

**North East Derbyshire District Council**

**Council**

**19 May 2014**

**Annual Report of the Standards Committee 2013/2014**

**Report No JA/02/14/FP of Councillor J Austen – 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 2013/2014. The report was considered by the Standards Committee at its meeting on 27 March 2014 who noted its content and recommended it to Council for consideration and approval.

**1 Report Details**

1.1 The Localism Act 2011 abolished the Model Code of Conduct, statutory Standards Committees and local standards framework for determining complaints against Members and co-opted Members. The Act also introduced a new Standards regime which came into force on 1 July 2012. The Council at its meeting on 9 July 2012 approved the following in respect of its Standards arrangements:

- Established a 11 Member politically balanced Standards Committee (comprising nine elected Members and two Parish/Town Council representatives nominated by the Derbyshire Association of Local Councils).
- Appointed a Chair and Vice Chair of the Standards Committee.
- Delegated powers to the Standards Committee.
- Approved a Code of Conduct for District Council Members and authorised its circulation to the Parish/Town Councils for their information/adoption.
- Approved a procedure requiring Members to withdraw from the meeting room when he/she has a disclosable pecuniary interest or significant other interest, subject to a number of qualifications.
- Approved arrangements for dealing with Standards complaints and for taking action where a Member is found to have failed to comply with the Code of Conduct, and delegated powers to the Standards Committee, Hearings Sub-Committee and Monitoring Officer accordingly.

- Approved the Hearings Procedure for allegations that a Member has breached the Members Code of Conduct and delegated powers to the Monitoring Officer to select Members for meetings of the Hearings Sub-Committee.
- Requested that the Monitoring Officer prepare and maintain a Register of Members interests for District Council Members and for each of the Parish/Town Council's in the District, each register to be available for public inspection.
- Requested that the Monitoring Officer arrange for Parish/Town Clerks to be provided with training on the registration arrangements for the new Code of Conduct.
- Granted delegated powers to the Monitoring Officer to vary any of the arrangements to facilitate the efficient and effective delivery of the new Standards framework.
- Appointed Mr Ian Daines and Mr Stuart Hooton as the Council's Independent Persons in accordance with the provision of the Localism Act 2011, for an initial period of 12 months. This period was subsequently extended to the life of the current Council, May 2015.

1.2 The above sets out the background and the statutory framework within which the work of the Standards Committee was undertaken in the municipal year 2013/2014.

1.3 The Committee met formally on four occasions. A brief summary of the issues considered by the Committee during the Municipal Year 2013/2014 includes:-

- The Monitoring Officer received four complaints regarding allegations that Members had breached the Council's Members Code of Conduct during the period under review. Two were referred for Investigation, which are ongoing, and two resulted in no further action.
- The Committee requested that the District and Parish Liaison Group receive a six monthly report on its work from one of the Parish/Town Council representatives. This presentation on the Committee's work for the six month period May to November 2013 was given at the District and Parish Liaison Group meeting on 15 January 2014 by Councillor D Ruff, Councillor J Austen and the Governance Team.
- In respect of the Complaints Update report, the Committee requested that it receive a detailed report each year on all complaints received regarding allegations that Members had breached the Members Code of Conduct. The report to be submitted once all the investigations necessary had been completed, it being agreed that the identity of the complainant would not be disclosed.

- Standards Committee Annual Report 2012/13 and 2013/14
  - Planning Advisory Service: Probity in Planning for Councillors and Officers;
  - Openness and Transparency on Personal Interests: Guidance for Councillors;
  - Unreasonably Persistent Complaints Policy;
  - Committee Work Programme 2013/14;
  - Complaints Update
  - Appointment of Second Parish/Town Council Representative on Standards Committee;
  - Ensuring High Standards;
  - Ethical Standards Survey;
  - Local Government Ombudsman Annual Review Letter;
  - Annual Report on Gifts and Hospitality
  - Standards Committee – Update;
  - The Council's Procurement Process: A Transparency Perspective – Presentation.
  - Regulation of Investigatory Powers Act 2000 (RIPA) Policy Update
  - Committee on Standards in Public Life Survey
- 1.4 Regarding the Commission for Local Authorities in England (Ombudsman's) Annual Report for 2012/2013, information on this matter has not yet been received. Once it is, it will be reported to the Standards Committee.
- 1.5 The Council's attention is drawn to the dedicated page on the Council's website in relation to the Standards Committee which is available at the following link:
- <http://www.ne-derbyshire.gov.uk/council-democracy/councillors-democracy-elections/standards-of-conduct-in-local-government>
- 1.6 Attached as **Appendices A and B** are the reports of the two Independent Persons appointed by Council, Mr Ian Daines and Mr Stuart Hooton who attended the meeting of the Standards Committee on 27 March 2014 and presented their reports to that meeting.
- 1.7 I would like to take the opportunity to thank the Vice Chair and all elected Members, Independent Persons and Parish/Town Council representatives on the Committee for their continued hard work and support during this year of developments regarding its role. 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.

## **2 Conclusions and Reasons for Recommendation**

- 2.1 To enable the Council to consider the Annual Report from the Standards Committee on its work during the municipal year 2013/2014.

## **3 Consultation and Equality Impact**

- 3.1 The Standards Committee undertakes its work on the basis of the requirements of the Localism Act 2011 and in a manner which seeks to be equitable and treats all parties with respect and according to the appropriate legislative requirements.

## **4 Alternative Options and Reasons for Rejection**

- 4.1 There were no other options considered and rejected

## **5 Implications**

### **5.1 Finance and Risk Implications**

- 5.1.1 There are no financial and risk implications arising directly from the content of the report.

