



**North East
Derbyshire**
District Council

Our Ref: NC/AJD
Contact: Nicola Calver
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Date: Wednesday, 3 July 2019

To: **Members of the Standards Committee**

Please attend a meeting of the Standards Committee to be held on **Thursday, 11 July 2019 at 2.00 pm in the Chamber 1**, District Council Offices, 2013 Mill Lane, Wingerworth, Chesterfield, S42 6NG.

Yours sincerely

A handwritten signature in black ink, reading "Sarah Skeneberg".

Joint Head of Corporate Governance and Monitoring Officer

Members of the Committee

Conservative Group	Labour Group	Liberal Democrat Group
Councillor Pat Antcliff Councillor William Armitage Councillor Carolyn Renwick Councillor Michael Roe Councillor Diana Ruff	Councillor Pat Kerry Councillor Jacqueline Ridgway Councillor Kathy Rouse	Councillor Ross Shipman

For further information about this meeting please contact: Nicola Calver, 01246 217753

A G E N D A

1 Apologies for Absence

2 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 in the agenda and withdraw from the meeting at the appropriate time.

3 Minutes of Last Meeting (Pages 4 - 11)

To approve as a correct record and the Chair to sign the Minutes of the Standards Committee held on 11 March 2019.

4 Role of Standards Committee and Work Undertaken To-date (Pages 12 - 19)

Attached are the:-

- (a) Terms of Reference for Standards Committee
- (b) Parliamentary Committee on Standards in Public Life – Review into Local Government Ethical Standards

5 Review of the Council's Constitution (Pages 20 - 22)

Consideration of a report setting out the proposals for the areas for review during 2019/20.

6 Draft Standards Committee Annual Report (Pages 23 - 35)

To approve the Annual Report for presentation to Council.

7 Complaints Against Members Update

To receive the regular update from the Monitoring Officer on a number of complaints against Parish and District Councillors.

8 Standards Committee Work Programme 2019/20 (Page 36)

To update/amend the Work Programme for the forthcoming municipal year.

9 Urgent Items of Business

To consider any other matter which the Chair is of the opinion should be considered as a matter of urgency.



North East
Derbyshire
District Council

***We speak
your language***

Polish

Mówimy Twoim językiem

French

Nous parlons votre langue

Spanish

***Hablamos su
idioma***

Slovak

***Rozprávame Vaším
jazykom***

Chinese

我们会说你的语言

If you require
this agenda in
large print

or another
format
please call
us on

**01246
217753**

If you require an adjustment to enable you to participate in or access the meeting please contact the Governance Team at least 72 hours before the meeting starts.

STANDARDS COMMITTEE

MINUTES OF MEETING HELD ON 11 MARCH 2019

I N D E X

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STANDARDS COMMITTEE

MINUTES OF MEETING HELD ON 11 MARCH 2019

Present:

Councillor B Ridgway Chair

Councillor P Antcliff
“ G Butler
“ S Boyle

Councillor K Rouse
“ A Powell

Councillor Mrs D Ward – Parish Council Representative
Councillor Mrs D Ruff – Parish Council Representative

Also Present:-

S Sternberg - Joint Head of Corporate Governance & Monitoring Officer
N Calver - Governance Manager

616 Apologies for Absence

Apologies for absence were received from Councillors W Armitage and S Peters

617 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 interests declared at the meeting.

618 Minutes of Last Meeting

RESOLVED – That the Minutes of the meeting of the Standards Committee held on 24 January 2019 be approved as a correct record and signed by the Chair.

619 Joint Whistleblowing Policy – Annual Report

The Committee considered a report of the Joint Head of Corporate Governance and Monitoring Officer, which provided Members with an annual update on use of the Joint Whistleblowing Policy.

In accordance with the Joint Whistleblowing Policy, the Monitoring Officer has overall responsibility for the maintenance and operation of the Policy, and would maintain a record of concerns raised and the outcomes. The Whistleblowing Policy had been reviewed in February 2019 and no changes were recommended to the Committee for approval.

The Monitoring Officer was also required to report as necessary to both Councils on instances of whistleblowing. Members noted that there had been no instances to report for the 2018/19 municipal year.

RESOLVED – That the Committee:-

- (1) Agrees the current Joint Whistleblowing Policy is fit for purpose.
- (2) Notes that no instances of Whistleblowing have been made since the 2018 Annual Review of the Joint Whistleblowing Policy.

620 Review of the RIPA Policy

The Committee considered a report of the Joint Head of Corporate Governance and Monitoring Officer, which updated Members on the use of RIPA powers in the last year, advised 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 be approved.

Members noticed that 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 Regulation of Investigatory Powers (Juveniles) (Amendment) Order 2018.

In addition, major changes to the procedure for applying for authorisation of the acquisition and disclosure of communications data were made by the Investigatory Powers Act 2016 and these would be brought into force at a later date.

The main changes made to the Council's RIPA Policy included responding to the legislative changes that had come into force and amendments in respect of Home Office guidance.

Members of the Strategic Alliance Management Team were in receipt of training on this matter, including those officers appointed as authorising officers and designated persons, and further training had been delivered for officers within Planning Enforcement, Licensing and Environmental Health.

The Committee were advised that the Council was periodically inspected by the Office of Surveillance Commissioners, with the next inspection being undertaken later that week.

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 Cabinet, following consideration by the Strategy Alliance Joint Committee.

621 Parliamentary Committee on Standards in Public Life – Review into Local Government Ethical Standards

The Committee considered a report of the Joint Head of Corporate Governance and Monitoring Officer, which updated Members on the findings and recommendations of the Parliamentary Committee on Standards in Public Life (CSPL) – Review into Local Government Ethical Standards.

