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Service Director – Legal, Governance and Commissioning

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Tuesday 29 August 2017

Notice of Meeting

Dear Member

Standards Committee

The **Standards Committee** will meet in the **Meeting Room 1 - Town Hall, Huddersfield** at **11.00 am** on **Wednesday 6 September 2017**.

The items which will be discussed are described in the agenda and there are reports attached which give more details.

A handwritten signature in black ink, appearing to read "Julie Muscroft".

Julie Muscroft

Service Director – Legal, Governance and Commissioning

Kirklees Council advocates openness and transparency as part of its democratic processes. Anyone wishing to record (film or audio) the public parts of the meeting should inform the Chair/Clerk of their intentions prior to the meeting.

The Standards Committee members are:-

Member

Councillor Andrew Marchington

(Chair)

Councillor Eric Firth

Councillor Shabir Pandor

Councillor Ken Sims

Councillor Mohan Sokhal

Agenda

Reports or Explanatory Notes Attached

Pages

1: Membership of the Committee

To receive any apologies for absence.

2: Minutes of Previous Meeting

1 - 6

To approve the Minutes of the meeting of the Committee held on 17 January and 24 May 2017.

3: Interests

7 - 8

The Councillors will be asked to say if there are any items on the Agenda in which they have disclosable pecuniary interests, which would prevent them from participating in any discussion of the items or participating in any vote upon the items, or any other interests.

4: Admission of the Public

Most debates take place in public. This only changes when there is a need to consider certain issues, for instance, commercially sensitive information or details concerning an individual. You will be told at this point whether there are any items on the Agenda which are to be discussed in private.

5: Deputation/Petitions

The Committee will receive any petitions and hear any deputations from members of the public. A deputation is where up to five people can attend the meeting and make a presentation on some particular issue of concern. A member of the public can also hand in a petition at the meeting but that petition should relate to something on which the body has powers and responsibilities.

6: Update on Standards Related Matters

9 - 14

To consider the report.

Contact: Julie Muscroft/Samantha Lawton, Legal Services

7: Update on Appointment of Independent Person

15 - 22

To receive the report.

Contact: Julie Muscroft/Samantha Lawton, Legal Services

Contact Officer: Andrea Woodside

KIRKLEES COUNCIL

STANDARDS COMMITTEE

Tuesday 17th January 2017

Present: Councillor Nigel Patrick (Chair)
Councillor Eric Firth
Councillor Andrew Marchington
Councillor Shabir Pandor
Councillor Mohan Sokhal

1 Membership of the Committee

All Committee Members were present.

2 Interests

No interests were declared.

3 Admission of the Public

It noted that all agenda items would be considered in public session.

4 Deputation/Petitions

No deputations or petitions were received.

5 Review of Standards Regime/Member Code of Conduct

Standards Committee gave consideration to a report which sought a review of the operation of the Standards process and to consider options for changes to the Member Code of Conduct and Standards regime.

The report advised that it was an appropriate time to review the Code of Conduct and the Standards process, alongside the review of Member Officer protocol, and in acknowledgement of the introduction of new behaviours for employees and elected members. It was noted that a questionnaire regarding various standards issues had been circulated to relevant officers, elected members, and independent persons, and then more detailed feedback had been sought from Group Business Managers

Standards Committee - 17 January 2017

during August 2016. An online survey was also circulated to all elected members, and the responses were attached at appendix 4 of the considered report. The report set out a breakdown of observations on the regime, alongside a commentary of proposals in terms of moving forward.

