

## **STANDARDS COMMITTEE**

Minutes of a meeting of the Standards Committee of the Bolsover District Council held in the Council Chamber, The Arc, Clowne, on Monday 2<sup>nd</sup> July 2018 at 1000 hours.

### **PRESENT:-**

Members:-

R. Jaffray (Co-optee) in the Chair

Councillors J.A. Clifton, M.J. Dooley, H.J. Gilmour, C.R. Moesby, T. Munro and B. Watson.

Officers:- S.E.A. Sternberg (Head of Corporate Governance and Monitoring Officer), V. Dawson (Deputy Monitoring Officer), N. Calver (Governance Manager), J. Wilson (Scrutiny and Elections Officer) and A. Bluff (Governance Officer).

Also in attendance at the meeting was Councillor D. McGregor, observing.

### **0128. APOLOGIES**

There were no apologies for absence.

### **0129. URGENT ITEMS OF BUSINESS**

There were no urgent items of business to consider.

### **0130. DECLARATIONS OF INTEREST**

There were no declarations of interest made.

### **0131. MINUTES – 8<sup>TH</sup> MAY 2018**

The Monitoring Officer referred to Minute Number 813 of the Minutes from the last meeting and advised Committee that a formal report in relation to a Breach of the Code of Conduct would be presented to the next meeting of Standards Committee.

Moved by Councillor B. Watson and seconded by Councillor T. Munro

**RESOLVED** that the Minutes of a Standards Committee meeting held on 8<sup>th</sup> May 2018 be approved as a correct record.

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### **0132. OPERATIONAL REVIEW OF STANDARDS COMMITTEE BY THE CUSTOMER SERVICE AND TRANSFORMATION SCRUTINY COMMITTEE**

At the meeting of Standards Committee on 8<sup>th</sup> May 2018, Members gave consideration to a consultation, which was being undertaken by the Parliamentary Committee on Standards in Public Life in relation to Local Government Ethical Standards. Members had provided a collective response to the consultation questions during that meeting and these had been submitted to the Parliamentary Committee by the Governance Manager.

In answering the consultation questions Members had in effect carried out their own internal review process of its ethical standards and felt it would also be beneficial to have Scrutiny carry out an overview on how Standards operated.

At its meeting held on 29<sup>th</sup> May 2018, Customer Service and Transformation Scrutiny Committee had agreed to carry out a mini review and had devised a list of questions to be considered by Standards Committee as part of enabling the scoping of the review work.

The Scrutiny and Elections Officer circulated the list of questions to the meeting and Members deliberated each one making changes and additions were it was felt necessary.

Moved by Councillor B. Watson and seconded by Councillor T. Munro

**RESOLVED** that the list of questions, considered and amended by Standards Committee, be forwarded to Customer Service and Transformation Scrutiny Committee to enable the scoping of their review work in relation to a mini review of the Standards Committee.

(Scrutiny and Elections Officer)

### **0133. HIGH COURT CASE – LEDBURY TOWN COUNCIL**

Committee considered a report in relation to a recent High Court ruling on the obligation of local authorities to discipline councillors under the Code of Conduct procedure.

The High Court had recently handed down an important ruling which clarified how a council should deal with complaints against a councillor. This ruling followed 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 Town Council decided to follow guidance adopted by at least one county association of local councils which said that it was appropriate to deal with allegations of bullying under a grievance procedure because issues concerning employee relations should be addressed more expeditiously than the Code of Conduct process contemplated.

The Councillor disagreed that this was the appropriate way to deal with complaints and self-referred a Code of Conduct complaint to the Monitoring Officer of Herefordshire Council (the principal authority for the area).

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The Town Council continued to proceed under its grievance and appeals procedure, found against the Councillor and imposed various disciplinary sanctions including preventing the councillor from serving on a committee, sub-committee panels or working/steering groups and that she could not represent the council on any outside body.

These measures were maintained even after external investigators instructed by Herefordshire Council's Monitoring Officer found that the councillor had not breached the Town Council's Code of Conduct.

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 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.

Moved by Councillor T. Munro and seconded by Councillor B. Watson  
**RESOLVED** that the report be noted.

### **0134. ANNUAL REPORT OF THE STANDARDS COMMITTEE 2017/18**

Members considered a draft Annual Report of Standards Committee which would be presented to Council on 18<sup>th</sup> July 2018, by the Chair of Standards Committee.

