



## Standards Committee

**Date:** FRIDAY, 6 OCTOBER 2017

**Time:** 11.30 am

**Venue:** COMMITTEE ROOM - 2ND FLOOR WEST WING, GUILDHALL

**Members:** Oliver Lodge (Chairman)  
Christopher Hayward (Deputy Chairman)  
Judith Barnes  
Chris Boden  
Deputy Kevin Everett  
Alderman David Graves  
Mark Greenburgh  
Ann Holmes  
Deputy Jamie Ingham Clark  
Dan Large  
Deputy Edward Lord  
Vacancy

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**Lunch will be served in Guildhall Club at 1PM**  
**NB: Part of this meeting could be the subject of audio or video recording**

**John Barradell**  
Town Clerk and Chief Executive

## **AGENDA**

1. **APOLOGIES**
2. **MEMBERS' DECLARATIONS UNDER THE CODE OF CONDUCT IN RESPECT OF ITEMS ON THE AGENDA**
3. **MINUTES OF THE LAST MEETING**  
To agree the public minutes of the meeting held on 19 May 2017.  
**For Decision**  
(Pages 1 - 10)
4. **UPDATE- ASSESSMENT SUB-COMMITTEE**  
Town Clerk to be heard in respect of the Assessment Sub-Committee meeting held on 20 September 2017 and its consideration of a complaint against a Member of the Court of Common Council.  
**For Information**
5. **DISPENSATIONS IN RELATION TO THE SETTING OF COUNCIL TAX**  
Report of the Comptroller & City Solicitor.  
**For Information**  
(Pages 11 - 16)
6. **THE LORD MAYOR'S DECLARATIONS OF GIFTS AND HOSPITALITY**  
Report of the Private Secretary & Chief of Staff (TO FOLLOW).  
**For Information**
7. **SHRIEVAL REGISTER OF GIFTS AND HOSPITALITY**  
Report of the Secondary and Under Sheriff (TO FOLLOW).  
**For Information**
8. **ANNUAL REVIEW OF THE PROTOCOL ON MEMBER/OFFICER RELATIONS**  
Joint report of the Comptroller & City Solicitor and the Director of Human Resources.  
**For Information**  
(Pages 17 - 24)
9. **REPORT OF ACTION TAKEN**  
Report of the Town Clerk.  
**For Information**  
(Pages 25 - 26)
10. **QUESTIONS ON MATTERS RELATING TO THE WORK OF THE COMMITTEE**
11. **ANY OTHER BUSINESS THAT THE CHAIRMAN CONSIDERS URGENT**

## STANDARDS COMMITTEE Friday, 19 May 2017

Minutes of the meeting of the Standards Committee held at Committee Room - 2nd Floor West Wing, Guildhall on Friday, 19 May 2017 at 11.30 am

### Present

#### Members:

Chris Boden  
Deputy Kevin Everett  
Mark Greenburgh  
Ann Holmes  
Deputy Jamie Ingham Clark  
Oliver Lodge  
Deputy Edward Lord

#### In Attendance:

Neil Asten – Independent Person  
Nigel Challis – former Common Councilman and Member of the Standards Committee  
Emma Edhem – Common Councilman and Chairman of the City of London Corporation's Standards Regime Review Working Party

#### Officers:

Gemma Stokley - Town Clerk's Department  
Edward Wood - Comptroller and City Solicitor's Department

#### 1. APOLOGIES

Apologies for absence were received from Judith Barnes, Alderman David Graves, Christopher Hayward, Dan Large, Anju Sanehi (Independent Person) and Chris Taylor (Independent Person).

#### 2. MEMBERS' DECLARATIONS UNDER THE CODE OF CONDUCT IN RESPECT OF ITEMS ON THE AGENDA

Ann Holmes declared a non-pecuniary interest in relation to agenda Item 10 stating that she was currently the serving Chairman of the Barbican Residential Committee.

Oliver Lodge declared a non-pecuniary interest in relation to agenda Item 6 (Minutes of the Previous Meeting), stating that he was currently a member of Guildhall Lodge.

Deputy Ingham Clark and Deputy Kevin Everett also declared non-pecuniary interests in relation to agenda Item 3 (Minutes of the Previous Meeting), stating that they were also members of the Guildhall Lodge.

