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West Devon
Borough
Council

WEST DEVON STANDARDS COMMITTEE - TUESDAY, 4TH SEPTEMBER, 2012

Agenda, Reports and Minutes for the meeting

Agenda No Item

1. **Agenda Letter** (Pages 1 - 4)

2. **Reports**
 Reports to Standards:
 - a) Item 6 - General Dispensation and amendment to delegation of powers to grant dispensations (Pages 5 - 10)

3. **Minutes** (Pages 11 - 14)

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PART ONE - OPEN COMMITTEE

1. **Apologies for Absence**

2. **Declarations of Interest**

Members are invited to declare any personal or disclosable pecuniary interests, including the nature and extent of such interests they may have in any items to be considered at this meeting.

If Councillors have any questions relating to predetermination, bias or interests in items on this Agenda, then please contact the Monitoring Officer in advance of the meeting.

3. **Items Requiring Urgent Attention**

To consider items which, in the opinion of the Chairman, should be considered by the Meeting as matters of urgency (if any).

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4. **Confirmation of Minutes**

Meeting held on 12th June 2012 (previously circulated)

5. **The New Standards Regime**

Monitoring Officer to lead

6. **General Dispensation and amendment to delegation of powers to grant dispensations**

Report of the Monitoring Officer

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7. **Procedures**

Monitoring Officer to give a verbal update on progress with the new standards procedures

8. **Appointment of Sub-Committee**

To appoint Members to the Sub-Committee

PART TWO – ITEMS WHICH MAY BE TAKEN IN THE ABSENCE OF THE PRESS AND PUBLIC ON THE GROUNDS THAT EXEMPT INFORMATION MAY BE DISCLOSED (if any)

If any, the Committee is recommended to pass the following resolution:-

“**RESOLVED** that under Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the Meeting on the grounds that exempt information may be disclosed as defined in Part I of Schedule 12(A) to the Act”.

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Standards Committee

Composition

1. Membership of the Standards Committee

- a. The Standards Committee shall comprise nine Members of the Council
- b. The Chairman and Vice Chairman shall be appointed by the Council in accordance with the Council's Procedure rules in Part 4 of the Constitution.
- c. The Standards Committee may co-opt up to two parish / town council representatives from a parish/town council in the Borough

2. Membership of Sub-committees of the Standards Committee

- The Standards Committee shall appoint sub-committees of three members to deal with specific standards complaints
- Sub-committees will consult (where co-opted) parish / town councillors on decisions relating to town or parish councillors

3. Quorum for the Standards Committee and its sub-committees:

- **Three** members for the duration of the meeting.

4. Roles and functions of the Standards Committee

- a. To promote and maintain high standards of conduct by Councillors and co-opted Members;
- b. To assist Councillors and co-opted Members to observe the Members' Code of Conduct;
- c. To advise the Council on the adoption or revision of the Members' Code of Conduct, and on matters relating to the ethical conduct of the Council and its Members;
- d. To advise and train Councillors and co-opted Members on matters relating to the Code of Conduct;
- e. To grant dispensations to Borough Councillors (and where relevant, co-opted Members to the Borough Council) from requirements relating to Disclosable Pecuniary interests in the following circumstances:
 - i. Where so many members of the decision-making body have a Disclosable Pecuniary Interest that Political Balance would be affected
 - ii. It is in the interests of the inhabitants that a dispensation be granted, or

iii. It is appropriate to grant a dispensation

1. To consult the Independent Person(s) in relation to matters referred for investigation and hearings
2. To consider complaints alleging a breach of the Code of Conduct by Borough Councillors (and any co-opted members where relevant) and those members of town and parish councils in the Borough of West Devon.
3. To receive Investigation reports and to carry out hearings in respect of allegations of misconduct for Borough members (and co-opted members where relevant) and town/parish council members and to recommend sanctions or other recommendations/actions

Roles and functions of the Standards sub-committees

- To consider complaints alleging members' breach of the Code of Conduct; as referred by the Monitoring Officer
- To receive investigation reports and carry out Hearings in respect of allegations of misconduct

Budget

To have authority for spending within the allocated budget.

Annual Review

The Standards Committee shall report annually to Council on its performance and achievements.

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AGENDA
ITEM
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WEST DEVON BOROUGH COUNCIL

AGENDA
ITEM
6

NAME OF COMMITTEE	Standards Committee
DATE	4 September 2012
REPORT TITLE	General Dispensation and amendment to delegation of powers to grant dispensations
Report of	Monitoring Officer
WARDS AFFECTED	All

Summary of report:

To recommend a General Dispensation be granted to all Members on matters that may affect so many Councillors that the Council or Committee would be inquorate, and to amend the delegated powers on granting dispensations.

Financial implications:

There are no financial implications to this report.

RECOMMENDATIONS:

1. That a General Dispensation is granted to all current Members of West Devon Borough Council to speak and vote on the matters set out in paragraph 2.2 for a period of four years from the date of this decision
2. Recommend to Council that the delegation of powers to grant dispensations is amended to enable:
 - a Standards Sub-committee or
 - the Monitoring Officer in consultation with the Chairman and Vice Chairman of the Standards Committeeto grant dispensations when it is not expedient to wait until the next scheduled Committee meeting.

