



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