### **5.2 Legal Implications including Data Protection**

- 5.2.1 The legal implications were detailed throughout the report. There were no Data Protection Implications arising directly from the content of the report.

### **5.3 Human Resources Implications**

This is covered at Paragraph 3 – Consultation and Equality Impact

## **6 Recommendations**

- 6.1 That the Council approved the Standards Committee Annual Report 2013/2014

## **7 Decision Information**

<b>Is the decision a Key Decision?</b> (A Key Decision is one which results in income or expenditure to the Council of £50,000 or more or which has a significant impact on two or more District wards)	No
<b>District Wards Affected</b>	Non directly
<b>Links to Corporate Plan priorities or Policy Framework</b>	High Performing Council

## 8 Document Information

Appendix No	Title
1	Report of Independent Person – Mr Ian Daines
2	Report of Independent Person – Mr Stuart Hooton
<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)	
All published, report to Standards Committee on 27 March 2014	
Report Author	Contact Number
Frazer Powell, Governance Team	217045

## **REPORT OF INDEPENDENT PERSON IAN DAINES TO THE NORTH EAST DERBYSHIRE DISTRICT COUNCIL STANDARDS COMMITTEE**

An Independent Person (IP) has three roles;

*1. A Councillor who is the subject of an allegation of misconduct may ask the IP for advice.*

In early February 2014, an allegation was received that a Parish Councillor had abused his authority. You informed the Parish Councillor that he can consult me. To date, he has not done so.

*2. When the Council receives an allegation that a Councillor has breached the Code of Conduct, the Council may ask the IP for a view on whether the allegation should be investigated.*

The Council has consulted me on three such occasions;

a. an allegation that a Councillor of NEDDC was uncivil. I offered the view he was not acting as a member of the Council at the time of the alleged conduct. I recommended that the Council take no further action & that advice was accepted.

b. an allegation that a Parish Councillor was uncivil. I offered the view that he was not acting as a member of the Parish Council at the time of the alleged conduct. I recommended that the Council take no further action & that advice was accepted.

c. an allegation (separately submitted by two people) that a Councillor of NEDDC made a misleading statement at a Council meeting. I offered the view that the matter should be investigated externally. That advice was accepted & the investigation has started.

*3. When there has been an investigation into an allegation that a Councillor has breached the Code of Conduct, the IP must be consulted before the matter is concluded.*

The Council has not consulted me in this regard. This may be because no allegations have led to completed investigations within the last twelve months.

Throughout the year, I have been available to offer advice & have responded promptly to requests for my views. I have a constructive relationship with staff at NEDDC.

Ian Daines, Independent Person  
10 March 2014

## REPORT OF INDEPENDENT PERSON STUART HOOTON TO THE NORTH EAST DERBYSHIRE DISTRICT COUNCIL STANDARDS COMMITTEE

The first complaints under the new Localism Act 2011 procedures were received in November 2012. As the procedures are new it may be useful to comment on the issues which highlight the differences experienced between the new and the old process.

The following comments are from the perspective of the Independent Person (I.P.) acting as contact for the accused member.

1. Prior warning of possible contact due to a complaint is helpful to the I.P. in terms of availability and awareness of the material facts.
2. A brief synopsis of the complaint is also useful to enable pertinent questions to be asked on contact from the member. Initially it may be considered that without all the relevant documentation, background and information about the complaint it would be difficult to advise the member. However obtaining and assessing all the information would be time consuming and could frustrate the member concerned and lead to unnecessary delays. It must be accepted that in very complex cases this may be necessary. It may therefore be useful to give a general opinion to the member with the following caveats:
  - a) The opinion is only given on the information provided at the time of contact.
  - b) Any further evidence coming to light at a later date may change the opinion.
  - c) Where information is given on contact that the I.P. believes is not known to the Monitoring Officer, the member should be advised to contact the Monitoring Officer to ensure this can be included in the deliberation on whether to proceed with the case. The I.P. should ensure they inform the member that the case could still go ahead.
  - d) Once advice has been given the next stages of the procedures should be explained to the member to ensure they fully understand what happens next.
3. The role of the I.P. should be clearly explained to the accused member in the notes to the notification of complaint. Two members thought it was part of the process one of which stated he thought he had to contact the I.P. (The impartiality and facility for the I.P. to give advice on the Code of Conduct and express a view as a member of the public could be included.)

These initial complaints raised some minor points which may need to be considered.

- A. Should the feedback from any contact made between the I.P. and the member be officially reported to the Monitoring Officer or should the member be asked if they are happy for a brief report to be made. (Impartiality and confidentiality need consideration here!)

- B. Where an investigation and hearing go ahead on any complaint, should a brief report from the consulted I.P. form part of the document bundle to explain why any inconsistencies between the advice given to the member and the outcome of the may case arise?
- C. Is it intended that one or both of the I.P.'s should be present at any hearings of cases they have been involved with? Relevant information on the consultation process may be advantageous.

The following comments are made from the perspective of the role of Independent Person working with the Monitoring Officer to determine if an investigation is necessary. The information provided to the I.P. in the form of a document bundle is important to allow the I.P. to assess the complaint. It does not however necessarily include all the information needed to determine the full facts and it may require the I.P. to contact the Monitoring Officer for further clarification. This may result in an informal fact finding approach to those involved and it may be useful to record any details obtained as part of the investigation if one is found to be necessary. This process may reveal relevant material that affects the decision of the Monitoring Officer as to the need for an investigation and the Monitoring officer should be free to make the decision without further reference to the I.P.

Stuart Hooton, Independent Person

10 March 2014