



## Standards Committee

Date: 9 June 2015  
Time: 6.15 pm  
Venue: Committee Room 1  
District Council Offices, Queen Victoria Road, High Wycombe Bucks

### Membership

Chairman Councillor C Etholen  
Vice Chairman Councillor Mrs J A Adey

Councillors: S Broadbent, M Clarke, A R Green, Mrs G A Jones, R Raja, J A Savage and Ms J D Wassell

Independent Persons: G Houalla and M Pearce

Parish Council Observers: Parish Cllr Ms N Howard, Parish Cllr Mrs V Smith and Parish Cllr Mr B Swain

### Standing Deputies

Councillors: K Ahmed, A D Collingwood, H L McCarthy, R J Scott and A Turner

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## Agenda

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**For further information, please contact Emma Lund 01494 421635,  
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## Standards Committee Minutes

Date: 10 March 2015

Time: 6.15 - 6.40 pm

**PRESENT:** Councillor A D Collingwood (in the Chair)

Councillor Mrs J A Adey, Councillor I Bates, Councillor D J Carroll, G Houalla, Councillor Mrs G A Jones, M Pearce, Councillor B R Pollock JP, Parish Cllr Mrs V Smith, Parish Cllr Mr B Swain and Councillor R Wilson, Councillor J L Richards OBE

Apologies for absence were received from Parish Cllr Ms N Howard and Councillor J A Savage

### 18 DECLARATIONS OF INTEREST

There were no declarations of interest.

### 19 MINUTES OF PREVIOUS MEETING

**RESOLVED:** That the minutes of the meeting held on 6 January 2015 be confirmed as a correct record and signed by the Chairman.

### 20 REVIEW OF CODE OF CONDUCT FOR MEMBERS AND STANDARDS COMPLAINTS ARRANGEMENTS

Following the request made at the last meeting that an interim report on potential amendments to both the Code of Conduct and standards complaints arrangements be brought to the Committee, Members considered a report which had been produced by Hoey Ainscough Associates providing a broad independent overview of Code of Conduct and standards complaints arrangements which are in place across the country and within Buckinghamshire. The report included information on the types of Codes in place; issues arising; approaches adopted by different authorities in terms of a 'rule-based' or 'behaviour-based' approach; handling of interests; case handling processes; and different approaches towards the role of the Independent Persons.

In discussion the Committee felt that Wycombe's approach towards the role of the Independent Person was in line with best practice, and it was recommended that the current arrangement in respect of the Independent Persons should be retained as part of any review. It was also suggested that Parish Councils may benefit from increased input from the Independent Persons and Monitoring Officer (on an exception basis), and this was endorsed.

It was noted that there were some differences between the various Codes in place within Buckinghamshire, and Members considered whether a common approach across the county would be most beneficial, or whether the Council should seek to

adopt the best and most robust Code, and accept that this may result in differences with local Codes. Following discussion it was agreed that the latter approach would be preferred, but noted that Parish Councils should be consulted on the review in order that they could consider elements of best practice.

The District Solicitor confirmed that following discussion with the Chairman a regular report would be brought to the Committee providing an overview of standards complaints which had been dealt with.

Four options for next steps were set out in the report. A proposal to agree option iv (consider amendments to both Code and complaints arrangements) was put to the vote and it was

**RESOLVED:** to consider amendments to both the Code of Conduct and standards complaints arrangements with a further report to be brought to the Committee in June 2015.

## **21 INFORMATION SHEETS**

The Committee received Information Sheet 01/2015 (Complaints / Comments / Compliments – Information and Improvements Quarter 3).

Members commented that further detail with regard to what had happened in respect of those complaints which were answered out of time and further clarity regarding the specific targets would be helpful; and that it would also be helpful if the Information Sheet included details of the actions being taken by services which receive repeatedly high levels of complaints (such as Parking Services and Waste).

**RESOLVED:** That Information Sheet 01/2015 (Complaints / Comments / Compliments – Information and Improvements Quarter 3) be noted.

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Chairman

### **The following officers were in attendance at the meeting:**

Emma Lund	- Senior Democratic Services Officer
Julie Openshaw	- District Solicitor and Monitoring Officer

# Agenda Item 4

## REVIEW OF CODE OF CONDUCT FOR MEMBERS AND STANDARDS COMPLAINTS ARRANGEMENTS

Officer contact: Julie Openshaw, District Solicitor and Monitoring Officer  
Tel: 01494 425212 E-mail [julie.openshaw@wycombe.gov.uk](mailto:julie.openshaw@wycombe.gov.uk)

Wards affected: All

### PROPOSED RECOMMENDATION TO COUNCIL

- (i) That subject to consultation with all Wycombe District Council Group Leaders, Buckinghamshire County Council, and all District Councils in Buckinghamshire, and there being no adverse comments by the deadline of close of business on Friday 17 July 2015, Council be recommended to adopt the changes to the Code and complaints arrangements as set out in paragraphs 5(i) and 9(i) (ii) and (iii) of this report; and
- (ii) That authority be delegated to the Head of Democratic, Legal and Policy to make all necessary and consequent changes to the Constitution.

