

## Standards Advisory Committee

You are requested to attend a meeting of the Standards Advisory Committee to be held in The John Meikle Room, The Deane House, Belvedere Road, Taunton on 15 March 2016 at 14:30.

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### Agenda

- 1 Apologies.
- 2 Minutes of the meeting of the Standards Advisory Committee held on 7 July 2015 (attached).
- 3 Public Question Time.
- 4 Declaration of Interests  
To receive declarations of Disposable Pecuniary Interests or personal or prejudicial interests, in accordance with the Code of Conduct. The usual declarations made at meetings of the Standards Advisory Committee are shown in the attachment.
- 5 Protocols between the Monitoring Officer of Taunton Deane Borough Council and the Avon and Somerset Constabulary (attached). To consider and comment upon proposed protocols between Taunton Deane Borough Council and the Avon and Somerset Constabulary for the reporting of potential criminal offences arising from the failure to register or declare Disclosable Pecuniary Interests or from speaking and voting where a Member has a Disclosable Pecuniary Interest and has not first sought a dispensation  
Reporting Officer: Bruce Lang
- 6 Monitoring Officer's Update. To consider a verbal update from the Monitoring Officer on activities undertaken since the last meeting of the Committee.  
Reporting Officer: Bruce Lang
- 7 Proposed meeting with Rebecca Pow, the Member of Parliament for the Taunton Constituency. To consider the main issues for discussion.  
Reporting Officer: Richard Bryant
- 8 Date of next meeting.

16 May 2017

Members of the public are welcome to attend the meeting and listen to the discussions.

There is time set aside at the beginning of most meetings to allow the public to ask questions.

Speaking under “Public Question Time” is limited to 4 minutes per person in an overall period of 15 minutes. The Committee Administrator will keep a close watch on the time and the Chairman will be responsible for ensuring the time permitted does not overrun. The speaker will be allowed to address the Committee once only and will not be allowed to participate further in any debate.

Except at meetings of Full Council, where public participation will be restricted to Public Question Time only, if a member of the public wishes to address the Committee on any matter appearing on the agenda, the Chairman will normally permit this to occur when that item is reached and before the Councillors begin to debate the item.

This is more usual at meetings of the Council’s Planning Committee and details of the “rules” which apply at these meetings can be found in the leaflet “Having Your Say on Planning Applications”. A copy can be obtained free of charge from the Planning Reception Desk at The Deane House or by contacting the telephone number or e-mail address below.

If an item on the agenda is contentious, with a large number of people attending the meeting, a representative should be nominated to present the views of a group.

These arrangements do not apply to exempt (confidential) items on the agenda where any members of the press or public present will be asked to leave the Committee Room.

Full Council, Executive, Committees and Task and Finish Review agendas, reports and minutes are available on our website: [www.tauntondeane.gov.uk](http://www.tauntondeane.gov.uk)



Lift access to the John Meikle Room and the other Committee Rooms on the first floor of The Deane House, is available from the main ground floor entrance. Toilet facilities, with wheelchair access, are also available off the landing directly outside the Committee Rooms.



An induction loop operates to enhance sound for anyone wearing a hearing aid or using a transmitter.

**For further information about the meeting, please contact the Corporate Support Unit on 01823 356414 or email [r.bryant@tauntondeane.gov.uk](mailto:r.bryant@tauntondeane.gov.uk)**

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**Standards Advisory Committee Members:-**

Ms L Somerville Williams (Independent Person)  
Councillor J Adkins  
(Historic)Mr T Bowditch  
Councillor T Davies  
Mrs A Elder  
Councillor E Gaines  
Mr M Marshall  
Mr L Rogers  
Councillor Mrs F Smith-Roberts  
Mr W Sparrow  
Mr B Wilson  
Councillor G Wren

## **Standards Advisory Committee – 7 July 2015**

Present: Councillors Davies, Gaines, Miss Smith and Wren  
Michael Marshall and Bryn Wilson (Parish Council Representatives)  
Anne Elder and Lynn Rogers (Co-opted independent members of the  
Advisory Committee)

Officers: Bruce Lang (Monitoring Officer) and Richard Bryant (Democratic Services  
Manager)

### **1. Appointment of Chairman**

**Resolved** that Mrs Anne Elder be appointed Chairman of the Standards  
Advisory Committee for the remainder of the Municipal Year.

### **2. Apologies**

Councillor Mrs Adkins, Mr Terry Bowditch (Co-opted independent member)  
and Mrs Louise Somerville-Williams (Independent Person).

### **3. Minutes**

The minutes of the meeting of the former Standards Committee held on 18  
November 2014 were taken as read and were signed.

### **4. Declaration of Interests**

Mrs Anne Elder, declared personal interests as a Public Governor of the  
Taunton and Somerset NHS Trust and as a Member of the House  
Management Committee of one of the premises operated by the Royal  
Agricultural Benevolent Institution. Councillor Wren declared a personal  
interest as Clerk to Milverton Parish Council.

### **5. Draft Annual Governance Statement 2014/2015**

Considered report previously circulated, concerning the draft Annual  
Governance Statement (AGS).

Taunton Deane Borough Council had a duty under the Local Government Act  
1999 to make arrangements to secure continuous improvement in the way in  
which its functions were exercised, having regard to a combination of  
economy, efficiency and effectiveness.

In discharging this overall responsibility, the Council was responsible for  
putting in place proper arrangements for the governance of its affairs,  
facilitating the effective exercise of its functions, and the management of risk.

The Council had approved and adopted a Code of Corporate Governance and the report explained how the Council had complied with the Code and also met the requirements of the Accounts and Audit Regulations in relation to the requirement to prepare an AGS which must accompany the Statement of Accounts.

