

**STANDARDS COMMITTEE****MINUTES OF MEETING HELD ON 27 MARCH 2014****I N D E X**

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## **STANDARDS COMMITTEE**

### **MINUTES OF MEETING HELD ON 27 MARCH 2014**

#### **Present:**

Councillor J Austen ..... Chair

Councillor G Baxter MBE

“ G Butler

“ S Peters

Councillor T Reader

“ M E Thacker

“ J Windle

Councillor D Ruff – Parish/Town Council Representative

Mr I Daines – Independent Person

Mr S Hooton – Independent Person

#### **Also Present**

Matthew Kane – Deputy Monitoring Officer

Frazer Powell – Senior Governance Officer

#### **687 Councillor Michael Emmens**

The Chair reminded members of the death in January 2014 of Councillor Michael Emmens, who had been a member of this Committee for a number of years. All members of the Committee paid tribute to the contribution made by the late Councillor Michael Emmens.

#### **688 Apologies for Absence**

Apologies for absence were received from Councillor S J Ellis.

#### **689 Declarations of Interest**

Members were 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 by Members at this meeting.

#### **690 Minutes of Last Meeting**

**RESOLVED** – That the Minutes of the meeting of the Standards Committee held on 28 November 2013 be approved as a correct record and signed by the Chair.

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

The Committee considered Report No ADGMO/04/14/FP/SS of the Assistant Director – Governance and Monitoring Officer. The purpose of the report was to enable Members to consider its Annual Report which detailed the work it had undertaken during the Municipal Year 2013/2014.

The Annual Report detailed the following information:-

- The Committee had met formally on four occasions;
- The Monitoring Officer had received four complaints regarding allegations that Members had breached the Members' Code of Conduct during the period under review, two of the complaints were referred for investigation which was ongoing and two had 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. A presentation on the Committee's work for the six month period May to November 2013 had been given at the District and Parish Liaison Group meeting on 15 January 2014 by Councillor D Ruff, Councillor J Austen and the Governance Team.
- Standards Committee Annual Report 2012/13;
- 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.
- In respect of the Commission for Local Authorities in England (Ombudsman's) Annual Report for 2012/2013, information on this matter was not yet available. It was intended to include an updated version of this information in the Annual Report which was to be submitted to Council on 19 May 2014.

The Annual Report also included the reports of the two Independent Persons appointed by Council, Mr Ian Daines and Mr Stuart Hooton, who attended the meeting and presented their reports. A copy of these reports are attached as **Appendices A and B** to these Minutes respectively.

The Committee was advised that a copy of its Annual Report together with the information discussed at this meeting would be reported to Council at its meeting on 19 May 2014.

The Chair on behalf of the Committee thanked Mr Daines and Mr Hooton for attending the meeting and presenting their reports.

**RESOLVED –**

- (1) That the content of the Standards Committee Annual Report 2013/2014 be noted.
- (2) That Council be requested to approve the Standards Committee Annual Report 2013/2014.

(Governance Team)

**692 Gifts and Hospitality – Annual Report**

The Committee considered Report No ADGMO/05/14/FP/SS of the Assistant Director – Governance and Monitoring Officer. The purpose of the report was to advise Members of the entries in the Council's Gifts and Hospitality Register for the period 1 November 2012 to 31 October 2013.

The Council's Constitution Part 5 detailed arrangements for the registering of gifts and hospitality made to Members and Officers.

There was a requirement for a clear process for the recording and reporting of gifts and hospitality made to Members and Officers. A copy of the entries in the Council's Gifts and Hospitality Register for the period 1 November 2012 to 31 October 2013 was attached as **Appendix C** to these Minutes. Members were reminded that at its meeting in November 2012 it had recommended that Council as part of its review of the Constitution set a limit of £25 for the declaration of gifts and hospitality received by Members and Officers. This recommendation would be considered by Council as part of its ongoing review of the Constitution.

**RESOLVED-** That the content of the Gifts and Hospitality – Annual Report for the period 1 November 2012 to 31 October 2013 regarding entries in the Council's Gifts and Hospitality Register in respect of offers of gifts and hospitality made to Members and Officers be noted.

(Governance Team)

**693 Complaints Update**

The Committee considered Report No ADGMO/06/14/MK/SS of the Assistant Director – Governance and Monitoring Officer. The purpose of the report was to provide Members with regular updates on the numbers of complaints where Councillors were alleged to have breached the Members' Code of Conduct.

