

**Decision Maker:**       **STANDARDS COMMITTEE**

**Date:**                   **Wednesday 19 June 2019**

**Decision Type:**       Non-Urgent                   Non-Executive                   Non-Key

**Title:**                   **MONITORING OFFICER'S GENERAL REPORT**

**Contact Officer:**     Graham Walton, Democratic Services Manager  
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**Chief Officer:**       Mark Bowen, Director of Corporate Services

**Ward:**                   All Wards

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1.    Reason for report

1.1 To update the Committee on a number of standards issues -

- Independent Persons
  - Report of the Committee for Standards in Public Life
  - Dispensations granted
  - Gifts and Hospitality declarations
  - Register of Interests
  - Substitution
  - Work Programme and Matters Outstanding
  - Whistle-blowing procedures
  - Complaints (see part 2 appendix)
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2.    **RECOMMENDATION**

**That the Committee notes and comments on the Monitoring Officer's report.**

## Impact on Vulnerable Adults and Children

1. Summary of Impact: Not Applicable
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## Corporate Policy

1. Policy Status: Existing Policy:
  2. BBB Priority: Excellent Council:
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## Financial

1. Cost of proposal: No Cost:
  2. Ongoing costs: Not Applicable:
  3. Budget head/performance centre: Democratic Services
  4. Total current budget for this head: £358,740.
  5. Source of funding: 2019/20 revenue budget
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## Personnel

1. Number of staff (current and additional): 6.79fte
  2. If from existing staff resources, number of staff hours: Not Applicable
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## Legal

1. Legal Requirement: Statutory Requirement: Local Government Acts 1972 and 2000 and subsequent legislation.
  2. Call-in: Not Applicable: This report does not involve an executive decision.
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## Procurement

1. Summary of Procurement Implications: Not Applicable
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## Customer Impact

1. Estimated number of users/beneficiaries (current and projected): The standards system affects all Members of the Council, and potentially any member of the public who considers that a member may have breached the Code of Conduct.
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## Ward Councillor Views

1. Have Ward Councillors been asked for comments? No
2. Summary of Ward Councillors comments: Not Applicable

### **3. COMMENTARY**

#### **Independent Persons**

- 3.1 Every principal local authority must appoint at least one independent person to be consulted by the authority or by members of the authority on standards issues. The changes to the Standards system brought about by the Localism Act 2011 have greatly reduced the involvement of Independent Persons compared to the former arrangements where there were several co-opted members of the Standards Committee, a need for frequent Sub-Committee meetings and the Chairman was an co-opted member. However, it is still useful to have two Independent Persons, not only to have a broader input at Committee meetings, but so that different parties on a particular issue are not dependent on the same person for independent advice and also to avoid conflicts of interest.
- 3.2 When Mr Nicholas Marcar resigned as an Independent Person the Council was left with just one Independent Person - Dr Simon Davey. If Dr Davey were also resign, the authority could potentially be without an Independent Person for a period. The role was advertised for a period earlier this year, but no applications were received. Subject to any further comments from Members, it is proposed that further attempts are made to advertise the role and obtain applications from suitable candidates.

#### **Committee for Standards in Public Life**

- 3.3 At its meeting on 22<sup>nd</sup> February 2018 the Committee provided some comments for a public consultation on local government ethical standards being carried out by the Committee for Standards in Public Life. The Committee's submission focussed on the need for a range of effective sanctions to be available for Standards Committees where there were breaches of the Code of Conduct.
- 3.4 The report of the Committee for Standards in Public Life was published on 30<sup>th</sup> January 2019. The report makes 26 formal recommendations, most of which are addressed to Government, and also includes a further 15 "best practice" recommendations which can be implemented by local authorities. These cover a range of issues including the content of the Code of Conduct, accessibility of information about the Code, gifts and hospitality and how to make a standards complaint, and procedures for conducting formal investigations. These are being assessed and will be fed into a review of the Code of Conduct. The Executive summary, List of Recommendations and List of Best Practice are attached as Appendix 1. The full report has been sent to members of the Committee and is available on the Government website here -
- [Local Government Ethical Standards Report January 2019](#)
- 3.5 This Committee's concerns about the lack of effective sanctions in the current Standards regime are reflected in the report. The Committee for Standards in Public Life recommends both that the current criminal sanctions relating to Declarable Pecuniary Interests are disproportionate and ineffective and should be abolished, and also that local authorities should be given power to suspend councillors, without allowances, for up to six months.
- 3.6 At present, there is no indication about whether the recommendations will be accepted by the Government and passed into legislation.

