

STANDARDS

Committee

12th December 2012

MINUTES

Present:

Councillor Pat Witherspoon (Chair), Councillor Michael Braley (Vice-Chair) and Councillors Phil Mould and Debbie Taylor

Also Present:

Councillor Andrew Fry and Michael Collins (Independent Observer)

Officers:

C Felton and C Flanagan

Committee Services Officer:

D Parker-Jones

11. APOLOGIES

Apologies for absence were received from Councillor Derek Taylor, Fiona Hawker (Feckenham Parish Council Representative) and Patrick Hawkins (Deputy Feckenham Parish Council Representative).

12. DECLARATIONS OF INTEREST

There were no declarations of interest.

13. MINUTES

The minutes of the meetings of the Standards Committee held on 16th July 2012 and 22nd October 2012 were submitted.

It was noted that, in relation to the meeting held on 22nd October 2012, Councillors Pat Witherspoon and Debbie Taylor had not been present at the meeting as they were the subject of reports which appeared on the agenda for the meeting.

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Chair

RESOLVED that

the minutes of the meetings of the Standards Committee held on 16th July 2012 and 22nd October 2012 be confirmed as correct records and signed by the Chair.

14. MONITORING OFFICER'S REPORT

Members received a report from the Monitoring Officer (MO) outlining the current position in relation to matters of relevance to the Committee.

The MO advised that, in relation to the appointment of Ms Megan Harrison as an Independent Person (IP) under the new standards regime, the Committee had previously agreed that should any conflict ever arise regarding Ms Harrison's ability to deal with a complaint then it would be possible to utilise the services of one of Bromsgrove District Council's IPs, and vice versa. The MO added that, with this in mind, there had already been an occasion whereby a Bromsgrove IP had assisted her in handing a Redditch complaint.

It was queried why Ms Harrison was not present at the meeting that evening. The MO responded that Ms Harrison was not a member of the Committee and that, for the most part, she should remain independent of this. However, if at any point a complaint could not be managed locally by the MO and IP, the IP would become involved at any Committee hearing stage. It was further noted that Ms Harrison was sent, for information, a copy of all Committee agendas, and that she had been advised that she was welcome to observe any meetings of the Committee should she so wish.

The roles of the Feckenham Parish Council Representative and Independent Observer on the Committee, as detailed in the report, were noted.

The MO reported that Member training was proceeding well and that she had spoken with the political Group Leaders regarding possible training for the 2013/14 Municipal Year. Group Leaders had been asked to speak with their Members on any training wishes and it was hoped that the dates for the 2013/14 Member training programme would be agreed in January.

RESOLVED that

the report of the Monitoring Officer be noted.

15. PARISH COUNCIL REPRESENTATIVE'S REPORT

Officers reminded Members that, owing to work commitments, both the Parish Representative and her Deputy had regrettably had to tender their apologies for the meeting. No issues of concern in relation to the Parish Council had been raised by the Parish Representatives for discussion at the meeting.

RESOLVED that

the position be noted.

16. LOCALISM ACT 2011 - NEW STANDARDS REGIME - DISPENSATIONS AND COMPLAINTS PROCESSES

The Committee considered a report on the granting of general dispensations under s33 of the Localism Act 2011 and under the Members' Code of Conduct, to enable Members to participate and vote on matters under consideration at meetings in certain circumstances. The report also sought approval of guidelines for both the conduct of investigations into allegations of breach of the Members' Code of Conduct, and of a Hearing following such an investigation. Members' views were also sought on the management and investigation of complaints and when information in this regard should be made public.

(i) Dispensations

Officers explained that there had been some debate nationally as to whether such dispensations were required. Following discussions with County colleagues it was felt that there was some ambiguity in this regard and that it was therefore best to bring this to Members should any issues arise in this regard in the future.

