

Minutes of the Standards Committee

10th June, 2016 at 2.30 pm
at the Sandwell Council House, Oldbury

Present: Councillor Lewis (Chair);
Councillor S Crumpton (Vice-Chair);
Councillors Ahmed, Dhallu and Sandars.

Observer: Mr Bell (Independent Person);

Apologies: Councillors L Horton and Underhill;
Mr Tomkinson (Independent Person).

6/16 **Minutes**

Resolved that the minutes of the meeting held on 11th March, 2016 be confirmed as a correct record.

7/16 **Allegations Update**

The Committee received an update on complaints received during 2014/15, 2015/16 and 2016/17 in respect of member conduct and the outcome of those complaints.

The Committee requested that the nature/a brief description of the complaint be included in future reports.

8/16 **Case Summary**

The Committee considered a case about two men who had been given prison sentences for offering a bribe to a council worker.

One man had been sentenced to 20 months imprisonment after pleading guilty to offering a bribe to a contracts manager at a Council.

The second man was a director of a taxi company which had a million pound contract with the council to provide home to school transport. Due to complaints he was about to lose the contract. In December 2013, the first man arranged a meeting with the council officer and offered him £500 along with a promise of ongoing payments of a four figure sum. The officer recorded the offer on his phone and immediately reported it to his line manager and group manager, who contacted the Police. The second man was imprisoned for three years after being found guilty of offering a bribe to a council worker.

9/16

Publication of Information

The Committee considered a report outlining each stage of the process of case handling, which had been considered in the light of existing statutory provisions and the need to balance the general public principle of transparency with the requirement of fairness for a member who was the subject of a standards allegation.

Hoey Ainscough Associates Ltd, a company which provided advice to local authorities on ethical standards and local governance, had been consulted.

In addition to considering each stage of the process, officers had also had regard to the Freedom of Information Act 2000 and the Data Protection Act 1998. Reference was also made to a recent relevant decision by the Information Commissioner concerning Mole Valley District Council on 16th October, 2014. In that case, the Commissioner held that the Council had correctly applied the exemption under the Freedom of Information Act not to disclose information relating to an investigation report into allegations about the conduct of a named Councillor. Such disclosure would be a breach of the Data Protection Act. In this particular case, the Councillor had not breached the code of conduct. The Commissioner stated that public authorities had to balance their obligations under the Data Protection Act to protect individuals' right to privacy.

The publication of material at each stage of the process also had to be considered against the backdrop of the law relating to defamation.

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Defamation involved the protection of the person's reputation and occurred when there was a publication to a third party of word or matters containing an untrue imputation against the reputation of individuals, companies or firms which served to undermine that reputation in the eyes of right thinking members of society generally, by exposing the victim to hatred, contempt or ridicule. The publisher of defamatory material may find himself facing an action for damages and an injunction. There were defences, the most relevant for this report being that it was justified in that what had been published was true.

With regard to each stage of the process, the Committee made the following comments:-

- **Initial assessment of an allegation**

The Committee was of the view that at this stage the allegation would not be publicised, however, if approached, the Monitoring Officer would provide a factual response to confirm that the complaint had been received and would be dealt with by following due process.

The Monitoring Officer confirmed that should the Chief Whip receive complaints which were perceived to be a matter for the Standards Committee the Group had a responsibility to refer the matter either to the Monitoring Officer or the Chief Executive.

- **Initial assessment – no further action**

The Committee was of the view that at this stage the information would not be publicised. If approached, the Monitoring Officer would provide a short statement confirming that a complaint had been received, however, no action had been taken.

In cases where it was considered that no investigation was required, the complainant had the option to request a review of the matter. Once a review had taken place, the minutes were published. The Committee were satisfied with the publication of the minutes which would contain some detail.

- **Initial assessment – referring the matter for an investigation**

The Committee was of the view that at this stage the information would not be publicised. If approached, the Monitoring Officer would state that a complaint had been received and was being investigated.

- **Initial assessment – other action**

The Monitoring Officer confirmed that there were informal channels to resolve complaints, such as a formal apology, an explanation, training, etc.

The Committee was of the view that where patterns emerged then these instances should be publicised. The Monitoring Officer confirmed that should patterns emerge then a discussion would take place with the member concerned.

- **An ongoing investigation**

The Monitoring Officer confirmed the need to protect evidence. Where there was no breach this information would be kept confidential, unless it was requested by the member to be publicised, or was in the public interest to publicise.

The Committee confirmed that issues would be dealt with on a case-by-case basis and it was difficult to predict what could and could not be publicised in advance. The Monitoring Officer had discretion to deal with matters appropriately and if complainants were not happy there was the option to request a review of the matter. Where reviews took place it was important to include as much detail in the minutes as was possible.

The Monitoring Officer confirmed that she would build in consultation with independent persons into the arrangements.

- **Matters referred to a hearing**

The Monitoring Officer advised that where there was a potential breach the matter was referred to a hearing. The law stated that meetings should be public unless there was exempt information. Information could only be exempt for the reasons specified in the exemption categories. On the one hand there was a need for transparency, on the other hand there was the need to be fair to all parties involved and not to pre-judge cases.

The Committee was of the view that matters would need to be dealt with on a case-by-case basis and were content that meetings would be public unless there was a particular reason for the information to be exempt from publication.

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The Committee considered that papers should be private where it would be a miscarriage of justice to have them publicised, however, consideration could also be given to holding the meeting in public at the commencement of the meeting. Consideration was also given to the option of publishing a redacted version of papers. Care had to be taken where there were witnesses being called to a meeting.

The Monitoring Officer confirmed that the meetings could be held in public, however, papers could be exempt from publication which could be released at a later date, dependent on the case. The Committee agreed that the Chair and independent persons should be consulted on each case to decide whether information should be publicised prior to a hearing. The Monitoring Officer suggested that journalists and independent persons be briefed prior to the meeting. Following the hearing the decision and minutes would be published.

Resolved:-

- (1) that Members endorse that the purpose of any standards framework is about demonstrating that an organisation and individuals within that organisation are acting ethically and appropriately and, when they fall short of the standards expected of them, they are held to account;
- (2) that Members acknowledge that there is a balance to be struck between the general legal principles that local government matters are dealt with as much as possible in public; the public's right to know and the rights of a Member to protect their reputation where no finding has been made against them;
- (3) that the Director – Governance submits a report to a future meeting in relation to a revision of the Arrangements, to include broad criteria to be taken into account when disclosing information into the public domain;

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- (4) that Members acknowledge that each individual matter is dealt with on its own merits and in accordance with the “Arrangements for dealing with standards” and that disclosure and publicity aspects be decided by the Monitoring Officer on a case-by-case basis, in consultation with the Chair/Vice Chair of the Standards Committee and Independent Persons;
- (5) that Members’ views on the appropriate balance between disclosure and publication in the public interest and the right of a member to confidentiality, data protection and reputation be taken into consideration in the preparation of a revised Arrangements document.

10/16

Standards Committee Work Programme 2016/17

The Committee considered a draft work programme for 2016/17.

Resolved that the work programme for 2016/17 be approved and kept under review during the year.

(Meeting ended at 3.45 pm)

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