The Committee were asked to consider the following recommendations as set out at Paragraph 6.1 of the report;

- (1) To revise the Kirklees Code so that it is more directional on 'poor behaviour' and make reference to the Principles of Public life, making reference to examples of poor behaviour.
- (2) To amend the Code to include a lack of response to complaints by members, subject to relevant extenuating circumstances, as an example of poor behaviour.
- (3) Members to sign the Code of Conduct.
- (4) To amend section 5.1 of the Code of Conduct to simplify the definition of 'other interests'.
- (5) To continue current practice in terms of verbally declaring disclosable pecuniary interests and 'other' interests at meetings.
- (6) That the complaints process be amended so that the Monitoring Officer and one other (or more) make a decision as to whether a complaint should proceed.
- (7) To amend the complaints process so that the decision maker in the resolution of complaints is the Monitoring Officer, and the Chair of Standards Committee, in consultation with the Group Business Manager if it proceeded to Assessment Panel.
- (8) That the complaints process be amended to include a clearer process for early dismissal of complaints which or minor or considered as political 'tit for tat.'
- (9) That the Standards Committee receive 6 monthly reports regarding member behaviour and complaints received, and meet annually for a review meeting.
- (10) That the process for dispensations be amended so that there is provision for the Monitoring Officer to consult with Group Business Managers prior to the meeting of Budget Council, and during the summer.
- (11) That all of the Sanctions as set out at Appendix 8 of the considered report be endorsed.
- (12) That any matters referred to the police whereby criminal investigation ceases shall still be subject to the standards process.
- (13) That the current process continues and there continues to be no right of appeal, other than a complaint to the Ombudsman if a councillor is dissatisfied.
- (14) That elected members be required to undertake appropriate training following the review on the new code and standards process.

The Committee agreed with the recommendations as set above, subject to the amendments of (3) to require re-elected or newly elected members to sign the code from 2018 onwards, (7) for the monitoring Officer, Independent Person and Chair of Standards Committee to act as decision makers, and (9) to require two meetings of the Committee to be included within the Annual Calendar of Meetings. Additionally,

Standards Committee - 17 January 2017

the Committee were also of the view that (i) the Council should have expectations of behaviour from complainants and that the conduct of a complainant should be taken into account in decisions as to the progress of a complaint and (ii) that, in relation to (6) and (7), the remuneration of the Independent Person be reconsidered as the role would no longer be solely advisory.

RESOLVED -

- 1) That the report be received and noted.
- 2) That the recommendations of the Committee be incorporated within the report to be considered by Corporate Governance and Audit Committee to be held on 27 January 2017.

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Contact Officer: Andrea Woodside

KIRKLEES COUNCIL

STANDARDS COMMITTEE

Wednesday 24th May 2017

Present: Councillor Andrew Marchington (Chair)
Councillor Eric Firth
Councillor Shabir Pandor
Councillor Mohan Sokhal
Councillor Ken Sims

1 Admission of the Public

The Committee determined that the business for the meeting be considered in public.

2 Appointment of Standards Sub-Committee

It was moved by Councillor Marchington, seconded by Councillor E Firth and;

RESOLVED -

That the appointment of the Standards Sub-Committee be approved; that the Sub-Committee should not be in accordance with the requirements of Section 15 and 16 of the Local Government and Housing Act 1989 but that the membership be drawn from the membership of the Standards Committee at Item 17 of the Agenda of the Annual Council meeting.

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KIRKLEES COUNCIL			
COUNCIL/CABINET/COMMITTEE MEETINGS ETC			
DECLARATION OF INTERESTS			
Standards Committee			
Name of Councillor			
Item in which you have an interest	Type of interest (eg a disclosable pecuniary interest or an "Other Interest")	Does the nature of the interest require you to withdraw from the meeting while the item in which you have an interest is under consideration? [Y/N]	Brief description of your interest

Signed: Dated:

NOTES

Disclosable Pecuniary Interests

If you have any of the following pecuniary interests, they are your disclosable pecuniary interests under the new national rules. Any reference to spouse or civil partner includes any person with whom you are living as husband or wife, or as if they were your civil partner.

Any employment, office, trade, profession or vocation carried on for profit or gain, which you, or your spouse or civil partner, undertakes.

Any payment or provision of any other financial benefit (other than from your council or authority) made or provided within the relevant period in respect of any expenses incurred by you in carrying out duties as a member, or towards your election expenses.

Any contract which is made between you, or your spouse or your civil partner (or a body in which you, or your spouse or your civil partner, has a beneficial interest) and your council or authority -

- under which goods or services are to be provided or works are to be executed; and
- which has not been fully discharged.

