

Standards Committee

Wed 12 Dec
2012
5.00 pm

Committee Room 2
Town Hall
Redditch



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- Unless otherwise stated, all items of business before the Executive Committee are Key Decisions.
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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.

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The emergency Assembly Area is on Walter Stranz Square.



Standards

12th December 2012

5.00 pm

Committee

Committee Room 2 Town Hall

Agenda

Membership:

Redditch Borough Councillors:

Pat Witherspoon (Chair)
Michael Braley (Vice-Chair)
Phil Mould
Debbie Taylor
Derek Taylor

Feckenham Parish Council Representative (non-voting co- opted):

Fiona Hawker

Observers:

Michael Collins (Independent Observer)
Patrick Hawkins (Deputy Feckenham
Parish Council Representative)

1. Apologies	To receive the apologies of any Member who is unable to attend this meeting.
2. Declarations of Interest	To invite Councillors to declare any interests they may have in items on the agenda.
3. Minutes (Pages 1 - 6) Chief Executive	To confirm as correct records the minutes of the meetings of the Standards Committee held on 16th July 2012 and 22nd October 2012. (Minutes attached)
4. Monitoring Officer's Report (Pages 7 - 10) Head of Legal, Equalities and Democratic Services	To receive a report from the Monitoring Officer on any matters of relevance to the Committee. (Report attached) (No Direct Ward Relevance)
5. Parish Council Representative's Report (if any)	To consider any report from the Feckenham Parish Council Representative on any matters of relevance to the Committee. (Oral report) (Astwood Bank & Feckenham Ward)

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<p>6. Localism Act 2011 - New Standards Regime - Dispensations and Complaints Processes</p> <p>(Pages 11 - 22)</p> <p>Head of Legal, Equalities and Democratic Services</p>	<p>To consider the granting of general dispensations under s33 of the Localism Act 2011, the processes for the investigation, reporting and recording of complaints made against Members and the process for local hearings.</p> <p>(Report attached)</p> <p>(No Direct Ward Relevance)</p>
<p>7. Work Programme</p> <p>(Pages 23 - 28)</p> <p>Head of Legal, Equalities and Democratic Services</p>	<p>To consider and review the Committee's Work Programme.</p> <p>(Report attached)</p> <p>(No Direct Ward Relevance)</p>
<p>8. Exclusion of the Public</p>	<p>Should it prove necessary, in the opinion of the Chief Executive, to exclude the public from the meeting at any point during the proceedings in relation to any item(s) of business on the grounds that either exempt and/or confidential information is likely to be divulged, the following resolution(s) will be moved:</p> <p>"That under Section 100 I of the Local Government Act 1972, as amended, it/they involve the likely disclosure of <u>exempt</u> information as defined in Part I of Schedule 12A to the Act, as amended, the relevant paragraphs of that part being (<i>...to be specified by the Chairman at the meeting</i>), and that it is in the public interest to do so.", and/or</p> <p>"That under Section 100 A of the Local Government Act 1972, as amended, it/they involve the likely disclosure of <u>confidential</u> information which would be in breach of an obligation of confidence."</p>



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STANDARDS

Committee

16th July 2012

MINUTES

Present:

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

Also Present:

Fiona Hawker, Feckenham Parish Council Representative (Co-opted non-voting member)

Officers:

C Felton and C Flanagan

Democratic Services Officer:

D Parker-Jones

1. APOLOGIES

There were no apologies for absence.

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

3. MINUTES

The minutes of the final meeting of the former Standards Committee held on 26th March 2012 were submitted.

The Democratic Services Officer advised that Deborah Andrews, Independent Member Chair of the former Standards Committee, had been forwarded a set of the draft minutes prior to ceasing in her role and had confirmed these as being a correct record.

RESOLVED that

the minutes of the meeting of the Standards Committee held on 26th March 2012 be confirmed as a correct record and signed by the Chair.

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Chair

STANDARDS

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16th July 2012

4. MONITORING OFFICER'S REPORT

The Committee received a report from the Monitoring Officer (MO) outlining the current position in relation to a number of key issues linked to the new standards regime, which had come into force on 1st July 2012, and on Member training matters.

The MO advised that the final interviews for the role of Independent Persons under the new regime were due to take place on Friday 20th July, with a total of five candidates being interviewed for the two posts in question.

Fiona Hawker, Feckenham Parish Council Representative, was welcomed to the meeting. The MO advised Ms Hawker that should the Parish Council ever wish for a substitute to attend in her place then they were welcome to do so, and that any such substitute could observe meetings of the Committee as they so wished. It was also noted that a Parish Council Representative Report item would be included on future agendas should there be anything that either Ms Hawker or her substitute wish to update the Committee on. Ms Hawker noted the position and agreed to advise the Parish Council accordingly.

The MO referred to the three Code of Conduct training sessions which had taken place in June and which had been attended by some Members. She asked the members of the Committee to liaise with their group Members and to advise her if it was felt that additional future training was required on this.

