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**Service Director – Legal, Governance and
Commissioning**

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Friday 15 November 2019

Notice of Meeting

Dear Member

Standards Committee

The **Standards Committee** will meet in the **Meeting Room 3 - Town Hall, Huddersfield** at **1.00 pm** on **Monday 25 November 2019**.

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", on a light-colored background.

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 Paul Davies (Chair)

Councillor Bill Armer

Councillor Martyn Bolt

Councillor James Homewood

Councillor Alison Munro

Councillor Shabir Pandor

Councillor Mohan Sokhal

Agenda

Reports or Explanatory Notes Attached

Pages

1: Membership of the Committee

This is where Councillors who are attending as substitutes will say for whom they are attending.

2: Minutes of Previous Meeting

1 - 4

To receive the Minutes of the meeting of the Committee held on 11 September 2019.

3: Interests

5 - 6

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.

In accordance with Council Procedure Rule 10 (2), Members of the Public should provide at least 24 hours' notice of presenting a deputation.

6: Standards Process Review

7 - 20

The report advises of the proposed arrangements for the review of the Standards process and seeks the Committee's recommendations as to how this review be conducted.

Contact: David Stickley, Legal Services

Contact Officer: Andrea Woodside

KIRKLEES COUNCIL

STANDARDS COMMITTEE

Wednesday 11th September 2019

Present: Councillor Paul Davies (Chair)
Councillor Martyn Bolt
Councillor Alison Munro
Councillor Lisa Holmes
Councillor Mohan Sokhal

In attendance: Mike Stow – Independent Person

1 Membership of the Committee

Apologies for absence were received on behalf of Councillors Homewood and Pandor.

2 Minutes of Previous Meeting

RESOLVED - That the minutes of the meeting held on the 6 March 2019 be approved as a correct record. Proposed by Cllr Bolt and seconded by Cllr Munro.

3 Interests

It was noted that Councillors Bolt, Munro and Davies were Members of either a Town or Parish Council.

4 Admission of the Public

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

5 Deputation/Petitions

No deputations or petitions were considered.

6 Public Question Time

No questions were asked.

7 Code of Conduct - Complaints Update

The Committee received a report which provided an update on complaints that had been received since the previous meeting of the Committee on the 6 March 2019. The Committee was informed that the report is prepared every six months and gives a breakdown of complaints received.

The Committee was advised that since the publication of the report a further complaint had been received taking the numbers from 59 to 60. The complaints relate to alleged breaches of the Code of Conduct, 16 relate to Kirklees Councillors (a total of 12 Councillors) and 44 relate to Parish councillors (a total of 2 Councillors).

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Of these:

- 1 progressed through to a formal consideration by the Assessment Panel and subsequent decision,
- 4 were not progressed after the initial assessment process
- 9 were dealt with informally
- The remaining 46 are relatively recent

There was a further verbal update provided that amended the published figures in the complaints summary due to 2 complaints being finalised, with no action taken, between the publication of the report and the meeting.

The Committee was informed that while it appears that the numbers of complaints received had increased, 43 of the complaints are all concerning the same matter, a number of which are waiting to progress to the Assessment Panel for consideration. The complaint relates to a Town and Parish Councillor. However only 30 of these will progress. This is due to needing to seek consent of the complainants to share their complaints with the Councillor complained of. However, not all of the original complainants gave their consent.

The Committee asked whether the complaints that had come in via email had been verified as it is possible for email addresses to be made up. In response, the committee was informed that most of the complainants had been identified to ensure that complaints were not being made for vexatious or malicious purposes and a great deal of effort goes into the filtering of such complaints.

The Committee also questioned whether the location of the complaints were valid as social media can make a complaint global, or are they limited to Kirklees. In addition the Committee raised concerns regarding the resource implications and economics of dealing with complaints as the council appears to be bearing the financial burden from town and parish councils which is adding to the overall financial and officer burden.

The Committee was informed that there is a legislative obligation on the Monitoring Officer to deal with complaints, however this obligation does not cover the monetary aspects.

The Committee suggested that there needs to be a wider conversation and a piece of work to look at how standards are dealt with as a whole. This should be looked at as part of the review.

