

FULL COUNCIL
28 FEBRUARY 2019

To receive the confirmed minutes of the
meeting of the Audit and Governance
Committee held on 10 December 2018.

Present: Councillor Jonathan Noble (Chairman),
Councillors Tom Ashton, Colin Brotherton, Paul Gleeson, and Felicity Ransome

Also attending – Councillor Michael Cooper

Officers –
Deputy Chief Executive and Monitoring Officer, and Democratic Services Manager.

33 MINUTES

The minutes of the meeting held on 12th November 2018 were agreed as a correct record and signed by the Chairman.

34 APOLOGIES

Apologies for absence were received from Councillors Michael Brookes, James Edwards and Barrie Pierpoint and Mr. Alan Pickering.

35 MEMBER CODE OF CONDUCT ARRANGEMENTS

The Deputy Chief Executive and Monitoring Officer introduced a report setting out proposed revisions to the current arrangements for dealing with Member Code of Conduct issues.

The report stated that in March 2018 the Audit and Governance Committee had considered a report reviewing the Member Code of Conduct and associated policies, which were recommended to full Council for approval.

However, the report to Council had been withdrawn prior to the meeting following comments from Members and it was agreed to convene a cross party Code of Conduct Working Group to review the policies in detail and address concerns raised by Members.

The Group had met on several occasions and its recommendations were set out in the report.

During deliberations on the current arrangements for dealing with Code of Conduct complaints the Group had expressed the view that a separate sub-committee of the Audit and Governance Committee should be established for the governance and conduct aspects of the work of the Committee, rather than being within the remit of the full Committee.

The proposed arrangements included appointing parish councillors and a parish clerk to the sub-committee on a non-voting status to recognise the responsibility for conduct of parish councillors and a Cabinet Member, but not the Leader, as an ex office member (non-voting).

The main changes in the process for dealing with standards complaints involved having as Assessment Panel of Members to determine if investigations should take place.

Following receipt of a complaint the Monitoring Officer, in consultation with the Independent Person, would determine if the action or behaviour of the Member had breached the Code of Conduct, based on knowledge, case law and experience. If it was considered to be a breach an Assessment Panel would be convened to decide whether or not the complaint should be investigated or local resolution sought.

The process for investigating complaints and the conduct of Hearing Panels, if required, would remain unchanged. The proposed Terms of Reference for a Standards Sub-Committee and the revised arrangements for dealing with standards complaints were attached as appendices to the report.

If the introduction of a Standards Sub-Committee were approved its first piece of work would be to review the Member Code of Conduct to ensure it was fit for purpose, robust and promoted the high standard of behaviour expected of Members. The review would include the requirement to treat others with respect, equality and diversity including the Public Sector Equality duty, data protection and provide clarification of the circumstances when the code applied to Member's behaviour.

Until such time as a review had been completed it was recommended that Council reaffirm its adoption of the current Member Code of Conduct, subject to referencing all supporting policies e.g. Member Employee Protocol, Data Protection Protocol, Whistleblowing Policy etc. and noting that any action or behaviour which constituted a breach of any of the supporting policies would also be a breach of the Member Code of Conduct.

The Member Code of Conduct, Member Employee Protocol and Members Data Protection Protocol were appended to the report and recommended for approval.

Under the Localism Act 2011 the Council was required to appoint at least one Independent Person who must be consulted by the authority before it made a finding as to whether or not a Member had failed to comply with the Code of Conduct.

The Council currently had one Independent Person appointed for standards purposes and it was recommended that a recruitment exercise be undertaken to appoint an additional two suitably qualified Independent Persons to provide more resilience to the role to cover for absences or circumstances where there was a conflict of interest in a complaint.

The Committee were supportive of the proposals set out in the report which would allow Borough Councillors and Parish Councils to be involved in the process. Comments from Mr Alan Pickering, Independent Member of the Committee, were circulated for information and it was agreed that it would be appropriate for these to be taken into consideration when the sub-committee, if approved, reviewed the Member Code of Conduct.

In response to comments regarding the provision for the identity of the person making a standards complaint against a member being withheld from that Member, the Monitoring Officer stated that, in some circumstances, it would not be appropriate to release personal details if there were concerns regarding the personal safety of the complainant or a risk of reprisals against them. If the complainant felt they had been unfairly disadvantaged by their details being released there was a risk that legal action could be

taken against the Council. The situation would arise only rarely and there would need to be justifiable reasons for withholding the identity of the complainant

The Chairman asked for it be recorded that, in his opinion, Members should be allowed to see all forms of evidence against them.

It was agreed the wording on the flow chart set out in appendix 2 should be amended to clarify that alleged breaches of the Code of Conduct would be referred to the Assessment Panel, and similarly the wording in paragraph 2.4 of the report.

The Committee requested that a Member Briefing be arranged in advance of the report being considered by Council on 21 January 2019.

RESOLVED

- 1. To recommend to full Council that a Standards Sub Committee be established from the AGM in May 2019 and the Terms of Reference as set out in Appendix 1 be adopted.**
- 2. To recommend to full Council to adopt the Arrangements for Dealing with Member Complaints as set out at Appendix 2.**
- 3. To recommend to Full Council to reaffirm adoption of the Members' Code of Conduct at Appendix 3, subject to it referencing all supporting policies e.g. Member Employee Protocol, Data Protection Protocol, Whistleblowing Policy. Any behaviour which constituted a breach of any of the supporting policies would consequently be a breach of the Member Code of Conduct.**
- 4. To recommend to Full Council to adopt the revised Member Employee Protocol at Appendix 4.**
- 5. To recommend to Full Council to adopt the Members' Data Protection Protocol at Appendix 5.**
- 6. To recommend to full Council the appointment of two additional Independent Persons to support the Standards Sub Committee and participate in the Code of Conduct complaints process.**
- 7. That a Member Briefing be arranged in advance of consideration of the report by full Council on 21 January 2019.**

The meeting ended at 7.10 pm