

# STANDARDS AND CONSTITUTIONAL OVERSIGHT COMMITTEE

Wednesday, 1 July 2015

Present: Councillor WJ Davies (Chair)

Councillors RL Abbey M McLaughlin  
C Blakeley D Roberts  
G Ellis J Salter  
P Gilchrist

Mr B Cummings  
Prof RS Jones

## 1 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor J Hale and Mr C Jones.

## 2 MEMBERS' CODE OF CONDUCT - DECLARATIONS OF INTEREST

Councillor C Blakeley declared a personal interest in Item No. 5 on the agenda – Summary of Standards Complaints - as he was the subject of one of the complaints. (Minute No. 5 refers)

## 3 MINUTES

### RESOLVED:

**That the Minutes of the meeting of the Committee held on 3 March 2015 be confirmed as a correct record.**

## 4 CONSTITUTIONAL AMENDMENTS REQUIRED UNDER THE LOCAL AUTHORITIES (STANDING ORDER) (ENGLAND) (AMENDMENT) REGULATIONS 2015

A report by the Head of Legal and Member Services and Monitoring Officer set out the changes that must be made to the Council's Constitution to give effect to The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 (SI2015/881) ("the Regulations"). Appendix 1 to the report set out in great detail the proposed changes to the Constitution for the Committee's information.

The Committee was informed that Regulations came into force on 11 May 2015 that required the Council to make certain changes to its Constitution

relating to disciplinary action/arrangements in respect of the Head of Paid Service, Monitoring Officer and Chief Finance Officer.

The Committee noted that these changes to the Constitution must be made no later the first ordinary meeting of Council after 11 May 2015 (as prescribed by the Regulations).

The Head of Legal and Member Services and Monitoring Officer introduced his report and took Members through it in detail. Members then asked a number of questions which the Head of Legal and Member Services and Monitoring Officer responded to as appropriate.

**RESOLVED:**

**That the Committee recommends to the Council: That**

- (1) the proposed changes to the Council's Constitution be approved;**
- (2) the Monitoring Officer be authorised to invite the Council's current Independent Persons, appointed under section 28(7) Localism Act 2011, to be considered for appointment to the Council's Employment and Appointments Committee and the Chief Officers Employment Sub-Committee where matters relating to the dismissal of the Head of Paid Service, Monitoring Officer or Chief Finance Officer are to be considered;**
- (3) upon any of the said Independent Persons referred to in 9" above confirming in writing to the Monitoring Officer their willingness to be considered for appointment to the Council's Employment and Appointments Committee and the Chief Officers Employment Sub-Committee pursuant to The Local Authority (Standing Order) (England) (Amendment) Regulations 2015, their appointment shall be deemed to take effect.**
- (4) where the number of Independent Persons appointed to the Council's Employment and Appointments Committee and the Chief Officers Employment Sub-Committee under the Regulations falls below two and undue delay and/or a significant adverse impact is likely to arise in relation to the matter relating to the dismissal of the Head of Paid Service, Monitoring Officer or Chief Finance Officer:**
  - (a) a relevant Chief Officer of the Council shall be authorised to invite (in priority order) up to two Independent Person(s) as defined by The Local Authority (Standing Order) (England) (Amendment) Regulations 2015 to be considered for appointment to the Council's Employment and Appointments**

**Committee and the Chief Officers Employment Sub-Committee; and**

- (b) the Chairperson of the Employment and Appointment Committee, in consultation with the relevant spokespersons of the other political groups, shall have delegated power to appoint and co-opt the Independent Person(s) duly invited under (4) (a) above to the Council's Employment and Appointments Committee and the Chief Officers Employment Disciplinary Sub-Committee so as to give effect to The Local Authority (Standing Order) England) (Amendment) Regulations 2015.**

**and**

- (5) the Head of Human Resources and Occupational Development shall be given delegated authority to make such changes considered necessary, in consultation with the Chairperson of the Employment and Appointments Committee, to any employment/disciplinary policies, arrangements and practices so as to give effect to The Local Authority (Standing Order) (England) (Amendment) Regulations 2015.**

## **5 SUMMARY OF STANDARDS COMPLAINTS**

The Council was required to deal with complaints made against its Members under its approved Ethical Framework.