Any beneficial interest in land which you, or your spouse or your civil partner, have and which is within the area of your council or authority.

Any licence (alone or jointly with others) which you, or your spouse or your civil partner, holds to occupy land in the area of your council or authority for a month or longer.

Any tenancy where (to your knowledge) - the landlord is your council or authority; and the tenant is a body in which you, or your spouse or your civil partner, has a beneficial interest.

Any beneficial interest which you, or your spouse or your civil partner has in securities of a body where -

- (a) that body (to your knowledge) has a place of business or land in the area of your council or authority; and
- (b) either -

the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or

if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you, or your spouse or your civil partner, has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

Name of meeting: Standards Committee

Date: 6 September 2017

Title of report: Update on Standards related matters

Purpose of report

To consider the amendments to the Standards process in Kirklees which were agreed by Council on 26 April 2017

Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	N/A
Key Decision - Is it in the Council's Forward Plan (key decisions and private reports?)	N/A
The Decision - Is it eligible for call in by Scrutiny?	N/A
Date signed off by <u>Strategic Director</u> & name	N/A
Is it also signed off by the Service Director for Finance IT and Transactional Services?	29/08/2017
Is it also signed off by the Service Director for Legal Governance and Commissioning Support?	29/08/2017
Cabinet member portfolio	N/A

Electoral wards affected: N/A

Ward councillors consulted: N/A

Public or private: Public

1. Summary

- 1.1 To consider the amendments to the Standards process in Kirklees which were agreed by Council on 26 April 2017 and in particular to consider the impact of those changes on the role of Standards Committee including:
- 1.1.1 an increased involvement in considering training and support for Members,
 - 1.1.2 the role of the Committee in setting expectations in relation to behaviours,
 - 1.1.3 reviewing the effectiveness of the Standards process and
 - 1.1.4 the role of the Chair of Standards in decision making
 - 1.1.5 to consider an update on any complaints received since the new process was adopted as well as
 - 1.1.6 any plans for future work.

2. Information required to take a decision

- 2.1 At the 26 April 2017 Council meeting the Council considered reports from the Standards Committee and Corporate Governance & Audit Committee which set out the outcome of a review of the Standards process in Kirklees and set out a number of recommendations to change the way in which complaints about Members behaviour would be considered in the future. A link to the report is attached:
<https://democracy.kirklees.gov.uk/documents/s18043/Item%209%20-%20Report%20a.pdf> It is a comprehensive report and made 17 recommendations.

- 2.2 In summary the outcome was:

- to amend the Code of Conduct for Members and make it more directional about what is acceptable behaviour and what would fall foul of the Code of Conduct.
- To change the decision makers so that a decision whether or not to take a complaint forwards would rest with the Monitoring Officer and Independent Person . The next layer of decision making now sits with Chair of Standards, the Independent Person, and Monitoring Officer in consultation with Group Business Managers.
- It simplifies the process and the intention is to deal with some complaints at a different level or to decide that they do not meet the criteria which would merit consideration
- To agree a number of new sanctions
- Some changes to the role of Standards. There were also a number of recommendations which require further discussion by the Standards Committee and/or will require discussion in future Committee

2.3 Standards Committee

- 2.3.1 The role of the Committee was amended to give it a higher profile and additional responsibilities were added. This included an obligation to meet 6 monthly to consider reports regarding Member behaviour and complaints received, to meet annually for a review meeting and to highlight training needs of Members. Members supported the role of Standards Committee and felt it served a very important purpose.
- 2.3.2 It was also agreed that Members should be required to have appropriate training in relation to expectations around behaviours and members of Standards Committee are asked to consider some options in relation to how this might take place.

2.3.3 There is also a higher role for the Chair of Standards moving forwards. The Chair of Standards will now have a role in decision making with the Independent Person and the Monitoring Officer if a complaint is considered at the first stage in consultation with Group Business Managers.

