

STANDARDS ADVISORY COMMITTEE

MINUTES OF THE MEETING HELD ON 14 MARCH 2016

AT 4.30 PM

IN THE DUNKERY ROOM, WILLITON

**Present:**

Mr T Evans ..... Chairman

Councillor J Davis

Mr J Gamlin

Councillor P H Murphy

Councillor D J Westcott

Councillor S O de Renzy-Martin

Mr I Gunn

Councillor N Thwaites

**Officers in Attendance:**

Monitoring Officer (B Lang)

Deputy Monitoring Officer and Meeting Administrator (R Bryant)

**SA23      Apology for Absence**

Councillor P Webber.

**SA24      Welcome and Introductions**

The Chairman welcomed everyone to the meeting and Members and Officers introduced themselves.

**SA25      Minutes of the Meeting held on 13 October 2015**

(Minutes of the Meeting of the Standards Advisory Committee held on 13 October 2015 - circulated with the Agenda.)

**RECOMMENDED** that the Minutes of the Meeting of the Standards Advisory Committee held on 13 October 2015 be noted and would be confirmed as a correct record at the meeting of Council to be held on 20 April 2016.

**SA26      Declarations of Interest**

No declarations of interest were declared.

**SA27      Public Participation**

No member of the public had requested to speak.

**SA28**      **Protocols between the Monitoring Officer of West Somerset Council and the Avon and Somerset Constabulary**

The Monitoring Officer reported that two protocols between West Somerset 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.

**RECOMMENDED** 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 West Somerset Council – set out in the Appendix to these Minutes – incorporating the changes agreed by the Standards Advisory Committee be approved.

**SA29**      **Monitoring Officer's Update**

The Monitoring Officer reported on activities undertaken since the last meeting of the Advisory Committee.

A further Code of Conduct training session for Parish Council representatives had been provided by the Monitoring Officer and Mr I Gunn at Withypool Village Hall on 13 January 2016.

Even though there had only been 10 attendees, the message of the training had been well received.

Three training sessions had now been provided and copies of the 'slides' used had been sent to the Clerks of all Town and Parish Councils. Nevertheless, it was apparent that a significant number of newly elected Parish Councillors had not undertaken the training offered. This continued to be a concern to the Advisory Committee.

With regard to the Police Protocol(s), once these had been approved by Full Council, it was agreed that copies should be placed on the Council's Website and circulated to all District Councillors and the Town and Parish Council Clerks.

Reference Minute No. SA19, the Monitoring Officer provided an update on the receipt of completed Declaration of Interest forms from Town and Parish Councils.

Although 28 of the Parishes had submitted all of their Declarations of Interest forms, details of the outstanding declarations from the other eight Parish Councils were submitted. Further reminders would be sent out shortly in an effort to complete the task and enable the Council's website to be fully updated.

Also reported that since the last meeting one complaint had been received about a Disclosable Pecuniary Interest that had not been declared which had led to the involvement of the Police. A further complaint against a Town Councillor had also very recently been received. An informal meeting of the Standards Advisory Committee would be called shortly to decide the way forward.

**RECOMMENDED** that the Monitoring Officer's update be noted.

**SA30**      **Exclusion of the Press and Public**

**RESOLVED** that the press and public be excluded for the following item on the grounds that, if the press and public were present during that item, there would be likely to be a disclosure to them of exempt information of the class specified in Paragraph 2 of Part 1 of Schedule 12A of the Local Government Act 1972 as amended as follows:-

The item (Minute No SA31) contained information that could release confidential information relating to the identities of individuals. It was therefore agreed that after consideration of all the circumstances of the case, the public interest in maintaining the exemption outweighed the public interest in disclosing the information.

**SA31**      **Member Code of Conduct**

The Monitoring Officer provided details to the Members present of the recent incident where a member had taken part in an issue despite having a Disclosable Pecuniary Interest in the matter. As required by legislation, the matter had been referred to the Police who had undertaken an investigation. The outcome of the matter was reported together with details of a change to the Council's Planning call in procedure which had been made as a result.

Members were also provided with details of the complaint made against a Town Councillor. Full details had been requested and these were awaited.

**RECOMMENDED** that:-

(1) The report be noted; and

(2) The learning points that had emerged from the Disclosable Pecuniary Interest issue be highlighted with both the District Councillors and the Parish Councils in West Somerset.

**SA32      Date of Future Meeting**

- 7 June 2016 at 4.30 pm in the Council Chamber, West Somerset House.

The meeting closed at 5.49 pm

## Appendix to the Minutes

### PROTOCOL BETWEEN THE MONITORING OFFICER OF WEST SOMERSET 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 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 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 5 years.

#### The Code of Conduct

West Somerset Council adopted a new Code of Conduct at full council on 27<sup>th</sup> June, 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 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,
- 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.

**WEST SOMERSET COUNCIL  
STANDARDS ADVISORY 14.3.2016**

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.