

STANDARDS COMMITTEE

Date: Monday 24th January, 2022
Time: 10.00 am
Venue: Council Chamber

AGENDA

1. Welcome and Evacuation Procedure
2. Apologies for Absence
3. Declarations of Interest
To receive any declarations of interest.
4. Minutes- Standards Committee - 18 October 2021 3 - 6
5. Code of Conduct Complaints Update 7 - 10
6. Localism Act 2011 - General Dispensation 11 - 14
7. Any other urgent items which in the opinion of the Chair, may be considered.

Charlotte Benjamin
Director of Legal and Governance Services

Town Hall
Middlesbrough
Friday 14 January 2022

MEMBERSHIP

Councillors T Mawston (Chair), M Saunders (Vice-Chair), S Dean, S Hill, J Hobson, D Rooney, J Rostron, M Storey and S Walker

Assistance in accessing information

Should you have any queries on accessing the Agenda and associated information please contact Susan Lightwing, 01642 729712, susan_lightwing@middlesbrough.gov.uk

STANDARDS COMMITTEE

A meeting of the Standards Committee was held on Monday 18 October 2021.

PRESENT: Councillors T Mawston (Chair), B Cooper (as substitute for M Saunders), D Rooney, J Rostron, M Storey and B Cooper

OFFICERS: S Lightwing, J McNally, C Benjamin and S Reynolds

APOLOGIES FOR ABSENCE: Councillors M Saunders, S Dean, S Hill, S Walker and A Waters
Mr M McClintock, Nunthorpe Parish Council

21/14 **WELCOME AND EVACUATION PROCEDURE**

The Chair welcomed all present to the meeting and read out the building evacuation procedure.

21/15 **DECLARATIONS OF INTEREST**

There were no declarations of interest at this point in the meeting.

21/16 **MINUTES- STANDARDS COMMITTEE -19 JULY 2021**

The minutes of the Standards Committee meeting held on 19 July 2021 were submitted and approved as a correct record.

21/17 **CODE OF CONDUCT COMPLAINTS UPDATE**

A report of the Director of Legal and Governance Services/Monitoring Officer was presented to provide an overview of the current, and recent position, in respect of Code of Conduct complaints received.

It was noted that the report stated that it was a Joint Report with the Executive Member for Legal and Governance Services but this was incorrect.

Currently, there was 1 complaint from 2020, and 11 complaints from 2021 that were at various stages of the process, and had not yet been concluded. Details of those complaints could not be provided at this time, so as not to prejudice any outcomes, and/or create a conflict should any of those complaints need to be considered by the Standards Committee at a future date.

An ongoing theme around the complaints was in respect of comments made on social media by Members. This accounted for 12 complaints in 2019, 14 complaints in 2020, and 14 in 2021, to date. It was highlighted that there was an impact on resources when processing complaints, some of which could take up a significant amount of time. In order to improve response times in this area, the Member's Code of Conduct had been updated to incorporate a greater focus on appropriate social media activity.

Training by an external provider had recently been provided and included information about social media activity and examples of when a Member might be considered to be acting in an official capacity rather than in a private capacity. The training was well attended, with 25 members in attendance.

A suggestion at the training had been that Councillors should consider how their behaviour and service to the people of the town should be in line with the Corporate Values. The Council's Five Values had recently been refreshed and mirrored Nolan Principles.

There had also been an increase in Member on Member complaints, with the number of complaints in the current year to date, being almost as high as the last two years' complaints combined.

It was suggested that it may be timely to consider whether a culture had developed where there was low tolerance to the usual cut and thrust of political debate, and whether some of

the complaints have been of a retaliatory nature, since some complaints were from and against the same Members in relation to the same issue.

When a Member complained about the conduct of another Member, in most circumstances, every effort would be made to resolve the matter informally, by liaising with the individuals concerned or the Group Leader, if applicable.

A Member raised the issue of those independent members who did not belong to a national political group, or any group, and it was therefore unclear what principles or standards they signed up to. The Monitoring Officer stated that in her experience, Group Leaders of all political groupings were generally very helpful in terms of trying to resolve issues.

For future reports the Monitoring Officer indicated that she would include some information in relation to the costs for complaint resolution. Whilst some complaints were investigated in-house, others were conducted by external, independent, investigators. It was confirmed that there were currently two independent persons who were consulted on cases as part of the complaints process.

Members suggested that further details on the reasons why some complaints were not progressed to investigation would be helpful, as well as the timescales for the complaints procedure. It was confirmed that a detailed procedure was in place that was used to assess any complaints or allegations and this included timescales. The Head of Democratic Services confirmed that this document was not currently available on the Council's website as it was being reviewed.

AGREED as follows that:

1. the report was received and noted.
2. information on costs, complaints that were not progressed to investigation stage, and timescales for progressing complaints, would be provided at the next meeting.

21/18

LOCALISM ACT 2011 - GENERAL DISPENSATION

A report of the Monitoring Officer was presented to recommend that a general dispensation be granted to Councillor Grainge and Councillor Mason to allow them to speak and vote, where they would otherwise have had a disclosable pecuniary interest, in matters that might affect so many Councillors that the Council or Committee would be inquorate.