The purpose of the Annual Report was to enable Council to review the work that had been undertaken by the Standards Committee during the municipal year 2017/18.

It was agreed that further detail be included under the heading, 'Work Undertaken on the Council's Constitution', to reflect the work carried out by the Committee.

Moved by Councillor B. Watson and seconded by Councillor T. Munro  
**RESOLVED** that subject to the inclusion of further detail under the heading, 'Work Undertaken on the Council's Constitution', the draft Annual Report of Standards Committee be approved and presented to Annual Council on 23<sup>rd</sup> May 2018.

(Governance Manager/Chair of Standards Committee)

### **0135. REVIEW OF JOINT RIPA POLICY**

Committee considered a report in relation to a review of the joint policy and procedures covering the Council's activities under the Regulation of Investigatory Powers Act 2000 (RIPA).

Neither Bolsover nor North East Derbyshire District Council had used RIPA legislation since the last update to Committee in July 2017.

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The Council had been periodically inspected by the Office of Surveillance Commissioners, (now superseded by the Investigatory Powers Commissioner's Office (IPCO)), with the last inspection taking place in 2015/2016 and the next inspection being due in the current year, 2018/19.

Since the last inspection, the policy had been reviewed annually to ensure that post-holders were up to date and to also improve wording and clarity of the information. There had been no changes in the official guidance and no changes in legislation.

However, the Investigatory Powers Act 2016, made many changes to the power to acquire communications data. The main change within the legislation was that applications for the acquisition and disclosure of communications data would be submitted to the Investigatory Powers Commissioner for approval.

These changes were yet to be brought into force but in anticipation, the policy had been adapted to separate out the sections relating to the different powers.

Further changes to these provisions were expected in order to bring the rules in line with European legislation and the Government had been given a deadline of 1st November 2018 to make the changes. A further review would be undertaken at that stage to implement the changes to this part of the procedure.

Much of the public concern regarding these powers in relation to communications, was in the interception of the content of communications, i.e. listening to phone-calls and reading emails. Local authorities were only permitted to access limited data regarding service use and subscriber information (e.g. the use of a forwarding or re-direction service). Neither Bolsover District Council nor North East Derbyshire District Council has applied for or used the powers to acquire communications data under the current regulations.

Previous inspections had focused on the need for regular training of relevant officers and this had been deferred in the last 12 months due to the on-going SAMT restructure and the uncertainty regarding the amendments due to the Investigatory Powers Act. The last training at both councils took place in November 2015 and new training sessions would be scheduled over the next few months for the Strategic Alliance Management Team including those officers appointed as authorising officers and designated persons and officers in planning enforcement, licensing, environmental health and the benefits team.

Moved by Councillor H.J. Gilmour and seconded by Councillor B. Watson  
**RESOLVED** that:

- (1) the update provided on the use of the RIPA Policy be noted,
- (2) a further review takes place once the provisions of the Investigatory Powers Act 2016 relating to the acquisition and disclosure of communications data are brought into force,

**RECOMMENDED** that following consideration by the Strategic Alliance Joint Committee, Executive approves the revised Joint RIPA Policy and Procedure document

(Head of Corporate Governance and Monitoring Officer/Governance Manager)

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### **0136. STRATEGIC ALLIANCE JOINT COMMITTEE – TERMS OF REFERENCE**

Committee considered a report which set out proposed revised Terms of Reference for the Strategic Alliance Joint Committee.

At its meeting on 21st May 2018, Executive considered and endorsed a Scrutiny report in relation to a review carried out on the Strategic Alliance Joint Committee by the Customer Service & Transformation Scrutiny Committee.

The Scrutiny report set out various recommendations of which one was that the Terms of Reference for the Strategic Alliance Joint Committee was reviewed to ensure that the Committee's remit remained fit for purpose and was monitoring and developing the work of the Alliance.

The Scrutiny report was further considered by the Strategic Alliance Joint Committee on 12<sup>th</sup> June 2018 and it was agreed that the Terms of Reference be revised with a number of amendments being made. A copy of these amendments was attached as an appendix to the report.

Moved by Councillor T. Munro and seconded by Councillor M.J. Dooley  
**RESOLVED** that the report be noted,

**RECOMMENDED** that the proposed revised Terms of Reference for the Strategic Alliance Joint Committee be approved by Council.

