

additional papers 1

Standards Committee

Wed 24 Jun
2009
7.00 pm

Council Chamber
Town Hall
Redditch



www.redditchbc.gov.uk

Access to Information - Your Rights

The Local Government (Access to Information) Act 1985 widened the rights of press and public to attend Local Authority meetings and to see certain documents. Recently the Freedom of Information Act 2000, has further broadened these rights, and limited exemptions under the 1985 Act.

Your main rights are set out below:-

- Automatic right to attend all Council and Committee meetings unless the business would disclose confidential or “exempt” information.
- Automatic right to inspect agenda and public reports at least five days before the date of the meeting.
- Automatic right to inspect minutes of the Council and its Committees (or summaries of business undertaken in private) for up to six years following a meeting.
- Automatic right to inspect lists of background papers used in the preparation of public reports.
- Access, upon request, to the background papers on which reports are based for a period of up to four years from the date of the meeting.
- Access to a public register stating the names and addresses and electoral areas of all Councillors with details of the membership of all Committees etc.
- A reasonable number of copies of agenda and reports relating to items to be considered in public must be made available to the public attending meetings of the Council and its Committees etc.
- Access to a list specifying those powers which the Council has delegated to its Officers indicating also the titles of the Officers concerned.
- Access to a summary of the rights of the public to attend meetings of the Council and its Committees etc. and to inspect and copy documents.
- In addition, the public now has a right to be present when the Council determines “Key Decisions” unless the business would disclose confidential or “exempt” information.
- Unless otherwise stated, all items of business before the Executive Committee are Key Decisions.
- (Copies of Agenda Lists are published in advance of the meetings on the Council’s Website:
www.redditchbc.gov.uk

If you have any queries on this Agenda or any of the decisions taken or wish to exercise any of the above rights of access to information, please contact

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Welcome to today's meeting.

Guidance for the Public

Agenda Papers

The **Agenda List** at the front of the Agenda summarises the issues to be discussed and is followed by the Officers' full supporting **Reports**.

Chair

The Chair is responsible for the proper conduct of the meeting. Generally to one side of the Chair is the Committee Support Officer who gives advice on the proper conduct of the meeting and ensures that the debate and the decisions are properly recorded. On the Chair's other side are the relevant Council Officers. The Councillors ("Members") of the Committee occupy the remaining seats around the table.

Running Order

Items will normally be taken in the order printed but, in particular circumstances, the Chair may agree to vary the order.

Refreshments : tea, coffee and water are normally available at meetings - please serve yourself.

Decisions

Decisions at the meeting will be taken by the **Councillors** who are the democratically elected representatives. They are advised by **Officers** who are paid professionals and do not have a vote.

Members of the Public

Members of the public may, by prior arrangement, speak at meetings of the Council or its Committees. Specific procedures exist for Appeals Hearings or for meetings involving Licence or Planning Applications. For further information on this point, please speak to the Committee Support Officer.

Special Arrangements

If you have any particular needs, please contact the Committee Support Officer.

Infra-red devices for the hearing impaired are available on request at the meeting. Other facilities may require prior arrangement.

Further Information

If you require any further information, please contact the Committee Support Officer (see foot of page opposite).

Fire/ Emergency instructions

If the alarm is sounded, please leave the building by the nearest available exit – these are clearly indicated within all the Committee Rooms.

If you discover a fire, inform a member of staff or operate the nearest alarm call point (wall mounted red rectangular box). In the event of the fire alarm sounding, leave the building immediately following the fire exit signs. Officers have been appointed with responsibility to ensure that all visitors are escorted from the building.

Do Not stop to collect personal belongings.

Do Not use lifts.

Do Not re-enter the building until told to do so.

The emergency Assembly Area is on the Ringway Car Park.

Declaration of Interests: Guidance for Councillors

DO I HAVE A "PERSONAL INTEREST" ?

- Where the item relates or is likely to affect your **registered interests** (what you have declared on the formal Register of Interests)

OR

- Where a decision in relation to the item might reasonably be regarded as affecting **your own** well-being or financial position, or that of your **family**, or your **close associates** more than most other people affected by the issue,

you have a personal interest.

WHAT MUST I DO? **Declare the existence, and nature, of your interest and stay**

- The declaration must relate to specific business being decided - a general scattergun approach is not needed
- **Exception** - where interest arises only because of your membership of another **public body**, there is no need to declare unless you **speak** on the matter.
- You **can vote** on the matter.

IS IT A "PREJUDICIAL INTEREST" ?

