

**RIBBLE VALLEY BOROUGH COUNCIL
REPORT TO ACCOUNTS AND AUDIT COMMITTEE**

Agenda Item No. 7

meeting date: 21 FEBRUARY 2018
title: SUB-COMMITTEE ARRANGEMENTS
submitted by: CHIEF EXECUTIVE
principal author: DIANE RICE – HEAD OF LEGAL AND DEMOCRATIC SERVICES

1 PURPOSE

1.1 To request Committee to constitute a Sub-Committee.

1.2 Relevance to the Council's ambitions and priorities

- Community Objectives - }
 - Corporate Priorities - }
 - Other Considerations - }
- The purpose of the Sub-Committee is to fulfil the requirements of the Council's ethical governance framework.

2 BACKGROUND

2.1 The Council has a procedure to deal with complaints relating to potential breaches of the Council's Code of Conduct by Members, the procedure was approved by this Committee on 22 August 2012.

2.2 A copy of the procedure is attached at Appendix 1.

2.3 As can be seen from part 7(2) of the procedure, it is sometimes necessary to constitute a politically balanced Sub-Committee of three Members of the Accounts and Audit Committee.

The powers of the Sub-Committee, in the event that they are required to deal with a referral from the Monitoring Officer are set out at part 8 in Appendix 1.

2.4 Responsibility for dealing with referrals from the Monitoring Officer is set out in the Terms of Reference of this Committee, a copy is attached as Appendix 2.

2.5 The power to constitute a Sub-Committee derives not only from the arrangements approved by Accounts and Audit Committee at Appendix 1, but also from the arrangements made by Full Council as set out in the Constitution and in particular the documents setting out the powers and duties of Committees at part 3(1.2).

2.6 The Council's standing orders also provide at Standing Order 21(2) as follows:

Sub-Committees/Working Groups

21.2 At the first meeting of each Committee within each municipal year, the Committees shall establish such sub-committees and working groups as it deems necessary and the Members who shall sit on them.

- 21.3 The membership of any Sub-Committee shall be subject to the principles of political balance, but this will not apply to working groups.
- 21.4 Sub-Committees shall have the power to make decisions, but working groups may only consider an issue and then refer the matter back to Committee for a decision to be made.

3 ISSUES

- 3.1 Council staff are currently investigating a complaint.
- 3.2 No decision has been made as to whether the complaint will require referral to the Sub-Committee.
- 3.3 The next meeting of the Accounts and Audit Committee is not scheduled to take place until 11 April 2018, in order to avoid delay should a referral to the Sub-Committee be necessary, Committee is required to nominate 3 Members to form the Sub-Committee.

4 RISK ASSESSMENT

- 4.1 The approval of this report may have the following implications
- Resources – N/A
 - Technical, Environmental and Legal – N/A
 - Political – N/A
 - Reputation – N/A
 - Equality & Diversity – N/A

5 **RECOMMENDED THAT COMMITTEE**

- 5.1 Nominate 3 Members of the Accounts and Audit Committee to serve as the Sub-Committee should it be required.

DIANE RICE
HEAD OF LEGAL AND DEMOCRATIC SERVICES

MARSHAL SCOTT
CHIEF EXECUTIVE

BACKGROUND PAPERS
(If any)

For further information please ask for Diane Rice, extension 4418.

REF: DER/EL/A&A/210218



Ribble Valley Borough Council Model Arrangements for dealing with standards allegations under the Localism Act 2011

1 Context

These “Arrangements” set out how you may make a complaint that an elected or co-opted member of this authority *[or of a parish council within its area]* has failed to comply with the authority’s Code of Conduct, and sets out how the authority will deal with allegations of a failure to comply with the authority’s Code of Conduct.

Under Section 28(6) and (7) of the Localism Act 2011, the Council must have in place “arrangements” under which allegations that a member or co-opted member of the authority *[or of a parish council within the authority’s area]*, or of a Committee or Sub-Committee of the authority, has failed to comply with that authority’s Code of Conduct can be investigated and decisions made on such allegations.

Such arrangements must provide for the authority to appoint at least one Independent Person, whose views must be sought by the authority before it takes a decision on an allegation which it has decided shall be investigated, and whose views can be sought by the authority at any other stage, or by a member *[or a member or co-opted member of a parish council]* against whom an allegation as been made.