#### **Dispensations Granted**

- 3.7 The Council has delegated to the Monitoring Officer, in consultation with members of the Urgency Committee, the authority to grant dispensations to Councillors to attend and speak at meetings of the authority in circumstances where, under the Code of Conduct, they have a

disclosable pecuniary interest (Scheme of Delegation to Officer, Part 2A, 3 (xxv)). Where these dispensations have been sought, they are typically about town planning issues, where the Code of Conduct means that councillors have less opportunity to assert their interests than other residents, or about employment, where technically there is a disclosable pecuniary interest, but in practice that interest is not significant. In order to be transparent, applications for dispensations since the last meeting are now presented to this Committee - the latest list is at [Appendix 2](#) - this contains only one dispensation, granted to Councillors Robert Mcilveen and Michael Rutherford in relation to a planning application.

### **Gifts and Hospitality Register**

- 3.8 Under the Code of Conduct, Councillors are required to declare gifts and hospitality received due to their role as Councillors over the value of £25. These are published on the Council website, with a link from each Member's page. A schedule of the gifts and hospitality declarations made in 2019 so far, and since the Committee's last meeting, is attached as [Appendix 3](#). Only two declarations have been registered in this period.

### **Register of Interests**

- 3.9 Under the Localism Act 2011, the Register of Interests is required to be published on the Council's website, and a link to each Councillor's declaration is provided on their page. At its meeting in February 2018 the Committee suggested that a print-out of these declarations should be available at each meeting of the Committee for inspection by members of the public, and this will be done.

### **Substitution**

- 3.10 Until 2011 substitution on the Standards Committee was unlawful. The Localism Act 2011 removed the need for a Standards Committee and membership, substitution etc became a matter for local choice.
- 3.11 There is a suggestion that the Constitution Improvement Working Group is asked to recommend permitting substitution on the Committee. A key reason behind the original position arose because Committee Members undertook key work in respect of filtering and hearing matters where there were allegations of a breach of the Member's Code which is as valid now as it was under the previous system. Allowing observers where a Member is unable to attend would ensure broad representation – although the Committee is an “a-political” body.

### **Work Programme and Matters Outstanding from Previous Meetings**

- 3.12 Full Council at its meeting on 8<sup>th</sup> April 2019 decided that all Council Committees and Sub-Committees should include provision at scheduled meetings to consider matters outstanding from previous meetings. These matters will often form part of the future work programme. A table of matters outstanding is attached at [Appendix 4](#).
- 3.13 The Council's 2019/20 programme of meetings now includes three scheduled meetings of this Committee. The following dates have been scheduled -

- Wednesday 19<sup>th</sup> June 2019
- Thursday 31<sup>st</sup> October 2019
- Thursday 12<sup>th</sup> March 2020

Members of the Committee are requested to consider what issues they wish to consider at future meetings.

3.14 It is suggested that the Committee may want to review Bromley's Code of Conduct and in particular its requirements for declaring non-pecuniary interests. The Localism Act 2011 introduced a new standards regime in 2012, which included a statutory requirement for each Member to register the Disclosable Pecuniary Interests (DPIs) of themselves and those of any spouse or partner. At the same time, the statutory requirement to register a range of non-pecuniary interests was removed. Bromley took the view that these non-pecuniary interests should continue to be registered in addition to the statutory requirements. However, Bromley has never required the interests of other close family members or associates to be registered, and as a consequence has relied on individual judgement rather than setting specific rules on Member participation/involvement where such interests exist. This is one area that the Committee could consider.

### **Complaints**

3.15 A summary of recent complaints against Councillors, since the Committee's last meeting, is included at [Appendix 7](#). As these complaints contain personal details about Councillors and complainants, and also as the Councillors concerned have not necessarily done anything that is clearly against the Code of Conduct, this information is included on the part 2 (private) agenda. There are no formal standards investigations at present.

<b>Non-Applicable Sections:</b>	Impact on Vulnerable Adults and Children/Policy/ Financial/Personnel/Legal/Procurement
Background Documents: (Access via Contact Officer)	None