Officer contact:

Catherine Bowen (Principal Solicitor and Monitoring Officer)
Email: cbowen@westdevon.gov.uk or phone: 01822 813666

1. BACKGROUND

- 1.1 The Localism Act 2011 and the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 introduced Disclosable Pecuniary Interests and new rules on dispensations as part of the new standards arrangements.
- 1.2 It is a criminal offence for Members to fail to register a Disclosable Pecuniary Interest or to speak and/or vote where they have a Disclosable Pecuniary Interest unless they have obtained a dispensation.
- 1.3 The Council has delegated powers to the Standards Committee and (in certain circumstances) to the Monitoring Officer to grant dispensations.
- 1.4 Parish and Town Councils are now responsible for granting their own dispensations (this was formerly a responsibility of the old Standards Committee).

2. GENERAL DISPENSATIONS

- 2.1 Under the old regime, the legislation specifically stated that members would not have a prejudicial interest in circumstances that potentially affected the majority of councillors, such as council tax setting and Members' allowances. There are no similar provisions under the new rules and Members are therefore at risk of committing a criminal offence if they participate in matters in which they have a Disclosable Pecuniary Interest and no dispensation has been granted. If the majority of Members declared an interest in these matters then it would impede the business of the Council.
- 2.2 In order to protect Members it is recommended that a General Dispensation is granted to all Members to speak and vote where they would otherwise have a Disclosable Pecuniary Interest on the grounds that it is in the public interest and appropriate to grant a dispensation to allow all Members to participate fully in the following matters:
 - 2.2.1 **Housing:** where the Councillor (or spouse or partner) holds a tenancy or lease with the Council as long as the matter does not relate to the Councillor's particular tenancy or lease
 - 2.2.2 **Statutory sick pay:** if a Councillor receives this or is entitled to receive it
 - 2.2.3 An **Allowance**, travelling expense, payment or indemnity for Councillors
 - 2.2.4 Any **ceremonial honour** given to Members
 - 2.2.5 Setting the **Council Tax or a Precept**
- 2.3 It is recommended that the general dispensation applies for the maximum permitted period of **four years** from the date of this decision.

3. DELEGATION OF DISPENSATIONS

3.1 Council has delegated to the Standards Committee powers to grant dispensations to Borough Councillors (and where relevant, co-opted Members to the Borough Council) from the requirements relating to Disclosable Pecuniary interests in the following circumstances:

3.1.1 Where so many members of the decision-making body have a Disclosable Pecuniary Interest that political balance would be affected

3.1.2 It is in the interests of the inhabitants that a dispensation be granted, or

3.1.3 It is appropriate to grant a dispensation.

3.2 Council has granted to the Monitoring Officer delegated authority to grant dispensations where so many members of the Council have a Disclosable Pecuniary Interest that it would impeded the transaction of the business of the Council (i.e. the meeting would be inquorate).

3.3 However, there may be circumstances listed in 3.1.1 – 3.1.3 above where an urgent decision needs to be made between Standards Committee meetings. In such circumstances it is proposed that delegated powers are given as follows to consider such requests for dispensations (with a report being made to the next ordinary Committee meeting):

3.3.1 A sub-committee of the Standards Committee, or

3.3.2 The Monitoring Officer in consultation with the Chairman and Vice Chairman of the Standards Committee.

4. LEGAL IMPLICATIONS

4.1 The Localism Act 2011 and the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 introduced Disclosable Pecuniary Interests and the new rules on dispensations.

4.2 The Council has delegated powers to the Standards Committee and (in certain circumstances) to the Monitoring Officer to grant dispensations.

5. FINANCIAL IMPLICATIONS

5.1 There are no financial implications to this report.

6. RISK MANAGEMENT

6.1 The Risk Management implications are shown at the end of this report in the Strategic Risks Template.

7. OTHER CONSIDERATIONS

Corporate priorities engaged:	Community Life
Statutory powers:	The Localism Act 2011 Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012
Considerations of equality and human rights:	Not applicable
Biodiversity considerations:	Not applicable
Sustainability considerations:	Not applicable
Crime and disorder implications:	Not applicable
Background papers:	Council report 26 June 2012 and 31 July 2012

STRATEGIC RISKS TEMPLATE

No	Risk Title	Risk/Opportunity Description	Inherent risk status				Mitigating & Management actions	Ownership
			Impact of negative outcome	Chance of negative outcome	Risk score and direction of travel			
1	Failure to grant a general dispensation	So many members may have Disclosable Pecuniary Interest that it would impede the business of the Council	4	2	8	↔	Recommendations for a General Dispensation have been made for adoption by the Council	Monitoring Officer
2	Failure to make amendments to the delegation of powers to grant dispensations	Timely decisions on whether to grant dispensations	4	2	8	↔	Proposed amendments have been made to the delegation to decide requests fro dispensations	Monitoring Officer

Direction of travel symbols ↓ ↑ ↔

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Agenda Item 3

At a Meeting of the **STANDARDS COMMITTEE** held at the Council Chamber, Council Offices, Kilworthy Park, Drake Road, **TAVISTOCK** on **TUESDAY** the 4th day of **SEPTEMBER 2012** at **10.00 am**.