In general only if:-

- It is a personal interest **and**
- The item affects your **financial position** (or conveys other benefits), or the position of your **family, close associates** or bodies through which you have a **registered interest** (or relates to the exercise of **regulatory functions** in relation to these groups)

and

- A member of public, with knowledge of the relevant facts, would reasonably believe the interest was likely to **prejudice** your judgement of the public interest.

WHAT MUST I DO? **Declare and Withdraw**

BUT you may make representations to the meeting before withdrawing, **if** the public have similar rights (such as the right to speak at Planning Committee).



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7.00 pm

Committee Room 2 Town Hall

4. Review of Declarations of Gifts, Hospitality and Interests

(Pages 3 - 8)

Head of Legal, Democratic and Property Services

To review Members' Declarations of Gifts, Hospitality and Interests.

(Report attached)

(No Specific Ward Relevance)

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No Direct Ward Relevance

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REVIEW OF GIFTS AND HOSPITALITY

(Report of the Monitoring Officer)

1. Summary of Proposals

To review the declarations of gifts and hospitality and Interests made by Members in the last year and to review the operation of the Code on the Declaration of Gifts and Hospitality adopted by the Council on 13 August 2007.

2. Recommendations

The Committee is asked to RESOLVE that

- 1) that the report be noted;
- 2) what action, if any, it wishes to take in respect of the Register of Members' Interests;
- 3) that training and further guidance be provided to all Members on the declaration of personal interests, including interests arising from gifts and hospitality;
- 4) what future reports, if any, the Committee wishes to receive in relation to the declaration of interests by Members.

3. Financial, Legal, Policy Risk and Sustainability / Environmental Implications

Financial

- 3.1 There are no financial implications arising from this report.

Legal

- 3.2 Part III of the Local Government Act 2000 established an ethical framework for the conduct of Members. Sections 51 and 52 of the Act placed a duty on Local Authorities to adopt a Code of Conduct for Members and a duty on Members to undertake to comply with the adopted Code of Conduct respectively. The current Code of Conduct came into effect on 3 May 2007.

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- 3.3 Paragraph 13 of the Code of Conduct sets out the requirement for Members to register any personal interests in the Council's Register of Members' Interests within 28 days of their election or appointment to office or within 28 days of becoming aware of any new personal interest or a change to any personal interest already registered.
- 3.4 Under Section 81(7) of the Local Government Act 2000, the Council must ensure that copies of the Register of Members' Interests are available at the Council's offices for inspection by members of the public at all reasonable hours.
- 3.5 In the case of Gifts and Hospitality, the Code of Conduct requires Members to register gifts and hospitality with an estimated value of at least £25.00 (paragraph 8(1)(a)(viii)). In addition, the Council has adopted a Code of Conduct for Councillors on Gifts and Hospitality. Paragraph 3 of this Code of Conduct sets out the requirement for Members to declare, in writing, any gift or hospitality having a market value of over £25 to the Monitoring Officer as soon as possible. The Code also allows for voluntary declarations in respect of Gifts and Hospitality with a market value of less than £25.00.

Policy

- 3.6 The Council has adopted a Code of Conduct as required by the legislation and has voluntarily adopted a Code of Conduct on Gifts and Hospitality.
- 3.7 The Terms of Reference for the Standards Committee include the promotion and maintenance of high standards of conduct by Members and co-opted members and to advise, train or arrange to train Members and co-opted members on matters relating to their relevant Code of Conduct.

Risk

- 3.8 Failure by a Member to comply with the Council's Codes of Conduct could lead to a complaint to the Council's Standards Committee or, in the most serious cases, to the Standards Board for England. There are a range of sanctions that can be imposed, depending on the nature and severity of the breach. In the most serious cases, breach of the Code of Conduct could lead to imprisonment.

Sustainability / Environmental

- 3.9 There are no sustainability, environmental or climate change implications arising from this report.

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4. Background

In March 2009 the Standards Committee identified that there should be a review of declarations by Members of Gifts, Hospitality and Interests.