RESOLVED that

the report of the Monitoring Officer be noted.

5. LOCALISM ACT 2011 - NEW STANDARDS REGIME - MANAGING COMPLAINTS

The Deputy Monitoring Officer (DMO) introduced a report which set out proposals for the appointment of sub-committees of the Standards Committee, which were required under the arrangements for managing standards complaints against elected and co-opted Members.

It was noted that there was a discrepancy in the composition of Sub-Committee 6 at Appendix 1 to the report, with Councillor Derek Taylor being listed twice under the membership thereof, and which the DMO stated should also have stated Councillor Debbie Taylor in its membership.

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RESOLVED that

- 1) **the Standards Committee appoints (i) Assessment Sub-Committees to determine whether a complaint against a Member/co-opted Member merits formal investigation and (ii) a Hearings Sub-Committee to consider a complaint referred by the Monitoring Officer, following an investigation; and**
- 2) **subject to an amendment to the membership of Sub-Committee 6 as detailed at Appendix 1 to the report to include Councillor Debbie Taylor, the Sub-Committees of the Standards Committee as set out in Appendix 1 be established.**

6. PUBLICATIONS

There were no publications to consider.

7. WORK PROGRAMME

Members considered the future Work Programme of the Committee.

It was agreed that both the number and dates of future meetings should remain as detailed in the report, and that meetings be cancelled where there was insufficient business to be conducted. In view of the small size of the Committee it was also suggested that, where possible, should an external booking be sought on pre-arranged meeting nights and subject to the likely business under consideration and possible numbers of Members and other parties in attendance, meetings take place in Committee Room 1.

Officers advised that the meeting scheduled for 8th October 2012 would proceed and that this would consider a report on the processes and procedures involved for both Member complaint investigations the Hearings Sub-Committee.

Regarding the Member-Officer and Member-Member Protocols detailed under the 'Date to be confirmed' section of the Work Programme, the Monitoring Officer advised that these had not been reviewed for a long time and that it might therefore be useful for these to first be considered by the Constitution Review Working Party, for additional Member involvement, prior to any Standards Committee input. Members agreed with this proposal and noted that full Member 'buy-in' would be necessary in order for the Protocols to work.

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RESOLVED that

subject to the comments detailed in the preamble above, the Work Programme be approved.

The Meeting commenced at 7.00 pm
and closed at 7.17 pm



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Committee

22nd October 2012

MINUTES

Present:

Councillor Michael Braley (Chair) and Councillors Phil Mould and Derek Taylor

Also Present:

Fiona Hawker, Feckenham Parish Council Representative (Co-opted non-voting member)

Officers:

K Barnett, C Felton and C Flanagan

Democratic Services Officer:

I Westmore

8. APOLOGIES

There were no apologies for absence, although it was noted that Councillors Pat Witherspoon and Debbie Taylor were both absent as they were the subject of reports at Item 3 on the agenda.

9. DECLARATIONS OF INTEREST

There were no declarations of interest.

10. APPLICATIONS FOR DISPENSATION

The Committee considered three requests to grant a dispensation to allow Members to participate in a meeting of the Council's Licensing Sub-Committee. The Monitoring Officer described the arrangements that were in place for dealing with requests for dispensation, explaining that it had been agreed by Council that all such requests would be directed to her in the first instance and thereafter passed to the Committee for determination.

The Committee considered the requests from Councillors Greg Chance and Debbie Taylor in the first instance. Both Councillors were the relevant Ward Councillors in respect of an application to vary a premises licence which was to be the subject of a hearing of the Licensing Sub-Committee. Both also lived in close proximity to

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Chair

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the licensed premises and, therefore, had a disclosable interest in the variation application. The Deputy Monitoring Officer informed the Committee that the dispensation would only allow the Ward Councillors to speak on behalf of local residents and to put forward the views of those residents rather than their own personal views on the application. On this understanding the Committee was minded to grant these dispensations.

The request from Councillor Pat Witherspoon was in respect of the same application to vary a premises licence, however her involvement was as a near neighbour and a party to the hearing as she had made relevant representations. The reason given for granting the dispensation to Councillor Witherspoon was to allow her the same right to represent her views to the Licensing Sub-Committee as would be enjoyed by any other resident. It was noted that the report in respect of Councillor Witherspoon incorrectly asserted that she would be representing residents who had asked her to represent them. It would be made clear that Councillor Witherspoon was there in her capacity of a Councillor with a dispensation should the dispensation be granted and that she should leave the Chamber once she had presented her views to the Sub-Committee. Again, the Committee was minded to grant the dispensation.