The Committee was informed that prior to the recent increase, looking back it has been fairly stable. The Committee suggested that it would be useful to have a comparison with what was previously in place in comparison to now.

The Committee commented that it was not solely about how many complaints that was of concern but the nature of the complaints. While the number provides a good indication it would also be useful to know, what complaints were raised, were they resolved and what can be learned. The Committee suggested that this information could be presented in graph form and the complaints grouped in specific categories,

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for example complaints that relate to social media would be one category. It would then enable the Committee to look at outcomes and lessons learned.

RESOLVED -

- 1) That the report be received and noted
- 2) That future information be presented in graph form with complaints grouped into specific categories

8 Standards Update - Ethical Standards

The Committee received a report which provided an update on developments since the publication of the Committee for Standards in Public Life (CSPL) report. The report focused on the work Kirklees had undertaken, wider developments and whether there are any changes that the Committee should consider recommending.

The Committee was referred to section 2.3.5 of the report, and asked whether the recommendations, (those marked with an asterisk) could form part of the review. The Committee considered each recommendation in turn as follows:

Point 3 – Councillors should be presumed to be acting in an official capacity in their public conduct, including social media.

Mr Stow, Independent Person, informed the Committee that there is a need for some guidance to be issued to elected members. Once this guidance is issued it should then be clear how behaviours will be judged. Mr Stow made reference to historic social media posts and how these should be considered.

In response, some Committee members felt that it is not possible to entirely delete historic posts and the information can still be accessed and publicised. Historic posts should not be included as, consideration of social media should be from the point of election.

Other Committee members commented that whilst in public office elected members are accountable and the facts of each case should be looked at. While some committee members felt that it should be a matter of addressing patterns of behaviour, for example if the post was written before the person became a councillor and there is no pattern of behaviour then it should not be considered.

The Committee suggested that there should be some guidance, albeit not too wordy, which includes all the key points. The Committee also felt that there needs to be further, wider discussion and discussions with Counsel.

Point 7 – Councils should be required to include in their Code of Conduct a rule that precludes participation where a member has any interest a member of the public would reasonably regard as so significant that it is likely to prejudice a member

The Committee was advised that in considering conflicts of interest it should be determined whether this affects a person more or less and this is already covered by the Code. The issue is whether it is working or does this need to be

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strengthened, for example around lobbying. The Committee felt that there should be further discussion on this as part of the review.

Point 9 – Formal recording of the views of an Independent Person (IP) involved in any decision making process

The Committee agreed that with regard to decision notices the views of the IP should be recorded.

Point 12 – there should be a discretionary power to establish decision-making Standards Committees with members from parish councils

The Committee agreed that this should be fully considered at a special meeting of the Standards Committee to be arranged in November.

Point 17 – Clarification of whether councillors may be lawfully barred or have facilities withdrawn as a sanction.

The Committee agreed that this should be fully considered at a special meeting of the Standards Committee to be arranged in November.

RESOLVED -

- 1) That the report be received and noted
- 2) That a review of the Standards Process commence and consideration be given as to who should be consulted as part of a review and that a special meeting of the Standards Committee be arranged to take place in November 2019
- 3) That the starred proposals in para 2.3.5 of the submitted report be considered by the review
- 4) That authority to finalising details of the review be delegated to the Monitoring Officer

9 Standards - Cases and News Update

The Committee considered a report which provided information on developments, news and matters of local government ethics, including relevant case law.

RESOLVED - That the report be received and noted

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: 25th November 2019

Title of report: Standards Process Review

Purpose of report

To brief the Standards Committee on the proposed arrangements for the review of the Standards process which was agreed at the last meeting of this Committee, to seek the Committee's input and to make recommendations as to how this review be conducted.

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?	Not applicable
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?	No
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?	N/A
Is it also signed off by the Service Director for Legal Governance and Commissioning Support?	Yes
Cabinet member portfolio	Cllr Graham Turner

Electoral wards affected: All

Ward councillors consulted: None

Public or private: Public

Have you considered GDPR? Yes

1. Summary

- 1.1 This report follows on from the decision of the Standards Committee meeting in September, to set up a review of the standards process.
- 1.2 This report will look at the scope of the review and will make recommendations on what should be included in the review.
- 1.3 It will also make recommendations on the consultation process, making recommendations on consultees.