The Localism Act 2011 introduced significant changes to the way that conduct of elected Members was handled, including abolishing a National Code of Conduct and removing powers to suspend or disqualify Councillors. Instead, Councils were required to adopt their own local codes and put local procedures in place to investigate allegations against breaches. The CSPL undertook to review the effectiveness of these arrangements and in May 2018 the Standards Committee gave consideration to the Terms of Reference for this review. The findings of the review were summarised within the report, along with the recommendations that had been made.

Members noted that the Government would respond to the report in the coming months setting out whether or not it accepted some or all of the recommendations, however, some of the recommendations (for example increased sanctions) would require primary legislation. Other recommendations were deemed as good practice and Councils were able to implement immediately.

Overall, the CSPL found that there was little appetite to return to a centrally regulated system as local arrangements on the whole were most effective, however, issues were identified with managing persistent offenders and with governance arrangements in some parish councils.

Some of the key recommendations to note included:-

- The criminal offence for non-registration and non-declaration of disclosable pecuniary interests should be abolished.
- Councils should have the power to suspend Members for up to six months without allowances.
- Independent Persons should be given a legal indemnity by Councils if they were to have a role in agreeing to suspension of Members.
- Independent Persons should be appointed for a two year term, renewable once.
- Statutory protection for Monitoring Officers should be standard to include any disciplinary action, not just dismissal.
- Parish Clerks should hold a suitable qualification.
- There should be greater recognition of the role of the Monitoring Officer in supporting Parishes and resources should be allocated accordingly.

In particular, Members gave consideration to support provided to Parish Councils and the Monitoring Officer, and requested that this item be brought back for full discussion at a future meeting.

RESOLVED – That the Committee:-

- (1) Notes the findings of the review and the recommendations of the Parliamentary Committee on Standards in Public Life – Review into Local Government Ethical Standards.
- (2) Requests for the findings and recommendations of the review be considered in line with a review of the Committee's Terms of Reference, to be presented to a future meeting of the Standards Committee.

622 Executive and Non-Executive Appointments for the 2019-20 Municipal Year

The Committee considered a report of the Joint Head of Corporate Governance and Monitoring Officer, which identified those Outside Bodies which should be classed as "Executive" appointments and those which should be classed as "Non-Executive" appointments for the 2019-20 municipal year.

The Standards Committee had previously agreed to an approach to split appointments to Outside Bodies between those carrying out Executive functions and those relating to Non-Executive functions. In addition they agreed a criteria to be applied to categorise these Outside Bodies and this was detailed within the report.

The criteria had been applied and suggested groupings were set out in Appendix 1 to the report.

It was noted that a survey had been carried out of those elected Members who served on Outside Bodies. The early returns to that consultation suggested that some had not been fully clear about their appointments and some had limited contact with the Outside Bodies to which they had been appointed, making them unable to judge the value of their participation in these Bodies. It was hoped that by setting clear appointment criteria for Executive and Non-Executive appointments would provide individual Members appointed to these Bodies, Council and Cabinet the benchmarks the clarity they required.

RESOLVED – That the Committee:-

- (1) Considers and endorses the suggested allocation of Executive and Non-Executive appointments, as set out in the Appendix, attached to the report.
- (2) Recommends this allocation to Council and Cabinet for approval and adoption for the 2019-20 municipal year.

623 Review of the Council's Constitution

Members gave consideration to a suite of reports setting out the proposed amendments to the Council's Constitution as part of the final proposals for

consideration by the Standards Committee prior to submission as part of the annual review of the Constitution to Council for adoption.

Revised Members Code of Conduct

The Standards Committee were advised that the Members Code of Conduct was adopted by the Council in 2012 following the introduction of the Localism Act 2011 but since had not been formally reviewed.

The review undertaken by the Monitoring Officer proposed a number of changes which included:-

- General Conduct – additions had been made to the Code to provide some clarity around the general conduct expected of Members and ensure that the Code addressed issues around equality, safeguarding and conduct when speaking to the public or to the media as a Councillor.
- Training – a section had been added to set out the requirement to attend essential training and appended to the Code a list of training and frequency of attendance.
- Predetermination or bias – further explanation had been added to the Code as to what constitutes predetermination or bias and what a Member was required to do should they have any concerns.
- Member Interests – a clear explanation had been included as to what constituted a disclosable pecuniary interest (DPI) and a note contained as an Appendix to aid Members as opposed to written within the Code itself.

Social Media Guidance for Councillors

The Committee gave consideration to introducing a Social Media Guidance document for Councillors to be incorporated into the Code of Conduct for Members. The Council currently did not have any guidance on the use of social media by Councillors, however, as the use of social media has increasingly become a popular method for communication for Councillors to engage with residents it was prudent to provide some guidance for the protection of Councillors and the Council.

The guidance was designed to encourage the use of social media sensibly and responsibly and advised Councillors around issues such as Standards, liable, copyright, data protection, bias and predetermination.

The guidance made specific reference to how aspects of the Code of Conduct for Members would apply to online activity in the same way as it did to any other Councillors use.

Members welcomed the guidance document and requested that training be provided to Members, not only as part of the Induction process but also throughout the year.

Final Areas of Review

During the review of the Proper Officer Provisions it was found that a number of 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 and that several of the regulations that had Proper Officer Provisions were not included within the list detailed within the Council's Constitution. Appendix 2 to the report set out the revisions to this section amended in line with legislation.

JEC/JAC Terms of Reference

At the meeting of Council on 4 March 2019 Members gave consideration to changes proposed to the Terms of Reference for the Joint Employment Committee and the Joint Appeals Committee, amalgamating the two to create a Joint Employment and Appeals Committee (JEAC). The rationale for the change was that under the current arrangements any Appeal against a decision by the JEC would be made to the JAC and an Appeal could not be heard by the same Members that heard the original disciplinary or capability case and was therefore a breach of natural justice. The Scheme of Delegation to Officers would also be updated to reflect this.

