

STANDARDS COMMITTEE MINUTES

4 DECEMBER 2012

Chairman: Councillor Asad Omar

Councillors: * Nana Asante (3) * Paul Osborn (Vice-Chairman
* Jerry Miles (2) In the Chair)
* Asad Omar * Simon Williams

Independent Persons: † Mr J Coyle * Mr D Lawrence
* Dr J Kirkland

* Denotes Member present
(2) and (3) Denote category of Reserve Members
† Denotes apologies received

92. Attendance by Reserve Members

The Chairman reported that in accordance with Council Procedure Rule 1.5.4, Councillor Omar had replaced Councillor Brian Gate as a Member of the Standards Committee and that Councillor Jerry Miles had replaced Councillor Omar as a Reserve Member of the Standards Committee.

RESOLVED: To note the attendance at this meeting of the following duly appointed Reserve Members:-

Ordinary Member

Councillor Mano Dharmarajah
Councillor Victoria Silver

Reserve Member

Councillor Jerry Miles
Councillor Nana Asante

93. Declarations of Interest

Agenda Item 8 – Disclosable Pecuniary Interests – dispensations

Councillor Nana Asante declared a non pecuniary interest in that she was in receipt of housing benefit and Council Tax benefits.

Councillor Simon Williams declared a non pecuniary interest in that he was in receipt of housing benefit and Council Tax benefits.

94. Minutes

RESOLVED: That the minutes of the meeting held on 11 September 2012 be taken as read and signed as a correct record.

95. Public Questions, Petitions and Deputations

RESOLVED: To note that no public questions were put, or petitions, or deputations received at this meeting.

RESOLVED ITEMS

96. Terms of Reference and Working Arrangements for the Assessment Working Group and the Hearing Working Group

The Head of Legal Practice introduced the report which set out the proposed terms of reference and working arrangements for the Assessment Working Group and the Hearing Working Group.

RESOLVED: That the revised terms of reference and working arrangements of the Assessment Working Group and Hearing Working Group be approved.

97. Disclosable Pecuniary Interests - Dispensations

The Committee agreed to consider the report as a matter of urgency for the reasons set out on the supplemental agenda.

The Head of Legal Practice introduced the report which recommended that a general dispensation be granted to all Members to stay, speak and vote on matters where Council business might be impeded if the dispensation was not granted under Section 33(2) of the Localism Act 2011. The report also dealt with the possibility of allowing Members a dispensation to stay and speak at a meeting where the Member had a disclosable pecuniary interest (DPI). It was recommended in the report that the power to grant dispensations on the items mentioned in the report be delegated to the Monitoring Officer in the future.

The Head of Legal Practice made the following comments:

- under the old code, Members automatically had a dispensation for certain matters such as when the setting of Council Tax was considered;

- it was possible to grant general, blanket dispensations or to place caveats on the dispensations included in the report;
- it was questionable if some matters such as an allowance, travelling expense, payment or indemnity for a Member were a DPI but they had been included in the report for the avoidance of doubt. It was early days in the regime;
- a general dispensation could be granted to allow a Member to stay and speak at a meeting as a member of the public would be able to or a Member could apply for a dispensation if a matter for consideration was one in which the Member had a DPI;
- there had not been any written requests received for a dispensation for the matters set out in the report.

In response to a question from a Member of the Committee, the Head of Legal Practice responded that it would not be necessary for a Member to make a declaration at each meeting if that Member had been granted a dispensation but that consideration could be given to an announcement being made at meetings. She advised that in most cases housing benefit was considered in overarching reports and it was extremely rare for there to be an individual report relating to housing benefit.