5. Key Issues

- 5.1 One of the principles of good governance relates to ensuring that Local Authority Members (and officers) exercise leadership by behaving in ways that exemplify high standards of conduct and effective governance. One of the ways of demonstrating this is to ensure that the standards of conduct and personal behaviour expected of members are defined and communicated through codes of conduct and protocols.
- 5.2 Good governance principles also require the authority to put in place arrangements to ensure that members are not influenced by prejudice, bias or conflicts of interest in dealing with different stakeholders and to put in place processes to ensure that they continue to operate in practice. Again, this would usually be through the mechanism of codes of conduct.
- 5.3 The Code of Conduct requires Members to register their personal interests, as set out in paragraph 3.3 of this report. In addition to the requirements of the Code, Redditch Borough Council also asks Members to complete a form for the notification of personal interests on an annual basis, just as a reminder to Members of the need to register their personal interests.
- 5.4 All Members have completed the necessary forms for 2008/09 and a copy of the Register of Members Interests is attached at Appendix 1. New forms for 2009/10 have recently been sent to all Members to enable any changes to be picked up, although any changes to personal interests should have been made within 28 days of the member becoming aware of the new interest or the change in an existing interest as mentioned in paragraph 3.3. The Committee is invited to consider the contents of the Register of Member Interests and make any recommendations it considers to be appropriate
- 5.5 Officers are currently investigating ways of placing the Register of Members' Interests on the Council's website so that public access is available on the Internet as well as through the paper copies held at the Town Hall. Under paragraph 14 of the Code of Conduct, where a Member believes that information relating to any of their personal interests is "sensitive information", they need not register that

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information where the Monitoring Officer agrees. "Sensitive information" is defined as information whose availability for inspection by the public creates, or is likely to create, a serious risk that the Member or a person who lives with them may be subjected to violence or intimidation.

- 5.6 As well as the formal registration of personal interests which are then included in the Register of Members' Interests, Members are required to disclose the existence and nature of their personal interests where relevant to business being discussed, although, in certain circumstances, this is required only if the Member addresses the meeting on the matter. In the case of gifts and hospitality over £25.00 (which do fall within the definition of "personal interests"), the requirement to disclose the existence and nature of the interest does not apply where the interest was registered more than three years before the date of the meeting.
- 5.7 In terms of the declaration of personal interests by Members at Council and Committee meetings, a record of such declarations is recorded in the Minutes of the relevant meeting. It is the view of the Monitoring Officer that Members are not always able to recognise where their personal interests may be relevant and are not always able to state clearly the existence and nature of their personal interest in the matter. This can make it difficult for Members to identify whether or not their personal interest is also a prejudicial interest and it makes it difficult for any members of the public present to understand why a particular Member may not participate in a particular debate or why they leave the meeting whilst a matter is discussed.
- 5.8 Where Members believe they have a personal interest which is prejudicial, they can always seek advice from Officers and, wherever possible, this should be done before the meeting to enable the smooth running of the meeting. It is the Monitoring Officer's view that Members require training and further guidance on the declaration of interests in meetings to assist them to recognise where their personal interests are relevant and to make appropriate, clear declarations regarding those interests.
- 5.9 In terms of gifts and hospitality, there have been 2 declarations of interest in the last two years, both of which relate to a housing study tour to Norway funded by a Council partner organisation. The Members concerned are the Council's nominated representatives on the relevant outside body. One of the declarations was made as soon as the Member returned from the tour. However, the other declaration was made some 15 months later, in breach of the requirement to notify within 28 days of becoming aware of the interest.

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- 5.10 When the Council's Code of Conduct on Gifts and Hospitality was adopted, there was also a resolution that training would be provided on the Code. Although the Code was adopted a few weeks before the personal interests referred to in paragraph 5.8 arose, Members had not received training on the Code and unfortunately, this training has not yet been provided. The Monitoring Officer would therefore suggest that action for breach of the Code of Conduct may be unfair as it seems that the Member concerned made a declaration of their personal interest when they became aware that they should do so. The Monitoring Officer would also recommend that the training on the Code of Conduct for Gifts and Hospitality should be provided alongside that mentioned above relating to interests generally.
- 5.11 What is not clear at present is whether the small number of declarations in respect of gifts and hospitality is because Members are not accepting such offers or because Members are unaware of the need to declare such gifts and hospitality. Raising Member awareness of the need to register gifts and hospitality should help to ensure that declarations are made when and where they need to be made.
- 5.12 The Committee may also wish to consider whether or not it wishes to receive a future report in respect of the declaration of interests and, if so, what matters it would wish covered in the report.

6. Other Implications

- Asset Management - There are no identified implications.
- Community Safety - There are no identified implications.
- Human Resources - There are no identified implications.
- Social Exclusion - There are no identified implications.

7. Lessons Learnt

Training on all aspects of Codes of Conduct needs to be provided promptly and regularly updated to ensure that all Members of the Council are aware of their responsibilities in relation to the Council's Codes of Conduct.

8. Background Papers

The Council's Code of Conduct.
 The Council's Register of Member Interests.
 The Council's Register of Gifts and Hospitality.

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9. **Consultation**

There has been no consultation carried out in preparing this report.

10. **Author of Report**

The author of this report is Sue Mullins (Monitoring Officer), who can be contacted on extension 3210 (e-mail: sue.mullins@redditchbc.gov.uk) for more information.

11. **Appendices**

Appendix 1 – Copy of the Register of Member Interests.