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| Report To: | STANDARDS AND PERSONNEL APPEALS COMMITTEE | Date: | 18 MARCH 2019 |
| Heading: | ANNUAL ETHICAL GOVERNANCE UPDATE | | |
| Portfolio Holder: | NOT APPLICABLE | | |
| Ward/s: | NOT APPLICABLE | | |
| Key Decision: | NO | | |
| Subject to Call-In: | NO | | |

Purpose of Report

- To give the Committee an overview of the work of the Standards and Personnel Appeals Committee during 2018/2019.
- To consider work plan items for 2019/2020.
- To note Member attendance during 2018/2019 to date.
- To note arrangements for Member induction and equipment post the District Elections.
- To consider the recommendations of the Committee on Standards in Public Life report on Local Government Ethical Standards.

Recommendation(s)

Committee is asked to:

- 1. Note the progress made in relation to the agreed 2018/19 work plan;**
- 2. Consider future work plan items;**
- 3. Note the number of Member complaints received during the year as summarised in the report and the current outstanding complaints;**
- 4. Note the position in relation to attendance at meetings;**
- 5. Note and provide comments in relation to the arrangements being made for Member Induction and for Member IT equipment;**
- 6. Consider and provide comments in relation to the recommendations of the report of the Committee on Standards in Public Life regarding Local Government Ethical Standards.**

Reasons for Recommendation(s)

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

Alternative Options Considered

(with reasons why not adopted)

Options are considered within the body of the report.

Detailed Information

WORK PLAN – 2018/2019

At its meeting in July 2018, the Committee agreed a programme of work for the 2018/2019 year.

The table below sets out the work item, the agreed timeframes and an update in relation to the progress made.

| Proposed Work Item | Timeframe | Progress |
|--|--|---|
| Quarterly Complaint Update <ul style="list-style-type: none">A report to Committee to keep it updated in respect of new and ongoing complaints made relating to the conduct of Members. | July 2018 October 2018 December 2018 March 2019 | Reports have been submitted to each Committee meeting and Members have commented on the information provided. |

| | | |
|---|----------------------|--|
| Members' Attendance – Update <ul style="list-style-type: none"> To update Members in relation to attendance at meetings during the past municipal year and the implementation of the attendance element of the Members' allowance. | <p>July 2018</p> | <p>A report was presented to the Committee in relation to Members' attendance.</p> <p>A further update is contained within this report.</p> |
| Politically Restricted Posts – Update <ul style="list-style-type: none"> To seek approval to update the list of politically restricted posts following the recent review of third tier managers and the introduction of Assistant Director roles. | <p>July 2018</p> | <p>A report was presented to the Committee and the list approved for updating.</p> |
| Review of Members' DBS Check Policy <ul style="list-style-type: none"> A report to consider and review the existing policy following its approval in 2016. | <p>December 2018</p> | <p>The DBS policy was considered and updated and recommended to Council for approval.</p> <p>The Policy was approved at Council on 13 February 2019.</p> |
| Members' Development – Induction Programme <ul style="list-style-type: none"> To develop an induction programme for after the District Elections in May 2019. | <p>March 2019</p> | <p>The arrangements for Member Induction are included in this report.</p> |
| Whistleblowing Policy <ul style="list-style-type: none"> Annual report to consider amendments (if required) to the policy and to monitor the application of the policy | <p>March 2019</p> | <p>A report is presented to this Committee meeting elsewhere on the agenda.</p> |

| | | |
|--|---------------|---|
| Review and Update of Ethical Governance Arrangement at Selston Parish Council <ul style="list-style-type: none"> To consider and make recommendations regarding the governance issues surrounding current Councillor relationships and working arrangements at Selston Parish Council. | December 2018 | <p>An update was provided to the Committee in December 2018.</p> <p>The Deputy Monitoring Officer continues to attend meetings of the Parish Council and provides support and advice.</p> |
| Annual Review <ul style="list-style-type: none"> Report to consider the work of the Committee over the year compared to the agreed Work Programme. To consider an overview of the ethical governance of the Council. | March 2019 | This report. |
| Constitution Review <ul style="list-style-type: none"> Consideration of proposed amendments to the Constitution for recommendation to Council. | March 2019 | A report is presented to this Committee meeting elsewhere on the agenda. |

The Committee will note that all items have been actioned during the year as planned and that subject to the reports which appear elsewhere on this meeting's agenda the actions are completed.

