

**TO:- Standards and Resources Committee**

Councillor Barry Bond M.B.E. , Councillor Diane Holmes , Councillor Penny Allen , Councillor John Brindle ,  
Councillor Gary Burnett , Councillor Mike Davies , Councillor Philip Davis , Councillor Sue Duncan , Councillor Dr  
Paul Harrison M.B.E. , Councillor Dan Kinsey B.E.M , Councillor Robert Reade , Councillor Sue Szalapski

Notice is hereby given that a meeting of the Standards and Resources Committee will be held as detailed below for the purpose of transacting the business set out below.

Date: Thursday, 08 June 2023

Time: 14:30

Venue: Council Chamber, Community Hub, Wolverhampton Road, Codsall, South Staffordshire, WV8 1PX



D. Heywood  
Chief Executive

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**A G E N D A**

**Part I – Public Session**

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|----------|---|----------------|
| <b>1</b> | Minutes of previous meeting<br>To approve the minutes of the previous meeting held on 9 March 2023.   | <b>3 - 4</b>   |
| <b>2</b> | Apologies<br><br>To receive any apologies for non-attendance.   |                |
| <b>3</b> | Declarations of Interest<br><br>To receive any declarations of interest.                              |                |
| <b>4</b> | Monitoring Officer - Update Report<br>Report of Monitoring Officer (Director of Legal and Governance) | <b>5 - 14</b>  |
| <b>5</b> | Data Protection Policy Update<br>Report of Director Legal and Governance.                             | <b>15 - 18</b> |

**RECORDING**

**Please note that this meeting will be recorded.**

**PUBLIC ACCESS TO AGENDA AND REPORTS**

Spare paper copies of committee agenda and reports are no longer available. Therefore should any member of the public wish to view the agenda or report(s) for this meeting, please go to [www.sstaffs.gov.uk/council-democracy](http://www.sstaffs.gov.uk/council-democracy).

Minutes of the meeting of the **Standards and Resources Committee** South Staffordshire Council held in the Council Chamber Community Hub, Wolverhampton Road, Codsall, South Staffordshire, WV8 1PX on Thursday, 09 March 2023 at 14:30

**Present:-**

Councillor Penny Allen, Councillor Joyce Bolton, Councillor Barry Bond, Councillor Philip Davis, Councillor Lin Hingley, Richard Taylor, Councillor Roger Tucker

18      **MINUTES**

**RESOLVED:** That the Minutes of the Standards and Resources Committee meeting held on 26 January 2023 be approved subject to the inclusion of apologies for absence from Parish Councillors Taylor and Tucker.

19      **APOLOGIES**

Apologies were received from Councillor Chris Benton, Councillor Mike Boyle, Councillor Diane Holmes, Councillor Ve Jackson, Councillor Dan Kinsey B.E.M, David Oldfield, Councillor Kath Perry M.B.E, Councillor John Raven, Councillor Robert Reade, and Mary Roberts.

20      **DECLARATIONS OF INTEREST**

There were no declarations of interest.

21      **EQUALITY AND DIVERSITY PROGRESS REPORT**

**RESOLVED:** That the progress of the 2022/23 work programme as detailed in Appendix A and the planned actions for 2023/24 as set out in paragraph 4.5 of the report be noted.

22      **WORK FORCE EMPLOYMENT TRENDS**

**RESOLVED:** That members noted the contents of the report.

23      **CORPORATE HEALTH AND SAFETY UPDATE**

**RESOLVED:** That members noted the progress made on meeting the Council's obligations with regard to Corporate Health and Safety during the last year and supported future work priorities and delivery.

The Meeting ended at: 15:38

**CHAIRMAN**



**SOUTH STAFFORDSHIRE COUNCIL****STANDARDS AND RESOURCES COMMITTEE – 8 JUNE 2023****REPORT ON WORK PROGRAMME/COMPLAINTS****REPORT OF MONITORING OFFICER (DIRECTOR LEGAL AND GOVERNANCE)****PART A – SUMMARY REPORT****1. SUMMARY OF PROPOSALS**

To inform and update Members in respect of Code of Conduct and Complaint matters.

