

## STANDARDS COMMITTEE

### MINUTES OF MEETING HELD ON 12 JULY 2018

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## **STANDARDS COMMITTEE**

### **MINUTES OF MEETING HELD ON 12 JULY 2018**

#### **Present:**

Councillor G Butler ..... (Vice Chair in the Chair)

Councillor P Antcliff

“ W Armitage

“ S Boyle

Councillor A Powell

“ K Rouse

Councillor Mrs D Ward – Parish Council Representative

Councillor Mrs D Ruff – Parish Council Representative

#### **Also Present:-**

S Sternberg - Head of Corporate Governance & Monitoring Officer

V Dawson - Team Manager (Legal)

D Cairns - Senior Governance Officer

#### **119 Apologies for Absence**

Apologies for absence were received from Councillors A Garrett and B Ridgway.

#### **120 Declarations of Interest**

Members are requested to declare the existence and nature of any disclosable pecuniary interests and/or other interests, not already on their register of interests, in any item on the agenda and withdraw from the meeting at the appropriate time.

There were no declarations of interest declared at this meeting.

#### **121 Minutes of Last Meeting**

RESOLVED – That the Minutes of the meeting of the Standards Committee held on 3 May 2018 be approved as a correct record and signed by the Chair.

#### **122 Strategic Alliance Joint Committee – Terms of Reference**

The Committee considered a report of the Chief Executive, which set out the proposed revised Terms of Reference for the Strategic Alliance Joint Committee in order that Members could recommend them to each respective Council for approval.

The Terms of Reference for the Strategic Alliance Joint Committee had been reviewed to ensure that they remained fit for purpose and that its remit was to monitor and develop the work of the Alliance.

The Strategic Alliance Joint Committee considered the proposed amendments to their Terms of Reference at its meeting on 12 June 2018. The new Terms of Reference removed some provisions and also added new ones. The amendments were shown on the appendix to the report.

**RESOLVED** – That the Standards Committee notes the proposed changes to the Terms of Reference for the Strategic Alliance Joint Committee and recommends them to the Council for approval.

*Councillors P Antcliff and K Rouse entered the meeting at this point.*

### **123 High Court Case – Ledbury Town Council**

The Committee considered a report of the Head of Corporate Governance and Monitoring Officer, which advised Members on a recent High Court ruling on the obligation of Local Authorities to deal with allegations of councillor misconduct under the Code of Conduct procedure only.

The case came about following complaints of bullying and harassment by a town councillor against the clerk and their deputy. An investigation into a code of conduct complaint to the Monitoring Officer at the relevant local council concluded that there was no breach of the code, however the Town Council under their own grievance procedure imposed sanctions on the councillor including exclusion from serving on committees or sub-committees.

Following judicial review, the High Court found for the councillor and ruled that the Council's actions were *ultra vires*.

The Committee noted that councillor conduct can only be addressed under the arrangements set out in the Localism Act 2011 and that local authorities should remember that they would be acting unlawfully if they were to try to by-pass the code of conduct procedure and attempt to address misconduct through their own sanctions.

Members also agreed that it can be particularly difficult for parish and town councils to deal with employee grievances that are raised against councillors. It was noted that the National Association of Local Councils and the Society of Local Council Clerks had written to the government to request that the issue be addressed. Their remarks were set out within the report.

**RESOLVED** – That the Standards Committee notes the report.

*Councillor S Boyle entered the meeting at this point.*

**124 Councillor Complaints Procedure**

The Committee considered a report of the Head of Corporate Governance and Monitoring Officer, which recommended for approval a Councillor Complaint Procedure.

The procedure set out the standard arrangements introduced by the Localism Act 2011.

The procedure was designed to be simple, and accessible to those who may wish to make a formal complaint about the conduct of a district or a parish councillor. It set out what the complainant could expect, the role of the Monitoring Officer and the timeframes. It was also expected to be useful for Members who may be subject to a complaint.

