

**Bolsover District Council**

**Council**

**1st July 2019**

**Draft Annual Report of the Standards Committee 2018/19**

**Report of the Chair of the Standards Committee**

This report is public

**Purpose of the Report**

- The purpose of the Annual Report is to enable Council to review the work that has been undertaken by the Standards Committee during the municipal year 2018/19.

**1 Report Details**

- 1.1 The Standards Committee is chaired by an Independent Member, Mrs Ruth Jaffray who has been a co-optee on Standards Committee for a number of years and was appointed as Chair by Council on 30th November 2016.
- 1.2 The Annual Report is attached as **Appendix 1** to this report.

**2 Conclusions and Reasons for Recommendation**

- 2.1 To enable the Council to consider an Annual Report from the Standards Committee on its work during the municipal year 2018/19.

**3 Consultation and Equality Impact**

- 3.1 Not applicable.

**4 Alternative Options and Reasons for Rejection**

- 4.1 This report is to inform the Council of the work of the Standards Committee therefore there are no alternative options.

**5 Implications**

**5.1 Finance and Risk Implications**

- 5.1.1 None arising from this report.

**5.2 Legal Implications including Data Protection**

- 5.2.1 None arising from this report.

### 5.3 Human Resources Implications

5.3.1 None arising from this report.

### 6 Recommendations

6.1 That Council receive the Annual Report of the Standards Committee on its work during the municipal year 2018/19.

### 7 Decision Information

<b>Is the decision a Key Decision?</b> A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds: <i>BDC: Revenue - £75,000</i> <i>Capital - £150,000</i> <input type="checkbox"/> <i>NEDDC: Revenue - £100,000</i> <input type="checkbox"/> <i>Capital - £250,000</i> <input type="checkbox"/> <input checked="" type="checkbox"/> <i>Please indicate which threshold applies</i>	No
<b>Is the decision subject to Call-In?</b> (Only Key Decisions are subject to Call-In)	No
<b>Has the portfolio holder been informed</b>	Yes
<b>District Wards Affected</b>	None
<b>Links to Corporate Plan priorities or Policy Framework</b>	Demonstrating good governance

### 8 Document Information

Appendix No	Title				
1	Annual Report of the Standards Committee 2018/19				
<b>Background Papers</b> (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)					
<table border="1"> <thead> <tr> <th>Report Author</th> <th>Contact Number</th> </tr> </thead> <tbody> <tr> <td>Alison Bluff, Governance Officer</td> <td>01246 242528</td> </tr> </tbody> </table>		Report Author	Contact Number	Alison Bluff, Governance Officer	01246 242528
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**Standards Committee  
Annual Report 2018/19**

## **Standards Committee Annual Report 2018/19**

### **Foreword from the Chair of the Standards Committee**

*I would like to take the opportunity to thank the Members on the Committee and the Independent Persons for their continued hard work and support in the work of the Committee during the year. The work of the Standards Committee remains central to the ethical and governance responsibilities of the Council which are an essential element in local government continuing to retain the trust of the public which it serves.*

**Mrs Ruth Jaffray**

*Co-opted Member*

The Annual Report outlines the work of the Standards Committee during the municipal year 2018/19 and covers the following subjects:

- 1 Chair and Co-optees of the Committee 2018/19
- 2 Independent Persons
- 3 Complaints received during 2018/19
- 4 New process for complaints against Councillors
- 5 Policy and Constitution Review Work
- 6 Gifts and Hospitality
- 7 Guidance, reports and articles considered by the Committee
- 8 Consultations and survey results related to Standards
- 9 Reviews undertaken by Scrutiny Committees related to Standards
- 10 Other items considered by the Standards Committee

## **1 Chair and Co-optees of Standards Committee 2018/19**

- 1.1 The Articles of the Constitution require that a co-opted member be appointed Chair of the Standards Committee. The Council therefore approved the appointment of Mrs Ruth Jaffray in November 2016.

