

STANDARDS AND PERSONNEL APPEALS COMMITTEE

Meeting held in the Committee Room, Council Offices, Urban Road, Kirkby-in-Ashfield,

on Monday, 27th March, 2017 at 6.30 pm

Present: Councillor Lauren Mitchell in the Chair;

Councillors Cheryl Butler (substitute for Lachlan Morrison), Steve Carroll, Jackie James, Cathy Mason, Helen-Ann Smith and Jason Zadrozny.

Apologies for Absence: Councillors Amanda Brown and Lachlan Morrison.

Officers Present: Ruth Dennis and Alan Maher.

SP.18 Declarations of Disclosable Pecuniary and Non-Disclosable Pecuniary / Other Interests

No Declarations of Interest were received.

SP.19 Minutes

The minutes of the meeting held on Monday 12 December 2016 were approved as a true record.

SP.20 Performance Special Responsibility Allowance (SRA) Guidance - Criteria, Absences - Excused and Unexcused

The Committee was reminded that as part of its review of the Members' Allowances Scheme, the Independent Remuneration Panel (IRP) had recommended that an annual £500 performance related Special Responsibility Allowance (SRA) be established; in conjunction with a reduction in the basic allowance for councillors of the same amount. All Members would be entitled to claim this SRA, if they had attended 70% of their scheduled meetings and compulsory training events.

The Committee was also reminded that the IRP's recommendations had been accepted by Council and that the Performance SRA would come into operation at the start of the new local government year, in May 2017.

At its last meeting, the Committee had raised practical concerns about how the Performance SRA would operate. It had sought clarification about what should be classed as an excused or unexcused absence when calculating whether a Member had attended sufficient meetings or training events to qualify for the SRA.

Members hoped that in practice this would not be a significant problem and that most Councillors would attend more than 70% of meetings or training events. They heard that the latest figures indicated that only 3 Members might not reach the threshold based on their attendance levels during the current year. The Committee was reassured by this.

Members were informed that the Independent Review Panel had been asked to consider these concerns and provide guidance on what criteria should be used to determine excused and unexcused absences. The Panel's guidance was attached to the report to Committee. Members were asked to consider this and, if appropriate, provide any comments before it was considered by Council, on 20 April 2017.

The Committee discussed the report and the IRP's guidance. In particular, Members noted that the IRP had concluded that work commitments do not constitute a legitimate reason for absence, on the grounds that to do so would mean that he or she would be paid twice - once for their work and once for non-attendance at the meeting.

Some Members of the Committee felt that this approach might make it more difficult to attract people to serve on the Council. Specific concern was raised about those emergency service workers who might be required to attend work at short notice, such as police officers or hospital medical staff. The Committee felt that the criteria for determining excused and unexcused absences should reflect this. It was generally felt that a provision for excused absences due to 'exceptional circumstances' ought to be considered by Council.

The Committee discussed absences due to care commitments. Members were informed that the Panel had clarified the leave which adoptive parents can take. The Committee welcomed this. The IRP guidance also made it clear that caring for dependents under 14 had been specifically excluded as an excuse for absences. In this context, the Committee asked for clarification about whether under the Members' Allowances Scheme Councillors could claim if they had to arrange for adult care cover in order to attend a meeting or training event. The Monitoring Officer, Ruth Dennis, agreed to clarify this.

RESOLVED

- a) That the Committee notes the IRP Guidance as attached to the report;
- b) That the Committee recommends the IRP Guidance to Council for approval with 'exceptional circumstances' (assessed at the discretion of the Monitoring Officer in consultation with the Member's Group Leader, if any) as part of the criteria for excused absences for purposes of the Performance SRA.

Reasons

The performance SRA was approved by Council on 21 July 2016 and is due to become effective from May 2017.

SP.21 Annual Constitution Review

The report to Committee outlined the proposed changes to the Council's Constitution that would be submitted to Annual Council. The Monitoring Officer explained the proposed changes. These included an alteration to the remit of the Overview & Scrutiny Committee to incorporate housing scrutiny. This had previously been agreed by Council in October 2016. She also pointed out that the scheme of delegation would need to be amended to reflect new employee structures and job titles, subject to the implementation of the proposed Corporate Leadership Team (CLT) restructure.

Specific mention was made of a change affecting the Chief Officers Employment Committee. Instead of requiring the whole Committee to participate in employee interviews it was proposed that a Panel be established to do this. Members discussed how this might work and the arrangements for ensuring political proportionality.