RESOLVED that

- 1) Councillor Greg Chance be granted a dispensation as it was considered to be in the interests of persons living in the authority's area and in view of the circumstances of this matter as set out in the report;**
- 2) Councillor Debbie Taylor be granted a dispensation as it was considered to be in the interests of persons living in the authority's area and in view of the circumstances of this matter as set out in the report; and**
- 3) Councillor Pat Witherspoon be granted a dispensation as it was considered to be otherwise appropriate to grant such a dispensation and in view of the circumstances of this matter as set out in the report.**

The Meeting commenced at 5.15 pm
and closed at 5.30 pm

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Chair

REDDITCH BOROUGH COUNCIL**STANDARDS
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MONITORING OFFICER'S REPORT

Relevant Portfolio Holder	Councillor Phil Mould, Portfolio Holder for Corporate Management
Portfolio Holder consulted	
Relevant Head of Service	Claire Felton, Head of Legal, Equalities and Democratic Services and Monitoring Officer
Wards affected	All Wards
Ward Councillor consulted	N/A
Non-Key Decision	

1. SUMMARY OF PROPOSALS

- 1.1 This report sets out the position in relation to key matters which are of relevance to the Standards Committee.
- 1.2 It is proposed that a report of this nature be presented to each meeting of the Committee to ensure that Members are kept updated as to any relevant developments.
- 1.3 Any further updates arising after publication of this report will be reported orally at the meeting.

2. RECOMMENDATIONS

The Committee is asked to RESOLVE that

the report of the Monitoring Officer be noted and commented upon as appropriate.

3. KEY ISSUES**Financial Implications**

- 3.1 There are no financial implications arising out of this report.

Legal Implications

- 3.2 The Localism Act became law on 15th November 2011. Chapter 7 of Part 1 of the Localism Act 2011 introduced a new standards regime effective from 1st July 2012. The Act places a requirement on authorities to promote and maintain high standards of conduct by Members and co-opted (with voting rights) Members of an authority. The Act also requires the authority to have in place arrangements under which allegations that either a district or parish

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councillor has breached his or her Code of Conduct can be investigated, together with arrangements under which decisions on such allegations can be made. The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 were laid before Parliament on 8th June 2012 and also came into force on 1st July.

Service / Operational Implications

New Standards Regime & Disclosable Pecuniary Interests forms

- 3.3 A new standards regime which introduced fundamental changes to the system of regulation of the standards of conduct for elected Members and co-opted Members (with voting rights) came into force on 1st July 2012.
- 3.4 Under the new regime Members are still required to comply with a Code of Conduct and the authority has established arrangements under which complaints that a Member (at either parish or district level) has failed to comply with his or her authority's Code of Conduct can be dealt with.
- 3.5 Members are required to complete a Register of Members' Disclosable Pecuniary Interests (DPI) form. Section 29 of the Localism Act requires that all parish and district DPI forms be published on the District Council's website. If a parish council has a website it too must ensure that its Members' forms are published on the parish council's website. A hard copy of the master Register of Interests is also available for inspection at the Town Hall. Officers have been liaising with Members and the Feckenham Parish Council Clerk in recent months on the submission and completion of DPI forms.

Appointment of Independent Persons

- 3.6 The Localism Act requires that the arrangements put in place to deal with complaints against Members must include provision for the appointment by the authority of at least one Independent Person whose views are to be sought, and taken into account, by the authority before it makes its decision on a complaint allegation that it has decided to investigate, and whose views may be sought by the authority or subject Member in certain circumstances.
- 3.7 Following a formal recruitment and selection process interviews with a joint Member/Officer panel (comprising the Monitoring Officer, Deputy Monitoring Officer, Chair and Vice-Chair of the Standards Committee) took place in July. Ms Megan Harrison was recommended for appointment by the panel and full Council on 23rd July 2012 approved Ms Harrison's appointment.

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- 3.8 The Monitoring Officer further suggested to full Council that in order to minimise costs and in view of the low number of complaints at Redditch, that Bromsgrove District Council be approached to ascertain whether it would be possible, if necessary, to make use of the services of that Authority's Independent Person (when appointed) if a substitute Independent Person was required. The Monitoring Officer also reported that as Bromsgrove District Council had, at that point, been unsuccessful in recruiting an Independent Person, a request had been received from that Authority to use the services of Ms Harrison should it prove necessary to do so in the interim. Both requests were approved by the Council.

Parish Representative and Independent Observer on the Standards Committee

- 3.9 Full Council has agreed that the composition of the Standards Committee will include one Feckenham Parish Council Representative and one Independent Observer. Both roles are non-statutory, non-voting co-opted positions, with the Independent Observer position being for a transitional period and subject to annual review. The arrangements for parish involvement will also be reviewed after 12 months to monitor effectiveness.
- 3.10 As advised at the 16th July 2012 meeting, Fiona Hawker has been appointed as the Feckenham Parish Council Representative on the Committee. Ms Hawker has since confirmed to Officers that Mr Patrick Hawkins will act as her deputy on the Committee, where necessary. Mr Michael Collins, former Independent Member on the previous Standards Committee under the old regime, has been appointed as the Independent Observer to the Committee.