### PROPOSED DECISION

- (iii) That the Town and Parish Councils in the district be informed of the proposed changes in 5(i) and 9(i)(ii) and (iii).
- (iv) That a Working Group as outlined in paragraph 8 of this report, comprising members of the Standards Committee, one or more of the Independent Persons and the Monitoring Officer be set up to consider how types of behaviour might be further defined or exemplified so as to capture them in a clear way to enable both Members and the public to understand and measure them.

### Reason for Decision

To give further consideration to, and to take steps to implement, measures to improve and strengthen the Council's standards regime, in accordance with the Committee's terms of reference.

### Corporate Implications

1. The Localism Act 2011, Sections 26 - 37 and the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 set out the current legislative framework relating to standards of conduct for elected members and arrangements for handling member standards complaints. The Terms of Reference of the Standards Committee are set out in the Council's Constitution.

### Executive Summary

2. Following a report considered by Standards Committee in March 2015, this report makes more detailed proposals as to amendment of the Code and process for considering complaints in relation to Member conduct.

## **Sustainable Community Strategy/Council Priorities - Implications**

3. Continuing to monitor the current arrangements supports the Community Involvement theme of the Sustainable Community Strategy.

## **Background and Issues**

4. On 10 March 2015 the Standards Committee considered a report in relation to review of the Member Code of Conduct and complaints handling process, and resolved to consider amendments to the Code and complaints process, with a further report to be presented to this meeting.
5. The main issues for change and strengthening of the Code and process which were brought out by the March report were as follows:
  - (i) To bring the WDC Code into line with the other Buckinghamshire Districts so as to make it compulsory under the Code for Members not only to declare, but also to withdraw from decision making, in circumstances where other “non-DPI” interests (as well as “DPI” – i.e. Disclosable Pecuniary Interests) exist;
  - (ii) To arrange quarterly meetings for the Monitoring Officer, Independent Persons, and Chairman and Vice-Chairman of Standards Committee to review recent decisions, in order to ensure consistency between cases;
  - (iii) To present regular quarterly reports to Standards Committee to provide an overview information on case numbers and types so as to highlight any emerging trends;
  - (iv) To give further consideration to the specific types of behaviour that are considered should fall foul of the Code, in such a way as to capture them in a clear way which both Members and the public can understand and measure them.
6. With regard to the measures in paragraph 5 (i) (ii) and (iii), it is considered that they would be lawful and would indeed strengthen the Council’s standards regime; a report as set out in (iii) was last presented in March 2014. Indeed, (ii) and (iii) can be and are being implemented without the need to formally amend the written procedure to allow for this.
7. Regarding the first measure (Paragraph 5(i)) as explained in the March report, any proposed change to the Code should be subject to consultation with Group Leaders and other Buckinghamshire Councils before any final decision is made. It appears that any observations that might potentially cause the proposals in this report to be altered may be more likely to emerge from the County and/or Districts than from Towns and Parishes, given that the latter will mainly have tended to adopt a Code more designed for that level of local government, albeit the proposals are in any event not particularly remarkable. It is therefore suggested that consultation should take place with Group Leaders and the Buckinghamshire County and District Councils, and that Town and Parish Councils would be simply informed of the proposals. Provided there are no adverse responses from any consultees, any proposals

would be presented to full Council for approval. In the event of any adverse responses, a further report would be presented to Standards Committee for consideration before a final recommendation was presented to full Council.

8. With regard to the measure in paragraph 5 (iv), this will require more detailed work to determine what definitions or examples might be added to the Code to aid understanding and measurement of acceptable and unacceptable behaviours. It is suggested that a Working Group be set up to undertake this work.
9. Following the March meeting, some further measures have been proposed by the previous Chairman, also aimed at strengthening the Council's Standards regime and the ability of key members to maintain a degree of information commensurate with enabling them to carry out their roles in accordance with the Committee's terms of reference. These are:
  - (i) To add a requirement into the second stage of the complaints handling procedure that when the Monitoring Officer and Independent Person are about to consider a complaint, the Chairman and Vice-Chairman will be provided with a copy of the complaint, and will also be informed of the proposed decision of the Monitoring Officer prior to the decision being released to the Complainant and Subject Member (save for cases where the complaint is against one of those Members);
  - (ii) To add into the Code information about the criminal offence and sanctions which the law provides for breaches of the Code centred upon declaration of interests;
  - (iii) To recommend to Council that whilst noting that there is no longer a legal duty for members to sign a declaration that they agree to abide by the Code which is for the time being in force, the Council should nonetheless resolve that it expects and encourages all its Members to do so, and will publish a list of Members who have voluntarily agreed to do so and who have not done so.
10. As the suggestion at 9(i) merely intends to provide information, there should be no difficulty with those members sitting as part of a Hearing Panel in the future should that eventuality arise. The suggestion at 9(ii) would ensure that criminal sanctions are made clear to all readers of the Code. The suggestion at 9(iii) would provide an added impetus for Members to promise, and be seen to be promising, that they will abide by the Code's provisions, thereby strengthening the Council's commitment to good governance and support for good standards of Member conduct. These proposed changes would require full Council approval following consultation.

