

BROMSGROVE DISTRICT COUNCIL

MEETING OF THE STANDARDS COMMITTEE

WEDNESDAY, 28TH NOVEMBER 2012 AT 6.00 P.M.

PRESENT: Councillors Mrs. M. A. Sherrey JP (Chairman), M. A. Bullivant (Vice-Chairman), S. J. Dudley, L. C. R. Mallett, Mrs. C. M. McDonald, Mrs. C. J. Spencer and L. J. Turner

Parish Councils' Representatives (non-voting co-opted): Mr. J. Cypher and Mr. I. A. Hodgetts

Officers: Mrs. C. Felton, Mrs. S. Sellers and Ms. D. Parker-Jones

9/12 **APOLOGIES FOR ABSENCE**

An apology for absence was received from Councillor Dr. B. T. Cooper.

10/12 **DECLARATIONS OF INTEREST**

No declarations of interest were received.

11/12 **MINUTES**

The minutes of the meeting of the Standards Committee held on 25th July 2012 were submitted.

Mr. Cypher commented that the third paragraph of Minute No. 5/12 (Minutes) should read West Midlands County Associations of Local Councils (Associations in the plural).

RESOLVED that, subject to the amendment detailed in the preamble above, the minutes be approved as a correct record.

12/12 **MONITORING OFFICER'S REPORT**

The Deputy Monitoring Officer (DMO) introduced the Monitoring Officer's (MO's) Report and, in doing so, advised Members that all of the Register of Members' Disclosable Pecuniary Interests (DPI) forms received had been published on the District Council's website, in accordance with the requirements laid out in section 29 of the Localism Act.

Regarding the appointments of Mr. Mel Nock and Ms. Debbie Jinks as Independent Persons under the new standards regime, it was noted that the MO had already been working with Mr. Nock on complaint matters.

It was queried whether the Committee would have the opportunity of meeting the IPs. Officers advised that it had been hoped that Mr. Nock would be present to observe the meeting that evening but that local traffic problems may have prevented this. Ms. Jinks had still to receive her induction into the role, which had been delayed as a consequence of Officers having been busy and Ms. Jinks currently being on maternity leave.

In relation to Member training, Officers confirmed that Councillors Dr. Booth and Mallett had, earlier that evening, completed the requisite mandatory training in order to sit on the Committee.

The issue of Council and committee meetings no longer being tape recorded was raised, particularly in relation to the new criminal element associated with Disclosable Pecuniary Interests and any consequential legal implications for Police and/or Crown Prosecution Service (CPS) involvement. Members queried whether this was a temporary situation and whether the new Council building would have recording equipment installed.

The MO responded that Full Council had made the decision to no longer record meetings, and that a separate decision would need to be made further down the line as to whether recording equipment should be installed at the new Council premises. The function limitations and unreliability of the previous equipment at the Council House were noted, together with the financial implications of replacing the equipment. As the previous equipment failed to work on some occasions it could not be relied upon.

Regarding Police/CPS implications, the MO stated that tape recordings were likely to be inadmissible as these could be tampered with. The MO added that she did not think the absence of tape recorded meetings would affect the position as the minute taking at meetings would become more detailed.

RESOLVED

- (a) that the contents of the report be noted; and
- (b) that any required actions arising from the points detailed in the report and the preamble above be acted upon, as appropriate.

13/12 **PARISH COUNCILS' REPRESENTATIVES' REPORT**

Mr. Cypher reported that the Democratic Services Officer (DSO) for Standards had attended the last Bromsgrove Area Meeting of the Worcestershire County Association of Local Councils. The DSO had advised at the meeting of a temporary technical issue regarding the Register of Members' Disclosable Pecuniary Interests (DPI) forms which had been published on the District Council's website, the problem for which had subsequently been rectified.

