

READING BOROUGH COUNCIL  
REPORT BY MONITORING OFFICER

TO:	COUNCIL		
DATE:	4 NOVEMBER 2019		
TITLE:	STANDARDS COMMITTEE		
LEAD MEMBER:	TINA BARNES	PORTFOLIO:	CHAIR OF STANDARDS COMMITTEE
SERVICE:	LEGAL & DEMOCRATIC	WARDS:	BOROUGH-WIDE
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1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

1.1 The Council's annual meeting, on 22 May 2019, appointed a Standards Committee for the Municipal Year 2019/20. The Committee met on 27 June 2019 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 2019/20;
- b) the Standing Orders and local arrangements for the Committee and principles for dealing with complaints about Councillors;
- c) the local Member Code of Conduct for the authority, which incorporates 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; and
- d) the recommendations of the Committee on Standards in Public Life published on Local Government ethical standards.

1.2 The Minutes of the Standards Committee on 27 June 2019 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 22 May 2019, 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 is 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 27 June 2019 (Appendix A) be received.

## **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 has 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.

### **Committee on Standards in Public Life**

3.4 The Committee on Standards in Public Life published a report in January 2019 on Local Government ethical standards, which made a number of recommendations having taken evidence from local authorities, councillors, officers and representative groups.

3.5 The report sets out where the Committee considered there should be changes in the law. The key recommended changes in the law include:

- Councillors to be presumed to be acting in an official capacity in their public conduct, including in statements on publicly-accessible social media;
- Disclosable pecuniary interests to include a number of unpaid roles coupled with repeal of criminal sanctions;
- A public interest test for participating in a discussion or voting if councillors have an interest in an issue;
- Increased powers and protections for Independent Persons;
- Local authorities to have the power to suspend councillors without allowances for up to six months;
- Councillors to have the right to appeal to the Local Government Ombudsman in the event of suspension;
- Disciplinary protections for statutory officers to be extended to all disciplinary action, not just dismissal.

Key best practice proposals are for:

- The adoption of an updated model code of conduct, prepared by the LGA;
- Including prohibitions on bullying and harassment in codes of conduct;
- Requiring councillors to comply with formal standards investigations;
- Strengthening aspects of the investigation of breaches of codes of conduct;
- Publicly available information on how to make a complaint;
- A report on relationships with separate bodies as part of the annual governance statement.

3.6 The Committee on Standards in Public Life considered whether there was a need for a central body to govern and adjudicate on standards and concluded that whilst the consistency and independence of the system could be enhanced, there was no appetite to reintroduce a central body. The Committee recommended that local authorities should retain ultimate responsibility for implementing and applying the Seven Principles of Public Life in local government as described in the Nolan Principles:

- Selflessness
- Integrity
- Objectivity

- Accountability
- Openness
- Honesty
- Leadership

#### **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 - 27 JUNE 2019

**Present:** Mrs T Barnes (Chair);  
Councillors Ayub, Edwards, Khan, Lovelock and Warman;  
Mr D Comben (Independent Person);

**Apologies:** Councillors Gittings and R Singh.

### 1. MINUTES

The Minutes of the meeting held on 28 June 2018 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 Standards Committee's terms of reference and constitutional role for this Municipal Year and provided an update on developments and complaints during the previous year. Chapter 7 of the Localism Act 2011 had ended the statutory standards regime and introduced 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 breached the Code of Conduct, and gave them discretion to establish a local Standards Committee as part of this process. The terms of reference and Standing Orders of the Committee were set out in Appendix A.

The report also 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. It set out the statutory requirement for Members to register and declare disclosable pecuniary and other interests. The content of the code was open to each local authority to decide but must be consistent with the seven *Nolan* Principles, which were set out in the report at paragraph 4.2. The Standing Orders and Rules of Procedure for the Standards Committee and the Committee itself formed the authority's local arrangements to enable complaints about Councillors to be investigated. The 3-stage local procedure was described in the "Complaints about Councillors" document, which was attached at Appendix C to the report and was available on the website. The report stated that Local authorities were required to appoint an Independent Person who must be consulted on complaints about Members.

With regard to the registration and declaration of interests by Members, there was a legal requirement on Members to register and declare interests. Members could seek a dispensation from the Standards Committee to take part in decisions where they had a disclosable pecuniary interest. However, the Committee would only grant a request for a dispensation where it was satisfied that one of the limited circumstances set out in paragraph 6.18 of the report applied. Additionally, at the Annual Council Meeting on 22 May 2019, the delegation to the Monitoring Officer to grant a general dispensation to members of the authority was re-established. The circumstances when this could be done were set out in paragraph 6.20 of the report. In addition to declaring interests, Councillors must be aware of the common law principles of bias and predetermination. These may still apply, even if there was no personal interest. The report stated an *interest* was personal to the Member; bias was an attitude of mind which prevented the decision maker acting objectively; and predetermination was making up your mind in advance of taking the decision.

The Planning Code of Conduct had been appended at Appendix D to this year's report for information because it had been updated to reflect the Local Government Association's

## STANDARDS COMMITTEE MINUTES - 27 JUNE 2019

Planning Code of Conduct guidance. In addition, the Committee on Standards in Public Life had published a report in January 2019 on ethical standards in Local Government. The Committee's recommendations were attached at Appendix E, which included proposals to reintroduce powers to local authorities to suspend councillors and to no longer make failure to declare a disclosable pecuniary interest a criminal offence. The Committee was supportive of reintroducing the ability to suspend councillors to enable serious breaches of the Members' Code of Conduct to be dealt more effectively at a local level. The Committee was also keen to ensure that the use of social media by councillors was appropriate. The potential pitfalls of appearing to predetermine decisions by posting comments online prior to a Committee's consideration of a particular matter and failing to treat others with respect during political discourse over social media were discussed. The Monitoring Officer reported that he would be attending a conference for monitoring officers dealing with standards issues on 10 July 2019, at which a member of the Committee on Standards in Public Life would be providing an update on the Committee's work. He would report back to the Standards Committee on any relevant matters from the Conference.

The Register of Gifts and Hospitality offered to Councillors in the financial year 2018/19 was attached to the report at Appendix F.

### Resolved -

- (1) That the Committee's terms of reference and Standing Orders and Rules of Procedure (Appendix A) be noted;
- (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's re-appointment as the Independent Person be noted;
- (5) That the Monitoring Officer's delegated authority to grant a dispensation relieving the Member from the restrictions on participating in the discussion or voting on any item of business in which they have a disclosable pecuniary interest in the prescribed circumstances described in paragraph 6.20(1) of the report be noted;
- (6) That the updated Planning Code of Conduct (Appendix D) be noted;
- (7) That the recommendations in the report by the Committee on Standards in Public Life on Local Government Ethical Standards (Appendix E) be noted;
- (8) That the list of gifts and hospitality registered by Members in the financial year 2018/19 be received (Appendix F);
- (9) That the Vice-Chair be asked to present the Minutes of this meeting to the Council meeting on 15 October 2019, in the event that there were matters of concern identified by the Committee, which it deemed necessary to bring to the attention of all Councillors.

(The meeting commenced at 6.32pm and closed at 6.55pm).