Member Dispensations and Complaints

- 3.11 Members' attention is drawn to the separate report which appears later in this agenda in relation to the granting of general dispensations under s33 of the Localism Act, together with the processes for the investigation and reporting of complaints and for local hearings.

Member Training

- 3.12 The majority of the training detailed in the 2012/13 programme of Member training has now been completed, with 'mop-up'/1:1 sessions being arranged as necessary for those Members who have been unable to attend certain of the sessions.

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- 3.13 A training session on Equalities and Diversity remains to take place and further training sessions/workshops on the new standards regime will be arranged as and when deemed necessary.
- 3.14 The Member Support Steering Group will be meeting in due course to evaluate the training which has taken place as part of the 2012/13 programme.

Customer / Equalities and Diversity Implications

- 3.15 Any process for managing standards of behaviour for elected and co-opted Councillors must be accessible to the public. It is therefore proposed that an impact assessment will be carried out on the complaints process when established, to ensure accessibility.
- 3.16 In addition, it is proposed that the new arrangements will be publicised on the Council's website and that Officers will work to ensure that members of the public are made aware of the process for making a complaint through all existing community engagement events.

4. RISK MANAGEMENT

The main risks associated with the details included in this report are:

- Risk of challenge to Council decisions; and
- Risk of complaints about elected Members.

5. APPENDICES

None

6. BACKGROUND PAPERS

Chapter 7 of the Localism Act 2011
Standards report to Full Council on 21st May 2012

AUTHOR OF REPORT

Name: Debbie Parker-Jones
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Tel: 01527 881411

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**LOCALISM ACT 2011 - NEW STANDARDS REGIME - DISPENSATIONS AND
COMPLAINTS PROCESSES**

Relevant Portfolio Holder	Councillor Phil Mould, Portfolio Holder for Corporate Management
Portfolio Holder Consulted	Yes
Relevant Head of Service	Claire Felton, Head of Legal, Equalities and Democratic Services and Monitoring Officer
Ward(s) Affected	All Wards
Ward Councillor(s) Consulted	N/A
Non-Key Decision	

1. SUMMARY OF PROPOSALS

- 1.1 To consider the granting of general dispensations under s33 of the Localism Act 2011 and under the Code of Conduct, to enable Members to participate and vote on matters under consideration at meetings in the particular circumstances set out in this report.
- 1.2 To consider the investigation and hearings processes as outlined in the report.
- 1.3 To consider the means of recording complaints made against Members under the new regime and how these should be reported.

2. RECOMMENDATIONS

The Committee is asked to RESOLVE that

- 1) **the Standards Committee grants 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:**
 - a) **Council Tax;**
 - b) **Members' Allowances; and**
 - c) **Council Rents**

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;

- 2) **the Standards Committee grants 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**

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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;

- 3) the dispensations referred to at 1) and 2) above to be valid until the first Standards Committee meeting after the municipal elections in 2014.
- 4) the guidelines for the conduct of Investigations into allegations of breach of the Code of Conduct as attached at Appendix 1 be considered and approved;
- 5) the guidelines on the conduct of a Hearing following an investigation into an allegation of breach of the Code of Conduct as attached at Appendix 2 be considered and approved, and that consideration be given as to whether Hearings should take place in private or public; and
- 6) that the process of the management and investigation of complaints should not be public information until the process has been completed, when information on the parties, the complaint and the outcome should be publicly reported to the Committee (unless the complainant is a private individual, and in exceptional circumstances the Monitoring Officer considers it appropriate for their name to be withheld from such public report).

3. KEY ISSUES**Financial Implications**

- 3.1 None.

Legal Implications**Dispensations**

- 3.2 Section 33 of the Localism Act 2011 provides that Dispensations can be granted in respect of Disclosable Pecuniary Interests ("DPI").
- 3.3 Section 33 (1) requires that a Member must make a written request for a dispensation.
- 3.4 Section 33 (3) provides that a dispensation must specify the period for which it has effect and that period may not exceed 4 years.

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Investigations and Hearings

- 3.5 Under sections 28(6) and (7) of the Localism Act 2011, the Council must have in place arrangements under which allegations that a Member or co-opted Member of the authority (or Parish Council within the authority's area) has failed to comply with that authority's Code of Conduct can be investigated and decisions made on such allegations.
- 3.6 The general arrangements for handling standards complaints were submitted to the Extraordinary Meeting of the Council on 21st May 2012 and Council delegated to this Committee and the Monitoring Officer authority to administer the Standards procedures and processes relating to Code of Conduct, and Arrangements for managing standards complaints, as adopted.

Reporting Complaints

- 3.7 The final matter for consideration sits within the general Arrangements and also engages the statutory duty to promote and maintain high standards of conduct by members under s27 of the Localism Act. It concerns the means of dealing with and reporting on complaints, the parties and outcomes and whether and when this information would be in public.

