



Standards Committee

Date: 5 January 2016
Time: 6.15 pm
Venue: Council Chamber
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 (Observers): Cobden, G Houalla and M Pearce

Parish Council Observers: 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 Jemma Durkan 01494 421635,
committeeservices@wycombe.gov.uk**

Standards Committee Minutes

Date: 13 October 2015

Time: 6.15pm -7.00pm

PRESENT: Councillor C Etholen (In the Chair)

Councillor Mrs J A Adey, Councillor S Broadbent, Councillor M Clarke, Councillor A R Green, G Houalla, Parish Cllr Mrs V Smith, Parish Cllr Mr B Swain and Councillor Ms J D Wassell.

7 APOLOGIES

An apology for absence was received from Councillor J Savage.

8 MINUTES

RESOLVED: That the minutes of the meeting of the Standards Committee held on 9 June 2015 be confirmed as a correct record and signed by the Chairman.

9 DECLARATIONS OF INTEREST

No declarations of interest were received

10 DISPENSATIONS

A report was considered which requested that authority be delegated to the Monitoring Officer to grant dispensations until May 2019 where a Member had submitted an application for dispensation claiming that certain circumstances applied. These included situations whereby so many Members had Disclosable Pecuniary Interests (DPIs) that it would impede the transaction of business, or where without such a dispensation all Members of the Cabinet would have a DPI prohibition from participating.

The report recorded that in June 2015 this Committee had made the decision to give delegated power to the Monitoring Officer to grant dispensations in relation to decisions on setting the Council Tax. Subsequent Member training had recommended the consideration of further delegation to the Monitoring Officer to be able to grant dispensation applications in other circumstances where short notice might necessitate this.

The report stated that in the circumstances as mentioned above a more rapid response in dealing with applications for dispensations was required. As such an arrangement needed to be in place whereby the Monitoring Officer could consider

such requests quickly and efficiently, and reduce the need to convene an urgent ad hoc Standards Committee meeting to consider the applications.

The report summarised the current legal grounds for granting dispensations in paragraph 6 of the report, and suggested that delegated authority be given in points 6 (i) and 6 (iii) only, namely where without the dispensation, so many members have DPIs that it would impede the transaction of the business, or where without the dispensation, every member of Cabinet would have a DPI prohibition from participating. It was advised that it would be more appropriate for the remaining grounds for granting a dispensation to be dealt with and determined by the Standards Committee itself rather than being delegated.

Members were informed that whilst consultation with an Independent Person in advance of a delegated decision being made was not a legal requirement, and was not recommended as it would not always be expedient, every effort would be made to consult with an independent person prior to reaching a decision under delegated powers.

It was highlighted that as with any power which was delegated, the Monitoring Officer retained the discretion to decline to exercise the power and remit the matter back to the Committee for its decision on the matter.

In considering the report before them, Members were in agreement that it would be sensible to delegate authority to grant dispensations. However some concern was expressed over whether there would be a process for reviewing the decisions which had been made. Members were informed that although there was no formal process in place, any decisions made by the Council were subject to Judicial Review.

RESOLVED: That the Monitoring Officer be given delegated authority under Section 33 of the Localism Act 2011 to grant dispensations until 2 May 2019 with regard to a member application for a dispensation claiming that the following circumstances applied;

- (i) So many Members had Disclosable Pecuniary Interests that it would impede the transaction of the business; or
- (ii) Without the dispensation, every Member of the Cabinet would have a Disclosable Pecuniary Interest prohibition from participating.

11 QUARTERLY UPDATE ON STANDARDS COMPLAINTS

A report was submitted which provided an overview of recent complaints cases regarding Member conduct since June 2014. Members were presented with the updates on a quarterly basis and were informed that since the last meeting there

had been no new complaints submitted and none were in the process of being dealt with.

The report also stated that there had been a relatively small number of complaints submitted and handled since July 2012, which suggested that ethical standards were taken seriously at District Town and Parish levels and that Member training programmes had been effective.

In general Members regarded the figures presented as good news and agreed that the report was an encouraging sign of good progress.

RESOLVED: That the report be noted.

12 REVIEW OF CODE OF CONDUCT FOR MEMBERS & STANDARDS COMPLAINTS ARRANGEMENTS

Members considered a report relating to the ongoing work of the review of the Code of Conduct and the complaints process which made a number of final recommendations to Full Council as to the way forward.

Earlier reports regarding the review had been considered in January, March and June 2015. Following the June meeting of the Committee it had been agreed to consult more widely with Group Leaders, the Independent Persons the County Council and other District Councils in Buckinghamshire on all issues raised arising out of the report by Hoey Ainscough Associates and subsequent discussions. Hoey Ainscough's report had been commissioned to examine Wycombe's code and compare it against other Councils in the vicinity and across the country. This was attached at Appendix B to the report.