2.4 Complaints Received

Since the introduction of the new procedure we have received no complaints which have been taken for further consideration to the Group Business Managers' meeting. There have been a number of queries received from members of the public, only one has resulted in a complaint being submitted. This was considered by the Monitoring Officer and the Independent Person and it was not considered that the matter had sufficient detail that the behaviour of the Member concerned was in breach of the Code of Conduct.

This is good news but doesn't mean to say that there are not behaviour or training issues. There are a number of behaviours which are apparent which may not result in a formal complaint but which nevertheless might be an area which is of concern

2.5 Training Needs and other support

Currently Members receive some training when appointed as new Councillors about the Standards process and expectations. Members who are the subject of a Standards decision may also be required to undertake training. Over and above that there is no other formal training or reminder about expectations. Information is shared at Group Business Manager meetings about any recent decisions elsewhere which might impact on Councillor behaviour so for example – First tier tribunal decision relating to Council tax payments. Standards Committee views are sought on:

- i. Whether we need do a more advanced training. In the way that we update on Planning and licencing matters do we do a short reminder for everyone every year? E.g. some on line questions
- ii. How do we enforce some of those things? Do we enforce them? Do we do it specifically in groups?
- iii. Do we highlight issues relating to decisions on Standards to Members directly? Do we do it through this Committee or through Group Business Managers?
- iv. What do Members feel are the issues within their groups relating to behaviours and expectations? Are there any themes within groups?
- v. What kind of training should it be- could it be in 1 to 1s? On-line, formal training events

The kind of issues which have led to complaints recently (formal/ informal) and which might merit considering include:

Use of Social Media Facebook, tweets, being filmed

Visibility at Council meetings

Dealing with difficult situations – including members of the public/ expectations

Members are invited to make suggestions

2.6 Policy on Reasonable Behaviour

One of the recommendations which was agreed at Council meeting in April was that we were to make clear the Council's expectations of members of the public when

engaging in the Standards process. A report will be considered by Cabinet shortly and then by Council setting out expectations about reasonable behaviour. This is a corporate wide policy and will relate to engagement with the Council at many different levels. It won't impact just on the Standards process but the principles would apply in relation to expectations of members of the public in their correspondence and/or communication with the Council about Members behaviour.

We can consider the impact of this in a future meeting of the Standards Committee.

3. Implications for the Council

3.1 Early Intervention and Prevention (EIP)

Not applicable.

3.2 Economic Resilience (ER)

Not applicable.

3.3 Improving Outcomes for Children

Not applicable.

3.4 Reducing demand of services

Not applicable.

3.5 Other (eg Legal/Financial or Human Resources)

It is important that Members set a good example in the way that they behave and conduct themselves in public and we keep this under review. There are no specific HR and/or any legal or financial implications.

4. Consultees and their opinions

4.1 This is a report for information and to seek input from members of the Standards Committee and there has been no consultation with other Members before that discussion.

5. Next steps

5.1 If agreed:

- i. Developing a programme of training and support for Members.
- ii. Continue to monitor the number of complaints received and whether that establishes any trends

6. Officer recommendations and reasons

6.1 Members note the changes to the Standards process in Kirklees since 26 April 2017 and in particular the increased role of Standards Committee.

6.2 Members comment on the proposals for training and support for members, make any suggestions themselves and make recommendations to officers to develop a programme of support and training.

7. **Cabinet portfolio holder's recommendations**

7.1 Not applicable.

8. **Contact officer**

Julie Muscroft – Service Director, Legal, Governance & Commissioning and
Samantha Lawton Senior Legal Officer, Legal Governance & Commissioning.

9. **Background Papers and History of Decisions**

9.1 Report to Council [24 or 27] April 2017.

10. **Service Director responsible**

Julie Muscroft - Service Director, Legal, Governance & Commissioning.