In order to assist with the effective administration of standards complaints, the Committee, as part of its monitoring role, was invited to consider the nature and handling of complaints received pursuant to the Members' Code of Conduct.

A report by the Head of Legal and Member Services and Monitoring Officer informed that the process for the administration of standards complaints was undertaken in accordance with the Protocol for Dealing with Member Complaints which had been approved by the Committee and the Council. Attached to his report at Appendix 1 was a summary of standards complaints made under the Members' Code of Conduct between 1 April 2014 and 1 July 2015. The Committee noted that during this period 11 complaints had been made. It also noted the current status of each one.

The Ethical Framework required complaints to be dealt with confidentiality (unless permitted by the Protocol) and, therefore, it was not possible to provide extensive details in respect of each complaint.

A Member raised concerns that the Strategic Director of Transformation and Resources was not in attendance at the meeting as he wanted to discuss with

him the fact that the agenda for this meeting had been incorrectly published on the website. It had then been unpublished following representations made by him, amended and then republished. The Member further informed that he was the subject of a complaint (Case Ref 11) and had not been told that it was referred for investigation. He had spoken to the Strategic Director about this and been assured that it had been an error. He queried if there were any other errors in the paperwork and reported that eight months after the complaint had been lodged an investigation had not yet been carried out. The Member informed the Committee that it had put in place a Protocol with timescales that were not being adhered to.

Another Member informed that he was disappointed that the Strategic Director was not in attendance. However, another Member reminded the Committee that it was not in a position to make a judgement on the particular issue but informed that she was concerned about the timescale.

The Head of Legal and Member Services and Monitoring Officer took responsibility for the error and told the Committee that it had been in the Summary of Standards Complaints (Appendix 1) and he apologised for it, informing that he had made sure it was corrected and the agenda was republished within the five clear working days laid down. The Strategic Director was only dealing with the specific complaint that had been referred to.

A Member made reference to the number of complaints received about Members failing to treat others with respect and queried how effective were the sanctions that were used in respect of the complaints that were upheld. The Member was aware that training was provided but also queried how effective it had been.

The Head of Legal and Member Services and Monitoring Officer informed the Committee that he would discuss the comments that Members had made with the Strategic Director. The complaints process was now faster than in the past but sometimes there were legitimate reasons why complaints took longer to conclude. However, he accepted the need for complaints to be dealt with more quickly. The Committee's attention was drawn to the fact that despite a number of complaints having been made about lack of respect, six had not been upheld, three had been dealt with through alternative means and two were 'live' cases.

A Member asked what happened when it had been found that a Member had treated someone with a lack of respect and a local resolution had been achieved and then the Member treated someone else again in the same way. The Head of Legal and Member Services and Monitoring Officer responded that he would take the fact that the Member had not learnt a lesson into account and if, appropriate, refer the subsequent complaint for investigation rather than for local resolution.

A Member reminded the Committee that the Working Group had drawn up a Protocol and a set of timescales to deal with Members' complaints which had been agreed by the Standards and Constitutional Oversight Committee and the Council. He also informed that his view was that Standards complaints could be referred for investigation and Members could be found guilty of the behaviours complained of but if the behaviour did not constitute a criminal act, there were no significant sanctions the Council could impose so it was pointless for a Working Group to be established to look at this.

The Head of Legal and Member Services confirmed that the Localism Act 2011 changed the previous Ethical Framework that was rigid and onerous to administer. Although a Council no longer was required to have a Standards Committee, the Council had agreed to have one and had extended its remit to include Constitutional Oversight. The Committee in turn had established a Working Group to assist it in its work.

The Council had developed and introduced a Members' Code of Conduct and Protocol for dealing with complaints made under the Code. However, the Localism Act removed the power of the Council to suspend a Member for breach of the Code. The power to suspend now rested with the Magistrates Courts. A case could only be brought to the Magistrates Court by the Director of Public Prosecutions and it was considered unlikely that a criminal case against a Member would be brought unless an alleged significant offence was committed. The powers of the Council were limited and ranged from Members being required to apologise through to training. Members each year had the opportunity, through the Working Group to review the Code of Conduct and the Protocol to ensure it remained fit for purpose.

The Head of Legal and Member Services also informed that Group Leaders had signed up to the Protocol. They were notified of any complaints against Members of their political group and were expected to promote better behaviour and conduct.

