

Body:	AUDIT AND GOVERNANCE COMMITTEE
Date:	13 March 2013
Subject:	Members and Standards: An Update
Report Of:	LAWYER TO THE COUNCIL AND MONITORING OFFICER
Ward(s)	All
Purpose	To assist the Audit and Governance Committee in fulfilling its obligations in relation to member standards.
Recommendation(s):	That the Committee note the following: <ul style="list-style-type: none"> • The dispensations granted to members in relation to Council Tax decisions. • That there have been no complaints about members. • That there has been advice given to members in relation to participation where they have a DPI.
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1.0 Background

- 1.1 Members will recall the decision made at this Committee's first meeting to invite regular updates from the Monitoring Officer on Standards-related matters.
- 1.2 This report aims to update the Committee on the standards issues which have arisen since its last meeting.

2.0 Dispensations

- 2.1 Victoria Simpson, Monitoring Officer, granted a dispensation to members enabling them to participate in decisions relating to the setting of Council Tax taken at Cabinet on 6 Feb and at full Council on 20 Feb.
- 2.2 Like most local authorities, including our close neighbours, we took the view that being a council taxpayer amounted to a DPI. This view has subsequently been challenged by the local government minister, Brandon Lewis who has written to all local authority leaders saying that "Whilst my department does not issue legal advice, in our opinion, such dispensations are unnecessary. Council tax liability applies to the generality of the population; councillors have no unique position in that regard." Lewis added that being a council taxpayer or being eligible for a discount under the new local arrangements

for council tax support were pecuniary interests, but were not disclosable pecuniary interests as specified in regulations. "Therefore a councillor does not need to seek a dispensation in order to participate in discussions or vote on decisions in the council tax setting process or local arrangements for council tax support," the minister argued.

2.3 In response, Philip McCourt, President of the Association of Council Secretaries and Solicitors (ACSeS) pointed out that the legislation in question included land owned by a member as one class of disclosable pecuniary interest and goes on to say that if a member has a disclosable pecuniary interest relating to any business that is or will be considered at the meeting, he or she must not participate in any discussion of the business at the meeting. "Setting council tax obviously relates to a person's property," he added. McCourt continued: "The Localism Act, unlike the Local Government Acts of 2000 or 1974, does not provide for exceptions or de minimis interest levels.

2.4 It may be that the way the act is drafted does not reflect the desire of the government. The consensus among local government lawyers and those who advise them seems to be that the proper interpretation of the Act is that Council Tax setting does amount to a DPI. It is likely that further guidance will be issued by the DCLG in due course.

3.0 Complaints

3.1 There have not been any formal complaints since the introduction of the new standards regime.

4.0 Advice to members

4.1 At the Committee's last meeting, the Monitoring Officer's proposal, to provide occasional email updates and briefings to all members of the Council on matters relating to the Standards regime, was approved.

4.2 On the 7 December, Victoria Simpson sent a briefing by email to all members. You will recall that this update reminded members in relation to the need to register gifts and hospitality over £25. It also notified members of a change to the advice in relation to DPIs. Those members with a DPI are permitted to exercise the rights enjoyed by members of the public and make representations to Committee and/or answer questions before they leave the room. This change has come about as a result of Counsel's advice on point (obtained by another local authority) which clarifies the position. It simplifies matters by ensuring that the same rule is now to be applied to members with a DPI as is applied to those with other prejudicial interests.

5.0 Consultation

5.1 There has been no consultation.

6.0 Resource Implications

6.1 None.

7.0 Financial

7.1 None.

8.0 Staffing

8.1 None.

9.0 Conclusion

9.1 The requirement to monitor member conduct and to promote good standards in decision-making remains in place in the new Standards regime. This report updates the Committee and assists it in discharging its responsibility for overseeing the standards and ethics of Eastbourne Borough Council's members.

Alice Rowland
LAWYER TO THE COUNCIL AND MONITORING OFFICER

Appendices

None.

Background Papers:

Previous reports and minutes of the Committee.

Articles in the Local Government Lawyer

ACSeS bulletins