

SHEFFIELD CITY COUNCIL

Audit and Standards Committee

Meeting held 23 November 2023

PRESENT: Councillors Mohammed Mahroof (Chair), Fran Belbin (Deputy Chair), Lewis Chinchen, Simon Clement-Jones, Laura McClean, Henry Nottage and Alison Howard (Independent Co-opted Member)

1. APOLOGIES FOR ABSENCE

1.1 An apology for absence were received from Councillor Bryan Lodge.

2. EXCLUSION OF THE PRESS AND PUBLIC

2.1 RESOLVED: That Appendix A of Item 10 be excluded from the press and public as the report contained exempt information described in Part 1 of Schedule 12A of the Local Government Act 1972 (as amended).

3. DECLARATIONS OF INTEREST

3.1 There were no declarations of interest.

4. MINUTES OF PREVIOUS MEETING

4.1 RESOLVED: That the minutes of the previous meeting be deferred to the next meeting of the committee.

5. PUBLIC QUESTIONS AND PETITIONS

5.1 No public petitions or questions were received.

6. REVIEW OF MEMBERS' CODE OF CONDUCT & COMPLAINTS PROCEDURE

6.1 The Committee received a report of the General Counsel which set out recommended revisions for the Committee to consider to the current Procedure for dealing with Complaints and Code of Conduct regarding City, Parish and Town Councillors and Co-opted Members.

6.2 On 19 June 2023, the Council's Strategy and Resources Committee agreed a number of actions to respond to the findings and recommendations of Sir Mark Lowcock KCB in his report published 6 March 2023. One of the agreed actions, was for the Monitoring Officer to take a report to the Council's Audit and Standards Committee on whether the standards regime and Councillor Code of Conduct needed updating.

6.3 The General Counsel (David Hollis) referred to each of the proposed

revisions to the Code of Conduct and Procedure for Dealing with Complaints and the key points to note were: -

- 6.4 It was explained that there were currently no right of appeal for the complainant or Member against a decision of the Monitoring Officer, Consideration Sub-Committee or Hearing Sub-Committee. Although, if the Complainant felt that the Council had failed to deal with their complaint properly, they can make a complaint to the Local Government and Social Care Ombudsman (LGO). It was not recommended that there be another appeal route although there were recommendations to change the wording so that it was clear for the Complainant that they could make a complaint to the LGO.
- 6.5 It was mentioned that if there was a potential conflict of interest to prevent the Monitoring Officer acting under the protocol, then the matter would be dealt with either by the Council's Deputy Monitoring Officer or by a Monitoring Officer from another Authority. It was therefore proposed to alter the Procedure to reflect this.
- 6.6 The General Counsel set out the current 3-stage process for dealing with complaints. It was stated that the Consideration-Sub-Committee does not decide whether a breach has been made, but considered there was evidence of a breach either recommending the investigation to a Hearing Sub-Committee or dealing with the matter by way of informal resolution. As the Consideration Sub-Committee had virtually the same powers as the Monitoring Officer it was recommended that the process be slim down to a 2-stage process, removing the Consideration Sub-Committee stage.
- 6.7 The General Counsel referred to current sanctions when a Member was found to have breached the Code of Conduct. Further formal sanctions for identified for the Committee to consider.
- 6.8 It was explained that there were no separate complaints process for complaints by a Member made against another Member. Other authorities do have specific provision such as referring the matter to Group Whips. When such situations arise, the Monitoring Officer with the Independent Person will take an initial view and the current discretion on informal disposal or taking no action is sufficient. There was no recommendation to change the Procedure.
- 6.9 It was acknowledged that where there is a finding of a breach of the Code of Conduct by a Member, then that it is very much in the public interest, and so there was an expectation to publish the full details, including the name of the Member concerned. However, in some cases the names may need to be redacted for proper lawful purposes. In some cases, the redaction may also include redacting the name of the offending Member concerned. This could happen where perhaps issues of health and safety were engaged, or if the matter was further referred to the police for their separate investigations. Each case needed to be looked at carefully on the facts before publication. Consequently, there was no recommendation

to amend the Procedure.

