

READING BOROUGH COUNCIL  
REPORT BY MONITORING OFFICER

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|---------------|-------------------------------------|--------------|--|
| TO:           | COUNCIL                             |              |  |
| DATE:         | 16 OCTOBER 2018                     | AGENDA ITEM: | 10   |
| TITLE:        | STANDARDS COMMITTEE                 |              |  |
| LEAD MEMBER:  | TINA BARNES                         | PORTFOLIO:   | CHAIR OF STANDARDS COMMITTEE   |
| SERVICE:      | LEGAL & DEMOCRATIC                  | WARDS:       | BOROUGH-WIDE   |
| LEAD OFFICER: | CHRIS BROOKS                        | TEL:         | 0118 9372602 / 72602   |
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1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 The Council's annual meeting, on 23 May 2018, appointed a Standards Committee for the Municipal Year 2018/19. The Committee met on 28 June 2018 to consider a number of matters, including the following:
- a) the powers and duties of the local Standards Committee, set up by the Annual Council Meeting for the Municipal Year 2018/19;
  - b) the Standing Orders and local arrangements for the Committee and principles for dealing with complaints about Councillors; and
  - c) the local Member Code of Conduct for the authority, as agreed by full Council on 23 October 2012, which incorporated into the Council's Standing Orders provisions for the exclusion of Members from meetings for items of business in which they have a disclosable pecuniary interest.
- 1.2 The Minutes of the Standards Committee on 28 June 2018 are attached at **Appendix A**, for the Council to receive. These summarise the issues that were considered and decided by the Committee.
- 1.3 At the Council AGM on 23 May 2018, it was agreed to reconfirm the Monitoring Officer's delegated authority, under Section 33 of the Localism Act 2011, to grant a dispensation from the restrictions in Section 31(4) of the Act, which would allow members of the authority with a disclosable pecuniary interest to take part and vote on decisions in certain prescribed circumstances as described below:

- (i) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;
- (ii) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
- (iii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
- (iv) an allowance, payment or indemnity given to members;
- (v) any ceremonial honour given to members; and
- (vi) setting Council Tax or a precept under the Local Government Finance Act 1992;
- (vii) any other business which might reasonably be regarded as affecting the financial position of the Member and/or his/her spouse or partner to a greater extent than the majority of other Council Tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision.

1.4 In the interests of completeness, the above delegation to the Monitoring Officer shall be included in the section on 'Dispensations' in the Member Code of Conduct.

## **2. RECOMMENDED ACTION**

2.1 That the Minutes of the Standards Committee held on 28 June 2018 (Appendix A) be received.

2.2 That, in the interests of completeness, the Monitoring Officer's delegated authority, under Section 33 of the Localism Act 2011, to grant a dispensation from the restrictions in Section 31(4) of the Act, which would allow members of the authority with a disclosable pecuniary interest to take part and vote on decisions in certain prescribed circumstances as set out in paragraph 1.3 of the report be included in the Members' Code of Conduct at paragraph 7.7.4.

## **3. POLICY CONTEXT**

3.1 The Localism Act was passed in November 2011. Chapter 7 deals with promoting high standards of conduct by members and co-opted members of local authorities. The Government introduced a Commencement Order in mid-January 2012, to have effect from 31 January 2012. A further Commencement Order brought into force the remaining parts of Chapter 7 of the Localism Act 2011 from 1 July 2012. This meant that the local elements of the former statutory regime, including statutory standards committees with the power to suspend Councillors, ended on 30 June 2012, and from 1 July 2012, all standards matters have been the responsibility of the local authority, to be handled under the new arrangements.

3.2 In addition, the Secretary of State issued The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 on 6 June 2012 and these also came into effect on 1 July 2012.

3.3 The Standards Committee, on 12 July 2012, agreed a 'Complaints about Councillors' document, which has been published on the Council's website. The procedure for investigating allegations of breaches of the local Member Code is set out in the Committee's terms of reference, and in Article 9 of the Council's Constitution.

#### **4. CONTRIBUTION TO STRATEGIC AIMS**

4.1 One of the Council's aims is to promote the participation of Reading people in local democracy through effective consultation and communication. This is only likely to be successful if people have confidence in the integrity of members. The local Standards Committee will assist in building and maintaining that confidence.

#### **5. LEGAL IMPLICATIONS**

5.1 The standards regime applies to voting Members of Council and its Committees, including both Councillors and non-elected Members.