The latest review of Taunton Deane's effectiveness had been carried out by the Corporate Governance Officers Group who had concluded the governance arrangements remained adequate and fit for purpose. This was further endorsed by the Group Auditor's annual opinion report 2014/2015, which offered 'reasonable assurance' in respect of the areas reviewed during the year.

The AGS described how the Council complied with each of the following six core principles of the Code of Corporate Governance:-

- (1) Focusing on the purpose of the Council and on outcomes for the community and creating and implementing a vision for the local area;
- (2) Members and officers working together to achieve a common purpose with clearly defined functions and roles;
- (3) Promoting the values for the authority and demonstrating the values of good governance through upholding high standards of conduct and behaviour;
- (4) Taking informed and transparent decisions which are subject to effective scrutiny and risk management arrangements;
- (5) Developing the capacity and capability of Members and officers to be effective in their roles; and
- (6) Engaging with local people and other stakeholders to ensure robust public accountability.

The AGS also identified governance issues and the steps to be taken during 2015/2016 to address these matters.

**Resolved** that the report be noted.

## **6. Outcome of complaints made against Councillors since the last meeting**

Mr Lang reported that two complaints had been received in connection with planning matters in the Bishops Hull and Wiveliscombe and West Deane Wards.

The complaints had been dealt with under the agreed procedure whereby information had been collected from the subject Members in response to the complaints. The views of the Independent Person had been sought and the conclusion reached that there had been no breach of the Code of Conduct which warranted further investigation in respect of either complaint.

The complainants had been advised of these outcomes.

**Resolved** that the report be noted.

## **7. Update - Training for Councillors following the Local Government Elections**

Reference Minute No. 56/2014, the Democratic Services Manager, Richard Bryant, submitted for information details of the New Councillor Induction Programme which had been delivered to Taunton Deane's newly elected Members during May/June 2015.

Much of this induction training had been well received and those Councillors who had attended the event organised by South West Council titled 'Essential Skills for the 21<sup>st</sup> Century Councillor' had found this very useful. As a result, something similar would be arranged at a future date to give some of the other Councillors the opportunity to attend.

As well as the initial induction, a list of key training topics had been compiled and sessions would be provided at periodic intervals during the remainder of the year.

Members noted that Ethical Governance Training was planned for the Parish Councils in Taunton Deane, with such training scheduled to take place during September during both the daytime and evenings.

It was acknowledged that providing training in this way to the Parishes differed markedly from that provided following the 2011 Local Elections where the former Parish Liaison Officer (post now deleted) had visited every Parish Council and had delivered 'face to face' training to Councillors and the Clerks alike.

Despite the likely choice of dates and timings for the training now being planned there would inevitably be a number of Parish Council who would choose not to attend and a number of known examples were provided.

The Committee saw this as very unsatisfactory, as these Parishes – particularly those with new Members – might not understand the implications of adhering to their Codes of Conduct which would inevitably leave them open to challenge or complaint.

It was intended to compile a list of the Parishes who were represented at the forthcoming training sessions so follow up contact could be made with those who did not attend.

Noted that some Parishes might have already received training via the Somerset Association of Local Councils. Councillor Wren undertook to make some enquiries of the Somerset Branch of the Society of Local Council Clerks to establish the level of support this organisation provided in relation to matters of ethical governance.

It was agreed that this matter should be discussed again at the next meeting of the Advisory Committee.

**8. Recruitment of a new Parish Representative for the Standards Advisory Committee**

Mr Bryant reported that following the establishment of the Standards Advisory Committee, the number of Parish representatives needed to be increased to three, as agreed by Full Council at its meeting in September 2014.

An invitation would be sent to all the Clerks to Parish Councils in Taunton Deane to nominate Councillors who would be interested in joining the Advisory Committee.

**Resolved** that the report be noted.

**9. The current Standards Regime**

The Chairman made reference to the current Standards Regime which had been introduced by the former Government following the introduction of the Localism Act 2011.

It was clear to her that there was still significant dissatisfaction with the current arrangements and suggested that the newly elected Member of Parliament for Taunton, Ms Rebecca Pow-, be invited to a future meeting of the Advisory Committee to discuss the situation and to propose possible improvements which could be made to make the current regime more meaningful.

This was agreed.

**10. Date of next meeting**

The next meeting of the Advisory Committee would be held on Tuesday, 8 September 2015 at 2.30 p.m. in the John Meikle Room at The Deane House.

(The meeting ended at 3.42 p.m.)



## **Usual Declarations of Interest by Councillors**

### **Standards Advisory Committee**

- **Clerk to Milverton Parish Council – Councillor Wren**
- **Public Governor of the Taunton and Somerset NHS Trust and as a Member of the House Management Committee of one of the premises operated by the Royal Agricultural Benevolent Institution - Mrs Anne Elder**

# **Protocol between the Monitoring Officer of Taunton Deane Borough Council and the Avon and Somerset Constabulary**

## **Purpose**

To agree a protocol for the reporting of potential criminal offences arising from the failure to register or declare Disclosable Pecuniary Interests or from speaking and voting where a Member has a Disclosable Pecuniary Interest and has not first sought a dispensation.

References to the Monitoring Officer also includes the Deputy Monitoring Officer where the Monitoring Officer is absent or unable to act. In these circumstances the Deputy Monitoring Officer has full power to undertake the Monitoring Officer role. Similarly, references to the Independent Person also includes the Reserve Independent Person where the Independent Person is absent or unable to act. In these circumstances the Reserve Independent Person has full power to undertake the Independent Person's role.

## **Introduction**

Section 34 of The Localism Act 2011 created a criminal offence where a Member or co-opted Member fails, without reasonable excuse, to comply with the requirements of the Act to register or declare Disclosable Pecuniary Interests (DPIs) or takes part in Council business at meetings or when acting alone when prevented from doing so. If found guilty of such an offence the penalty can be a fine (under the current levels) of up to £5,000 and a disqualification from holding office for up to five years.

