

BATH AND NORTH EAST SOMERSET

STANDARDS COMMITTEE

MINUTES OF THE MEETING OF THURSDAY, 23RD OCTOBER, 2014

PRESENT:-

Independent Members: Susan Toland (Chair), Deborah Russell (Independent Member)

Parish Representatives: Tony Crouch and Veronica Packham

Bath and North East Somerset Councillors: Rob Appleyard, Sally Davis, Nigel Roberts and Malcolm Lees

Officers: Vernon Hitchman (Divisional Director, Legal and Democratic Services) and Ray Morrison (Reserve Independent Person)

10 WELCOME AND INTRODUCTIONS

The Chair welcomed everyone to the meeting. She was pleased to welcome Ray Morrison, Reserve Independent Person, to his first meeting of the Committee.

11 EMERGENCY EVACUATION PROCEDURE

The Democratic Services Officer read out the procedure.

12 APOLOGIES FOR ABSENCE AND SUBSTITUTION

Apologies were received from Councillor Eleanor Jackson, Councillor Sarah Bevan, Dr Cyril Davies and Axel Palmer. Councillor Rob Appleyard substituted for Councillor Bevan.

13 DECLARATIONS OF INTEREST

There were none.

14 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

There was none.

15 ITEMS FROM THE PUBLIC - TO RECEIVE DEPUTATIONS, STATEMENTS, PETITIONS OR QUESTIONS

There were none.

16 ITEMS FROM COUNCILLORS AND CO-OPTED AND ADDED MEMBERS RELATING TO THE GENERAL BUSINESS OF THE COMMITTEE

There were none.

17 MINUTES OF THE MEETING OF 26 JUNE 2014

The public and exempt minutes were approved as a correct record, subject to the addition of Councillor Eleanor Jackson's apologies for the meeting.

18 REVIEW OF HANDLING OF COMPLAINTS RECEIVED

The Divisional Director of Legal Services and Monitoring Officer presented the report. He said that the main difference between the revised complaints procedure and the version considered by the Committee at its meeting on 6th February 2014 was the addition of indicative timescales for each stage of the process.

He drew attention to paragraph 5.3 of the report and invited members to decide on whether there should be mechanism for appeal against a decision not to investigate a complaint by the complainant and to investigate by the subject councillor. Almost every complainant who had been told that their complaint would not be investigated had expressed dissatisfaction about this. At the moment complainants could complain to the Ombudsman who would only consider procedure not outcome. Under the previous standards regime there had been a Review Sub-Committee which reviewed decisions of the Referrals Sub-Committee not to investigate. There was no mechanism for subject councillors to challenge a decision to investigate. Members discussed this and made the following points:

- an extra appeal layer seemed superfluous now that the Monitoring Officer consulted the Independent Chair and the newly-appointed Independent Person about the initial assessment of complaints
- if the initial process was robust, appeals should be allowed only if the complainant could show that important information had been overlooked
- the investigation process was the opportunity for the subject member to make their case
- subject members would feel aggrieved if complaints initially rejected were subsequently taken further
- the Review Sub-Committee had never overturned a decision of the Referrals Sub-Committee
- reviewing rejected complaints might absorb an undue amount of officer time
- establishing an appeal process might be a sensible response to the fact that such a high proportion of complainants felt aggrieved when their complaints were not pursued
- if there was a review process, it would have to be done by different people from those who had done the initial assessment

It was agreed that there should be a review process for complaints rejected after initial assessment and that it should involve an Independent Member other than the

Chair. The Divisional Director of Legal Services and Monitoring Officer said he would draft a review process.

The Divisional Director of Legal Services and Monitoring Officer drew attention to paragraph 5.4 of the report and asked Members to decide whether or not subject members should be advised of complaints against them rejected after initial assessment. It was the current practice in this council to do so, but other councils did not. It was agreed by the Committee that subject members should continue to be notified of rejected complaints and that complainants should know that this would be the case.

The Chair raised points about the wording of the procedure. After discussion, it was agreed that the following amendments should be made to improve style and clarity:

passim: there should be consistency in the use of “he/she/they” etc.

page 22, 7th bullet point: “*admitted making an error*” should be “*apologised for making an error*”

page 23, 2nd paragraph: the second sentence should be omitted

page 24, 2nd paragraph of section 10: this should make it clear that the only witnesses permitted were people referred to in the evidence and not, for example, character witnesses

page 24, third paragraph of “Local Hearing – Procedure B”: “*such comments*” should be “*any comments*”

Page 26: Constitution of the Standards Committee when conducting a Local Hearing: “*one member may be a town/parish council representative*” should be “*one member must be a town/parish council representative*”

RESOLVED to approve the procedure for handling complaints subject to comments made by the Committee, including the need for adequate resourcing of the complaints handling process.

19 REPORT ON ASSESSMENT OF COMPLAINTS

The Divisional Director of Legal Services and Monitoring Officer presented the report.

He drew attention to paragraph 5.3 of the report, which provided the background for understanding why some complaints had taken so long to resolve.

He drew attention to paragraph 5.4, which highlighted the difficulty some complainants had had in understanding the concept of “other” interests and the common misconception that a Councillor could not perform more than one role on a council without conflicts of interest arising. He had examined the codes of conduct of other Councils and found that most of them used the category of “other” interest.

He drew attention to paragraph 5.5 which reported dissatisfaction with the complaint process and its outcomes and to his commitment in paragraph 5.6 to speeding up all steps in the complaint process.

A Member said that in his view a lot of dissatisfaction had its origin in a lack of understanding of the responsibilities of the Council and its way of working.

RESOLVED to note the report and to agree to receive six monthly updates at future meetings.

20 INDEMNITIES FOR MEMBERS AND OFFICERS

The Divisional Director of Legal Services and Monitoring Officer presented the report. He said that the Appendix was a revised version of the document which the Committee had declined to approve at its meeting on 6 February 2014. He believed that the revised document followed a more logical order.

A Member expressed concern about the possibility of a member or officer of the Council having to repay an indemnity. The Divisional Director of Legal Services and Monitoring Officer explained that the circumstances listed in paragraph 10 of the document were those specified in Regulations. There had been a legal challenge to the repayment of an indemnity in a case relating to an officer of a local authority in Wales; the outcome of this case would be considered and, if there were significant implications, the policy could be reviewed.

RESOLVED to recommend to the Cabinet and the Council that they grant an indemnity to members and officers of the Council in the terms set out in the Appendix to the report and to instruct the Divisional Director: Business Support to secure insurance to cover the Council's liability under this indemnity in so far as he is of the opinion that such insurance would be financially prudent.

The meeting ended at 7.02 pm

Chair(person)

Date Confirmed and Signed

Prepared by Democratic Services