

Swindon Borough Council

Standards Committee

Wednesday, 12 December 2012

Committee Room 1, Civic Offices
(Anticipated meeting room)

At 5.00 p.m.

Councillors

Rex Barnett
Mary Friend
Richard Hurley (Vice-Chair)
(Conservative)

Fay Howard
Teresa Page
(Labour)

David Wood (Chair)
(Liberal Democrat)

Co-opted Representatives

Trevor Davies (Lay Member)
David Dawson (Lay Member)

Mike Compton (Parish Representative)
Richard Hailstone (Parish Representative)

Committee Officer: Sarah Lawrence (Telephone 01793 463603)
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AGENDA

1. Apologies for Absence

2. Declarations of Interest

Members are requested at the start of the meeting to declare any known interests in any matter to be considered, and are reminded that any such interest should also be declared at the start of an item or during any discussion of the matter concerned.

3. Minutes (Pages 1 - 6)

To receive the minutes of the Standards Committee held on 15th October 2012, and the Standards Hearings Panel held on 19th October 2012.

4. Public Question Time

(See explanatory note below. Please phone the Committee Clerk whose name and number appears at the top of this agenda if you need further guidance.)

5. Dispensations (DLDS) (Pages 7 - 10)

4 December 2012 (being date of agenda despatch)

Key:

DLDS - Director of Law and Democratic Services

Public Question Time - Swindon Borough Council is committed to increasing its accountability to the public and to promoting active citizenship. Up to 15 minutes will be allowed at the start of all Council meetings for questions to the Chair from members of the public about the work of the Committee (except for confidential matters and specific planning applications). Questions must be relevant, clear and concise. Because of time constraints Public Question Time is not an opportunity to make speeches or statements. Prior notice of a question to the Director of Law and Democratic Services is desirable - particularly if detailed background information is needed.

Access Arrangements - The venue is wheelchair accessible and an infrared receiver hearing system is provided. If you would wish to attend the meeting but have any special requirement to enable you to do so please contact the Committee Officer, whose name appears at the top of this agenda, as soon as possible prior to the date of the meeting.

If you would like to receive any of the pages contained in this agenda in a larger print size please contact the Committee Officer whose name appears on the first page of this agenda.

Standards Committee - Terms of Reference

The Standards Committee has the following roles and functions in accordance with Article 9 of the Council's Constitution:

- (a) promoting and maintaining high standards of conduct by councillors and co-opted members including church and parent governor representatives;
- (b) assisting the councillors, co-opted members and church and parent governor representatives to observe the Members' Code of Conduct;
- (c) advising the Council on the adoption or revision of the Members' Code of Conduct;
- (d) monitoring the operation of the Members' Code of Conduct;
- (e) recommend training on any aspects of conduct and behaviour for Councillors and officers where it considers it would be of benefit;
- (f) approving other codes of conduct and behaviour which apply to Councillors, employees, contractors and any other parties or organisations associated with Council activity (for employees approval will be subject to agreement through recognised negotiating machinery where appropriate).
- (g) receiving from the Council's Monitoring Officer details of all allegations of any breach of the Code of Conduct;

- (h) determining any matters which may be referred to it by the Monitoring Officer or the Standards Board for England, or which may arise under the 'local filtering' arrangements for complaints as to breaches of the Members Code of Conduct;
- (i) supporting the Council's Monitoring Officer in discharging his/her role;
- (j) granting dispensations to councillors and co-opted members, including church and parent governor representatives, from requests relating to interests set out in the Members Code of Conduct;
- (k) to also exercise (a) to (j) above in relation to the parish councils wholly or mainly in its area and the members of those parish councils;
- (l) to grant and supervise exemptions in relation to those politically restricted posts for which it is responsible
- (m) ensure the Council's Customer Feedback Policy operates effectively in relation to standards of conduct and behaviour of staff and in particular
 - receive annual reports on its operation
 - receive regular monitoring reports on complaints in relation to standards of conduct and behaviour that have resulted in a final warning to a member of staff
 - adjudicate upon all complaints which remain unresolved
 - require Service Managers to report upon any areas of activity which may have been the subject of criticism in respect of standards of conduct and behaviour
 - approve and publish an annual report upon the operation of the system;
- (n) report to the Council when it considers:-
 - standards of conduct and behaviour in a particular area need reviewing, and
 - the level of commitment necessary to resolve these difficulties should be greater;
- (o) approve the Council's anti-fraud strategy and whistle-blowing procedures and ensure they operate effectively;
- (p) recommend to the Council the payment of compensation or the taking of any other action relating to standards of conduct and behaviour where this is considered appropriate;
- (q) report to the Council on the result of any investigation into the standards of conduct and behaviour of a Member; and
- (r) approve procedures associated with the appointment of an independent remuneration panel for Councillors' Allowances.

