

┌ To: All Members of the Standards Committee: John Hicks (Chair); Cllrs Beard, Livingston, Rynn, Skeats and Watson; Tina Barnes and Rev Canon Brian Shenton. c.c. Standing Substitutes - Cllrs Rye, Tickner and Warman. ┐

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7 October 2011

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NOTICE OF MEETING - STANDARDS COMMITTEE - 17 OCTOBER 2011

A meeting of the Standards Committee will be held on **Monday 17 October 2011 at 6.00pm** in Committee Room 1, Civic Offices, Reading. The Agenda for the meeting is set out below.

AGENDA

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CIVIC CENTRE EMERGENCY EVACUATION: Please familiarise yourself with the emergency evacuation procedures, which are displayed inside the Council's meeting rooms. If an alarm sounds, leave by the nearest fire exit quickly and calmly and assemble at the Hexagon sign, at the start of Queen's Walk. You will be advised when it is safe to re-enter the building.

STANDARDS COMMITTEE MINUTES - 21 JULY 2011

Present: Mr J Hicks (Chair);
Mrs T Barnes;
Councillors Beard, Livingston, Rynn, Warman (in place of Councillor Skeats) and Watson;
Apologies: Councillor Skeats and Reverend Canon Brian Shenton.

RESOLVED ITEMS

1. MINUTES

The Minutes of the meeting held on 13 July 2010 were confirmed as a correct record and signed by the Chair.

2. TERMS OF REFERENCE AND ANNUAL REPORT

The Monitoring Officer submitted a report setting out the Committee's terms of reference and constitutional role for the Municipal Year 2011/2012, updating the Committee on developments and complaints during the Municipal Year 2010/2011 and looking forward to the current Municipal Year.

Arrangements for the local assessment of complaints had become operable from 8 May 2008, and the Committee had agreed a new local assessment procedure and Complaints Procedure for the Council at its meeting on 15 July 2008. The Committee had agreed a publicity protocol to support these procedures on 14 July 2009 and adopted an updated Local investigation Procedure on 13 July 2010. Over the past year, the Local Determination Procedure document had been re-drafted to align it with the Local Determination Procedures.

The report drew attention to the following relevant parts of the Council's constitution and other relevant documents, which were attached:

- Appendix A - Article 9 - The Standards Committee (terms of reference)
- Appendix B - Part 5 - Code of Conduct for Members
- Appendix C - Complaints about Councillors Procedure
- Appendix D - Local Determination Procedure (Revised)
- Appendix E - Schedule of Complaints
- Appendix F - Social Media Protocol
- Appendix G - Maintaining High Ethical Standards in Government - Briefing Paper
- Appendix H - List of Gifts/Hospitality Registered by Councillors 2010/2011

The terms of reference and constitutional and operational arrangements for the Committee were set out in Appendix A to the report. The report gave details of the role of the Committee in investigating and determining complaints, and set out the relevant parts of the Council's Constitution for the Committee's procedures for considering cases referred to it by the Standards Committee or Standards Board for local determination. The report stated that, when considering a complaint, the test that must be applied was whether there had been a breach of the Members' Code of Conduct a copy of which was appended at Appendix B.

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The Committee's local determination procedure, which had been originally agreed at the Committee's meeting on 1 February 2005, had been revised to reflect the introduction of local assessment procedure. The revised version of the procedure was attached at Appendix D to the report for formal adoption. In addition, a promotional leaflet and application form to assist complainants to access the process was attached at Appendix C to the report.

With regard to the Committee's membership, the report stated that for the past year the Committee's independent members had been John Hicks and Reverend Brian Shenton, who had been appointed in 2007, and Tina Barnes, who had been appointed in December 2008. The report noted that there was no limit to the number of independent members who could be on the Standards Committee, with a minimum of one quarter. The report also set out constraints that applied to independent members.

The report gave details of the revised Reading Code of Conduct for Members, which had been adopted by full Council on 16 October 2007 (Minute 33 refers) following the issue of the Local Authorities (Model Code of Conduct) Order 2007 on 4 April 2007. With regard to interests, the report stated that, under the Code of Conduct, there were two interests that Members were required to declare at meetings: personal and prejudicial interests. The report noted that the requirement for a member with both a personal and prejudicial interests to declare both and leave the meeting room at which the matter was being discussed had been modified in the new Code to allow the Member to make representations, answer questions and give evidence before leaving.

