



Civic Centre,
Arnot Hill Park,
Arnold,
Nottinghamshire,
NG5 6LU

Agenda

Standards Committee

Date: **Thursday 23 February 2017**

Time: **6.00 pm**

Place: **Committee Room**

For any further information please contact:

Helen Barrington

Director of Organisational Development and Democratic
Services

0115 901 3901

Standards Committee

Membership

Chair Councillor Emily Bailey Jay

Vice-Chair Councillor Michael Payne

Councillor Alan Bexon
Councillor Andrew Ellwood
Councillor Colin Powell
John Bailey
Patricia Woodfield

AGENDA

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- 3 Declaration of Interests.**
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MINUTES STANDARDS COMMITTEE

Thursday 8 September 2016

Councillor Emily Bailey (Chair)

Councillor Andrew Ellwood John Bailey
Councillor Colin Powell

Apologies for absence: Councillor Michael Payne, Councillor Alan Bexon and
Patricia Woodfield

Officers in Attendance: H. Barrington

21 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS.

Apologies for absence were received from Councillors Payne and Bexon, parish representative Patricia Woodfield and Independent Person, John Baggaley.

Councillor Roxanne Ellis attended as a substitute for Councillor Payne.

22 TO APPROVE, AS A CORRECT RECORD, THE MINUTES OF THE MEETING HELD ON 25 FEBRUARY 2016.

RESOLVED:

That the minutes of the above meeting, having been circulated, be approved as a correct record.

23 DECLARATION OF INTERESTS.

None.

24 REVIEW OF STANDARDS REGIME

Consideration was given to a report of the Director of Organisational Development and Democratic Services, which had been circulated prior to the meeting, providing updates on the reviews carried out by the working groups and seeking approval for amendments to various aspects of the current standards regime.

RESOLVED that:

- a) The principles of the revised Register of Interests Form be endorsed;

- b) Standards Committee recommends to Council that the Code of Conduct be amended so as to increase the level of gifts and hospitality which needs to be registered from £25 to £50;
- c) The revised Arrangements for dealing with complaints at Appendix 2 to the report be approved;
- d) The current arrangements for dispensations be retained;
- e) The current arrangements for the Standards Committee be retained and the Monitoring Officer take steps to recruit to the position of co-opted independent member;
- f) Standards Committee recommends to Council that the amended remit of the Committee at Appendix 3 to the report be approved to make it clear that the Borough Council can no longer grant dispensations;
- g) Standards Committee recommends to Council that the increase to Members' basic allowances agreed at Council in March 2016 be applied to the fixed fee retainer and additional fee for complaints dealt with following an investigation paid to the Independent Person and reserve Independent Person;
- h) The allowance paid to the Independent Person and reserve Independent Person be reviewed annually; and
- i) The Monitoring Officer take steps to recruit to the position of reserve Independent Person.

25 GIFTS AND HOSPITALITY 2015/16

Consideration was given to a report of the Director of Organisational Development and Democratic Services, which had been circulated prior to the meeting, informing members of the Standards Committee of gifts and hospitality received between 1 April 2015 and 31 March 2016.

RESOLVED:

To note the report.

26 CODE OF CONDUCT COMPLAINTS

Consideration was given to a report of the Director of Organisational Development and Democratic Services, which had been circulated prior to the meeting, informing members of the Standards Committee of complaints received between 1 February 2016 and 31 August 2016.

RESOLVED:

To note the report.

27 ANY OTHER ITEM WHICH THE CHAIR CONSIDERS URGENT.

None.

Signed by Chair:
Date:

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Report to Standards Committee

Subject: Code of Conduct Complaints

Date: 23 February 2017

Author: Director of Organisational Development and Democratic Services

1. Purpose of the Report

To inform members of the Standards Committee of complaints received between 1 September 2016 and 31 January 2017.

2. Background

2.1 Since 1 September 2016, the Monitoring Officer has received no new code of conduct complaints. A summary of the complaints received since the implementation of the existing Standards regime (from 1 July 2012) is set out in the table at Appendix 1.