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STANDARDS COMMITTEE

MONDAY, 15 OCTOBER 2012

PRESENT: - Councillors Richard Hurley (Vice-Chair, in the Chair), Rex Barnett, Mary Friend and Teresa Page.

Co-opted Members: Mr Trevor Davies (Lay Member), Mr Mike Compton (Parish Representative) and Mr Richard Hailstone (Parish Representative).

Independent Person: Mr Peter Morgans

Apologies for absence were received from Councillor David Wood, Councillor Fay Howard, Mr David Dawson and Mr Paul Morris (Independent Person).

9. Appointment of Vice-Chair

Resolved – That Councillor Richard Hurley be Vice-Chair of the Standards Committee for the municipal year 2012/13.

In the absence of the Chair, Councillor Hurley chaired the meeting.

10. Declarations of Interest

The Vice-Chair reminded Members of the need to declare any known interests in any matters to be considered at the meeting. No declarations were made.

11. Minutes

Resolved – That the minutes of the last meeting held of the statutory Standards Committee on 11th June 2012, be confirmed and signed as a correct record.

12. Public Question Time

No public questions were received during the meeting.

13. Exempt Items - Exclusion of Press and Public

Resolved - That, in accordance with Section 100A(4) of the Local Government Act 1972, the public be excluded during the discussion of the matters referred in Agenda Item 9 on the grounds that it would involve the likely disclosure of exempt information as defined in Paragraphs 1 and 2 of Schedule 12A to the Act, and that the public interest in maintaining the exemption outweighs the public interest in disclosing the information concerned (Minute 16 refers.)

14. Standards Committee Annual Report

The Committee considered a report of the Director of Law and Democratic Services (Monitoring Officer) asking the Committee to agree the Annual Report for the statutory Standards Committee for 2011/2012, which included its last meeting in

June. The Committee noted a correction to the Membership section (replacing Councillor Rochelle Russell with Councillor Sinead Darker), but subject to this amendment agreed the report and asked that it be presented to the next meeting of Council.

Resolved – (1) That the Annual Report for the Statutory Standards Committee 2011/2012 be approved, subject to a correction to the membership section, and forwarded to Council for information.

15. Ethical Framework Update

The Committee received a report from the Director of Law and Democratic Services (Monitoring Officer) providing an update on matters relating to the Ethical Framework, including:

