

PROCEDURES COMMITTEE

9 July 2019

Present:-

Councillors J Mathews (Chair), J Hart, S Hughes, S Aves, F Biederman, A Connett, R Hannaford, N Way and C Wright

* **62** **Minutes**

RESOLVED that the minutes of the meeting held on 17th April 2019 be signed as a correct record.

* **63** **Items requiring urgent attention**

(An item taken under Section 100B(4) of the Local Government Act 1972).

The Chair had decided that the Committee should receive an update on DBS checks for Members of the Council.

The Head of Democratic Services advised that a small number of Members had not yet completed the check (online and / or ID check) and work was ongoing to support them through the process to completion. A list would be sent the Group Leaders to encourage their Members to finalise the process.

The Leader also asked Officers to consider organising further sexual harassment training in the autumn.

64 **Amendments to Financial Regulations**

The Committee considered the Report of the County Treasurer (CT/19/66) which outlined suggested amendments to Part 5 of the Constitution relating to the Code of Business Conduct.

The Committee noted that procedure and approval limits were updated in April 2018 and an annual review of operational procedures had indicated some areas where procedures could benefit from revision. The proposed changes were highlighted in detail in the attached appendices. Consultation had also been undertaken with Procurement where appropriate.

In relation to Part 5a, the introduction to the Code of Business Conduct, it was proposed that the chart which showed how elements of the code were arranged were updated to remove and/or replace obsolete elements, for example the Financial Standards Manual which now formed part of, and was embedded into, financial regulations on a section by section basis.

In relation to Financial Regulations (Part 5c) there were changes proposed to the following sections;

- Capital Expenditure & Leasing (Paragraphs B12.5 and highlighting the current text in paragraphs B12.4, B12.7 and B12.8);
- External Audit (Paragraph C16.4) - changes to reflect updated regulations;
- Other Review Bodies (Paragraph C16.5) - to reflect the terminology for HMRC;
- Payment of Accounts (Paragraphs D5.14 and D5.15);
- Pensions (Paragraph D8.2); and
- External Funding (Paragraph E2).

For the Procedures for Tenders and Contracts (Part 5e), changes were proposed to paragraph 2.11 on selective tendering.

Members discussed and asked questions on the following issues;

- removing the word 'Member led' in paragraph B12.4;
- removing the word 'external' in paragraph B12.5;
- the importance of risk management and that the Authority had a robust process; and
- the procedures regarding gifts and hospitality for both Members and Officers.

It was **MOVED** by Councillor Mathews, **SECONDED** by Councillor Hart and

RESOLVED that the proposed changes to the Constitution as outlined in the Report be approved, subject to removing the words 'Member led' in paragraph B12.4 and 'external' in paragraph B12.5.

* **65** **Ministry of Housing, Communities and Local Government: Statutory Guidance on Overview and Scrutiny in Local and Combined Authorities**

The Committee considered the Report of the County Solicitor (CSO/19/15) on the revised statutory guidance for Scrutiny from Ministry of Housing, Communities and Local Government's (MHCLG), which was published on the 7th May 2019, the impact on working practices, the Constitution and future working arrangements.

The full guidance was also available on the web at <https://www.gov.uk/government/publications/overview-and-scrutiny-statutory-guidance-for-councils-and-combined-authorities>.

In November 2018 (Minute *51 refers), at the request of Councillor Wright, the Committee had previously considered the Government's response to the Communities and Local Government Select Committee Report 'Effectiveness of Local Authority Overview and Scrutiny Committees'. At that meeting it had been agreed that the item be deferred until such time that the new guidance was received.

It was noted that Devon gave evidence into the original Select Committee consideration as well as the drafting of the statutory guidance. Whilst Scrutiny at Devon was well regarded, the publication offered the opportunity to review current practice over and above regular reflections and make improvements if and where possible.

The Head of Scrutiny presented the Report which summarised the main findings and suggestions for effective Scrutiny and evaluated them against Devon County Council's approach. The key points were:

- culture and creating the conditions for meaningful Scrutiny to operate, extending to the Chief Executive and Political Leadership;
- role and prioritisation – the role being clear and focused, with a carefully prioritised work programme;
- selecting Committee Members and Chairs – to be done considering skill set as well as politics;
- access to Information and ensuring Members had the right to access to support good Scrutiny, including commercial detail;
- gathering evidence and making recommendations and the role of the Chair in managing and gathering evidence as well as pulling together SMART and useful recommendations; and
- resourcing – sufficient resource to ensure the above issues happened and dedicated Scrutiny teams having a high profile in the authority along with the statutory Scrutiny officer role.