2.2 Members of the Standards Committee will recall that at the time of the last committee meeting, two complaints were outstanding and subject to investigation. Since that meeting, one complaint has now been determined (ref 15/03). A summary of the complaint is attached at Appendix 2. The other complaint is still subject to investigation and the outcome will be reported to a future Standards Committee meeting.

3. Proposal

It is proposed that the Committee notes the report.

4. Resource Implications

None.

5. Recommendation

It is recommended that the Committee notes the report.

6. Appendices

Appendix 1 – Summary of the Code of Conduct complaints received since 1 July 2012.

Appendix 2 – Summary of complaint determined between 1 September 2016 and 31 January 2017.

Complaint Ref	Date received	GBC/Parish Council	Complainant	Decision	Date of decision
13/01	30/09/13	GBC	Member of public	No action	12/11/13
14/01	06/01/14	GBC	Member of public	Other Action (issue revised guidance on pre-determination)	05/02/14
14/02	18/07/14	GBC	Member of public	No action	12/08/14
14/03	18/07/14	GBC	Member of public	No action	12/08/14
14/04	21/07/14	Woodborough PC	Member of public	Informal resolution (apology)	26/08/14
15/01	05/05/15	GBC	Member of public	No action	09/06/15
15/02	15/09/15	Bestwood St. Albans PC	Member of public	No action	15/10/15
15/03	15/10/15	Bestwood St. Albans PC	Clerk	Local resolution (apology and procedural recommendation to Parish Council)	24/11/06
15/04	15/10/15	Bestwood St. Albans PC	Clerk	No action	26/11/15
16/01	08/03/16	Bestwood St. Albans PC	Clerk	Refer for investigation	05/05/16
16/02	17/03/16	Bestwood St. Albans PC	Member of public	No action	13/05/16
16/03	18/03/16	Bestwood St. Albans PC	Member of public	Informal resolution (training)	01/06/16
16/04	29/05/16	Bestwood St. Albans PC	Member of public	Other action (various procedural recommendations to Parish Council)	17/08/16

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Reference: S589/15/03

Complaint

The complaint was made about Councillor Andrea Bennington a Bestwood St Albans Parish Councillor by the Parish Clerk. The complainant complains about the behaviour of Councillor Andrea Bennington who was Chair of the Bestwood St Albans Parish Council between May 2015 and May 2016. A summary of the complaint is that Councillor Bennington:

- Subjected her to disrespectful and bullying behaviour
- Knowingly acted outside of local government law and standing orders
- Ignored her advice as clerk
- Furthered the interests of her own constituents at the expense of the whole community

According to the complainant, Councillor Bennington's conduct included undermining her in public meetings of the Parish Council, changing her contract in ways calculated to make the job unworkable and bombarding her with unreasonable emails.

Initial Assessment

The Monitoring Officer, in consultation with the Independent Person, John Baggaley considered the complaint and, at initial assessment, decided to refer the allegation for formal investigation on the basis that if the complaint was proven, there would potentially be a breach of the Code.

Potential breaches of the Code of Conduct considered

When investigating the complaint, the Investigator considered the following paragraphs of the Code of Conduct.

Paragraph 5 requires Members to treat others with respect; value their staff and engage with them in an appropriate way.

Paragraph 7 provides that Members must not behave in such a way as to bring their office or authority into disrepute.

Paragraph 9 provides that Members must have regard to advice provided by professional officers when making decisions.

Paragraph 10 requires Members to champion the needs of residents – the whole community, including those who did not vote for them.

Investigator's findings

The investigator found breach of paragraph 5 of the Code of Conduct for the following reasons:

- The investigator found that Councillor Bennington's negative attitude towards the complainant was evident in her unfair and unreasonable conduct.
- Through her treatment of the complainant Councillor Bennington sought to establish doubt in the minds of her fellow members about the complainant's suitability for the role.
- The behaviour amounted to a misuse of power which injured and denigrated the complainant to the extent that it amounted to bullying.