## **The Code of Conduct**

Taunton Deane Borough Council adopted a new Code of Conduct at Full Council on 17 July, 2012. The Code incorporates the legislation and provides, at Appendix 3, that it is a criminal offence to;

- Fail to notify the Monitoring Officer of any Disclosable Pecuniary Interest within 28 days of election,
- Fail to disclose a Pecuniary Interest at a meeting if it is not on the Register,
- Fail to notify the Monitoring Officer within 28 days of a Disclosable Pecuniary Interest that is not on the Register that you have disclosed at a meeting,

- Participate in any discussion or vote on a matter in which you have a Disclosable Pecuniary Interest,
- As a Cabinet Member discharging a function acting alone, and having a Disclosable Pecuniary Interest in such a matter, failing to notify the Monitoring Officer of the Disclosable Pecuniary Interest within 28 days of the interest,
- Knowingly or recklessly providing information that is false or misleading in notifying the Monitoring Officer of a Disclosable Pecuniary Interest or in disclosing such interest to a meeting.

## **The Process**

If the Monitoring Officer becomes aware, either via a complaint made under the Council Arrangements, or via any other means he/she will first gather together all relevant documentation for consideration. Having ascertained that no dispensations have been granted, if he/she is of the opinion that there is evidence of such a breach of the Code he/she will then consult the Independent Person (IP) confidentially for his/her opinion. No contact will be made with the subject Member against whom the complaint is made as this may prejudice any investigation the Police may wish to undertake or subsequent prosecution. In addition the Monitoring Officer and the IP will be unable to assist or advise the subject Member against whom the complaint is made.

If the Monitoring Officer concludes that there is evidence of a breach he/she must report the matter to the Police and send all relevant documentation to them. The Monitoring Officer does not have any discretion in this instance and it will be for the Police to conduct whatever investigation they consider appropriate. The Monitoring Officer may initially contact the Police to them of the situation before sending the documentation.

Similarly if the Police receive a complaint from a member of the public they will inform the Monitoring Officer of the receipt of that complaint.

The Monitoring Officer and/or the IP will make themselves available for interview as witnesses in any subsequent court processes should this be required by the Police or Crown Prosecution Service (CPS).

The Monitoring Officer will maintain regular contact with the Police to obtain updates on the progress of their investigation.

The Monitoring Officer will report the matter and any progress in the investigation confidentially to the Standards Advisory Committee, unless the matter concerns a member of that Committee when only the Chairman will be informed. If the matter concerns the Chairman of that Committee no report will be made until after the Police have interviewed the Chairman and the CPS have agreed for the matter to be disclosed.

Once the Police have completed their investigation and a decision has been made by the CPS the process will be as follows:-

- If a prosecution proceeds the Monitoring Officer will take no further action apart from updating the Standards Advisory Committee on its progress; and
- If the CPS decides not to proceed with a prosecution the Monitoring Officer will then process the complaint through the Council's Arrangements for dealing with such complaints. It is accepted that the CPS requires a higher standard of proof (beyond reasonable doubt) for criminal prosecution whereas a local panel need only consider the balance of probabilities and therefore whilst there may not be a criminal offence there still may be a breach of the Code of Conduct. In the event that the Council pursues the matter further in terms of a Code of Conduct breach, it will inform the Police of their decision.

# **Protocol between Taunton Deane Borough Council and Avon and Somerset Police**

## **Investigations and Offences under the Localism Act 2011, Section 34**

### **Introduction**

1. This protocol applies in the Taunton Deane Borough Council area to the handling and investigation of criminal offences created by Section 34 of the Localism Act 2011, as enacted by Statutory Instrument on 1 July 2012.
2. The purposes of this protocol are:-
  - to assist the initial investigation and handling of criminal offences connected with the Localism Act 2011;
  - to assist officers and staff in identifying and correctly categorising such offences; and
  - to provide guidance as to their handling and initial investigation.
3. If such offences are not investigated correctly, there is a clear risk of adverse publicity for both the Police and the Local Authority concerned. Evidence which suggests that such offences may have been committed can also be indicative of wider corruption as well as offences under the Bribery Act (which are generally investigated by the Avon and Somerset Investigations Department). It is important that supervising staff who have the responsibility of reviewing the reports and investigation logs relating to such offences under the 2011 Act are aware of the potential for adverse publicity within these reports and undertake any review with this aspect in mind.

### **Offences – General Considerations**

4. Offences under Section 34 are relevant to Members of Councils who are elected, or have a vote on any Committee or Sub-Committee which exercises any function or decision making power on behalf of the Council. Section 34 applies to Members of County Councils, Fire and Rescue Authorities, District and Borough Councils, and local Parish Councils.
5. Section 34 lists a number of different offences relating to the disclosure of relevant interests in such Committees and extend to those interests held by family members living at the same address.
6. Investigators should note that whilst offences under Section 34 are summary only offences, the consent of the Director of Public Prosecutions is required in order

for a prosecution to proceed. Accordingly there is a level of seriousness attached to these offences.

7. All officers should note that these offences relate to persons who are elected in their role in Councils and should therefore be mindful of the need for impartiality in the political context, and also the potential for adverse publicity and possible media attention in relation to the issues surrounding such offences. For example, Planning Committees in local councils can deal with issues in which there is intense local interest.
8. Officers should also be wary in situations in which an investigation may need to be conducted in the period immediately prior to the holding of local or national elections. If pre-election purdah has commenced and an allegation has been made in relation to an offence contrary to the Localism Act against an existing Member who is also a candidate in any forthcoming election, then it will be necessary for the matter to be recorded and investigated in due course. However, no investigation shall take place until after the election.

