

STANDARDS COMMITTEE AGENDA



15th January 2013

at 3.30pm

**in Committee Room C
Civic Centre, Hartlepool.**

MEMBERS: STANDARDS COMMITTEE:

Councillors Dawkins, Fleet, Griffin, Morris, Simmons, Tempest and Wells.

Co-opted Members: B Footitt, T Jackson, Reverend John Lund

Parish Councillors: A Bell, Hart Parish Council, R Musgrave, Elwick Parish Council and 1 vacancy

1. APOLOGIES FOR ABSENCE

2. TO RECEIVE ANY DECLARATIONS OF INTEREST BY MEMBERS

3. MINUTES

3.1 To confirm the minutes of the meeting held on 16th October 2012

4. ITEMS FOR DECISION / INFORMATION

4.1 Dispersations – Setting the Council Budget – *Chief Solicitor and Monitoring Officer*



STANDARDS COMMITTEE

MINUTES AND DECISION RECORD

16 October 2012

The meeting commenced at 4.00 pm in the Civic Centre, Hartlepool

Present:

Councillor Simmons (In the Chair)

Councillors Dawkins, Fleet, Griffin and Morris

In accordance with Council Procedure Rule 4.2 Councillor
Loynes was in attendance as substitute for Councillor Wells

Independent Member: Ted Jackson

Parish Councillor Representative, Alan Bell (Hart Parish Council)

Officers: Peter Devlin, Chief Solicitor
Denise Wimpenny, Principal Democratic Services Officer

9. Apologies for Absence

Apologies for absence were submitted on behalf of Councillors Tempest and Wells and Independent Member, John Lund.

10. Declarations of Interest

None

11. Minutes

The minutes of the meeting held on 18 July 2012 were confirmed.

12. Presentation on Standards (*Chief Solicitor and Monitoring Officer*)

The Chief Solicitor and Monitoring Officer provided a comprehensive and detailed presentation in relation to the background to the Local Government Act 2000 and establishment of a Standards Committee, the provisions contained in the Localism Bill and the impact upon the provisions of the Standards Committee. The presentation focussed on the following issues:-

- Background to the Local Government Act 2000 and New Ethical Framework
- Ten General Principles of Public Life
- Requirements of the Local Government Act 2000
 - adopt a Code of Conduct
 - introduce a Standards Committee
 - introduce the concept of personal and prejudicial interests
 - introduce a Standards Board for England
- Model Code introduced in 2001 and revised in 2007
- The Standards Committee (England) Regulations 2008 included introduction of local assessment and determination of complaints, Standards Committees able to take decisions and impose sanctions, Standards Committees to have at least 25% Independent Membership, Independent Members to chair meetings and Parish Council representation
- Localism Bill and Coalition Government's Programme for Government
 - Abolition of Standards for England
 - requirement to promote and maintain high standards of conduct
 - local Code of Conduct
 - requirement to register pecuniary and other interests
 - creation of a criminal offence of failing to register relevant interests
- The Nolan Committee of Standards and Public Life 28 June 2012
 - concerns regarding inherent robustness of new arrangements
 - should still be a "sanctions based" system
- Localism Act 2011 – duty to promote and maintain high standards of conduct
- Code of Conduct must:-
 - be consistent with mandatory principles
 - must include requirement for registration and disclosure of interests
 - arrangements for dealing with complaints
 - include provision for appointment of at least one Independent Person
- No Model Code of Conduct
- The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012
- New Guidance to help Councillors with the New Transparency Agenda 2 August 2012
- Hartlepool Borough Council's Code of Conduct – Adopted 2 August 2012
 - General Obligations of Code
 - Notification of Interests
 - Disclosure of Interests
 - Sensitive Interests
 - Non-participation in the case of pecuniary interests
 - Predetermination or Bias
 - Arrangements for dealing with Standards allegations

Following the conclusion of the presentation a lengthy discussion ensued in relation to the new arrangements for disclosure of interests. Clarification was sought in relation to a number of issues arising from the presentation including disclosure of interests and, in particular, procedure rules at Planning Committee meetings in terms of circumstances in which Members should leave a meeting prior to the debate and voting stage. The Chief Solicitor referred to Council Procedure Rule 23 and provided a number of examples of situations where Members should leave a meeting and not take part in any debate or the voting process. An explanation of predetermination or bias was also outlined. Members requested that the contents of the presentation together with the advice in relation to procedure rules at Planning Committees be shared with all Members of the Council, Independent Members and any other bodies as considered appropriate.

In response to a request for clarification, the Chief Solicitor outlined the new arrangements for dealing with complaints. Whilst Members welcomed certain elements of the new arrangements, concerns were raised regarding the loss of expertise and support of those former Independent Members, who had been appointed as the 'new' Independent Persons, but only until 30th June, 2013, under current regulations. The invaluable role of these individuals in Hartlepool was emphasised. The Committee requested that arrangements be made to continue to lobby the Government in this regard.

Decision

That the contents of the presentation be noted and shared with all Members of the Council, Independent Members and other relevant bodies as considered appropriate.

The meeting concluded at 5.25 pm.