The Monitoring Officer (MO) explained that blanket dispensations no longer applied under the Localism Act and Members who may have a Disclosable Pecuniary Interest (DPI) in a matter under consideration, and who would therefore otherwise be precluded from participating and voting on the matter, were now required to make a written request for dispensation. Full Council had delegated to the Standards Committee the consideration of whether to grant a dispensation, and rather than taking each individual request for dispensation to the Committee the MO was seeking Members' approval for general dispensations to be granted in certain circumstances.

The MO considered that general dispensations might be required where the business of a meeting was the setting of Council Tax, Council Rents or Members' Allowances. In order to satisfy this

requirement it was proposed that the MO would circulate to all members of the Council a request form seeking such dispensations. Officers advised that they would likely draft a single form for all Members to sign prior to consideration of the budget.

Subject to the Committee's approval of the grant of general dispensations in the circumstances outlined, and on receipt of a written request from a Member for dispensation, the dispensations would take effect until the first Standards Committee meeting following the Borough Council Elections in 2014.

The Committee approved the granting of general dispensations in the above circumstances, save for Councillor Braley who requested that it be recorded that he had voted against this.

The Committee's approval was also sought on the grant of a general dispensation where a Member with a DPI in a matter under consideration could address Council and committees in circumstances where a member of the public may elect to speak. Such an exemption had applied under the previous standards regime but had not transferred under the Localism Act. All Members supported a general dispensation in these circumstances and the MO advised that in such cases the Member seeking dispensation would need to make an individual written request for dispensation, which would be kept on file for future reference.

(ii) Investigation guidelines

Members considered the draft Guidelines for the conduct of Investigations into allegations of breach of the Code of Conduct at Appendix 1 to the report.

The MO provided clarifications on various aspects of the guidelines and in doing so advised that, as part of any investigation and, if appropriate, subsequent pre-hearing process, Subject Members would be given the opportunity to respond on any issues raised, as would also be the case at any resulting hearing.

In response to a Member's query concerning point 8 of the guidelines (Referrals from the IO to the MO for further guidance) the MO clarified that if, during the course of an investigation (and in particular where the complainant were a member of the public and therefore less aware of the system for councillors), it became apparent that what had been complained about was not the actual problem and it was possible to better align aspects of the original complaint to other Code of Conduct issues (but still within the context of the original complaint), the matter could be taken back to the MO for consideration as to the implications of this for the investigation, with a view to determining whether the scope of the

investigation should be increased. She added that this did not apply to any totally new issues which might arise during the course of an investigation, which would need to be the subject of a separate complaint.

It was further noted that if a counter allegation of inappropriate behaviour were made by the Subject Member against the complainant (where the complainant were a councillor) then that could only be investigated if a separate formal complaint were made to the MO.

(iii) Local Hearing Procedure

Members considered the draft procedure in relation to Hearings following an investigation into allegations of breach of the Code of Conduct at Appendix 2 to the report.

In relation to point 20 (Sanctions), it was noted that, following a finding of breach of the Code, the Subject Member would be given an opportunity to address the Hearings Sub-Committee on whether a sanction should be imposed and what form any such sanction should take. This would allow the Subject Member to acknowledge any wrong doing and provide them with an opportunity to suggest how they might be able to put matters right.

Regarding the written decision outlined at point 22, the Committee felt that they would like to see some sort of timeframe included for the issue of such decisions. The MO stated that Officers would always aim to issue written decisions at the earliest opportunity. It was therefore agreed that Officers would aim to issue these within 5 working days following a hearing. It was further noted that Officers would need to establish a general template for written decisions prior to the first hearing as the previous format which followed the former Standards for England model was very lengthy.

The Committee agreed that, as a general principle, hearings should be held in public unless there was good reason for any elements of these to remain private, such as Access to Information or Data Protection issues.

On a general note, Members requested that the process for dealing with complaints be as quick as possible from start to finish, as the process was felt to have a significant effect on some Members. The MO stated that there had been many constraints under the old regime which were no longer in place, and that it was her aim to resolve as many complaints as possible in the early stages, with as few hearings as possible taking place. Members requested that all parties be kept informed as to any delays which might arise during the process, together with the reasons for any such delays.

