

5 October 2023

BIRMINGHAM CITY COUNCIL

**STANDARDS COMMITTEE
5 OCTOBER 2023**

**MINUTES OF A MEETING OF THE STANDARDS COMMITTEE HELD ON THURSDAY 5 OCTOBER 2023
AT 1400 HOURS IN THE ELLEN PINSENT ROOM, COUNCIL HOUSE, MARGARET ST, BIRMINGHAM**

PRESENT: - Mr Peter Wiseman in the Chair;

Steven Jonas, Councillor Dierdre Alden, Stephen Atkinson, Councillor Colin Green, Councillor Kath Hartley, Councillor Mahmoud Hussain, Zubair Khan, Councillor Gareth Moore, Councillor Paul Tilsley, Terry Wood

ALSO PRESENT: -

Janie Berry, Monitoring Officer

Rob Connelly, Deputy Monitoring Officer

Fiona Greenway, Interim Director of Finance (Section 151 Officer)

DECLARATIONS OF INTERESTS

There were no declarations of interest.

APOLOGIES

Apologies were received from Mr Steven Atkinson, Mr Alastair Cowen, Cllr Sid Grey MBE and Cllr Kath Hartley.

MINUTES

Councillor Dierdre Alden had relayed her apologies for the previous meeting, this had not been recorded.

Councillor Colin Green was in attendance at the previous meeting, this had not been recorded.

Other than the above, the minutes of the meeting held 8 June 2023 were agreed.

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AGENDA VARIENCE

At the request of the Chair, The Item 'Review of Members Declarations of Gifts and Hospitality (May 2022- September 2023) was brought forward to allow time for the Interim Director of Finance (Section 151 Officer) to arrive.

REVIEW OF MEMBERS DECLARATIONS OF GIFTS AND HOSPITALITY (MAY 2022 - SEPTEMBER 2023)

A report of the City Solicitor & Monitoring Officer (MO) was submitted to enable The Standards Committee, as part of its work programme, to review on a regular basis the declarations of gifts and hospitality made by Members and to review how recommendations by The Standards Committee, 20 April 2023, have been received by members.

The Assistant Director Legal and Governance & Deputy Monitoring Officer (DMO) was present to assist with discussion.

In discussion the following points were made: -

- It was noted that some Councillors did not have anything registered. It was suggested that it might be helpful if the DMO sent a reminder to Councillors to register declarations of gifts and hospitality of value over £50. However, it was further noted that some Councillors had not received any gifts or hospitality to declare, hence the reason why a number of Councillors had not made a return.
- There were some instances whereby Councillors needed to be more aware that they needed to give a fuller description of what was received and a more precise value.
- Whilst it was understood that sometimes no price was publicly available, it was suggested that it was safer to make the declaration, and if in doubt, overestimate a cost rather than underestimate a cost.
- If a gift or hospitality was not related to a Councillor function and in an official capacity, it might not be disclosable, however, if unsure, Members should seek advice from the MO.

RESOLVED: -

That the report be noted.

REPORTS ISSUED UNDER S114 OF THE LOCAL GOVERNMENT ACT AND S5 OF THE OF THE LOCAL GOVERNMENT AND HOUSING ACT 1989

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During the consideration of this item, Councillor Moore made a declaration that he had a complaint on him.

A report of the City Solicitor & Monitoring Officer (MO) was submitted to update members of the Standards Committee on the s114 notices published on 5th September (appendix A) and 21 September 2023 (appendix B) and the s5 notice published on 21 September 2023 (appendix C).

Interim Director of Finance (Section 151 Officer) provided an update on the situation.

