

STANDARDS COMMITTEE

MINUTES OF THE STANDARDS COMMITTEE MEETING HELD ON 26 JANUARY 2017 AT THE KENNET ROOM - COUNTY HALL, TROWBRIDGE BA14 8JN.

Present:

Cllr Paul Oatway QPM (Chairman), Cllr Allison Bucknell (Vice Chairman), Cllr Trevor Carbin, Cllr Howard Greenman, Cllr Julian Johnson, Cllr Sheila Parker, Mr Philip Gill MBE JP, Mr John Scragg, Miss Pam Turner and Cllr Glenis Ansell (Substitute)

Also Present:

Cllr Stuart Wheeler

1 Apologies

Apologies were received from Councillors Desna Allen, Rosemary Brown, Horace Prickett and Mr Paul Neale.

Councillor Allen was substituted by Councillor Glenis Ansell.

2 Minutes

The minutes of the previous meeting held on 29 June 2016 were presented for consideration.

Also received were the minutes of the Hearing Sub-Committee on 1 September 2016, and the minutes of the Review Sub-Committees held on 21 June, 3 August, 21 November and 9 December 2016, and 10 January 2017.

In respect of the minutes of the Hearing Sub-Committee it was noted there had been a recommendation that within three months of election all Wiltshire councillors should attend training on confidentiality requirements, with group leaders informed where this was not the case with the recommendation no-one be appointed to a committee or position or responsibility without it. The hearing had been regarding a breach of the Code as a result of the disclosure of confidential information.

In response it was noted that the Committee that it was intended confidentiality requirements be included with general training on the Code of Conduct that would be offered to all members as part of their induction process and the Committee strongly urged to attend.

Resolved:

To approve and sign the minutes of the meeting held on 26 June 2016 as a true and correct record

To receive the minutes of the Hearing Sub-Committee on 1 September 2016, and the minutes of the Review Sub-Committees held on 21 June, 3 August, 21 November and 9 December 2016, and 10 January 2017.

3 Declarations of Interest

There were no declarations.

4 Chairman's Announcements

On behalf of the Committee before the meeting the Chairman paid tribute to his predecessor as Chairman Councillor Julian Johnson. He thanked Councillor Johnson for his work as Chairman and the example he set in seeking to improve high standards of conduct for elected representatives in Wiltshire.

5 Public Participation

Under Minute 6 Mr Francis Morland delivered a statement in which he criticised the council's procedure in respect of standards complaints as unfair to subject members, as well as highlighting what he regarded as errors on the council's website in respect of complaints.

6 Review of the Standards Complaints Procedure

The Monitoring Officer, Ian Gibbons, presented a report on the review of the Standards Complaints Procedure requested by the Committee on 29 June 2016 following recommendation to Council to adopt guidance on the Code of Conduct rather than make amendments directly to the Code itself.

As detailed in the report the Constitution Focus Group had examined three documents relating to the Standards Complaints Procedure: Protocol 12 of the Constitution (*Arrangements for dealing with Code of Conduct complaints*), the Local Assessment Criteria by which complaints were assessed, and a procedure document for the conduct of Review Sub-Committees, held when a subject member or complainant requested a review of an initial assessment by the Monitoring Officer or his representative.

Councillor Stuart Wheeler, Chairman of the Constitution Focus Group, was in attendance and confirmed that the Focus Group had considered a number of issues that had been raised by subject members, officers, independent persons and complainants, and considered that the procedure and associated documents had in general been operating effectively and appropriately, but did feel some redrafting on specific points in the interests of clarity would be beneficial.

The Committee considered and debated the proposed tracked changes to Protocol 12 of the Constitution as detailed in the agenda papers. They were supportive of additional wording to set the time limit for submission of a complaint to be from when a complainant 'became or ought reasonably to have become aware' of a matter giving rise to a complaint. While there would be circumstances where it might be reasonable to accept a complaint long after the event itself, particularly if the event was unknown to the complainant, there should a judgement made in any assessment as to that reasonableness, and that this should be further detailed in the Assessment Criteria.

The Committee also requested a definition of who could be a complainant be inserted to clarify that it was required to be an individual not a body corporate in order to prevent effectively anonymous allegations. Other changes discussed were minor amendments to make clear Review Sub-Committees also had the ability where appropriate in the interests of fair and just administration to depart from the arrangements, and power to determine whether to make public documents relating to a complaint.

In respect of the Assessment Criteria the Committee discussed the five initial tests that were undertaken by Monitoring Officer or Review-Sub-Committee, including a drafting correction to test c) and confirming for test d) that it was necessary for there to be a Code of Conduct provided for the assessment, but that it did not matter who provided it. Additional amendments debated included a paragraph specifying a limit to new correspondence at the assessment stage, whether further wording was necessary in relation to confidentiality requirements and other minor changes as detailed in the tracked change document in the report.