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Name of meeting: Standards Committee
Date: 6 September 2017
Title of report: Update on the appointment of independent persons

Purpose of report: To update Standards Committee on the appointment of new independent persons following the change to the Standards process in Kirklees

Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	No
Key Decision - Is it in the Council's Forward Plan (key decisions and private reports?)	No
The Decision - Is it eligible for call in by Scrutiny?	Yes/ no or " not applicable" If no give the reason why not
Date signed off by <u>Strategic Director</u> & name Is it also signed off by the Service Director for Finance IT and Transactional Services? Is it also signed off by the Service Director for Legal Governance and Commissioning Support?	N/A Debbie Hogg – 29 August 2017 Julie Muscroft – 29 August 2017
Cabinet member portfolio	Not applicable

Electoral wards affected: n/a

Ward councillors consulted: n/a

Public or private: Public

1. **Summary**

- 1.1 This report is to update the Standards Committee about the process undertaken to appoint new independent persons. In April 2017 the Council agreed to revise its standards process and as part of that it was agreed that two new independent persons would be appointed. The Council currently has an Independent Person and a Deputy. They reappointed for a period of up to a year on 9th November 2016. They were reappointed for a year because it was known at the time that the review of the standards process was due to complete in 2017 and that the role of the Independent Persons might change as part of that review.
- 1.2 At the April 2017 Council meeting it was agreed to delegate authority to the Monitoring Officer in consultation with Group Business Managers to agree a process for the appointment of two new independent persons and to make a recommendation to Council.

2. **Information required to take a decision**

- 2.1 A report has been taken to Corporate Governance and Audit Committee on 4 August 2017 which updated them before a decision was taken to Council about the steps taken to appoint independent persons. A copy of that report is attached at Appendix 1 to this report. Corporate Governance and Audit agreed to appoint Michael Stow as independent person and to recommend that he be appointed at the Council meeting in September.
- 2.2 The original intention of the exercise was to appoint two independent persons. We received only one application from Michael Stow who was already an independent person for Kirklees. After consultation with the Chair of Standards Committee it was agreed that we would recommend that he be appointed for a period of 2 years. As part of the discussion with the Chair of Standards we also agree that the council review whether or not it was necessary to appoint a further independent person. The review would take place at the next meeting of Standards Committee at the beginning of 2018.
- 2.3 At Corporate Governance and Audit Committee members requested more information be provided about Mr Stow. Mr Stow has been an independent person for Kirklees Council since the introduction of the new local standards regime in 2012 (the local standards process was introduced as a result of the Localism Act 2011). He is a retired local government worker who lives in the Kirklees area. He previously worked for Bradford at a very senior level in children's services.

3. **Implications for the Council**

The Council is required by law under the Localism Act 2011 to have an independent person appointed to consult in relation to code of conduct complaints. If the council fails to appoint an independent person they would be in breach of this requirement and could face a legal challenge if they decided to investigate someone without consulting with an Independent Person.

3.1 **Early Intervention and Prevention (EIP)**

Not applicable

3.2 **Economic Resilience (ER)**

Not applicable

3.3 **Improving Outcomes for Children**

Not applicable

3.4 **Reducing demand of services**

Not applicable

3.5 **Other (eg Legal/Financial or Human Resources)**

Not applicable

4. **Consultees and their opinions**

4.1 Group Business Managers were consulted regarding the role and remuneration advertisement for the role and consultation took place with the Chair of Standards regarding the appointment of the independent person following the submission of one application.

5. **Next steps**

5.1 The report will be submitted to Council to request the appointment of the independent person.

6. **Officer recommendations and reasons**

6.1 That Standards Committee note the recommendation to Council that Michael Stowe be appointed as independent person for a period of two years.

7. **Cabinet portfolio holder's recommendations**

Not applicable

8. **Contact officer**

Sam Lawton, Senior Legal Officer
sam.lawton@kirklees.gov.uk

9. **Background Papers and History of Decisions**

Report to Council 9th November 2016

<https://democracy.kirklees.gov.uk/documents/s15294/Report%20to%20Council%20091116%20Appoint%20Ind%20Person.pdf>

Report to April Council 2017

<https://democracy.kirklees.gov.uk/documents/s18043/Item%2009%20-%20Report%20a.pdf>

Report to Corporate Governance and Audit Committee August 2017

<https://democracy.kirklees.gov.uk/documents/s19307/CGA%20Report%20of%20Independent%20Person%204%20Aug%2017.pdf>

10. **Service Director responsible**

Julie Muscroft, Service Director Legal, Governance and Commissioning
julie.muscroft@kirklees.gov.uk

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Name of meeting: Corporate, Governance and Audit

Date: 4 August 2017

Title of report: Appointment of Independent Person

Purpose of report

To appoint the Independent Person (IP) to assist the Monitoring Officer in the Code of Conduct/Standards regime following a review of the role of the Independent Person. A review of the IP role took place following a review of the Standards regime which was endorsed by Council on 26 April 2017.

Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	No
Is it in the Council's Forward Plan (Key Decisions and Private Reports)?	No
Is it eligible for "call in" by Scrutiny ?	No
Date signed off by <u>Director</u> & name Is it signed off by the Service Director of Finance, IT and Transactional Services? Is it signed off by the Service Director – Legal, Governance & Commissioning	
Cabinet member portfolio	Resources – Cllr Graham Turner

Electoral [wards](#) affected:
 Ward councillors consulted:

N/A
 Group Business Managers for each group

Public or private:

Public

2. Summary and Information required to take a Decision

Independent Persons

- 2.1 Under the Localism Act 2011 the Council was required to establish its own Standards process/Code of Conduct. This replaced the previous National Members Standards regime. The Localism Act also required that an Independent Person is appointed who must be consulted prior to a decision to carry out an investigation as part of any Standards process.
- 2.2 In Kirklees' earlier Standards process (prior to 26 April 2017) the role of the Independent Person is to be a point of consultation should the Monitoring Officer wish to decide that an investigation take place. The Independent Person is also part of the Panel which the Monitoring Officer consults at an early stage in the process to decide what action (if any) should be taken by the Member who is subject of the complaint.
- 2.3 In the current Standards process following the review, the role of the IP has been developed and expanded and in addition to being consulted as to whether an investigation should take place the IP also takes the following decisions with the Monitoring Officer: -
- whether a complaint should proceed for early dismissal and whether it is a valid complaint
 - whether there has been a breach of the Code of Conduct at the informal resolution stage (decision taken with the Chair of Standards)
- 2.4 The original Independent Persons were appointed for 2 years from 24 October 2012 when the new Local Standards process was first adopted by Kirklees. This was agreed by Council on 24 October 2012 following a verbal report by the Acting Assistant Director – Legal, Governance and Monitoring. The appointment was renewed for a further two years on 5 November 2014 and for a further year on 9 November 2016.
- 2.5 Due to the changes to the standards process and the expansion of the role the position of Independent Person was advertised in June 2017 with an annual allowance of £500 plus expenses. Following a recruitment exercise, Michael Stow who is the current IP was selected as the successful applicant by the Monitoring Officer and Chair of Standards, subject to the approval of Council.
- 2.6 This report requests that Michael Stow is appointed Independent Person for a two year period. This will mean Kirklees has one Independent Person.

3. Implications for the Council

The Council is required by law (under the Localism Act 2011) to have an Independent Person appointed to consult in relation to Code of Conduct complaints and incorporated within the Standards regime. If the Council fails to appoint an Independent Person they would be in breach of this requirement and could face legal challenge.

3.1 Early Intervention and Prevention (EIP)

N/A

3.2 Economic Resilience (ER)

N/A

3.3 Improving Outcomes for Children

N/A

3.4 Reducing demand of services

N/A

4. Consultees and their opinions

- 4.1 There has been consultation with the Group Business Managers regarding the role, remuneration and advertisement of the role. Consultation has taken place with the Chair of Standards regarding the appointment of the Independent Person.

5. Next steps

- 5.1 Report to be submitted to Council to request the appointment of the Independent Person.

6. Officer recommendations and reasons

- 6.1 That Michael Stow be appointed as Independent Person for a period of 2 years.

7. Cabinet portfolio holder recommendation

N/A

8. Contact officer and relevant papers

Samantha Lawton

9. Service director responsible

Julie Muscroft
Service Director
Legal, Governance and Commissioning
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Telephone: 01484 221000

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