

STANDARDS COMMITTEE

Minutes of a meeting of a meeting of a Standards Committee of the Bolsover District Council held in the Council Chamber, The Arc, High Street, Clowne on Monday 11th March 2019 at 1000 hours.

PRESENT:-

Members:-

R. Jaffray (Independent Member) in the Chair

Councillors J. A. Clifton, H. J. Gilmour, C. R. Moesby and B. Watson

Officers:-

S.E.A. Sternberg (Joint Head of Corporate Governance and Monitoring Officer),
V. Dawson (Team Manager – Contentious) and N. Calver (Governance Manager).

Also in attendance at the meeting was Councillor D. S. Watson observing

0772. CHANGE TO ORDER OF BUSINESS

At the commencement of the meeting a suggestion was made to vary the order of the agenda in order to give consideration to item 9C after item 3 as a Member of the Licensing Committee was in attendance and wished to hear the debate on this matter.

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

RESOLVED that the order of business on the agenda be changed.

0773. APOLOGIES

Apologies for absence were received on behalf of Councillors M. J. Dooley and T. Munro.

0774. URGENT ITEMS OF BUSINESS

There were no urgent items of business considered at the meeting.

0775. DECLARATIONS OF INTEREST

There were no declarations of interest made at the meeting.

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0776. MINUTES OF A MEETING HELD ON 14th JANUARY 2019

Councillor Gilmour referred Members to page 11 of the reports pack which set out the resolutions made in respect of the review of the Constitution. Whilst no amendments were suggested Councillor Gilmour wished for it to be noted that when seconding the recommendations she was unaware that she seconded all recommendations and this matter would be rectified going forward taking movers and seconders for each element of the review of the Constitution.

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

RESOLVED that the Minutes of a Standards Committee Meeting held on the 14th January 2019 be approved as a correct record.

0777. JOINT WHISTLEBLOWING POLICY

The Solicitor – Team Manager (Contentious) advised Members that North East Derbyshire District Council and Bolsover District Council currently had in place a Joint Whistleblowing Policy. The Council was committed to updating this policy on a regular basis to ensure that it was fit for purpose and it was advised that the last review took place in May 2018. A further review was conducted in February 2019 and no changes had been recommended.

Further, in accordance with the Joint Whistleblowing Policy, the Monitoring Officer had overall responsibility for the maintenance and operation of the policy, and would maintain a record of 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 Members of the Standards Committee that there had been no instances to report for the 2018/19 municipal year.

Moved by Council B. Watson and seconded by Councillor H. J. Gilmour

RESOLVED that

- 1) the Joint Whistleblowing policy be agreed as fit for purpose; and
- 2) it be noted that no instances of Whistleblowing had been made since the May 2018 review.

(Solicitor – Team Manager (Contentious))

0778. REVIEW OF JOINT RIPA POLICY

The Head of Corporate Governance and Monitoring Officer advised Members of the recent review that had been undertaken on the Joint RIPA Policy - which covers the Council's activities under the Regulation of Investigatory Powers Act 2000 (RIPA). It was advised that the Council was periodically inspected by the Office of Complaints Commissioners with the last inspection taking place in 2015/16 and the next inspection due to take place that week.

Since the last review new Codes of Practice had been issued and some legislative changes had been made arising from the Investigatory Powers Act 2016 and the

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Regulation on Investigatory Powers Order 2018 and these had been incorporated into the policy.

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

Moved by Councillor C. R. Moesby and seconded by Councillor H. J. Gilmour

RESOLVED that;

- 1) the update provided on the use of the policy be noted; and
- 2) the revised Joint RIPA Policy and Procedure document be recommended for adoption by the Strategic Alliance Joint Committee.

(Governance Manager)

0779. GIFTS AND HOSPITALITY ANNUAL REVIEW

Members gave consideration to the annual review for Gifts and Hospitality which showed that all offers as set out in the Appendix of the report were accepted, with the exception of one gift that was donated to the Chairman's Charity. Most of the gifts were relatively small in value but there was one declaration which related to an iPad Mini with a monetary value of around £399. As per the Gifts and Hospitality procedure, the Monitoring Officer was alerted and was able to discuss with the recipient of the gift and their line manager. It was noted that the iPad Mini was a prize from a prize draw for completing a training questionnaire, and the recipient wished to declare this on the register to ensure transparency even though it was a prize.