- 6.10 Currently, the protocol stated The Sub-Committee will meet in public unless it decides that all or part of the meeting should be held in private in accordance with the Access to Information Procedure Rules in the Council's Constitution. Until a finding of a breach has been made, the Member who has had an allegation made against them is entitled to their right to privacy. Such a Member continues to fulfil the role they were elected to; therefore, making public potential unproven allegations may hinder their role to be undertaken on behalf of their local constituents. This will be taken into account when considering the legal requirements for public access to Hearing Sub-Committee meetings. Consequently, there was no recommendation to amend the Procedure.
- 6.11 Paragraph 10 of the Code of Conduct referred to gifts and hospitality, stating that Members must declare to the Monitoring Officer within 28 days when they had received a gift or hospitality in excess of £10. It was mentioned that some discussion had arisen regarding "incidental gifts". For example, where a donor provides some hospitality in excess of £10 then, it is for the Member to determine whether or not to refuse such a gift / hospitality in the first instance. There may be occasions where to refuse such a gift may cause personal or perhaps cultural offence to the donor. In such situations it is always for the Member to decide how to deal with the gift at that time. If the Member decides to accept the gift (which may be in excess of £10) then it is recommended that the Member always ensures that they inform the Monitoring officer in writing within 28 days of the donation / gift. The basis for this being the need to ensure complete unequivocal impartiality in decision making by all Members, and the perception thereof. Paragraph 10 of the Code of Conduct does not currently cover the situation just described; namely where the Member believes that to refuse the gift/ donation may be offensive to the donor. Therefore, it was recommended to update the Code of Conduct to address this.
- 6.12 It was explained that the Complainant can withdraw their complaint at any time. The Monitoring Officer, who has had sight of a complaint that has been withdrawn by a complainant, may nonetheless continue with the complaint if in the opinion of the Monitoring Officer, there were some substantial concerns raised. These concerns would be such as to cause the Monitoring Officer to form the view that it is in the public interest to continue with the complaint, albeit without the pursuit of the Complainant. Therefore, it was recommended to amend Paragraph 4.6, to make it clear that the Monitoring Officer will in those circumstances make their own written complaint to meet the legal requirement and to support and maintain the high standards required of the Council's elected Members.
- 6.13 Members of the Committee asked questions and made comments and the key points to note were: -

- 6.14 The General Counsel explained that the Independent Person was involved at each stage of the process.
- 6.15 The General Counsel explained that if a breach was dealt with by informal resolution, and the complainant was unhappy with that, then they could recommend that it was taken to the next stage.
- 6.16 A Member of the Committee was happy to support the recommendation to move to a 2-stage process.
- 6.17 A Member of the Committee asked what the benefit was to having the Consideration Sub-Committee.

Another Member of the Committee explained that it was not ideal not having the subject Member attend the Consideration Sub-Committee as Members were unable to question the subject Member. The subject Member does attend the Hearing Sub-Committee therefore they stated that it would be more beneficial to move to a 2-stage process, removing the Consideration Sub-Committee.

- 6.18 A Member of the Committee asked whether a decision could be reviewed again, if new evidence was found.

The General Counsel explained that as part of the investigation, it was extremely unlikely for further evidence to arise due to how thorough the investigation was.

- 6.19 The Independent Person mentioned that he did not believe the process was clear for Members of the public and that the timeliness in which complaints were dealt with were typically long and exceeded the 12-week timeframe.
- 6.20 The Chair (Councillor Mohammed Mahroof) referred to the difficulty in raising a complaint therefore a duty of care for the complainant needed to be considered. He also referred to the timeliness of the procedure and how complainants and subject Members needed to be put at ease as much as possible through the process. He also believed that making decisions public where possible was crucial for members of the public.

- 6.21 RESOLVED: That the Committee

- (1) considers and comments upon the proposed changes to the current Complaints Procedure and Code of Conduct;
- (2) notes that the Monitoring Officer will present a report to Full Council with the Committee's recommendation to adopt the revised Procedure (to include additional revisions arising from the meeting,) and that the Constitution is amended accordingly; and
- (3) refers the proposed changes to the Procedure to the Parish and

Town Councils for consideration and adoption.