2. Information required to take a decision

2.1 Action taken so far

2.1.1 Recommendations were made to this committee following the publication of the Committee on Standards in Public Life (CSPL) report that were taken to 2019 Annual Council after consideration at Corporate Governance and Audit committee. These included both the recommendations made by the CSPL and 'best practice' suggestions. The Council were already doing many of the things recommended. In September a further report was considered looking at other best practice recommendations from CSPL.

2.1.2 One of the CSPL 'best practice' suggestions that was considered was:

3: Principal authorities should review their Code of Conduct each year and regularly seek, where possible, the views of the public, community organisations and neighbouring authorities.

2.1.3 The proposal that was taken to Annual Council and approved was:

2.10: The CSPL report recommended that councils should formally review their codes of conduct on an annual basis and seek to consult with the public, community organisations and neighbouring authorities when doing so. The Standards Committee took the view that any such wider review involving consultation should be bi-annual, noting that it could be a lengthy process. It was note that there already exists the power to review the code should the need arise and that Corporate, Governance and Audit do have a duty to conduct an annual review of the constitution in any event.

2.1.4 When it met in September, the Standards Committee resolved to hold a special meeting in November to consider the scope and terms of a wider review.

2.1.5 At its meeting in September Members were also asked to consider whether to include some of the remaining CSPL recommendations in

the review and it was resolved that the following could be included. Members are asked to consider whether they remain appropriate issues to form part of the review/consultation:

- 3. Councillors should be presumed to be acting in an official capacity in their public conduct, including social media – this is an issue that has arisen recently and there were conflicting views on how far we should go in presuming a member to be acting in an official capacity. The proposal is described as intended to provide clarity and remove any uncertainty. There would be nothing to prevent adopting this presumption on a voluntary basis in the Standards process / Code of Conduct and members are asked to consider whether doing so would be appropriate and, if so, when and how changes should be made.
- 4. Amendments to the Localism Act to state that a code of conduct applies when a member claims or gives the impression that they act as a member – this is something that was included in the pre Localism Act national code and the CSPL felt it should be reintroduced. This could be included specifically in the Code of Conduct
- 7. Councils should be required to include in their Code of Conduct a rule that precludes participation where a member has any interest a member of the public would reasonably regard as so significant that it is likely to prejudice a member – The Councils Code of Conduct already includes a section in it (section 5) which requires members to consider interests which are not Disclosable Pecuniary Interests (Other Interests) and to either declare them and take part / or not take part in any decision making depending on the circumstances. It is proposed that we review whether this works and whether it requires any changes/ clarification. The CSPL also makes reference to changing legislation to include non-paid roles in the pecuniary interests part of the DPI e.g. unpaid directorships; trusteeships; management roles in a Charity or a body of a public nature; and membership of any organisations that seek to influence opinion or public policy. We could voluntarily include specific reference to this in the second half of Kirklees DPI form which includes reference to “Other Interests” as an interim measure until any legislation is introduced. Should we seek views on this in the review?
- 9. Formal recording of the views of an IP involved in any decision making process – current decision notices do record that the IP took part, even if they don't record their views. Members are asked to consider if decision notices should

record that decisions were either unanimous or, where there is a dissenting view from an IP, whether that should be noted.

- 12. There should be a discretionary power to establish decision-making Standards Committees with members from parish councils – Kirklees do already have a Standards Committee, but it is currently neither a decision-maker and nor does it have any members from Town or Parish Councils. Members are asked to consider if Town and Parish Councils be invited to attend any committee meetings and, if so, how that could be made to work. In addition to consider whether Town and Parish Council representatives should be consultees with Group Business Managers in the current standards process, and if so how that could be made to work.
- 17. Clarification of whether councillors may be lawfully barred or have facilities withdrawn as a sanction – this is something that legislation will be needed for, as the position is currently unclear. The CSPL noted that councils that do withdraw facilities may currently be open to challenge. Members are asked to consider whether we seek views on the current sanctions available and whether others sanctions might be voluntarily agreed.

