

## Summary Sheet

### Standards and Ethics Committee Report

Standards and Ethics Committee meeting on Thursday 9<sup>th</sup> June 2016

### Title

Review of procedures relating to Members

### 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, 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 regarding a review carried out in respect of procedures relating to elected members

### Recommendations

That the Committee notes the outcome of the review and the steps taken to implement the findings.

## **List of Appendices Included**

Appendix 1 - Items identified in the Members' Code of Conduct of Other Authorities

Appendix 2 - Items identified in the Officer Member Protocols of Other Authorities

## **Background Papers**

Review of Members Procedures

Papers held on file by the Monitoring Officer

## **Consideration by any other Council Committee, Scrutiny or Advisory Panel**

None

## **Council Approval Required**

Council approval would be required if changes to the Code of Conduct or

Member/Officer Protocol were proposed

## **Exempt from the Press and Public**

No

## **Title**

Review of procedures relating to Members

### **1. Recommendations**

#### **1.1 That the Standards and Ethics Committee**

- i) notes the findings of the review
- ii) notes the actions taken to implement the findings of the review
- iii) makes suggestions to improve the relevant procedures.

### **2. Background**

2.1 In accordance with the Standards and Ethics Committee Terms of Reference, a review has been undertaken of relevant procedures in relation to elected members, as referred to below. The review was undertaken by Roger Phillips, Auditor.

#### **Members Code of Conduct and the Officer Member Protocol**

##### **Members Code of Conduct**

2.2 The Assurance Objective in this regard is that the Members Code of Conduct and the Officer Member Protocol are robust documents and are commensurate with the high standards expected of Councillors of the Borough.

2.3 The review found that the Members' Code of Conduct and the Officer Member Protocol are generally robust documents, however there are items contained in other Local Authorities' Members' Codes of Conduct and Officer Member Protocols that could be included in RMBC's documents.

2.4 The auditor looked at RMBC's Members Code of Conduct including the document 'A healthy System of Democratic Leadership and Accountability' and ran a comparison against the Members Codes of Conduct of other local authorities. Some meaningful items were identified in the documents of other authorities that could be considered for inclusion within RMBC's Members' Code of Conduct. These are detailed in Appendix 1. It was felt appropriate that consideration should be given to whether it would be beneficial to include items in the Members' Code of Conduct of other Authorities (appendix 1), within RMBC's Members' Code of Conduct.

##### **Officer Member Protocol**

2.5 The auditor looked at RMBC's Officer Member Protocol including 'Code for Rotherham MBC: Senior Staff Working to Councillors' and ran a comparison against the Officer Member Protocols of other local authorities. Some meaningful items were identified in the documents of other authorities that

could be considered for inclusion within RMBC's Officer Member Protocol. These are detailed in Appendix 2. It was felt appropriate that Consideration should be given to whether it would be beneficial to include items contained in the Officer Members Protocols of other authorities (appendix 2), within RMBC's Officer Member Protocol.

### **Members' Allowances and Expenses**

- 2.6 The Assurance Objective in this regard is that RMBC's arrangements around Members' allowances and expenses are set independently of the Council and have been adhered to.
- 2.7 The conclusion of the review was that the schedule of allowances for Councillors has been approved by the Independent Remuneration Panel. Apart from an isolated incident of three travel claims submitted together, allowances and expenses have been claimed in accordance with the rules.
- 2.8 It was recommended that measures should be put in place to ensure that Members' expenses are authorised by an officer with suitable authority and knowledge of Members' activities and then paid at the appropriate rate. This recommendation has been accepted and implemented, such that a Senior Democratic Services Officer authorises the payments and the new Democratic Services Manager oversees the system.

### **Declaration of Business and Personal Interests**

- 2.9 The Assurance Objective in this regard is that the system for recording Councillors' interests is robust and the register is subject to a suitable systematic review process.
- 2.10 The conclusion of the review was that the register of Councillors' interests has been completed and Councillors' declaration forms had been signed off by the Monitoring Officer of RMBC.
- 2.11 The Register of Members' interests forms were inspected and it was found that they had been appropriately completed and were signed and dated by the Monitoring Officer. A review of the register did not show any irregular entries. It was not however practical to test whether Councillors' interests had been omitted.

### **Non-payment of Council Tax by Elected Members**

- 2.12 The Assurance Objective in this regard is that the measures are in place to ensure that Elected Members do not have council tax arrears, thus ensuring that Councillors' conduct in this area is in keeping with the conduct expected.
- 2.13 The conclusion of the review was that Members council tax accounts are closely monitored and there are robust arrangements for chasing up arrears. Testing within the review showed that there was only one Member with

council tax arrears. The amount owed was relatively small and there was evidence that suitable action was being taken to pursue the debt.

### **Allowances for Cabinet Advisors**

- 2.14 The Assurance Objective in this regard is that the Allowances for Cabinet Advisors have ceased in accordance with the recommendation of the Independent Remuneration Panel and as mentioned in the Casey report.
- 2.15 The conclusion of the review was that allowances for Cabinet Advisors have ceased. A review of records and enquiry showed that allowances for Cabinet Advisors are no longer being paid.

### **Review of Gifts and Hospitality Book**

- 2.16 The Assurance Objective in this regard is that there are no irregularities relating to the Gifts and Hospitality book and the book is subject to a suitable systematic review process.
- 2.17 The review concluded that the Gifts and Hospitality records are inadequate because insufficient detail is recorded in the Mayor's Gifts and Hospitality record. 2.20 It was found that the gifts and hospitality record only shows the date, event and item being received. The estimated value is not routinely entered and there is no record of who the gift / hospitality was presented by.
- 2.18 It was recommended that the gifts and hospitality records should include sufficient information including details of the recipient, the gift / hospitality received, whom it was gifted by and the approximate value. This has now been implemented by the Democratic Services Manager. Further it was recommended that the gifts and hospitality record should be reviewed on a regular basis by someone other than those completing the records. A signature and date should be recorded to provide evidence that a review has been completed. This recommendation has been accepted and implemented by the Democratic Services Manager.

