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## **MINUTES OF THE STANDARDS COMMITTEE**

Tuesday, 17 October 2017 at 7.00 pm

PRESENT: Councillors Obajimi Adefiranye, Colin Elliott, Hilary Moore, Pauline Morrison, Andre Bourne (Chair), Jim Mallory, Peter Bernards and Bill Brown.

Also Present Joy Walton, Fasil Bhatti, Cathy Sullivan and Leslie Thomas.

Apologies for absence were received from Gill Butler and David Roper-Newman.

### **9. Declaration of interests**

No declarations were made.

### **10. Standards Committee Minutes**

RESOLVED that the minutes of the meeting held on May 9 2017 be confirmed and signed as a correct record.

### **11. Local Code of Corporate Governance - Review of Compliance 2016-17**

The Head of Law introduced the report and reminded the Committee that the substantive report was considered at the last meeting of the Standards Committee. This report sought to revise the review by incorporating matters raised by members at the previous meeting in May 2017.

The Committee was referred to pages 47 and 50 which were the details of two recent activities which should properly be included in the review as suggested at the previous meeting of the Standards Committee.

RESOLVED to endorse the revised review of the Local Code of Corporate Governance appearing at Appendix 2.

### **12. Review of use of RIPA 2017**

The Head of Law introduced the report which sets out the powers available to the local authority under RIPA. The report also reviewed the local authority's use of its powers under RIPA over the previous 18 months.

It was explained that there is a fairly comprehensive system in place. In 2012, the Regulation of Investigatory Powers Act 2000 was amended by the Protection of Freedoms Act 2012, which inserted further safeguards into the procedures undertaken by public bodies when they carry out lawful covert surveillance in respect of a narrower category of activities. As a result of the 2012 Act the local authority revised its policy and procedures and provided further bespoke training to investigating officers and managers.

It was further explained that Council still retained the power to conduct covert surveillance in circumstances where RIPA does not apply. In such situations the local authority maintained procedures identical to those covered by the provisions of RIPA without the input of the Court to provide final authorisation.

Training to relevant officers has emphasised the need to be aware of “necessity” and “proportionality”.

Lewisham had most recently been inspected by the Office of Surveillance Commissioners on the 11<sup>th</sup> March 2016 by the Assistant Surveillance Commissioner, Sir David Clarke. The outcome of that inspection was extremely positive.

The Committee was informed of the number of RIPA authorisations approved internally and granted with judicial approval over the previous two years. The number of authorisations in relation to non RIPA for 2015/16 was also provided.

Members were heartened to note that the local authority is using its powers under RIPA sparingly.

An independent member of the Committee requested further clarity as to the levels referred to in paragraph 3.9 of the current policy. She also suggested further clarity at paragraph 3.14 of the policy on the details of the process to make it more appropriate.

An enquiry was raised in relation to records obtained under the RIPA provisions and how does that link to the requirements of the Freedom of Information Act. It was explained that obligations under the FOIA would apply in the same way that they would ordinarily. That there is a presumption of disclosure, unless exemption/s to disclosure apply. Any determination would be assessed on a case by case basis.

There followed a discussion about the application of RIPA generally and specifically in relation to Covert Human Intelligence Source (CHIS.) The Head of Law confirmed that the use of CHS would be exceptional and that there are enhanced authorisation arrangements in place. Invariably, any such investigations are better left to the police to investigate.

An enquiry was also raised on the Council’s practice and what safeguards are in place in relation to information obtained during an investigation which is not necessarily required for the criminal investigation. The Head of Law confirmed that in such circumstances if the information is not required for the investigation it is destroyed.

RESOLVED that the report and presentation by the Head of Law be noted

### **13. Council Review of Whistleblowing Referrals and Policy**

The Head of Law/ Monitoring Officer, introduced the report and explained that this is an annual report considered by the Committee and provides an opportunity for members to note referrals made over the previous year and to also consider and suggest any appropriate changes.

The Head of Law/Monitoring Officer provided the Committee with an update on the referrals referred to at the last review but which had not been concluded at that time. The initial three referrals related to referrals from a

school and whilst its' procedures provide for referral to the Council in certain circumstances as the Council is not the employer of staff at the school the Monitoring Officer's role is limited to advising the governing body. Any decisions are ultimately a matter for them.

In the above cases the external investigator appointed found that there was some cause for concern but not for the reasons complained of. The Monitoring Officer confirmed that there was a big overlap between the cases.

The other outstanding referral was in relation to a complaint received that a Planning Committee meeting had been improperly conducted. On investigation the Whistleblowing Officer found that there had been no unfairness in the decision making process. This conclusion had been relayed to the complainant. The complainant had also raised an issue in relation to an interest which ought to have been declared. The complainant however failed to provide any further information on a request for specific details from the Whistleblowing Officer.

The Head of Law/Monitoring Officer informed the Committee that there had been three further referrals since the last review. These referrals had all been concluded. In two of the cases the complainant decided not to pursue their referral. It was suggested that when the current policy is reviewed it refers specifically that the investigation of benefit fraud transferred along with the Council's benefit fraud investigations to the Department of Works and Pensions.

There followed some discussion about the whistleblowing policy. There was an enquiry as to whether the Council's processes were sufficiently robust that individuals felt prepared to make referrals under it. There was also an observation that there does not appear to be many complaints received about the central services of the Council. It was suggested that enhanced publicity and profile of the Whistleblowing Policy be considered at the annual review..

Members enquired as to the return of feedback questionnaires sent at the conclusion of investigations and for an analysis to be undertaken of such returns. The Head of Law confirmed that questionnaires are sometimes returned. However in the vast majority of cases they are not returned. It was suggested that officers look at the design of the questionnaire as well as providing an analysis.

Members requested that the publicity for the Whistleblowing Policy be updated.

Members also suggested that it be reiterated that complaints can be made through a number of channels.

RESOLVED that the report be noted and that officers take steps to update and enhance the profile of the Whistleblowing Policy.

#### **14. Compliance with Member Code of Conduct**

The Head of Law/ Monitoring Officer presented the report and explained that the report provides information about the extent of compliance with the Member Code of Conduct.

It was highlighted that since consideration of the previous report on

compliance in November 2016 there have been five complaints raised against members.

An enquiry was raised as to when a matter is referred and responded to under the Council's ethical framework or is properly to be dealt with as a political party matter. It was suggested that perhaps greater clarity on the procedures and where matters should properly be referred to would be beneficial. The Head of Law responded that her remit is clear and that she does not get involved in matters concerning the quality of political representation which is a matter for political parties and the ballot box. Her remit is limited to issues concerning potential breaches of the Member Code of Conduct. It was suggested that some further dialogue on this issue may be appropriate.

RESOLVED that the report be noted.

**15. DCLG - Consultation on Disqualification for Councillors and Directly Elected Mayors**

The Head of Law/Monitoring Officer introduced the report which set out details of the Department of Communities and Local Government consultation exercise on proposals to update the criteria that bar individuals from becoming a local councillor or directly-elected mayor.

After discussion there was general consensus that updating the disqualification criteria as proposed in the consultation document was very sensible and that the Council should be supporting the suggested proposals.

RESOLVED that the Monitoring Officer send a written response to Department of Communities and Local Government in accordance with the comments set out in the report.

**16. Local Government Inspection Framework**

A response prepared by the Service Group Manager, Policy Development to Councillor Brown in relation to the current local government inspection framework was shared with the Standards Committee.

RESOLVED that the response to Councillor Brown be noted.

The meeting ended at 8.30pm