**2. RECOMMENDATIONS**

- 2.1** That the Standards and Resources Committee notes the contents of the update on Code of Conduct and Complaint Matters

**3. SUMMARY IMPACT ASSESSMENT**

|   |  |   |
|---|--|---|
| POLICY/COMMUNITY<br>IMPACT              | Do these proposals contribute to specific Council Plan objectives? |   |
|   | Yes  | The work of the Committee underpins the work of the Council and delivery of the Council Plan objectives |
|   | Has an Equality Impact Assessment (EqIA) been completed?           |   |
|   | No   | Not required.   |
| SCRUTINY POWERS<br>APPLICABLE           | No   |   |
| KEY DECISION                            | No   |   |
| TARGET COMPLETION/<br>DELIVERY DATE     | Standards and Resources Committee 8 June 2023                      |   |
| FINANCIAL IMPACT                        | No   | None  |
| LEGAL ISSUES                            | No   | None  |
| OTHER IMPACTS, RISKS &<br>OPPORTUNITIES | None   |   |
| IMPACT ON SPECIFIC<br>WARDS             | No   |   |

## **PART B – ADDITIONAL INFORMATION**

### **4.1     *Code of Conduct/Disclosable Pecuniary Interest Forms***

- 4.2     There is currently one active Code of Conduct complaint which relates to a former District member.
- 4.3     One further complaint received since the last meeting was dismissed at the initial assessment stage. This complaint related to a parish member.
- 4.4     Full training on the Code of Conduct was provided to members on 16 May 2023; the session was recorded and is available to any member to view. The Monitoring Officer is due to give a presentation on the Code of Conduct at the Parish Summit being held on 8 June.

### ***Local Government Ombudsman (LGO)***

- 4.5     There have been two new decisions from the Local Government Ombudsman since the last meeting. The first complaint related to planning enforcement. In the first case, which can be seen at Appendix 1 to this report, the LGO did not investigate as there was no evidence of fault by the Council.

The second case involved a dispute around licensing enforcement with the LGO finding no fault in how the Council acted. The decision can be seen at Appendix 2.

### ***Formal Complaints***

- 4.5     In terms of complaints that have gone to stage 2 of the Council's own complaints procedure (which is the step before an Ombudsman complaint) we have had 0 complaints upheld in the municipal year 2023/24 to date.

### ***Data Protection***

- 4.6     A full update in respect of data protection will be brought to the next meeting of this committee.

### ***Work programme***

- 4.14    The proposed work programme for 2023/24 is set out below:

#### ***8 June 2023***

- Setting of work programme

#### ***14 September 2023***

- Review of Conduct/Complaints/Work Programme
- Elections report post May 2023 elections
- Data Protection report

**23 November 2023**

- Review of Conduct/Complaints/Work Programme
- Annual report of the Local Government Ombudsman
- Elections Act 2022 update

**25 January 2024**

- Review of Conduct/Complaints/Work Programme
- Elections Act 2022 Update

**28 March 2024**

- Annual Corporate Health and Safety Update
- Review of Conduct/Complaints/Work Programme
- Employment trends

If Members have any items they wish to add to the work programme they should let the Monitoring Officer know. A report updating on progress against this programme will come to each meeting of the Committee and identifying any potential additional items or changes to the programme.

5. IMPACT ASSESSMENT – ADDITIONAL INFORMATION

None

6. PREVIOUS MINUTES

None

7. BACKGROUND PAPERS

Report prepared by: Lorraine Fowkes – Monitoring Officer (Director Legal and Governance)





## **The Ombudsman's final decision**

Summary: We will not investigate Mr X's complaint about the Council's consideration of and decision on a change-of-use planning application for a nearby business premises next to a public highway lay-by. There is not enough evidence of fault by the Council in its planning process and its Planning Committee's decision to grant the permission to justify an investigation.

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## **The complaint**

1. Mr X lives near a business premises which applied for and received planning permission for change of use to a takeaway food outlet. He complains the Council:
  - a) allowed a planning permission which will result in the premises' owner using a nearby lay-by as a 'drive-thru' facility for their business;
  - b) failed to clarify with the planning applicant that the lay-by remains as public highway for use by all.
2. Mr X says the planning decision will have a direct impact on the value and quiet enjoyment of his home due to increased traffic to and from the site. He wants the Council to:
  - clarify with the planning applicant that the highway is not for their sole use and remains part of the public highway;
  - tell the applicant it must not be used as a 'drive-thru' facility;
  - tell the applicant all food collections must be made in person in the shop;
  - provide landscaping between his property and the lay-by area to lessen the noise, or pay him compensation to fund his own landscaping.