The investigator found no breach of paragraphs 7, 9 and 10 of the Code of Conduct for the following reasons:

- A line should be drawn between errors arising from, on one hand a lack of knowledge and understanding of parish council governance, and on the other, the deliberate use or abuse of parish council processes for ulterior purposes. The code is an ethical code not a backstop against poor governance. Councillor Bennington's conduct towards the complainant was not the product of a misuse of procedures and she did not bring the Parish Council into disrepute.
- There was not sufficient evidence to support the allegation that Councillor Bennington had failed to have regard to professional advice. Her handling of Parish Council business was not so one sided that it was to the detriment of the parts of the community outside her ward.

The investigator concluded that there was significant mitigation.

1. In May 2015 Councillor Bennington was, with others new to the role of councillor and to the intricacies of Parish Council business. The complainant was probably not in the best position to provide the level of challenge and guidance necessary.
2. Councillor Bennington did not act alone. Her attitude towards the previous administration, and to the clerk, was shared by other members of the Parish Council.
3. Councillor Bennington as chair was not wholly responsible for the content and presentation of the decisions made.
4. Councillor Bennington has reflected on her general tone in emails and softened it.

Councillor Bennington should be given credit for working hard to establish a solid framework in policy to ensure that in future the Parish Council meets all of its obligations towards its sole employee, the clerk. It is clear that she has sacrificed many hours of her own time for no personal reward to this end and continues to do so.

Decision

The Monitoring Officer agrees with the conclusions made by the Investigating Officer and has found that Councillor Bennington has breached paragraph 5 of the Bestwood St Albans Parish Council Members' Code of Conduct. The Monitoring Officer has concluded that Councillor Bennington has not breached paragraphs 7, 9 and 10 of the Bestwood St Albans Parish Council Members' Code of Conduct

After consultation with the Independent Person, the Monitoring Officer decided that this was an appropriate case, to seek to resolve the complaint informally, without the need for a formal Hearing Panel. Such local resolution involves Councillor Bennington accepting that her conduct was unacceptable and offering a written apology to the complainant. Such an apology has now been issued.

The Monitoring Officer also recommended that the Bestwood St Albans Parish Council Chair and Clerk work with her to ensure that the constitution and working of the personnel committee, and all the arrangements supporting the role of the clerk, are in line with recognised good practice in the sector.

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Report to Standards Committee

Subject: Recruitment of co-opted independent member

Date: 23 February 2017

Author: Director of Organisational Development and Democratic Services

1. Purpose of the Report

To recommend to Council that Rosalie Hawks should be co-opted on to the Standards Committee to fill the vacant post of co-opted independent member.

2. Background

2.1 Members will recall that at the Standards Committee meeting on 9 September 2016, it was agreed that steps be taken to recruit to the position of co-opted independent member and reserve independent person. An article was placed in the winter edition of Contacts and the vacancies were advertised on the Council's website. Unfortunately no applications were received for the post of reserve independent person. However the interview panel previously set up was convened to conduct interviews for the vacant post of co-opted independent member.

2.2 The interview panel recommends that Rosalie Hawks should be co-opted on to the Standards Committee to fill the vacant post of co-opted independent member. In view of the fact that this is a new appointment, the interview panel also recommends that she is co-opted until the annual meeting in 2018 and that the Panel should review whether the co-option should continue.

3. Proposal

3.1 It is proposed that the Standards Committee recommends to Council that Rosalie Hawks should be co-opted on to the Standards Committee to fill the vacant post of co-opted independent member until the annual meeting in 2018.

3.2 It is also proposed that the Standards Committee delegates authority to the interview panel comprising Councillors Payne, Powell and Ellwood to review the appointment prior to the annual council meeting in 2018 and recommend to Council whether the co-option should continue.

4. Financial Implications

On appointment, the co-opted member will be entitled to receive the co-opted members' allowance agreed as part of the Members' Allowances Scheme, which can be accommodated from existing budgets.

5. Appendices

None.