In discussion that followed the following points were made: -

- When the issue had gone to Extraordinary General Meeting (EGM), there had been a reminder of what was expected of members behaviour as they were still bound by the code of conduct.
- There had been an increase in the abuse of Councillors regarding the Council's financial situation. As such it was necessary to consider how to support members.
- A Section 151 control board had been put in place and every bit of expenditure needed to go through it. Cabinet members observed and there had been a request for a scrutiny member to observe, however, only the Section 151 Officer could make decisions.
- Previously the Council had not let members see the totality of the base budget and information had been incremental. As such the base budget would be brought up in terms of transparency.
- The Committee was reminded that it was the role of Standards to investigate complaints, once the preliminary assessment was made, they went to the Board. The Board met daily so issues could be put through it.
- Training on issues such as Declarations of Interest would go through the Spend Control Board. Whilst this was not classed as statutory, it was critical for member development and it was suggested that part of the reason for the situation was a lack of understanding of issues.
- In order to balance the deficit, the Council had needed to approach the Department of Levelling Up, Housing and Communities (DLUHC) in order to obtain 'Exceptional Financial Support' which could allow the Council to borrow or capitalise, albeit penalised at a higher rate of interest. Prior to this, the Government would want the Council to do everything possible locally at first. A 'Minded To' letter was being constructed for this purpose.

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- The Section 5 notice had been issued as there had been an 'Omission of Decision' that could have led to unlawful spend. The Monitoring Officer (MO) noted that she had given opportunity to avoid the Section 5 notice, but had it not been issued she would have failed in her statutory role. The Chief Executive and Section 151 Officer were consulted prior to issuing the Section 5 notice. The decision had now gone to every Councillor and it was now the responsibility of all members to be part of the solution and all members would have a say.
- The issue was raised that it was difficult to get agreement across parties, and the need to find a common way forward was stressed.
- If there was still an Omission of Decision, the situation would need to be considered and it may trigger a further Section 5 report. The only way to avoid a Section 5 notice was for a decision to be made by Council that sought to end the Equal Pay liability.
- Issues surrounding the report of the External Auditor may need to come back to the Committee at a later date. A Council response to the External Auditor recommendations would be circulated.
- Concern was raised about the way staff had been treated.
- It was noted that other Councils were in similar positions. It was further noted that there was a lack of support for Local Authority Legal Teams in a Section 114 position. There was a need to balance the needs of a political organisation with legal roles and responsibilities.
- It was noted that it was important to consider the people as well as the issues, and it was further noted that it was important to think about how officers were treated by members.

RESOLVED: -

That the report be noted.

COUNCILLORS DBS CHECKS

A report of the Assistant Director Legal and Governance & Deputy Monitoring Officer (DMO) was submitted to provide an oversight of the processing of DBS Applications for Councillors and to explain why the Standard DBS check is the current level of check undertaken.

In discussion the following points were made: -

- It was aimed to add legitimacy around the process and Birmingham City Council went over and above what was legally required.
- There was an issue that DBS checks were out of date the minute they were received.

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- There was a cost attached to obtaining DBS checks, and whilst they were not mandatory, it was about citizens having confidence that members had gone through the process.
- Any adverse reports should be brought to the attention of the Committee.
- The Council generally used the standard check, however an enhanced check was used in situations such as those where children were involved, although these were sometimes the responsibility of schools.
- Press enquiries about DBS checks on Councillors were often received.
- No members had refused a DBS check.
- A full list of Councillor DBS checks would be obtained by the Deputy Monitoring Officer (DMO) and any adverse entries would be identified. However, an adverse entry was unlikely to disqualify a Councillor.
- Cases of councillors in other councils that would have failed DBS checks were raised.
- Group whips and secretaries could provide support on the issue.
- There was discussion about how often Councillors should be DBS checked and the practice at different councils was discussed. The need to balance the cost with the need to prevent potential electoral fraud was raised.
- The need to liaise with Groups to see who has had a DBS check and who has not was raised. It was further suggested that Groups could do their own mitigations.
- It was the responsibility of Councillors to disclose anything adverse.
- The need to avoid bringing the Council into disrepute was raised.

RESOLVED: -

- That candidates standing in elections know that DBS checks be required upon election to the City Council.
- That the Council require that Standard checks for all Councillors be undertaken upon election.
- That DBS checks be incorporated into the induction process.
- That the Monitoring Officer be advised that all members have undergone a DBS check and the Monitoring Officer be advised of any adverse entries.

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- That it be ensured that members be aware that they can speak confidentially to the Monitoring/Deputy Monitoring Officer, should any members have any concerns in completing this process.

