



Meeting: **AUDIT AND GOVERNANCE COMMITTEE (WORKING GROUP)**
Date: **THURSDAY 2 MARCH 2017**
Time: **10.30AM**
Venue: **COMMITTEE ROOM**
To: **Councillors M Jordan (Chair), Mrs J Chilvers and R Packham.**

Agenda

1. Apologies for absence

2. Disclosures of Interest

A copy of the Register of Interest for each Selby District Councillor is available for inspection at www.selby.gov.uk.

Councillors should declare to the meeting any disclosable pecuniary interest in any item of business on this agenda which is not already entered in their Register of Interests.

Councillors should leave the meeting and take no part in the consideration, discussion or vote on any matter in which they have a disclosable pecuniary interest.

Councillors should also declare any other interests. Having made the declaration, provided the other interest is not a disclosable pecuniary interest, the Councillor may stay in the meeting, speak and vote on that item of business.

If in doubt, Councillors are advised to seek advice from the Monitoring Officer.

3. Review of Standards Arrangements

To receive the report of the Solicitor to the Council, which asks the Audit & Governance Committee Working Group to review the Standards arrangements at Selby District Council and to report back to Council (pages 1 to 16 attached).

Gillian Marshall
Solicitor to the Council

For enquiries relating to this agenda please contact Daniel Maguire:
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Recording at Council Meetings

Recording is allowed at Council, Committee and Sub-Committee meetings which are open to the public, subject to:- (i) the recording being conducted with the full knowledge of the Chairman of the meeting; and (ii) compliance with the Council's protocol on audio/visual recording and photography at meetings, a copy of which is available on request. Anyone wishing to record must contact the Democratic Services Officer on the above details prior to the start of the meeting. Any recording must be conducted openly and not in secret.



Public Session

Report Reference Number: A/16/24

Agenda Item No: 3

To: Audit and Governance Committee (Working Group)
Date: 2 March 2016
Author: Gillian Marshall, Solicitor to the Council

Title: Review of Standards Arrangements

Summary:

On 13 December 2016 full Council received a report from the Monitoring Officer on the operation of the current standards regime for Selby District Council and Parish Councils within Selby District. The report considered the complaints history and concluded that, whilst the arrangements are satisfactory and meet legal duties, there are areas for improvement and recommended a review be undertaken.

Council resolved to ask Audit and Governance Committee to review the Standards arrangements and to report back to Council if they consider any changes should be made.

On 18 January 2017 Audit and Governance Committee resolved to create a Working Group to undertake the review and approved Terms of Reference to guide the work.

Recommendation:

That the Audit and Governance Committee Working Group reviews the arrangements and reports back on any changes considered appropriate.

Reasons for recommendation

To meet the request by full Council that the Audit and Governance Committee undertake a review of the current arrangements and report back.

1 Introduction and policies

- 1.1 Under the Localism Act 2011 principal councils were required to adopt their own arrangements for dealing with complaints against councillors alleged to have breached their council's code of conduct. The current standards arrangements adopted by Selby District Council came into

force on 1 July 2012 and deal with complaints against Selby District Councillors and Town and Parish Councillors in the District of Selby.

- 1.2 Selby District Council does not have a Standards Committee. Instead, ethical matters are considered by full Council and the arrangements for dealing with complaints are delegated to the Monitoring Officer, advised by the Independent Persons. The arrangements have proved to be flexible and have provided sufficient discretion to deal appropriately with the complaints which have come forward. However it has become apparent that the new system is disconnected from Councillors and particularly from Parish Councils and Parish Councillors.

2 Arrangements for the Review and Terms of Reference

- 2.1 In December 2016 the Monitoring Officer made a report to full Council on the operation of the current standards regime for Selby District Council and Parish Councils within Selby District. The report considered the complaints history and concluded that, whilst the arrangements are satisfactory and meet legal duties, there are areas for improvement and recommended a review be undertaken. The Report is attached at Appendix A
- 2.2 Terms of Reference for this review by a Working Group are attached at Appendix B and were agreed by the Audit and Governance Committee on 18 January 2017. These look at the issues identified by the Monitoring Officer and Independent Persons as set out in the report to Council.
- 2.2 The Independent Persons and the Monitoring Officer will be present to provide information, answer questions and to contribute to the review.

3 Legal/Financial Controls and other Policy matters

3.1 Legal issues

- 3.1.1 Under s 27 of the Localism Act the Council is under a duty to promote and maintain high standards of conduct by Councillors and co-optees. Primary responsibility for the discharge of this duty falls to the Monitoring Officer.

3.2 Financial Issues

- 3.2.1 None identified.

4 Conclusion

- 4.1 That the Audit and Governance Working Group should undertake the Review and report back.