The Members of the Committee made the following comments:

- if a Member had a DPI and a dispensation had been granted this could be declared at a meeting;
- there were concerns that the dispensation in relation to Housing was too broad and that it should be limited to cover rent issues and the Housing Revenue Account (HRA);
- housing benefit was directed by central Government and the Council was only responsible for the administration;
- the Council had a great deal of discretion when making decisions regarding Council Tax benefit. There were concerns that if a general dispensation was granted that decisions could be tailored to have a positive affect on Members. A possible solution was for any Member in receipt for Council Tax benefit to apply for a dispensation;
- the dispensation for Council Tax benefit could be worded so that it did not apply to Cabinet Members as it was likely that more detailed proposals for Council Tax benefit would be considered at Cabinet meetings;
- it was possible that at Council meetings there would also be discussions regarding the detail of Council Tax benefits;

- if there was not a dispensation for Members who received benefits it would result in a loss of knowledge, experience and understanding of the processes from any considerations;
- the need for political proportionality was considered when a request for a dispensation was received;
- Members who received benefits considered to be DPIs could be granted, upon a written request, a dispensation to stay and speak but not to vote on relevant benefit matters;
- a general, blanket dispensation may be required for adult social care;
- a general dispensation could be granted for adult social care similar to that for housing benefits where it would be granted for overarching budget reports;
- additional general dispensations would be considered if they were required. If these were required prior to the next Standards Committee meeting they could be approved as an Urgent Non Executive Action.

The Head of Legal Practice advised that the applications for dispensations could be co-ordinated by the whips for each group and that the requests would need to be made in writing.

The Members of the Committee then discussed the granting of a blanket dispensation for Members to stay and speak on a matter in which they had a DPI.

A Member of the Committee suggested that the recommendation in the report was too broad and that a further report should be submitted to the Committee. In the interim, an application could be made to the Monitoring Officer for a dispensation to speak on a matter in which a Member had a DPI.

RESOLVED: That

- (1) the Monitoring Officer be delegated authority to grant dispensations following a written request from any Member for the following matters;

To allow Members to stay, speak and vote:

- i) setting of Council Housing rent levels and approving of the Housing Revenue Account (HRA): where the Councillor (or spouse or partner) holds a tenancy or lease with the Council;
- ii) Housing Benefit in relation to overarching budget reports: where the Councillor (or spouse or partner) receives housing benefit;
- iii) an allowance, travelling expense, payment or indemnity for Councillors;

- iv) setting the Council Tax or a Precept;
- v) Adult Social Care in relation to overarching budget reports: where the Councillor (or spouse or partner) receives adult social care support.

To allow Members to stay, speak but not vote:

- vi) for a Member in receipt of Council Tax Benefit to remain and speak but not vote on decisions in relation to Local Council Tax Support.
- (2) the delegation of authority to the Monitoring Officer to make changes to the Code of Conduct to reflect the above decisions be deferred until a report on the granting of a general dispensation to stay and speak on any matter had been submitted to the Committee.

98. Information Report: Sanctions under the New Standards Regime

The Head of Legal Practice introduced the report which set out the sanctions which four other London boroughs had chosen to include in their new arrangements to deal with complaints against councillors who it was alleged had breached their Council's code of conduct. It was explained that the London boroughs had all adopted similar sanctions.

During the discussion on sanctions Members of the Committee made a number of comments including the following:

- if a complaint was made against a Group Leader Members questioned who would be informed, as the sanctions available included informing the Group Leader of a recommendation to remove the Member in question from any or all Committees, Sub-Committees and outside body appointments;
- in the case of a complaint being made against a Group Leader there was not an option to make a recommendation to any other person that the Group Leader should be removed from any Committees, Sub-Committees or outside body appointments. The Members from a political group appointed to serve on a committee was a matter for the group;
- the Council could make a recommendation that a Member was removed from any or all of the Committees and Sub-Committees to which they were appointed;
- it was accepted that a recommendation could be made but it could not be enforced;
- a recommendation made to Council would be in the public domain;

- there were other sanctions available, such as a press report being issued which would name the Member in question.

In response to questions raised by Members the Head of Legal Practice responded as follows:

- that the Localism Act had not provided any guidance in relation to sanctions or any sanctions which may be taken against a Member who was found to be in breach of the authority's code of conduct. Counsel's opinion had been sought on a number of potential sanctions, such as the withdrawal of allowances, however the advice was that the Council did not have the power to enforce such sanctions;
- the other London boroughs which had been included in the report had been selected following an on-line search.

RESOLVED: That the report be noted.

(Note: The meeting, having commenced at 7.30 pm, closed at 8.04 pm).

(Signed) COUNCILLOR PAUL OSBORN
Vice-Chairman in the Chair