



OPEN REPORT
Governance and Resources Committee

Governance and Resources Committee – 16 February 2024

COMPLAINT AGAINST THE DISTRICT COUNCIL, LESSONS LEARNED AND MOVING FORWARD

Report of Helen Mitchell, Director of Corporate and Customer Services (Monitoring Officer)

Report Author and Contact Details

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Wards Affected

All

Report Summary

This report details the summary findings and wider organisational learnings following a complaint submitted to the Council in September 2023 which was shared with all 34 Members of the District Council. Following rigorous independent investigation, none of the ten allegations were fully upheld.

There are, however, a series of relevant and timely learnings for the Council based on the four allegations that were partially upheld, wider findings by the investigating officers and overall context of decision making at the District Council.

Recommendations

1. That this report and the action plan be agreed;
2. That the Committee agrees to explore a review of its governance arrangements with an external partner and report back to Committee at its next meeting.

List of Appendices

Appendix 1 – Redacted Version of the Investigation Report.

Background Papers

None

Council Approval Required

Yes or No

Exempt from Press or Public

No

1. Background

- 1.1 In September 2023, a comprehensive complaint was submitted to the Council which made allegations in respect of the manner in which consideration of a potential permanent traveller site was dealt with by the then political leadership and senior management. It also made broader allegations in respect of the Council's overall governance.
- 1.2 It was and is highly unusual to receive a complaint of this nature and particularly one which is shared with all Members of the Council. Typically, complaints are referred to the Governance and Resources Committee as part of an Annual Report but on this occasion, it has been brought to the attention of the Committee given its significance.
- 1.3 The Council has a Corporate Complaints Procedure and used this to guide the investigation of the complaint. It was assessed by the Council's Democratic and Electoral Services Manager as a Stage 2 complaint and given the matters alleged and individuals involved it was agreed to commission an external partner, East Midlands Councils, to undertake a fact-finding investigation.
- 1.4 The investigation led to the creation of a detailed report. The areas of the report that directly related to the allegations made and how the Council would learn were shared with the complainants (as is customary). A redacted version of the report is enclosed at **Appendix 1**. It has been redacted in accordance with the Council's approach to sound information management, regard for legislation governing personal data and tests to public interest.

Key Issues

- 1.5 The investigation concluded that none of the ten allegations were fully upheld. Of those ten, four were partially upheld and six not upheld. Those four which were partially upheld were: -
- Lack of transparency and good governance
 - Prior knowledge of convictions and of involvement in organised crime
 - Lack of enforcement of planning permission breaches
 - Missing paperwork and lack of transparency

Those which were not upheld were: -

- Inadequate due diligence and gross professional negligence
- Continued commercial engagement with a known criminal
- Financial concerns and significant conflicts of interest
- Lack of safeguarding assessments.
- Unfair rejection by the Council of an alternative site
- Lying by senior officers of the Council

- 1.6 The investigators were clear that there are several areas where the Council's conduct fell short of what the public should expect of their local authority across areas of governance, conduct of officers and record keeping. It also made reference to wider organisational learnings and additional matters such as encouraging the Council to meet the needs of Travellers, to consider the current Council delegation on matters relating to Travellers, adopting a professional approach to email correspondence and strengthening engagement on a face to face basis with the MP for the Derbyshire Dales, Hon. Sarah Dines.
- 1.7 Put together, it is incumbent on the district council to learn, and to learn publicly, to ensure as far as is reasonable, that it is set on improving itself following this complaint. An action plan is attached to this report which sets out changes that can be made to deliver on the findings identified. It is shared with Members for their critical review.
- 1.8 That said, it could be argued that the key findings are symptoms to wider governance issues around roles and responsibilities of Members and officers, political leadership in a committee system and a need to get the basics right even when working in a financially stretched public organisation.
- 1.9 The governance of an organisation should be purposefully designed to enable it to deliver on its objectives and in a way that gathers confidence. This is especially important in a democratic environment. To that end, there is an opportunity in which to reflect on the Council's arrangements – its behaviours, its processes and its structures to ensure it is match fit for the future.
- 1.10 Members may be aware that the Council is fifty years old this year and has operated, in a structural sense, the Committee System for that time when the majority of Councils have adopted other arrangements. This is not to say that this Council needs to move away from the Committee System but it is time to reflect on whether it is structured and operates in a way that suits the needs of District Council now and in future.
- 1.11 Ultimately, there is clear value in having a broad and open governance conversation and debate amongst Members and officers. The Council's governance form needs to be designed to achieve its functions and there is an opportunity to do that using the response to this complaint as a springboard. This could be undertaken in one of two ways, internally or externally.
- 1.12 Internally in the form of the Director of Corporate and Customer Services (MO) and her staff or via the Local Government Association or one of its partners.
- 1.13 It should be noted that the report author is a former employee and associate consultant of the Centre for Governance and Scrutiny, a partner of the Local Government Association, and as such, will create the requisite distance needed to avoid any perceived or real conflicts of interest if a future decision is taken to undertake such work identified in this report.