### **The seven principles of public life**

9. It should be noted that the provisions within Section 34 of the 2011 Act effectively criminalise aspects of what was historically a 'Code of Conduct' for persons in public office. Such persons are deemed to be subject to seven stated "principles of public life".
10. When referring to the offences under the Localism Act these principles should be borne in mind and the Act is intended to penalise those in public office who do not comply with these principles.
11. These principles – as set out in the Appendix to this Protocol - are as follows:-
  - Selflessness
  - Integrity
  - Objectivity
  - Accountability
  - Openness
  - Honesty
  - Leadership

### **Offences – Specific Considerations**

12. The offences under Section 34 are as follows:-

- **Failure to comply with an obligation imposed on a person by section 30(1).** Failure to declare, within 28 days of appointment as a Member or

co-opted Member, any Disclosable Pecuniary Interests. Such interests are to be kept in the authority's Register.

- **Failure to comply with an obligation imposed on a person by section 31(2).** Failure to disclose an interest to the relevant meeting if not so recorded in the authority's Register subject to the provisions of sensitive disclosures. If there is such a sensitive disclosure as defined by Section 32(1) then it is sufficient for a Member to declare that an interest exists.
- **Failure to comply with an obligation imposed on a person by section 31(3).** Failure to notify the Monitoring Officer of an interest not recorded on the authority's register and not subject to a pending notification within 28 days of such a disclosure.
- **Failure to comply with an obligation imposed on a person by section 31(7).** Failure to notify the Monitoring officer of an interest within 28 days of the Member becoming aware of a Disclosable Pecuniary Interest in any matter to be dealt with or being dealt with by the Member in the course of discharging a function of a relevant authority.
- **Participates in any discussion or vote in contravention of section 31(4).** A Member or co-opted Member may not participate, or participate further in any discussion of the matter at the meeting unless he has a dispensation to do so (under section 33 of the Act) so granted by the authority. A Member or co-opted Member may not participate in any vote, or further vote taken on the matter at the meeting unless he has a dispensation to do so (under section 33 of the Act) so granted by the authority.
- **Takes any steps in contravention of Section 31(8).** The Member must not take any steps or any further steps in relation to the matter (except for the purposes of enabling the matter to be dealt with otherwise than by the Member)
- **Knowingly providing false or misleading information OR is reckless as to whether information is true and not misleading in under Section 30(1).** Failure to declare, within 28 days of appointment as a Member or co-opted Member, any Disclosable Pecuniary Interests. Such interests are to be kept in the authority's Register.
- **Knowingly providing false or misleading information OR is reckless as to whether information is true and not misleading in under Section 31(2).** Failure to disclose an interest to the relevant meeting if not so recorded in the authority's Register subject to the provisions of sensitive disclosures. If there is such a sensitive disclosure as defined by Section 32(1) then it is sufficient for a Member to declare that an interest exists.
- **Knowingly providing false or misleading information OR is reckless as to whether information is true and not misleading in under Section 31(3).** Failure to notify the Monitoring Officer of an interest not recorded on the authority's Register and not subject to a pending notification within 28 days of such a disclosure.
- **Knowingly providing false or misleading information OR is reckless as to whether information is true and not misleading in under Section 31(7).** Failure to notify the Monitoring Officer of an interest within 28 days of the Member becoming aware of a Disclosable Pecuniary Interest in any matter to be dealt with or being dealt with by the Member in the course of discharging a function of a relevant authority.

13. The Localism Act should not be used as a basis for investigation and possible prosecution where there are more serious and substantial offences involved, for example, misconduct in public office, or offences under the Fraud Act 2006 or Bribery Act 2010. Such offences will be recorded and dealt with in accordance with established processes in relation to such matters, and with reference to the relevant force policy and the Investigations Department.

### **Conflicts of interest and other considerations for Officers and staff**

14. Any Officer or member of Police Staff involved in any capacity in an investigation of allegations under Section 34 should be mindful of the principles of public life and should apply them to their own personal circumstances in relation to the offence being investigated.

15. Officers and staff should also be aware of the relevance of any conflicts of interest which they may hold. There are real and substantial risks of adverse publicity if the investigator, statement taker or Reviewing Officer does not themselves declare any interest or connection which they may have in association with the investigation of the offence. Any Officer or member of Police Staff who considers that they or another may have a conflict of interest in relation to such an allegation or investigation must seek advice on this matter from the Professional Standards Department or Legal Services as a matter of urgency.

16. The investigation for alleged offences will normally sit with the Local Policing Team, but wider advice and support in relation to the investigation can always be sought from Investigations or Legal Services.

17. Investigators should also be mindful of the need for proportionality in the conduct and resolution of the investigation

### **Administrative requirements**

18. Offences under Section 34 are not notifiable and therefore a crime report is not required for [Home Office] National Crime Recording Standards purposes. As with other non-notifiable offences however, it is best practise for the allegation to still be recorded on the Guardian/Niche system.

19. Suspect interviews should be conducted with a view to the circumstances of the investigation and fully comply with current codes of practice.

20. Investigators should bear in mind that a lot of investigative work can be avoided by an early account from the suspect of these offences and in early liaison with the Council's Monitoring Officer, that the relevant circumstances that gave rise to the report are actually correctly reported.



21. Investigators should also be mindful of the case of Richardson v Chief Constable West Midlands Police and the provisions of PACE Code G for the necessity of arrest.

