

Standards Committee

Tuesday, 08 March 2016

18:00

Room 4 (Civic Offices)

Civic Offices

Councillors BRUNNING (Chair) , COVENTRY , HOPKINS , McDONALD ,
McKENZIE , McPAKE , SMALL , WALLIS

If you have any enquires about this agenda please contact:

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A G E N D A

- 1 **Welcome and Introductions**

- 2 **Apologies**

- 3 **Draft Minutes 16 June 2015** 5 - 6
To approve, and the Chair to sign as a correct record, the Minutes of the Standards Committee meeting held on 16 June 2015.

- 4 **Disclosures of Interest**
Councillors to declare any disclosable pecuniary interests, or personal interests (including other pecuniary interests) they may have in the business to be transacted, and officers to declare any interests they may have in any contract to be considered.

- 5 **Public Involvement**
 - (a) Deputations and Petitions

No deputations have been submitted for consideration at this meeting.

Any petitions received will be reported at the meeting.
 - (b) Questions from Members of the Public

To receive questions and provide answers to questions from memberse of the public.

- 6 **Periodic Report of the Monitoring Officer** 7 - 10
To consider a report from the Monitoring Officer in respect of complaints and investigations covered during the period 1 June 2015 to 23 February 2016.

- 7 **Dispensation Report - Milton Keynes Development Partnership** 11 - 12
To consider a report from the Deputy Monitoring Officer in respect of Dispensations.

Minutes of the meeting of the STANDARDS COMMITTEE held on TUESDAY 16 JUNE 2015 at 6.00 pm

Present: Councillor Brunning (Chair)
Councillors, Coventry, Eastman, D Hopkins, McDonald, McPake, Small, Wallis and Webb.

Parish Councillors Ballantyne, and Walker.

Officers: S Gerrard (Monitoring Officer/Interim Service Director ([Legal and Democratic Services]) and D Imbimbo (Committee Manager).

Apologies: Councillor I Carman

ST04 MINUTES OF PREVIOUS MEETINGS

RESOLVED -

That the Minutes of the meeting of the Standards Committee on 29 July 2014 and of the special meeting of the Standards Committee held on 10 September 2014, the meeting of the Standards Assessment Sub-Committee held on 5 January 2015 and the Special meeting of the Standards Committee held on 27 May 2015 be approved and signed by the Chair as such subject to amending the minutes of Tuesday 29 July 2015 to replace V Hopkins with D Hopkins under apologies.

ST05 DECLARATION OF INTEREST

None declared.

ST06 COMPLAINTS AND INVESTIGATIONS - MONITORING OFFICER'S REPORT

The Monitoring Officer gave the Committee a presentation and overview of the role and responsibilities of the Standards Committee together with a brief explanation of the Milton Keynes Council Code of Conduct.

RESOLVED –

That the presentation be noted

THE CHAIR CLOSED THE MEETING AT 6.36 PM

PERIODIC REPORT OF THE MONITORING OFFICER

Contact Officer: Stephen Gerrard, Monitoring Officer, Tel: (01908) 252385
Interim Head of Legal and Democratic Services

1. Purpose

1.1 This report is to advise members of standards issues, including complaints and investigations from 1 June 2015 to 23 February 2016.

2. Recommendations

2.1 That the report be noted.

3. Issues and Choices

3.1 Since 1 June 2015 there have been:

- One matter concerning a Borough Council Member. The Monitoring Officer dismissed this complaint because he found that the Councillor was not acting in her capacity as a Member at the time of the alleged misconduct.
- Ten matters concerning complaints in relation to Parish Councillors:
 - Three of the complaints came from a single complainant alleging the misuse of authority by three parish councillors all from the same parish council. The Monitoring Officer concluded that an investigation was not warranted and notes that the role of the Standards Committee does not extend to arbitrating disputes arising from the constitutions of town and parish councils.
 - One complaint alleged that a parish councillor abused her power as a Councillor. The Monitoring Officer did not consider that the Councillor was acting in her capacity as an elected member at the time of the alleged misconduct and therefore this was not a breach of the Code of Conduct within his powers to investigate.
 - The remaining six complaints all alleged aggressive behaviour by parish councillors to residents. The Monitoring Officer considered that these matters were trivial and did not warrant the cost of any further investigation. However, noting the increase in complaints about rude and hostile behaviour, he wrote to the parish councillors complained of to point out that 'even where we don't intend it, our behaviour can come across as aggressive and this is not conducive to public engagement which is at the heart of the role of councillors'.

The Monitoring Officer also wrote to the Chair of the affected Parish Councils pointing out the number of complaints and offering training on dealing with difficult situations and customers.

3.2 There have been no matters referred to the Committee for investigation.

3.3 In arriving at his judgement the Monitoring Officer applied the following criteria.

- Does the allegation reveal a prima facie breach of the code?
- Is there a reasonable prospect that the allegation would be upheld?
- Is the matter complained of trivial?
- Is the allegation merely an attempt to initiate an investigation to 'embarrass' the Member, for e.g. political purposes?
- Is the matter essentially a dispute or difference of opinion between Members?
- Is the use of the Code of Conduct the appropriate way to resolve concerns?
- Given the range of sanctions available to a council is an investigation likely to improve the good working of the Council; in particular is any finding and sanction likely to improve public confidence in the democratic process?
- Consideration of the case law and guidance.
- Any other substantial consideration particular to the allegation.