Mrs Dennis went on to explain the proposed changes to the Council's Rules of Procedure on questions at Council meetings. She informed the Committee that currently any question judged by the Chief Executive and the Chairman of the Council to be 'vexatious, scurrilous or otherwise improper' could not be asked at the meeting. It was proposed to change this wording in line with best practice to prohibit questions that were 'defamatory, frivolous or offensive'.

The Committee discussed this change. Some concern was expressed that in practice it might be difficult to define these terms and specifically to define what constitutes a frivolous question.

The Committee heard and welcomed the proposal to define the mandatory training that Councillors would have to attend and the frequency for this. As part of the discussion Members considered how training is delivered. There was a consensus that a range of methods should be used, including the use of e-training courses.

Finally, the Committee was informed that it was proposed to amend the Rules of Procedure so that Members could no longer substitute at Planning Committee, Licensing Committee (and its Sub-Committees) and Standards Committee Hearings.

There was an extensive discussion about this proposal. Some Members emphasised the special nature of these 'quasi-judicial' meetings and that those taking the decisions should build-up a body of expertise in the area, which substitute Members could not gain by occasionally attending meetings. Others argued that individual Members who had received the necessary relevant training should be able to make the judgement about whether they felt competent to act as a substitute. They also suggested that this would preclude Councillors who had gained valuable expertise in these areas through their service on other authorities, or who had a particular local perspective, from contributing to the process.

During the discussion it was suggested that a panel or panels of substitute Members could be established who would be able to serve on these bodies. It was noted that other authorities already do this.

The Monitoring Officer agreed to consider the Committee's comments and to reflect them in the proposed changes to the Constitution submitted to Annual Council.

RESOLVED

To note the proposed changes to the Council's Constitution.

Reasons

To ensure that the Council's constitution remains up to date and fit for purpose. The Committee's remit includes making recommendations to Council regarding amendments to the Constitution relating to matters of an ethical governance nature.

SP.22 Annual Ethical Governance Review

Members received a report which summarised the Committee's work programme during the 2016-17. This explained that all of the topics in the programme had been dealt with and that the Committee had achieved this on schedule.

Members were informed by the Monitoring Officer that despite carrying out two recruitment exercises it had not proved possible to attract applicants to serve as co-opted Members of the Committee. There was agreement that the Committee should continue to try and appoint co-opted Members, but that new ways of achieving this goal ought to be adopted. In particular, the Committee suggested that members of the Citizens Panel could be approached and encouraged to take on the role. Mrs Dennis agreed to investigate this.

The Committee then had a preliminary discussion about the topics that should be included in the 2017-18 work programme. Members agreed to contact Mrs Dennis with suggestions for suitable topics.

The report also summarised the number of Member Complaints that had been received and how this had changed compared to previous years.

RESOLVED

- a) That the Committee notes the progress made in relation to the agreed work plan;
- b) That the option of recruiting co-opted Members to serve on the Committee from the Citizens Panel be explored;
- c) That the Committee considers work items to be included in next year's agreed work plan and forwards any suggestions to the Monitoring Officer;
- d) That the Committee notes the number and types of Member Complaints received during the year as summarised in the report.

Reasons

To enable the Committee to carry out its role in monitoring ethical governance.

SP.23 Annual Review of the Whistleblowing Policy

The Monitoring Officer reported that the bi-annual review of the Council's Whistleblowing Policy had taken place. The policy had been found to be fit for purpose and no substantive changes to it had been recommended. In this context, Members noted that there had been two complaints under the policy last year. No complaints have been received to date during 2017.

RESOLVED

That the Committee notes the review of the Whistleblowing policy and how it has operated in the preceding 12 months.

Reasons

To ensure the Committee is adequately informed to enable it to monitor the operation of the Whistleblowing Policy in accordance with the Committee's terms of reference.

SP.24 Quarterly Complaints Monitoring Report

The report to Committee provided information on complaints of alleged Member misconduct and the progress that had been made in assessing them, for the period 3 December 2016 to 17 March 2017. Members were informed that Complaint AD2016-01 was now subject of an in-house investigation in order to avoid external costs. They were also informed that ADC 2016-03 had been dealt with informally. The Committee heard that two new complaints involving District Councillors had been received and three complaints involving Parish Councillors.

Members discussed the timescale for resolving disputes. The Committee heard that more legal officers were now being trained to deal with these complaints, which would hopefully speed up the process.

RESOLVED

That the Committee notes the updated position in respect of Members' Code of Conduct Complaints for the period 3 December 2016 to 17 March 2017.

The meeting closed at 7.50 pm

Chairman.

