

STANDARDS AND ETHICS COMMITTEE
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 This, therefore, superseded any action by the Commissioners.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

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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

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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.

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- 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.