Two complaints had been received by the Assistant Director – Governance and Monitoring Officer in the last quarter, which had resulted in investigations, one of which was now almost complete. This brought the total number of complaints for 2013/14 to four.

The two earlier complaints received had not resulted in any action.

During the Committee's consideration of the report, Members requested that the Committee receive a report on all complaints made in one municipal year once any investigations had been completed, subject to it being agreed that the anonymity of all complainants would be respected.

**RESOLVED –**

- (1) That the content of the Complaints Update report be noted.
- (2) That the Assistant Director – Governance and Monitoring Officer be requested to prepare a detailed report each year on all complaints received regarding allegations that Members had breached the Members' Code of Conduct.
- (3) That the report requested at resolution (2) above be submitted to the Committee in respect of the previous municipal year once all the investigations necessary had been completed, it being agreed that the report would not reveal the identity of any of the complainants.

(Governance Team)

**694 RIPA Policy Update**

The Committee considered Report No ADGMO/07/14/MK/SS of the Assistant Director – Governance and Monitoring Officer. Part of the Committee's remit was to consider an annual report on the Council's operation and use of its powers under the Regulation of Investigatory Powers Act 2000 (RIPA) and the making of any recommendations necessary.

The Regulation of Investigatory Powers Act 2000 relates to the Council's use of covert surveillance, covert human intelligence sources and the acquisition of communications data. The Council had been subject to a three yearly inspection by the Office of the Surveillance Commissioner in June 2012. When considering authorising requests to use RIPA powers, authorising officers should be satisfied that it would be necessary for the purpose of preventing or detecting crime or preventing disorder and that the action was proportionate to what was sought to be achieved.

From 1 November 2012 local authorities were required to obtain judicial approval prior to using covert techniques. Local authority authorisation and notices under RIPA would only take effect once an order was granted by a Justice of the Peace. In addition, a local authority's use of directed surveillance was limited to the investigation of crimes which attracted a six month or greater custodial sentence, subject to the exception of offences which related to the underage sale of alcohol.

Since the last RIPA inspection in June 2012 the Council had made no RIPA authorisations, it had been involved in four cases in 2012/13 and five cases in 2013/14 when it had provided assistance for RIPA investigations by the Department of Work and Pensions.

Members were advised that it was proposed to carry out further training for authorising officers and applicants in respect of the use of RIPA powers, this would be undertaken jointly with the Council's Strategic Alliance partner, Bolsover District Council.

**RESOLVED –**

- (1) That the Committee notes the report on the use of powers under the Regulation of Investigatory Powers Act 2000.

- (2) Agrees that further joint training be undertaken in respect of the use of powers under the Regulation of Investigatory Powers Act 2000 for authorising officers and applicants, joint training on this to be undertaken with Bolsover District Council.

(Deputy Monitoring Officer)

**695 Committee on Standards in Public Life Survey**

The Committee considered Report No ADGMO/08/14/MK/SS of the Assistant Director – Governance and Monitoring Officer. The Committee on Standards in Public Life was considering how best to embed high ethical standards in public sector organisations through work on induction, education and training. One of the areas examined was whether advice and guidance on ethical standards was covered in Council's induction and training programmes.

Councillors and local authority monitoring officers were requested to complete a short survey on what their Council did in terms of induction and training. The survey was anonymous.

Following a detailed discussion, it was agreed that a copy of the survey link be forwarded to all Members of Council, except the Conservative Group, for their completion, if they so wished. The Committee noted that the survey would be available for completion until 17 April 2014. A report on the survey results would be submitted to a future meeting of this Committee.

**RESOLVED –**

- (1) That a copy of the Committee on Standards in Public Life Survey on how best to embed high ethical standards in public sector organisations be forwarded to all Members, except members of the Conservative Group, for their completion if they so wished.
- (2) That a report on the findings from the Committee on Standards in Public Life Survey be submitted to a future meeting.

(Governance Team)

**696 Work Programme 2013/2014**

The Committee considered Report No ADGMO/09/14/MK/SS of the Assistant Director – Governance and Monitoring Officer. The Committee had at each of its meetings received a copy of its Work Programme which detailed the work to be undertaken in the municipal year, together with that completed. The Work Programme was based on the function scheme which had been approved by Council.

The report submitted was the final one for the municipal year 2013/14 and was intended for information purposes only but could inform the work of the Committee in 2014/15.

The report on the Council's Whistleblowing Policy would be considered by the Council's Joint Consultative Group in April 2014 before being referred to this Committee in June. It was also proposed that a report on feedback on the Council's own Standards Survey would be provided to the June 2014 meeting.