- 1.14 Any decisions to be made by the Committee at a future date to appoint an organisation to undertake this work will be done so in the name of the Council's Democratic and Electoral Services Manager.

2. Options Considered and Recommended Proposal

- 2.1 That Committee agrees to explore an external review of the Council's governance arrangements. This is to provide the necessary capacity, capability and independence to the review and its findings. The review could be undertaken internally but it has been assessed that this would take capacity away from the core corporate functions of the Council and its staff. This is especially challenging in a year with several planned and anticipated elections. It may also create the conditions in which Members and officers do not feel able to freely contribute to the review.
- 2.2 To that end, it is the most effective and efficient option is to explore an external review.

3. Consultation

- 3.1 The Council's Democratic and Electoral Services Manager has been consulted as well as the Councils Corporate Leadership Team and the Chair and Vice Chair of the Governance and Resources Committee.

4. Timetable for Implementation

- 4.1 A timetable is unclear at this stage as it is dependent on discussions with the LGA but it is hoped that work could start in Spring 2024.

5. Policy Implications

- 6.1 None arising from this report.

6. Financial and Resource Implications

- 7.1 None immediately arising from this report as funding could be sourced from the Local Government Association to undertake the necessary work.

7. Legal Advice and Implications

- 7.1 None arising from this report.

8. Equalities Implications

- 8.1 None arising from this report.

9. Climate Change and Biodiversity Implications

- 9.1 None arising from this report.

10. Risk Management

- 10.1 There is a risk that if the Council does not learn from the complaint that it will not improve its overall governance arrangements. The likelihood that it will not learn from this complaint is medium and the impact of not learning is high.
- 10.2 The reason for this assessment is that the council's governance arrangements are rooted in human interaction and the historic processes and norms that exist within an organisation. It is accepted that changing human behaviour is notoriously challenging.

Report Authorisation

Approvals obtained from Statutory Officers:-

	Named Officer	Date
Chief Executive	Paul Wilson	01/02/2024
Director of Resources/ S.151 Officer (or Financial Services Manager)	Karen Henriksen	02/02/2024
Legal Services Manager	Kerry France	05/02/2024

Action Plan – Learning Lessons from Complaint Against the District Council

Themed Conclusion In Investigation Report	Action	Owner	Timescale	Progress
<p>Lack of transparency and good governance</p> <p>Members must be making decisions in meetings held in public in formal meetings.</p> <p>Reconsider current scheme of delegation for decisions on permanent or temporary traveller sites.</p>	<p>Clarify the difference between briefings (the giving of information) and decision making (consideration of relevant material to support decision making which commits the authority to a course of action).</p> <p>Undertake an options appraisal on moving the delegation in consultation with the Traveller Working Group.</p>	Monitoring Officer (MO)	End June 2024	
<p>Conduct of Officers</p> <p>Ensure highest standards of judgement in the Council's most senior officers.</p> <p>Pressure placed on officers by the Council's political leadership.</p>	<p>Ensure values and judgement are tested throughout the recruitment and retention cycle of senior officers.</p> <p>Roles and responsibilities and behaviour expectations of officers and Members are reset.</p> <p>Establishment of Statutory Officers Group and engage with the Chair and Vice Chair of G&R Committee on issues relating to Member/Officer</p>	Leader, Chief Executive and Directors	End of June 2024	

	relations.			
<p>Record Keeping</p> <p>Written records must be made and kept.</p>	<p>Clarify professional minute taking support of Democratic Services to decision making and other vital related meetings of the Council.</p> <p>Create standards of note taking that involve third parties.</p> <p>Ensure Directors and their Departmental Management Teams are retaining file notes to provide an account of progress on key matters of Council business. This is especially the case for work which deals with third parties.</p>	<p>Corporate Leadership Team (CLT) and Senior Management Team (SMT)</p>	<p>End June 2024</p>	
<p>Communication in Respect of Planning Contravention Notices</p>	<p>Clarify procedures in legislation and in practice and compare against internal practice.</p>	<p>Director of Regulatory Services / Director of Place and Economy</p>	<p>End April 2024</p>	
<p>Organisational Learning / Additional Matters</p> <p>Professional email correspondence</p> <p>Awareness of Freedom of Information</p>	<p>Training session on FOI be widely distributed.</p> <p>Presentation on FOI to be shared with Senior Management Team for cascade to staff.</p> <p>Incorporation of the need to communicate professionally in emails as part of induction and management actions.</p>	<p>All staff</p>	<p>End June 2024</p>	

Relationship with Sarah Dines, MP and reinstatement of face to face dialogue	Strengthen face to face dialogue.	MO		
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