During the Municipal Year 2010/11, the Monitoring Officer had received 23 formal written complaints about Councillors, of which 13 had come from members of the public and ten from Councillors. In each case the report had been referred to the Assessment Sub-Committee for initial consideration, and the outcomes of each of these were set out in the report: the Sub-Committee had found a breach of the Member Code of Conduct in five of the complaints. The Sub-Committee had decided to take no further action in 15 of the complaints and on one occasion the complainant had asked for a review of the decision. The Assessment Review Sub-Committee had therefore met and had also concluded that there was no breach of the Code of Conduct and no further action was warranted. Additionally, the Consideration of Hearing Sub-Committee had met to consider the investigation of a complaint made in the 2009/10 Municipal Year, which convened a Hearing Sub-Committee to deal with the complaint on 13 December 2010.

The Monitoring Officer reported that a high proportion of the complaints had been about actions of councillors' use of social media. The Chair of the Committee had commented that he had been deeply concerned about the number of complaints that had been received this year and the nature of the actions that had been the subject of the complaints, both of which could portray the Council in a bad light. During the year, at the request of the Sub-Committees, the Monitoring Officer had written to Group Leaders and Councillor White regarding the importance of declaring interests; the definition of "close associate"; "dual-hatted" membership of bodies; and most significantly the importance of behaving appropriately at Council meetings. In relation to the concerns about Councillors' use of social media, the Monitoring Officer, in conjunction with the Group Leaders, developed a

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social media protocol for the authority, which was attached at Appendix F to the report.

The report drew attention to the Government's proposal, contained within the Localism Bill, to abolish the Standards Board regime. The Bill would remove the statutory requirement for local authorities to have a Standards Committee, revoke the Model Code of Conduct, and abolish Standards for England and the current statutory facility for disqualification through the First-Tier Tribunal. Local authorities would be able to continue to appoint Standards Committees, and have their own voluntary Members' Code, but these would not have any statutory status. Therefore, the Standards Committee of the future would only be able to censure Members, but would not be able to suspend. A briefing paper, *Maintaining High Ethical Standards in Local Government*, issued by the Local Government Group and the Association of Council Secretaries and Solicitors, which summarised the legislative changes affecting standards in the Localism Bill, and exploring future options for taking forward a non-statutory standards regime in local government, was attached to the report at Appendix G.

The report also set out details of operational issues relevant to the Committee. The report also gave details of training events that members of the Committee and their deputies had attended.

The Register of Gifts and Hospitality offered to Councillors in the financial year 2010/11 was attached to the report at Appendix H.

Resolved -

- (1) That the Committee's terms of reference and constitutional role be noted;
- (2) That the revised Local Determination Procedure, as set out in Appendix D to the report, be adopted;
- (3) That the new Social Media Protocol, as set out in Appendix F, be endorsed;
- (4) That the Government's proposals to abolish the statutory Standards Board regime and the implications of this for maintaining high ethical standards in local government, as explored in the LGG/ ACSeS briefing note, attached to the report at Appendix G, be noted, and Council be recommended that:
 - (a) a local standards committee be established to replace the statutory body on its abolition, comprising both elected councillors and independent members;
 - (b) a local code of conduct for elected councillors be retained;
 - (c) a local standards procedure be developed involving political Group disciplinary processes and subsequent referral to a standards committee where the complainant remained

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dissatisfied with the outcome, which could be in public where the Standards Committee felt this was appropriate;

- (5) That the list of gifts and hospitality registered by Members in the financial year 2010/11, as set out in Appendix H to the report, be received;
- (6) That the Vice-Chair present a report to the next full Council meeting on 18 October 2011 on behalf of the Chair, and use that meeting to present to all Councillors matters of concern to the Committee, and the recommendations set out in (4) above;
- (7) That the Chair meet separately with the Chief Executive and individual Group Leaders to highlight issues that had been considered by the Standards Committee and to encourage the ongoing generally good observance of the Members' Code of Conduct by Reading's Councillors.

(The meeting commenced at 6.30pm and closed at 7.25pm).