CHAIR

STANDARDS COMMITTEE

15th January 2013



Report of: Chief Solicitor and Monitoring Officer

Subject: DISPENSATIONS – SETTING THE COUNCIL BUDGET

1. PURPOSE OF REPORT

- 1.1 To request Standards Committee to consider granting dispensations to Members of the Council who have a discloseable pecuniary interest or such prejudicial interest in the setting of the Council's budget. The Committee has a general power to grant dispensations to Members from the requirements relating to interests.

2. BACKGROUND

- 2.1 Under the previous standards regime, Councillors could rely on a specific exemption in relation to the setting of Council Tax. However, this provision has not been carried over into the Localism Act, 2011, which seeks a 'clean break' with the old regime. That legislation provides that a relevant authority may upon a written request being received, grant a dispensation where the Member would otherwise be prohibited from participating in a discussion or being a participant in the vote on any matter, where the Member had a pecuniary or other prejudicial interest. Although, the Council's Code of Conduct does contain the "exemptions" as previously provided under the Local Government Act, 2000, it is advised that it would be prudent for Members to formally seek the necessary dispensation so that they can fully participate in the setting of the Council Tax.
- 2.2 Through completion of their respective Register of Interests as required by the Localism Act, 2011, all Councillors have in effect declared their "discloseable pecuniary interests" (DPIs). It is provided within the Council's Procedure Rules (Rule 23 refers) that where a Member has a DPI (or other prejudicial interest) in a matter that is being considered at a meeting they are required, to leave the room and not participate in the debate or vote on the item. Under the previous standards regime, the legislation provided a specific exemption to Members who had a prejudicial interest but which still allowed them to fully engage in the setting of the Council Tax or in agreeing the precept of any other relevant authority.

2.3 Previously a Standards Committee had the power to grant a dispensation in one of the two following circumstances;

- Where more than 50% of the Members who would be entitled to vote at a meeting are prohibited from voting, or
- Where the number of Members that are prohibited from voting at a meeting will upset the political balance of the meeting to the extent that the outcome of voting would be prejudiced.

2.4 There has been great uncertainty in the application of DPLs (or such other prejudicial interests) in relation to the setting of Council Tax under the Localism Act, 2011. It appears that there is a wide divergence of opinion amongst local authorities as to the approach to be taken upon this issue. Although the Department for Communities and Local Government have suggested that it is for each local authority to determine as to how they should proceed they would not 'discourage' the seeking of dispensations. The Tees Valley District Lawyers have therefore agreed that it would be appropriate to invite Members, by way of a written request, to seek the grant of a dispensation. Accordingly, all Members of Council have been sent a letter outlining the position and inviting requests for the grant of a dispensation.

3. Localism Act, 2011

3.1 Although the above two provisions are effectively restated within Section 33 of the Localism Act, dispensations, may be granted only if, after having had regard to all the relevant circumstances, the authority considers;

- (i) that without the dispensation the number of persons prohibited by section 31 (4) from participating in any particular business would be so great a proportion of the body transacting the business as to "impede the transaction of the business". In practice this entails that the decision making body would be inquorate as a result.
- (ii) without the dispensation, the representation of different political groups on the body transacting the business would be so upset as to alter the outcome of any vote relating to the business,
- (iii) that granting the dispensation is in the interests of persons living in the authority's area.
- (iv) that authorities operating 'executive arrangements' as considered without a dispensation each Member of the authority's Executive would be so prohibited from participating.
- (v) it is considered that it is otherwise appropriate to grant a dispensation

- 3.2 The legislation also provides that a dispensation must specify the period for which it has effect and the period specified may not exceed four years. The Standards Committee have as part of its functions, the power to grant dispensations and it would appear that grounds (i), (ii), (iii) and (v) would be relevant to any written requests for the application and grant of dispensations. Most Members have disclosed a relevant DPI on their Register of Interests and therefore there is a risk that in the absence of a dispensation a significant number, if not all, Councillors will be required to declare an interest and as such be prevented from participating in the decision making process. Further, the lack of the ability of a significant number of Councillors to participate could have the impact of upsetting the political balance of a meeting. The certainty behind the setting of the Council Tax is also in the interest of person's living in the Council's area and it is also appropriate to grant a dispensation.

4. CONCLUSIONS

- 4.1 The Standards Committee has a power to grant a dispensation in this case to allow Members with interests to fully participate in meetings and decisions that considers business relating to the setting of the Council's budget. Relevant public bodies have a legal obligation in the setting and calculation behind their overall budgets and a failure to so comply, would have serious financial and reputational implications for a public body. It is therefore considered appropriate to grant a dispensation to all Members for a period of four years (until January, 2017) to enable all Members to fully participate in decisions that relate to the formal setting of the Council budget in the financial years 2013/14, 2014/15 and 2015/16.

5. RECOMMENDATIONS

- 5.1 That the Committee grants dispensation to Members of Council, following a written request being made, to enable all Members to fully participate in decisions relating the setting of the Council's budget.
- 5.2 That the approval to grant dispensations be for a period of four years until January, 2017.

6. APPENDICES AVAILABLE ON REQUEST, IN THE MEMBERS LIBRARY AND ON-LINE

None

7. BACKGROUND PAPERS

None

8. CONTACT OFFICER

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