(Head of Corporate Governance and Monitoring Officer/Governance Manager)

### **0137. ANNUAL REVIEW OF GIFTS AND HOSPITALITY REGISTER – 2016 AND 2017**

Committee considered a report which provided details of all entries in the Council's Gifts and Hospitality Register for the period January 2016 to December 2016 and January 2017 to December 2017. The results of the review were contained on spreadsheets attached to the report.

Currently, there was no specific system in place to document any charitable donations made on behalf of the Council by members of the public or businesses via the Just Giving online fundraising platform.

To ensure transparency of these types of donations, Committee was asked to consider including these in the Register to illustrate a record of the donation on the Council's behalf.

Further, the Council's Publication Scheme stated that the Council's Gifts and Hospitality Register could be accessed via the Council's website. Unfortunately, this had not been the case for a while and Committee was asked to consider whether the Gifts and Hospitality Register should be available on the website for public viewing. Committee was asked to note, however, that there was no legal requirement to publish the Register

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but there was a requirement to allow access to the Register to members of the public upon request and this was carried out when a request was made to the Legal team.

Following a recent Gifts and Hospitality Audit, it had been recommended that Standards Committee approve that employees and Members be required to declare any gift or hospitality above £100 in value. Members were asked to confirm that they felt this level was still appropriate.

Further to a comment made by a Member, the Monitoring Officer replied that she would confirm with the Chief Executive's Partnership Team that charitable donations made to the Chairman's charities were or needed to be recorded separately to the Gifts and Hospitality Register.

The Monitoring Officer would write out to Members and staff with regards to the Gifts and Hospitality Guidance.

Moved by Councillor B. Watson and seconded by Councillor M.J. Dooley

**RESOLVED** that (1) the report be noted,

(2) the Gifts and Hospitality Register be published on the Council's website,

(3) the Gifts & Hospitality Register includes the requirement that any charitable donations be registered via the Gifts & Hospitalities system,

(4) Members be required to declare any gift or hospitality above £100 in value.

(Head of Corporate Governance and Monitoring Officer)

### 0138. DRAFT COUNCILLOR COMPLAINT PROCEDURE

Committee considered a report which sought approval for a draft Councillor Complaint Procedure.

The Council currently had a Councillor Complaint Summary document in place which was available on the Council's website. However, it had been felt that this could be improved upon and provide more specific information as to how the Council dealt with complaints against Members.

The draft Councillor Complaint Procedure 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 draft procedure also advised of a range of sanctions which could be imposed by the Standards Committee in the event of misconduct by a councillor being found. It should be noted that whilst this was 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

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Conduct. However, Members were reminded that a failure to declare a Disclosable Pecuniary Interest constituted a criminal offence with the potential sanction of a fine and/or disqualification.

In response to a Member's query, the Deputy Monitoring Officer advised the meeting that a Member would be informed that a complaint had been made against them at the first stage of the procedure, i.e., when a written complaint was received and acknowledged within 10 working days, the Member would be written to at the same time. The flow chart would be amended to reflect this as part of the procedure.

In response to another Member's query, the Monitoring Officer noted that the document could be circulated to parish and town councillors at the District and Parish Council Liaison meeting at the end of July.

Moved by Councillor T. Munro and seconded by Councillor B. Watson

**RESOLVED** that subject to the above amendment to the flowchart, the draft Councillor Complaint Procedure be approved and recommended to Council for adoption.

(Head of Corporate Governance and Monitoring Officer/Governance Manager)

### **0139. COMPLAINTS AGAINST MEMBERS UPDATE - VERBAL REPORT**

Committee was advised that there were no current active complaints against any Councillors.

Moved by Councillor T. Munro and seconded by Councillor B. Watson

**RESOLVED** that the update be noted.

### **0140. WORK PLAN 2018/19**

Committee considered their Work Plan for 2018/19.

Members were advised that if they had any items to raise, these could be added to the Work Plan at any time.

The Monitoring Officer advised the meeting that the 2017/18 annual report in relation to figures for Member complaints would be added to the Work Plan and presented at the October meeting.

Moved by Councillor B. Watson and seconded by Councillor T. Munro

**RESOLVED** that the Work Plan 2018/19 be noted.

The meeting concluded at 1035 hours.