## **The Ombudsman's role and powers**

3. The Ombudsman investigates complaints about 'maladministration' and 'service failure', which we call 'fault'. We must also consider whether any fault has had an adverse impact on the person making the complaint, which we call 'injustice'. We provide a free service but must use public money carefully. We do not start or may decide not to continue with an investigation if we decide there is not enough evidence of fault to justify investigating. (*Local Government Act 1974, section 24A(6)*)

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4. We consider whether there was fault in the way an organisation made its decision. If there was no fault in the decision-making, we cannot question the outcome. (*Local Government Act 1974, section 34(3), as amended*)

## **How I considered this complaint**

5. I considered information from Mr X, relevant online planning documents and maps, and the Ombudsman's Assessment Code.

## **My assessment**

6. Mr X says the Council decision to allow the planning permission will result in the premises' owner using a nearby lay-by as a 'drive-thru' facility for their business. There is no order pick-up window or other similar facility next to the lay-by in the application. People picking up orders, for themselves or others, need to go into the takeaway shop. The lay-by is for public use, which includes people parking to get orders from the new premises. They may use the lay-by, the parking at the front of the shop, or other nearby parking facilities for other local businesses to do this. The Council's planning decision does not give permission for, nor somehow create, a 'drive-thru' facility. There is not enough evidence of fault on this issue to warrant investigation.
7. Planning officers consulted the local County Council highways authority as part of the planning process. Its highways officer recommended acceptance of the application. They noted the public parking facilities and took the view the vehicle movements associated with the new use would be similar to the previous use. The District Council's planning officer took that view into account as the County Council was a statutory consultee on the highways issue.
8. The planning officer also noted the premises shares parking space with another business next door and the public lay-by would be used by delivery drivers and other commercial activities related to the business. The officer's report noted the amount of parking did not comply with its policy, but recognised the policy states that parking is but one part of the overall merits of an application. The officer determined the amount of parking at the property did not, when balanced against the wider aspects of the proposal, give grounds for a refusal. That was a professional judgement the officer was entitled to express in their report.
9. The Members of the Planning Committee then considered the application, including the officer's report and the associated information, and voted to grant the permission. If any Members had concerns about any aspect of the development, including parking or traffic issues, it was within their powers to refuse the permission or seek further information before reaching a view.
10. There is not enough evidence of fault by the Council on its consideration of and decision on the planning application to warrant us investigating. Officers consulted appropriately, responded to relevant objections, including highways issues, and set out the Council's decision in the planning report. The Planning Committee Members then decided to grant permission. I recognise Mr X may disagree with the Committee's decision. But it is not fault for a council's elected Members to properly make a decision with which someone disagrees.
11. Mr X says the Council must clarify with the planning applicant that the lay-by will remain as public highway for use by all. There is no indication in the online planning documents that the takeaway's owner has sought to claim sole control or ownership of the lay-by, or that the Council's planning decision provides them

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with such control or ownership. As the Council stated during the planning process, the lay-by remains a public highway facility available for use by all, including drivers accessing the takeaway. There is not enough evidence of fault by the Council in not re-confirming with the applicant the public highway status of the lay-by to warrant an investigation.

### **Final decision**

12. We will not investigate Mr X's complaint because there is not enough evidence of fault by the Council in its planning process or its Planning Committee's decision to grant the permission to justify an investigation.

### **Investigator's decision on behalf of the Ombudsman**



## **The Ombudsman's final decision**

Summary: We will not investigate this complaint about the Council's decision not to prosecute a kennel for an alleged breach of licensing conditions. There is insufficient evidence of fault.

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## **The complaint**

1. The complainant, who I shall call Mr X, complains the Council has failed to prosecute a boarding kennel which he says has breached the conditions of its licence.

## **The Ombudsman's role and powers**

2. The Ombudsman investigates complaints about 'maladministration' and 'service failure', which we call 'fault'. We must also consider whether any fault has had an adverse impact on the person making the complaint, which we call 'injustice'. We provide a free service but must use public money carefully. We do not start or may decide not to continue with an investigation if we decide there is not enough evidence of fault to justify investigating. (*Local Government Act 1974, section 24A(6)*)

## **How I considered this complaint**

3. I considered the information provided by Mr X and the Council.
4. I considered the Ombudsman's Assessment Code.

## **My assessment**

5. Mr X contacted the Council to report concerns that a boarding kennel had breached the conditions of its licence after his dog had to sadly be euthanised after a stay there. The Council investigated and recommended for minor improvements. However, it says there was no evidence that it had breached the conditions of its licence and therefore it could not take any further action.
6. I will not investigate Mr X's complaint. This is because there is not enough evidence of fault in how the Council dealt with his concerns. The Council says it visited the kennel and inspected relevant records and policies. It spoke to staff involved with the care of Mr X's dog. The Council also considered information Mr X provided including records from the vet. Without evidence of fault in the process, we cannot question the merits of the Council's decision that no breach had taken place.
7. While Mr X strongly disagrees with the Council this does not mean it is at fault.