The procedure listed a range of possible sanctions that could be imposed however it was noted that, although this was not an exhaustive list, the Localism Act did not specify any statutory sanctions in relation to general breaches of the Code. Members were reminded that a failure to declare a Disclosable Pecuniary Interest constituted a criminal offence.

The District Council's Code of Conduct would be attached to the Procedure. Appendix 3 to the Procedure that was attached to the report as published was incorrect and the correct document was circulated at the meeting. This set out criteria for referral of cases to the full Standards Committee and is attached as **Appendix A** to these Minutes.

**RESOLVED** – That the Councillor Complaint Procedure, with the amended appendices as outlined above, be recommended to Council for approval.

**125 Review of the Joint RIPA Policy**

The Committee considered a report of the Head of Corporate Governance and Monitoring Officer, which updated Members on the use of RIPA powers in the last year, advised the Committee of a review of the joint policy and procedures covering the Council's activities under the Regulation of Investigatory Powers Act 2000 (RIPA) and recommended a revised Joint RIPA Corporate Policy and Procedures Document for approval.

Members were advised that this was an annual review and it was reported that the Council had not used the powers under RIPA in the last year.

The Council was due to have an inspection on its use of the powers as well as its readiness to do so in appropriate situations. It was important to ensure that the policy was up-to-date, compliant and fit for purpose, and that officers were training and equipped to use the powers when appropriate in investigations.

The Committee were informed that no legislative changes had yet been brought in force affecting the policy, however the Investigatory Powers Act 2016 made changes to the powers to intercept communications data. These provisions were expected to be amended prior to being brought into force. In anticipation of these changes, the section

of the policy relating to communications data was separated from the powers relating to covert surveillance and human intelligence sources. A further review following the introduction of the Investigatory Powers Act amendments was to be carried out focusing on just the interception of communications data section of the policy.

It was also reported that training for relevant officers would be scheduled over the next few months.

**RESOLVED** – That the Committee:-

- (1) Notes the update provided on the use of the Policy.
- (2) Recommends the revised Joint RIPA Policy and Procedure document for approval by Executive at Bolsover District Council and Cabinet at North East Derbyshire District Council, following consideration by the Strategic Alliance Joint Committee.
- (3) Note that a further review will take place once the provisions of the Investigatory Powers Act 2016 relating to the acquisition and disclosure of communications data are brought into force.

#### **126 Complaints Update**

The Committee received a verbal update on complaints given by the Deputy Monitoring Officer who advised that since January 2018 three complaints had been received and considered.

One complaint had been officially closed which resulted in no further action. The remaining two complaints were in the final stages but were determined as no further action.

**RESOLVED** – That the update on Complaints be noted.

#### **127 Work Programme 2018-19**

Members considered the Work Programme for the municipal year 2018-19. The Head of Corporate Governance and Monitoring Officer informed the Committee that the review of the Constitution may be brought forward to the October meeting of the Committee in order to conclude the review prior to the election in May 2019.

**RESOLVED** – That the Work Programme for 2018-2019 be noted.

#### **128 Urgent Business**

Members were advised that there was no urgent business to be discussed in the public session at this meeting of the Standards Committee.

## **Appendix A**

### Criteria for referral of cases to Standards Committee for hearing

- Does the status of the member or members, or the number of members about whom the complaints is made, make it difficult for the Sub Committee to deal with the complaint? For example is the member a group leader, or member of the authority's Cabinet?
- Does the status of the complainant or complainants make it difficult for the Sub Committee to deal with the complaint? For example is the complainant a group leader or member of the authority's cabinet, Chief Executive, monitoring officer or other senior officer?
- Does the Sub Committee believe that there is a potential conflict of interest so many members of the Sub Committee that it could not properly consider the complaint?
- Is the case so serious or complex, or involving so many members, that it cannot be handled by the Sub Committee?
- Does the complaint relate to long term of systemic member/officer bullying and therefore should to be considered by full Standards Committee
- Might the public perceive the authority to have an interest in the outcome of the complaint and therefore it is in the public interest for the case to be heard by the full committee rather than the Sub Committee?