Committee is therefore asked to:

- **Note the progress made in relation to the agreed work plan.**
- **Consider future work plan items.**

SUMMARY AND UPDATE OF MEMBER COMPLAINTS RECEIVED DURING 2018/2019

By the end of February 2019, I had received **24** formal complaints during 2018 and **2** during 2019 regarding the behaviour of Councillors. Of these **26** complaints:

- 11 complaints relate to District Councillors during 2018
- 2 complaints relate to District Councillors during 2019
- 13 complaints relate to Parish Councillors during 2018
- No complaints relate to Parish Councillors during 2019

Comparing the total number of complaints since 2011:

| Year | Number of Complaints |
|------|----------------------|
| 2011 | 0 |
| 2012 | 13 |
| 2013 | 15 |
| 2014 | 8 |
| 2015 | 12 |
| 2016 | 4 |
| 2017 | 18 |
| 2018 | 24 |
| 2019 | 2 |

Of the complaints made up until the end of February, four complaints relating to District Councillors remain outstanding, three are being considered by a Referrals Sub-Committee on 18 March 2019, the other has been referred in the first instance to the police. In accordance with adopted process, the Sub-Committee will be asked to consider if the complaints should not be progressed further (no further action), if other action should be taken or whether a full investigation is needed.

The Deputy Monitoring Officer continues to attend meetings of the Selston Parish Council and provides support and advice. A verbal update will be provided at the Committee meeting in relation to conduct at the Parish Meetings attended and the thirteen outstanding Parish complaints.

Committee is therefore asked to note the number of Member complaints received during the year as summarised in the report and the current outstanding complaints.

ATTENDANCE AT MEETINGS

Members will recall that during 2016/2017 as a result of the Independent Remuneration Panel's recommendations an element of attendance related allowance was introduced (Performance Special Responsibility Allowance) from June 2017 onwards. The allowance consists of £500 which is paid to Members achieving 70% attendance at all their formal meetings and mandatory training. This Committee developed and recommended a policy which was approved by Council relating to authorised absences which is taken into account when collating attendance data.

Summary Information - Q1, Q2 and Q3 (cumulative) - May 2018 to February 2019

| | Q1 | Q2 | Q3 |
|---|----|----|----|
| Members with 100% attendance | 24 | 8 | 8 |
| Members with attendance between 90% and 99% | 0 | 10 | 12 |
| Members with attendance between 80% and 89% | 1 | 7 | 7 |

| | | | |
|---|---|---|---|
| Members with attendance between 70% and 79% | 3 | 6 | 6 |
| Members with less than 70% attendance | 7 | 3 | 2 |

| Total | Quarter 1 | Quarter 2 | Quarter 3 |
|------------------------|-----------|-----------|-----------|
| Authorised absences | 7 | 17 | 5 |
| Unauthorised absences | 16 | 38 | 5 |
| No apologies submitted | 6 | 5 | 3 |

For the 2 Members with less than 70% attendance:

- 1 Member has 20% attendance
- 1 Member has 60% attendance

Reasons for absences for the first three quarters:

| Reason | Number of times |
|---|-----------------|
| Bereavement (Authorised) | 0 |
| Family Emergency (Authorised) | 1 |
| Medical Operation (Authorised) | 0 |
| Meeting Changed at Short Notice/Holiday Booked (Authorised) | 2 |
| Work Commitment (Unauthorised) | 19 |
| Illness (Authorised) | 26 |
| Personal (Unauthorised) | 24 |
| Holiday (Unauthorised) | 3 |
| Other engagement (Unauthorised) | 2 |
| No reasons for absence (Unauthorised) | 14 |

Assessment for the payment of the Performance Special Responsibility Allowance will occur during May or June 2019 and will be reported to the next available Committee thereafter.