7. ANNUAL OMBUDSMAN COMPLAINTS REPORT 2022/23

- 7.1 The Committee received a report of the Director of Operational Services and Monitoring Officer which provided an overview of the complaints received, and formally referred and determined by the three Ombudsmen (Local Government & Social Care Ombudsman, Parliamentary & Health Service Ombudsman and Housing Ombudsman) during the twelve months from 1 April 2022 to 31 March 2023. The report also identified future developments and areas for improvement in complaint management.
- 7.2 Corleen Bygraves-Paul (Service Delivery Manager) and Jennie Everill (Operational Manager) gave a presentation to the Committee and the key points to note were: -
- 7.3 Jennie Everill explained there was 124 complaints received by the Local Government & Social Care Ombudsman (LGSCO) relating to the Council in 2022/23. This was a 9% increase from the previous year.
- 7.4 The average response times to 23 initial enquires made by the LGSCO and Housing Ombudsman (HO) was 30 calendar days (21 working days) with 87% of responses meeting the original or initial agreed revised deadline. The delays in responding were mainly due to late or incomplete service comments and the annual leave of key officers.
- 7.5 During 2022/23, 19 complaints were upheld by the LGSCO. The Housing Ombudsman determined 5 complaints and made 12 individual complaint findings. In total the Council paid £45455.12 in compensatory payments.
- 7.6 The LGSCO upheld 73% of the complaints that were formally investigated about Sheffield City Council. This was below the 77% average for similar authorities.
- 7.7 The Council had a 100% compliance rate with LGSCO recommendations.
- 7.8 The Housing Ombudsman reported a 62.5% maladministration rate for Sheffield City Council during 2022/23. During 2022/23, the Housing Ombudsman determined 5 complaints and made 12 individual complaint findings in respect of these complaints. 3 Complaint Handling Failure Orders were issued during 2022/23 by the HO.
- 7.9 When officers had previously attended this meeting, they agreed to share half yearly results. Therefore, the first half of 2023/24, overall, the council and its strategic partners (Amey and Veolia) dealt with 4033 complaints YTD (April – September 2023). This compares to 9514 complaints in the previous year (2022/23).

- 7.10 The 2023/24 improvements and ongoing developments were shared with the Committee.
- 7.11 Members of the Committee asked questions and made comments and the key points to note were: -
- 7.12 Jennie Everil confirmed that when the Council complied with the Ombudsman's recommendation then it always resulted in a satisfactory remedy.
- 7.13 Jennie Everil believed that the Council learnt from each complaint therefore mitigating reoccurring complaints.
- 7.14 A Member of the Committee congratulated officers on the 100% compliance rate. They asked if the Council was satisfied that external services such as Amey and Veolia were responding to complaints and providing the Council with their statistics.

Jennie Everil explained that the Council had regular meetings with those external services in which they shared information relating to complaints.

- 7.15 Corleen Bygraves-Paul stated that the Council were on a cultural transformation. She explained that the Council were ensuring all officers were prioritising complaints and keeping complainants up to date on the status of their complaint.
- 7.16 Corleen Bygraves-Paul explained that officers were working closely with services receiving the most complaints and that services were sharing best practice across the organisation.
- 7.17 **RESOLVED:** That the Audit & Standards Committee considers and notes the Annual Ombudsman Report.

8. WORK PROGRAMME

- 8.1 The Committee considered a report of the General Counsel that outlined the work programme for the remainder of the municipal year. Members were asked to identify any further items for inclusion.

- 8.2 **RESOLVED:** That (1) the work programme be noted;

(2) the following items be moved on the work programme: -

- Annual Governance Statement (From November 2023 to January 2024)
- Formal Response to Audit (ISA 260) Recommendations (From November 2023 to January 2024)

- Audit Recommendation Tracker Report (From January 2024 to February 2024)
- Strategic Risk Reporting (From January 2024 to February 2024)
- Whistleblowing Policy Review (From January 2024 to March 2024)
- Annual Standards Report (From January 2024 to March 2024)
- Complaints Performance and Complaints Service Improvement Plan (From February 2024 to March 2024)

(3) the following item be included onto the work programme: -

- Update on ICO Audit Recommendations (April 2024)

9. FARGATE CONTAINERS INTERNAL AUDIT REPORT

- 9.1 The Committee received a report of the Director of Finance and Commercial Services which presented the Internal Audit assessment of Fargate Containers, highlighting the 'no assurance' audit opinion following the independent internal audit review.
- 9.2 The Chair thanked Helen Moltano and Samina Mahmood for their work undertaken on this internal audit review.
- 9.3 The Director of Finance and Commercial Services (Phillip Gregory) explained that the purpose of this audit was to provide an independent opinion as to whether or not the operational risks associated with the construction of the Fargate Containers was managed effectively, and whether the objectives were likely to be achieved and to then to identify lessons learnt for similar projects for the future.
- 9.4 The audit report contained 17 recommendations which were all agreed by Senior Management Officers. All of those recommendations had responsible action owners identified. They were 14 critical rated recommendations and 3 high priority recommendations.
- 9.5 It was mentioned that a follow up Audit had begun week commencing 20 November 2023 that would highlight any outstanding actions with revised implementation dates (if appropriate), and that a report would be brought back to this Committee at its February Committee meeting.
- 9.6 Members of the Committee asked questions and made comments and the key points to note were: -
- 9.7 A Member of the Committee stated that the report lacked context relating

to politics/politicians at the time. They stated that the decision-making processes was not recorded and asked if that was by choice. They also raised concern around the references to the turnover of staff and did not believe this was an excuse. They asked how could Members be satisfied that this would not happen again.

