of local councils. As such NALC have stated that they believe now is the time to put civility and respect at the top of the agenda and start a culture change for the local council sector.
- 1.2 At the meeting referred to above, the Committee felt that the Pledge was a very positive initiative. One of the recommendations of the previous meeting was that the Chair of the Committee write to all local councils in the Borough setting out the benefits of the Civility in Respect Pledge and encouraging all Parish Councils to sign up to the Pledge. As such letter from the Chair was sent to all local council clerks. Also at the previous Committee meeting a request was made that a report be brought back to the Committee after a suitable period with an update as to how many local councils had indeed signed up to the Pledge and their experience of the same. This report provides that update.

2. Key Issues

- 2.1 The number of local Councils who have signed up to the Pledge is set out below along with their views as to any effect this has had. The reasons for local councils not signing up are also set out. Any further views from the Committee as to any action which the Standards and Ethics Committee could take in relation to encouraging local Councils to sign up to the Pledge are welcomed.
- 2.2 There have been 12 responses received from the local council clerks, to the request for an update as to whether their local council had signed up to the Pledge and whether it was felt to have made any discernible difference to conduct and behaviour. Of those 12 responses, seven local councils had signed up to the Pledge and five had decided not to do so.
- 2.3 The reasons stated for not signing up to the Pledge were as follows:

“it was out to council and they did not see the need. We are a well run council and all are in accord with aims and goals of the parish council”

“Members couldn’t see any real difference between this pledge and the existing Code of Conduct. If the CoC had any weight behind it, i.e. to take meaningful action against councillors who behave outside the Code, there would be no need for this pledge.”

“No particular reason, other than our Councillors work quite well together and with myself as Clerk and this was not seen as a main priority”

“We haven’t adopted the civility and respect pledge as I was waiting for closure on the current complaints that are live with councillors conduct.”

“We deliberated “signing up” to the Civility and Respect Pledge but didn’t because Members believed they were already compliant with the high standards expected in the Council’s dealings with others and the service/accountability to the local community and others.

- 2.4 In respect of those local councils who have signed up to the Pledge the following comments were made:

“There has been no discernible difference as I had no real issues with the Council and both have good chairman who would support me.”

“No difference - no issues before or since”

“So far, I have not noticed any discernible change in behaviour from Councillors despite repeated reminders from myself.”

“No difference in behaviour at meetings. Under the radar bullying/coercion still occurs.”

- 2.5 Any further responses and comments received before the forthcoming meeting will be presented to the Committee at the meeting.
- 2.6 As stated in the previous report to Committee about the Pledge, it has also been discussed at the Parish Liaison Group. The Parish Liaison Officer (in Neighbourhoods Services) has provided support to Parish Councils in respect of the signing up to the Pledge, along with providing support on a more general level to both Clerks and Members.

3. Options considered and recommended proposal

- 3.1 The recommendations are set out above.

4. Consultation on Proposal

- 4.1 The Pledge has been discussed at the Parish Liaison group with local council representatives and this provides an ongoing forum to promote the Pledge.

5. Timetable and Accountability for Implementing this Decision

- 5.1 N/A

6. Financial and Procurement Advice and Implications

- 6.1 Any work undertaken by Legal Services in dealing with this matter is within the budget for Legal Services.

7. Legal Advice and Implications

7.1 The Council and the Standards and Ethics Committee have a statutory duty to promote and maintain high standards of conduct, pursuant to the Localism Act 2011. The encouragement by the Committee for local councils to sign up to the Pledge is an effective way for the Council to promote and maintain high standards of conduct.

8. Human Resources Advice and Implications

8.1 None.

9. Implications for Children and Young People and Vulnerable Adults

9.1 None.

10. Equalities and Human Rights Advice and Implications

10.1 The aims and objectives of the Pledge are consistent with treating everybody equally and ensuring that individuals in the local council sector are not subject to bullying and harassment.

11. Implications for Partners

11.1 The Pledge is aimed at local councils and further engagement in respect of the Civility and Respect Pledge through the Parish Liaison Group will be undertaken.

12. Risks and Mitigation

12.1 None this.

13. Accountable Officer(s)

Bal Nahal, Head of Legal Services

Report Author: Stuart Fletcher, Service Manager,
Legal Services
01709 823523 - stuart.fletcher@rotherham.gov.uk

This report is published on the Council's [website](#).