## **3. Key Issues**

- 3.1 The relevant issues within each element covered by the review are set out above.

## **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 The required amendments to procedures have already been implemented by the Democratic Services manager.

## **7. Financial and Procurement Implications**

7.1 Any work undertaken by the Democratic Services Manager in implementing these recommendations is within the budget for Democratic Services.

## **8. Legal Implications**

8.1 The Council and Standards and Ethics Committee has a statutory duty to uphold ethical standards. As such review to ensure the procedures referred to within this report are operating properly is appropriate and necessary.

## **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 These procedures apply equally to all members.

## **12. Implications for Partners and Other Directorates**

12.1 None

## **13.0 Risks and Mitigation**

13.1 No significant specific risks were identified by the review, however it has been confirmed by the Democratic Services Manager, that the risk register for Democratic Services would include any risk arising from these procedures and their operation.

## **14. Accountable Officer(s)**

James McLaughlin, Democratic Services Manager

Dermot Pearson, Assistant Director, Legal Services

Approvals Obtained from:-

Assistant Director Legal Services and Monitoring Officer  
Dermot Pearson

## **APPENDIX 1**

### **Items identified in the Members' Code of Conduct of Other Authorities**

1. Listening to the interests of all parties, including relevant advice from statutory and other professional officers, taking all relevant information into consideration.
2. In addition to compliance with the Members' Code of Conduct, you are expected to comply with the following codes:
  - a. Member/Officer Protocol.
  - b. Planning Code of Best Practice.

## **APPENDIX 2**

### **Items identified in the Officer Member Protocols of Other Authorities**

1. A plain English explanation of the purpose of the Protocol: 'To guide Members and Officers of the Council in their relations with one another in such a way as to ensure the smooth running of the Council. If complied with it should ensure that Members receive objective and impartial advice and that Officers are protected from accusations of bias and any undue influence from Members.

2. The Underlying Principle of: Selflessness – serving only the public interest:

- Objectivity – taking decisions on merit.
- Accountability – to the public, being open to scrutiny.
- Duty to uphold the law – not acting unlawfully.
- Stewardship – ensuring the prudent use of the Council's resources.

3. Notice that disciplinary action can be taken if a Member breaches the protocol and it appears that the Members' code has also been breached.

4. In the 'Role of Officers' section: Contractual and legal duty to be impartial and statutory limitation on officers' involvement in political activities.

5. In the 'Role of Members' section:

- Be alert to the potential for conflicts of interest that can arise between the number of roles carried out by Members.
- Members are not authorised to certify financial transactions or enter into a contract on behalf of the Council.
- Members must avoid taking actions which are unlawful, financially improper or likely to amount to maladministration.
- Members must respect the impartiality of Officers.

6. In the 'Council as Employer' section:

- Officers are employed by the Council as a whole; Members roles are a) the appointment of specified senior posts, b) determining human resources policies and conditions of employment, c) hearing and determining appeals.
- Participating in the appointment of Officers, Members should: a) remember that the sole criteria is merit, b) never canvass support for a particular candidate, c) not take part where one of the candidates is a close friend or relative, d) not be influenced by personal preferences, e) not favour a candidate by giving him/her information not available to other candidates.
- A Member should not sit on an appeal hearing if the appellant is a friend, a relative, or an officer with whom the Member has had a working relationship.



7. In the 'Relationship between Officers and Members' section:

- Before any formal decisions with a financial implication are taken by the Executive, the finance officer and the senior officer(s) of the service(s) concerned must be consulted.
- Executive Members when making decisions (whether collectively or individually) must state the reasons for those decisions. The written record of the decisions must include the reasons.
- Officers taking decisions under their delegated powers must consider the advisability of informing the relevant Executive Member(s) of their intentions in advance when the matter to which the decisions relates is likely to be sensitive or contentious, or has wider policy implications.

8. In the 'Relationship between the Overview and Scrutiny Committees and Officers' section:

- It is recognised that officers required to appear before an Overview and Scrutiny Committee may often be those who have advised the Executive or another part of the Council on the matter under investigation. In these circumstances an officer may have a conflict of interest. Both Members and Officers need to consider the severity of the conflict. If appropriate, research and advice may be sought elsewhere – from the Council's overview and scrutiny support officers or externally.

9. In the 'Officer Relationships with Party Groups' section

- Members must not do anything which compromises or is likely to compromise Officers impartiality.
- An Officer should be given the opportunity of verifying comments and advice attributed to him/her in any written record of a party group meeting
- No Member will refer in public or at a meeting of the Council to advice or information given by Officers to a party group meeting.
- At party group meetings where some of those present are not members of the Council, care must be taken not to divulge confidential information relating to the Council business.
- Officers must never be asked to attend ward or constituency political party meetings.
- It is acknowledged that some Council staff (e.g. those providing dedicated support to Executive Members) may receive and handle messages for Members on topics unrelated to the Council. Whilst these will often concern diary management, care should be taken to avoid Council resources being used for private or party political purposes.

10. In the 'Members access to documents and information' section

- Members and Officers must not disclose information given to them in confidence without the consent of a person authorised to give it, or unless required by law to do so.
- Members and Officers must not prevent another person from gaining access to information to which that person is entitled by law.