**The process**

22. A statement and analysis of the reporting and investigative process is set out below:-

No.	Step	Notes
1	<b>Receipt of report of possible offence</b>	<p>It is expected that these offences will be reported to the Police from one of the following classes of persons though this list is not exhaustive:-</p> <ul style="list-style-type: none"> <li>• Political rival or associate of the named suspect.</li> <li>• Employee of council reporting direct to the Police as a ‘whistleblower’.</li> <li>• From the Monitoring Officer or Independent Person within the Council, as nominated under the Localism Act with designated responsibility to report such offences. The Monitoring Officer will have first applied the Legal Jurisdiction Test before referral to the Police.</li> <li>• From a member of the public reporting as an offence of ‘corruption’ or misconduct in public office.</li> <li>• From members of the press by enquiry to the Police Media office.</li> <li>• Person who feels aggrieved at a recent decision of the Council or Councillor concerned.</li> </ul> <p>Such reports shall be received in writing, via email, via telephone or as verbal reports. They may also be made by persons approaching Officers on patrol or by way of attendance at the front counter. They may also be made anonymously via any of these routes.</p> <p>Not all members of the public or Members of the Councils will recognise a Localism Act offence and so they may report the crime as one of the following types:-</p> <ul style="list-style-type: none"> <li>• Corruption.</li> <li>• Fraud by abuse of position of Trust.</li> <li>• Bribery.</li> </ul>

		<ul style="list-style-type: none"> <li>• Misconduct in Public Office.</li> <li>• Breach of Codes of Conduct (in public office).</li> </ul> <p>The Monitoring Officer at the Council should be notified as soon as any complaint is received (except where notification of the complaint has been received from the Monitoring Officer)</p>
2	<p><b>Legal jurisdiction criteria test</b></p>	<p>The application of these criteria represents a test of relevance.</p> <p>If the report has been made directly to the Council the Monitoring Officer should have ensured that these criteria are met prior to any reporting to the Police.</p> <p>Conversely, if the report has been made directly to the Police, the Local Neighbourhood Manager will request that the Monitoring Officer undertakes this test prior to further police involvement.</p> <p>The criteria are:-</p> <p>(a) Did the alleged conduct occur before the adoption of the Code of Conduct?</p> <p>(b) Was the person who is the subject of the complaint a Member of the District or Parish Council at the time of the alleged conduct?</p> <p>(c) Was the person complained of acting in an official capacity at the time of the alleged conduct?</p> <p>(d) Did the alleged conduct occur when the person complained of was acting as a Member of another authority?</p> <p>(e) If the facts could be established as a matter of evidence, could the alleged conduct be capable of a breach of the Code of Conduct?</p> <p>(f) The complaint is about dissatisfaction with the District or Parish Council's decisions, policies and priorities.</p> <p>Prior to acceptance of the criminal investigation by the Police, the Neighbourhood Manager will make contact with the Council Monitoring Officer and request that they assess the complaint against the above criteria and confirm that the criteria are satisfied.</p> <p>Provided the criteria are all met, the allegation will be recorded as a crime and a Police Investigator</p>

		will be appointed.
<b>3</b>	<b>Creation of Storm Record</b>	<p>In all cases a Storm Record should be created that records the details of the allegations as follows:-</p> <ul style="list-style-type: none"> <li>• Name and address and contact details of complainant / informant.</li> <li>• Name and address of suspect – if known.</li> <li>• Grounds for complaint – i.e. what interest has the suspect not declared and at which Council meeting?</li> </ul>
<b>4</b>	<b>Assessment and Allocation</b>	<p>Following the recording of a complaint as a crime it will be assessed by the Incident Assessment Unit and allocated accordingly.</p> <p>The officer to whom the case is allocated should be the Local Beat Manager unless the matter is serious or complex in which case advice from Investigations should be sought.</p> <p>If the suspect is a member of Police Staff the investigation will be referred to the Force Professional Standards Department.</p>
<b>5</b>	<p><b>Investigating Officer contacts Monitoring Officer</b></p> <p><b>Initial investigative review by Crime Supervisor/Investigative Officer</b></p>	<p>The Investigating Officer must make early contact with the relevant Council's Monitoring Officer outlining the nature of the allegation.</p> <p>The Council's Monitoring Officer will provide advice and assistance with regard to evidential capture. S/he will also determine who within their Council to notify, this may include the Chief Executive, Leader or Press Officer for example but will be at their discretion. (The Council's Monitoring Officer will already have undertaken the Legal Jurisdiction Test).</p> <p>On allocation, the Investigating Officer should consider performing the following investigative actions. These actions should be reviewed on a case by case basis and made proportionately to the circumstances of the offence being investigated.</p> <p><u>In liaising with the Monitoring Officer, the Investigating Officer should:-</u></p> <ul style="list-style-type: none"> <li>• Request that the Register of Interests is checked and the minutes of relevant meetings</li> </ul>