3.4 The Monitoring Officer was also mindful of the words of the DCLG in the Plain English Guide to the Localism Act:

“Councillors play a crucial role in local life. The people who elect them have the right to expect the highest standards of behaviour. [However], it is too easy for people to put forward ill-founded complaints about councillors’ conduct. Lengthy debates about petty complaints or deliberately harmful accusations can undermine people’s faith in local democracy and put them off standing for public office.

... Councils will not be obliged to spend time and money investigating trivial complaints, while councillors involved in corruption and misconduct will face appropriately serious sanctions. This will provide a more effective safeguard against unacceptable behaviour”.

3.5 In all the circumstances the Monitoring Officer concluded in the cases before him, that an investigation was not in the public interest.

3.6 There are currently seven complaints going through the early stages of assessment. These are linked because they are all made against one Borough Councillor arising from conduct at a meeting which they allege was 'rude and aggressive'. The Monitoring Officer is in the process of dealing with these complaints. It is too early to say whether or not these will result in an investigation and hearing.

4. **Implications**

4.1 The Localism Act 2011 continues to have a marked impact nationally on the number of complaints coming forward and this is reflected in the experience in Milton Keynes.

4.2 Members, particularly in parishes continue to look to the Standards regime to 'manage' difficult relationships and people. In practice the standards regime can do little to improve the behaviour in these cases.

4.3 Another round of "Code of Conduct" training has been rolled out in this year, both for the Council, and parish councils.

4.4 On a more general note the evidence is that there is not major public dissatisfaction with the behaviour and conduct of Members generally in Milton Keynes, at least so far as is borne out by the number of complaints received.

4.5 Revised advice has gone out to all Councillors in the Council on the issue of pre-determination and bias in the light of recent statutory and case law changes.

Background Papers:

None

DISPENSATIONS

Report Author: Sharon Bridglalsingh, Deputy Monitoring Officer

Responsible Service Director: Stephen Gerrard, Monitoring Officer,
Interim Head of Legal and Democratic Services,
Tel: (01908) 252385

1. Purpose

1.1 To ask the Standards Committee to the grant a dispensation under s33 of the Localism Act 2011.

2. Recommendations

2.1 That dispensations be granted from Section 31(4) of the Localism Act 2011 on the basis that granting the dispensation is in the interests of persons living in the authority's area, such dispensations to be made in respect of all Members of Milton Keynes Council (MKC) who are Members of Milton Keynes Development Partnership (MKDP) and take effect from 8 March 2016 for the period of four years.

3. Background

3.1 Section 31(4) of the Localism Act prevents all Members with a disclosable pecuniary interest from participating in any discussion of the matter at the meeting or voting on the matter.

3.2 By virtue of being directors of MKDP, Members have a beneficial interest in MKDP and in there are two situations where that is a disclosable pecuniary interest:

- where there is any contract between MKC and MKDP; and
- where MKDP is MKC's tenant: Corporate tenancies.

3.3 As a result, Members who are directors of MKDP will be both breaching their Code of Conduct and also committing an offence, should they take part in a meeting where any of these matters are being discussed and they have a disclosable pecuniary interest in the matter.

3.4 Where these matters arise it would appear prudent for a general dispensation be granted to apply to all Members who are Directors of MKDP. It is recommended that this general dispensation should run for 4 years from the date that it is given.

- 3.5 Under section 33 of the Localism Act 2011, a dispensation may be granted in the following circumstances:
- i. That so many members of the decision-making body have Disclosable Pecuniary Interests in a matter that it would “impede the transaction of the business”. In practice this means that the decision-making body would be inquorate as a result;
 - ii. That, without the dispensation, the representation of different political groups on the body transacting the business would be so upset as to alter the outcome of any vote on the matter. This assumes that members are predetermined to vote on party lines on the matter, in which case, it would be inappropriate to grant a dispensation to enable them to participate;
 - iii. That the authority considers that the dispensation is in the interests of persons living in the authority’s area;
 - iv. That, without a dispensation, no member of the Cabinet would be able to participate on this matter; or
 - v. That the authority considers that it is otherwise appropriate to grant a dispensation.
- 3.6 MKDP is an independent legal entity which is wholly owned by MKC. Given the governance relationship between MKC and MKDP, at any given time, some Members of MKC will be Directors of MKDP. These same Members will also comprise the Executive, be members of non-executive committees and be Ward Members.
- 3.7 As Directors of MKDP, their duty is to MKDP. However, when they sit as members of the Council their duty is not so fettered and without a dispensation, a Director of MKDP will not be able to speak or participate in matters where they have a disclosable pecuniary interest. This impedes their ability to speak on behalf of their residents or to participate as part of the executive or a committee member when the matter was before them. The purpose of putting councillors on the board is to allow a two way flow of knowledge and to ensure that the mutual interests of MKC and MKDP are protected. To exclude members of MKDP from participating would otherwise frustrate these objectives.
- 3.8 It is the Monitoring Officer’s view that this is not in the interests of persons living in Milton Keynes and Members should not have to choose between being a Director of MKDP or their equally important roles as Ward Members for example. The dispensation will allow Members who are Directors of MKDP to speak to issues that come before them when they are acting on behalf of their residents, or party, or Council interests.
- 3.9 Any grant of a dispensation must specify how long it lasts, and only be in effect up to a maximum of 4 years. It is recommended that the dispensation lasts for the maximum term of four years.

Background Papers: None

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