Service / Operational Implications**Dispensations****(i) Particular Issues for Consideration**

- 3.8 Under s31 (4) of the Localism Act 2011 a Member who has a Disclosable Pecuniary Interest ("DPI") in a matter under consideration is not permitted to participate in the discussion or vote on the matter unless s/he has first obtained a dispensation under s33.
- 3.9 The consideration of whether to grant a dispensation under s33 has been delegated to this Committee.
- 3.10 Section 33 includes a number of situations where a dispensation can be considered but should be granted "only if, after having regard to all relevant circumstances" the Committee considers that one of those situations applies.
- 3.11 Section 33 (2) (a) provides that a dispensation may be granted where the authority "considers that without the dispensation the number of persons prohibited from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business".

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3.12 The Monitoring Officer considers that this exemption might be required where the business of a meeting is the setting of Council Tax, Members' Allowances and Council Rents so that it might be appropriate for the Committee to grant a dispensation to Members with a DPI when these items of business are under consideration, provided that Members comply with the requirement of applying for a dispensation in writing.

3.13 To satisfy this requirement, the Monitoring Officer will circulate to all members of the Council a request form for the dispensations described in this report for the period set out at Recommendation 3) above and, upon receipt of the written request, a dispensation will take effect.

(ii) Member ability to speak

3.14 Section 33 (2) (c) of the Localism Act provides that a dispensation may be granted where the authority "considers that granting the dispensation is in the interests of persons living in the authority's area".

3.15 Under the previous standards regime, an exemption allowed Members with the then equivalent of what are now "Disclosable Pecuniary interests" to speak at a meeting in the same way that a member of the public could exercise a right to speak, even where the Member had what was then known as a "personal and prejudicial" interest in a matter and would otherwise not have been able to be present at the meeting in any capacity. This exemption only extended to allowing the Member to address the meeting in the same way as the member of the public is able to do, and as soon as the Member had exercised the right to speak they had to then leave the meeting (unlike the member of the public, who could remain in the meeting after speaking).

3.16 This exemption did not transfer into the new regime under the Localism Act 2011 so that where a Member has a DPI affecting their ability to participate in a meeting, they are unable to exercise a right to speak to the meeting in the same way that a member of the public can, without a dispensation.

3.17 Before a recent meeting of a Licensing-Committee a special meeting of this Committee had to be convened to consider granting a dispensation for several Members with DPIs who wished to exercise a right to address the Licensing Sub-Committee on matters relating to the licensing matter under consideration.

3.18 The Monitoring Officer considers that it would be expedient for the Committee to consider granting a dispensation under the exemption in section 33(2)(c) to enable Members to exercise a right to speak as set out above.

3.19 There is still a requirement for a request for a dispensation to be made in writing so the Monitoring Officer will include this exemption in the request form to be circulated to Members referred to at 3.13 above.

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(iii) Investigations and hearings.

- 3.20 Since the adoption of the general Arrangements for handling standards complaints, two more detailed processes have been drafted and these are appended to this report as follows:

Appendix 1 contains the proposed process for the conduct of investigations into allegations of breach of the Code of Conduct in circumstances where local resolution of a complaint is not possible and following a decision of an assessment sub-committee that the matter should be investigated.

- 3.21 The Committee is asked to consider the proposed procedure and if satisfied with it, to agree to its adoption or as amended to the Committee's satisfaction.
- 3.22 **Appendix 2** contains the proposed process for the conduct of a Hearing at the outcome of an investigation, again for the Committee's consideration and if satisfied with it, to agree to its adoption or as amended to the Committee's satisfaction.
- 3.23 In addition to considering the Hearing Procedure the Committee is also asked to consider whether Hearings should be held in public or private.

(iv) Reporting on Complaints

- 3.24 Section 28 (4) of the Localism Act 2011 provides that a failure to comply with the authority's Code of Conduct is not to be dealt with otherwise than in accordance with the arrangements made and adopted by the authority under the Act.
- 3.25 The general thrust of the arrangements for dealing with complaints against Members for a breach of the Code of Conduct is for local resolution options to be used as far as possible, with the leaders of the political groups to be included along with the Independent Person and to encourage mediation and support measures to be used when the circumstances allow and that investigations are reserved for those cases where there would appear to be no other practical or effective means of resolution.
- 3.26 The arrangements as adopted do not address the issue of whether and when information on complaints is to be made public and the Monitoring Officer requests that the Committee considers and decides how the reporting of the number, nature and outcome of complaints can contribute towards discharging the Council's duty to promote and maintain high standards of conduct by Members under s27 of the Localism Act 2011.

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- 3.27 The Monitoring Officer would ask the Committee to consider whether an investigation should remain confidential until concluded formally and that all determinations, including informal determinations and whether Code related or otherwise should be reported to the Standards Committee in a public Report (with the caveat that a complainant may remain anonymous if they are a member of the public and can justify why they should remain anonymous).

Customer / Equalities and Diversity Implications

- 3.28 In addition, it is proposed that the new arrangements will be publicised on the Council's website and that Officers will work to ensure that members of the public are made aware of the process for making a complaint through all existing community engagement events.