		<p>are made available or be sign posted to their whereabouts.</p> <ul style="list-style-type: none"> <li>• Inquire whether the named suspect has been the subject of similar complaints in the past?</li> <li>• Inquire whether the named informant has been the subject of similar complaints in the past?</li> <li>• Ask for any other relevant material or intelligence on the offence, the suspects and witnesses involved or the circumstances surrounding it.</li> <li>• Ask for any other information relating to the 'personal interest' complained of that is held by the Council.</li> <li>• Ascertain whether it is possible through the circumstances complained of, that the suspect or another party has substantially benefited by the failure to disclose the personal interest.</li> <li>• Ascertain if a substantial crime has been committed within the Localism Act definition OR another substantive crime e.g. Bribery Act, Misconduct in public office at common law, Fraud by abuse of position of trust. If the circumstances of the complaint indicate a wider, more substantive criminal act, this will be referred to the Investigations Department.</li> </ul> <p><u>Material to be requested from the Monitoring Officer</u></p> <p>The Investigating Officer will seek the views expressed by the Monitoring Officer and if appropriate by the Independent Person as nominated by the Council under the Localism Act.</p> <p>These views should be in writing and contain answers to the following questions and are disclosable under Criminal Procedures and Investigations Act 1996 (CPIA).</p> <p>The Independent Person or Monitoring Officer is a potential witness in the case and he or she should be aware that subsequent to providing this information they may be required to provide a witness statement and attend Court as a witness, in order to provide evidence on the following:-</p> <ul style="list-style-type: none"> <li>• What circumstances were reported to the Monitoring Officer/Independent Person regarding this offence?</li> <li>• What complaints have been received against</li> </ul>
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		<p>the named suspect to this offence historically and from whom?</p> <ul style="list-style-type: none"> <li>• If not reported to the Police, what was the basis of this decision? Where is this decision and rationale recorded?</li> <li>• What explanation was given in any previous complaint against the suspect by either the suspect themselves or any other person?</li> <li>• What other complaints have been received from or against the complainant in this case and how were these dealt with?</li> <li>• What has the suspect said either in explanation or mitigation or remorse about the offence to any other person and where is this recorded and who witnessed this relevant comment</li> </ul> <p>Where not available via other means e.g. on District/Parish Council website request that the Police are provided with copies of the following:-</p> <ul style="list-style-type: none"> <li>• Register of Interests that relate to the matter under investigation.</li> <li>• The suspect's entries on that Register both current and historic.</li> <li>• Copies of any letters, notices or restrictions that were sent to the suspect that require or request them to notify the Council of their interests and copies of the response of the suspect to any such notices or requests.</li> <li>• Where relevant, the minutes of the meetings where the interest was not declared.</li> <li>• Names and contact details and role of persons present at the meeting (s) concerned</li> <li>• Specific records made at the meeting by the secretary or clerk to the meeting</li> <li>• (Some meetings in some Councils are video recorded and copies of these should be requested and preserved).</li> <li>• Any publicised minutes or sanctioned record of the meetings concerned.</li> </ul> <p>The Investigating Officer should request that a search is made of the following communications or records and formally request that steps are taken to preserve them for possible review by the Police:-</p> <ul style="list-style-type: none"> <li>• Any emails, messages, letters or other</li> </ul>
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		<p>correspondence received by the Council in relation to the matter under investigation both prior to, during and after the relevant period of the offence.</p> <ul style="list-style-type: none"> <li>• Any emails, messages or communications or other correspondence received or sent by the suspect during the relevant period of the offence.</li> <li>• Any emails, messages or communications or other correspondence received or sent by the complainant during the relevant period of the offence.</li> </ul> <p>It should be noted that the Localism Act 2011 requires that a 'sensitive register' of personal interests is recorded and maintained by the Council. The interpretation of "sensitive" in this regard is similar in definition to the sensitivity of Police information and includes the risk of subjection to personal violence or threat of life. Initial investigators should be mindful of the existence of such sensitive information and, in accordance with established principles. They should not record such interests on any crime report log.</p> <p><b>Other material to be sought with respect to the Disclosable Interest</b></p> <p>The Investigating Officer should ensure that suitable checks are made to establish that the alleged 'interest' of the suspect has been in existence and known by the suspect.</p> <p>The actual checks made are different in each circumstance and the following is a guide only.</p> <ul style="list-style-type: none"> <li>• Companies House including filed reports, current and historic directors and shareholders, previous company names, names and addresses of company office holders, accountants and tax advisers (if so recorded).</li> <li>• HMRC checks for declared earnings under PAYE VAT return for the relevant period.</li> <li>• Public, open source (e.g. Google) checks and local media websites and 'blogs'.</li> <li>• Police data and intelligence sources Including PNC, PND etc.</li> </ul>
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		<ul style="list-style-type: none"> <li>• Council voters checks on appropriate addresses and persons.</li> <li>• Council tax records for occupancy held on appropriate addresses and persons.</li> <li>• Checks via area Financial Investigator on the subject and the Disclosable Interest under investigation.</li> <li>• Any other check that the Investigating Officer believes is relevant to the investigation.</li> </ul>
6.	<p><b>Response to potential evidence of wider criminal activity</b></p>	<p>Where the Reviewing Officer believes that the following factors may be present then the matter should be reported to the Investigations Department as appropriate:-</p> <ul style="list-style-type: none"> <li>• The suspect has potentially made substantive gains from the failure to disclose the interest. e.g. suspect has voted on building works to be instigated when their family member runs a local building firm and that firm has gained from the award of the contract.</li> <li>• The suspect has been the subject of similar complaints to either the Police or Council in the past from different complainants.</li> <li>• There are substantial complicating factors in the investigation that require detailed investigation.</li> </ul> <p>Possible examples are as follows:-</p> <ul style="list-style-type: none"> <li>• The whistle-blower in the Council who has reported the complaint is now being subject to pressure form the suspect in terms of employment or capability to continue in their role.</li> <li>• There are corporations or limited companies involved with commercial interests AND the suspect or their family members or their associates are involved in these companies.</li> <li>• Investigation of the offences requires Production Orders or search warrants to review special procedure material as defined under Schedule 1 PACE (this includes business records held in confidence).</li> <li>• There is a political element to either the nature, the substance of the complaint, the suspect or</li> </ul>