Members noted and welcomed the suggestions for improved visibility, work program planning, wider communications and a continuation of existing best practice (noting that Devon was highly regarded nationally).

Members commented and asked further questions on;

- other partners and organisations and their understanding of the Scrutiny function;
- that masterclass sessions were well received, but care was required not to treat these as 'scrutiny sessions';
- the guidance in respect of secret ballots and how effective these might be, notwithstanding two out of the three Chair positions at Devon were given to opposition groups;
- that training in questioning techniques (intended to take place later in the year) was welcomed;
- the role and practice of opposition party chairs in Scrutiny and how other authorities managed this process;
- the importance of 'smart' recommendations and fewer, but more focussed agendas to enable effective Scrutiny;
- the capacity of the team and Members to cover a large geographical area such as Devon; and
- the importance of publicity, good communications and promotion of Scrutiny work and task groups.

It was **MOVED** by Councillor Wright, **SECONDED** by Councillor Biederman, and

RESOLVED that all Scrutiny Committees be Chaired by opposition groups, including a role for the Independent Group in those positions.

The Motion was put to the vote and declared **LOST**.

RESOLVED that the new guidance be welcomed and the Council's approach to Scrutiny be endorsed as good practice, notwithstanding the suggested changes to work programming and communications, which would further strengthen the current robust working practices.

66 **Model Disciplinary Procedure and Guidance - Joint Negotiating Committee for Chief Executives (Conditions of Service Handbook)**

The Committee considered the Report of the County Solicitor (CSO/19/16) on the structures required to manage model disciplinary procedure, as outlined in the Conditions of Service Handbook for Model Disciplinary Procedure and Guidance by the Joint Negotiating Committee for Chief Executives.

In May 2019, the Council had received a letter from the Joint Negotiating Committee for Chief Executives of Local Authorities reminding Councils, as they entered a new civic year and would therefore be making appointments to various committees, of the requirements as set out in the Model Disciplinary Procedure and Guidance in the JNC Conditions of Service Handbook.

They reported there had been instances in recent months of some Councils not having the appropriate structures and standing committees in place in order that potential disciplinary issues could be quickly considered.

The guidance stated it was imperative that all Councils in England should establish:

- An Investigating and Disciplinary Committee (IDC) (Handbook para 1.2.2)
- An Appeals Committee (para 1.2.3);
- An Independent Panel (see para 1.2.4); and

- An elected member with the designated power to suspend the Chief Executive immediately in an emergency (see para 3).

The Report highlighted that after a review of current processes, it was evident that the Council was compliant with the vast majority of requirements as outlined in the Joint Negotiating Committee for Chief Executives of Local Authorities (Model Disciplinary Procedure and Guidance).

The suggestions for change, outlined in full at section 7 of the Report, in relation to the Constitution, the remit of the Appointments and Remuneration Committee and Committee Structures sought to strengthen and clarify roles and responsibilities.

Members discussed and asked questions on the following issues.

- the reference to 'investigatory' and whether this was appropriate;
- the suggestion that 'conduct' would be a better description;
- clarity that the Chair of the Committee with power to suspend the Chief Executive was the Leader of the Council; and
- the role of the Deputy Leader in any suspension processes.

It was **MOVED** by Councillor Connett, **SECONDED** by Councillor Hart and

RESOLVED that the changes as proposed and outlined at section 7 of the Report be endorsed subject to;

- (a) the Appointments and Remuneration Committee being renamed Appointments, Remuneration and Chief Officer Conduct Committee;
- (b) an emphasis that the Leader of the Council has the powers of suspension (as Chair of the Appointments, Remuneration and Chief Officer Conduct Committee); and
- (c) that any suspension needed to be in consultation with the Deputy Leader.

***DENOTES DELEGATED MATTER WITH POWER TO ACT**

The Meeting started at 10.30 am and finished at 12.15 pm