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READING BOROUGH COUNCIL
REPORT BY MONITORING OFFICER

TO:	STANDARDS COMMITTEE		
DATE:	17 OCTOBER 2011	AGENDA ITEM:	2
TITLE:	APPLICATIONS FOR DISPENSATION		
SERVICE:	LEGAL AND DEMOCRATIC SERVICES	WARDS:	BOROUGH-WIDE
LEAD OFFICER:	MICHAEL POPHAM	TEL:	0118 937 2153
JOB TITLE:	DEMOCRATIC SERVICES MANAGER	E-MAIL:	michael.popham@reading.gov.uk

1. PURPOSE AND SUMMARY OF REPORT

- 1.1 The Head of Legal and Democratic Services has received individual applications from members of the Cabinet requesting that they are each granted a dispensation to enable them to consider and vote on the Berkshire-wide Credit Union - Community Savings & Loans (CSL) Ltd - Proposed Investment.
- 1.2 The applications for dispensations have been submitted because of the requirement, in the Members' Code of Conduct ("the Code"), for Councillors to declare a personal and prejudicial interest in any matter where the decision could affect their financial position or the financial position of a person described in paragraph 8(2) of the Code.
- 1.3 In the absence of a dispensation, the Councillors who are seeking to take the decision will need to consider whether they have a personal interest in this item, which they will need to declare at the relevant Cabinet meeting. They will then have to decide whether their personal interest amounts to a "prejudicial interest" under the Code. A councillor without a personal interest in a matter of business cannot have a prejudicial interest.
- 1.4 The Code states that a councillor has a personal interest in business of the authority where it relates to, or is likely to affect, any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority (Paragraph 8(1)(i)). This also applies if a member of your family or any person with whom you have a close association is a member of the body (see Paragraphs 8(1)(b) and 2(a)).
- 1.5 When considering whether or not to declare a personal and prejudicial interest in an item a councillor should be mindful of the contents of Paragraph 10(1), which states "...where you have a personal interest in any item of business of your authority you also have a prejudicial interest where the interest is one which a member of the

public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of public interest.”

- 1.6 The advice is that members of the Credit Union would have a financial interest in the outcome of a report before Cabinet, which asks the Cabinet to consider the principle of investing in the Credit Union. As the decision would be likely to affect the financial position of Credit Union members it would establish a prejudicial interest amongst Councillors who had directly invested in the Union or whose relatives or close associates had done so.
- 1.7 The consequence of this would be they would have to leave the meeting whilst the item was being considered. Cabinet has a membership of 9 and a quorum of four, and so their departure could mean that the meeting would not have sufficient members for a quorum and therefore it would not be possible to transact this item of business.

2. RECOMMENDED ACTION

- 2.1 That the Committee consider the applications for dispensations from each of the five Councillors to enable them to attend the Cabinet and to consider and vote on an item about the Berkshire-wide Credit Union.

3. POLICY CONTEXT

- 3.1 The Council adopted the national Code of Conduct on 23 April 2002.

4. CURRENT POSITION

- 4.1 At Cabinet on 26 September 2011 (Minute 54 refers), the agenda item on Berkshire-Wide Credit Union - Community Savings & Loans (CSL) Ltd - Proposed Investment was deferred because as members of the Berkshire-wide Credit Union, some Lead Councillors would need to declare a personal and prejudicial interest in the item. Without a dispensation from the Standards Committee, those Councillors with a prejudicial interest would have to leave the meeting and potentially reduce the number of members able to participate in the item to below the required quorum for the meeting.
- 4.2 Five Members of the Cabinet have submitted letters requesting a dispensation in respect of Berkshire-Wide Credit Union - Community Savings & Loans (CSL) Ltd - Proposed Investment item. These have been received from Councillors Eden, Ennis, Lovelock, Page, and Tickner. The model letter is appended to the report at **Appendix A**.
- 4.3 At the time of writing this report, the Standards Committee therefore has five requests for dispensation to consider in respect of the Berkshire-Wide Credit Union - Community Savings & Loans (CSL) Ltd item.