2 The Code of Conduct

The Council has adopted a Code of Conduct for members, which is attached as Appendix One to these arrangements and available for inspection on the authority’s website and on request from Reception at the Council Offices.

[Each parish council is also required to adopt a Code of Conduct. If you wish to inspect a Parish Council’s Code of Conduct, you should inspect any website operated by the parish council and request the parish clerk to allow you to inspect the parish council’s Code of Conduct.]

3 Making a complaint

If you wish to make a complaint, please write or email to –

Head of Legal and Democratic Services - Diane Rice
Ribble Valley Borough Council
Council Offices
Church Walk
Clitheroe BB7 2RA

Or – email diane.rice@ribblevalley.gov.uk

The Monitoring Officer is a senior officer of the authority who has statutory responsibility for maintaining the register of members' interests and who is responsible for administering the system in respect of complaints of member misconduct.

In order to ensure that we have all the information which we need to be able to process your complaint, please complete and send us the model complaint form, which can be downloaded from the authority's website, and is available on request from Reception at the Civic Offices.

Please do provide us with your name and a contact address or email address, so that we can acknowledge receipt of your complaint and keep you informed of its progress. If you want to keep your name and address confidential, please indicate this in the space provided on the complaint form, in which case we will not disclose your name and address to the member against whom you make the complaint, without your prior consent. The authority does not normally investigate anonymous complaints, unless there is a clear public interest in doing so.

The Monitoring Officer will acknowledge receipt of your complaint within 5 working days of receiving it, and will keep you informed of the progress of your complaint.

4 Will your complaint be investigated?

The Monitoring Officer will review every complaint received and, after consultation with the Independent Person, take a decision as to whether it merits formal investigation. This decision will normally be taken within 14 days of receipt of your complaint. Where the Monitoring Officer has taken a decision, he/she will inform you of his/her decision and the reasons for that decision.

Where he/she requires additional information in order to come to a decision, he/she may come back to you for such information, and may request information from the member against whom your complaint is directed. The Member will be informed that a complaint has been received and may request, and save in exceptional circumstances, will receive a copy of the complaint. *[Where your complaint relates to a Parish Councillor, the Monitoring Officer may also inform the Parish Council of your complaint and seek the views of the Parish Council before deciding whether the complaint merits formal investigation.]*

In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally, without the need for a formal investigation. Such local resolution may involve the member accepting that his/her conduct was unacceptable and offering an apology, or other remedial action by the authority. Where the member or the authority make a reasonable offer of local resolution, but you are not willing to accept that offer, the Monitoring Officer will take account of this in deciding whether the complaint merits formal investigation.

If your complaint identifies criminal conduct or breach of other regulation by any person, the Monitoring Officer has the power to call in the Police and other regulatory agencies.

5 How is the investigation conducted?

The Council's procedure for the investigation of misconduct complaints is as follows:

If the Monitoring Officer in consultation with the Independent Person, decides that a complaint merits formal investigation, he/she will appoint an Investigating Officer, who may be another senior officer of the authority, an officer of another authority or an external investigator. The Investigating Officer will decide whether he/she needs to meet or speak to

you to understand the nature of your complaint and so that you can explain your understanding of events and suggest what documents the Investigating Officer needs to see, and who the Investigating Officer needs to interview.

The Investigating Officer would normally write to the member against whom you have complained and provide him/her with a copy of your complaint, and ask the member to provide his/her explanation of events, and to identify what documents he needs to see and who he needs to interview. In exceptional cases, where it is appropriate to keep your identity confidential or disclosure of details of the complaint to the member might prejudice the investigation, the Monitoring Officer can delete your name and address from the papers given to the member, or delay notifying the member until the investigation has progressed sufficiently.

At the end of his/her investigation, the Investigating Officer will produce a draft report and will send copies of that draft report, in confidence, to you and to the member concerned, to give you both an opportunity to identify any matter in that draft report which you disagree with or which you consider requires more consideration.

Having received and taken account of any comments which you may make on the draft report, the Investigating Officer will send his/her final report to the Monitoring Officer.

6 What happens if the Investigating Officer concludes that there is no evidence of a failure to comply with the Code of Conduct?