4. RISK MANAGEMENT

Recommending the inclusion of the proposals made in this report in the overall arrangements for the processing of complaints against Members/co-opted Members appended to the report will enable the Council to discharge its duty to consider and determine standards complaints and to discharge the duty to promote high standards in public life.

5. APPENDICES

Appendix 1 - Guidelines for the conduct of investigations into allegations of breach of the Code of Conduct.

Appendix 2 - Process for the conduct of a Hearing after an investigation into allegations of breach of the Code of Conduct.

6. BACKGROUND PAPERS

Relevant sections of the Localism Act 2011.

AUTHOR OF REPORT

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Redditch Borough Council Standards Committee

Guidelines for the conduct of Investigations into allegations of breach of the Code of Conduct

General

1. MO (Monitoring Officer) appoints the IO (Investigating Officer) and provides the IO with all relevant background information.
2. MO notifies the Complainant, Subject Member and Independent Person (IP) of the appointment.
3. IO contacts the Complainant and Subject Member to advise of his/her contact details and approximate timescale for investigation.
4. Purpose of Investigation is for the IO to establish the facts of the case and form a view on whether there has been any breach of the Code of Conduct.
5. IO starts investigation – for him/her to decide exactly what is needed but as a guideline would be expected to include:-
 - Information gathering from public documents, council minutes etc.
 - Interviews of key persons involved to include subject members, complainant, IP, Council officers, Parish clerk etc. Interviews to take place either by phone or in person at the Council House.
 - Analysis based on the facts of whether there has been a breach of the Code.
 - If the view is reached that there has been a breach, report to cover any mitigating/ aggravating circumstances that the IO has established in the course of the investigation.
6. Once IO has completed enquiries draft report to be sent to the MO, Subject member and Complainant. IO to allow a reasonable opportunity for the Subject Member or complainant to feed back any comments they wish to make. IO will include a note of the feed back comments in the report.
7. IO to submit final signed report to the MO and to send a copy to the Subject Member and the Complainant.

Referrals from the IO to the MO for further guidance

8. If in the course of the investigation the IO establishes that in addition to the breaches under investigation there appear to have been further breaches of the Code he/ she will contact the MO as soon as reasonably practical to discuss the implications of this for the investigation. The MO, after consulting with the IP, will decide whether or not to increase the scope of the investigation to cover the new matters.
9. If early on in the investigation the IO establishes facts that lead to the conclusion that the Code of Conduct did not apply, or that there has not been a breach, he/she will refer the matter back to the MO for further instructions. The MO will consider the information from the IO and if appropriate, and after consultation with the IP, indicate that a short report outlining the information established and evidencing the view reached by the IO be submitted instead of a full report.

Referrals to the IO by the MO

10. If after receiving the IO's final report the MO is of the view that any part of the report is incomplete or requires further consideration, she may ask the IO to carry out further specified enquiries on the basis that the IO will then submit a revised final report.

Attendance at Local Hearing

11. In the event that the complaint cannot be resolved by the MO upon receipt of the IO's final report and the matter proceeds to a local hearing, then the IO will be required to attend the hearing. His/her role at the hearing will be to present the report to the Members of the Standards Committee and to answer questions as to the findings reached and the reasoning for that decision.

Confidentiality

12. The IO may disclose that he/she is conducting an investigation, but the information gathered as part of the investigation is to be treated as confidential. Maintaining confidentiality reduces the risk of evidence being viewed as biased and preserves the integrity of the investigation. It is also advisable for those who participate in the investigation as witnesses to be asked by the IO to maintain confidentiality.

Redditch Borough Council Standards Committee
Local Hearing Procedure - Hearings Sub-Committee

Representation

1. The Member who is the subject of the allegation (“the Subject Member”) may be represented or accompanied during the hearing by a solicitor, counsel or another person; the permission of the Hearings Sub-Committee is required to allow the Subject Member to be represented or accompanied by a non-legal representative. The Sub-Committee may choose to withdraw its permission to allow a representative if that representative disrupts the hearing.

Legal advice

2. The Sub-Committee may take legal advice from its legal advisor at any time during the hearing or while it is considering the outcome. The substance of any legal advice given to the Sub-Committee should be announced to the meeting.

Introduction

3. The Chairman will introduce the members of the Sub-Committee, the Investigating Officer, the Independent Person and the Officers present. The Subject Member will introduce any person who is acting as his or her representative and any witnesses to be called on his or her behalf. The Investigating Officer will introduce any witnesses that he or she is calling and the complainant (if the Investigating Officer has asked the complainant to attend to give evidence).
4. The Chairman will outline the procedure to be followed.

Preliminary issues

5. The Sub-Committee will consider and decide on any preliminary issues which have not been resolved as part of the pre-hearing process.
6. The Sub-Committee may adjourn the meeting and move to another room to consider those issues. On returning the Chairman will announce the Sub-Committee’s decision and the reason(s) for the decision.