Committee Name and Date of Committee Meeting

Standards and Ethics Committee - 09 November 2023

Report Title

Standards and Ethics Committee – Review of the Sub-Committee Hearing Procedure

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, Service Manager (Commercial and Property)
01709 823523 stuart.fletcher@rotherham.gov.uk

Ward(s) Affected

Borough-Wide

Report Summary

A report in respect of a review of the Standards and Ethics Committee Sub-Committee Hearing Procedure.

Recommendations

1. That the Committee consider the Sub-Committee Hearing Procedure at Appendix 1 and make any suggestions for improvement.
2. That the Committee approve the Sub Committee Hearing Procedure subject to any amendments made in respect of Recommendation one.

List of Appendices Included

Appendix 1 Sub Committee Hearing Procedure

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

Standards and Ethics Committee - Review of the Sub Committee Hearing Procedure

1. Background

- 1.1 The final part of the Standards and Ethics Committee Complaints Procedure is the hearing of the complaint before a Sub Committee, if it is considered that a breach of the Code of Conduct may have occurred, and it has not been possible for the complaint to be informally resolved.
- 1.2 The current Hearing Procedure (referred to as the Order of Proceedings” in the document) is at Appendix 1. This procedure is in accordance with the principles of natural justice and the Subject Members right to a fair trial under Article 6 of the Human Rights Act.
- 1.3 Further the Hearing Procedure is in accordance with the Local Government Association Guidance on complaint Handling, published in July 2021.
- 1.4 The Monitoring Officer has considered the Hearing Procedure and is not of the opinion that any changes are required to be made. However, Members of the Committee, in particular those who have experience of sitting on Sub Committee hearings are asked for their views as to the operation of the procedure in respect of hearings, and whether any improvements could be made.

2. Key Issues

- 2.1 Set out above.

3. Options considered and recommended proposal

- 3.1 This is a periodic review of the Hearing Procedure and as such the only other option in respect of this issue is not to undertake a review of the Hearing Procedure which is not recommended.

4. Consultation on proposal

- 4.1 N/A

5. Timetable and Accountability for Implementing this Decision

The approved/amended Hearing Procedure will be used at all subsequent Sub Committee hearing following this meeting.

6. Financial and Procurement Advice and Implications

- 6.1 The officer time in reviewing this Procedure is met within existing Legal Services resources.

7. Legal Advice and Implications

- 7.1 The Council and the Standards and Ethics Committee have a statutory duty to promote and maintain high standards of conduct. Pursuant to the Localism Act 2011, the Council is required to adopt appropriate Complaint Handling arrangements for the investigation of allegations of breach of the Code of Conduct. The Sub Committee Hearing Procedure forms an important part of those arrangements.

8. Human Resources Advice and Implications

None

9. Implications for Children and Young People and Vulnerable Adults

None

10. Equalities and Human Rights Advice and Implications

None

11. Implications for Partners

None

12. Risks and Mitigation

None

13. Accountable Officer(s)

Bal Nahal, Head of Legal Services

Report Author: Stuart Fletcher, Service Manager (Commercial and Property)
01709 823523 - stuart.fletcher@rotherham.gov.uk

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Hearing Procedure

Standards and Ethics Committee – Hearings Panel

ORDER OF PROCEEDINGS

INTRODUCTION

The Chair will introduce him/herself, the members of the Panel, the Independent Person, the Monitoring Officer, and the Democratic Services Officer.

The Chair will then explain that the Panel will hear the evidence from the Investigating Officer. and then the member who is the subject of the complaint (“the Subject Member”).

The Investigating Officer will introduce the officers present and any witnesses.

The Subject Member will introduce him/herself and any person with him/her either to support the Subject Member or give evidence on his/her behalf.

PRESENTATION OF THE CASE BY THE INVESTIGATING OFFICER

The Investigating Officer will explain the nature of the complaint and the investigation and then call each witness individually.

The Complainant (if in attendance) will usually give evidence first and will explain the nature of the complaint. The Chair will ask the complainant what outcome they would want from the process.

Each witness will answer questions from the Investigating Officer.

