

Crawley Borough Council

Minutes of Governance Committee

Wednesday, 19 June 2019 at 7.00 pm

Councillors Present:

T Lunnon (Chair)

R D Burrett (Vice-Chair)

D Crow, C R Eade, M G Jones, P K Lamb, R A Lanzer, S Malik and K McCarthy

Officers Present:

Ann-Maria Brown Head of Legal, Democracy and HR

Mez Matthews Democratic Services Officer

Apologies for Absence:

Councillor T McAleney

Absent:

Councillor M L Ayling

1. Disclosures of Interest

No disclosures of interests were made.

2. Minutes

The minutes of the meeting of the Governance Committee held on 5 March 2019 were approved as a correct record and signed by the Chair.

3. Local Government Ethical Standards: Review by the Committee on Standards in Public Life (CSPL) Implementation of Best Practice Recommendations

The Committee considered report LDS/154 of the Head of Legal, Democracy and HR which set out the Best Practice Recommendations of the Report of the Committee on Standards in Public Life (CSPL) on its Review of Local Government Ethical Standards. The report detailed how the Council complied with those standards and sought Councillors' views on a number of those practice recommendations in respect of the Council's current *Code of Conduct for Councillors ("the Code")* and *Arrangements for Dealing with Code of Conduct Complaints ("Arrangements")*.

The Head of Legal, Democracy and HR advised the Committee that the report before it followed-up on the Update on Standards report (LDS/145) which had been considered at the previous Committee meeting. The Committee noted it was expected that the Local Government Association would produce a new model Code of Conduct in due course, and therefore the Head of Legal, Democracy and HR suggested that the Council's current Code remain materially unchanged until the model Code had been produced. In the opinion of the Head of Legal, Democracy and HR it was prudent to consider the CSPL's Best Practice Recommendations at this stage, and make any changes to the current Code which the Committee considered necessary, rather than waiting until the new model Code had been produced.

The Committee's attention was then drawn to Appendix A of the report which set out an assessment of the CSPL's Best Practice Recommendations against a commentary of the arrangements currently in operation at Crawley. The Committee considered each relevant Best Practice Recommendation in turn where the Committee's views were sought

Best Practice Recommendation 1:

The Committee considered whether harassment should be included in the Code as well as the definition of bullying and harassment as set out in the CSPL's report.

It was suggested by a Committee Member that the phrasing ".....related to a relevant "protected characteristic"....." be removed from the proposed definition of harassment as it was not necessarily relevant to the context of harassment behaviour, the Committee agreed that the wording be taken out.

The Committee AGREED that harassment be included in the Code as set out in the report, along with the following definition of bullying and harassment:

"Bullying may be characterised as offensive, intimidating, malicious or insulting behaviour or abuse or misuse of power in a way that undermine, humiliate, denigrate or injure the recipient."

"Harassment is defined in The Equality Act 2010 as "unwanted conduct" which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual."

Best Practice Recommendation 2:

The Committee considered whether a definitive statement relating to a Councillor's co-operation with any formal standards investigation should be included within the Code.

The Committee noted that the Head of Legal, Democracy and HR consulted with the Independent Person when considering whether a complaint was trivial, malicious, vexatious, politically motivated or tit-for-tat.

The Committee AGREED that a definitive statement be included in the Code which required Councillors to comply with any formal standards investigation.

Best Practice Recommendation 3:

The CSPL's report recommended that Principal Authorities should review their Code of Conduct annually. The Committee considered the information set out in the report and were of the opinion that an annual review would be excessive for the Council.

The Committee therefore AGREED that, other than reviewing the Code in light of the structure and ethos of the work being undertaken in drafting the new Constitution, the principles and content of the Code remain the same.

Best Practice Recommendation 5:

The Committee AGREED that an electronic Register of Gifts and Hospitality should be provided and published on the Council's website with the Councillors' Declaration of Interests.

Best Practice Recommendation 6:

The Committee considered the proposed amendment to the current Arrangements in relation to the validation and filtering of Code of Conduct complaints.

The Committee's opinion was specifically requested to determine the length of time within which a complaint should be received following the alleged behaviour. The Committee considered whether that timeframe should be three or six months.

Following a vote, the Committee AGREED that the timeframe for complaints should be three months from the time of the alleged behaviour.

It was suggested that in certain situations, such as where there was a cumulative element to alleged harassment / bullying, behaviour which had occurred outside the agreed timeframe should be taken into account as long as the most recent incident fell within that timeframe. It was also suggested that where a complaint was especially serious there should be discretion to extend the timeframe.

It was AGREED that wording be added to the Arrangements which gave the Monitoring Officer the discretion to extend the timeframe in consultation with the Independent Person should they deem it necessary to do so.

