



## Audit and Standards Advisory Committee

20 March 2019

### Report from the Director of Legal and HR Services

## Annual Standards Report (including quarterly update on Gifts and Hospitality)

<b>Wards Affected:</b>	All
<b>Key or Non-Key Decision:</b>	Not applicable
<b>Open or Part/Fully Exempt:</b> (If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)	Open
<b>No. of Appendices:</b>	Three: Appendix 1 Gifts & Hospitality register ( Dec 18-March 19) Appendix 2 List of MOANs Appendix 3 Extract of Committee on Standards in Public Life ((CSPL) Local Government Ethical Standards) recommendations and best practice following review
<b>Background Papers:</b>	None
<b>Contact Officer(s):</b> (Name, Title, Contact Details)	Debra Norman, Director of Legal &HR 020 8937 1578 Email: Debra.Norman@brent.gov.uk  Biancia Robinson, Senior Constitutional & Governance Lawyer 020 8937 1544 Email: Biancia.Robinson@brent.gov.uk

### 1.0 Purpose of the Report

- 1.1 This is the Monitoring Officer's Annual Report to the Audit and Standards Advisory Committee for 2018. It provides an update on Member conduct issues, work of the Audit and Standards Advisory Committee, the Audit and Standards Committee and the Monitoring Officer during 2018.

## **2.0 Recommendation**

- 2.1 That the Committee note the contents of the report.

## **3.0 Detail**

### Committee's Work during 2018

- 3.1 In May 2018, the Standards Committee was merged with the Audit Committee to form the Audit and Standards Advisory Committee. All formal decisions which fell within these committees' functions are now undertaken by the merged Audit and Standards Committee.
- 3.2 During January to March 2018 the Standard's Committee met on one occasion (see 3.2a below). From April to December 2018, the Audit and Standard's Advisory Committee has met on three occasions and discussed matters relating to standards, policy and procedure, new case law and gifts and hospitality on two occasions (see 3.2b & c below).
- a) On the 20 March 2018, the Standards Committee reviewed gifts and hospitality received, noted how four complaints against Members had been dealt with and approved the proposed response to the public stakeholder consultation on local government standards.
  - b) On the 26 July 2018 the Committee received an update on Gifts and Hospitality and a summary of the R (Harvey) v Ledbury Town Council 2018 High Court case. In this matter the Town Council imposed sanctions on a Councillor using its staff grievance policy. The High Court decided a Member's conduct complaint had to be dealt with under the Council's standard arrangements and not a grievance procedure.
  - c) On the 11 December 2018 the Committee noted a report on Gifts and Hospitality and the First Tier Tribunal case of Cyril Bennis v Information Commissioner & Stratford & Stratford – on-Avon-District Council. The case related to the withholding of information provided by an Independent Person in relation to the Freedom of Information Act and discussed when disclosure would be appropriate.

The Committee also considered and noted a report which outlined the outcome of the Independent Review and consequential changes in relation to the Planning Code of Practice Review. The report was formally approved by the Audit and Standards Committee which was convened immediately after the Audit and Standards Advisory Committee.

### Appointment of Independent Persons

- 3.3 In July 2018 the Committee was advised of the appointment of William Goh as the Council's third Independent Person, he now joins Keir Hopley and Nigel Shock.
- 3.4 Pursuant to the Localism Act 2011, the Council has to have arrangements in place to deal with any allegations of failure to comply with the code of conduct and must appoint an Independent Person whose views are sought and taken into account by the council before it makes its decision on an allegation that it has decided to investigate.

- 3.5 The views of the Independent Person may be sought by the Council and or the member/co-opted member subject to a complaint. This role is different from the role of the four Independent Co-opted Members.

#### Complaints against Members

- 3.6 Complaints under the Member Code of Conduct are submitted to the Monitoring Officer (Director of Legal and HR). Following consideration of the complaint the Monitoring Officer will decide the appropriate course of action in accordance with the Member's Code of Conduct Complaints Procedure. During 2018, two complaints were received:
- a) the first related to a Member's alleged failure to comply with the principles of openness, objectivity, honesty and leadership. The complaint was not upheld on the basis that the nomination of members for committees (to which the complaint related) is entirely a political group matter and accordingly falls outside of the Member's Code of Conduct.
  - b) the second complaint concerned comments made by a Member relating to the motivation and decision to remove him from the Planning Committee. The complaint was not considered to disclose a sufficiently serious potential breach of the Code to merit further consideration. Further, it was clear that the Member's fundamental right to political expression could not be exercised without causing the offence complained about and any finding of breach was bound to be disproportionate on the facts.

#### Gifts & Hospitality

- 3.7 Members are required to register gifts and hospitality received in an official capacity worth an estimated value of at least £50. This includes a series of gifts and hospitality from the same person that add up to an estimated value of at least £50 in a municipal year.
- 3.8 Gifts and hospitality received by Members are published on the Council's website and open to inspection at Brent Civic Centre. A list of gifts and hospitality registered by Members from December 2018 to 8 March 2019 (the publication of this report) is attached at **Appendix 1**. The Committee will note two entries 28.11.18 and 1.12.18 were not included in the December report to the Committee. The reason being they were disclosed on and or after the publication date of the December 2018 report.

#### Monitoring Officer Advice Notes (MOANs)

- 3.9 In January 2019, two MOANs were issued to Members:
- a) MOAN 59 was issued on covert surveillance outside of the scope of the Regulation of Investigatory Powers Act 2000 (RIPA). It summarises the outcome and actions resulting from an internal audit on the use of social networking sites and the internet for surveillance purposes; it also advises on the new procedure for conducting covert surveillance outside of the scope of the RIPA.
  - b) MOAN 60 was an updated MOAN in relation to the FA/Tottenham Hotspurs FC Wembley Stadium Planning Application 2019. It provided Members with general advice on interests and related issues in respect of the

Wembley National Stadium/Spurs planning application which was going to be considered by members of the Planning Committee.

- 3.10 A list of MOANs issued since 2015 is attached as **Appendix 2**, with copies available on the Member's internal SharePoint portal.

Consultation Outcome of the Committee on Standards in Public Life (CSPL)

- 3.11 In January 2019 the Committee on Standards in Public Life (CSPL) published their report on Local Government Ethical Standards. The committee will recall that a response to the consultation undertaken by the CSPL was submitted by the council following discussion by this committee.
- 3.12 The CSPL report concludes that whilst the majority of councillors and officers maintain high standards of conduct, there is clear evidence of misconduct by a minority of councillors.
- 3.13 The report makes 26 recommendations directed at Central Government and identifies 15 best practice recommendations aimed at Local authorities; copies of which are attached at Appendix 3. The report suggests that the best practice recommendations should be considered as a good ethical practice and implemented by all local authorities. The report also suggests that the CSPL will review the implementation of their best practice recommendations in 2020. A copy of the report is available via <https://www.gov.uk/government/publications/local-government-ethical-standards-report>
- 3.14 A summary of the recommendations and best practice recommendations against the Council's current practice is included at **Appendix 3**.

**4.0 Financial Implications**

- 4.1 There are no financial implications arising out of this report.

**5.0 Legal Implications**

- 5.1 There are no legal implications arising out of this report.

**6.0 Equality Implications**

- 6.1 There are no equality implications arising out of this report.

**7.0 Consultation with Ward Members and Stakeholders**

- 7.1 Not applicable.

**8.0 Human Resources/Property Implications (if appropriate)**

- 8.1 Not applicable.

**Report sign off:**

**Debra Norman**

Director of Legal and HR Services