		<p>the informant that relates to an important public interest or local issue being promoted by one or more registered political parties.</p> <ul style="list-style-type: none"> <li>• The complaint is made around an issue that is relevant to a local election and or the complaint is in a Purdah period or just after an election.</li> <li>• The circumstances of the allegation constitute a substantial crime of:- <ul style="list-style-type: none"> <li>○ Bribery as defined in the Bribery Act 2010;</li> <li>○ Misconduct in public office at common law; and</li> <li>○ Fraud by abuse of position of trust contrary to the Fraud Act 2006.</li> </ul> </li> <li>• The Reviewing Officer believes that the surrounding circumstances require that the matter be dealt with by the Investigations department. Examples include, but are not limited to:- <ul style="list-style-type: none"> <li>○ Risk of a 'Critical Incident';</li> <li>○ Cross border criminality with a National or international context;</li> <li>○ The complainant or the suspect are serving Police Officers or civilian staff or are family members, or otherwise related to, serving Police Officers or civilian staff.</li> <li>○ There exists substantial and relevant sensitive information relating to the offence.</li> <li>○ There is a serious risk of prejudice to an important public interest.</li> <li>○ The Reviewing Officer believes that the offence and the circumstances surrounding it are not suitable for investigation by Officers in a different district or area.</li> </ul> </li> </ul> <p>It should be noted that referral of the report to Serious Crime Directorate should only be made where there are substantial grounds for doing so. The essence of the Localism Act is to ensure greater transparency and public accountability and these principles should be mirrored in the Police investigation.</p> <p>Where an Investigating Officer identifies a more serious notifiable offence (eg. pecuniary advantage) a crime report for this crime will be</p>
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		<p>created in consultation with the Investigations Department. [note: fraud offences will be recorded by Action Fraud]</p> <p>Where a more substantive crime is alleged/ recognised. (eg. Fraud by abuse of position of trust) then a crime report for this crime will be generated, and Investigations notified prior to allocation.</p> <p>Where an alleged offence is deemed sensitive then an Investigations Detective Inspector must be notified.</p>
<b>7</b>	<b>Internal notifications</b>	<p>The Investigating Officer will expeditiously notify the relevant LPA Commander or in their absence the District Superintendent.</p> <p>If the matter is out of hours then the Duty Superintendent will be notified if appropriate to the circumstances.</p> <p>Any of these individuals will then consider whether the matter should be brought to the attention of the Force Gold Commander.</p> <p>The Investigating Officer will also notify the Council/Force media officer.</p>
<b>8</b>	<b>Disposal</b>	<p>Once the outcome of an investigation is known, early notification must be made to the Incident Assessment Unit and also to the relevant Monitoring Officer who will then consider what if any action will be taken by the Council in accordance with their Code and arrangements.</p> <p>It must be borne in mind by supervisors that the disposal of a Localism Act crime may attract adverse publicity and potentially call into question the reputation of the Force or wider Police service in particular were a more substantive crime to be overlooked.</p> <p>Closure of the investigation should be reviewed by an Officer of at least the rank of Inspector.</p> <p>Upon closure of the investigation, the Reviewing Officer must ensure that the decisions made during the course of the investigation are recorded and justified in accordance with the National</p>

		<p>Decision Making Model.</p> <p>Any internal notifications carried out as set out above will also be replicated upon closure of the investigation.</p>

## **APPENDIX**

### **THE SEVEN PRINCIPLES OF PUBLIC LIFE**

#### **SELFLESSNESS**

Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

#### **INTEGRITY**

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

#### **OBJECTIVITY**

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

#### **ACCOUNTABILITY**

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

#### **OPENNESS**

Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

#### **HONESTY**

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

#### **LEADERSHIP**

Holders of public office should promote and support these principles by leadership and example.

## **Standards Advisory Committee – 15 March 2016**

Present: Anne Elder (Chairman)  
Councillors Mrs Adkins, Davies and Gaines  
Michael Marshall, Bill Sparrow and Bryn Wilson (Parish Council  
Representatives), Lynn Rogers (Co-opted independent member of the  
Advisory Committee)

Officers: Bruce Lang (Monitoring Officer) and Richard Bryant (Democratic Services  
Manager)

Also present: Councillor Aldridge

### **11. Welcome**

The Chairman welcomed Councillor Bill Sparrow to his first meeting of the  
Standards Advisory Committee.

### **12. Apologies**

Councillors Miss Smith and Wren, Mr Terry Bowditch (Co-opted independent  
member) and Mrs Louise Somerville-Williams (Independent Person).

### **13. Minutes**

The minutes of the meeting of the Standards Advisory Committee held on 7  
July 2015 were taken as read and were signed.

### **14. Declaration of Interests**

Mrs Anne Elder, declared personal interests as a Public Governor of the  
Taunton and Somerset NHS Trust and as a Member of the House  
Management Committee of one of the premises operated by the Royal  
Agricultural Benevolent Institution.

### **15. Protocols between the Monitoring Officer of Taunton Deane Borough Council and the Avon and Somerset Constabulary**

The Monitoring Officer, Bruce Lang, reported that two protocols between  
Taunton Deane Borough Council and the Avon and Somerset Constabulary  
had recently been drafted.

These were intended to cover the reporting of potential criminal offences  
arising from the failure to register or declare Disclosable Pecuniary Interests  
(DPI) or from speaking and voting where a Member had a DPI and had not

first sought a dispensation.

Although of relevance, one of the protocols covered in some detail the procedures which the Police would be required to follow once a complaint against the non-declaration of a DPI had been received.

The protocol which related most to the Council was generally accepted, although several amendments to the wording were suggested and agreed by the Advisory Committee. Members also felt that the protocols should be cross-referenced with Appendix 3 of the Members' Code of Conduct within the Council's Constitution.

**Resolved** that:-

- (a) The protocol which detailed the procedures the Police would follow in the future should a complaint be received about the non-declaration of a Disclosable Pecuniary Interest by a Councillor be agreed as submitted; and
- (b) The protocol which related most to Taunton Deane Borough Council – set out in the Appendix to these Minutes – incorporating the changes agreed by the Standards Advisory Committee be approved.

## **16. Monitoring Officer's Update**

Mr Lang reported on three matters:-

- (1) **Training** – Following the Borough and Parish Elections last May, a number of Code of Conduct training sessions had been held primarily for the newly elected Councillors. The four sessions held had been reasonably well attended with most Parish Councils within Taunton Deane being represented at one of the sessions.

Despite the training provided occasional queries from Parishes were still received which were either dealt with internally or referred to the Somerset Association of Local Councils.

- (2) **Formal Complaints** – One complaint had recently been received although there was some doubt as to its validity. Mr Lang was currently investigating this matter.
- (3) **Audit of Register of Interests** – The South West Audit Partnership (SWAP) had recently undertaken an audit of the Council's Declarations of Interests, Gifts and Hospitality. SWAP had stated that it was able to offer reasonable assurance as most of the areas reviewed were found to be adequately controlled.

