

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 14th January 2019 at 1400 hours.

PRESENT:-

Mrs R. Jaffray (Independent Member) in the Chair

Members:- Councillors M.J. Dooley, H.J. Gilmour, C.R. Moesby, T. Munro and B. Watson.

Officers:- S.E.A. Sternberg (Solicitor to the Council and Monitoring Officer), V. Dawson (Solicitor – Team Manager (Contentious) & Deputy Monitoring Officer)), N. Calver (Governance Manager), A. Bedford (Customer Standards and Complaints Officer) (to Minute No. 0590) and A. Bluff (Governance Officer).

Also in attendance at the meeting was Mr I. Kirk, Independent Person.

0585. APOLOGIES

Apologies for absence were received on behalf of Councillor J.A. Clifton and D. Clarke (Head of Finance and Resources).

0586. URGENT ITEMS OF BUSINESS

There were no urgent items of business to consider.

0587. DECLARATIONS OF INTEREST

There were no declarations of interest made.

0588. MINUTES – 15TH OCTOBER 2018

Moved by Councillor C.R. Moesby and seconded by Councillor T. Munro

RESOLVED that the Minutes of a Standards Committee meeting held on 15th October 2018 be approved as a correct record.

0589. CUSTOMER SERVICE STANDARDS AND CCC REPORT 2018/19; 1ST APRIL 2018 TO 30TH SEPTEMBER 2018.

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Committee considered a report which provided information regarding performance relating to Customer Service Standards and Compliments, Comments and Complaints across the Council for the period 1st April 2018 to 30th September 2018.

Customer Service Standards

Telephone Answering Corporate - Target - 93% to be answered within 20 seconds

Appendix 2 to the report showed performance for incoming calls being answered corporately between 1st April 2018 and 30th September 2018 by quarterly period.

The report identified that 98% in both Q1 and Q2 of incoming calls were being answered within 20 seconds. The departments not achieving the key customer service standard in Q1 and Q2 were;

- Housing and Community Safety (88% in Q1 and 92% in Q2) and
- Customer Service (90% in Q2)

Telephone Answering Contact Centres - Target - 80% of incoming calls to be answered within 20 seconds

The Contact Centres had achieved 71% and 75% for Q1 & Q2 respectively.

The main contributing factor on performance had been in relation to staffing resource levels. However, 3 vacant posts had since been filled and it was envisaged that performance would start to improve and further on return of staff from long term sickness absence.

Telephone Answering Revenues & Benefits - Target - 60% of incoming calls to be answered within 20 seconds

Revenues & Benefits 'direct dial' had achieved 75% and 79% for Q1 and Q2 respectively.

E-mails - Target 1 - 100% to be acknowledged within 1 working day and Target 2 - 100% to be replied to within 8 working days

6,026 (3,180 in Q1 and 2,846 in Q2) email enquiries were received from the public through enquiries@bolsover.gov.uk All were acknowledged within one working day and 99.7% were replied to in full within 8 working days.

E-mails were an increasing popular method of contact to the Council. For comparison purposes, in Q1 and Q2 of 2017/18; 4,846 e-mails were received.

Face to Face monitoring – Target: 99% not kept waiting longer than 20 minutes at a Contact Centre

Customer waiting times at the Contact Centres was monitored twice each year by Contact Centre staff and was a paper based exercise.

The following monitoring took place during week commencing 9th July 2018;

The total number of callers served in the Contact Centres and at Meet and Greet at the Arc, Clowne, during week commencing 9th July 2018 was **1160**;

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- 894 customers called into the Contact Centres, 891 of which (99.7%) waited less than 20 minutes to be served,
- 99% or 1,337 waited less than 15 minutes to be served.
- 266 callers were served on Meet & Greet at The Arc in Clowne,

This exceeded the corporate target and demonstrated excellent service.

Compliments, Comments and Complaints:

Compliments

123 written compliments were received in Q1 and Q2. An appendix attached to the report broke this figure down by department.

Comments

45 written comments were received in Q1 and Q2. Each comment was acknowledged and passed to the respective department within the target time of 3 working days. Some comments had raised valid issues and cross cut departments and as such were responded to corporately.

Complaints - Frontline resolution (stage one)

110 complaints were received. The customer service standard for responding to these complaints was 3 working days. 85% were responded to within the timescale which was a significant improvement on the 60% achieved in the same period last year (2017/18).

Formal Investigation (stage two)

98 complaints were received during Q1 and Q2. 97 (99%) were responded to within the customer service standard of 15 working days with the remaining 1 having an extension applied due to a legal view being sought and was responded to within 20 working days.

Internal Review (stage three)

16 stage three complaints were received in Q1 and Q2. These were complaints that had progressed to stage two but the complainant still felt dissatisfied. All 16 were responded to within the standard.