RESOLVED – That:-

(1) The proposals for amendments to the Council's Constitution in respect of:-

- The revised Members Code of Conduct;
- Social Media Guidance for Councillors';
- Proper Officer Provisions; and
- Terms of Reference for JEC and JAC;

be supported and submitted to Council as part of the Constitution review.

(2) That the areas identified for inclusion in the 2019/20 review as set out in 1.2 of the report be agreed for submission to a future meeting.

624 Work Programme 2018/19

The Committee considered a report of the Joint Head of Corporate Governance and Monitoring Officer, which informed Members of its Work Programme for 2018/19.

Members noted the achievements throughout the municipal year and where items had been referred for consideration in the forthcoming Work Programme.

RESOLVED – That the Work Programme 2018/19 be noted.

625 Work Programme 2019/20

The Committee considered a report of the Joint Head of Corporate Governance and Monitoring Officer, which informed Members of its Work Programme for 2019/20.

Further to discussions earlier in the meeting Members requested that the outcome of the review of the Parliamentary Committee for Standards in Public Life be reported to a future meeting along with a discussion around how better support could be provided to Parish Councils and how the Monitoring Officer may be resourced to achieve this.

RESOLVED – That the Work Programme 2019/20 be accepted as amended.

626 Complaints Update

The Committee received a verbal update on complaints made against Members from the Joint Head of Corporate Governance and Monitoring Officer and noted that three complaints had been received so far during 2019.

RESOLVED – That the update be noted.

627 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.

5. **Standards Committee**

There will be a *Standards Committee* of 11 members comprising:-

- (i) Nine *Councillors*
- (ii) Two non-voting *Parish Members* elected by the District's parish and town councils

Independent Persons

The Council will appoint two Independent Persons who will be consulted by the authority before it makes a finding as to whether a member or co-opted member has failed to comply with the Code of Conduct or decides on action to be taken in respect of that member.

They may also be consulted by the Authority in respect of a standards complaint at any other stage and by a member or co-opted member of the District Council or of a parish or town council against whom a complaint has been made.

The functions of the Standards Committee include:

- Advising the Council on the adoption of or revision to the Members' Code of Conduct.
- Monitoring the operation of the Members' Code of Conduct.
- Granting dispensations to allow *Councillors* and co-opted members to take part in meetings where they have a disclosable pecuniary interest.
- Receiving regular reports from the Monitoring Officer on the number of complaints against members, how they are progressing, what decisions have been made and what action taken.
- Through the Hearings Sub-Committee, undertaking hearings into complaints which have been investigated and deciding on sanctions where a breach of the Members' Code of Conduct has been found.
- Overseeing the whistle blowing policy.
- Overseeing complaints handling and outcomes of Ombudsman investigations.
- Receiving annual reports on gifts and hospitality received by Council members and officers.
- Receiving annual reports on the Council's operation and use of the powers under the Regulation of Investigatory Powers Act 2000 and to approve amendments to the policy as necessary.

- Undertaking an annual review of the Council's Constitution, making recommendations to the Council meeting.
- Provide an annual written report to Council on the work of the Committee

North East Derbyshire District Council

Standards Committee

11 July 2019

<p>Parliamentary Committee on Standards in Public life – Review into Local Government Ethical Standards</p>
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Report of the Joint Head of Corporate Governance and Monitoring Officer

This report is public

Purpose of the Report

- To report to Members on the findings and recommendations of Parliamentary Committee on Standards in Public Life review in to Local Government Ethical Standards.

1 Report Details

BACKGROUND

- 1.1 The Parliamentary Committee on Standards in Public Life (CSPL) advises the Prime Minister on ethical standards across the whole of public life in England. It monitors and reports on issues relating to the standards of conduct of all public office holders and promotes the 7 principles of public life.
- 1.2 The Localism Act 2011 introduced significant changes to the way that conduct of elected Councillors was handled. It abolished a national framework headed by a regulator and a national Code of Conduct and removed powers to suspend or disqualify Councillors for serious breaches of the Code of Conduct. Instead it placed a duty on Councils: to adopt their own local Code; to put local procedures in place to investigate allegations the Code may have been broken (with principal authorities carrying out that duty for parish councils; and to appoint at least one Independent Person (IP) whose views they had to take into account when considering matters under investigation.
- 1.3 CSPL undertook to review the effectiveness of the arrangements once they had bedded in. In May 2018, the North East Derbyshire District Council Standards Committee gave consideration to the terms of reference for this review. The review sought evidence from all interested stakeholders and the recommendations were published on 30 January 2019. A copy of their full report has not been appended to this report due to its length, however it is available on request.
- 1.4 This report summarises the key findings of the review and recommendations that have been made.

ISSUES AND RECOMMENDATIONS

1.5 CSPL looked at four specific areas of operation of the system:

- the Code of Conduct and arrangements for declarations of Interest;
- the available sanctions;
- the role of the IP, MO (Monitoring Officer) and Standards Committee; and
- support for parishes.

In addition it looked more widely at how authorities could better promote high standards of conduct.

OVERALL FINDINGS

1.6 CSPL found there was no appetite to return to a centrally-regulated system as local arrangements on the whole were most effective at handling the majority of cases and that standards were high. However, there were issues with a small handful of serious or persistent offenders and with governance arrangements in some Parish Councils.

1.7 There also needed to be a more consistent approach taken to standards and MOs and Councils needed some more effective tools to allow them to handle those serious cases.

