

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.