Ombudsman

Appendix 3 (F) showed the status of Ombudsman complaints for 2018/19 as at 31st October 2018. During this period, two decisions were received from the Local Government and Social Care Ombudsman of 'closed after initial enquiries'. One decision was received of 'Service failure' from the Housing Ombudsman (HO) for the same period. The HO's report highlighted that it was not a straightforward situation for the Council to address and that to a large extent the speed at which the situation could be resolved was beyond the Council's control as the actions of Derbyshire County Council were reliant on. However, the HO decided that there was one particular aspect which the Council could have improved upon and that was in updating the complainant.

In response to a Members query, the Monitoring Officer replied that external legal views were on sought on a rare occasion.

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Members agreed that the report was good and congratulated Contact Centre staff on their work.

Moved by Councillor T. Munro and seconded by Councillor H.J. Gilmour

RESOLVED that the report be noted.

0590. CORNERSTONE BARRISTERS' PUBLICATION; COUNCILLOR REFUSED PERMISSION IN JUDICIAL REVIEW AGAINST SEXUAL HARASSMENT FINDING

Committee 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. He was permitted unrestricted access to the members' room, the ante chamber and the council chamber and was permitted to visit any other premises provided he gave advance notice and was accompanied by a Council officer.

The councillor issued a claim for judicial review of the council's decision. He raised at least 10 grounds of challenge, which included challenges to the procedural fairness of the council's investigation and decision-making process and a more general assertion that he was denied a fair hearing as guaranteed by both the common law and Article 6 of the European Convention on Human Rights.

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.

The councillor has renewed his application for permission and a hearing is likely to take place in late 2018 or early 2019.

Moved by Councillor C.R. Moesby and seconded by Councillor T. Munro

RESOLVED that the publication be noted.

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0591. LOCAL GOVERNMENT LAWYER PUBLICATION; INDEPENDENT REPORT EXPRESSES REGRET AT ATTACK BY COUNCILLOR ON MONITORING OFFICER

Committee 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.

A Councillor felt it was valuable that this had been brought to Committee’s attention and requested that all Members be made aware of what they could and could not claim for either via the induction process or by way of a presentation after the elections in May 2019.

Moved by Councillor C.R. Moesby and seconded by Councillor B. Watson

RESOLVED that (1) the publication be noted,

(2) further to the elections in May 2019, all Members be made aware of what they could and could not claim for either via the induction process or by way of a presentation.

(Monitoring Officer)

0592. REVIEW OF THE COUNCIL’S CONSTITUTION

Committee considered a report which set out proposed amendments to parts of the Council’s Constitution as part of the annual review by Standards Committee which would be submitted to Annual Council for adoption.

The Constitution set out how the Council operated and how it made decisions. One of the functions of the Standards Committee was to undertake an annual review of the Council’s

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Constitution to ensure it was up to date and in line with legislation and current circumstances.

Delegation of decisions to write off debts for rent arrears

Committee was advised that this item was being reconsidered and was now withdrawn.

Functions of the Joint Employment Committee

This item was approved in principle by Committee at the last meeting of Standards. Members were advised that the Unions were happy with the proposals put forward in the report and this was now considered as approved.

Budget and Policy Framework Rules – Inclusion of informing Portfolio Holders

This item was deferred from the last meeting of Standards for Members to put questions to the Section 151 Officer. As the Section 151 Officer had been unable to attend this meeting the item would be deferred to the next meeting of Standards Committee.

Recording of Executive Decisions to reflect Key Decision Limits

The proposal was to align the threshold for the reporting of Officer Decisions with the thresholds for Key Decisions. There were statutory requirements for local authorities to publish records of officer decisions in order to promote transparency. The regulations stated that officer decisions must be recorded in circumstances that 'materially affect the [Council's] financial position.' The Access Procedure Rules currently stated that the threshold above which decisions need to be recorded and published was £50,000.

The regulations regarding Key Decisions stated that a key decision was one which was likely to incur expenditure or make savings which were 'significant having regard to the Council's budget for that service or function'.

It was considered that these two definitions should be interpreted as the same threshold and therefore it was proposed that the requirements to record and publish Officer Decisions would only be triggered where the following thresholds were met or exceeded:

Revenue - £75,000

Capital - £150,000

This would provide a simpler set of rules for officers to follow rather than having different thresholds for different procedures and processes.

Records would still be maintained of decisions below these levels as required.

Threshold for Consideration of Tenders by Executive

The proposal was to align the threshold for the requirement for tenders to be submitted to Executive with the thresholds for Key Decisions. Currently the threshold

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for tenders to be determined by Executive was £50,000. This was set at the same time as the Key Decision threshold.

There was no legal basis on which to determine the level of tenders that must be determined by Executive, however, the level of key decisions is considered to be the appropriate level. As tenders would relate to revenue expenditure, the threshold would be £75,000.