CODES OF CONDUCT

1.8 CSPL felt there was too much variation among local Codes. This led to inconsistencies, with some Members who sat on more than one authority being subject to different rules and the public being confused about what standards applied. These inconsistencies were particularly marked when it came to interests that needed to be registered and declared.

1.9 They were also critical of Codes that were based around models produced by LGA and CLG in 2012 and felt that Code should be simpler and more 'rules-based'.

1.10 They also felt the scope of the Code should be widened so that it also captured statements made by Members in public, particularly on social media, and circumstances where Members were purporting to act as a Member in order to advantage themselves or disadvantage others.

1.11 Below are the CSPL recommendations in relation to the Code of Conduct:

- There should not be a compulsory national Code but there should be a new model rules-based Code produced by the LGA which councils should generally follow but add local variations to if needed
- There should be the same Code across a geographical area with parishes being under a requirement to adopt the principal authority code
- There needed to be a more comprehensive system for registering and declaring interests which goes wider than the current statutory minimum
- The criminal offence for non-registration and non-declaration of Disclosable Pecuniary Interests should be abolished

- There should be a rebuttable presumption that any public action by a councillor is within the scope of the Code
- The Code should also cover circumstances where a member is purporting to act as a member.

SANCTIONS

1.12 CSPL found Councils needed greater sanctions available to deal with serious and persistent misconduct. They therefore recommend that Councils should be given the power to suspend Members for up to six months without allowances. However, safeguards would need to be built into the system to avoid it being used politically.

1.13 Below are the CSPL recommendations in relation to Sanctions:

- Councils should have the power to suspend members for up to six months without allowances
- The IP would need to agree that there had been a breach of the Code and that a suspension was a proportionate outcome
- A suspended Member could appeal to the Local Government Ombudsman against the outcome of the case
- The Government should make clear what other administrative sanctions are available to Councils.

THE ROLE OF THE IP, MO AND STANDARDS COMMITTEES

1.14 If there are to be tougher sanctions, CSPL concluded there needs to be greater independence in the system so the role of the IP should be enhanced, and the MO should be better supported and protected so that they feel free to act without fear or favour. In addition the role of Standards Committees should be enhanced as the guardians of a Council's duty to promote and maintain high standards.

1.15 Below are the CSPL recommendations in relation to IPs, MOs and Standards Committees:

- The IP should be given a legal indemnity by Councils if they are to have a role in agreeing to suspension of members
- IPs should be appointed for a two-year term, renewable once, to ensure they are seen to be independent
- Any views expressed by an IP should be published as part of a decision notice
- Statutory protection for MOs should be extended to include any disciplinary action not just dismissal
- Councils should have a standards committee
- Standards committees should be able to co-opt independent members and parish representatives with voting rights if they so choose

PARISH COUNCILS

1.16 While the majority of Parish Councils operate to the highest standards, CSPL found that a minority have significant problems and can absorb a lot of time and resources. There therefore needs to be a recognition that they need greater support and access to training and Councils need to allow MOs sufficient resource to support them.

1.17 Below are the CSPL recommendations in relation to Parish Councils:

- Sanctions against a parish council should be imposed by the principal authority rather than referred back to the Parish Council
- Parish Clerks should hold a suitable qualification
- There should be greater recognition of the role of the MO in supporting parishes and they should be resourced accordingly

PROMOTION OF HIGH STANDARDS

1.18 CSPL also made some wider recommendations about how Councils should seek to put high standards at the heart of the organisation. It believed, for example, that political parties should make Member training on standards a requirement of their model group rules, and that there needs to be a much greater recognition in all authorities of the importance of the role of the MO as part of corporate management arrangements, and standards should be seen as the responsibility of all not just the MO.

NEXT STEPS

1.19 The Government will respond to the report in the coming months setting out whether or not it accepts some or all of the recommendations. Some of the recommendations – for example increased sanctions, or the abolition of the DPI criminal offence, would require primary legislation.

1.20 However, many other recommendations are good practice which Councils can just implement or adopt.

1.21 It is therefore suggested, in light of the findings of the review, that the recommendations made are considered in line with a review of the Standards Committees Terms of Reference. This could be built in to the review of the Constitution for the 2019/2020 municipal year.

2 Conclusions and Reasons for Recommendation

2.1 This report is to inform Members of the review into Local Government Ethical Standards. The recommendations that are summarised within may inform a planned review of the terms of reference for the committee.

3 Consultation and Equality Impact

3.1 There are no equalities issues arising from this report.

3.2 Standards are informed of this review in line with their responsibilities contained within their terms of reference.

4 Alternative Options and Reasons for Rejection

4.1 None.

5 **Implications**

5.1 **Finance and Risk Implications**

5.1.1 None arising from this report.

5.2 **Legal Implications including Data Protection**

5.2.1 None arising from this report.

5.3 **Human Resources Implications**

5.3.1 None arising from this report.

6 **Recommendations**

6.1 That Standards Committee

- a) note the findings of the review and the recommendations of the Parliamentary Committee on Standards in Public Life – Review in to Local Government Ethical Standards; and
- b) request for the findings and recommendations of the review be considered in line with a review of the Committee's Terms of Reference, to be presented to a future meeting of the Standards Committee.