The General Counsel explained that the political aspect mentioned by the Member was not picked up as part of the report and did not believe it was something for officers to comment on. He also stated that it was not appropriate at this meeting to look into the actions of individual officers.

- 9.8 A Member of the Committee stated that it was clear there were a lack of recording, therefore it was good to see many recommendations relating to implementing an audit trail for future projects. They asked what evidence could Members expect to see for future projects, ensuring that appropriate process were followed.

The General Counsel explained that further information could be provided to the Finance Committee when presenting the Capital Projects.

- 9.9 The Director of Finance and Commercial Services believed the Council does have a robust risk management process in place and believed something like this would be flagged in the future. He also stated that each report presented to Members has an implications section therefore officers needed to look at this and what information was being presented when making recommendations so Members can see clear positive and negative impacts that those decisions have.

- 9.10 A Member of the Committee asked if there were a list of construction projects that the Council was involved with.

The Director of Regeneration and Development (Sean McClean) explained there was an overall capital programme that was monitored and presented to the Finance Committee. He mentioned that that the majority of construction projects go through capital delivery service. He stated that he was aware that some reports were presented in blocks to the Finance Committee therefore he stated that officers could look at improving the visibility of that reporting across the capital programme.

- 9.11 A Member of the Committee asked how Members who were not Members of particular Policy Committees, could request items onto a work programme.

The General Counsel explained that Members could pick this up with their group representatives for that Policy Committee, so those issues fed into their work programme and that the role of scrutiny was picked up as part of the decision-making within those Committees.

- 9.12 A Member of the Committee mentioned that it could be useful to hold workshops with Members if officers were going to review what information

was presented to Members in reports.

- 9.13 The Independent Co-opted Member asked if anything could be done to extend to scope of the Audit in order to respond to the concerns raised by Members of this Committee.

The Chief Operating Officer (Claire Taylor) explained that a deep dive into the broader scope of Audit had been requested and was currently under way. She stated that she was happy to brief Members of the Audit & Standards Committee once that report was available over the coming weeks.

- 9.14 The Director of Finance and Commercial Services explained there was a finance training session open to all Members in December and that it would be recorded and available to view by Members at a later stage.

A Member of the Committee also recommended the LGA risk management training.

- 9.15 A Member of the Committee stated how it was important to look at the bigger picture now and take away lessons learnt from this Audit.

- 9.16 The Chair proposed that this report be brought back to a future Committee meeting with further scope to raise their concerns.

- 9.17 A Member of the Committee queried why the Audit report slightly differed from that reported to Members in a Capital Approvals paper at Finance Sub-Committee on the 7 June 2022 in relation to the explanation for increased costs on the construction of the Fargate Containers.

The Senior Finance Manager, Internal Audit (Linda Hunter) agreed to circulate information to the Committee on this, following the meeting.

- 9.18 Members of the Committee raised concerns on agreeing the report's recommendations.

The Chief Operating Officer mentioned that she could brief Members of the Committee once the deep dive on the scope was available.

- 9.19 A Member of the Committee raised concerns relating to the role of Audit & Standards and explained how he was frustrated that the Committee was consistently asked to just note reports.

The General Counsel explained that the Committees remit was about looking at processes rather than engaging in scrutiny.

The Member stated there was not much evidence of scrutiny taking place within the Committee System. Therefore, suggested that a recommendation to the Governance Committee on how the role of scrutiny was picked up as part of the Committee System.

A Member of the Committee mentioned that this could be picked up as part of the Governance Committees work programme.

9.20 The General Counsel proposed that a further report be brought back to this Committee, once the deep dive scope review was completed, to look at the lessons learnt from this Audit review.

9.21 RESOLVED: That a further report be brought back to this Committee, once the deep dive scope review was completed, to look at the lessons learnt from this Audit review.

10. DATES OF FUTURE MEETINGS

10.1 It was noted that the next meeting of the Committee would be held on 11 January 2024.