

# **Standards Determination Sub-Committee (Reconvened)**

Monday 28th November  
2011  
6.00 pm

Council Chamber  
Town Hall  
Redditch



[www.redditchbc.gov.uk](http://www.redditchbc.gov.uk)

# Access to Information - Your Rights

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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](http://www.redditchbc.gov.uk)

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**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  
Ivor Westmore  
Committee Support Services**

**Town Hall, Walter Stranz Square, Redditch, B98 8AH  
Tel: (01527) 64252 (Extn. 3269) Fax: (01527) 65216  
e.mail: [ivor.westmore@bromgroveandredditch.gov.uk](mailto:ivor.westmore@bromgroveandredditch.gov.uk) Minicom: 595528**

# Welcome to today's meeting.

## Guidance for the Public

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### **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 Walter Stranz Square.**

# Declaration of Interests: Guidance for Councillors

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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).



# Standards Determination Sub- Committee (Reconvened)

28th November 2011

6.00 pm

Council Chamber Town Hall

## Agenda

### Membership:

Cllrs:

Mrs D Andrews  
Mr M Collins

Cllr Jinny Pearce

<b>1. Apologies</b>	To receive the apologies of any Member who is unable to attend this meeting.
<b>2. Declarations of Interest</b>	To invite Members to declare any interests they may have in items on the agenda.
<b>3. Final Determination of Complaint No. 02/2010</b>  (Pages 1 - 14)  Monitoring Officer, Monitoring Officer	To make a final determination in relation to an alleged failure by a former Borough Councillor to follow the Code of Conduct.  This is a continuation of a hearing which commenced on 11th July 2011.  (Report and Investigating Officer's Report attached)  <b>(No Direct Ward Relevance);</b>
<b>4. Exclusion of the Public</b>	Should it be necessary, in the opinion of the Chief Executive, to consider excluding the public from the meeting in relation to the above item of business on the grounds that exempt information is likely to be divulged it may be necessary to move the following resolution:  <b>“that, under S.100 I of the Local Government Act 1972, as amended by the Local Government (Access to Information) (Variation) Order 2006, the public be excluded from the meeting for the following matter on the grounds that it involves the likely disclosure of exempt information as defined in the relevant paragraphs (to be specified) of Part 1 of Schedule 12 (A) of the said Act, as amended.”</b>

## REDDITCH BOROUGH COUNCIL

### HEARING PROCEDURES FOR THE STANDARDS COMMITTEE

#### **ADOPTED 20 October 2003**

The Standards Committee needs to have an efficient and effective hearing process. This will help the Committee to deal with all the issues that need to be resolved in a way that is fair to the Member. It will also reduce the prospects of any successful appeal.

These model procedures are intended to give Standards Committees a consistent approach to determining matters locally. The model procedures are not compulsory. However, authorities should make sure that any procedures they use are consistent with the principles in this guidance.

#### **Interpretation**

- 1) “Member” means the Member of the authority who is the subject of the allegation being considered by the Standards Committee, unless stated otherwise. It also includes the Member’s nominated representative.
- 2) “Investigator” means the Ethical Standards Officer (ESO) who referred the report to the authority, and includes his or her nominated representative. In the case of matters that have been investigated locally, references to the investigator mean the Monitoring Officer or other investigating Officer, and his or her nominated representative.
- 3) “Committee” also refers to “a Standards Sub-Committee”.
- 4) “Legal advisor” means the Officer responsible for providing legal advice to the Standards Committee. This may be the Monitoring Officer, another legally qualified Officer of the authority, or someone appointed for this purpose from outside the authority.

#### **Representation**

- 5) The Member may be represented or accompanied during the meeting by a solicitor, counsel or, with the permission of the Committee, another person.

#### **Legal advice**

- 6) The Committee may take legal advice from its legal advisor at any time during the hearing or while they are considering the outcome. The substance of any legal advice given to the Committee should be shared with the Member and the investigator if they are present.