Mr. Cypher reiterated the Parish Councils' concerns at the lack of current voting rights afforded to Parish Council Representatives on standards committees under the new regime. He added that the National Association of Local Councils (NALC) was continuing to lobby Government in this regard and that it was hoped a meeting to discuss this would take place between NALC and Department for Communities and Local Government (DCLG) officials at

some point in the future, which Mr. Cypher undertook to keep the Committee updated on.

RESOLVED that the position be noted.

14/12 **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.

An apology was made by Officers for the initial error with the Portfolio Holders name as denoted in the report. Officers had contacted the correct Portfolio Holder and Leader of the Opposition and amended the website details as soon as the error had come to light.

(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 and 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, with the Group Leaders' approval, 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 District Council Elections in 2015.

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. 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 Deputy Monitoring Officer (DMO) stated that the guidelines were similar to those that had applied to investigations under the previous standards regime

Point 5 of the guidelines was queried, which it was noted did not include notification of an investigation to the Parish Council Clerk. The MO advised that under the new Arrangements for managing complaints Parish Clerks would be made aware of any complaints against their Members at the outset. It was requested that should a formal investigation be commenced then formal notification of this should be sent from the MO to the Parish Clerk, which the MO confirmed she would ensure was clearly articulated in the written Arrangements. It was also noted that it was up to the Parish Councils to decide what they wished to do in relation to any recommended sanctions for their Members.

(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. Members were also asked to consider whether hearings should be held in public or private and to establish Hearings Sub-Committees (of the Standards Committee) to carry out Hearings.

The Deputy Monitoring Officer (DMO) stated that the guidelines were similar to those that had applied to investigations under the previous standards regime and that hearings were quasi-judicial proceedings, meaning there were rules of natural justice which had to be followed. Some of the stages which applied at the actual hearing however been merged to allow for a more streamline process.

A suggestion was made that the list of possible sanctions available to the Standards Committee at a hearing should be appended to the Hearing Procedure, which was agreed.

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. It was further agreed that hearings would be conducted by the entire of the Standards Committee and not any sub-committee thereof, with this being subject to 12 month review.

(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 matter 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 Standards Committee where a matter progressed to hearing stage.

Members debated this issue and views were expressed on both sides of the divide as to when and if complaint details and outcomes should be made public.

The MO explained that in the case of locally managed complaints (those not necessitating a formal investigation or hearing) her primary aim was for a satisfactory conclusion to be reached. In such cases she would not necessarily be deciding on whether there had been a breach of the Code of Conduct, and without there being a formal investigation it would be difficult to be categorical about any possible breach, This could, in turn, make it difficult to report on such matters.

It was agreed therefore that if a complaint was managed and resolved locally by the MO, without the need for formal investigation and any hearing, then statistical information only on the numbers of any such complaints and use of MO powers in resolving these would be reported to the Committee, with no details of these complaints being made public.

It was further agreed that where a complaint proceeded to formal investigation and once the Investigating Officer's findings were known the complaint details could be made public, subject to any Access to Information and/or Data Protection rules which might apply and which would require confidentiality and on which the MO would make a decision. If proceeding to a hearing, and as part of the pre-hearing process, relevant parties would be asked whether there were any aspects of the complaint or hearing that they wished to remain private. Should any requests for privacy and/or anonymity be made then these would be dealt with as preliminary issues at the hearing and the Standards Committee would make a decision as to whether the hearing would take place in private or 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 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 granted;**
- 3) the dispensations referred to at 1) and 2) above be valid until the first Standards Committee meeting after the District Council Elections in 2015;**
- 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 of any such complaints and use of Monitoring Officer powers in resolving those 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 Standards Committee may determine as a preliminary issue at the hearing.**

15/12 **WORK PROGRAMME**

Members considered the future Work Programme of the Committee.

Officers advised that the Calendar of Meetings for the 2013/14 Municipal Year (from May 2013 onwards) was currently being drawn up and that this would hopefully be finalised early in 2013.

RESOLVED that the Work Programme be approved.

The meeting closed at 7.30 p.m.

Chairman