It was confirmed that the majority of the Declarations of Interest for the Taunton Deane Members had been posted on the Council's website.

There were a small number of Councillors who were required to update their Register of Interest Forms. Once this had been done, the website would be further updated. Noted that work was also underway to publish the Declarations of Interest made by all of the Town and Parish Councillors on the website.

**Resolved** that the report be noted.

**17. Proposed meeting with Rebecca Pow, the Member of Parliament for the Taunton Constituency to discuss the current Standards Regime**

Reference Minute No. 9/2015 the Democratic Services Manager, Richard Bryant, reported that arrangements had now been made for the local Member of Parliament, Rebecca Pow, to meet with the Standards Advisory Committee on Friday, 29 April 2016 at 2 p.m. at The Deane House.

It was agreed that the meeting should be held on an 'informal' basis in one of the smaller Committee Rooms with the intention of drawing to Ms Pow's attention the dissatisfaction the Advisory Committee had with the current Standards Regime.

It was further agreed that the Advisory Committee's concerns should be communicated to Ms Pow before the meeting so she had some knowledge of the particular issues Members wished to highlight which she could perhaps raise with the Local Government Minister.

**Resolved** that the report be noted.

**18. Date of next meeting**

The next meeting of the Advisory Committee would be held on Tuesday, 24 May 2015 at 2.30 p.m. in the John Meikle Room at The Deane House.

(The meeting ended at 4.05 p.m.)

# **Appendix to the Minutes**

## **PROTOCOL BETWEEN THE MONITORING OFFICER OF TAUNTON DEANE BOROUGH COUNCIL AND THE AVON AND SOMERSET CONSTABULARY**

### **Purpose**

To agree a protocol for the reporting of potential criminal offences arising from the failure to register or declare Disclosable Pecuniary Interests (DPI) or from speaking and voting where a Member has a DPI and has not first sought a dispensation.

References to the Monitoring Officer also include the Deputy Monitoring Officer where the Monitoring Officer is absent or unable to act. In these circumstances the Deputy Monitoring Officer has full power to undertake the Monitoring Officer role.

### **Introduction**

Section 34 of The Localism Act 2011 created a criminal offence where a Member or co-opted Member fails, without reasonable excuse, to comply with the requirements of the Act to register or declare DPIs or takes part in Council business at meetings or when acting alone when prevented from doing so. If found guilty of such an offence the penalty can be a fine (under the current levels) of up to £5,000 and a disqualification from holding office for up to five years.

### **The Code of Conduct**

Taunton Deane Borough Council adopted a new Code of Conduct at Full Council on 17 July, 2012. The Code incorporates the legislation and provides, at Appendix 3, that it is a criminal offence to:-

- Fail to notify the Monitoring Officer of any DPI within 28 days of election;
- Fail to disclose a DPI at a meeting if it is not on the Register;
- Fail to notify the Monitoring Officer within 28 days of a DPI that is not on the register that you have disclosed at a meeting;
- Participate in any discussion or vote on a matter in which you have a DPI;
- As a Cabinet member discharging a function acting alone, and having a DPI in such a matter, failing to notify the Monitoring Officer of the DPI within 28 days of the interest,
- Knowingly or recklessly providing information that is false or misleading in notifying the Monitoring Officer of a DPI or in disclosing such interest to a meeting.

### **The Process**

If the Monitoring Officer becomes aware, either via a complaint made under the Council Arrangements, or via any other means he/she will first gather together all

relevant documentation for consideration. Having ascertained that no dispensations have been granted, if he/she is of the opinion that there is evidence of such a breach of the Code he / she will then consult the Chairman or Vice-Chairman of the Standards Advisory Committee confidentially for his / her opinion. No contact will be made with the subject member against whom the complaint is made as this may prejudice any investigation the Police may wish to undertake or subsequent prosecution. In addition the Monitoring Officer and the Chairman or Vice-Chairman will be unable to assist or advise the subject Member against whom the complaint is made.

If the Monitoring Officer concludes that there is evidence of a breach he / she must report the matter to the Police and send all relevant documentation to them. The Monitoring Officer does not have any discretion in this instance and it will be for the Police to conduct whatever investigation they consider appropriate. The Monitoring Officer must contact the Police to inform them of the situation before sending the documentation.

Similarly if the Police receive a complaint from a member of the public they will inform the Monitoring Officer of the receipt of that complaint.

The Monitoring Officer and / or the Chairman or Vice-Chairman will make themselves available for interview as witnesses in any subsequent court processes should this be required by the Police or Crown Prosecution Service (CPS).

The Monitoring Officer will maintain regular contact with the Police to obtain updates on the progress of their investigation.

The Monitoring Officer will report the matter and any progress in the investigation confidentially to the Standards Advisory Committee, unless the matter concerns a member of that Committee when only the Chairman will be informed. If the matter concerns the Chairman of that Committee no report will be made until after the Police have interviewed the Chairman and the CPS have agreed for the matter to be disclosed.

Once the Police have completed their investigation and a decision has been made by the CPS the process will be as follows:-

- If a prosecution proceeds the Monitoring Officer will take no further action apart from updating the Standards Advisory Committee on its progress; and
- If the CPS decides not to proceed with a prosecution the Monitoring Officer will then process the complaint through the Council's Arrangements for dealing with such complaints. It is accepted that the CPS require a higher standard of proof (beyond reasonable doubt) for criminal prosecution whereas the local process need only consider the balance of probabilities and therefore whilst there may not be a criminal offence there still may be a breach of the Code of Conduct. In the event that the Council pursues the matter further in terms of a Code of Conduct breach, it will inform the Police of their decision.