Present:

Cllr J R McInnes – Chairman	
Cllr M V L Ewings – Vice-Chairman	
Cllr R E Baldwin	Cllr K A Clish-Green
Cllr D M Horn	Cllr A F Leech
Cllr J B Moody	Cllr D E Moyse
Cllr L B Rose	

Borough Solicitor & Monitoring Officer
Committee & Ombudsman Link Officer

In attendance:

Cllr J Sheldon
Mrs V Spence – Independent Person – WDBC
Mr R Allison – Independent Person – SHDC
Mr M Winston – Independent Person – SHDC

***SC 7 CONFIRMATION OF MINUTES**

The Minutes of the Meeting held on 12th June 2012, were confirmed and signed by the Chairman as a correct record.

***SC 8 THE NEW STANDARDS REGIME**

The Monitoring Officer reported that the New Standards Regime had come into effect on 1st July 2012, on the demise of the Standards Board for England. From 1st July 2012, each local authority became responsible for developing its own standards arrangements including the adoption of a code, a scheme for dealing with complaints, the imposition of actions to address breaches of the code and the appointment of Independent Persons.

The Devon local authorities had developed a core Standards Code which each local authority could use as a basis to develop a code tailored for each authority's needs.

The Borough Council had adopted its New Code on 26th June 2012, and in so doing, agreed what should be included in the Members' Registers, agreed the Governance arrangements for the new Standards Committee, decided that hearings be dealt with by Standards Sub-Committees, appointed the former Independent member to become the Independent Person, noting also the need to appoint a second Independent Person and adopted an overarching framework for dealing with complaints.

The Monitoring Officer strongly emphasised that Members should not pre-determine their decisions prior to a meeting of the Council or of its Committees and Sub-Committees and should attend with an 'open mind'.

Arising from the discussion, it was agreed that the Committee would receive quarterly/six monthly reports on complaints and that the Monitoring Officer would look to offer guidance to the Planning &

Licensing Committee on what should be recorded as declarations of interest at meetings of that Committee.

Further, the Committee requested the Monitoring Officer to investigate the possibility of a new name for the Committee and to report back to the next meeting.

SC 9

GENERAL DISPENSATIONS AND AMENDMENT TO DELEGATION OF POWERS TO GRANT DISPENSATIONS

The Monitoring Officer presented a report (page 4 to the Agenda) recommending that a General Dispensation be granted to all Members of the Council on matters that may affect so many Councillors that the Council or one of its Committees could become in-quorate and that the scheme for delegation of powers be so amended.

In order to protect Members it was recommended that a General Dispensation be granted on the grounds that it would be in the public interest to enable all Members to speak and to vote where they would otherwise have a Disclosable Pecuniary Interest. Additionally, Council had granted the Monitoring Officer delegated authority to grant dispensations where so many members of the Council have a Disclosable Pecuniary Interest that it would impeded the transaction of the business of the Council (i.e. the meeting would be in-quorate). However, there would be circumstances where an urgent decision would need to be made between Standards Committee meetings. In such circumstances, therefore, it was being proposed that delegated powers be given to a sub-committee of the Standards Committee, or the Monitoring Officer in consultation with the Chairman and Vice Chairman of the Standards Committee to consider such requests for dispensations, with a report being made to the next ordinary meeting of the Standards Committee.

*It was **RESOLVED** that a General Dispensation be granted to all current Members of West Devon Borough Council to speak and to vote on all matters set out in paragraph 2.2 of the Monitoring Officer's report (page 5 to the Agenda) for the remaining life of the current Council from the date of this decision.

It was **FURTHER RESOLVED** to **RECOMMEND** that the delegation of powers to grant dispensations be amended to enable a Standards Sub-Committee or the Monitoring Officer, in consultation with the Chairman and Vice-Chairman of the Standards Committee, to grant dispensations when it would not be expedient to wait until the next scheduled meeting of the Standards Committee.

***SC 10**

PROCEDURES

Prior to the Meeting, the Monitoring Officer had circulated to all Members of the Committee via e-mail a draft paper entitled "Dealing with Standards Complaints". The paper set out the procedure for dealing with complaints which fell within the remit of the Standards Committee. The paper offered guidance, was not prescriptive and provided a first base for investigating and adjudicating on complaints.

It was **RESOLVED** that the paper be approved and adopted as presented and that it be reviewed in 12 months time in the light of experience.

***SC 11**

APPOINTMENT OF SUB-COMMITTEE

It was **RESOLVED** that three Sub-Committees of the Standards Committee be formed to investigate complaints and undertake hearings; each comprising of three Members and using dates in the Council's calendar set aside for Special Meetings.

(The Meeting terminated at 12.05 pm.)

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