The seven issues which had formed part of the consultation were highlighted within paragraph 8 (a)- to (g) of the report. The responses which had been received were summarised in Appendix A of the report.

In considering the report before them, some Members highlighted the recommendation in paragraph (a) which intended that non DPI interests be brought into line with DPI interests, requiring the Member to declare and then to withdraw from decision making process for non-DPIs as well. There was debate around whether having to withdraw in situations where there was considered to be a very loose interest or connection to the subject matter meant that the Committee might be deprived of the benefit of their in depth knowledge of the issue under consideration.

The Monitoring Officer stated that irrespective of the Code requirements, it would nonetheless be advisable to withdraw where a non-DPI existed, as to take part in the decision making process put the decision at risk because of the suspicion of bias. It was also emphasised that Members should always seek advice as early as possible to clarify whether they may have a DPI or a non-DPI as there were many different issues to consider within each unique set of circumstances. However it remained safer to err on the side of caution and to declare and withdraw if any doubt remained.

Having debated the matter in some considerable detail, Members agreed that from the seven issues which formed part of the consultation, four of those should be put forward for ratification and adoption by Council.

RECOMMENDED: That Full Council resolve that the following recommendations be adopted and the Head of Democratic, Legal and Policy Services in consultation with the District Solicitor be authorised to make all necessary and consequential changes to the Constitution:

- (a) To make it compulsory under the Code for Members to declare and withdraw from decision making, in circumstances where other “non-DPI” interests exist (so as to make the requirement the same as for where “DPI” i.e. Disclosable Pecuniary Interests exist);
- (b) To present regular quarterly reports to the Standards Committee in order to provide overview information on case numbers and types so as to highlight any emerging trends;
- (c) 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;
- (d) Whilst noting that there was 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, to nonetheless expect and encourage Members to sign a declaration that they agree to do so and to publish a list of Members who had voluntarily agreed to do so.

13 INFORMATION SHEETS

The following information Sheets were submitted for information.

2/ 2015 Comments/Complaints/Compliments – Quarter 1

3/ 2015 Dispensations Guidance for Town and Parish Councils

Chairman

The following officers were in attendance at the meeting:

- Julie Openshaw - District Solicitor
- Iram Malik - Democratic Services

Agenda Item 4

DISPENSATIONS IN RELATION TO MEMBERS' ALLOWANCES

Officer contact: Julie Openshaw District Solicitor and Monitoring Officer
Tel: 01494 421252 email: julie.openshaw@wycombe.gov.uk

Wards affected: All

PROPOSED DECISION OR RECOMMENDATION TO COUNCIL

To delegate authority to the Monitoring Officer under Section 33 of the Localism Act 2011, to grant dispensations until 2 May 2019 to Members in relation to decisions concerning Members' Allowances.

Reason for Decision

As set out in the Executive Summary.

Corporate Implications

1. Under Section 33 of the Localism Act 2011 dispensations may be granted by the Council, the Standards Committee or the Monitoring Officer.

Executive Summary

2. The current law does not provide automatic dispensations to members when considering Members' Allowances. Members' Allowances are non-DPIs, not DPIs. However, owing to the strengthening of the Members' Code of Conduct for WDC, without a dispensation in future Members would be unable to consider Members' Allowances. This report therefore puts measures in place to address this.

Sustainable Community Strategy/Council Priorities - Implications

3. To ensure the Council can determine matters relating to Members' allowances.

Background and Issues

4. The Standards Committee has considered dispensations in other circumstances on two recent occasions. On 13 October 2015 Standards Committee granted delegated authority to the Monitoring Officer to grant dispensations in future on occasions where circumstances arise that so many Members would have DPIs that it would impede the transaction of business or where without a dispensation every Member of Cabinet would have a DPI prohibition from participating. Earlier, in June 2015, delegated authority was granted to the Monitoring Officer to grant dispensations in relation to setting the Council Tax.
5. Full Council on 14 December 2015 considered revisions to the Code of Conduct including a strengthening and clarification to oblige members to refrain from taking part in meetings where they have non-DPIs as well as DPIs. It is therefore necessary to consider dispensations when members of the Council come to consider Members' Allowances, which are non- DPIs.
6. Prior to 2012, when the current Standards regime was introduced, the national Model Code of Conduct included a general dispensation when Members' Allowances were considered, allowing all members, who might otherwise have been considered to have what was then known as a personal and/or prejudicial interest, to participate and vote on their own allowances without offending against the standards regime. Essentially, this was because legislation provides that members ultimately decide upon their own allowances, and because no other person or body could make that decision instead, elected members had to be able to do so without penalty under the Code of Conduct then in force.
7. Since legislative changes around standards which came into force in 2012, the single Model Code has been superseded by several different versions of local code for member conduct, and, like others, the one selected by WDC does not include an automatic dispensation.
8. The review of the Code of Conduct in October recommended that Members should declare and leave a meeting if they have non-DPIs in a matter, as well as where they have a DPI. Members' Allowances are non-DPIs. Accordingly, dispensations will in future be required to allow members to deal with their allowances. This did not apply at the December 2015 Council meeting, because the Code changes had not at that time come into force.