APPLICATIONS FOR DISPENSATIONS MADE TO THE MONITORING OFFICER

A report of the City Solicitor & Monitoring Officer (MO) was submitted to provide Standards Committee of requests for dispensations granted to Councillors pursuant to the Localism Act from February 2023 to September 2023.

The Assistant Director Legal and Governance & Deputy Monitoring Officer (DMO) was present to assist with discussion.

In discussion the following points were made: -

- The possibility was raised of granting dispensations for a municipal year rather than per meeting. There was discussion about the issues surrounding this. It was clarified that the stance of the Council on the matter was ultimately the decision of the Standards Committee. However, the Committee was not in favour of doing that at the present time.
- The Commissioners appointed by central government added an additional layer of governance, as such, transparency was important.
- The Standards Committee needed to consider the volume of applications for dispensation.
- The need to ensure a balanced debate when granting dispensation was raised and the need for consistency in the approach was recognised.
- It was suggested that should a long-term dispensation be granted, a list of such dispensation be attached to the agenda papers to ensure transparency.
- The need to consider which applications were suitable for a long-term dispensation was raised. It was clarified that it would largely be dispensation for trade union membership (distinct to employment by a trade union) as that would be a reoccurring theme with the issues around equal pay.
- The issue of dispensation for Councillors who may have partners employed by the Council with equal pay claims was considered.

RESOLVED: -

- That the report be noted.
- That the issue be discussed further at the next meeting of the Standards Committee.

INVESTIGATION UPDATE

A verbal report of the Assistant Director Legal and Governance & Deputy Monitoring Officer (DMO) to provide an investigation update to the Committee.

In discussion the following points were made: -

- There were two ongoing investigations.
- In addition, a recent media report confirmed that a complaint was to be made to the Committee around sexual abuse where both the suspected victims and perpetrators were men and women across all parties. Concerns raised that this had gone to the media before going to the police or the group whips.

EXEMPT INFORMATION – POSSIBLE EXCLUSION OF THE PRESS AND PUBLIC

The Chair was advised that the discussion could contain exempt information within the meaning of Section 100I of the Local Government Act 1972.

RESOLVED:

That in view of the nature of the business to be transacted, which includes exempt information of the category indicated, the public be now excluded from the meeting: -

(Paragraphs 1 and 2)

RESOLVED: -

That the report be noted.

INDEPENDENT RECRUITMENT UPDATE

A verbal report of the Assistant Director Legal and Governance & Deputy Monitoring Officer (DMO) to provide an independent recruitment update to the Committee.

In discussion the following points were made: -

- The Committee positions of Independent Person and Lay Member were being recruited to.
- Three people had been shortlisted for the role of Lay Member and a date would be set for an interview by the Committee.
- The position of Independent Person had been advertised but there had not been any appropriate candidates. An interim person had been found to fill the role who had experience of the role in other councils.
- Ray Tomkinson would be written to by the Chair to thank him for his work.

RESOLVED: -

That the report be noted.

STATUTORY REGISTER OF DECLARATIONS OF INTERESTS

A report of the City Solicitor & Monitoring Officer (MO) was submitted to provide an update on the completion by members of the new declaration of interests' form. The declaration of interests' form was updated following the resolution of Full Council and in conjunction with the Standards Committee and issued to members for completion in June 2023.

The Assistant Director Legal and Governance & Deputy Monitoring Officer (DMO) was present to assist with discussion.

In discussion the following points were made: -

- Groups would be worked with on the outstanding Registers of Interests.
- An overview would be published on the Council website that could be cross-referenced with dispensations.

RESOLVED: -

- That the report be noted.

OTHER URGENT BUSINESS

- A date was being sought for an EGM for the former Lord Mayor.
- It was important to hold regular meetings of the Committee to ensure ethical governance. There was provision to call meetings outside of those already scheduled.

AUTHORITY TO CHAIR AND OFFICERS

RESOLVED: -

'In an urgent situation between meetings, the Chairman jointly with the relevant Chief Officer has authority to act on behalf of the Committee'.

EXEMPT MINUTES

The exempt minutes of the meeting held 8 June 2023 were agreed.

The meeting ended at 15:45