2.2 Other Discussion Points

2.2.1 In addition to the CSPL recommendations, members are also asked to consider whether there are any other matters that it would be helpful to review/ consider in the consultation. Officers propose some or all of the following may be considered. Members are also encouraged to discuss and propose other issues:

- does the current standards process work? If not, how can it be improved? Do we need a different model?
- the on-line complaint form which was adopted in 2012 makes reference to making complaints within a period of 28 days unless there is a good reason for not doing so sooner. This doesn't take account of patterns of behaviour and is a relatively short period. Should this be changed to reflect a longer period and reflect the fact that a pattern of behaviour may be a breach of the code of conduct?
- Many breaches of the Code relate to poor behaviour in use of social media. There have been some guidance notes issued previously about use of social media but should the Code of Conduct contain specific references to the use of social media and should a Protocol be developed

specifically for Councillors which forms part of the Constitution and which Councillors are required to comply with?

- It was agreed in March to adopt the example public interest test from Northern Ireland in the CSPL report – it would be useful to review how this is working.
- It was agreed previously that members have regular training on Standards matters - do you think this works? Should there be an obligation to record training carried out during the year – including standards / code of Conduct and other training which is needed to enable members to carry out their role?

2.3 Previous Review

- 2.3.1 The standards process was reviewed previously, and a report was presented to this committee in January 2017.
- 2.3.2 Changes were made to the standards processes following that review and those changes were approved by Council in April 2017 and Annual Council in 2017.
- 2.3.3 A copy of the questions used in the previous surveys is attached at Appendix A and members are asked to consider if these are still relevant and should form part of the survey, and to discuss what other questions should form part of the survey.

3. Implications for the Council

3.1 Working with People

A greater understanding of the role of Councillors and the place of the Standards process in helping to ensure appropriate behaviour may contribute to better confidence in the Council and its Councillors

3.2 Working with Partners

A greater understanding of the role of Councillors and the place of the Standards process in helping to ensure appropriate behaviour may contribute to better confidence in the Council and its Councillors

3.3 **Place Based Working**

A greater understanding of the role of Councillors and the place of the Standards process in helping to ensure appropriate behaviour may contribute to better confidence in the Council and its Councillors

Improving Outcomes for Children

No direct implications

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

The promotion and maintenance of high standards of conduct by councillors is an important part of maintaining public confidence in both the council and its members. Failure to do so could have significant reputational implications.

An integrated Impact Assessment has not been completed for this report. There is no direct impact on climate change arising from this piece of work.

4. **Consultees and their opinions**

Group Business Managers have received a copy of a draft of the report in advance of the Standards Committee meeting and have been asked to provide any comments and/or attend the meeting to do that.

5. **Next steps**

- 5.1 The review process will be conducted during the December, January and February period (ending 21st February) and a report will be brought back before this committee in March 2020 to enable the Corporate Governance and Audit Committee to consider any recommendations for change in time for Annual Council in 2020.

6. **Officer recommendations and reasons**

- 6.1 That the scope of the review be as follows:
- 6.1.1 To consider the CSPL recommendations at 2.1.5, specifically whether they should be voluntarily adopted and, if so, how that can be done.
 - 6.1.2 To consider the discussion points at 2.1.6
 - 6.1.3 To consider any further matters identified and recommended by this Committee.
 - 6.1.4 To then consider the results of any consultation at a future meeting of the Standards Committee.
- 6.2 That the consultees be as follows:

- 6.2.1 Members of Kirklees Council;
 - 6.2.2 Kirklees Council's Independent Person(s);
 - 6.2.3 Members of Town and Parish Councils and their clerks;
 - 6.2.4 Community groups within Kirklees;
 - 6.2.5 Monitoring Officers of WYLAW authorities;
 - 6.2.6 Council Officers – both specifically identified officers (e.g. Executive Team, Corporate Customer complaints) and more generally
 - 6.2.7 Members of the public.
- 6.3 That the method of consultation be as follows:
- 6.3.1 Targeted requests to the identified consultees at 6.2.1 to 6.2.6 using a questionnaire format that will encourage open answers.
 - 6.3.2 Consultation notices posted on Kirklees Council's website and social media channels pointing to an on line survey available via Kirklees Council's website and social media channels to encourage members of the public and other council officers to respond.
- 6.4 Members are asked to consider the contents of the proposed consultation survey, referred to at 2.3.3 and make any recommendations with regards to questions.
- 6.5 Members are also asked to delegate authority to the Monitoring Officer to draft the survey in accordance with members' views as well as the general arrangements for the review in consultation with the Chair of Standards and to ask the Monitoring Officer to prepare a report setting out the feedback from the review as well as any proposals arising from it for consideration at the next meeting of the Standards Committee.