5 Background Documents/Contacts

Contact Officer: *Gillian Marshall, Solicitor to the Council*

Appendices:

Appendix A: Report of the Monitoring Officer

Appendix B: Terms of Reference



Public Session

Report Reference Number: C/16/10

Agenda Item No: 15

To: Council
Date: 13 December 2016
Author: Gillian Marshall, Monitoring Officer and Solicitor to the Council

Title: Report of the Monitoring Officer – Standards Arrangements

Summary:

This report covers the operation of the current standards regime for Selby District Council and Parish Councils within Selby District. It considers the complaints history and concludes that, whilst the arrangements are satisfactory and meet legal duties, there are areas for improvement and recommends a review be undertaken.

Recommendations:

- i. To note the contents of the Report
- ii. To ask the Audit and Governance Committee to review the Standards arrangements and to report back to Council if they consider any changes should be made.
- iii. To authorise the Monitoring Officer to make arrangements to advertise the posts of Independent Persons to ensure new appointments are made with effect from 22 July 2017.

Reasons for recommendation

To ensure that high standards of conduct by Councillors and co-optees are promoted and maintained.

1. Introduction and background

- 1.1 Under s 27 of the Localism Act the Council is under a duty to promote and maintain high standards of conduct by Councillors and co-optees. Primary responsibility for the discharge of this duty falls to the Monitoring Officer.
- 1.2 The Monitoring Officer ensures that Councillors are provided with information about what interests must be registered and declared, compiles and maintains

a register of such interests and deals with complaints about the conduct of Councillors when acting in the capacity of Councillor. Under the legislation the District Council Monitoring Officer is also responsible for registering interests for and dealing with complaints relating to Town and Parish Councillors.

2 The Report

- 2.1 In September 2014 the Council received a report of the Monitoring Officer on the operation of the arrangements. It reported on the first full year of operation (2013/14) as well as the part year preceding it (July 2012 to 31 March 2013).
- 2.2 The report at Appendix A covers the period from May 2014 to December 2016. In that period the Monitoring Officer received 15 complaints. Five were made against District Councillors, 3 relating to the same issue/ward. Four were rejected and one is still being considered. Ten related to Parish Councillors. Two were upheld, four were rejected and four are still awaiting a decision.
- 2.3 The Monitoring Officer has consulted with the Independent Persons on the content of this report. They have suggested that there be a review of the current arrangements to introduce formal assessment criteria for the initial stage of consideration by the Monitoring Officer. They recommend that Council should consider whether or not there should be a Hearings Panel made up of Councillors potentially drawn from the members of Audit and Governance with a Parish co-optee in relevant complaints in view of the increasing number of Parish Issues. They also comment that time limits should be added to the procedures to ensure complaints are dealt with in a timely manner. The Monitoring Officer supports these suggestions.
- 2.5 It should also be noted that the current Independent Persons were appointed for a period of 5 years from 23 July 2012. Their term of Office expires on 22 July 2017 and therefore Council will be required to appoint new (or re-appoint the existing) IPs at that date.

3 Legal/Financial Controls and other Policy matters

Legal Issues

- 3.4 The Council should take positive steps to discharge the s27 duty. The report indicates that the duty is being discharged correctly.

Financial Issues

- 3.5 None

Impact Assessment

- 3.6 Reporting raises the profile of the Standards Arrangements amongst members, the press and public.

4. Conclusion

- 4.1 That the arrangements work satisfactorily but merit a review to ensure that they are fit for the future.

5. Background Documents

None

Contact Officer:

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Appendices:

Appendix A – Standards Report

STANDARDS REPORT

Gillian Marshall
Monitoring Officer
December 2016



Introduction – Ethical Standards

The Localism Act 2011 swept away the standards regime first introduced as part of the Local Government Act 2000. In its place was a duty placed upon all councils to promote and maintain high standards of conduct by councillors and co-opted members.

Personal and Prejudicial interests were replaced by a set of nationally defined “Disclosable Pecuniary Interests” – reinforced by new criminal sanctions - and locally determined “other interests”.

All Councils were required to develop and adopt their own local Code of Conduct based upon the Seven General Principles of Public Life. As a consequence those councillors serving their electorate in Selby District might be governed by different codes of conduct for North Yorkshire County Council, Selby District Council or their Town or Parish Council.

In addition, principal councils were required to adopt their own arrangements for dealing with complaints against councillors alleged to have breached their council’s code of conduct. The standards arrangements adopted by Selby District Council came into force on 1 July 2012 and deal with complaints against Selby District Councillors and Town and Parish Councillors in the District of Selby.

