

Minutes of a meeting of the Standards Committee held on Wednesday 13 November 2013 at City Hall, Bradford

Commenced 1605

Concluded 1750

PRESENT – Councillors

LABOUR	LIBERAL DEMOCRAT
Farley	G Reid
Ferriby	
Ruding	

Non-Voting Co-opted Member: Councillor Mitchell

Apologies: Councillors Binney and D Smith
Parish Councillor Bowen

Councillor Farley in the Chair

8. DISCLOSURES OF INTEREST

No disclosures of interest in matters under consideration were received.

9. MINUTES

Resolved -

That the minutes of the meeting held on 24 July 2013 be signed as a correct record.

10. INSPECTION OF REPORTS AND BACKGROUND PAPERS

There were no appeals submitted by the public to review decisions to restrict documents.



11. **MONITORING OFFICER'S REPORT ON COMPLAINTS**

The Monitoring Officer reported to the meeting the receipt of complaints notified to her since the last meeting, the stage that notified complaints had reached and the final outcome on the consideration of complaints, where appropriate.

She highlighted that the majority of complaints received had been dealt with, which was very positive. She considered that it might be useful to review all complaints received by the year end in order to identify trends and consider whether the complaints procedure was operating well.

She particularly noted that the new procedure where subject members could view the details of a complaint was an improvement for all concerned.

A Member noted that, of the complaints reported, a number related to Town and Parish Councillors. The Monitoring Officer concurred and noted that there seemed to be a requirement for advice and guidance for the Town and Parish Councils as similar issues occurred frequently, including understanding of what constituted a breach of the Code of Conduct and the right of a Member to comment on a decision of their own Council.

The Parish and Town Council representative noted that he thought that not all the complainants involved in the cases now being reported had received their final outcome letter. The Monitoring Officer undertook to investigate that.

ACTION: *City Solicitor*

12. **REVIEW OF THE PLANNING CODE OF CONDUCT**

The report of the City Solicitor and Assistant Director, Planning, Highways and Transportation (**Document "B"**) set out proposals and options for amendments to the Council's Planning Code of Conduct in the light of adoption within the Council's Constitution of a local Members' Code of Conduct by Council. The proposed amendments also took account of the provisions of section 25 of the Localism Act 2011.

Members were given a detailed presentation of the requirement for a Planning Code of Conduct and the changes that were needed in the light of operational experience, as a result of the Localism Act and of guidance from the Department for Communities and Local Government (DCLG) in respect of a Member's responsibility to withdraw from a meeting in respect of an interest.

The Monitoring Officer reminded Members that these principles applied to all meetings of Council but were particularly important when the body concerned was quasi-judicial in nature. They were designed to ensure that the decision making process was robust and the Members Planning Code of Conduct was intended to offer Members clarity in respect of disclosure of interests. She highlighted that, under the new regulations, Members of the body concerned with a disclosable pecuniary interest did not have parity with the general public as they were unable to speak at or remain in the meeting concerned and pointed out that although disclosing such an interest and leaving was the correct course of action, it may not be satisfactory for the Member.

A Member queried if it were permissible for a Councillor to give advice on procedure and was informed that, if they were also on the planning body, giving procedural advice would not preclude them from taking part in the meeting. If however, as part of that process, a Member also expressed a view or supported the constituent's view, it would be difficult to demonstrate that they had not predetermined the matter.

Members discussed the issue in some detail, with a Member suggesting that it could be possible to constitute the planning bodies to avoid ward conflicts of interest, in the same way that the Licensing Panel currently operated.

Members considered this could be achieved and would demonstrate to the public that the Members making decisions were impartial. They also considered that Members who served on such bodies should encourage constituents requiring help to approach their ward colleagues for support rather than becoming involved themselves.

Members stressed that colleagues who were considering whether predetermination affected them should seek advice from the Monitoring Officer.

The Monitoring Officer then turned to the issue of a Member having a disclosable pecuniary interest in a matter and wishing to speak on that matter at a meeting of a Committee or Panel of which they were not a Member. She reminded Members of previous case law which had clarified that this was permitted as long as the Member concerned left the meeting after making their representations. However, this provision had not been carried through to the new regulations and the strictest interpretation of those regulations meant that a Member who found themselves in that situation must not participate in the meeting at all. She noted that a consequence of that would be that an elected Member would not be able to speak on their own behalf on any matter such as a personal planning application and, therefore, had less right to speak than an ordinary member of the public. She also advised that, as the regulations were so recent, there was no further guidance on this issue.

Members discussed the issue and, although unhappy at the possible effect of not being able to speak on one's own behalf, considered that, until the matter was clarified further, it would be best to comply with the strictest interpretation of the regulations to protect Members from reputational risk.

Members noted that the Members Code of Conduct ought to contain the same guidance as the Planning Code of Conduct as the requirements applied equally to all meetings.

Members also discussed the issue of interests which did not constitute a disclosable pecuniary interest but which might require a Member to withdraw, such as the examples highlighted in paragraph 3.4 of the appendix to Document "B" and agreed that it was good practice to take a cautious approach to such interests and to take advice from the Monitoring Officer if at all uncertain.

A Member also raised the issue of informal pre-application discussions which sometimes took place with developers at an early stage of planning applications and queried whether Councillors could be made aware of those discussions. He noted that, at the moment, such discussions were confidential and while accepting the necessity for that considered that the consequent impression of secrecy often gave rise to unnecessary concerns. If Members were simply made aware that such discussions were ongoing, they could advise constituents appropriately.

The Monitoring Officer considered that the Assistant Director, Planning Highways and Transportation should be consulted on this issue.

Resolved –

- (1) That progress to date towards the review and updating of the Members Planning Code of Conduct contained in the Appendix to Document “B” be noted and the City Solicitor be instructed to undertake further consultation with the relevant portfolio holder and planning chairs with a view to agreeing a finalised version for consideration by the Governance and Audit Committee for adoption by Council, including the particular issues set out below:**
 - (i) The requirement for a member of a committee or panel to make a disclosable pecuniary interest and leave the meeting.**
 - (ii) The requirement for a Councillor to make a disclosable pecuniary interest and leave the meeting in all other circumstances.**
 - (iii) The requirement for the Monitoring Officer to amend the Members Code of Conduct to reflect (i) and (ii) above.**
 - (iv) The recognition that, in the absence of legislative clarity, the Codes will be kept under review in order to keep them up to date.**
 - (v) The question of whether the membership of the planning bodies could be constituted to avoid ward conflicts.**
- (2) That the Assistant Director, Planning, Highways and Transportation be requested to investigate the Committee’s concerns about the informal pre-application process and transparency and report his findings to a future meeting of the Committee.**

ACTION: City Solicitor

Chair

Note: These minutes are subject to approval as a correct record at the next meeting of the Committee.

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THESE MINUTES HAVE BEEN PRODUCED, WHEREVER POSSIBLE, ON RECYCLED PAPER