

PUBLIC

MINUTES of a meeting of the **GOVERNANCE, ETHICS AND STANDARDS COMMITTEE** held on 19 January 2021 at County Hall, Matlock

PRESENT

Councillor C Short (in the Chair)

Councillors N Atkin, K Buttery, J Coyle, K Gillott, L Grooby, C Moesby & S Swann.

Apologies for absence were received from Councillor W Major & L Newby MBE (Independent Persons)

01/20 **MINUTES RESOLVED** that the minutes of the meeting of the Governance, Ethics and Standards Committee held on 22 October 2020 be confirmed as a correct record and signed by the Chairman.

02/20 **UPDATES TO THE CONSTITUTION** A review of the Constitution had been undertaken which had identified several provisions where change should be considered. If Members agreed to recommend the revisions detailed, a report would be prepared for Council in February 2021 to make these amendments to the Constitution. A further report would be presented to the Committee in due course on additional amendments which had been identified as part of the review.

There was a provision in the constitution at Appendix 3, Council Procedure Rules. It was to be noted that after February 2019, the Cabinet Report to Council was no longer presented to Council. However, this change had not been ratified by Council or considered by the Governance, Ethics and Standards Committee and the provision remained in the Constitution. When this issue had been identified, a Report from Cabinet was submitted to the Council meeting held on 2 December 2020 which rectified the position for the period March 2019 to December 2020. Members were asked to consider removing the requirement for a Cabinet Report to Council from the Council Procedure Rules.

There was a provision in the Constitution at Appendix 3, Order of Business, item (n) Receive the minutes of committees, joint committees and the Fire Authority. It was understood that when the Constitution was reviewed in 2019, there had been some consideration by Members to remove this provision from the Council Procedure Rules, however, the Constitution was not amended. Members were asked to consider removal of the requirement for these minutes to be presented to Council from the Council Procedure Rules.

The Constitution set out the scope of public questions. However, there was no such provision for Member questions and the Committee was asked to

consider whether these should be now be included in the Rules relating to Member questions. In the absence of the questioner, the Chairman may ask the question on the questioner's behalf, indicate that a written reply would be given, or decide that the question would not be dealt with. No such provision was made for Member questions and it had been proposed that this now be added.

The Council Procedure Rules set out the order in which the business of a Council meeting should be considered. Should the Committee agree to remove the provisions of the Constitution as detailed in (i) and (ii), the following existing provisions would be removed from the Constitution:

- 4(k) Report from the Cabinet and Members' Questions on the Report
- 4(n) Receive the minutes of committees, joint committees and the Fire Authority

There was currently no provision in the Constitution to provide for the cancellation of a scheduled meeting of the Council as a result of a lack of business or in exceptional circumstances. It was therefore proposed that an additional section be added to the Council Procedure Rules to read: "The Chairman may cancel a scheduled meeting of the Council due to lack of business or in exceptional circumstances after consultation with the Leader of the Council and the Leader of the Main Minority Group."

Section 17.2 of the Council Procedure Rules set out the arrangements for allowing substitutes at standing committees and sub-committees. The provision was, however, somewhat limited and it had been considered that the wording be expanded to provide greater clarity and detail. It was therefore suggested that the section be amended.

The Council was required to appoint an 'Independent Person' who had a role in dealing with Code of Conduct complaints. The remit of the GES Committee implied that the Independent Persons were members of the Governance, Ethics and Standards Committee. However, in practice they had not been formally co-opted onto the Committee or paid a co-opted member allowance. To provide clarity therefore, it was proposed that the wording on the composition of the Committee be amended to read; "The Governance, Ethics and Standards Committee will comprise of 8 Elected Members." Under the responsibility for functions of the Director of Legal and Democratic Services, there was provision for them; "To appoint an independent person of another authority's Standard Committee, where necessary because of a conflict of interest or nonavailability, to serve a temporary member of the Standards Committee." In light of the fact that the Independent Person was not a member of the Governance, Ethics and Standards Committee, it was proposed that the delegation was removed.