- a) Desktop Ethical Audit Update – The Committee received the latest update, which provided a checklist for ethical governance and reflected changes made to governance arrangements, including those resulting from the Localism Act 2011.
- b) Training for Members – The Committee noted the training by Members undertaken since May 2012. Councillor Page advised that she had attended the training on 9th July 2012, but was not included on the attendance list. It was recognised that not all Members had managed to attend the training on the new Members Code of Conduct. It was recommended to the Monitoring Officer that an additional training session be held for Members who had not attended one to date, and that Borough Councillors could be invited to the session which the Monitoring Officer was running for Parish Councillors on 12 November 2012 at the Ellendune Centre, Wroughton.
- c) Training for Independent Persons – The Committee received written feedback from each of the Independent Persons on regional training they had attended on their role. Mr Peter Morgans attended the meeting and spoke to the update. One of the trainers had raised the question as to whether when advising Councillors or Parish Councillors, the Independent Person was required to provide the information disclosed to the Standards Committee. The Committee discussed and agreed that the Independent Persons for Swindon should not disclose to the Committee any information given to them when providing their views to a particular Member or Parish Councillors, unless it involved the disclosure of a potential criminal matter. The Monitoring Officer advised that two Independent Persons had been appointed so that if one was consulted by a Member or Parish Councillor, the other would still be available to provide their views to the Standards Committee or Panel.
- d) Parish Councils – It was noted that of the 14 Parish Councils in the Swindon Borough area, 9 had adopted the Swindon Borough Council Member Code of Conduct, 1 had adopted it but with amendments, and 3 had adopted the National Association of Local Councils Code of Conduct. The information on which Code had been adopted by Stanton Fitzwarren Parish Council was still awaited. As required by the Localism Act 2011 the Borough Council was placing a copy of the Declarations of Interest form for each Parish Councillor

on its website. In addition, the Monitoring Officer was providing training to Parishes on the Borough's Code on 12th November 2012.

- e) Review of the Council's Codes and Protocols - The Committee gave consideration as to whether to invite the Monitoring Officer to begin a regular review of the Codes and Protocols. It was agreed that as many of the changes requires as a result of the adoption of the New Code of Conduct had taken place in June, it was not necessary to carry out another review at this stage.
- f) Dispensations – The Committee noted that the Localism Act 2011 and its regulations had not included an automatic exemption for Councillors members from having a prejudicial interest when setting the Council Tax or Precept. As a result it was necessary for each Councillor to apply in writing to the Standards Committee under Section 33 of the Act, for a dispensation to enable them to participate in any matter which had a bearing on the setting of the council tax or a precept. 41 Councillors had submitted applications for a dispensation to set the Council Tax and the Standards Committee approved these for a period of 4 years until 14th October 2016. It was agreed that the Monitoring Officer in consultation with the Chair be authorised to grant any further applications for a dispensation received from the remaining sixteen Councillors on this matter only for the same period. The parish representatives present requested the Monitoring Officer to write to Parish Clerks to alert them to the need to make arrangements for Parish Councillors to receive similar dispensations from for their own budget and precept setting meetings.

Resolved – (1) That the Ethical Framework update be noted.

(2) That the Desktop Ethical Audit Updated dated October 2012 be approved.

(3) That no further review of the Council's Codes and Protocols is required at this time.

(4) That the Independent Persons be advised that any information provided to them when they are consulted on a Standards Complaint Matter and any views given by them are not to be disclosed to the Standards Committee, unless it involved a potential criminal matter.

(5) That the Monitoring Officer be requested to arrange additional training for Borough Councillors who have not received training to date on the new Members Code of Conduct.

(6) That dispensations be granted for the period until 14th October 2016 to Councillors set out in Minutes Appendix 1 to speak and vote in respect of any matter which has a bearing on the setting of the Council Tax or Budget, and the Monitoring Officer be authorised in conjunction with the Chair of the Standards Committee to grant dispensations to any additional Councillors who apply for a dispensation on the same matter and for the period until 14th October 2016.

(7) That the Monitoring Officer advise the Town and Parish Clerks of the need to arrange similar applications and determination of dispensations in respect of Town

and Parish Councillors setting Parish budgets and precepts.

16. Ethical Compliance Report

The Committee considered an exempt report from the Director of Law and Democratic Services (Monitoring Officer) regarding the outcome of various ethical framework compliance matters, including progress on Whistleblowing cases since the last Committee, Breach of the Protocol for Member/Officer Relations and Code of Conduct Complaints.

Resolved – That the Ethical Framework Compliance report be noted.

STANDARDS COMMITTEE HEARINGS PANEL

FRIDAY, 19 OCTOBER 2012

PRESENT:- Councillor Fay Howard (Chair), Councillor Mary Friend and Councillor Richard Hurley.