The Committee is therefore asked to note the position in relation to attendance at meetings.

MEMBER INDUCTION PROGRAMME / TRAINING PROGRAMME

The Member Induction Programme / Training Programme following the District Elections on 2 May 2019 is designed for both new and returning Councillors. The programme will aim to equip Members with the knowledge and skills to enable them to successfully fulfil the role of a District Councillor by providing essential information about the functions of the Council and the responsibilities of a Member, as well as essential information to support Members in their constituency role.

The draft programme takes into account lessons learned from previous induction programmes. Some detailed arrangements are still to be finalised depending upon such things as trainer availability.

There are five main elements to the Induction Programme:

1. **Pre-election period** (to 2 May) – information and support for candidates

Candidates will be provided with a Candidate Pack. Information contained within this pack includes:

- Letter from the Chief Executive
- Roles and Responsibilities of being a District Councillor
- Draft Schedule of Meetings
- Member Development Strategy
- Draft Induction / Training Programme

2. **Core Induction** (7 May)

Key information, support, resources and training for new and returning Members. This includes:

Initial Induction (7 May) – Democratic Services / Elections / HR and IT / Comms supported day to collect key pieces of documentation from new and existing Members. This includes:

- New Member Forms detailing address / bank details etc.
- Register of Interest Forms
- DBS completion
- Photo ID Cards
- IT – Hand out of equipment and signing agreement form.

Welcome / Induction Pack

The Welcome / Induction pack of key information to be provided to all Elected Members includes:

- Key dates (Draft Schedule of Meetings)
- Forms to be completed

- Council areas of responsibility/services
- Overview of Council governance arrangements (to help inform their planning for meetings)
- Information on DBS checks process
- Links to online support information.

Visits (7 May)

Visits to key rooms and some strategic services to be arranged for all new Members; other opportunities to visit services will be considered according to specific needs (e.g. visits may be arranged for certain committees)

3. **Specific Member Training** (9 and 10 May)

Intensive Mandatory Training to cover Members training needs in 45 Minutes – 1 Hour slots. This will support Members in their specific roles. **This training is for all Elected Members.**

Intensive training over a 2 day period (9 and 10 May) is the preferred option following feedback received during the last induction for Members following the District Elections in 2015. In 2015, the initial training period was spread out over a 7 week period to cover the core training requirements. Members' feedback suggested that this would be better condensed into a more intensive training period. This approach has been discussed briefly with each Group Leader.

Members should bear in mind that the Employment Rights Act 1996 requires employers to allow staff a reasonable amount of time off for their work as a Councillor.

4. **Mandatory Training**

| Committee | Delivery |
|--|--------------------------|
| Planning Committee | External |
| Licensing Committee and its Sub-Committees | Internal |
| Chief Officers' Employment Committee | External |
| Standards and Personnel Appeals and its Sub-Committees | Internal |
| Code of Conduct / Ethical Governance | Internal/External |
| Equalities and Diversity | Online |
| Safeguarding | Internal |
| Lone Worker | Internal |

| | |
|---------------------------------------|------------------------------|
| Fraud Awareness | External |
| Chairperson (if appointed as a Chair) | Internal and External |

Additional Training being Considered

Additional training being considered as part of the core list of training for all Councillors includes:

- Emergency Planning
- Media / Social Media
- GDPR

5. Member Development Programme

The Member Development Strategy (included in the Welcome/ Induction Pack) includes a self-assessment form. All Members will be asked to complete this in order to identify individual training needs.

Activities Plan

| Date | Activity | Commentary |
|--|---|---|
| 7 May – Member Induction | Stall based set up covering Governance / HR / IT and Elections to assist Members with forms / IT etc. | Democratic Services Team and representatives from IT / HR and Elections and Comms to be in attendance. Please see draft Plan attached as Appendix A |
| 9 May – Intensive Training Day 1 | 4 Training Sessions covering Mandatory Training | Please see draft Plan attached as Appendix A |
| 10 May – Intensive Training Day 2 | 4 Training Sessions covering Mandatory Training. | Please see draft Plan attached as Appendix A |

Members' IT

A number of options have been considered in relation to Members' IT Equipment. The budget for this has been agreed in the Capital Programme.