## **2 Independent Persons**

- 2.1 The Council had previously appointed Mr Stephen Wainwright to fulfil the role as Independent Person, who advises the Monitoring Officer on complaints against District or Parish Councillors and also advises Councillors who were the subject of complaints.
- 2.2 Although the legislation required the appointment of only one Independent Person, the Council had agreed that a second appointment ensured flexibility and resilience and a second Independent Person, Mr Ian Kirk, was selected as a suitable candidate for a 4 year term in August 2017.

## **3 Complaints received during 2018/19**

- 3.1 13 complaints were received during the 2018/19 municipal year (11 parish and 2 District) all of which were closed with no further action.

## **4 New process for complaints against Councillors**

In July 2018, the Standards Committee considered and approved a new Councillor Complaint Procedure, which set out arrangements for dealing with standards allegations under the Localism Act 2011. It was a simple procedure, which included a flow chart on how a formal complaint could be made about the conduct of a District or Parish councillor and how that complaint would be dealt with and within what time frames. It was also a useful document for Members who may be the subject of a complaint. The procedure advised of a range of sanctions which could be imposed by the Standards Committee in the event of misconduct by a Councillor being found. Whilst not necessarily an exhaustive list, there were no statutory sanctions provided for in the Localism Act in relation to general breaches of the Code of Conduct. However, Members are reminded that a failure to declare a Disclosable Pecuniary Interest constitutes a criminal offence with the potential sanction of a fine and/or disqualification.

## **5 Policy and Constitution Review Work**

### **5.1 Constitution Review**

One of the functions of the Standards Committee was to undertake an annual review of the Council's Constitution to ensure it was up to date and in line with legislation and current circumstances. The Committee considered a number of areas that had been identified for review including;

- Changes to Licensing Committee Terms of Reference
- Terms of Reference for Joint Member Panels
- Council Procedure Rules – Speaking at Meetings (Councillors)
- Access to Information Rules

- Budget and Policy Framework Rules – Inclusion of informing Portfolio Holders
- Recording of Executive Decisions to reflect Key Decision Limits
- Threshold for Consideration of Tenders by Executive
- Scheme of Delegation to officers
- Social Media Guidance for Councillors
- Members Code of Conduct
- Declarations of Interest – revised form
- Employee Code of Conduct
- Minor wording changes or updating of job titles (housekeeping)

## 5.2 Whistle-blowing Policy Review

The Council has a joint Whistle-blowing Policy with North East Derbyshire District Council and a commitment to updating the policy on a regular basis to ensure it was fit for purpose. A review was conducted in February 2019 and no changes had been recommended.

The Monitoring Officer had overall responsibility for the maintenance and operation of the policy and would maintain a record of any concerns raised and the outcomes. The Monitoring Officer was also required to report as necessary to both Councils on instances relating to Whistleblowing and it was noted by the Standards Committee that there had been no instances to report for the 2018/19 municipal year.

## 5.3 RIPA Policy Review

Earlier in 2019, the Standards Committee had considered a report regarding a review undertaken on the Joint RIPA Policy, which covers the Council's activities under the Regulation of Investigatory Powers Act 2000 (RIPA).

Since the review, new Codes of Practice had been issued and some legislative changes had been made arising from the Investigatory Powers Act 2016 and the Regulation on Investigatory Powers Order 2018, and these had been incorporated into the policy.

The Council was periodically inspected by the Office of Complaints Commissioners and an inspection had taken place in March 2019.

Previous inspections had focused on the need for regulatory training and a training session had been delivered for the Strategic Alliance Management Team including those officers who were appointed as Authorising Officers and Designated Persons. Further training had been issued to officers within areas such as Planning Enforcement, Licensing and Environmental Health.