7 **Decision Information**

Is the decision a Key Decision? A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds: <i>BDC:</i> <i>Revenue - £75,000</i> <input type="checkbox"/> <i>Capital - £150,000</i> <input type="checkbox"/> <i>NEDDC:</i> <i>Revenue - £100,000</i> <input type="checkbox"/> <i>Capital - £250,000</i> <input type="checkbox"/> <input checked="" type="checkbox"/> <i>Please indicate which threshold applies</i>	No
Is the decision subject to Call-In? (Only Key Decisions are subject to Call-In)	No
Has the relevant Portfolio Holder been informed?	Yes
District Wards Affected	All
Links to Corporate Plan priorities or Policy Framework	All

8 Document Information

Appendix No	Title
None	
Background Papers (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)	
CSPL – Review Report in to Local Government Ethical Standards	
Report Author	Contact Number
Nicola Calver, Governance Manager	01246 217753

AGIN 4(b) (STANDARDS 0711) 2019 – Standards in Public Life

North East Derbyshire District Council

Standards Committee

11 July 2019

Review of the Council's Constitution

Report of the Head of Corporate Governance and Solicitor to the Council & Monitoring Officer

This report is public

Purpose of the Report

- To consider the list of areas for review within the Council's Constitution for consideration by the Standards Committee prior to submission as part of the Annual Review of the Constitution to Council for adoption.

1 Report Details

- 1.1 The Constitution is the Council's 'rulebook'. It sets out how the Council operates and how it makes decisions. Council approved its latest version of the Constitution at the Annual Council meeting in May 2019.
- 1.2 One of the functions of the Standards Committee is to undertake an annual review of the Council's Constitution to ensure it is up to date and in line with legislation and current circumstances. The following areas have been identified for review:
- JCG Terms of Reference
 - Contract Procedure Rules – Contract Formalities
 - Standards Committee Terms of Reference
 - Review of Employee Code of Conduct
 - Employment Rules
 - JEAC Terms of Reference
 - Questions and Motions to Council (limitations)
 - Delegation Scheme (MO Delegations)
 - Minor wording changes or updating of job titles (housekeeping)
- 1.3 Members of Standards Committee are requested to give these areas some consideration prior to detailed changes being brought back for debate, and make any changes to the list as they see fit.

2 Conclusions and Reasons for Recommendation

- 2.1 To ensure the Council has in place a fit for purpose Constitution which complies with English law.

3 Consultation and Equality Impact

- 3.1 The Chief Executive, Chief Financial Officer, Monitoring Officer and SAMT are consulted at various stages of the Constitution Review.
- 3.2 An Equality Impact Assessment has not been necessary as part of this review.

4 Alternative Options and Reasons for Rejection

- 4.1 Members may consider alternative options to any proposals put forward, where legally permitted.

5 Implications

5.1 Finance and Risk Implications

- 5.1.1 Failure to ensure the Constitution meets legal requirements can leave the Council open to challenge, as does failure to comply with the provisions of the Constitution. It is therefore essential that Constitution is regularly reviewed and given robust oversight.

5.2 Legal Implications including Data Protection

- 5.2.1 The Council is required under the Localism Act 2011 to prepare and keep up-to-date a constitution that contains its standing orders, code of conduct, such other information that the Secretary of State may direct and such other information that the authority considers appropriate.

5.3 Human Resources Implications

There are no human resources implications arising from the proposals within this review.

6 Recommendations

- 6.1 That the Committee give consideration to the list of areas of the constitution to be reviewed in the forthcoming municipal year, edit it as necessary and agree for a further report to be submitted to a future meeting.

7 Decision Information

Is the decision a Key Decision? A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds: BDC: Revenue - £75,000 Capital - £150,000 <input type="checkbox"/> NEDDC: Revenue - £100,000 <input type="checkbox"/> Capital - £250,000 <input type="checkbox"/> <input checked="" type="checkbox"/> Please indicate which threshold applies	No
Is the decision subject to Call-In? (Only Key Decisions are subject to Call-In)	No
Has the portfolio holder been informed	Yes
District Wards Affected	None
Links to Corporate Plan priorities or Policy Framework	Demonstrating good governance

8 Document Information

Appendix No	Title
None	
Background Papers (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)	
None.	
Report Author	Contact Number
Nicola Calver, Governance Manager	01246 217753



Standards Committee
Annual Report 2018/19

Standards Committee Annual Report 2017/18

Foreword from the Former Chair of the Standards Committee

I would like to take the opportunity to thank the Vice Chair and all elected Members, Parish/Town Council representatives and the two Independent Persons for their continued hard work and support in the work of the committee during this year. The work of 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.

Brian Ridgway

The Annual Report outlines the work of the Standards Committee during the municipal year 2018/19 and covers the following subjects:

- 1 Chair and Vice Chair of the Committee
- 2 Parish/Town Council Representatives
- 3 Register of Interests Forms 2018
- 4 Complaints received during 2018/19
- 5 Reports of Independent Persons
- 6 Local Government Ombudsman Complaints 2017/18
- 7 Ethical Standards Training
- 8 Policy and Constitution Review Work
- 9 Guidance and reports considered by the Committee
- 10 Consultations and survey results related to Standards

1. Chair and Vice Chair of Standards Committee 2018/19

- 1.1. At the Annual Council meeting in May 2018, Councillor Brian Ridgway was appointed as the Chair of Standards Committee, with Councillor Geoff Butler appointed as the Vice Chair.

2. Appointment of Parish/Town Council Representatives

- 2.1. The Parish and Town Council Representatives on the Committee have continued in their roles during 2018/19. Diana Ruff of Wingerworth Parish Council and Dorothy Ward of North Wingfield Parish Council were appointed to the Committee in 2015.
- 2.2. These appointments concluded in May 2019 (when Diana Ruff was elected to the Authority as a Councillor and Dorothy Ward was re-appointed as the Parish representative on the Standards Committee).

3. Register of Interests Forms 2018

- 3.1. Register of Interest Forms for District and Parish Councillors continue to be issued to and completed by new councillors, following by-elections or co-option.
- 3.2. The Governance Team also undertook a review of all the Parish Councillors to ensure all currently serving Councillors Register of Interests were held on record and published on the website.
- 3.3. Councillors are also reminded to update their Register of Interests within 28 days of any changes.
- 3.4. All completed forms that had been returned have been published on the District Council's website.