In May 2018 the Internal Audit Consortium conducted an audit of the register with three low priority recommendations made, the first being that the annual inspection report presented to the Standards Committee during the year following the inspection also that consideration be made to adding fields to the declaration form and lastly, that the Members Code of Conduct reflect the wording within the Councils 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. It was suggested that in light of the Council's view to go out to tender for a Committee Management Software, which would have a facility for an online version of the Gifts and Hospitality Register, that this be implemented once the new system was in place in 6 months' time.

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

RESOLVED that the outcome of the Gifts and Hospitality review be noted.

(Solicitor – Team Manager (Contentious))

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0780. PARLIAMENTARY COMMITTEE REPORT ON STANDARDS IN PUBLIC LIFE – REVIEW INTO LOCAL GOVERNMENT ETHICAL STANDARDS

The Localism Act 2011 introduced significant changes to the way that conduct of Elected Councillors was handled. It abolished a national framework and the National Code of Conduct, and removed powers to suspend or disqualify Councillors for serious breaches and instead placed a duty on Local Councils to adopt their own and to appoint Independent Persons to assist with matters under investigation. The Parliamentary Committee on Standards in Public Life (CSPL) undertook to review the effectiveness of the arrangements once they had bedded in and in May 2018 the Bolsover District Council Standards Committee gave consideration to the Terms of Reference for this review.

The recommendations of the review were published in January 2019 and the key findings and recommendations made were summarised within the report. Some of the recommendations made would require Primary Legislation, however many of the other recommendations were considered good practice from which Councils could just implement or adopt.

The four areas of the review covered:

- Code of Conduct,
- arrangements for Declarations of Interest,
- the available sanctions, and
- the role of the IPMO and the Standards Committee and support for Parishes.

In addition, it looked more widely at how Authorities could better promote high standards of conduct. Overall, the CSPL found that there was no appetite to return to a centrally regulated system, and on the whole, local arrangements were effective at managing the majority of cases. However, there was some issues with governance arrangements for some Parish Councils. There was a need for a more consistent approach taken to Standards and Monitoring Officers and Councils needed more effective tools to help them to handle more serious cases or persistent offenders. Set out below are some of the key recommendations of the CSPL:

- Council should have the power to suspend Members for up to 6 months without allowances;
- Independent Persons should be appointed for a two year term renewable once to ensure they are seen as independent;
- Statutory protection for MO's should be extended to include any disciplinary action not just dismissal;
- Standards Committee should be able to co-opt independent Members and Parish representatives with voting rights;
- There should be greater recognition of the role of the MO in supporting Parishes and they should be resourced accordingly;
- Parish clerks should hold a suitable qualification; and
- There was a need for a more comprehensive form for registering and declaring interests going wider than the statutory minimum.

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Moved by Councillor B. Watson and seconded by Councillor H. J. Gilmour

RESOLVED that:

- 1) the findings of the review and the recommendations of the Parliamentary Committee on Standards in Public Life – Review into Local Government Ethical Standards be noted; and
- 2) the findings of recommendations from the review be considered in line with the Committee’s Terms of Reference to be presented to a future meeting of the Standards Committee.

(Governance Manager)

0781. SCRUTINY REVIEW OF THE WORK OF THE STANDARDS COMMITTEE

At its meeting on the 22nd February 2019 the Executive considered a report of the Customer Service and Transformation Scrutiny Committee setting out the work of a review that they had undertaken into the Standards Committee and its operations. The review came about as a request from the Standards Committee for an external review of how the Committee operated during the 2017/18 Municipal year. The Standards Committee had responded to the national consultation by the CSPL on their review of the Local Government Ethical Standards and as a result of their own review the Committee felt it pertinent to have an external opinion on how they operated and requested that Scrutiny carry out this review.

The full review report was set out within the documents submitted to the meeting and the seven recommendations set out therein were considered.

Moved by Councillor H. J. Gilmour and seconded by Councillor C. R. Moesby

RESOLVED that the content of the operational review be noted and the recommendations made therein form a basis for review for the Committee’s Terms of Reference.