Council approved a revised leadership model at its meeting on 2 December 2020. As a result, there were various changes required to Appendix

1 of the Constitution to reflect the new role of Managing Director with effect from 1 January 2021. It was proposed that the Director of Legal and Democratic Services be authorised to make the necessary changes to the Constitution to reflect the new role.

A list of officers outlined in the report would need to be added under Section 20.1(b) - Corporate Management Team. Section 20.1(c) – ‘Head of Paid Service, Monitoring Officer and Chief Finance Officer’ also required amendment so it was clear that the Managing Executive Director – Commissioning, Communities and Policy was the Head of Paid Service.

Section (l) required amendment listed within the report to reflect the current provisions in the Local Authorities (Standing Orders) (England) Regulations 2001.

Before consideration of the recommendations, Councillor C Short proposed the following amendment:

“To accept the recommendations with the exception of item 1(v), substitutes.” Councillor Short felt that the item required more clarity and the Committee would return to the item at the next constitutional review. The remaining recommendations stood.

The motion was duly seconded.

The motion was put to the vote and declared to be WON.

RESOLVED to approve the proposed amendments to the Constitution as detailed in the report with the exception of item 1(v) to Council and recommend them to Council for approval.

03/20 COMMITTEE FOR STANDARDS IN PUBLIC LIFE - NEW MODEL CODE OF CONDUCT

At its meeting on 25th February 2019, the Committee (then the Standards Committee) considered the findings of the review of the Committee on Standards in Public Life dated January 2019. The purpose of the Review was for the CSPL to assure themselves that the current standards framework was conducive to promoting and maintaining the high ethical standards expected by the public.

The Review identified some specific areas of concern and identified a number of risks in respect of the current rules around conflicts and declaring of interests, gifts and hospitality and the increased complexity of local government decision-making.

The CSPL made 26 recommendations and identified 15 recommendations of best practice to improve ethical standards in local government. The recommendations included the suggestion for the LGA to

create an updated model code of conduct to enhance consistency and the quality of local authority codes.

In autumn 2020, the CSPL wrote to local authorities seeking an update regarding progress against those recommendations and what steps had been taken to put those recommendations in place. A copy of the response sent to the CSPL on behalf of the Council was attached at Appendix 1.

It had been proposed that further action should be taken in respect of recommendation 5 *“Local Authorities should update their gifts and hospitality register at least once per quarter and publish it in an accessible format”*, with immediate effect and it was proposed that the Gifts and Hospitality Register be published on the website.

However, the Committee would note that further areas of the Code required review in accordance with the best practice recommendations. As required, the LGA had developed a model code of conduct and a copy of the model code was attached at Appendix 2 and consideration would need to be given as to whether the Council wished to adopt the new model Code.

Therefore, the Committee may have wished to convene a working group to review the current Code in accordance with the best practice recommendations of the CSPL and to consider the new model Code to recommend whether this should be adopted by the Council.

RESOLVED that the Committee (1) note the response submitted to the CSPL regarding progress against the best practice recommendations; (2) agreed that the Gifts and Hospitality Register should be published on the Council’s website; (3) determined whether to establish a working group to review the current Code in accordance with the best practice recommendations of the CSPL and to consider the new model Code to recommend whether this should be adopted by the Council; and (4) should the Committee determine to establish such a working group, to agree the membership of that group.

04/20 **INDEPENDENT PERSONS** S27 Localism Act required that the arrangements under which decisions on allegations made that a Councillor had breached the Code of Conduct must include provision for the appointment of at least one independent person. The views of the independent person must be sought and taken into account by the authority before it makes its decision on an allegation that it had decided to investigate. The views of the independent person may also be sought by the Council in relation to any allegation made against a member or by a member against whom an allegation had been made.

In addition, the Local Authorities Regulations as amended in 2015 extended the remit of independent persons in that they were now also required to sit on the Panel which was convened as necessary to consider disciplinary

allegations against the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer to advise and make recommendations to the Council.

Until recently, the Council had three independent persons. However, two had resigned during the course of their second term of office and the third, Mr Lloyd Newby, was approaching the end of his second 4-year term of office.