Section 151 Officer Delegations

Amendments to the delegation scheme were suggested so as to ensure that the Section 151 Officer had some authority over expenditure from the Transformation Fund and so that the use of earmarked reserves were restricted to authorisation by the Section 151 Officer. This in practice would be as simple as adding the S151 as a signatory on Delegated Decisions of this nature.

The changes to the constitution were proposed to be;

1 – addition of a further restriction to delegations to Heads of Service (page 157) as follows;

(5) Delegated powers may only be exercised within approved budgets, unless a virement is permitted by the Financial Regulations. The use of the Invest to Save Reserve (NEDDC) or the Transformation Reserve (BDC) can only be authorised by the Section 151 Officer.

2 – amendment to general powers delegated (page 159);

9.14 To acquire, dispose of, grant and obtain rights in land and premises on such terms and conditions as considered appropriate **where expenditure is within approved budgets.**

9.15 To acquire, dispose of, grant and obtain rights in vehicles and other equipment and property **where expenditure is within approved budgets.**

3 – to add a new delegation for the Section 151 (page 168):

13.10 To authorise the use of earmarked reserves (Invest to Save Reserve – NEDDC or Transformation Reserve – BDC).

4 – addition of a further requirement within the Virement rules within the Budget and Policy Framework (page 104):

No officer may vire funds from the Transformation Reserve, authorisation of which is restricted to the Section 151 Officer.

Councillors Conduct: Speaking at Meetings (Part 4 Council Procedure Rules (Rule 21.1))

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It was proposed that the procedure rules for Councillors when they speak at Council meetings be revised to require them to state their name before speaking and also to use the microphones. It was also proposed that the requirement to stand be removed.

Requiring Councillors to state their name before speaking would assist the public and all Members in following the meeting. It was important that Members used the microphones to ensure that they could be heard by all participants and observers in the meeting.

Microphones would be more effective if Members were seated as their voices would be closer to the microphone receiver, which would also assist those participating in, or observing the meeting who had a hearing impairment.

The requirement for Members to stand could also be considered as discriminatory against Members who may struggle with a disability or a mobility issue, particularly if they needed to stand and sit down at regular intervals during a meeting.

It was therefore proposed that Council Procedure Rule 21.1 be amended as follows;

*When a Councillor speaks at Council, **firstly they should announce their name and Ward or Cabinet Portfolio (if more appropriate)** and he/she must address the meeting through the Chairman ~~and stand and address the Chairman using the microphone.~~*

A Member welcomed this change and noted that in meetings, Members and observers with hearing impairments struggled to hear Members speaking into the microphones if they were in a standing position.

The Monitoring Officer suggested that this recommendation be taken to the next Council meeting ahead of Annual Council so that it could be implemented sooner.

In response to a question by the Governance Manager, a Member requested that **all** Members of the Council receive training in relation to Licensing and Planning and that this be mandatory and built into the Constitution. Another Member requested that training on planning law also be mandatory to all Members of the Council and built in to the Constitution as this would enable better responses to Members' residents on decisions regarding planning applications.

Moved by Councillor T. Munro and seconded by Councillor H.J. Gilmour
RECOMMENDED that Council be recommended to approve;

- (1) the recording of Executive Decisions to reflect Key Decision limits, as set out above,
- (2) the alignment of the threshold for the requirement for tenders to be submitted to Executive with the threshold for Key Decisions, as set out above,
- (3) amendments to the delegation scheme in relation to the Section 151 Officer, as set out above,

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- (4) amendments to the procedure rules for Councillors when they speak at Council meetings and the requirement to stand be removed, as set out above,
- (5) The Governance Manager to formulate wording in relation to all Members of the Council receiving mandatory training with regard to Licensing and Planning and Planning Law and this be built into the Constitution.
(Governance Manager)

0593. COMPLAINTS AGAINST MEMBERS

The Deputy Monitoring Officer provided a verbal update to Committee in relation to complaints made against Members.

Twelve complaints against Members were received between January 2018 and December 2018. Eight complaints had been closed with no further action being taken. Four were outstanding, 2 of which were only received in December 2018; one of these was with an independent person for consideration and the second was close to completion with a view to no further action being taken.

In response to a Member's question, the Deputy Monitoring Officer advised the meeting that 3 of the 12 complaints received related to District Councillors and the rest related to parish councillors.

Moved by Councillor C.R. Moesby and seconded by Councillor T. Munro
RESOLVED that the update be noted.

0594. WORK PROGRAMME 2018/19

Committee considered their work programme for the remainder of 2018/19.

Members were reminded that an additional meeting of Standards Committee had been arranged for 11th March 2019 at 10am.

Moved by Councillor C.R. Moesby and seconded by Councillor H.J. Gilmour
RESOLVED that the Work Programme 2018/19 be noted.

The meeting concluded at 1040 hours.