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## **Final decision**

8. We will not investigate Mr X's complaint because there is not enough evidence of fault in the Council's actions.

## **Investigator's decision on behalf of the Ombudsman**

**SOUTH STAFFORDSHIRE COUNCIL****STANDARDS AND RESOURCES COMMITTEE – 8 JUNE 2023****DATA PROTECTION POLICY UPDATE****REPORT OF DIRECTOR LEGAL AND GOVERNANCE****PART A – SUMMARY REPORT****1.0 SUMMARY OF PROPOSALS**

- 1.1 The Council's Data Protection Policy has been reviewed and refreshed to ensure it remains up to date and fit for purpose. The report also provides an update with regard to data protection compliance matters.

**2. RECOMMENDATIONS**

It is recommended that:

- 2.1 Members consider and comment on the refreshed policy attached as Appendix 1.
- 2.2 Members note the proposed approach to ensure compliance with requirements as set out in paragraphs 4.4 and 4.6 of the report.

**3.0 SUMMARY IMPACT ASSESSMENT**

|                            |  |  |
|----------------------------|--|--|
| POLICY/COMMUNITY IMPACT    | Do these proposals contribute to specific Council Plan objectives? |  |
|                            | Yes  | Having an effective and efficient Council underpins the delivery of the Council Plan.  |
|                            | Has an Equality Impact Assessment (EqIA) been completed?           |  |
|                            | No   | No significant changes to the policy so no implications that have not been considered previously.  |
| SCRUTINY POWERS APPLICABLE | Report to Standards and Resources Committee                        |  |
| KEY DECISION               | No   |  |
| TARGET DATE                | 27 January 2022  |  |
| FINANCIAL IMPACT           | Yes  | One off costs of £8,100 for External Consultancy have been identified as being required to ensure identified actions are carried out. Corresponding in-year savings have been identified in budget monitoring to ensure that this level of |

|                                      |    |  |
|--------------------------------------|----|--|
|                                      |    | expenditure has no adverse impact on the projected level General Fund balances of the Council at the year end.                           |
| LEGAL ISSUES                         | No | There are no direct legal implications arising from this report. Compliance with the data protection legislation is a legal requirement. |
| OTHER IMPACTS, RISKS & OPPORTUNITIES | No |  |
| IMPACT ON SPECIFIC WARDS             | No |  |

#### 4.0 BACKGROUND

- 4.1 The General Data Protection Regulation (GDPR) was introduced with effect from 25 May 2018. Members received a previous report on the preparation work undertaken at that time to ensure the Council was compliant and update reports in May 2019 and September 2020. This report seeks to update Members on actions taken and proposals to ensure the Council remains compliant. The Council's Data Protection Policy has also been reviewed and refreshed to ensure it is up to date and fit for purpose.
- 4.2 When the GDPR was introduced, the Council's Data Protection Policy was updated and revised to reflect the new requirements. This policy has been reviewed and refreshed. No significant changes were required as the policy was found to be fit for purpose. The policy can be seen at Appendix 1. Member approval is sought.
- 4.3 The Council's Internal Audit Service recently carried out an audit of the Council's position with regard to data protection. It is pleasing to note that substantial assurance was given by the audit. The audit found that the Council's data retention policies and procedures were sound and that appropriate data sharing agreements were in place where necessary, along with revised contractual provisions. There were some actions recommended as a result of the audit to further strengthen the Council's position and build on the good work undertaken to date. These are summarised below.
- 4.4 It is recommended that the information mapping exercise that was undertaken in 2018 in preparation for the change in the law should be refreshed. Records of information held, known as a Record of Processing Activities (RoPA) should be renewed for each service area and a central record maintained. Prior to the audit commencing, an additional resource in the form of a data protection specialist solicitor, had been commissioned to review the Council's compliance position. It is proposed that this specialist continues the work in this area to ensure the Council's compliance position is further strengthened and the audit recommendations are fully implemented.
- 4.5 The second audit recommendation was around refreshing of the Council's Policy. This has been undertaken and the revised policy as attached for approval as set out above.
- 4.6 The final audit recommendation was that regular reviews of information held are undertaken within service areas. This requirement will be communicated to service managers as part of the wider communications undertaken in respect of data protection



compliance including publicising the renewed policy.

- 4.7 Further training will be provided to officers and members on data protection to ensure compliance. Regular reminders on data protection are also given in the Council's News Round-Up to ensure awareness is maintained.

**5.0 IMPACT ASSESSMENT – ADDITIONAL INFORMATION**

None

**6.0 PREVIOUS MINUTES**

Standards and Resources Committee 22.03.18, 23.05.19, 24.09.20.

**7.0 BACKGROUND PAPERS**

Internal Audit Report

Report prepared by Lorraine Fowkes – Director of Legal and Governance (Data Protection Officer)