Non-Voting Assessors: Mr David Dawson (Lay Member) and Mr Mike Compton (Parish Representative).

1. Declarations of Interest

The Chair reminded Members of the need to declare any known interests in any matters to be considered at the meeting. No declarations were made.

2. Exempt Items - Exclusion of Press and Public

The Chair invited the parties to put forward any reasons why they would wish the press and public to be excluded from all or any or part of the Hearing. No applications for the hearing to be held in private, or papers to be withheld, were made and therefore all the papers held to be exempt until this point were made available at the start of the Hearing.

However, it was agreed that the press and public should be excluded from the deliberations of the Panel at the end of each stage of the procedure.

Resolved - That, in accordance with Section 100A(4) of the Local Government Act 1972, the press and public would be excluded from the deliberations of the Panel at the end of each stage of the procedure as these deliberations would involve the likely disclosure of exempt information as defined in Paragraph 1 of Schedule 12A of the Local Government Act 1972 and that the public interest in maintaining the exemption outweighed the public interest in disclosing the information concerned.

3. Hearing of Complaint under the Protocol of Member / Officer Relations

The Standards Hearings Panel met to conduct a hearing of a complaint in respect of an allegation that Councillor Nick Martin had breached Swindon Borough Council's Protocol of Member / Officer Relations by his conduct at the Civic Dinner on 20th June 2011 at the Steam Museum.

The complaint was from Mrs Helen Miah, an officer of the Council, and was that Councillor Martin had sexually harassed and bullied her during a break between the dinner and the speeches at the Civic Dinner.

The matter had originally been considered by the Assessment Sub-Committee on 22nd June 2011 as a complaint under the Members Code of Conduct. The Assessment Sub-Committee had concluded that Councillor Martin was not performing his function as a Councillor at the time of the alleged incident and therefore the complaint could not be taken forward under the Members Code of Conduct. However, the Sub-Committee asked that the Monitoring Officer, in consultation with the Chair of the Standards Committee and the Head of Human

Resources, consider whether the matter should be investigated under the Protocol of Member / Officer Relations, and it was agreed that it should be investigated.

The Monitoring Officer had appointed Mr Felix Hetherington as the Investigating Officer and he attended the meeting of the Standards Committee Hearings Panel to present his report. Councillor Nick Martin was present at the meeting and he was represented by Mr Charles Parry of Counsel. Mrs Helen Miah attended the meeting as the complainant and a witness. Ms Janice Banks and Mr Bernie Brannan attended as witnesses, as requested by the Investigator. Mr Mallinson attended the hearing as a witness, at the invitation of Councillor Martin. In addition, the Panel took account of eight letters received in support of Councillor Martin

At the start of the Hearing the Panel considered a representation from Mr Parry as to the validity of the proceedings. The Monitoring Officer gave his advice on the matter, having sought the opinion of Queen's Counsel. Having received that advice, the Panel determined that it should proceed to hear the complaint on this basis, in accordance with its agreed procedure: 'Swindon Borough Council Procedure for Determination of Complaints under the Protocol of Member / Officer Relations'.

The Panel first heard evidence on each side and heard witness statements. The Panel then withdrew and considered Findings of Fact and returned and announced the Findings and invited representations from Mr Parry and Mr Hetherington as to whether these constituted a breach of the Protocol. The Panel withdrew to discuss, and returned to advise their determination that it was a breach of the Protocol, and invited representations on suitable sanctions. The Panel withdrew a final time to determine sanctions. The Panel was of the view that neither a censure nor a referral to Council was appropriate, and returned to announce the sanctions that were agreed by the Panel.

Resolved – (1) That, having considered the evidence presented by all Parties to the case, the Panel confirmed Findings of Fact were as set out in the Full Decision of the Standards Committee Hearings Panel.

(2) That, having considered the evidence presented by all Parties to the case the Panel determined that by his conduct Councillor Martin had breached paragraphs 4.2 (use of inappropriate language) and 4.3 (close personal familiarity) of the Protocol of Member / Officer Relations.