Deputy Edward Lord declared a non-pecuniary interest in relation to agenda Item 3 stating that he was a member of the City of London Lodge of Installed Masters.

Mark Greenburgh declared a non-pecuniary interest in relation to the same agenda item, stating that he was a Freemason.

3. **ORDER OF THE COURT OF COMMON COUNCIL**

The Order of the Court of Common Council of 27<sup>th</sup> April 2017, appointing the Committee and approving its terms of reference, was received.

**RECEIVED.**

4. **ELECTION OF CHAIRMAN**

The Committee proceeded to elect a Chairman in accordance with Standing Order No.29.

The Town Clerk read a list of Members eligible to stand and Oliver Lodge, being the only Member expressing his willingness to serve, was duly elected as Chairman of the Committee for the ensuing year.

Mr Lodge thanked the Committee for their continued support and went on to welcome the newly appointed Members of the Committee – Alderman David Graves, Chris Boden, Deputy Kevin Everett and Ann Holmes.

Mr Lodge went on to thank, on behalf of the Committee, Alderman Yarrow, Tom Sleigh and Virginia Rounding who had now stepped down from the Committee.

5. **ELECTION OF DEPUTY CHAIRMAN**

The Committee proceeded to elect a Deputy Chairman in accordance with Standing Order No.30.

The Town Clerk read a list of Members eligible to stand and Christopher Hayward, being the only Member expressing his willingness to serve (by way of a statement previously circulated to all Members of the Committee via email) was duly elected as Deputy Chairman of the Committee for the ensuing year.

6. **MINUTES OF THE PREVIOUS MEETING**

The minutes of the previous meeting held on 3 February 2017 were considered and approved as a correct record.

**MATTERS ARISING**

**Freemasonry (page 4)** – A Member, who had also been present at the Hospitality Working Meeting at which this matter was discussed, reported that there had been detailed discussion around this with over half of the Members present declaring a non-pecuniary interest by virtue of the fact that they were Freemasons. These Members were invited by the Chief Commoner to contribute to the discussions and provide any background information but refrained from voting on any outcomes.

Members were informed that the Hospitality Working Party had concluded that both the Guildhall Lodge and Londinium Lodge should continue to have free use of the Guildhall on the same basis as any other Member/staff club was. It was felt that it was no longer appropriate for the City of London Lodge of Installed Masters (who were currently charged the Members' private hire rate of 10% of the commercial rate) to be entitled to this level of discount and that, going forward, they should now be charged a higher, 'City Connection' rate which was currently offered to all Livery Companies, Ward Clubs etc.

In response to a question regarding entitlement to free use of Guildhall as opposed to a 90% discount, a Member explained that free use was granted solely to 'internal users' for clubs/societies that were for the benefit of elected Members or members of staff. Individual Members were also entitled to a 90% discount for personal occasions/celebrations.

The Chairman requested that a formal minute/resolution of the Hospitality Working Party on this matter be circulated to the Standards Committee ahead of their next meeting.

#### 7. **STANDARDS REGIME REVIEW WORKING PARTY**

The Chairman introduced Emma Edhem, the Chairman of the Standards Regime Review Working Party and thanked her for her attendance. The Chairman explained that Ms Edhem had been invited to today's meeting to brief the Standards Committee on the work of the Working Party in general. He added that the Committee's general views on Mr Bourne's recommendations were well documented in the minutes of the last meeting.

Ms Edhem provided the Committee with an overview of the Working Party's constitution and work to date as well as their work-plan going forward. She explained that, as well as the formal meetings of the Working Party, a lot of work and research was being carried out between meetings. Ms Edhem's presentation went on to cover the following points:

- The Working Party had already come across some recommendations within the report that they were not in agreement with;
- The Working Party had begun by scrutinising all 36 of the recommendations within Mr Bourne's report and identifying those that were obvious/'quick wins' in terms of implementation;
- The Working Party had then identified six clear 'blocks' that would require further clarification/investigation and these were - Assessment of Complaints, Investigation of Complaints, Complaints Hearings, Sanctions, Appeals against Complaints and the Role of the Independent Person. These would be covered over five meetings, two of which had already taken place to date;
- The Standards Committee's three Independent Persons had been invited to address the Working Party informally earlier this month ahead of their formal consideration of those recommendations relating to the role of the Independent Person going forward;
- It was hoped that the Working Party would be in a position to present their full recommendations to the Standards Committee by October as

opposed to a piecemeal approach. The Working Party were very keen to engage the Standards Committee as it was recognised that this was the body who would be tasked with ultimately implementing the various recommendations put forward.

