

CONSTITUTION SUB COMMITTEE

TUESDAY, 21 JUNE 2016

PRESENT: Councillors Lisa Targowska (Chairman), Phillip Bicknell (Vice-Chairman), John Story and Malcolm Beer

Officers: David Scott and Karen Shepherd

APOLOGIES FOR ABSENCE

None received

DECLARATIONS OF INTEREST

Councillor Targowska requested that it be noted for transparency purposes that her husband, the Cabinet Policy Manager, had been involved in the drafting of the report.

MINUTES

RESOLVED UNANIMOUSLY: That the minutes of the meeting held on 29 October 2015 be approved.

MEMBERS' CODE OF CONDUCT REVIEW

Members considered a review of the Members' Code of Conduct (Part 7A of the RBWM Constitution). The Chairman explained that the report recommended that no changes be made to the Code of Conduct itself, other than minor changes to Appendix 4. The main change proposed was to move responsibility for dealing with and investigating complaints from the Managing Director to the Monitoring Officer., in consultation with the Independent Person. Greater rigour around anonymous complaints was also proposed, including formal criteria to determine if a complaint should be investigated. The criteria included if there was sufficient evidence and whether the matter was in the public interest. Complaints would have to be made on a standard form, to ensure consistency. A set of timescales would also be set out so that all parties were clear over the process.

It was confirmed that an analysis of other local authorities showed that in the majority of cases the Monitoring Officer dealt with complaints. There were a mixture of Member panels with varying roles; some decided if a complaint should be investigated or not, some just dealt with the output of an investigation. It was noted that in Wokingham a Member panel considered the outcome of investigation reports. Members could potentially be involved in determining an appropriate sanction if a breach were found. Councillor Bicknell commented that he felt a Member panel would be over the top; he suggested any consultation could be undertaken by phone or email. He also commented on his own experience with the process and the need for clear timescales and updates.

Councillor Story joined the meeting at 5.38pm.

The Monitoring Officer commented that he had the benefit of a very experienced and well-qualified Independent Person, who provided concise written views on

investigation reports. He confirmed that since he had been in the role of Monitoring Officer, three incidents had been brought to his attention where he had decided no further action should be taken as there had been no evidence base. He had consulted the Independent Person on one of these occasions, who had been in agreement. He highlighted that those complainants wishing to remain anonymous would be required to provide a certain level of evidence to demonstrate the complaint was not frivolous.

It was confirmed that any sanction would be in the form of a recommendation from the Monitoring Officer to the relevant Group Leader.

Councillor Bicknell commented that he felt notification to the council's insurance manager that a councillor was seeking legal advice should be part of the process. The Chairman suggested that the Councillor should inform the Monitoring Officer, who would then liaise with the insurance manager. The Monitoring Officer explained that the definition of 'reasonable' legal costs was set out in legislation and also in the council's insurance policy.

Councillor Bicknell left the meeting at 5.49pm.

It was explained that in the majority of local authorities complaints were dealt with by the Monitoring Officer rather than the Managing Director, in order to maintain the relationship between Members and the Head of Paid Service. In practice, the Monitoring Director consulted with the Independent Person in person, by phone, or in correspondence, depending on the nature of the issue.

Councillor Story commented that he agreed on the need to sift complaints to ensure none were vexatious. He was not convinced of the arguments for a Member panel. The Chairman commented that she failed to see the need for Member involvement at an earlier stage when any recommendation went to the relevant Group Leader anyway. She commented that the timescales proposed did not include the time period in which the relevant Group Leader would have to respond to the recommendation of the Monitoring Officer, and whether the final decision would be reported on the website.

It was noted that Group Leaders would have a range of sanctions open to them including requiring a councillor step down from a chairmanship role, undertaking further training or submitting a formal apology. If there was any indication of a criminal element, the Monitoring Officer would pass the complaint to the police to investigate.

The Chairman proposed that the Monitoring Officer be given 15 working days to decide on a sanction to recommend to the relevant Group Leader. The Group Leader would have a further 15 working days to respond to that recommendation, and a statement placed on the council website. In addition, she suggested that monthly updates be provided to all parties if an investigation was ongoing.

A typographical error in the report was noted:

Paragraph 2.6 to read: 'Following this review, a number of changes have been recommended *combining* our existing processes and adding what are considered to be best practice from other councils, especially Hampshire.'

The Chairman proposed an amendment to recommendation iii to take into account the issues discussed by the Sub Committee. It was also agreed that no Member panels should be proposed, hence recommendation iv should be amended.

RESOLVED UNANIMOUSLY: That the Constitution Subcommittee:

- i. Confirms that the current Code of Conduct is fit for purpose with the exception of Appendix 4.**
- ii. Supports the revision of Appendix 4 of the Code of Conduct; transferring responsibility for dealing with breaches of the code to the Monitoring Officer in line with the majority of other similar codes of conduct,**
- iii. Recommends to July Council that the revised Appendix 4 (Arrangements for dealing with breaches of the Code of Conduct) is adopted, subject to further amendments to reflect the discussions of the Constitution Sub Committee.**
- iv. Agrees that the establishment of additional panels should not be recommended to July Council.**

The meeting, which began at 5.30 pm, finished at 6.08 pm

CHAIRMAN.....

DATE.....