6. Background papers

None identified.

7. Recommendation

It is recommended that the Committee:

7.1 recommends to Council that Rosalie Hawks should be co-opted on to the Standards Committee to fill the vacant post of co-opted independent member until the annual meeting in 2018; and

7.2 delegates authority to the interview panel to review the appointments prior to the annual meeting in 2018 and recommend to Council whether the co-option should continue.



Report to Standards Committee

Subject: Recruitment of Independent Person

Date: 23 February 2017

Author: Director of Organisational Development and Democratic Services

1. Purpose of the Report

To seek approval to advertise for the position of Independent Person.

2. Background

2.1 The Localism Act requires that the Council's "arrangements" for dealing with allegations of a breach of the Code of Conduct include provision for the appointment of at least one independent person whose views are to be sought, and taken into account, by the authority before it makes its decision on an allegation that it has decided to investigate. The arrangements approved by the Council include such provision.

2.2 The Independent Person(s) –

- must be consulted by the authority before it makes a finding on an allegation that it has decided to investigate;
- may be consulted by the authority in respect of a standards complaint at any other stage; and
- may be consulted by a member or co-opted member of the Borough Council or of a Parish Council against whom a complaint has been made.

As Members will recall, when introducing the new standards regime, it was felt that this may cause an issue of conflict, as it would be inappropriate for an Independent Person who has been consulted by the member against whom the complaint has been made, and who might as a result be regarded as prejudiced on the matter, to be involved in the determination of that complaint. There may also be circumstances when the Independent Person is unavailable to act, for example due to holiday or illness. These situations could still exist.

2.3 The Act requires the Council to appoint at least one Independent Person, but provides that each Independent Person must be consulted before any decision is taken on a complaint which has been investigated. Accordingly, the Council decided there was little advantage in appointing more than one Independent

Person, provided that a reserve candidate is retained and can be activated at short notice in the event that the Independent Person is no longer able to discharge the function.

- 2.4 In 2012, the Council agreed the appointment of John Baggaley as Independent Person until 10 July 2017. Several attempts have been made to appoint a reserve Independent Person, but these have been unsuccessful. Members will see from another report on the agenda that a recent recruitment exercise has generated no interest.
- 2.5 The Localism Act states that Independent Person must be appointed through a process of public advertisement, application and appointment by a positive vote of a majority of all members of the Borough Council (not just of those present and voting).
- 2.6 On 29 July 2015 the Standards Committee agreed to set up an interview panel comprising Councillors Payne, Powell and Ellwood and Gordon Wallis (if available) to interview candidates and make recommendations to appoint to any future vacancies for co-opted members or independent persons. Unfortunately Gordon Wallis was unable to attend the interview panel meetings and is no longer a member of the committee. Consideration therefore needs to be given as to whether the committee is happy to allow the interview panel to proceed with the 3 remaining elected members.

3. Proposal

- 3.1 It is proposed that the Monitoring Officer take steps to recruit to the role of Independent Person to ensure that the Council is not left without an Independent Person from 11 July 2017. In view of the fact that the reserve Independent Person role is still vacant it is proposed that any candidates for the role of Independent Person are considered for the reserve role.
- 3.2 The current cross party Interview Panel has worked well together and it is proposed that Standards Committee agrees that it should continue to interview candidates and make recommendations to appoint to any future vacancies for co-opted members or independent persons.

4. Financial Implications

On appointment, the Independent Person will be entitled to receive the agreed fee, which can be accommodated from existing budgets.

5. Appendices

None.

6. Background papers

None identified.

7. Recommendations

It is recommended that:

- 7.1 the Monitoring Officer take steps to recruit to the role of Independent Person to ensure that the Council is not left without an Independent Person from 11 July 2017;
- 7.2 any suitable candidates for the role of Independent Person can be considered for the reserve role; and
- 7.3 the Interview Panel comprising Councillor Payne, Powell and Ellwood can continue to interview candidates and make recommendations to appoint to any future vacancies for co-opted members or independent persons.

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