## **Options**

11. All of the proposals in this report are optional and there is no obligation to resolve to take forward any of them; the current Code and process are already lawful. However, those that are recommended are intended to improve the Council's Member standards and ethics provisions, and it is considered that they will fulfil that intention.

**Next Steps**

12. Consultation as set out in the report, and adoption of those measures which do not require any amendment to the Code or complaints handling process.

**Background Papers**

Report and minutes for Standards Committee 10 March 2015.



# Agenda Item 5

## COUNCIL TAX SETTING – DISPENSATIONS UNDER THE LOCALISM ACT 2011

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Wards affected: All

### PROPOSED DECISION

The Committee is invited to delegate authority to the Monitoring Officer under section 33 of the Localism Act 2011, in consultation with one of the Independent Persons appointed by the Council, to grant dispensations to District and Parish Council Members in relation to the setting of Council Tax, such dispensations to apply for the remainder of the Council term, i.e. until May 2019.

### Reason for Decision

In order to avoid any possibility that Members taking part in the setting of council tax could be illegally voting on a matter in which they have a disclosable pecuniary interest, it is recommended that the Monitoring Officer be given delegated authority to grant dispensations in relation to the setting of council tax.

Standards Committee agreed to a similar delegation in 2013, which expired in May 2015; this proposed decision would extend the arrangement for the current Council term.

### Corporate Implications

1. Under section 33 of the Localism Act, dispensations may be granted by the Council, the Standards Committee, or by the Monitoring Officer.

### Executive Summary

2. This report sets out a proposal to delegate power to the Monitoring Officer to grant dispensations to Members in appropriate circumstances, in order to avoid difficulties and potential breaches of the rules on voting where disclosable pecuniary interests exist, in relation to the setting of the annual council tax. The need for dispensations may exist because the law relating to how Members must behave where an interest subsists no longer contains an automatic exemption in this regard.

### Background and Issues

3. The provisions on Members' interests, and the granting of dispensations for Members with interests were significantly changed by the Localism Act 2011. Dispensations can now be granted in the following circumstances:
  - That without the dispensation so many members of the Council have disclosable pecuniary interests in a matter that it would impede the transaction of the business (in practice this means that the Council would be inquorate as a result);

- That, without the dispensation, the representation of different political groups on the body transacting the business would be so upset as to alter the outcome of any vote on the matter;
  - That the Council considers that the dispensation is in the interest of persons living in the authority's area;
  - That without the dispensation no member of the Cabinet would be able to participate in the matter; or
  - That the Council considers that it is otherwise appropriate to grant a dispensation.
4. Any grant of a dispensation must specify how long it lasts, up to a maximum of four years.
  5. Under the former legislation, dispensations were granted by the Standards Committee. The Localism Act 2011 gave discretion for this power to be delegated either to the Standards Committee or a sub-Committee, or to the Monitoring Officer. On 31 July 2012 the Council delegated the power to grant dispensations to the Standards Committee, after consultation with the Independent Person.
  6. The Disclosable Pecuniary Interest Regulations issued by the Government in June 2012 do not contain an express exemption for setting Council Tax or parish precepts under the Local Government Finance Act 1992. Members may recall that the old model Code of Conduct did include such an express exemption.
  7. It is a matter of interpretation whether members have a Disclosable Pecuniary Interest in the decision to set the Council Tax as a result of any beneficial interest they may have in land within the District. The same issue arises for town and parish councillors in respect of setting the parish precept.
  8. In response to a request for guidance on the matter, the Department of Communities and Local Government expressed the view that although the DPI Regulations should not prevent members from speaking and voting on the Council Tax setting, this is a matter of legal interpretation.
  9. Although in 2012 it did not appear to be the case that voting on council tax setting gives rise to a disclosable pecuniary interest, and case law had not changed the situation, Standards Committee in 2013, in common with the situation elsewhere in the country, accepted that it was wise to allow the Monitoring Officer to grant dispensations in order to avoid a possible breach of the law and/or a quorum issue on the setting of the Council Tax. It was, and remains, a criminal offence for members to speak and vote on a matter in which they have a disclosable pecuniary interest unless they have been granted a dispensation under section 33 of the Act. Since 2013, there has been at least one case of an elected member, of another authority, being charged with and convicted of an offence of voting on a matter in which he had a disclosable pecuniary interest. Although that case was nothing to do with the setting of council tax, in view of the uncertainty and residual attendant

risk that Members could be committing an offence under the Act if no dispensations were granted to Members requiring one in order to lawfully vote on the setting of council tax, it continues to be the case that Members are advised to request an appropriate dispensation.