#### **Setting the scene**

- 7) After all the Members and everyone involved have been formally introduced, the Chair should explain how the Committee is going to run the hearing.

### **Preliminary procedural issues**

- 8) The Committee should then resolve any issues or disagreements about how the hearing should continue, which have not been resolved during the pre-hearing process.

### **Making findings of fact**

- 9) After dealing with any preliminary issues, the Committee should then move on to consider whether or not there are any significant disagreements about the facts contained in the investigator's report.
- 10) If there is no disagreement about the facts, the Committee can move on to the next stage of the hearing.
- 11) If there is a disagreement, the investigator, if present, should be invited to make any necessary representations to support the relevant findings of fact in the report. With the Committee's permission, the investigator may call any necessary supporting witnesses to give evidence. The Committee may give the Member an opportunity to challenge any evidence put forward by any witness called by the investigator.
- 12) The Member should then have the opportunity to make representations to support his or her version of the facts and, with the Committee's permission, to call any necessary witnesses to give evidence.
- 13) At any time, the Committee may question any of the people involved or any of the witnesses, and may allow the investigator to challenge any evidence put forward by witnesses called by the Member.
- 14) If the Member disagrees with most of the facts, it may make sense for the investigator to start by making representations on all the relevant facts, instead of discussing each fact individually.
- 15) If the Member disagrees with any relevant fact in the investigator's report, without having given prior notice of the disagreement, he or she must give good reasons for not mentioning it before the hearing. If the investigator is not present, the Committee will consider whether or not it would be in the public interest to continue in his or her absence. After considering the Member's explanation for not raising the issue at an earlier stage, the Committee may then:-
  - a) continue with the hearing, relying on the information in the investigator's report;
  - b) allow the Member to make representations about the issue, and invite the investigator to respond and call any witnesses, as necessary; or

- c) postpone the hearing to arrange for appropriate witnesses to be present, or for the investigator to be present if he or she is not already.
- 16) The Committee will usually move to another room to consider the representations and evidence in private.
- 17) On their return, the Chair will announce the Committee's findings of fact.

**Did the Member fail to follow the Code?**

- 18) The Committee then needs to consider whether or not, based on the facts it has found, the Member has failed to follow the Code of Conduct.
- 19) The Member should be invited to give relevant reasons why the Committee should not decide that he or she has failed to follow the Code.
- 20) The Committee should then consider any verbal or written representations from the investigator.
- 21) The Committee may, at any time, question anyone involved on any point they raise in their representations.
- 22) The Member should be invited to make any final relevant points.
- 23) The Committee will then move to another room to consider the representations.
- 24) On their return, the Chair will announce the Committee's decision as to whether or not the Member has failed to follow the Code of Conduct.

**If the Member has not failed to follow the Code of Conduct**

- 25) If the Committee decides that the Member has not failed to follow the Code of Conduct, the Committee can move on to consider whether it should make any recommendations to the authority.

**If the Member has failed to follow the Code**

- 26) If the Committee decides that the Member has failed to follow the Code of Conduct, it will consider any verbal or written representations from the Member as to:-
  - a) whether or not the Committee should set a penalty; and
  - b) what form any penalty should take.
- 27) The Committee may question the investigator and Member, and take legal advice, to make sure they have the information they need in order to make an informed decision.

- 28) The Committee will then move to another room to consider whether or not to impose a penalty on the Member and, if so, what the penalty should be.
- 29) On their return, the Chair will announce the Committee's decision.

### **Recommendations to the authority**

- 30) After considering any verbal or written representations from the investigator, the Committee will consider whether or not it should make any recommendations to the authority, with a view to promoting high standards of conduct among Members.

### **The written decision**

- 31) The Committee will announce its decision on the day and provide a short written decision on that day. It will also need to issue a full written decision shortly after the end of the hearing. It is good practice to prepare the full written decision in draft on the day of the hearing, before people's memories fade.