5. LEGAL IMPLICATIONS

5.1 Code of Conduct

5.1.1 The Code of Conduct states that Members must regard themselves as having a personal interest in any matter affecting, to a greater extent than other Council Tax payers or inhabitants of the authority's area, the well-being or financial position on themselves, a relative or person with whom they have a "close association". The Code defines both "relative" and "partner", but does not define the term "friend" or "close associate".

5.1.2 Where Members have a personal interest, the Code then requires them to consider whether or not they have a prejudicial interest in the matter in question. The definition here is that a prejudicial interest will exist where "a member of the public with knowledge of the relevant facts would reasonably regard [it] as so significant that it is likely to prejudice the Member's judgement of the public interest"

5.1.3 The quorum for Cabinet is four Lead Councillors, one of whom must be the Leader or Deputy Leader - however where neither the Leader nor the Deputy Leader is able to act as Leader (Cabinet Procedure Rule 2.1), the Cabinet can elect another Lead Councillor to chair the meeting.

5.2 Dispensations

5.2.1 Where a Member has a prejudicial interest, the Code (Paragraph. 12) requires him/her to withdraw from the room where the meeting is being held, unless s/he has obtained a dispensation from the authority's Standards Committee.

5.2.2 The Committee can grant dispensations under the provisions of the Relevant Authorities (Standards Committee)(Dispensation) Regulations 2002.

5.3 Definition of "Friend" and "Close Association"

5.3.1 The Standards Board has issued guidance on how to interpret the term "friend". It states that mutual membership of an organisation, including a political group on an authority, is unlikely by itself to establish the existence of a friendship between two people, and it goes on to suggest other factors which should be taken into consideration to demonstrate a closer relationship.

5.3.2 The Standards Committee's local definition of the term "friend", which appeared (undefined) in the pre-2008 version of the Code was made on 24 March 2004, in relation to Councillors attending Planning Applications Committee to consider a planning application from a fellow Councillor:

- (a) The fact that Councillors knew each other and frequently attended the same functions in their position as Councillors, did not in itself constitute a friendship insofar as the need to declare an interest under the Code of Conduct was concerned;

(b) To establish whether their relationship went beyond that in (a) above, Councillors should consider issues such as:

- ❑ Whether they knew each other's families
- ❑ Whether they visited one another's homes on a regular basis
- ❑ Whether they were close, or there were any other particular connections;

and if having done this, they were in any doubt about whether their relationship could be considered a "friendship", then they should declare a personal and prejudicial interest, and take no part in the particular process under consideration.

5.3.3 Similarly, there is no formal definition of "close associate" in the Code; however the Standards Board for England has offered advice, which is set out below:

- Person with whom you have regular or irregular contact over a period of time - who is more than an acquaintance;
- Someone a reasonable member of the public might think you would be prepared to favour or disadvantage when discussing a matter affecting them;
- Friend, colleague, business associate or someone you know from general social contact.

6. CONTRIBUTION TO STRATEGIC AIMS

6.1 To support the participation of Reading people in local democracy.

7. COMMUNITY ENGAGEMENT AND INFORMATION

7.1 None

8. FINANCIAL IMPLICATIONS

8.1 None direct, except in terms of the time spent in considering individual applications for dispensations.

9. BACKGROUND PAPERS

9.1 Councillors' requests for dispensations from the Standards Committee

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4 October 2011

To all Members of Cabinet

Your contact is: Chris Brooks, Head of Democratic and Legal Services

Dear

APPLICATION FOR DISPENSATION

I am a Member of the Cabinet which will shortly be considering a report on the Berkshire-wide Credit Union Community Savings & Loans (CSL) Ltd in respect of which I shall have to declare a prejudicial interest and leave the meeting because *I am a member of the Credit Union/ or I have a relative/ or close associate who is a member of the Credit Union (delete as necessary) within the meaning of the Council's approved Code of Conduct.*

It is likely that a significant number of other Members of the Cabinet will also have to declare a prejudicial interest and leave the meeting, which could mean the meeting would be without the required number present to meet the quorum requirements and the matter would not be able to be determined.

In the circumstances, I wish to apply for a dispensation in accordance with the Relevant Authorities (Standard Committee) (Dispensations) Regulations 2002 to enable me to attend and consider and vote on occasions when this matter comes before the Cabinet.

Yours sincerely