The Council’s Monitoring Officer is responsible for advising the Council on its duty to maintain high ethical standards; for advising councillors on their responsibilities to conduct themselves appropriately, register and declare their interests and not otherwise jeopardise the proper decision-making of the Council; and for managing the arrangements for dealing with complaints.

The Council has appointed two Independent Persons to provide an independent view on how the Council manages its ethical standards.

These new arrangements were introduced part way through the 2012/13 municipal year.

A Report under the new arrangements was considered by Council in September 2014 for the period 2012 to April 2014.

This report covers the period May 2014 to December 2016.

Code of Conduct

Selby District Council adopted a local Code of Conduct on 24 April 2012. The Code came into effect from 1 July 2012.

The Code is broadly similar to the Code adopted by North Yorkshire County Council.

Town and Parish Councils in Selby District have either adopted the same Code as the District Council or they have adopted the model code issued by the National Association of Local Councils (NALC).

The Localism Act 2011 required that all codes of conduct should be based upon the seven principles of public life:-

1. Selflessness
2. Integrity
3. Objectivity
4. Accountability
5. Openness
6. Honesty
7. Leadership

A copy of the Selby District Council Code of Conduct is available at

www.selby.gov.uk/upload/SDC_CODE_OF_CONDUCT_FINAL_2012.doc

Monitoring Officer

Gillian Marshall, Solicitor to the Council is the Council's Monitoring Officer.

The Monitoring Officer (MO) is a statutory role and is required to ensure that the Council, its Councillors and Officers carry out their functions in a proper and lawful manner. The MO has an important role to play in ensuring that high standards of conduct are promoted and maintained throughout the organisation.

The MO is responsible for establishing, maintaining and publishing the Register of Councillors' Interests for District, Town and Parish Councils and for ensuring that the Council's Constitution is effective.

Monitoring Officers across North Yorkshire meet periodically to share best and emerging practice, co-ordinate training and development and co-operate in the investigation and hearing of complaints.

Independent Persons

The Council has appointed Hilary Putman and Wanda Stables as its two independent persons. A job role and person specification were drawn up prior to the recruitment of the two independent persons. Both of the Independent Persons were

previously independent members of the Standards Committee. Hilary Putman served as Chair of the Standards Committee from 2009 to 2012.

The role of the Independent Persons is to:-

- Be consulted by the Monitoring Officer as part of the complaint handling process
- Be consulted by the Council before it makes a finding about whether a Councillor or co-optee has failed to comply with the Code of Conduct.
- Advise the Council, when consulted, on the effective working of the Code of Conduct and the Council's arrangements for dealing with complaints; and
- Be available to be consulted by a Councillor against whom a complaint has been made
- Have a freestanding remit to offer comment to the Council on its performance of the general duty to promote high standards of ethical conduct.

The Chairs of Standards Committees (where Councils have them) and Independent Persons meet from time to time to share their experience, consider best and emerging practice and discuss training and development.

The current Independent Persons were appointed for a period of 5 years from 23 July 2012. Their term of Office expires on 22 July 2017 and therefore Council will be required to appoint new (or re-appoint the existing) IPs at that date.

Registration of Interests

The Localism Act 2011 requires all Councils to adopt a local Code of Conduct which includes provisions for the registration and disclosure of pecuniary interests and other interests. Councillors with disclosable pecuniary interests in the business of their Council are prohibited from participating in such business unless they have a dispensation. The Act also introduced a criminal offence relating to failure to register disclosable pecuniary interests. Councillors convicted of such offences are liable to a scale 5 fine (up to five thousand pounds) and may also be disqualified from being a councillor for up to five years.

Training has been provide to District, Town and Parish Councillors explaining the obligations, the procedures for registering and disclosing interests and the consequences if the obligations are not met.

Councillors have also been made aware that even if a Councillor's interest does not amount to a disclosable pecuniary interest, the interest might lead them to predetermine a decision or give rise to a perception of bias. In such cases, it would not be appropriate for them to participate in the decision. If they do participate the decision could be vulnerable to challenge.

The Monitoring Officer has a legal duty to establish and maintain a register of interests for the District Council and also for Town and Parish Councils in the District. The Register(s) must be available for inspection at all reasonable hours and must be published on the Council's website. Where a Town or Parish Council also has a website a copy of the Register for that Town or Parish Council must also be published on that website. For convenience many Parish and Town Councils opt to provide a link to the District Council's website to comply with this requirement.

There is a high level of compliance with the requirement to register interests, however some of the returns lack full details of the registerable interest.

In 2017 it is proposed to audit the Registers and to invite District and Parish Councillors to review and update their registers where necessary alongside some training on interests and declarations.

Dispensations

One request for a dispensation has been received during the period covered by this report. The request was granted as it related to consideration of an information report which referred to the employer of a councillor.