Several Committee Members were of the view that the Monitoring Officer should have the option to signpost a complainant to another agency if that was deemed to be appropriate, this view was supported by the Committee.

It was AGREED that wording be added within the Arrangements which gave the Monitoring Officer the discretion to signpost a complainant to another agency should they deem it necessary to do so.

The Committee then AGREED that, subject to the above agreed amendments, the wording for the validation and filtering of complaints, as set out in the Appendix to the report, be included within the Council's Arrangements.

Best Practice Recommendation 7:

The Committee noted that in line with the proposal to limit the tenure of an Independent person to two years, the Committee would consider the appointment of an Independent Person as a separate item later in the meeting (Minute 4 below refers).

Best Practice Recommendation 9:

The Head of Legal, Democracy and HR reminded the Committee that, at its meeting on 5 March 2019 it had agreed that details of upheld complaints would be published.

The Committee, at that stage, had not however specified the level of information to be included in such a publication. The Committee was requested to consider the level of information suggested by the CSPL as best practice.

The Committee was reminded that this Best Practice Recommendation only related to decisions taken on allegations of misconduct following a formal investigation.

Concern was raised by several Committee Members regarding the publication of retrospective complaints, and an indepth discussion took place regarding the length of time a Decision Notice should remain published for when a complaint was upheld following a formal investigation. Several Committee Members were of the opinion that an individual had the right to be forgotten and the information should be removed from publication after a specified length of time, whilst other members of the Committee held the view that the information should remain published indefinitely as Councillors were in public office.

The Committee AGREED that the Monitoring Officer look into the publication expiration arrangements adopted by other Local Authorities as well as any other related guidance.

Best Practice Recommendation 10:

The Committee AGREED that the timeframes for acknowledging complaints be extended from 5 working days to 10 working days, and that the time period for making a decision at the assessment stage be extended to 15 working days.

RESOLVED

1. The Committee provided a clear direction (as documented above) on the Monitoring Officer's proposals regarding the relevant Committee on Standards in Public Life's Best Practice Recommendations 1-10.
2. That the Monitoring Officer be instructed to review the *Code of Conduct for Councillors and Arrangements for Dealing with Code of Conduct Complaints* in line with the work currently being undertaken on the revised Constitution and make any appropriate changes relating to resolution 1 above.

4. Appointment of an Independent Person

The Head of Legal, Democracy and HR advised that the term of office of the Independent Person was due to end in July 2019 and that the Council's current Independent Person had indicated that he would be willing to serve a further term of office. In light of the recommendations from the Committee on Standards in Public Life (CSPL) (see Minute 3 above), the Committee agreed to recommend to Full Council the appointment of the current Independent Person (Mr P Nicolson) for a term of two years.

The Head of Legal, Democracy and HR advised the Committee that she considered it prudent to advertise for a second Independent Person in March 2020 with a view to having them appointed in July 2020 for a two year term of office.

RESOLVED

That the Head of Legal, Democracy and HR advertise for a second Independent Person in March 2020 for a two year term of office.

RECOMMENDATION 1

That the Full Council be recommended to approve the appointment of Mr P Nicolson for a two year term of office as the Independent Person under the provisions of The Localism Act 2011.

5. Annual Governance Statement 2018-2019

The Committee considered report LDS/153 of the Head of Legal, Democracy and HR which requested that the Committee consider the Annual Governance Statement and provide any comments for incorporation into the final version which would be included in the Annual Statement of Accounts, which was due to be considered by the Audit Committee in July 2019.

A Committee Member queried why the sections within the document were set out in that particular order as they were of the opinion that the structure could be improved to reduce to need to repeat information within the Statement. The Head of Legal, Democracy and HR agreed to feedback that viewpoint to the relevant officer.

RESOLVED

That the comment identified above be taken into consideration, and that the final version of the Annual Governance Statement be included in the Annual Statement of Accounts, which was to be approved by the Audit Committee in July 2019.

6. Constitutional Review Working Group Update

Councillor Lamb, as Chair of the Constitutional review Working Group, provided a verbal update on the comprehensive review of the Constitution which had been established by the Committee at its meeting on 15 March 2017 (report LDS/126 refers).

Councillor Lamb advised the Committee that it had not been possible to get all the views of the Working Group back in time for the Constitution to be approved at the Full Council AGM as previously envisaged. A meeting of the Working Group was in the process of being arranged to iron-out any outstanding issues before the revised Constitution would be taken, via the Governance Committee in September, to the October Full Council meeting for adoption.

RESOLVED

That the update provided by the Chair of the Constitutional Review Working Group be noted.

Closure of Meeting

With the business of the Governance Committee concluded, the Chair declared the meeting closed at 8.30 pm

Chair