The Monitoring Officer will review the Investigating Officer's report and discuss its contents, and conclusion with the Independent Person and, if he is satisfied that the Investigating Officer's report is sufficient, the Monitoring Officer will write to you and to the member concerned *[and to the Parish Council, where your complaint relates to a Parish Councillor]*, notifying you that he is satisfied that no further action is required, and give you both a copy of the Investigating Officer's final report. If the Monitoring Officer is not satisfied that the investigation has been conducted properly, he may ask the Investigating Officer to reconsider his/her report.

7 What happens if the Investigating Officer concludes that there is evidence of a failure to comply with the Code of Conduct?

The Monitoring Officer will review the Investigating Officer's report and will then either send the matter for local hearing before the Hearings Panel or, after consulting the Independent Person, seek local resolution.

7.1 Local Resolution

The Monitoring Officer may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, he/she will consult with the Independent Person and with you as complainant and seek to agree what you consider to be a fair resolution which also helps to ensure higher standards of conduct for the future. Such resolution may include the member accepting that his/her conduct was unacceptable and offering an apology, and/or other remedial action by the authority. If the member complies with the suggested resolution, the Monitoring Officer will report the matter to the Accounts and Audit Committee *[and the Parish Council]* for information, but will take no further action. However, if you tell the Monitoring Officer that any suggested resolution would not be adequate, the Monitoring Officer will refer the matter for a local hearing.

7.2 Local Hearing

If the Monitoring Officer considers that local resolution is not appropriate, or you are not satisfied by the proposed resolution, or the member concerned is not prepared to undertake any proposed remedial action, such as giving an apology, then the Monitoring Officer will report the Investigating Officer's report to the Sub-Committee comprising three Members of the Accounts and Audit Committee. Membership of the Sub-Committee will be ????? which will conduct a local hearing before deciding whether the member has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the member.

Essentially, the Monitoring Officer will conduct a "pre-hearing process", requiring the member to give his/her response to the Investigating Officer's report, in order to identify what is likely to be agreed and what is likely to be in contention at the hearing, and provide advice as to the manner in which the hearing will be conducted. At the hearing, the Investigating Officer will present his/her report, call such witnesses as he/she considers necessary and make representations to substantiate his/her conclusion that the member has failed to comply with the Code of Conduct. For this purpose, the Investigating Officer may ask you as the complainant to attend and give evidence to the Sub-Committee. The member will then have an opportunity to give his/her evidence, to call witnesses and to make representations to the Sub-Committee as to why he/she considers that he/she did not fail to comply with the Code of Conduct.

The Sub-Committee, with the benefit of any advice from the Independent Person, may conclude that the member did not fail to comply with the Code of Conduct, and so dismiss the complaint. If the Sub-Committee concludes that the member did fail to comply with the Code of Conduct, the Chairman will inform the member of this finding and the Sub-Committee will then consider what action, if any, the Hearings Panel should take as a result of the member's failure to comply with the Code of Conduct. In doing this, the Sub-Committee will give the member an opportunity to make representations to the Panel and will consult the Independent Person, but will then decide what action, if any, to take in respect of the matter..

8 What action can the Sub-Committee take where a member has failed to comply with the Code of Conduct?

The Council has delegated to the Sub-Committee such of its powers to take action in respect of individual members as may be necessary to promote and maintain high standards of conduct. Accordingly the Sub-Committee may –

- 8.1 Publish its findings in respect of the member's conduct;
- 8.2 Report its findings to Council *[or to the Parish Council]* for information;
- 8.3 Recommend to the member's Group Leader (or in the case of un-grouped members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
- 8.4 Instruct the Monitoring Officer to *[or recommend that the Parish Council]* arrange training for the member;

- 8.5 Remove *[or recommend to the Parish Council that the member be removed]* from all outside appointments to which he/she has been appointed or nominated by the authority *[or by the Parish Council]*;
- 8.6 Withdraw *[or recommend to the Parish Council that it withdraws]* facilities provided to the member by the Council, such as a computer, website and/or email and internet access; or
- 8.7 Exclude *[or recommend that the Parish Council exclude]* the member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.

The Sub-Committee has no power to suspend or disqualify the member or to withdraw members' or special responsibility allowances.

9 What happens at the end of the hearing?

At the end of the hearing, the Chairman will state the decision of the Sub-Committee as to whether the member failed to comply with the Code of Conduct and as to any actions which the Sub-Committee resolves to take.