(iv) Making findings public / Management of complaints

The MO stated that, as a general rule, it was proposed that once any formal investigation had been completed and the Investigating Officer's finding was known the complaint could be made public. If any party wished to make a request for either anonymity or confidentiality in relation to any aspect of a complaint then they could do so and this would be considered by the MO or by the Hearings Sub-Committee where a matter progressed to hearing stage. Members supported this approach.

The MO proposed that a similar approach be adopted in relation to the reporting of complaints. She stated that she had, where possible, been managing complaints locally with the Independent Person and without the need for hearings. The MO sought Members' input as to what they wanted her to do with such complaint information and how this should be reported.

Save for cases where, as part of local resolution, a Member might need to make a public apology for their actions, or where there was a specific issue which the MO felt the Committee needed to be made aware of, Members agreed that the MO should only report to the Committee on the numbers of locally managed and resolved complaints, together with any general 'trends' which might be emerging in relation to complaints. In locally resolved complaints therefore the specific complaint details would not be reported on or made public.

RESOLVED that

- 1) **a dispensation under Section 33 (2) (a) of the Localism Act 2011 and under the Council's Code of Conduct, to allow all Members to participate in and vote at Council and committee meetings when considering the setting of Council Tax, Council Rents and Members' Allowances, on receipt of a written request from Members for a dispensation and where Members may have a Disclosable Pecuniary Interest in the matter under consideration, which would otherwise preclude such participation and voting be granted;**
- 2) **a dispensation under Section 33 (2) (c) and (e) of the Localism Act 2011 and under the Council's Code of Conduct to allow Members, who would otherwise be prevented from doing so, due to having a Disclosable Pecuniary Interest in the matter under consideration, to address Council and committees in circumstances where a Member of the public may elect to speak be**

STANDARDS

Committee

12th December 2012

granted;

- 3) the dispensations referred to at 1) and 2) above be valid until the first Standards Committee meeting after the Borough Council Elections in 2014;
- 4) subject to the comments in the preamble above, the Guidelines for the conduct of Investigations into allegations of breach of the Code of Conduct at Appendix 1 to the report be approved;
- 5) subject to the comments in the preamble above, the Local Hearing Procedure on the conduct of a Hearing following an investigation into an allegation of breach of the Code of Conduct at Appendix 2 to the report be approved, with (subject to resolution 7) below) any Hearings normally taking place in public;
- 6) the details of any complaints managed and resolved locally by the Monitoring Officer, without the need for a formal investigation, should not be made public, and that only the numbers and general trends of any such complaints be reported to the Standards Committee; and
- 7) in relation to all other complaints, the process of the management and investigation of those complaints should not be public information until any formal investigation process has been completed and the Investigating Officer's finding is known, when information on the parties, the complaint and the outcome should be publicly available, unless any party makes a request for either anonymity or the details of a complaint to remain confidential and in exceptional circumstances the Monitoring Officer considers it appropriate for such information to be withheld from the public or which, in the case of a hearing, the Hearings Sub-Committee may determine as a preliminary issue at the hearing.

(Cllr Braley requested that it be recorded that he had voted against resolution 1) above.)

17. WORK PROGRAMME

Members considered the future Work Programme of the Committee.

It was noted that as the meeting that evening was an additional meeting, it might not prove necessary for the 14th January 2013

STANDARDS

Committee

12th December 2012

meeting to proceed. The Monitoring Officer stated that she was currently managing some local issues which might need to be reported to the Committee in January, and that Officers would therefore update Members as early as possible in the New Year as to whether or not the January meeting needed to proceed.

RESOLVED that

subject to noting the position in respect of the meeting of the Committee scheduled to take place on 14th January 2013, the Work Programme be approved.

The Meeting commenced at 5.00 pm
and closed at 6.05 pm

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Chair