The process for appointing a replacement Co-opted Parish/Town Council member had commenced and would hopefully be completed by September 2014.

Members were advised that it would be necessary to convene a special meeting of the Committee in April 2014 to consider changes proposed to the Council's Constitution. It was proposed that a date be discussed and agreed with the Chair of the Committee.

**RESOLVED –**

- (1) That the Committee notes the contents of its final Work Programme report 2013/14.
- (2) Agrees that a special meeting of the Committee be convened in April 2014 for the purpose of considering the amendments proposed to the Council's Constitution and that a date be agreed following discussions with the Chair.

(Governance Team)

**697 Urgent Business – Public Session**

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

## 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



# Appendix B

## 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

# APPENDIX C

## **SCHEDULE OF GIFTS AND HOSPITALITY** **1<sup>st</sup> NOVEMBER 2012 TO 31<sup>st</sup> OCTOBER 2013**

No	Officers Name and Department	Date of Entry in Register	Details of Gift, Hospitality etc (including Donor)
429	Councillor C Hunt	12 November 2012	Parker Pen + Card – Yorkshire Water
430	Councillor J Austen	12 November 2012	Parker Pen + Card – Yorkshire Water
431	Nick Blaney – IT	7 December 2012	Two small bottles of whiskey – Aviron Limited – Donated to Chair's Charity
432	Claire Riley – Licensing	15 January 2013	Two boxes chocolates – Mr John Hunt – Taxi Driver
433	Councillor M E Thacker	8 January 2013	Pocket Diary – Naomi Smith, Principal Solicitor
434	Adrian Kirkham – Planning	29 January 2013	Two bottles of wine – Tonia Rowntree – Nottingham Trent University – Donated to Chair's Charity
435	Councillor P Hemsley	27 March 2013	Two theatre tickets – Pomegranate Theatre – Chesterfield Borough Council
436	Councillor H Laws	4 April 2013	Two theatre tickets – Pomegranate Theatre – Chesterfield Borough Council
437	Councillor G Baxter MBE	4 April 2013	Two theatre tickets – Pomegranate Theatre – Chesterfield Borough Council
438	Eddie Raper – Environmental Health	28 May 2013	One bottle of whiskey – Mr Phillip Par
439	Sue Fisher, Nicky Griffiths, Melanie Shaw – Finance	14 June 2013	Three boxes of chocolates – Member of public
440	Mark Szadura – Working Communities	25 June 2013	Bottle of whiskey – Gareth Howell – donated to Chair's Charity

441	Liz Welch – LEADER Team	19 July 2013	Tickets for Halle Orchestra event at Clowne Heritage School – Bolsover District Council
442	Councillor G Baxter MBE	3 July 2013	Energy Monitoring Kit British Gas – Donated to Chair's Appeal
443	Councillor G Baxter MBE	18 July 2013	Day at Queen's Park Cricket and lunch – Chesterfield Borough Council
444	Jill Wildin – Revenues	Between 22 July and 5 August 2013	Two bottles of Lourdes Holy Water and a card – member of the public
445	Eddie Raper – Environmental Health	23 May 2013	Bottle of whiskey – Member of public
446	Mark Szadura – Working Communities	27 September 2013	Box of chocolates – Donated to Chair's Charity
447	Councillors G Baxter MBE, P R Kerry, S Peters, B Rice and Wes Lumley	19-22 September 2013	Three nights accommodation, meals, hospitality and excursions (recipients did pay for own flights) as part of 50 <sup>th</sup> anniversary celebration of twinning relationship between North East Derbyshire and Darmstadt-Dieburg. In addition, a cassett of prints, teapot ornament, fountain pen, photo book, letter opener, chocolates and wine were received and donated to the Chair's Charity
448	Claire Shacklady and Joe Bradley – Chief Executives	14-17 October 2013	Bouquet of flowers for organisation of celebration meal to honour 50 <sup>th</sup> anniversary of twinning relationship between North East Derbyshire and Darmstadt-Dieburg
449	Claire Shacklady and Joe Bradley – Chief Executives	14-17 October 2013	Chocolates and Ink Pen – Landkreis- Darmstadt-Dieburg – Gifts as part of twinning relationship between North East Derbyshire District Council and Darmstadt-Dieburg
450	Bev Parkin – Service Desk	29 October 2013	Metal tape measure – Patchsave Solutions Ltd