(3) That, having determined that a breach of the Protocol of Member / Officer Relations had taken place, the Panel determined that the following sanctions be applied:

- Councillor Martin be required to provide Mrs Miah with a written apology, in a form acceptable to the Monitoring Officer in consultation with the Chair of the Hearings Panel.
- Councillor Martin be requested to undertake relevant training from the Monitoring Officer on the operation of the Protocol of Member / Officer Relations.

Dispensations

Standards Committee

Date: 12th December 2012

Author:	Director of Law and Democratic Services
Wards:	All
Locality Affected:	All
Parishes Affected:	All

1. Purpose and Reasons

- 1.1 To consider any applications from Councillors for a dispensation to speak and vote on a matter for which they have a declarable pecuniary interest.

2. Recommendations

The Committee is recommended to:

- 2.1 Determine any applications for a dispensation which are reported to the meeting by the Monitoring Officer, and to authorise him to grant any additional applications received on the same subject.
- 2.2 Authorise the Director of Law and Democratic Services to grant applications for Dispensations, in consultation with the Chair of the Standards Committee, on any subject matter, when the application is urgent and cannot wait to the next scheduled meeting of the Standards Committee. Any such dispensations be reported to the next scheduled meeting of the Committee.

3. Detail

Dispensations

- 3.1 The Standards Committee is authorised to grant dispensations under Section 33 of the Localism Act 2011 to allow a Member with a pecuniary interest in a matter to speak and / or vote on that matter.
- 3.2 A report is due to be considered by Cabinet on 12th December, and the next Council meeting, which could lead to any Member with a second property having a disclosable pecuniary interest, and being unable to speak or vote on the matter. The Director of Law and Democratic Services will report at the meeting on which applications he has received for dispensation to speak and vote under Section 33 of the Act.
- 3.3 It is recommended that those applications for dispensations which have been received to date be granted for a period of 4 years, and the Monitoring Officer be authorised to grant a dispensation in relation to any further applications received from other Members of the Council on the same subject.
- 3.4 To avoid the necessity to call regular special meetings of the Standards Committee, it is also recommended that the Monitoring Officer in consultation

Further information on the subject of this report can be obtained from Stephen Taylor, 01793 463012, staylor@swindon.gov.uk.

Dispensations

Standards Committee

Date: 12th December 2012

with the Chair of the Committee be authorised to grant applications for a dispensation on any matter which is urgent and cannot wait for consideration by the next scheduled meeting of the Standards Committee. These will then be reported for information to the next meeting.

4. Alternative Options

- 4.1 Any alternative options are set out in the body of the report.

5. Implications, Diversity Impact Assessment and Risk Management

Financial and Procurement Implications

- 5.1 There are no specific financial or procurement implications involved in this report.

Legal and Human Rights Implications

- 5.2 The legal and human rights implications, where applicable, are set out in the body of the report.

All Other Implications (including Staff, Sustainability, Health, Rural, Crime and Disorder)

- 5.3 There are no other implications that have been identified as important for this report.

Links to One Swindon, Plans and Policies

- 5.4 Monitoring of issues of probity in the Council underpins the Council's plans and policies and the delivery of One Swindon objectives.

Diversity Impact Assessment

- 5.5 A Diversity Impact Assessment has not been completed for this report, as it does not recommend a change in Council policy or service.

Risk Management

- 5.6 A risk assessment has not been completed in relation this report, as it does as it does not recommend a change in Council policy or service. Arrangements for meeting the requirements of the Localism Act and monitoring probity of the Council, ensures that good governance is maintained and protects the reputation of the organisation.

6. Consultees

- 6.1 The Director of Finance (Section 151 Officer) and Director of Law and Democratic Services (Monitoring Officer) are consulted in respect of all reports.

Further information on the subject of this report can be obtained from Stephen Taylor, 01793 463012, staylor@swindon.gov.uk.

Dispensations

Standards Committee

Date: 12th December 2012

7. Background Papers

7.1 None

8. Appendices

8.1 None

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