Findings of fact, failure to follow the Code of Conduct and recommendations to the relevant authorityFindings of fact

7. The Sub-Committee will, with the benefit of any advice from the Independent Person (which will be given during the hearing and in the presence of all parties), determine the facts of the matter and whether or not, based on the facts they have found, the Subject Member has failed to follow the Code of Conduct. The Sub-Committee will also consider whether it wishes to make any recommendations to the relevant authority with a view to promoting high standards of conduct among Members.

8. If there is a disagreement on the facts the Investigating Officer will be invited to make representations to support the relevant findings of fact in his or her report. The Investigating Officer may call witnesses or the complainant to give evidence. The Sub-Committee will give the Subject Member an opportunity to question any evidence put forward by the Investigating Officer or any party called by the Investigating Officer. If the Subject Member disagrees with most of the facts, the Investigating Officer may make representations on all the relevant facts, instead of discussing each fact individually.
9. The Subject Member may then make representations to support his or her version of the facts and call any necessary witnesses to give evidence.
10. At any time, the Sub-Committee may question any of the parties involved or any of the witnesses, and may allow the Investigating Officer to question any evidence put forward by the Subject Member or any witnesses called by the Subject Member.
11. If the Subject Member disagrees with any relevant fact in the Investigating Officer's report without having given prior notice of the disagreement as part of the pre-hearing process, he or she must give good reasons for not mentioning it before the hearing. After considering the Subject Member's explanation for not raising any disputed facts at an earlier stage the Sub-Committee may:
 - a) continue with the hearing, relying on the information contained in the Investigating Officer's report;
 - b) allow the Subject Member to make representations about any newly disputed facts and invite the Investigating Officer to respond and call any witnesses, as necessary; or
 - c) postpone the hearing to arrange for appropriate witnesses to be present.

Failure to follow the Code of Conduct

12. The Subject Member will be invited to give relevant reasons why the Sub-Committee should not decide that he or she has failed to follow the Code.
13. The Sub-Committee will then consider any oral or written representations from the Investigating Officer.
14. The Subject Member will be invited to make any final relevant points.
15. The Sub-Committee may, at any time, question anyone involved on any point they raise in their representations.

Decisions and recommendations to the relevant authority

16. The Sub-Committee will adjourn the meeting and move to another room to consider the findings of fact, whether the Subject Member has failed to follow the Code and whether it wishes to make any recommendations to the relevant authority with a view to promoting high standards of conduct among Members (note: If there is a finding of failure to follow the Code a decision on any recommendations to the relevant authority may be made at the point the Sub-Committee determines whether a sanction should be imposed on the Subject Member).
17. On returning the Chairman will announce the Sub-Committee's decisions on the findings of fact, the Subject Member's failure to follow the Code and whether there are any recommendations to be made to the relevant authority.

Sanctions

18. If the Sub-Committee decides that the Subject Member has failed to follow the Code it will consider any representations from the Subject Member as to whether or not the Sub-Committee should impose a sanction and what form any sanction should take. In view of the finding of failure to follow the Code the Sub-Committee may also give further consideration as to whether it wishes to make any recommendations to the relevant authority with a view to promoting high standards of conduct among Members.
19. The Sub-Committee may question the Subject Member and take legal advice to ensure it has all of the information it needs to make a decision.
20. The Sub-Committee will adjourn the meeting and move to another room to consider whether or not to impose a sanction on the Subject Member and, if so, what the sanction should be, and whether it wishes to make any recommendations to the relevant authority.
21. On returning the Chairman will announce the Sub-Committee's decision on any sanction and recommendations.

Written decision

22. The Sub-Committee will announce its decision on the day and a written decision will be issued shortly after the hearing.

Making the findings public

23. *To be determined by the Standards Committee (including website publication, reporting of hearing outcomes to Full Council etc).*

Appeal

24. There is no right of appeal for a complainant or the Subject Member of a decision of the Hearings Sub-Committee. Any decision would however be open to judicial review by the High Court if it was patently unreasonable, if it were taken improperly, or if it sought to impose a sanction which the Council had no power to impose.

STANDARDS COMMITTEE

12th December 2012

WORK PROGRAMME

Relevant Portfolio Holder	Councillor Phil Mould, Portfolio Holder for Corporate Management
Portfolio Holder Consulted	
Relevant Head of Service	Claire Felton, Head of Legal, Equalities and Democratic Services and Monitoring Officer
Wards Affected	All Wards
Ward Councillor Consulted	N/A
Non-Key Decision	

1. SUMMARY OF PROPOSALS

Members are requested to consider the future Work Programme of the Standards Committee.

2. RECOMMENDATIONS

That, subject to any amendments made to it by the Committee, the Work Programme be approved.

3. KEY ISSUES

Financial Implications

- 3.1 There are no financial implications associated with the contents of this report.

Legal Implications

- 3.2 There are no legal implications associated with the contents of this report.