Members are asked to note that they will be asked to sign an IT declaration on receiving their IT equipment.

Option 1 - Windows tablets connected to the Council's network

We considered a Windows Tablet equipped with Microsoft Office – connected to the Council's network. This option was discounted because there would need to be too many restrictions implemented on the devices in order to maintain the Council's network security such that Members would not be able to install apps themselves and have the freedom to copy information to and from the device.

Option 2 - Windows tablets not connected to the Council's network

We also considered Windows tablets that were not connected to the Council's network and utilised Office 365 as the main office suite. This was discounted because while Office 365 may be a good solution for Members, in terms of an office suite, the Windows tablets are perhaps not as useful as an iPad device, in terms of apps, photos, portability and battery life. We discussed with other local authorities and they had come to the same conclusion. One Council (South Derbyshire) had deployed Windows tablets to members and had noticed a large rise in calls to the ICT Helpdesk for assistance from members with issues with the Windows devices. This included calls relating to battery life and devices being flat when they arrived for meetings etc. They said that they wished they had stayed with iPads.

Option 3 - Preferred Option - iPads

The preferred option is iPads with bluetooth keyboards as the best all round device. These can also use Office 365 as the Office suite, or continue with the Blackberry Works. They have good battery life at around 9 hours.

They have proved to be robust and are very portable without the bulk of an affordable Windows tablet. Modern.gov also works well on them. The other authorities we spoke to had come to the same conclusion and confirmed that they were retaining iPads for Members use.

Total cost for iPads will be approximately £18,000, which is within the approved budget.

The current iPads were provided with a SIM slot and it was down to Members to provide their own sim cards, although not many members did. iPads with the SIM slot option would be an additional expense of around £130 per device. SIM cards with 3GB would cost £9 per month (the revenue expenditure for SIM cards is not currently budgeted for).

As most Members will undertake Council related work on their iPads where Wi-Fi is available and because of the additional expense, it is recommended that iPads are purchased without the SIM slot. However, it has been suggested that if a business case can be provided by individual Members who may regularly be required to represent the Council (for example at meetings) at locations where WiFi is not available thus making it difficult for them to carry out their duties, this will be considered.

Current iPad

For those Councillors that currently have a Council provided iPad, they will be provided with 2 options:

- Return the iPad
- Keep it for a nominal fee of £60 - this fee was decided upon because the exchange rates for iPads are still relatively high with for example Currys / Music Magpie paying £90 - £110. If

Members decide to keep their device the £60 will be deducted from the final Members' Allowance payment.

Committee is asked to note and provide comments in relation to the arrangements being made for Member Induction and for Member IT equipment.

COMMITTEE ON STANDARDS IN PUBLIC LIFE – REPORT ON LOCAL GOVERNMENT ETHICAL STANDARDS

Members of the Committee will recall responding this time last year to the consultation undertaken by the Committee on Standards in Public Life (CSPL) regarding local government ethical standards.

The report of the CSPL was launched on 30 January 2019.

I had the benefit of attending a presentation by Mr Jonathan Goolden of Wilkin Chapman LLP who was an adviser to the CSPL regarding the report and my thanks are expressed to Jonathan for allowing me to use elements of his presentation in this report.