## **6 Gifts and Hospitality**

Further to an internal audit undertaken in May 2018, the Monitoring Officer had brought the Standards Committee's attention to three low priority recommendations made by the Internal Audit Consortium. The first was that the annual inspection report be presented to the Standards Committee during the

year following the inspection. Secondly, that consideration be made to adding fields to the form and lastly, that the Members Code of Conduct reflected the wording within the Council's Constitution. All three recommendations had been agreed.

In July 2018, the Standards Committee requested that the register of Gifts and Hospitality be published on the Council's website. This was suggested in light of the Council's view to go out to tender for a Committee Management Software system which would have a facility for an online version of the Gifts and Hospitality Register and that this be implemented once the new system was in place.

Members are reminded that advice is available from the Monitoring Officer, Deputy Monitoring Officer and Legal Services in relation to any offer of gift or hospitality and Members and officers are encouraged to seek this advice where they were unsure.

## **7 Guidance, reports and articles considered by the Committee**

### High Court Case – Ledbury Town Council

The Standards Committee had considered a report in relation to a High Court ruling on the obligation of local authorities to discipline councillors under the Code of Conduct procedure. The ruling clarified how a council should deal with complaints against a councillor and was brought following a claim brought by a councillor of Ledbury Town Council in Herefordshire after complaints of bullying and harassment were made against her by the Town Clerk and Deputy.

The High Court ruling had implications for town and parish councils throughout England and any local authority would be acting unlawfully and be at risk of challenge if it tried to bypass the Code of Conduct procedure under the Localism Act 2011 when addressing alleged misconduct of councillors.

It was important for the Standards Committee to consider the judgement with regard to how the Monitoring Officer and the Council conducted investigations into breaches of the Code of Conduct.

### Cornerstone Barristers' Publication – Councillor refused permission in Judicial Review against sexual harassment finding

The Standards Committee had considered a publication by Cornerstone Barristers in relation to a breach of Code of Conduct by a councillor (former Leader) of Devon County Council.

The councillor had been refused permission to proceed to a judicial review of Devon County Council's decision to sanction him for sexual harassment of four council employees.

A formal investigation by a QC instructed by the council, concluded that the allegations against the councillor were true and the council's standards committee imposed several sanctions on the councillor, which included restrictions on his access to the council's premises.

The councillor issued a claim for judicial review of the council's decision which included challenges to the procedural fairness of the council's investigation and decision-making process. All of these allegations were rejected as unarguable by Mrs Justice Andrews, who refused permission to proceed to a judicial review.

The councillor also sought to challenge the legality of the sanctions imposed on him and the one, narrow ground given permission was whether the Council had the legal power to exclude the councillor from its premises. Although Mrs Justice Andrews considered it was arguable that the council had no legal power to exclude him from its premises, she considered that, if there was such a power, the restrictions placed on the councillor were "plainly" proportionate.

#### Local Government Lawyer Publication – Independent report expresses regret at attack by councillor on monitoring officer

The Standards Committee had considered a publication from Local Government Lawyer in relation to a breach of Code of Conduct by a councillor of Fenland District Council.

An independent report into allegations against the councillor had expressed "some surprise and regret" that the councillor pursued allegations concerning the monitoring officer and her actions as a complaint against her.

Fenland District Council's monitoring officer had alleged that the councillor might have submitted overinflated mileage claims and attempted to claim for journeys outside the scope of the members' allowance scheme. The deputy monitoring officer asked a law firm to carry out an investigation into whether the councillor had breached Fenland's Code of Conduct.

The law firm had inspected a number of claim forms submitted by the councillor between 2011 and 2017 and these had highlighted a significant difference in the actual mileage between his place of residence and the council offices and the mileage claimed. There were claims for travel expenses for journeys which were not covered by the members' allowance scheme adopted by Fenland. The law firm concluded that there was evidence that the councillor should have been aware that some of the claims were not justified and that there had been a breach of the code of conduct of the authority by the councillor.