The Subject Member can ask any relevant questions of the Investigating Officer or witness.

The members of the Panel can ask any relevant questions of the Investigating Officer or witness.

The Investigating Officer can ask any questions of the witness to clarify any issues which may have arisen from the earlier questions.

PRESENTATION OF THE CASE BY THE SUBJECT MEMBER

The Subject Member will explain the nature of his/her case i.e. which findings of fact in the investigation he/she disagrees with, and why. He/she will then present each witness he/she intends to call on his behalf.

Each witness will answer questions from the Subject Member.

The Investigating Officer can ask any relevant questions of the Subject Member’s witness.

The Subject Member or any witnesses will answer questions from the Panel members.

Each witness can be asked further questions by the Subject Member to clarify any issues which may have arisen from the earlier questioning.

CLOSING SUBMISSIONS

The Investigating Officer will summarise the most important points of the case and invite the Panel to make a determination.

The Subject Member will summarise the most important points of his/her case.

The Chair will ask all parties to leave the room whilst the Panel, in consultation with the Independent Person and with advice from the Monitoring Officer, considers the matter.

The parties will be invited to return in order to hear the Panel's decision.

FURTHER ACTION

If the Panel determines that the Subject Member has breached the Code of Conduct, it will invite the Investigating Officer and the Subject Member to address it on any action that it might take. The parties will again be asked to leave the room. They will be invited to return in order to hear the Panel's decision on the action to be taken.

(Note: the procedure set out above will be adapted to suit the circumstances of the case, e.g. if there are no witnesses to be called to give evidence, certain parts of the procedure will not apply).

Public Report
Standards and Ethics Committee

Committee Name and Date of Committee Meeting

Standards and Ethics Committee – 09 November 2023

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)

Stuart Fletcher, Deputy Monitoring Officer/Service Manager, Legal Services
01709 823523 - stuart.fletcher@rotherham.gov.uk

Ward(s) Affected

Borough-Wide

Report 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. Background

- 1.1 This report provides an overview of the Whistleblowing cases which have been received over the past year.
- 1.2 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 anonymised in order not to identify the Whistleblower, pursuant to the policy in respect of confidentiality.

2. Key Issues

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

3. Options considered and recommended proposal

- 3.1 Recommendations have been referred to above.

4. Consultation on Proposal

- 4.1 N/A

5. Timetable and Accountability for Implementing this Decision

- 5.1 N/A

6. Financial and Procurement Advice and Implications

- 6.1 Any work undertaken by Legal Services in dealing with this matter is within the budget for Legal Services.

7. Legal Advice and Implications

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

8. Human Resources Advice and Implications

- 8.1 None.

9. Implications for Children and Young People and Vulnerable Adults

- 9.1 None.

10. Equalities and Human Rights Advice and Implications

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

11. Implications for Partners

11.1 None.

12. Risks and Mitigation

12.1 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.

13. Accountable Officer(s)

Bal Nahal, Head of Legal Services

Report Author: Stuart Fletcher, Deputy Monitoring Officer/Service Manager,
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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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Committee Name and Date of Committee Meeting

Standards and Ethics Committee - 09 November 2023

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)Stuart Fletcher, Service Manager (Commercial and Property)
01709 823523 stuart.fletcher@rotherham.gov.uk**Ward(s) Affected**

Borough-Wide

Report 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 relating to an individual).

Standards and Ethics Committee - Consideration of Complaints

1. Background

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

2. Key Issues

- 2.1 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.

3. Options considered and recommended proposal

- 3.1 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.

4. Consultation on proposal

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

5. Timetable and Accountability for Implementing this Decision

N/A

6. Financial and Procurement Advice and Implications

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

7. Legal Advice and Implications

- 7.1 The Council and the Standards and Ethics Committee have a statutory duty to promote and maintain high standards of conduct. 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.

8. Human Resources Advice and Implications

None

9. Implications for Children and Young People and Vulnerable Adults

None

10. Equalities and Human Rights Advice and Implications

None

11. Implications for Partners

None

12. Risks and Mitigation

None

13. Accountable Officer(s)

Bal Nahal, Head of Legal Services

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Schedule of Complaints

By virtue of paragraph(s) 1, 2 of Part 1 of Schedule 12A
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