4. Complaints received during 2018/19

- 4.1. The Council had received 4 complaint relating to members acting in their capacities as Parish/Town Councillors which resulted in no further action, and 5 complaints relating to a NEDDC District Councillor, resulting in no further action.
- 4.2. All of these complaints have been determined following consultation with the Independent Person, which resulted in no breaches of the Code of Conduct or were deemed to be outside the scope of the Code of Conduct.
- 4.3. During the previous year (2017/18) two complaints were received against a District, Parish or Town Councillor in the whole of the year.

5. Reports of Independent Persons

- 5.1. At the Annual Council meeting in May 2015, the terms of office of the Council's two Independent Persons, Mr Ian Daines and Mr Stuart Hooton, were extended until the end of May 2019. The annual reports of the Independent Persons are attached as **Appendices A and B** to the Standards Committee Annual Report.
- 5.2 Mr Ian Daines indicated his wish to conclude his role at the end of his term of office (31st May 2019), and Mr Stuart Hooton wished to continue.

6. Local Government Ombudsman Complaints 2017/18

- 6.1 The Council received its Annual Review letter from the Local Government Ombudsman on the 18 July 2018. It contained information on how many complaints and enquiries had been referred to the Local Government Ombudsman and how many complaints were upheld or referred back for local resolution.
- 6.2 There were 11 decisions made by the Local Government Ombudsman. Four were closed after initial enquiries, four were referred back for local resolution, two complaints were not upheld and one other complaint was received directly by the Ombudsman and advice offered.

7. Ethical Standards Training

- 7.1 The Governance Team will arrange for further training sessions for all Parish Councillors in September 2019.
- 7.2 All District Councillors received training on DPIs and Ethical Standards as part of the Induction Programme.

8. Policy and Constitution Review Work

8.1 Constitution Review

The Standards Committee have undertaken their duty to carry out a review of the Constitution. All revisions were put to the Annual Meeting of Council for approval which included:

- Articles establishing Committees and the Function Scheme
- Audit and Corporate Governance Scrutiny Committee Terms of Reference
- Recording of Executive Decisions to reflect Key Decision Limits
- Threshold for consideration of tenders by Cabinet
- Councillors' Conduct – Speaking at Meetings
- Section 151 Officer Delegation Additions
- Licensing Committee Terms of Reference and Composition
- The revised Members Code of Conduct
- Social media guidance for Councillors
- Proper Officer Provisions

- Terms of Reference for JEC and JAC
- Delegation of decisions to write-off debt for rent arrears
- Protocol on Planning
- Minor wording changes or updating of job titles (housekeeping)

8.2 **Whistle-blowing Policy**

At its meeting on 11 March 2019 the Standards Committee considered a review of the Whistleblowing Policy.

In accordance with the Joint Whistleblowing Policy, the Monitoring Officer has overall responsibility for the maintenance and operation of the Policy, and would maintain a record of concerns raised and the outcomes. The Whistleblowing Policy had been reviewed in February 2019 and no changes were recommended to the Committee for approval.

The Monitoring Officer was also required to report as necessary to both Councils on instances of whistleblowing. Members noted that there had been no instances to report for the 2018/19 municipal year.

8.3 **RIPA Policy**

A review of the RIPA Policy was undertaken by the Standards Committee at their meeting on 11 March 2019.

The Committee considered a report which updated Members on the use of RIPA powers in the last year, advised 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 be approved.

Members noticed that 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 Regulation of Investigatory Powers (Juveniles) (Amendment) Order 2018.

In addition, major changes to the procedure for applying for authorisation of the acquisition and disclosure of communications data were made by the Investigatory Powers Act 2016 and these would be brought into force at a later date.

The main changes made to the Council's RIPA Policy included responding to the legislative changes that had come into force and amendments in respect of Home Office guidance.

Members of the Strategic Alliance Management Team were in receipt of training on this matter, including those officers appointed as authorising officers and designated persons, and further training had been delivered for officers within Planning Enforcement, Licensing and Environmental Health.

The Committee were advised that the Council was periodically inspected by the Office of Surveillance Commissioners, with the next inspection being undertaken later that week. Updates would be provided to the Committee in the new municipal year.

8.4 **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.

8.5 **Councillor Complaints Procedure**

The Committee considered a report at their July meeting, 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.

9. **Guidance and reports considered by the Committee**

9.1 **Parliamentary Committee on Standards in Public Life – Review into Local Government Ethical Standards**

The Committee considered a report of the Joint Head of Corporate Governance and Monitoring Officer, which updated Members on the findings and recommendations of the Parliamentary Committee on Standards in Public Life (CSPL) – Review into Local Government Ethical Standards.

The Localism Act 2011 introduced significant changes to the way that conduct of elected Members was handled, including abolishing a National Code of Conduct and removing powers to suspend or disqualify Councillors. Instead, Councils were

required to adopt their own local codes and put local procedures in place to investigate allegations against breaches. The CSPL undertook to review the effectiveness of these arrangements and in May 2018 the Standards Committee gave consideration to the Terms of Reference for this review. The findings of the review were summarised within the report, along with the recommendations that had been made.

Members noted that the Government would respond to the report in the coming months setting out whether or not it accepted some or all of the recommendations, however, some of the recommendations (for example increased sanctions) would require primary legislation. Other recommendations were deemed as good practice and Councils were able to implement immediately.

Overall, the CSPL found that there was little appetite to return to a centrally regulated system as local arrangements on the whole were most effective, however, issues were identified with managing persistent offenders and with governance arrangements in some parish councils.