5.2 Chapter 7 of the Localism Act 2011 (Sections 26 to 37) has ended the statutory requirement for local authorities to have a Standards Committee, revoked the Model Code of Conduct, and abolished Standards for England and the statutory facility for disqualification through the First-Tier Tribunal. It has replaced these by a duty on local authorities to promote and maintain high standards of conduct by Members, and a requirement to adopt a local code of conduct, and arrangements for investigating allegations that Members had not complied with the local code. Local authorities are able to continue to appoint Standards Committees, but these will not have any statutory status, and there will be no statutory basis for sanctions in cases of breach. The exception to this is where a Member intentionally fails to declare a disclosable pecuniary interest, in which case the Member may be found guilty of a criminal offence, and may be fined, and disqualified by the court from serving as a Member for up to five years.

5.3 Chapter 7 has been enacted by Commencement Order (Regulation). The relevant Order ending the national standards regime came into effect on 31 January 2012. The Localism Act 2011 (Commencement No. 6 and Transitional, Savings and Transitory Provisions) Order 2012, which changed the local regime, was issued on 6 June 2012 and came into effect from 1 July 2012.

5.4 The Secretary of State issued the Relevant Authorities (Disclosable Pecuniary Interests) Regulations, dealing with the definition, registration and declaration of pecuniary interests, also on 6 June 2012.

5.5 Under Section 28(13-14) of the Localism Act 2011, the function of adopting, revising or replacing a local code of conduct may only be discharged by full

Council, and it may not be delegated to the Standards Committee or any other body or person.

- 5.6 The local Standards Committee has been set up, by full Council, as a committee under Section 101(a) of the Local Government Act 1972.

## **6. FINANCIAL IMPLICATIONS**

- 6.1 Subject of course to the number of allegations made against Members of the authority, the process of local investigation and determination under the former statutory procedure generated additional work for the Monitoring Officer and any other officers who undertook a formal investigation. In addition, the Standards Committee was required to set up sub-committee meetings to assess all complaints received, and to hear the individual allegations, which had associated costs of administrative support.
- 6.2 Under the non-statutory local arrangements, the authority has moved back to a more informal, local system, where the first stage focus is on complaints about individual Councillors being pursued within political groups, and any subsequent investigations taking place within a process which is appropriate to the individual complaint, not governed by restrictive external processes, and less resource intensive.
- 6.3 There is no specific budget line in the Council's estimates for standards, or the costs of investigating complaints about Councillors.

## **7. BACKGROUND PAPERS**

- 7.1 Localism Act 2011 (Commencement No. 6 and Transitional, Savings and Transitory Provisions) Order 2012 (SI 2012 - 1463)
- 7.2 The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 (SI 2012 - 1464)

## STANDARDS COMMITTEE MINUTES - 28 JUNE 2018

**Present:** Mrs T Barnes (Chair);  
Councillors Ayub and Warman;

**Apologies:** Councillors Brock, D Edwards, Gavin, Khan and Vickers;  
Mr D Comben (Independent Person).

### 1. MINUTES

The Minutes of the meeting held on 29 June 2017 were confirmed as a correct record and signed by the Chair.

Further to Minute 3(2) of the meeting held on 29 June 2017, the Committee noted that its meeting, which had been due to be held on Monday 24 July 2017, had not taken place.

### 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 2018/2019, updating the Committee on developments and complaints during the Municipal Year 2017/2018 and looking forward to the current Municipal Year.

The report advised that Chapter 7 of the Localism Act 2011 had ended the statutory standards regime set up by the Local Government Act 2000, and introduced in its place a duty on local authorities to promote and maintain high standards of conduct by Councillors and Co-opted Members, including adopting a local Member code of conduct. The Act also required local authorities to adopt arrangements to deal with allegations that Members had not complied with their local Code of Conduct, and allowed local authorities to establish a local Standards Committee, and to make Standing Orders relating to aspects of the standards process (Section 31(10)). In the light of recommendations made by the Standards Committee on 19 March 2012, the Annual Council Meeting on 23 May 2012 had agreed to establish a local Standards Committee, which had been re-appointed at the subsequent Council AGMs, most recently on 23 May 2018, with the terms of reference and Standing Orders set out in **Appendix A**. The Committee was asked to note that, under the local procedure for dealing with complaints about councillors, set out in section 9.6 of Appendix A, where a complaint was received about a councillor who was not part of a group, the complaint about that councillor would be shared directly with them at Stage 1 of the three-stage process, in the absence of a Group Leader.

The report had the local Member Code of Conduct attached at **Appendix B**, which was based on a good practice draft produced by the Association of Council Secretaries and Solicitors (ACScS). The Code retained those elements of the former statutory Model Code which had not been the subject of significant legal challenge. It also set out the statutory requirement for Members to register and declare disclosable pecuniary interests, as informed by the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012.