7. Cabinet portfolio holder's recommendations

N/A

8. Contact officer

David Stickley
Senior Legal Officer
01484 221000
david.stickley@kirklees.gov.uk

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

- 9.1 Report to Council on 26th April 2017 – “Review of the Standards Regime/ Members Code of Conduct”

<https://democracy.kirklees.gov.uk/documents/s18043/Item%209%20-%20Report%20a.pdf>

- 9.2 Report to Annual Council which included the proposals from Standards Committee and Corporate Governance and Audit Committee - “Proposed changes to the Council’s Code of Conduct” – 22nd May 2019

https://democracy.kirklees.gov.uk/documents/s28792/2019%20Annual%20Council%20Code_of_Conduct%20Report%20FINAL.pdf

- 9.3 Report to Standards Committee – “Standards Update” 11th September 2019

<https://democracy.kirklees.gov.uk/documents/s31108/Item%208.pdf>.

10. **Service Director responsible**

Julie Muscroft

Service Director – Legal, Governance and Commissioning

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Appendix A

SURVEY MONKEY – DRAFT QUESTIONS

- 1) Should members of the public be able to complain about Councillors? Yes/No
- 2) Are members aware members of the public use the Standards Complaint Process to complain about Members? yes/no
- 3) Is upholding Standards important to Members?
Provide options e.g. very important, important etc
- 4) Should the Members Code of Conduct (which sets out the basis for member standards and conduct) describe specific examples of poor behaviour? At the moment it doesn't and refers only to the 7 principles of Public Life. – Yes/No
- 5) Please highlight any areas you feel may be currently missing
- 6) How important is it to abide by Sanctions?
Provide options etc
- 7) What sanctions should be available when a complaint is informally resolved?
- 8) Please suggest what changes you would make in relation to the following :-
 - a) Make the current standards complaints process more effective and
 - b) Shorten decision making in relation to complaints about Councillors?
- 9) Should members have to verbally declare Disclosable Pecuniary Interests (DPI's) at meetings?
- 10) Should members have to verbally declare interests that are not DPI's, also known as 'Other Interests' at meetings?
- 11) Would members prefer a more detailed explanation or a short and concise explanation of 'Other interests' in the Member's Code of Conduct?
- 12) Please highlight the main issues in relation to standards that you deem important?

This short survey will feed into a wider review of Standards. All answers are anonymous.

Should members of the public be able to complain about Councillors?

- Yes
- No

Are you aware that members of the public use the Standards Complaint Process to complain about Members?

- Yes
- No

How important do you think it is for members to uphold standards?

- Very Important
- Important
- Neutral
- Not Important
- Not at all Important

The Members Code of Conduct currently refers only to the 7 principles of Public Life (Nolan Principles). Should it also contain specific examples of poor behaviour?

- Yes
- No

If yes what examples do you think should be given?

What sanctions should be available when a complaint is informally resolved?

- Explanation by member
- Apology by member
- Training or mentoring
- Mediation/ conciliation
- Issuing guidance
- Amending policy/ protocols (if necessary)
- Ask GBM's to address issue with member or party
- Member voluntarily giving up position on a particular body
- Any other action capable of resolving complaint
- Other

Any other suggestions for sanctions?

If a member has been found in breach of standards, how important is it to abide by agreed sanctions?

- Very Important
- Important
- Neutral
- Not Important
- Not at all Important

Do you have any suggestions for how we could make the current standards complaints process more effective?

Do you have any suggestions on how we can shorten decision making in relation to complaints about councillors?

Should members have to verbally declare Disclosable Pecuniary Interests (DPI's) at meetings?

- Yes
- No

Should members have to verbally declare interests that are not DPI's, also known as 'Other Interests' at meetings?

- Yes
- No

Would you prefer a more detailed explanation or a short and concise explanation of 'Other interests' in the Member's Code of Conduct?

- Detailed explanation
- Short and concise explanation

Please highlight anything else you deem important in relation to standards?

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