

## 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.