As part of the standards arrangements, the Localism Act 2011 and Regulations made thereunder, introduced the concept of disclosable pecuniary interests and also new rules in respect of dispensations. It was a criminal offence for a member to fail to register a disclosable pecuniary interest or to speak and/or vote where they had a disclosable pecuniary interest, unless they had obtained a dispensation.

In accordance with the prevailing legislation, Members must apply in writing to the Monitoring Officer for a dispensation. It was recommended that a general dispensation was granted to all Members who applied in writing to allow them to speak and vote where they would otherwise have had a disclosable pecuniary interest. This was on the grounds that it was in the public interest and appropriate to grant a dispensation to those Members to participate fully in the following matters:

- a) Housing; where the Member (or spouse or partner) holds a tenancy or lease with the Council as long as the matter does not relate to the Member's particular tenancy or lease.
- b) Housing Benefit; where the Member (or spouse or partner) receives Housing Benefit.
- c) Statutory sick pay; if a Member receives this or is entitled to receive it.
- d) An allowance, travelling expense, payment or indemnity for Members.
- e) Any ceremonial honour given to Members.

- f) Setting the Council Tax or precept.

Dispensations could be granted in the following circumstances:

- a) Where so many members of the decision making body have a disclosable pecuniary interest that the political balance would be affected.
- b) It is in the interests of the inhabitants that a dispensation be granted.
- c) It is appropriate to grant a dispensation.

It was recommended that the general dispensation applied for the maximum permitted period of 4 years from the date of the decision.

AGREED as follows:

1. That a general dispensation was granted to Councillors Grainge and Mason to allow them to speak and vote, where they would otherwise have had a disclosable pecuniary interest, in matters that might affect so many Councillors that the Council or Committee would be inquorate.
2. The general dispensation would apply for the maximum permitted period of 4 years from the date of this Standards Committee meeting.
3. Councillor Grainge's contact details would be included in the next LoveMiddlesbrough magazine.

21/19

ANY OTHER URGENT ITEMS WHICH IN THE OPINION OF THE CHAIR, MAY BE CONSIDERED

None.

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MIDDLESBROUGH COUNCIL

Report of:	Director of Legal And Governance Services – Charlotte Benjamin Executive Member for Legal And Governance Services – Councillor Barrie Cooper
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Submitted to:	Standard’s Committee Meeting of 24 th January 2022
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Subject:	Code of Conduct Complaints Update
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Summary

Proposed decision(s)
That Standards Committee notes the content of this report.

Report for:	Key decision:	Confidential:	Is the report urgent?¹
Information	No	No	N/A

Contribution to delivery of the 2021-24 Strategic Plan		
People	Place	Business
N/A	N/A	Upholding standards of conduct amongst members contributes to enhancing the reputation of Middlesbrough

Ward(s) affected
Not Applicable

What is the purpose of this report?

To provide a quarterly update to the Standards Committee in regards to the recent and current position concerning Code of Conduct Complaints so that the committee has assurance about the practice and process.

Why does this report require a Member decision?

No decision required – Report for update only.

Report Background

1. This report is provided to committee members to give an overview of the current, and recent position in regards to the Code of Conduct complaints received.

Year (Jan-Dec)	Total complaints	Member on Member	Other on Member (ie member of public, officer)	No. withdrawn/ not progressed by complainant	No. rejected	No. resolved informally	No. to investigation	No. to standards Committee after investigation
2019	27	9	18	4	9	10	4	3
2020	31	4	27	16	12	1	1	0
2021	35	13	22	4	2	17	2	0
2022 (to date)	1	1	0					

2. There is 1 complaint from 2020, and 10 complaints from 2021 at various stages of the process which have not yet concluded. We are unable to give any specifics about those complaints at this time so as not to prejudice any outcomes, and/or create a conflict should any of those complaints need to come to Standards Committee at a future date.
3. The complaint from 2022 is still at the early stages and is therefore still ongoing.
4. The previous report of October 2021 highlighted that there was an ongoing theme around comments made on social media by members, and that there had been an increase in member on member complaints.
5. In respect of any complaint received, where appropriate we do make every effort to resolve the matter informally, be liaising with the individuals concerned, and where it is member on member, involving the group leader.
6. The benefits of informal resolution are numerous and include:
 - a. Often a quicker resolution
 - b. Less disruptive to working relationships- particularly for member on member complaints
 - c. Involves fewer people
 - d. Take up less resources
7. However, there are circumstances when the matter needs to be investigated. If the Monitoring Officer, in consultation with the Independent Person, decides that the complaint should be investigated, an Internal Investigating Officer will be appointed to undertake the investigation. In exceptional cases, the Monitoring Officer may decide to appoint an external Investigating Officer.
8. The cost spent in 2021 on external advice and investigation in regards to these complaints was £41,465.
9. The internal resource to deal with the complaints is provided by the legal services team, primarily the Monitoring Officer and two Deputy Monitoring Officers. Senior officers may also be tasked to complete an investigation further to point 7 above.