(Governance Manager)

0782. REVISED MEMBERS CODE OF CONDUCT

The Members’ Code of Conduct was adopted by Council in 2012 following the introduction of the Localism Act but hadn’t been formally reviewed since. A review was therefore being carried out and the proposed changes were set out to Members by way of tracked changes attached to the report as Appendix A.

In summary the changes were:

1. General Conduct – additions to the general conduct expected of Members to ensure that areas around equalities, safeguarding and conduct when speaking to the media would be addressed;
2. Training – a section had been added to set out the requirements to attend mandatory training (as requested at a previous meeting of the Standards Committee) within the Appendix, including a list of training and the frequency of attending;

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3. Predetermination / Bias – an explanation had been included as to what constituted predetermination or bias and details added around what a Member is required to do should they have any concerns; and
4. Member Interests – greater explanation of what constituted a Disclosable Pecuniary Interest (DPI) with notes contained within an Appendix to assist Members. This included sensitive interests and the rules concerning non-participation where there was a DPI or how to request a dispensation.

Clarification was given that officers were unable to enforce attendance at training sessions even where they were agreed as mandatory and these powers lay with political groups to enforce.

Moved by Councillor H. J. Gilmour and seconded by Councillor C. R. Moesby

RESOLVED that the revised Members' Code of Conduct be recommended to Council for adoption, as part of the review of the Council's Constitution.

(Governance Manager)

0783. SOCIAL MEDIA GUIDANCE FOR MEMBERS

Consideration was given to a report proposing the introduction of a guidance document for Social Media for Councillors which gave helpful suggestions and clarification to Members on how they should conduct themselves on the use of Social Media.

The Council currently did not issue any guidance on the use of Social Media for Councillors, and, with Social Media increasingly becoming a more popular form of communication for Elected Members to engage with residents, there was a need for guidance to enable protection for both Councillors and the Authority.

It was noted that this was not a formal policy nor protocol, but a document based on best practice designed to encourage the use of Social Media sensibly.

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

RESOLVED that the Social Media Guidance for Councillors be recommended to Council for adoption as part of the Review of the Constitution.

(Governance Manager)

0784. MEMBERS REGISTER OF INTERESTS

As part of the review of the Declarations of Interest Form it was noted that one interest Members were not required to declare was whether or not they held any Premises, Hackney Carriage, Private Hire or similarly related licenses, granted to them either by the Council or by another Local Authority. Because this information is not registered the Authority would not then know how many Elected Members or their partners and spouses have held these licenses or would do in the future. It was therefore suggested that this was a requirement that now needed to be included within the Code of Conduct and on the Declarations of Interest Form in order to be transparent and in line with the seven principles of public life, in particular the principal of integrity. An amended form was appended to the report.

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

RESOLVED that:

- 1) the Constitution be amended to include a requirement for Members to declare any Premises, Hackney Carriage, and Private Hire or similarly related licenses which they or their spouses hold from the Council or other Local Authorities; and
- 2) that the Council's Register of Interests form be revised accordingly.

(Governance Manager)

0785. RECOMMENDATIONS FROM THE STANDARDS COMMITTEE – AMENDMENT TO COUNCIL PROCEDURE RULE 21.1

At the previous meeting of the Standards Committee, Members gave consideration to proposals for revisions to Council Procedure Rule 21.1 requiring Members to state their name before speaking and to also use the microphones. It was further proposed that the requirement to stand be removed. It was recommended that this matter be referred to the following Meeting of Council for consideration and be subsequently deferred from the Meeting of Council on the 6th March pending reconsideration by the Standards Committee.

Councillor C. R. Moesby advised the Committee that Members wished to retain the requirement to stand at Council in order to show respect to the Chairman, any Member that was less able to do so would not be required to stand when addressing the Chairman.

Councillor J. Clifton questioned whether it was appropriate to request Members to disclose information about their disabilities and the wording of the proposal for amendment to Procedure Rule 21.1 was amended to reflect this concern. It was 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 using a microphone and stand where possible.

Moved by Councillor C. R. Moesby and seconded by Councillor H. J. Gilmour

RESOLVED that the amendment to Procedure Rule 21.1 as discussed be recommended to Council for adoption as part of the Review of the Constitution.