❖ CSPL's Terms of reference

1. examine structures, processes and practices of local government in England for:
 - a. maintaining code of conduct for councillors
 - b. investigating alleged breaches fairly and with due process
 - c. enforcing code and imposing sanctions for misconduct
 - d. declaring interests and managing conflicts of interests
 - e. whistleblowing
2. Assess whether existing structures are conducive to high standards of conduct
3. Make recommendations for improvement
4. Note evidence of intimidation and make recommendations to prevent

❖ Codes of conduct

a) Findings

- Inconsistent
- Don't cover bullying effectively
- Problems re scope – social media, claiming to or appearing to act as a councillor
- Nolan only codes inadequate
- Need to be reviewed
- Hard to find on LA websites

b) Recommendations

- **R1** LGA to create new model code, in consultation with SLCC, NALC etc.
- **R3** Councillors presumed to be acting in an official capacity in their public conduct
- **R4** Code to apply to when councillor claims, or appears to be acting, as such

c) Best Practice

- **BP1** LA codes to define and prohibit bullying and harassment, with examples
- **BP2** Failure to co-operate with investigation to be breach of code
- **BP3** LAs to review code annually
- **BP4** Code readily accessible in prominent position on LA website

❖ Interests

a) Findings

- DPIs too narrow, unclear and criminalisation is disproportionate
- Registers disclose home addresses exposing cllrs to intimidation
- List of people whose interests need to be registered is too narrow
- But current list of pecuniary interests ok
- Need to include non-pecuniary interests in codes
- Unsatisfactory arrangements on registers of gifts and hospitality
- Requirements to declare DPIs and withdraw are too narrow

b) Recommendations

- **R18** abolish DPI criminal offences
- **R2** amend DPI regulations so that Councillor home address is not registrable
- **R5** amend DPI regulations to include unpaid directorships, trusteeships, charity / public body roles and lobbying organisations
- **R6** code to require registration of gifts / hospitality over £50 or over £100 p.a. from a single source
- **R7** abolish s31 Localism Act, code to require Councillors to leave room if a member of the public would reasonably regard their interest as so significant that it is likely to prejudice their discussion or decision making

c) Best Practice

- **BP5** LAs to update registers of gifts & hospitality quarterly and make them accessible

❖ **Investigations and safeguards**

a) Findings

- Use a public interest test for filtering complaints
- No role specification, term, formal powers or legal protection for Independent Persons (IP)
- IP views not public
- Many LAs not transparent on numbers of complaints and details of decisions
- Standards Committees should have voting independent and parish members
- No current right of appeal after hearings

b) Recommendations

- **R8** 2 year term of office for IPs, renewable once
- **R9** IPs views to be recorded in decision notice and minutes
- **R10** IP must agree breach and sanction on suspensions
- **R11** LAs to provide legal indemnity to IPs
- **R12** LAs may have voting independent and parish members on standards committees
- **R13** Right of appeal to LGO if suspension
- **R14** LGO power to investigate and binding sanction
- **R15** LAs required annually to publish complaints data and outcomes

c) Best Practice

- **BP6** LAs to adopt public interest test for filtering complaints
- **BP7** LAs to have at least 2 IPs
- **BP9** LAs to publish full hearing decisions
- **BP10** LA websites to have clear complaints guidance and information

❖ Sanctions

a) Findings

- Lack of serious sanctions:
 - Prevents enforcement of lower level sanctions
 - Damages public credibility
 - Makes cost of investigations disproportionate to outcome
 - Removes means of LAs containing reputational damage
 - Credibility of current regime undermined by lack of serious sanctions
- Party group discipline can fill the gap but lacks transparency, consistency and checks on impartiality of a standards system
- Suspension preserves the ballot box which is insufficient in itself
- Legal uncertainty of premises bans

b) Recommendations

- **R16** LA power to suspend without allowances for up to 6 months
- **R17** Government / legislation to put beyond doubt lawfulness of premises bans
- **R18** Decriminalise DPLs (see interests)

❖ Town and parish councils

a) Findings

- Parish councils (PCs) are highly dependent on the skills, experience and support of clerks – evidence of substantial difficulties where clerks are inexperienced, untrained, feel isolated and poor member behaviour
- 15% of PCs experience serious behaviour issues, 5% dysfunctional
- PCs should report complaints, not the clerk
- Some Monitoring Officers decline or lack resources to provide advice or accept parish complaints
- Variation in parish codes is a burden on the principal authority and confusing for dual hatted members
- PCs can ignore sanctions recommended by principal authority hearing
- PCs can take lawful protective steps short of sanctions

b) Recommendations

- **R19** Parish clerks to be qualified
- **R20** PCs to adopt parish version of principal authority code of conduct
- **R21** Parish councillor sanctions to be determined by principal authority only

c) Best Practice

- **BP11** standards complaints about member on clerk conduct to be made by chair or PC as a whole
- **BP12** Monitoring Officer role and resourcing to include advice, support and management of PC cases