Options

9. It is not obligatory to grant dispensations, nor to delegate power to do so. However, in order to allow members to consider and decide upon Members' Allowances, explicit dispensations are now necessary. Thus, in this case, there is no real option but to make arrangements for such dispensations to be put in place.

Next Steps

10. Dispensations will be considered and put in place next time Members' Allowances need to be considered.

Background Papers

The Localism Act 2011 and associated guidance.

Agenda Item 5

QUARTERLY UPDATE ON STANDARDS COMPLAINTS

Officer contact: Julie Openshaw District Solicitor and Monitoring Officer 01494 421252 julie.openshaw@wycombe.gov.uk

Wards affected: All

PROPOSED DECISION

To note the report.

Reason for Decision

To provide the Committee with an overview of complaints about Member conduct since October 2015.

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 quarterly.

Executive Summary

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

Sustainable Community Strategy/Council Priorities – Implications

None.

Background and Issues

4. Standards Committee is presented with quarterly updates on member conduct complaints.
5. Since the last committee in October 2015 two new complaints have been submitted. Both relate to members of Parish Councils. One complaint is currently at Stage 1 and the other is proceeding to Stage 2. By way of reminder, Stage 1 is the point at which the complaint is sent to the subject member for response, and Stage 2 is the point at which the subject member has responded but the complainant has indicated that they are not satisfied with the response and wish the Monitoring Officer in consultation with an Independent Person to consider whether the matter should be referred for investigation. Both complaints will

continue to proceed through the protocol and an update as to progress will be supplied to the next meeting of Standards Committee.

Options

None; this report is for noting only.

Conclusions

6. The small number of current complaints, following there having been none for the June quarter, suggests that ethical standards continue to be taken seriously by District, Town and Parish Councillors.

Next Steps

7. Further updates will continue to be provided quarterly.

Background Papers

None.

Agenda Item 6

REVIEW OF STANDARDS COMMITTEE TERMS OF REFERENCE

Officer contact: Jemma Durkan (Senior Democratic Services Officer DDI: 01491 421635 EXT: 3635

Wards affected: ALL

As part of the wider review of the Council's Constitution, each Committee is being invited to review its terms of reference.

The Committee's terms of reference are enclosed and Members are invited to review and agree the contents.

This will feed back into the wider review, which will be reported in its entirety for consideration to the Regulatory and Appeals Committee early in the New Year.

Standards Committee

Subject	Reserved to Council	Reserved to Committee
Standards of Conduct	Major changes to Codes of Conduct and Procedures affecting District Council Members and Officers.	<ol style="list-style-type: none"> 1. To promote and maintain high standards of conduct by the Members and co-opted Members of Wycombe District Council. 2. To assist Members and co-opted Members of the District Council to observe the Council's Code of Conduct. 3. To advise the District Council on the adoption or revision of a Code of Conduct. 4. To monitor the operation of the District Council's Code of Conduct, having regard to any national or local guidance. 5. To consider and grant dispensations in respect of Member interests as provided in the Localism Act 2011.
Training		<ol style="list-style-type: none"> 6. To advise, train or arrange the training of Members and Co-opted Members of the District Council on matters relating to the authority's Code of Conduct
Investigation of complaints		<ol style="list-style-type: none"> 7. To consider any matters referred to it by the Monitoring Officer (delegated to ad hoc Hearings Panel).
Parishes		<ol style="list-style-type: none"> 8. To discharge the functions in 1 to 4 above in relation to Parish Councils within the area of the Wycombe District.
Officers		<ol style="list-style-type: none"> 9. To advise the Council on the adoption or revision of Codes of Conduct.

- Note:**
1. The Committee may call upon any Member or Officer to assist with its work.
 2. Membership to be made up as follows:- 8 Councillors in accordance with political balance, and including one Member of the Cabinet.
 3. Standing Deputies are permitted for this Committee, in accordance with Standing Orders (reference SO 22.2) and subject to appropriate training having been completed.
 4. The Council may appoint up to 2 Independent Persons whose views must be sought before a decision is made on any matter that it has been decided to investigate. Independent Persons are not Members of the Committee and have no voting rights.
 5. Parish Councils may nominate a maximum of 3 Parish Councillors to be co-opted as non-voting Members of the Committee.