Consequently, the Council must now appoint at least one independent person. In considering independence, the Act specifies that a person was not considered to be independent if the person was –

- (i) a member, co-opted member or officer of the authority, or
- (ii) a relative or close friend of a person who was a member or co-opted member or officer of the authority

In addition a person may not be appointed as an independent person if at any time during the 5 years ending with the appointment, the person was a member, co-opted member or officer of the authority.

Independent persons must be appointed through a process of public advertisement and application. Therefore, a recruitment process had commenced at the end of November 2020. An advertisement was placed on the Council's website and also within the local press. Potential applicants were required to submit an application form detailing their suitability for the role. An appointment to the role of independent person must also be approved by a majority of the members of the authority.

One applicant, Mr Ian Orford, had been shortlisted and was successfully interviewed by the Director of Legal and Democratic Services, the Director of Finance and ICT and the Director of Organisational Development and Policy on 8th January 2021. Following that interview it was proposed that Mr Orford be recommended for appointment as an Independent Person, subject to obtaining satisfactory references. As Mr Orford was new to the role of independent person, the Interview Panel recommended that the appointment should be subject to a review after twelve months. It had been proposed that the review would be conducted by the Monitoring Officer in consultation with the Chair of the Governance, Ethics and Standards Committee.

Additionally, as Mr Orford was a new appointment, it had been proposed that Mr Newby's term of office be extended for a further 12 months in order to retain the knowledge and experience he had gained. It had been reported to the Committee that the current Code of Conduct for Elected Members would be reviewed, and these appointments would provide the Committee with the opportunity to review the current arrangements for independent persons and consider whether further recruitment was required.

It had been proposed that each Independent Person should be paid an allowance of £125 per session for attendance at meetings, hearings or events.

RESOLVED that the Committee agreed (1) to recommend to the Council the appointment of Ian Orford as an Independent Person under the Localism Act for a term of office of four years, but subject to a review after 12 months; (2) to delegate the review referred to at (1) above to the Monitoring Officer in consultation with the Chair of the Governance, Ethics and Standards Committee; and (3) to recommend that the Council extended the term of office for Mr Lloyd Newby for a further 12 months.

05/20 **ACTIVITIES OF THE MEMBER DEVELOPMENT WORKING GROUP**
Councillor Gary Musson as the Chair of the Member Development Working Group (MDWG) gave an update to the committee on work that had taken place and the proposed future plans.

There had been different variations of the MDWG in the past. The Members involved in the current group reflected on previous work done in order to make improvements for the future. One of the first findings was that a documented strategy needed to be agreed and implemented. Work on the new strategy had been completed and had been adopted at the meeting of the full council in September 2020.

Derbyshire learning online would be a portal where Councillors could do various sections of training as well as being a repository for key documents. The Member development skills matrix had been developed, after the role descriptions being approved at a meeting of the full council. This would be basic training that the group thought would be essential or desirable for certain roles. This as well as a number of other things had been out to consultation with the current Elected Members.

The strategy and skills matrix were dynamic documents that would be reviewed on an ongoing basis and be brought up to date as required, particularly after reviewing how successful the first implementation had been. From the skills matrix, training needs could be determined. This would be a more effective way of managing the needs of the Members. Attending a face to face session for a few hours would not necessarily give the best benefit to all attendees, so the way training was organised had been reviewed and the different options for delivery of that training would need to be more user friendly and targeted. Feedback from the new delivery of training would be encouraged.

The induction process was under review, this included the period before and after an election. Pieces of information could be made available to ensure that candidates were aware of what would be expected of them and to ensure they had the correct knowledge as early as possible.

The next meeting of the Working Group would be held on 20 January 2021. There were a number of items on the agenda, including pre-election materials, and induction planning in preparation for the next elections. It had been agreed that the budget for training would continue to be rolled over as work was finalised. When needs had been identified, the appropriate budget would be available to be able to support the plans.

There was now a structure in place, and the hard work would begin as the strategy had been approved by full council. The deadline for this work to be completed and implemented was by the May 2021 elections, should they go ahead as planned.