**RESOLVED: That**

- (1) the summary of standards complaints set out at Appendix 1 to this report be noted;**
- (2) the Committee puts on record its disappointment over the time it has taken to look at a particular complaint; and**
- (3) the Strategic Director of Transformation and Resources be requested to attend the next meeting of the Committee.**

## **ESTABLISHING THE STANDARDS AND CONSTITUTIONAL OVERSIGHT WORKING GROUP**

The Head of Legal and Member Services and Monitoring Officer presented a report to the Committee that detailed a proposed Work Programme for the Standards and Constitutional Oversight Working Group for the 2015/16 Municipal Year.

The Committee was reminded that during the previous Municipal Year the Working Group had considered the following matters and/or made recommendations for its consideration:

- Development of Member Values and Behaviours (initial discussion only);
- Review of the Council's Constitution – Council Procedure Rules (ongoing);
- Policy on Reporting on Council Meetings (filming of committees); and
- Review of the Protocol on Member/Officer Relations.

The Head of Legal and Member Services and Monitoring Officer proposed that the following specific work streams for the Working Group for consideration and approval by the Committee.

### **(A) Review of the Council's Constitution**

The Working Group during the last Municipal Year had commenced discussion on reviewing the Council Procedure Rules.

The Working Group had decided that it was not necessary to undertake a further Members' Survey in relation to the Council's Constitution last year.

The Working Group instead had focused its attention specifically on the Council's Procedure Rules contained within the Constitution. A benchmarking exercise had been undertaken which enabled the Working Group to consider the Procedure Rules and Council Agendas of a number (16) of Councils. This had helped the Working Group appraise the Council's current arrangements in greater detail and facilitate debate and discussion about how the Council's democratic and decision-making arrangements could be improved.

Given the nature and extent of the review being undertaken, the Working Group had not been able to complete its review of the Council's Constitution. It was, therefore, proposed that the Working Group complete its review of the Council's Procedure Rules; and that it reports its progress/recommendations to the Committee in due course.

**(B) Review of the Members Code of Conduct and Protocol**

The Working Group had annually reviewed the Members' Code of Conduct and Protocol, for Dealing with Complaints.

It was good practice for Members to keep the Code and the Protocol under review to ensure that it remained fit for purpose and assisted the Council to maintain high standards of conduct as required under the Localism Act 2011.

Accordingly, it was proposed that the Work Programme of the Working Group included the review of the Code and Protocol.

**(C) Member's ICT Policy**

With the new ICT equipment being rolled out to Members it was considered an opportune time for Members to consider the Members' ICT Policy to ensure that it too was fit for purpose and that it set out clearly all the obligations and duties Members were required to follow, as well as what was permitted.

Such a review had not been undertaken in the recent past and it was important that the policy captured all relevant issues and matters including duties arising under Data Protection legislation.

The Terms of Reference for the Working Group were set out in Appendix 1 to the report and the Committee was request to consider and approve the same having also regard to the suggested work steams detailed above.

Following the Head of Legal and Member Services and Monitoring Officer's presentation Members asked a number of questions about the following:

- Filming at meetings open to the Press and Public.
- The monitoring of complaints made to the Local Government Ombudsman.
- The monitoring of other complaints made by residents of the Borough through the Council's Complaints System.
- The handling of vexatious complaints.

**RESOLVED: That**

- (1) a cross party Standards and Constitutional Oversight Working Group for the current Municipal Year be established;**
- (2) the Terms of the Standards and Constitutional Oversight Working Group as set out in Appendix 1 to the report be agreed;**
- (3) Members of the Working Group be appointed as follows:**

**Councillors Ron Abbey, Chris Blakeley, Bill Davies, Phil Gilchrist, John Hale, Moira McLaughlin and John Salter and each of the three Independent Members (Messrs B Cummings and C Jones and Prof RS Jones);**
- (4) the proposed Work Programme of the Standards and Constitutional Oversight Working Group as set out above be agreed;**
- (5) the Head of Legal and Member Services and Monitoring Officer be requested to circulate, to all Members of the Committee, the Protocol on Filming at Meetings which the Press and Public are invited to attend; and**
- (6) the Head of Legal and Member Services and Monitoring Officer be requested to ascertain where the details of Complaints to the Local Government Ombudsman are reported and inform all Members of the Committee.**