As soon as reasonably practicable thereafter, the Monitoring Officer shall prepare a formal decision notice in consultation with the Chairman of the Sub-Committee, and send a copy to you, to the member *[and to the Parish Council]*, make that decision notice available for public inspection and report the decision where the complaint relates to a Parish Council Member to the next convenient meeting of the Parish Council.

10 Who are the Hearings Panel?

The Sub-Committee will be made up of 3 Members of the Accounts and Audit Committee and will be politically balanced subject to availability/Members having conflicting interests.

The Independent Person is invited to attend all meetings of the Hearings Panel and his views will be sought and taken into consideration before the Hearings Panel takes any decision on whether the member's conduct constitutes a failure to comply with the Code of conduct and as to any action to be taken following a finding of failure to comply with the Code of Conduct.

11 Who is the Independent Person?

The Committee has 2 Independent Persons who applied for the post following advertisement of a vacancy for the post, and were appointed by a positive vote from a majority of all the members of Council on 17 July 2012.

12 Revision of these arrangements

The Committee may by resolution agree to amend these arrangements, and has delegated to the Chairman of the Accounts and Audit Committee the right to depart from these arrangements where he/she considers that it is expedient to do so in order to secure the effective and fair consideration of any matter.

13 Appeals

There is no right of appeal for you as complainant or for the member against a decision of the Monitoring Officer or of the Hearings Panel

If you feel that the authority has failed to deal with your complaint properly, you may make a complaint to the Local Government Ombudsman.

Part 3(1) of the Constitution,
July 2017

TERMS OF REFERENCE OF ACCOUNTS AND AUDIT COMMITTEE

1. To review all matters relating to Internal and External Audit. The Committee will have the right of access to all information it considers necessary and can consult directly with Internal and External Auditors.
2. To monitor arrangements for discharging the Council's responsibilities for efficient and effective financial and operational resource management. In pursuing this aim, it will consider:
 - the soundness, adequacy and application of controls;
 - compliance with policies, procedures and statutory requirements;
 - arrangements for safeguarding the Council's assets and interests;
 - the integrity and reliability of management information and financial records;
 - the economic, efficient and effective use of resources.
3. To approve the annual Statement of Accounts and receive the External Auditor's Annual Governance Report.
4. To approve the Annual Audit Plan of the External Auditor.
5. To monitor the External Auditor's progress with the Annual Audit Plan.
6. To approve the Annual Internal Audit Plan.
7. To monitor Internal Audit progress with the Annual Audit Plan, evaluating the effectiveness of Internal Audit and the use of Audit resources and where necessary recommending adjustments to the Internal Audit Plan.
8. To review and comment upon liaison arrangements between Internal and External Audit with a view to optimising the effective deployment of Audit resources.
9. To evaluate the adequacy and effectiveness of the Council's financial and operational policies and procedures including financial and accounting management through discussions with the External Auditors, Internal Auditors, and appropriate officers.
10. To receive and review the findings of both External and Internal audit examinations and to ensure that management takes appropriate action to implement agreed recommendations and to remedy any internal accounting, organisational and operational control weaknesses identified.
11. To receive and comment upon the annual Internal Audit Report and accept the Annual Governance Statement.
12. To annually monitor the effectiveness of the Code of Corporate Governance.
13. To advise and assist the Council on the adoption and revision of the Members' Code of Conduct and monitor the operation of the Members' Code of Conduct.
14. To make arrangements to fulfill the Council's duty to promote and maintain high standards of conduct by Councillors.
15. To make arrangements to determine complaints relating to a breach of the Council's Code of Conduct or any matter which is referred by the monitoring officer.

Part 3(1) of the Constitution,
July 2017

16. To grant dispensations to Councillors from the requirements relating to interests set out in the Members' Code of Conduct;
17. To make arrangements to ensure Councillors receive training and advice relating to the Members' Code of Conduct;
18. To consider and approve any emergency variations from the Council's Financial Regulations and Contractual Standing Orders.
19. To oversee and then monitor the development and implementation of a comprehensive approach to Risk Management.
20. To review matters of local community concern including partnerships and services provided by 'other' organisations which do not fall within the remit of service committees.
21. To receive reports and other evidence from organisations, individuals and partnerships that the Committee or working groups consider relevant to their work.
22. To evaluate and monitor performance information and approve annual targets.
23. To refer directly to the Council any matters it shall see fit.

The exercise of (14) (15) and (16) above in relation to the parish councils wholly or mainly in its area and the members of those parish councils.