(Governance Manager)

0786. REVIEW OF THE CONSTITUTION

The Standards Committee gave consideration to the final report of the Municipal Year setting out the review of the Councils Constitution with proposed amendments for consideration prior to submission to Annual Council for adoption. Member's discussed the proposed amendments attached at Appendix 1 to the report considering the rationale behind each proposal.

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The Councils Governance arrangements for discharging its Licensing responsibilities.

The Standards Committee had previously requested a review of the Council's governance arrangements for Licensing as part of its annual review of the Constitution. The Council was in receipt of Legal advice that its current governance arrangements for Licensing Committees did not meet requirements as set out in the Licensing Act 2003 and the Gambling Act 2005. On further research by the Legal department it was found that both these pieces of legislation specify that a separate Governance body (i.e. a Committee) should be established to deal solely with Licensed Premises and Club / Gambling permits and other similar functions.

The proposals within the report were two fold, firstly to establish two Committees to comply with the Legislation comprised of a membership of 14 Members that would serve both committees, meeting 2 to 3 times a year. Secondly, both of the new Committees were to have their own Sub-Committees, which would discharge specific responsibilities of the parent Committees. Under this approach the membership of the two sub-committees would be determined at Annual Council. However, it was suggested that either seven Members be appointed to serve on one of the Sub-Committees and seven on the other or, all 14 Members be appointed on both of the Sub-Committees meeting in two halves and alternating meeting to meeting. The functions of each Committee and Sub-Committee were set out within the report.

Prior to this meeting the Licensing Committee had met to discuss the proposals which were to be put to the Standards Committee and considered that initially a reduction to 14 Members was unnecessary and the membership should remain at 15. The Licensing Committee agreed that it was prudent to comply with the legislation and to establish two Committees as set out in the report, however they requested the legal rationale of this to be presented to the Standards Committee. The Team Manager (Contentious) advised that the legislation indeed dictated that the Committee exercising responsibility for aspects of the Licensing function detailed within the Licensing Act 2003 and the Gambling Act 2005 ought to be separate from all other aspects of the Licensing Functions such as taxi and scrap metal licensing. Whilst it may seem that establishing two separate Committees meeting directly after each other made of the same membership may be paying lip service to the legislation a common approach had simply been to establish the two Committees to cover the different legal strands of responsibility.

On consideration of the Sub-Committees some Members of the Licensing Committee felt that they wished for the Sub-Committees to be composed of the full 15 membership of the parent Committee. The Governance Manager offered advice to the Licensing Committee (at their special meeting) and Standards Committee in regard to the rationale behind a reduction to 7 Members to hear matters around Hackney Carriage and Private Hire Licensing and referred to the report where a suggestion was made for a membership of 14 alternating each meeting they attended.

The Standards Committee gave consideration to the recommendations within the report and the Terms of Reference therein. Members concurred with the views of the Licensing Committee and were happy to accept their recommendations.

Moved by Councillor B. Watson and seconded by Councillor H. J. Gilmour

RESOLVED that the proposals for the revision of the Licensing governance arrangements be recommended to Council for adoption as follows;

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1. Establishing a General Licensing Committee comprising of 15 Members in line with the Terms of Reference as set out in the report;
2. Establishing a Licensing and Gambling Acts Committee comprised of the same 15 members in line with the Terms of Reference as set out in the report;
3. Establishing a General Licensing Sub-Committee comprised of 15 Members in line with the Terms of Reference as set out in the report; and
4. Establishing a Licensing and Gambling Acts Sub-Committee comprised of the same 15 Members in line with the Terms of Reference as set out in the report.

(Governance Manager)

Proper Officer Provisions

It had been identified that a number of the regulations specified under the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 relating to Proper Officer Provisions were not titled correctly within the Constitution and that several of the regulations that had Proper Officer Provisions had been omitted from the lists detailed at pages 170 to 175 of the Council's Constitution. Appendix 2 to the report set out a tracked changes amended version of the Proper Officer Provisions for agreement.

Moved by Councillor J. Clifton and seconded by Councillor C. R. Moesby

RESOLVED that the Proper Officer Provisions be amended as proposed for recommendation to Council as part of the Review of the Constitution.