Service / Operational Implications

- 3.3 Under the Localism Act 2011 the Council has a duty to promote and maintain high standards of conduct by elected Members and co-opted Members (with voting rights), at both district and parish level. A new Standards Committee has therefore been established to enable the Council to discharge its duties in this regard.
- 3.4 A Work Programme is beneficial to the Committee for the following reasons:
- (a) to ensure the Committee is fulfilling its role and functions in accordance with the Council's Constitution and any prevailing legislation; and

STANDARDS COMMITTEE

12th December 2012

- (b) to enable Officers to be proactive in supporting the Committee and for the Committee to be equally proactive in introducing change to ensure the Council is an ethical organisation, which promotes and maintains high standards of conduct of Members, and is an organisation which relates to the community and which continually strives to improve the service it provides.

- 3.5 A copy of the Work Programme, as approved at the first meeting of the new Standards Committee on 16th July 2012 is attached at Appendix 1. The Committee's Terms of Reference, which were approved by Full Council on 21st May 2012, are attached for Members' information at Appendix 2.

- 3.6 The Work Programme will appear as a regular item on all Standards Committee agendas.

- 3.7 Officers will update the Work Programme, as appropriate, in between meetings and in consultation with the Chair of the Committee. Any changes to this will be reported to the next meeting of the Committee, as appropriate. Members of the Committee are welcome to contact Officers at any time with suggestions for the Work Programme.

- 3.8 The Work Programme is linked to the Council's underpinning priority of being a well managed organisation.

Customer / Equalities and Diversity Implications

- 3.9 In terms of customer implications, a Work Programme will assist in informing Members, Officers and the public of the work being undertaken by the Committee in ensuring that the Council is an ethical organisation, which is well managed and is proactively working towards improvement.

4. RISK MANAGEMENT

There are no risk implications associated with the contents of this report.

5. APPENDICES

Appendix 1 - Standards Committee Work Programme
Appendix 2 - Standards Committee Terms of Reference

6. BACKGROUND PAPERS

None

**STANDARDS
COMMITTEE**

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7. KEY

Not applicable.

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**STANDARDS
COMMITTEE**

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APPENDIX 1**STANDARDS COMMITTEE WORK PROGRAMME**

[Note: Any items that it is proposed should be removed from the Work Programme are denoted by a strikethrough, with any new additions and/or rescheduled items appearing in bold italics.]

Meeting date	Item(s) for consideration
14th January 2013	<ul style="list-style-type: none"> • <i>Note: Meeting may be cancelled in view of additional meeting held on 12th December 2012.</i>
8th April 2013	<ul style="list-style-type: none"> • Annual Review of the Operation of the Standards Committee and its Sub-Committees. • Calendar of meetings 2013/14
June/July 2013 (date to be determined)	<ul style="list-style-type: none"> • 12 month review of new standards regime, including roles of the Independent Observer and Parish Council Representative on the Committee.
September/October 2013 (date to be determined)	
December 2013 /January 2014 (date to be determined)	
March/April 2014 (date to be determined)	<ul style="list-style-type: none"> • Annual Review of the Operation of the Standards Committee and its Sub-Committees. • Calendar of meetings 2014/15
Date to be agreed	<ul style="list-style-type: none"> • Review of the operation of the Protocol on Member-Officer relations (following consideration by the Constitution Review Working Party). • Review of the operation of the Protocol on Member-Member relations (following consideration by the Constitution Review Working Party).

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Note: All meetings of the Committee will include regular items such as:

- Minutes of previous meeting;
- Monitoring Officer's Report;
- Parish Council Representative's Report;
- Relevant Member complaint/investigation updates; and
- Work Programme.

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APPENDIX 2**STANDARDS COMMITTEE TERMS OF REFERENCE**

Terms of Reference	<p>The Standards Committee will have the following roles and functions:</p> <ol style="list-style-type: none"> a. promoting and maintaining high standards of conduct by Councillors and any co-opted members of Council bodies; b. assisting the Councillors and co-opted members to observe the Members' Code of Conduct; c. advising the Council on the adoption or revision of the Members' Code of Conduct; d. monitoring the operation of the Members' Code of Conduct; e. advising, training or arranging to train Councillors and co-opted members on matters relating to the Members' Code of Conduct; f. granting dispensations to Councillors and co-opted members from requirements relating to interests set out in the Members' Code of Conduct; g. dealing with any report from the Monitoring Officer following an investigation into a complaint concerning the Members' Code of Conduct; h. considering and determining allegations that a Councillor or co-opted Councillor may have failed to follow the Code of Conduct and where a breach of the Code is established making recommendations as to any sanctions to the appropriate person or body. i. the exercise of g – h above in relation to the Parish Councils in the Council's area and the members of those parish Councils; j. monitoring, and reviewing the operation of the Protocol on Member-Officer relations; k. monitoring and reviewing the operation of the Protocol on Member-Member Relations.
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