10. In order to deal with requests as promptly as possible without having to revert to the Committee it is recommended that the Committee delegates authority to the Monitoring Officer, in consultation with one of the Independent Persons appointed by the Council, to grant dispensations to members in this instance. To avoid having to make similar requests annually it is recommended that this arrangement continues for the remainder of the current Council term, i.e. until May 2019.

### **Sustainable Community Strategy/Council Priorities - Implications**

11. None.

### **Options**

12. It is not obligatory to grant dispensations, nor to delegate power to do so. However, there remains a residual risk, however small, that not granting dispensations may cause problems in member representation in setting the annual Council Tax. Not delegating power to grant dispensations in appropriate circumstances would mean that each application would have to come back to Standards Committee for a dispensation to be considered.

### **Next Steps**

13. The Monitoring Officer in consultation with an Independent Person may grant dispensations in appropriate circumstances.

### **Background Papers**

Part 1 of the Localism Act 2011 and associated Government guidance.

# Agenda Item 6

## UPDATE ON STANDARDS COMPLAINTS

Officer contact: Julie Openshaw, District Solicitor and Monitoring Officer  
Tel: 01494 425212 E-mail [julie.openshaw@wycombe.gov.uk](mailto:julie.openshaw@wycombe.gov.uk)

Wards affected: All

## PROPOSED DECISION

To note this report.

## Reason for Decision

To provide the Committee with an overview of complaints about Member conduct since March 2014.

### Corporate Implications

1. The Localism Act 2011, Sections 26 - 37 and the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 set out the current legislative framework relating to standards of conduct for elected members and arrangements for handling member standards complaints.
2. In order to enable Standards Committee to maintain an overview of complaints and any trends emerging, reports will be presented twice yearly.

## Executive Summary

This report provides Standards Committee with an overview of recent complaint cases.

## Sustainable Community Strategy/Council Priorities – Implications

None.

## Background and Issues

3. In March 2014 a report was presented to Standards Committee providing a periodic update on member conduct complaints.
4. Since July 2012 there had been 25 complaints, numbered SC1 to SC25 inclusive. Since then there have been five further complaints, numbered SC26 to SC30 inclusive. SC 26 and 27 were dealt with as one, with the agreement of the parties, as the matters complained of were linked. These are outlined at Appendix A.
5. The Committee is invited to:
  - (i) Note the further complaints that have been dealt with since March 2014;
  - (ii) Note that none of them have been considered serious enough to warrant investigation;

(iii) Note that there are no current complaints being dealt with.

### **Options**

6. None. This report is for noting only.

### **Conclusions**

7. Given the relatively small number of complaints, it can be demonstrated that in general ethical standards are being taken seriously by both District and Town and Parish Council members. Separate reports being considered by Standards Committee are designed to further strengthen the Code of Conduct and measures for reinforcing its importance and the handling of complaints.

### **Next Steps**

8. Further update reports will be provided to Standards Committee quarterly.

### **Background Papers**

None.

Standards Complaints						
Complaints submitted under Localism Act procedure:						
Ref No	Date Recd	Complainant	Against Councillor:	Council	Outcome	Date
SC26	07/03/2014	Mr Peter Wetherman	Nick Morris	Hughenden PC	Complaint not referred for investigation and mediation proposed as suitable resolution. Mediation partially pursued but not completed.	05/08/14
SC27	10/03/2014	Mr Peter Wetherman	Nick Morris	Hughenden PC	Complaint not referred for investigation and mediation proposed as suitable resolution. Mediation partially pursued but not completed.	05/08/14
SC28	17/04/2014	Ms Ali Banham	Alex Slater	Wycombe DC / Hazlemere PC	No further action (complaint withdrawn at end of Stage 1 following apology).	14/08/14
SC29	21/07/2014	Ms Julie Pritchard	Lesley Clarke	Wycombe DC	Complaint not referred for investigation. Public benefit not served by further investigation.	21/09/14
SC30	24/09/2014	Mr John Horton	Brian Mapletoft	Hazlemere PC	Complaint not referred for investigation. Public benefit not served by further investigation.	13/01/15