Some of the key recommendations to note included:-

- The criminal offence for non-registration and non-declaration of disclosable pecuniary interests should be abolished.
- Councils should have the power to suspend Members for up to six months without allowances.
- Independent Persons should be given a legal indemnity by Councils if they were to have a role in agreeing to suspension of Members.
- Independent Persons should be appointed for a two year term, renewable once.
- Statutory protection for Monitoring Officers should be standard to include any disciplinary action, not just dismissal.
- Parish Clerks should hold a suitable qualification.
- There should be greater recognition of the role of the Monitoring Officer in supporting Parishes and resources should be allocated accordingly.

In particular, Members gave consideration to support provided to Parish Councils and the Monitoring Officer, and requested that this item be brought back for full discussion at a future meeting.

9.2 Appointments to Outside Bodies

The Standards Committee considered a report suggesting a possible process for determining which Outside Bodies elected Members be appointed to and how the appointments to these Outside Bodies could be made as to better reflect their impact on executive or non-executive areas of responsibility within the Council.

It was noted that in preparing for the appointments made in May 2018 at the Annual Council meeting it was revealed that the names of some organisations had changed and that, in addition, the contact information and other details which the Council held about some of those organisations were incorrect. It was suggested that a comprehensive review of what bodies the Council appoints to could remedy this.

It was reported that there were no nationally determined rules that local authorities had to follow when deciding which Outside Bodies they appoint to and who their appointees should be, and therefore the report suggested developing a criterion in order to assess their added value to the work of the Council.

A series of questions were suggested as part of consultation for Members and the Outside Bodies, the responses to which would feed into an exercise that would seek to assess all relevant external organisations, including those which the authority had appointed to and those that it had not.

As part of the review of the Constitution in 2017/18 the Standards Committee agreed, in principle, to recommend that a split between executive and non-executive functions be adopted. In addition it agreed clear criteria that would be required for grouping those Bodies to be appointed by Cabinet and those to be appointed by Council. Members gave consideration to the criterion previously agreed and how it could apply to group Outside Bodies.

Members were supportive of the proposals detailed within the report and welcomed the evaluation of the Outside Bodies to ensure they were properly constituted, that charity numbers were recorded, and that each had a mission statement or aims and purpose.

9.3 Executive and Non-Executive Appointments for the 2019-20 Municipal Year

Following the review of Outside Bodies the Committee considered a report which identified those Outside Bodies which should be classed as “Executive” appointments and those which should be classed as “Non-Executive” appointments for the 2019-20 municipal year.

The Standards Committee had previously agreed (as above) to an approach to split appointments to Outside Bodies between those carrying out Executive functions and those relating to Non-Executive functions. In addition they agreed a criteria to be applied to categorise these Outside Bodies and this was detailed within the report.

The criteria had been applied and suggested groupings were made clear to the Committee.

It was noted that a survey had been carried out of those elected Members who served on Outside Bodies. The early returns to that consultation suggested that some had not been fully clear about their appointments and some had limited contact with the Outside Bodies to which they had been appointed, making them unable to judge the value of their participation in these Bodies. It was hoped that by setting clear appointment criteria for Executive and Non-Executive appointments would provide individual Members appointed to these Bodies, Council and Cabinet the benchmarks the clarity they required.

This work is ongoing and was not implemented in May 2019.

9.4 Local Government Lawyer – Independent Report Expresses Regret at Attack by Councillor on Monitoring Officer

The Joint Head of Corporate Governance and Monitoring Officer from time to time would bring legal cases to the Standards Committee which were relevant and of interest.

The independent report advised on an investigation into a breach of the Code of Conduct at Fenland District Council. The Monitoring Officer had alleged that a Councillor may have submitted over-inflated mileage claims and attempted to claim for journeys outside of the scope of the Members' Allowance Scheme.

In response to these allegations the Councillor made counter allegations against the Monitoring Officer, which were dismissed, however the investigation deemed that making allegations against the Monitoring Officer was a breach in itself of the Council's Code of Conduct relating to an attempt at intimidation.

9.5 Cornerstone Barristers' Publication: Councillor Refused Permission in Judicial Review against Sexual Harrassment

The Joint Head of Corporate Governance and Monitoring Officer brought another interesting case to Members of the Standards Committee for their information where the former Leader of Devon County Council had been refused permission to proceed to a judicial review of the Council's decision to sanction him for sexual harassment of four Council employees.

In a wide ranging challenge, he was granted permission on just one narrow point: whether the Council had the legal power to restrict his access to Council premises.

Devon County Council's Standards Committee, on acceptance of the investigation findings, imposed several sanctions on the Councillor in question, which included restricting access to Council premises. It was noted by Members that whilst restrictions were in place the Councillor was permitted unrestricted access to public meeting rooms and was permitted to visit any other premises providing he gave advance notice and was accompanied by a Council officer.

The Member challenged the legality of the sanctions imposed on him and whilst it was considered arguable that that Council had no legal power to exclude him from his premises the judge considered that if there was such a power the restrictions placed on the Councillor were proportionate.

9.6 High Court Case – Ledbury Town Council

The Committee considered a report at their July meeting, 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.

9.7 Future Arrangements for Independent Persons

Prior to the commencement of the meeting on 24th January 2019 the Chair had given his consent to consider a report on the future arrangements of Independent Persons to be considered at this meeting of Standards Committee as a matter of urgency.

The Joint Head of Corporate Governance and Monitoring Officer presented a report to Members asking for consideration for the future arrangements for Independent Persons.

The Council appointed Mr Ian Daines and Mr Stuart Hooton as Independent Persons in July 2012, their terms of appointment were later extended to the end of May 2019. Mr Ian Daines had indicated that he did not wish to renew his term, with Mr Stuart Hooton confirming that he would like to extend his appointment.

Members gave consideration to the alternative options as set out in the report to either recruit two new Independent Persons or to reduce the number of Independent Persons employed by the Council to one.