❖ Role of the Monitoring Officer (MO)

a) Findings

- MO is the lynchpin for upholding standards
- Can be conflicts of interest in MO being involved in investigation of senior members
- Confidence and support of chief executive is crucial to ensure MO has ability to uphold standards
- Some MOs have been forced to resign because of unwelcome advice or decisions

- Whistle-blowers could be deterred from reporting concerns to a private audit firm
- Whistle-blowers should be able to report concerns to councillors

b) **Recommendations**

- **R22** statutory protection for MOs etc to extend to all disciplinary action, not just dismissal
- **R23** LAs required to ensure whistleblowing policy and website specifies named contact for external auditor
- **R24** councillors to be “prescribed persons” in Public Interest Disclosure Act 1998

c) **Best Practice**

- **BP13** LA should have investigation conflict procedures, including use of MOs from other LAs

❖ **Council governance, leadership and culture**

a) **Findings**

- LAs now have complex governance – joint ventures, owned companies, LEPs
- Increased risk of conflicts of interest, lack of transparency
- 3 common threads in corporate failure:-
 - Unbalanced relation between members and officers
 - Lack of understanding of governance processes and scrutiny
 - Culture of fear or bullying
- Visible leadership essential in embedding ethical culture
- Early induction for councillors vital to set ethical tone

b) **Recommendations**

- **R26** LGA peer reviews to include standards processes

c) **Best Practice**

- **BP14** LA governance statement to include related bodies, those bodies to publish agendas, minutes and annual reports
- **BP15** senior officers to meet regularly with group leaders or whips re standards

What next?

- Detailed and challenging report
- Some recommendations require primary legislation, some need changes to regulations
- Has Government the capacity, post Brexit?
- Best practice points can be implemented now

The Committee is therefore asked to consider and provide comments in relation to the Report on Local Government Ethical Standards published by the Committee on Standards in Public Life.

Implications

Corporate Plan:

This report is presented in accordance with the Corporate Plan Priority “Organisational

Improvement” ensuring effective community leadership, through good governance, transparency, accountability and appropriate behaviours.

Legal:

The local Code of Conduct and any related processes must comply with relevant legislation, including the Localism Act 2011 and earlier Local Government Acts.

Finance:

The purchase of Members equipment is Capital expenditure and currently budgeted for (approx. £18,000 for i-pads without sim slots. Purchasing i-pads with Sim access would be an additional cost of around £130 per device. Ongoing costs associated with monthly data is currently not budgeted for in the Member Services Budget.

| Budget Area | Implication |
|---|---|
| General Fund – Revenue Budget | Any additional cost of monthly sim data is not currently budgeted for in Members Services Budget. |
| General Fund – Capital Programme | Purchase of i-pads is budgeted for. i-pads with sim access would increase Capital cost. |
| Housing Revenue Account – Revenue Budget | None |
| Housing Revenue Account – Capital Programme | None |

Risk:

| Risk | Mitigation |
|---|---|
| Lack of transparency. Lack of monitoring. Failing to meet the duty of maintaining high standards of behaviour. | The work plan for this committee, the quarterly update reporting and this Annual report ensures the Council is open and transparent in the way it deals with ethical governance. The reporting and work of the Committee demonstrates the Council’s commitment to maintaining high levels of ethical behaviour. |

Human Resources:

There are no significant Human Resource issues identified in the report.

Equalities:

There are no significant equalities issues identified in the report.

Other Implications:

(if applicable)

None

Reason(s) for Urgency

(if applicable)

Reason(s) for Exemption

(if applicable)

Background Papers

Report

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