

## MEMBER STANDARDS PANEL

WEDNESDAY, 8 JUNE 2022

PRESENT: Councillors Samantha Rayner (Chairman), Shamsul Shelim (Vice-Chairman), David Coppinger, Andrew Johnson, Lynne Jones, Simon Werner and John Story

Also in attendance: Councillors John Baldwin and Ewan Larcombe

Officers: Emma Duncan and Karen Shepherd

### APOLOGIES FOR ABSENCE

None received.

As the Chairman was initially unable to access the virtual meeting, Councillor Shelim assumed the Chair as Vice Chairman.

### DECLARATIONS OF INTEREST

None received.

### MINUTES

**RESOLVED UNANIMOUSLY: That the minutes of the meeting held on 12 April 2021 be approved.**

### MONITORING OFFICER ANNUAL REPORT

Members considered the Annual Report from the Monitoring Officer.

Emma Duncan, Monitoring Officer introduced her report. She explained that the report had been prepared in conjunction with the other statutory officers (the Head of Paid Service and Section 151 officer and their deputies). As Members would be aware, the borough had recently focussed on growing the robustness of the governance framework, and that work was ongoing. The Peer Review had supported this focus, alongside use of the Centre for Governance And Scrutiny Risk and Resilience Framework.

The Monitoring Officer took Members through the main sections in the report. In relation to 'maintaining the constitution', the cross-party Constitution Working Group had met during the year to consider issues put forward by Members, officers, and suggestions from outside the council, which had resulted in recommendations to full Council. In relation to 'ensuring lawfulness and fairness in decision making' officers in legal services and democratic services were regularly asked to give advice and the statutory officers reviewed all reports to Cabinet and other decision-making meetings in advance of publication. Counsel opinion had been sought on a number of areas where unlawful decisions had been allegedly made.

The Monitoring Officer highlighted an issue detailed in the report about regulated payments. She had made one Section 5 report to Cabinet in relation to a delegated decision; the issue had also been considered by the Audit and Governance

Committee. A number of judicial reviews of council decisions had been started and the council had taken advice from external counsel to inform any subsequent actions for the Monitoring Officer.

Members noted that the Monitoring Officer was a member of the Corporate Leadership Team, the Directors' Group and the Statutory Governance Officers Group. These groups met regularly to discuss relevant issues ensuring all had a good grip on governance issues. Both legal services and democratic services helped to keep a watching brief on the decision-making structures of the council. The move to bring the legal services team back in-house had strengthened this approach and helped to ensure issues were identified at an early stage.

It was acknowledged that there had been some issues with the recording of delegated authority decisions. The appropriate processes and guidance were in place, but compliance remained an issue. This was therefore an area of focus for the coming year. Training with the Corporate Leadership Team would be undertaken.

There had been no cases of maladministration during the year. There had been one instance of a disclosure of confidential information. Both officers and Members had been reminded of their obligations under the Code of Conduct.

Both officers and Cabinet could only take decisions within the budget and policy framework. Both the Monitoring Officer and Section 151 officer regularly reviewed this and reported any issues, for example the Section 5 report to Cabinet earlier in the year. Capacity in the officer cohort had increased and the statutory officer group comprised excellent officers who knew the governance framework well. This progress had been recognised in the Peer Review.

A waiver report was regularly provided to Directors where procurement rules had not been complied with; details were in Appendix 2. Having reviewed the tendering rules and waivers, it was acknowledged that there was work to do as there seemed to be a reliance on last minute procurement and the use of waivers rather than timely forward planning. The corporate recording of contracts needed to be improved alongside better planning of procurement processes.

Officer register of interests were reviewed as part of the appraisal process. No issues had arisen.

During the municipal year, 79 complaints under the Members' Code of Conduct had been received. This was significantly up on the 36 in the previous year. This was partly due to multiple complaints in relation to one issue, and one complainant having complained about multiple Members on a particular decision. Having spoken to other Monitoring Officers in Berkshire, RBWM received more complaints. Others generally received 20-30 complaints at the highest level. There was therefore still work to be done. One of the major issues was officer capacity to deal with the volume of complaints, which was often stretched during the assessment process. The assessment process could be reconsidered to see if it could be streamlined but the Monitoring Officer cautioned that any short-circuiting could lead to those individuals involved (both the Subject Member and the complainant) feeling frustrated. Any changes would need to ensure the process remained fair and transparent and all parties retained the opportunity to comment. Use of the Independent Person was an important feature.

The Peer Review had picked up the issue of Member behaviour and relationships between groups, and had made a number of recommendations. There had been continuing issues with 'tit for tat' complaints, particularly in relation to social media. Since the Peer Review report came out, no Member-on-Member complaints had been received. There had also been an improvement in social media behaviour. It had been acknowledged that this was an issue that could not just be dealt with by officers, it was a Group issue as well. Group Leaders had taken steps to address the issue, resulting in a reduced number of complaints. Where there were relationship issues between members, mediation was being trialled. One of the members of the legal team had been formally trained as a mediator.

Member training had been provided on the revised Code, use of social media, and Member/officer roles. The Member training budget for the current year was £500 and this represented a risk to the council as development of Members was an important part of the governance framework. The Peer Review noted the importance of a comprehensive induction programme for 2023, to be designed in conjunction with Group Leaders.

Advice continued to be provided to parish councils on conduct issues. Parishes were encouraged to adopt the LGA model code as the Borough had, as this made administration easier, particularly for dual hatted members.