The Chair of the Standards Committee advised Members of the dual role of the Independent Person, that whilst one Independent Person would undertake an investigation the other Independent Person's role was to support the subject of that complaint where necessary and requested. It was therefore deemed that there was a good case for retaining two Independent Persons for this function of the Council.

On consideration of the advert, Members deemed that the salary offered, considering the duties and responsibilities of the post, was moderate and it was recommended that the salary range for the role be reviewed at the appropriate time.

10. Consultations and survey results related to Standards

10.1 Election Candidates and Campaigns: A Consultation on New Laws

The Monitoring Officer reminded Members at their October meeting that, during the last municipal year, Officers presented a report detailing the Parliamentary Committee for Standards in Public Life findings on Intimidation in the last General Election.

One of the recommendations made by the Parliamentary Committee called for changes to election law to protect candidates and campaigners. It was advised that a consultation was live and questions within it detailed undue influence, intimidation and a requirement for election law to apply to social media as well as poster campaigns, which was something that the Committee had felt strongly about when considering the initial findings of the review.

In regard to social media it was not clear which laws would apply, however, they were looking to require imprinting on social media literature is currently the case on printed literature.

The Monitoring Officer undertook to circulate a link to the consultation to all Members of Council and Members of the Standards Committee were encouraged to make individual responses.

11. Gifts and Hospitality Annual Report 2018

The Committee considered a report of the Joint Head of Corporate Governance and Monitoring Officer, which advised of the details of all entries in the Council's Gifts and Hospitality Register in respect of offers of gifts and hospitality made to Members and Officers of the District Council during the period January to December 2018.

APPENDIX A

REPORT OF MR IAN DAINES, INDEPENDENT PERSON

At the close of each municipal year, I submit a report to the Standards Committee of North East Derbyshire District Council (NEDDC) on my work as an Independent Person in the previous 12 months. This is my report for the period April 2018 - May 2019.

In May 2018, the Monitoring Officer (MO) asked my opinion regarding a complaint against a member of NEDDC. A member of the public alleged that the Councillor has been discourteous during a meeting of NEDDC. I advised the MO that I thought the Councillor's conduct was within reasonable bounds & that no breach of the Code of Conduct was revealed. The MO concurred with that view & advised the complainant accordingly.

In August 2018, the MO asked my opinion regarding a complaint from a member of a lower tier Council within the boundaries of NEDDC. The complainant alleged that another member of the same Council had been discourteous at a public gathering. I advised the MO that there was some evidence of a breach of the Code of Conduct & that further investigation was needed. The MO concurred with that view & appointed an investigator. When the investigator's report was complete, the MO asked my opinion on that report. I advised the MO that I found the investigator's report to be sufficiently thorough. The investigator found that the totality of the evidence did not support the allegation that the Code of Conduct had been breached. I agreed with his finding. The MO concurred with that view & advised the complainant accordingly.

In February 2019, a Councillor of a lower tier authority was the subject of a complaint. The MO told that Councillor that I was available to advise that Councillor on how to respond to the complaint. The Councillor did not seek my advice.

In March 2019, the MO sought my opinion regarding a complaint that a member of NEDDC had behaved improperly in relation to planning matters. I advised the MO that no breach of the Code of Conduct was revealed. The MO concurred with that view & advised the complainant accordingly.

There are no issues that I wish to raise with the Standards Committee.

My period of appointment as an Independent Person ends on 31 May 2019. I have been honoured to be of assistance to the members of NEDDC but I shall not be seeking re-appointment. Therefore, this is my final report to you.

Ian Daines
Independent Person.

APPENDIX B

REPORT OF MR STUART HOOTON, INDEPENDENT PERSON

Complaints received 2018/19.

1. June 2018

A complaint was received from a member of the public in June concerning a Councillor's failure to respond to a number of matters concerning housing.

In my opinion no breach of the Code of Conduct occurred due to the complaint concerning the individual's role with a housing association and not in his official position as a Councillor.

2. December 2018

A complaint and counter complaint between two Councillors was received. The evidence supplied supported a view of some misunderstanding, eagerness to perform duties to help the community and the normal cut and thrust of local politics.

In my opinion no breach of the Code of Conduct took place and the issues could have been discussed at a Parish Council meeting rather than through the complaints procedure.

3. February 2019

A complaint from a member of the public was received concerning the non-declaration of income by a Councillor. The complainant offered no direct proof or source of the information concerning this income. The complainant has been classed as vexatious in the past and restrictions are placed on how contact is allowed with the councils involved. In light of no other information to support the claim and the nature of the individuals past involvement in my opinion no breach of the Code of Conduct had taken place.

4. March 2019

A complaint from a company was received concerning a Councillor's role in planning matters. I was allocated as contact for procedural matters for the Councillor, some clarification advice was offered.

Stuart Hooton
Independent Person

NEDDC STANDARDS COMMITTEE WORK PROGRAMME 2019/20

Meeting date	Item	Comments
11 July 2019	Standards Committee Annual Report Review of Standards Committee Terms of Reference Complaints Update Work Programme	
19 September 2019	Review of Constitution – Part 1 Local Government Ombudsman Annual Report Complaints Update Work Programme	
21 November 2019	RIPA Policy Annual Review – Part 2 Review of Constitution – Part 2 Complaints Update Work Programme	
6 February 2020	Gifts and Hospitality Review 2019 Joint Whistleblowing Policy Annual Report Review of Constitution – Part 3 Appointments to Outside Bodies Complaints Update Work Programme	
23 April 2020	Review of Constitution – Part 4 Complaints Update Work Programme 2019/20 – Achievements Work Programme 2020/21	

STANDARDS WORK PROGRAMME 2019-20