The proposed Review Procedure was also considered. It was noted the document had been developed over time in light of the experience of sub-committees that had been held, and was intended to provide guidance and clarity to members of the public, subject members and the sub-committee as to the purpose of the meeting and the expectations of all parties.

At the conclusion of debate, it was,

Resolved

- 1) To recommend Council adopt the proposed changes to Protocol 12 of the Constitution as attached to these minutes.**
- 2) To approve the changes to the Local Assessment Criteria as attached to these minutes.**
- 3) To adopt the proposed Review Procedure as attached to these minutes.**

7 **Status Report on Standards Complaints**

The Monitoring Officer, Ian Gibbons, presented the latest status report on Standards Complaints. It was noted that the number of complaints for 2016 had increased slightly from 2015, although remained below the level of 2014. It was also clarified that multiple complaints could be submitted against the same member regarding the same incident, which could impact the figures.

The Committee discussed the report, and in response to queries on complaints referred to the police it was confirmed a protocol was being prepared with Wiltshire Police and Swindon Borough Council to ensure a clear procedure for such referrals, where a potential Code of Conduct breach was also a potential criminal offence.

The Committee also requested for future updates details of the breakdown between complaints against members of Wiltshire Council and town and parish councils.

Resolved:

To note the report.

8 **Local Government Ombudsman's Annual Review Letter 2015 - 2016**

The Monitoring Officer, Ian Gibbons, presented a brief report on the Annual Review Letter from the Local Government Ombudsman for 2015-16 in respect of corporate complaints against the council. It was confirmed the number of complaints was similar to previous years, and that the council had been judged as 100% compliant in responding to comments from the Ombudsman in the cases it had deal with in 2015-16.

The Committee discussed the report, seeking details of how council services and the complaints team handled complaints at each stage of the process and how lessons were learned. It was also confirmed town and parish councils were exempt from referrals to the Ombudsman for corporate complaints, and that details would be provided to the Committee at its next meeting on restructuring of the complaints team within the Legal service area.

Resolved:

To note the report.

9 **Appointment of Independent Persons**

The Monitoring Officer, Ian Gibbons, presented a report on the appointment of Independent Persons to assist him with Code of Conduct Complaints. Under the Localism Act 2011 (the Act) the council was required to appoint at least one such Independent Person (IP). The council had chosen to appoint three IPs, and following an extension of their terms at Council on 10 May 2016, the current terms would conclude in May 2017.

Under the terms of the Act a majority of members of the Council were required to appoint the IPs, following advertisement and application by those interested. It was requested the Committee authorise the Monitoring Officer, in consultation with the Chairman, to oversee arrangements for the advertisement, interview and selection of candidates, to be confirmed at the next meeting for recommendation to Council on 16 May 2017. It was proposed to continue with appointing three IPs.

The Committee noted the exemplary work of the three current IPs Mr Colin Malcolm, Mrs Carolyn Baynes and Mr Stuart Middleton, and the comments of the Monitoring Officer that in addition to the wide range of assistance they had provided to himself, subject members and committees over more than 200 complaints and over 30 sub-committees, it was his intention to utilise the IPs for further work as appropriate such as mediation between parties.

It was noted that the original decision of Standards and Council in 2012 had been to appoint each IP to a term of different length to have staggered appointments in future, but that the Committee had recommended this not take place as in practice it had been felt the experience and expertise of the IPs should be retained for a full length of a council. It was recommended the job description and advertisement be amended accordingly to confirm all three appointments be for a four-year term.

In response to queries it was also confirmed that the current IPs would be able to reapply for the roles.

Resolved:

To authorise the Monitoring Officer in consultation with the Chairman, to take all necessary steps to secure the appointment of three Independent Persons at the meeting of Full Council on 16 May 2017.

10 **Forward Plan**

The proposed forward work plan of the Committee was received. In response to queries it was confirmed the report to April 2017 on appointment of Co-opted members of the Committee would be to establish the process for appointment following the May 2017 elections, and details were provided on the planned review of the Whistleblowing Policy.

Resolved:

To approve the forward plan.

11 **Date of Next Meeting**

The date of the next meeting was confirmed as 5 April 2017.

12 **Urgent Items**

There were no urgent items.

13 **Exclusion of the Public**

No members of the public being present, the Committee took no view on passing a motion to exclude.

14 **Minutes**

The Part II minutes of the Hearing Sub-Committee held on 1 September 2016 were received.

(Duration of meeting: 2.00 - 3.30 pm)

The Officer who has produced these minutes is Kieran Elliott of Democratic Services, direct line 01225 718504, e-mail kieran.elliott@wiltshire.gov.uk

Press enquiries to Communications, direct line (01225) 713114/713115