Members were under an obligation to ensure their register of interest was kept up to date and this regularly happened. In most cases Members over-declared rather than under-declared.

In conclusion the Monitoring Officer confirmed her view that the council had an adequate system of internal control. In some areas it was very good and there was nothing that was absent from the framework. The issue was that the council had not had a culture of continued compliance with the framework, for example procurement. This was the work that still needed to be done. Looking towards the local elections in 2023, it was important that Members could have political discussions in public, including on social media, in an appropriate way. The work of Group Leaders had already helped this situation and if the approach continued, it would help see less complaints submitted. Other work included continued review of the constitution, the Annual Governance Statement, and reminders around compliance in particular in relation to procurement and delegated decisions.

Councillor Rayner assumed the Chair. She thanked the Monitoring Officer for her comprehensive report. It was acknowledged that the culture of the council was changing although there was some way to go. She was pleased to hear that there had been no Member-on-Member complaints in the last three months. She thanked the Group Leaders for their work on Member behaviour issues.

Councillor Werner commented that he was pleased to see a focus on tendering as it was very important that procurement processes were not rushed. He commented that the issue with the delegated decision in relation to bin collections had been identified by himself and Councillor L. Jones. In the previous year there had been a similar issue with the contract for litter fining.

In relation to the number of Code of Conduct complaints he commented that the Liberal Democrats had put in less complaints than other groups. He asked if multiple complaints against one councillor were common elsewhere. In relation to the

assessment process all the way through to a sub committee, he asked for the Monitoring Officer's view on whether the timescales were kept to.

The Monitoring Officer commented that she was not familiar with the litter fining contract issue and would pick this up outside of the meeting. She confirmed that multiple complaints against one councillor, although not regular, were seen elsewhere. In terms of timescales, she acknowledged that these were not always met but highlighted that the council received three times as many complaints as other councils and there was not a great deal of officer capacity to deal with them. She commented that if officers tried to resolve issues informally instead, the individuals involved were not always satisfied with the outcome. She thanked the Independent Persons who supported officers in the assessment process.

Councillor L. Jones requested details on the trends in the number of complaints, as this would in particular help Group Leaders. She asked if all Members had taken advantage of the training offered. In relation to service complaints, she had been told that residents often only complained because they had not received a satisfactory response and they felt the only way to address this was to submit a formal complaint. Councillor Jones was pleased with the focus on officer delegated decisions and the tendering process. She had tried to raise these issues at Overview and Scrutiny for some years, but the timescales meant it had not happened. She felt the skill-sets of Members were not being fully utilised; if procurement processes happened earlier then the role of Overview & Scrutiny could be factored in.

The Monitoring Officer confirmed that trend data was available, and she would arrange for it to be circulated to Members of the Panel. Training in the Members' Code of Conduct was mandatory under the Code; she confirmed that all Members had attended training in 2021. Although her report covered maladministration, it did not cover service complaints in general. However, she highlighted that there was work ongoing on how queries coming into the council were handled. It was acknowledged that there was an issue with responsiveness in some areas. Members would see a more planned approach to tendering as reports came through the Cabinet process. For example, a report for information on the procurement of a new leisure provider was coming to Cabinet in June 2022. The improved contract register would identify when contracts were due for renewal or retender, allowing Overview and Scrutiny to get involved at an earlier stage. It would also be a good idea to align the register with the Citizen's Portal.

Councillor Johnson commented that the leisure procurement process was a significant piece of work. The decision had been taken to reform the Overview and Scrutiny structure and expand the membership, to allow for additional focus in holding the Executive to account and deliver better procurement outcomes. He commented on the recent record levels of recycling in the borough. It was good news that there had been no Member-on-Member complaints in the last few months, although there were still some issues online.

Councillor Baldwin commented that he may be in need of mediation so would welcome contact in that respect. He stated that he did not accept that the Members he associated with used the Code of Conduct process for 'tit for tat' complaints, which would be irresponsible and a waste of public money. He had been the subject of many complaints and the author of only one.

The Monitoring Officer explained that the harassment and intimidation of Members was a key area of focus for the LGA. Officers had been talking to Thames Valley Police and were in the process of arranging a briefing for all councillors. She was unable to comment on individual complaints but as Monitoring Officer she was privy to all the details and did see complaints from Members about other Members, and she also saw how this played out on social media. There had been an element of Member-on-Member complaints at RBWM, but not in the last few months. Where difficulties arose in the relationship between one of more Members, mediation was an option to resolve the issue informally.

Councillor Baldwin commented that he felt there was confusion between 'tit for tat' exchanges on social media and formal complaints. A robust political exchange was part of the democratic process.

The Monitoring Officer responded that not all complaints were 'tit for tat' but some were and they often revolved around personal relationships rather than a genuine code of conduct issue.

**RESOLVED UNANIMOUSLY: That the Member Standards Panel notes the report.**

#### MEMBERS' CODE OF CONDUCT - CONSTITUTION UPDATES JUNE 2022

Members considered recommending to full Council a number of amendments to the Members' Code of Conduct.

Emma Duncan, Monitoring Officer, reminded Members that the Council adopted the Local Government Association (LGA) Model Code of Conduct in May 2021. Since that time the LGA had made minor amendments to the Code to make it clearer.

**RESOLVED UNANIMOUSLY: That the Member Standards Panel notes the report and recommends to full Council the proposed amendments detailed in Appendix B.**

The meeting, which began at 6.33 pm, finished at 7.36 pm

CHAIRMAN.....

DATE.....