## STANDARDS COMMITTEE MINUTES - 28 JUNE 2018

The Standing Orders and Rules of Procedure for the Standards Committee, together with this Committee, would form the authority's local arrangements for investigating complaints about Councillors. The local procedure was set out in the "Complaints about Councillors" document, attached at **Appendix C** to the report and had been published on the Council's website.

Local authorities were required to appoint at least one Independent Person with statutory responsibilities to be consulted and to advise on complaints made about Members. The 2011 Act also prescribed the recruitment process for the Independent Person. Mr David Comben had originally been appointed by the Council as the Independent Person, following the prescribed recruitment exercise in April 2013. He had most recently been re-appointed to this role at the Council meeting on 23 May 2018.

The report also reminded the Committee about the law with regard to the registration and declaration of interests by Members. There was a legal requirement on Members to register and declare interests. The report noted that the Monitoring Officer was the Proper Officer for the receipt of requests from Members for a dispensation to take part in decisions on items of business in which they had a disclosable pecuniary interest, in specified circumstances, under Section 33 of the Localism Act 2011. Under Section 33(2) of the Localism Act 2011, a dispensation may only be granted where the authority considered, having had regard to all relevant circumstances, that:

- (a) without the dispensation the number of persons prohibited from taking part in the item of business would be so great a proportion of the meeting to impede the transaction of the business;
- (b) without the dispensation the representation of different political groups at the meeting would be so upset as to alter the likely outcome of any vote relating to the item of business;
- (c) granting the dispensation was in the interests of persons living in the authority's area;
- (d) each member of the authority's executive would be prohibited from participating in any particular business to be transacted by the authority's executive.

The authority to grant a dispensation to a Member with a disclosable pecuniary interest could also be delegated to an officer in accordance with the prescribed circumstances. However, the local arrangements set out in Section 7.7 of the Members' Code of Conduct required, in the first instance, Members seeking a dispensation to make a written request to the Monitoring Officer. The Monitoring Officer would then put the request before the Standards Committee, to which the Council had delegated the authority to determine requests for dispensations. Additionally, at the Annual Council Meeting on 23 May 2018, the delegation to the Monitoring Officer to grant a general dispensation to members of the authority was re-established in the following circumstances:

## STANDARDS COMMITTEE MINUTES - 28 JUNE 2018

- “(1) That a general dispensation be granted to all Members of the authority to take part and vote on decisions related to the functions of your authority in respect of:
- (i) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;
  - (ii) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
  - (iii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
  - (iv) an allowance, payment or indemnity given to members;
  - (v) any ceremonial honour given to members; and
  - (vi) setting Council Tax or a precept under the Local Government Finance Act 1992;
  - (vii) any other business that might reasonably be regarded as affecting the financial position of the Member and/or his/her spouse or partner to a greater extent than the majority of other Council Tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision.
- (2) That the general dispensation apply for four years, subject to its being renewed each year at the Annual Council Meeting.”

The Register of Gifts and Hospitality offered to Councillors in the financial year 2017/18 was attached to the report at **Appendix D**.

The Committee also noted that, at the Annual Council Meeting, on 23 May 2018, Mrs Tina Barnes, the co-opted Independent Member, had been re-appointed as Chair of the Committee for the Municipal Year 2018/19.

The Chair noted that, whilst appreciating that the meeting was quorate, the majority of the Committee’s members had on this occasion sent their apologies for absence. She was aware that those members had given understandable reasons for their absence, and therefore anticipated that in future members would recognise making attendance at this important meeting a priority.

**Resolved -**

- (1) That the Committee’s terms of reference and Standing Orders and Rules of Procedure (Appendix A) be noted;

## STANDARDS COMMITTEE MINUTES - 28 JUNE 2018

- (2) That the local Member Code of Conduct (Appendix B) be noted;
- (3) That the Complaints about Councillors document (Appendix C) be noted;
- (4) That the re-appointment of Mrs Tina Barnes as the independent member and Chair of the Standards Committee and Mr David Comben re-appointment as the Independent Person for 2018/19 be noted;
- (5) That the Monitoring Officer's delegated authority to grant a general dispensation relieving Members from the restrictions on participating in the discussion or voting on any item of business in which they had a disclosable pecuniary interest in the prescribed circumstances described in paragraph 6.21(1) of the report be noted;
- (6) That the list of gifts and hospitality registered by Members in the financial year 2017/18 be received (Appendix D);
- (7) That, in the event it was deemed necessary, the Vice-Chair be asked to present the Minutes of this meeting to the Council on 16 October 2018, in order to use that meeting to express to all Councillors any matters of concern identified by the Committee.

(The meeting commenced at 6.32pm and closed at 6.45pm).

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