(Governance Manager)

Joint Employment Committee and Joint Appeals Committee

At the Meeting of Council on the 6th March 2019 Members gave consideration to a proposal for the Joint Employment Committee and Joint Appeals Committee to be amalgamated to create a Joint Employment and Appeals Committee (JEAC). The rationale for the change proposed was that within the current arrangements any appeal against the decision of the JEC would be made to the JAC, however both Committees were comprised of the same Membership which was a breach of natural justice. It was further proposed that the Scheme of Delegation to Officers be amended to enable dismissal decisions regarding members of SAMT to be made by the Chief Executive Officer.

This item was deferred from consideration from the Meeting of Council on the 6th March 2019 pending Standards Committee consideration, consultation with the Unions by way of UECC on the 25th March 2019 and would be reconsidered by Council on the 3rd April 2019. Councillor C. R. Moesby expressed the concerns of the Administration around the changes proposed and acknowledged that the current system was not fit for purpose. It was felt that it was prudent to ensure that consideration of this matter was done in open and transparent manner and followed correct procedure to ensure that Standards, the Unions and Council had an opportunity to review the proposals put forward. Members were recommended to accept the changes proposed on the basis that the Terms of Reference for the Committees were reviewed as a matter of urgency within the new municipal year and that the Union recommendations were presented to Council in April.

Moved by Councillor C. R. Moesby and seconded by Councillor H. J. Gilmour

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RESOLVED that (1) the proposals be agreed on a temporary basis pending a full review by the Standards Committee in July 2019,

(2) the recommendations of UECC be presented to Council in April 2019 for adoption.

(Governance Manager)

Budget and Policy Framework Rules – inclusion of informing Portfolio Holders

Moved by Councillor B. Watson and seconded by Councillor H. J. Gilmour

RESOLVED that Council be recommended to accept pages 103 and 104 of the Constitution be amended to include the requirement to inform the relevant Portfolio Holder when a virement was in excess of £25,000.

(Governance Manager)

In addition to the proposals contained within the report, Members gave consideration to the proposals that would be put forward for amendment following May 2019 and were invited to suggest any further areas to review at this time or at any point going forward.

RESOLVED that the proposals for amendments to the Council's Constitution as amended be supported and be submitted to Council as part of the Constitution Review and that the list of areas within the Constitution to be reviewed in the forthcoming Municipal Year be agreed.

(Governance Manager)

0787. COMPLAINTS UPDATE

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

Five complaints against Members had been received since January 2019 and all five complaints had been closed with no further action taken. One complaint was with an Independent Person for consideration.

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

RESOLVED that the update be noted.

0788. OUTSIDE BODIES

Councillor C. R. Moesby gave a verbal update to the Committee on process of review for Outside Bodies undertaken by the Labour Group in advance of submission to Annual Council. Consultation was underway with all Members of the Council to ensure that the list was as up to date as possible and Outside Bodies were added and removed as appropriate. It was requested that the list of Executive Functions be amended in order to refer to the 'Cabinet Member with responsibility' for each function.

Councillor J. Clifton suggested that Members should be required to feedback on the work of Outside Bodies and the value added to them. Councillor B. Watson confirmed that

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whilst Cabinet Portfolio Holders reported back informally there may be scope for formalisation of this going forward.

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

RESOLVED that:

- 1) the Review of Outside Bodies be added to the work plan for 2019/2020; and
- 2) feedback on outside bodies be considered as a good mechanism for assessing value.

(Governance Manager)

0789. WORK PROGRAMME FOR 2018/19

The Committee gave consideration to their work plan for the 2018/19 Municipal Year and noted their achievements and those items that would role forward for consideration during the next municipal year.

Moved by Councillor B. Watson and seconded by Councillor H. J. Gilmour

RESOLVED that the work plan for 2018/19 be noted.

0790. WORK PROGRAMME FOR 2019/20

The Committee gave consideration to their work programme for the forthcoming municipal year and requested that it be amended to add consideration of the Terms of Reference for the JEAC at their meeting on the 1st July 2019, that the Review of Outside Bodies be considered at their Meeting in September 2019 and that the review of the Standards Committee Terms of Reference be split over two meetings.

Moved by Councillor B. Watson and seconded by Councillor H. J. Gilmour

RESOLVED that the work plan for 2019/2020 be approved as amended.

(Governance Manager)

The meeting concluded at 1114 hours.