10. Any significant increase in complaints will of course mean that legal resource is diverted away from other areas.
11. In order to be able to improve the monitoring of the performance in regards to the complaints, and better analyse outcomes etc a performance tool in the form of a 'dashboard' is being developed and is at the final stages, with the draft version currently being tested. The performance dashboard which will enable analysis of patterns and outcomes concerning complaints. This can be demonstrated to members in due course.
12. In line with the recently approved amended code of conduct, the process of dealing with any complaints is also being reviewed. A separate report will be shared with this committee shortly, including an update in regards to the recommended timescales for dealing with such complaints.

What decision(s) are being asked for?

None – no decision is required. Report for update only.

Why is this being recommended?

Report is for update only.

Other potential decisions and why these have not been recommended

None – no decision is required. Report for update only.

Impact(s) of recommended decision(s)

None – no decision is required. Report for update only.

Legal

There is no legal impact as a decision is not required.

Financial

There is no financial impact as a decision is not required.

Policy Framework

N/A

Equality and Diversity

There are no issues of equality and diversity as a decision is not required.

Risk

N/A

Actions to be taken to implement the decision(s)

None – for information only.

Appendices

None.

Background papers

No background papers were used in the preparation of this report.

Contact: Charlotte Benjamin – Director of Legal and Governance Services

Email: charlotte_benjamin@Middlesbrough.gov.uk

Report of:	The Monitoring Officer
Submitted to:	Standards Committee – 24 January 2022
Subject:	Localism Act 2011 – General Dispensation

Summary

Proposed decision(s)
This report recommends that a general dispensation be granted to Councillor Gascoigne in respect of matters that may affect so many Councillors that the Council or Committee would be inquorate.

Report for:	Key decision:	Confidential/Exempt:	Can be called-in:
Decision	No	No	No

Contribution to delivery of the 2021-24 Strategic Plan		
People	Place	Business
Not applicable	Not applicable	Not applicable

Ward(s) affected
Not applicable

PURPOSE OF REPORT

1. This report recommends that a general dispensation be granted to Councillor Gascoigne in respect of matters that may affect so many Councillors that the Council or Committee would be inquorate.
2. Any requests for dispensations may only be granted by the Standards Committee or full Council.

WHAT DECISION IS BEING ASKED FOR?

3. That a general dispensation be granted to Councillor Gascoigne in respect of matters that may affect so many Councillors that the Council or Committee would be inquorate.

BACKGROUND

4. As part of the standards arrangements, the Localism Act 2011 and Regulations made thereunder, introduced the concept of disclosable pecuniary interests and also new rules in respect of dispensations.
5. It is a criminal offence for a member to fail to register a disclosable pecuniary interest or to speak and/or vote where they have disclosable pecuniary interest unless they have obtained a dispensation. Under the old standards regime, the Code of Conduct 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 had an interest in these matters then it would impede the business of the Council.
6. In order to protect members, the new regime does include provision for the granting of dispensations. However, the legislation specifically states that before a dispensation can be granted, a member must apply in writing to the Monitoring Officer seeking a dispensation. It is therefore recommended that a general dispensation is granted to all of those members who have applied in writing for a dispensation to allow them to speak and vote where they would otherwise have had a disclosable pecuniary interest. This would be on the grounds that it is in the public interest and appropriate to grant a dispensation to those members to participate fully in the following matters:-
 - a) Housing; where the member (or spouse or partner) holds a tenancy or lease with the Council as long as the matter does not relate to the member's particular tenancy or lease;
 - b) Housing Benefit; where the member (or spouse or partner) receives Housing Benefit;
 - c) Statutory sick pay; if a Councillor receives this or is entitled to receive it;
 - d) An allowance, travelling expense, payment or indemnity for Councillors;
 - e) Any ceremonial honour given to members; or f) Setting the Council Tax or precept.
7. Dispensations can be granted in the following circumstances:-
 - a) Where so many members of the decision making body have a disclosable pecuniary interest that the political balance would be affected;
 - b) It is in the interests of the inhabitants that a dispensation be granted, or;
 - c) It is appropriate to grant a dispensation.
8. It is also recommended that the general dispensation applies for the maximum permitted period of 4 years from the date of this decision.

Other potential decisions and why these have not been recommended

9. Not applicable

Impact(s) of recommended decision(s)

Legal

10. It is a criminal offence for a member to fail to register a disclosable pecuniary interest or to speak and/or vote where they have disclosable pecuniary interest unless they have obtained a dispensation.

Financial

11. No impact.

Policy Framework

12. Not applicable. The report does not propose an amendment to the policy framework.

Equality and Diversity

13. Not applicable.

Risk

14. It is a criminal offence for a member to fail to register a disclosable pecuniary interest or to speak and/or vote where they have disclosable pecuniary interest unless they have obtained a dispensation.

Actions to be taken to implement the decision(s)

15. Grant the dispensation.

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