Standards Arrangements

The Local Government Act 2000 previously required all principal authorities to establish a Standards Committee as the body with responsibility for promoting high standards of ethical conduct.

The Localism Act 2011 did away with the obligation to appoint a Standards Committee. Many local authorities chose to retain a Standards Committee as part of their new local arrangements.

Selby District Council decided not to appoint a Standards Committee. Instead, ethical matters are considered by Council and the arrangements for dealing with complaints are delegated to the Monitoring Officer, advised by the Independent Persons.

The new arrangements have proved to be flexible and have provided sufficient discretion to deal appropriately with the complaints which have come forward.

However it has become apparent that the new system is disconnected from Councillors and particularly from Parish Councils and Parish Councillors, thus the process of dealing with complaints does not raise the profile of proper councillor conduct.

Some Councils do operate a system which leaves the assessment stage (when the considers whether to investigate the complaint; or take other action; or decide no action is to be taken) with the Monitoring Officer but create a Hearings Committee (as a sub-committee of another Committee such as Audit and Governance) to make findings of fact.

There is merit in such an approach to built a connection between Councillors and the standards arrangements. Parish Councillors could be co-opted onto the Hearings Committee for parish complaints.

In addition, experience has shown that the adversarial process of a hearing before the MO can be difficult to manage effectively as an investigation. A revised system involving a Hearings Committee will allow the MO to present an investigation report to members setting out the facts agreed or in dispute and highlighting the decisions needed.

The table overleaf shows complaints dealt with under these arrangements in the period covered by this report.

	Council	Allegation	Outcome
1	Appleton Roebuck Parish Council	Disrespect Bullying Breach Equality Law	Rejected at assessment stage
2	Hemingbrough Parish Council	Disrepute/failure to declare interests	Historic breaches of previous (pre 2012) code – no further action warranted
3	Barlby Parish Council	Disrespect and bullying	Not upheld
4	Selby Town Council	Disrespect and bullying	Upheld – remedy suggested and accepted
5	Selby Town Council	Disrespect and bullying	Not upheld
6	Selby District Council	Breach Code of Conduct	Rejected at assessment stage
7	Selby District Council	Misuse of Confidential information	Not upheld
8	Brotherton Parish Council	Disrepute	Under investigation – assessment stage
9	Selby District Council	Disrepute, Conferring an advantage, misuse of confidential info	Under investigation – assessment stage
10	Cliffe Parish Council	Disrepute	Under investigation – assessment stage
11	Tadcaster Town Council	Disrespect	Under investigation – assessment stage
12	Saxton	Disclosable Pecuniary Interest	Rejected at assessment stage
13	Hemingbrough 2 PCs	Failure to declare DPI	Under investigation – assessment stage

Parish and Town Councils

The Parish and Town Councils in Selby District are under the same obligation to promote and maintain high standards of conduct and to adopt a local code of conduct for councillors.

All Parish and Town Councillors have an obligation to register their DPs and other interests.

Regulations published under the Local Audit and Accountability Act 2014 have resulted in changes to how Parish Councils are audited. As a result, during the current round of Audits for the financial year 15/16, the District Council has been notified of a small number of Local Councils where the audit has noted that legal and financial requirements may not be being met. Liaison has taken place with those Councils and advice offered to them on the requirements which apply to them.

A Parish Toolkit will be launched in 2017 to assist Parishes and links with the Yorkshire Association of Local Councils are being strengthened to ensure better support is offered to our 74 Parish Councils and Parish Meetings.

Training and Development

Training sessions for District Councillors and also for Town and Parish Councillors and Clerks was provided in May, June and November 2015. The events were well attended and lively.

The training dealt with

- The Localism Act 2011 and the new Standards Regime
- The Seven Principles of Public Life
- The Local Code of Conduct
- Disclosable Pecuniary Interests
- Other Interests
- The Register of Interests
- Sensitive Interests
- Dispensations
- Arrangements for dealing with complaints of breaches of the code

It is intended to provide further training sessions on conduct in 2017.

The Monitoring Officer and Independent Persons attend national and regional training events from time to time to keep informed of developments in the field of standards.

In July 2016 the Monitoring Officer and one of the Independent Persons were invited to speak at a national conference for Monitoring Officers about the experiences of

the arrangements at Selby. Eighty two delegates attended the event and feedback from delegates was excellent.

APPENDIX B

TERMS OF REFERENCE

Review of Standards Arrangements

1. Information on the current process
2. Views of the Independent Persons and Monitoring Officer
3. Assessment criteria for deciding when to investigate complaints
4. Hearings process
5. Councillor involvement in the process
6. Timescales for complaints