Commenting also on the allegations made by the councillor against the monitoring officer, the law firm said that though all the allegations were dismissed, there was a risk that such a process had the appearance of a collateral attack on the complaint against him and the officer making them. It added that such actions risked being a breach in themselves of part of the council's code of conduct that related to intimidation or attempts at intimidation.

## **8 Consultations and survey results related to Standards**

### Consultation on Election Candidates and Campaigns regarding new laws

The Standards Committee had considered a report which provided information on a consultation regarding new laws in relation to Election Candidates and Campaigns.



Earlier in 2018, the Committee on Standards in Public Life had published a wide-ranging review of the impact of intimidation in public life with a focus on the role of social media. The Committee made recommendations for social media, political parties, police and local government and suggested the Government consult on ways in which electoral law could be changed to protect candidates and their supporters. A Cabinet Office consultation, which closed on 22nd October 2018, would take this forward.

All Members of the Council were provided with the questions and were invited to offer a voluntary response to the consultation.

### Consultation on Local Government Ethical Standards by Committee on Standards in Public Life

The Committee on Standards in Public Life had undertaken a review of local government ethical standards which had considered all levels of local government in England.

The Standards Committee Members had fed into the consultation by providing a collective response to the consultation questions and had felt that it had offered them the opportunity to discuss ethical standards on a local and national basis.

The recommendations of the review were published in January 2019 and some of the recommendations would require Primary Legislation, however, many of the other recommendations were considered good practice from which councils could just implement or adopt and these were to be considered in the new corporate year.

## **9 Reviews undertaken by Scrutiny Committees related to Standards**

### **9.1 Review of The Strategic Alliance**

The Customer Service and Transformation Scrutiny Committee undertook a review of the Strategic Alliance following consideration of a range of topics suggested at the Annual Scrutiny Conference in 2017/18

The aim of the review was to establish how the Strategic Alliance could be more effective in delivering front line services.

The Scrutiny report set out recommendations which were endorsed by the Executive in May 2018. One of the recommendations within the review was that the Terms of Reference for the Strategic Alliance Joint Committee be reviewed. This was in order to ensure that the Committee's remit remained fit for purpose and was monitoring and developing the work of the Alliance.

The Strategic Alliance Joint Committee considered its Terms of Reference and consequently made a number of amendments which the Standards Committee approved and referred to Council for adoption.

## 9.2 Operational Review of Standards Committee by the Customer Service and Transformation Scrutiny Committee

Further to the Standards Committee's response to the consultation by the Committee on Standards in Public Life on their 'Review of Local Government Ethical Standards', the Standards Committee felt it was pertinent to have an external opinion of how they operated and requested the Customer Service and Transformation Scrutiny Committee to undertake a review.

A range of concerns were raised by the Standards Committee and these were considered as part of the scoping process. The review was completed outside the usual meeting programme via a small Working Group with regular reports back to Committee.

A number of recommendations were presented to and approved by the Executive on 18<sup>th</sup> February 2019 and included;

- training in relation to the Code of Conduct and DPIs as part of the Member Induction Programme, with a refresher course to accommodate any changes in legislation/Council membership
- training on a minimum annual basis to Parish Council Liaison,
- Improved public information, both web-based and hard-copy, to ensure the role of Standards Committee is clear.
- the appointment of the Co-opted Independent Chair be maintained as a demonstration of our commitment to the Seven Principles of Public Life.

All of the recommendations would be monitored by the Customer Service and Transformation Scrutiny Committee for 12 months.

## 10 Other items considered by the Standards Committee

During the 2018/19 Municipal Year, the Standards Committee also considered;

- the Annual Letter from the Local Government & Social Care Ombudsman (2017/18)
- a report relating to Customer Service Standards and Compliments, Comments and Complaints received between 1<sup>st</sup> April 2018 to
- 1<sup>st</sup> September 2018.

**Footnote: If any Member would like a copy of any of the reports referred to in this report, they should contact the Governance Team on 01246 242528/29**