A Co-opted Member encouraged the Chairman of the Working Party to remember an external perspective on this and the City of London's Standards Culture as a whole. He added that Mr Bourne's report was very much from a legal perspective and that Co-opted Members of the Standards Committee tended to have wider experience of Local Authority in general and were therefore more able to challenge the existing culture.

The Chairman of the Working Party reiterated that they were very aware of this. She added that it was also, however, important to maintain the independence of the Standards Committee's Independent Persons who played a very different role to its Co-opted Members – something that needed to be very clearly defined going forward.

The Chairman of the Working Party concluded that it was the expectation that the group would be in a position to inform the Standards Committee of their full, draft recommendations by mid-October 2017. She undertook to notify the Standards Committee of any 'slip' in this proposed timetable. The Chairman of the Standards Committee underlined that his Committee were very keen to expedite the process and went on to question whether the Working Party had also considered wider consultation such as with the Chairman of the Policy and Resources Committee. The Chairman of the Working Party underlined that she was very keen not to rush this important process. She questioned the merit in consulting the Chairman of the Policy and Resources Committee specifically and reported that this was not currently considered necessary.

The Chairman of the Standards Committee referred to an Informal Members Meeting at which Mr Bourne had presented his initial findings to all ahead of the submission of his formal Court report. He questioned whether the Working Party might consider a similar informal meeting of Members allowing them to comment and express any strong views ahead of presenting their final report to the Court of Common Council. The Chairman of the Working Party welcomed this suggestion and stated that she saw no reason why the group could not consult more widely once they had a final draft of their recommendations in place.

A Member commented that he was delighted to hear that the Working Party had sought the views of the Independent Persons in this process. He went on to suggest that they might also do similar with the Standards Committee's Co-opted Members who would also be a very useful resource in terms of providing an external perspective.

Finally, a Member suggested that it might be useful for the Committee to receive the minutes of the Working Party in order to follow the work that was being undertaken. The Chairman of the Working Party stated that the only caveat she would add here was that certain 'decisions' made at each meeting

might well be revisited as the process progressed. The Town Clerk undertook to ascertain eligibility in terms of access to the minutes of the Working Party going forward.

**8. CODE OF CONDUCT/PROTOCOL TRAINING**

The Committee received a report of the Comptroller and City Solicitor summarising the attendance of members at recent training sessions offered on the Code of Conduct.

The Comptroller and City Solicitor reminded the Committee that they had requested this report at their last meeting. He reported that, since writing this report, one further training session had taken place and that this had been attended by two elected Members. He commented that attendance amongst newly elected Common Councilmen at these sessions was fairly disappointing.

A Member, who also currently sat on the City's Member Development Steering Group, commented that the attendance at the July and September Code of Conduct Sessions was actually comparatively high compared with many other sessions that had been offered. She did, however agree that the new Member level of attendance at these sessions was disappointing. She suggested that, if any training could be made mandatory, it should be this given its increasing importance to those who were publically elected.

The Town Clerk confirmed that all 26 newly elected Members had completed and submitted their Register of Interest and Non-Pecuniary Interest forms within the statutory deadline and that all details had been published on the public facing website.

The Committee suggested that the Chairman write to all newly elected members who were yet to attend a Code of Conduct training session underlining its importance and centrality to their role. It was suggested that he should also ask Ward Deputies to encourage new Member attendance at future sessions.

**RECEIVED.**

**9. DRAFT ANNUAL REPORT OF THE STANDARDS COMMITTEE**

The Committee considered a report of the Town Clerk setting out its Draft Annual Report for submission to the Court of Common Council.

It was suggested that paragraph 16 referring to the recent recruitment campaign for a Co-opted Member be amended to read that 'it had not been possible to make an appointment at this stage'.

It was also suggested that reference to the Committee's Independent Persons and their attendance/contributions at Standards Committee meetings throughout the year should be reflected at paragraph 13.

Some further, minor amendments were suggested to paragraphs 5, 10, 16 and 17.

**RESOLVED – That:**

- (a) Subject to the proposed amendments made at the meeting, the annual report be approved; and
- (b) In accordance with the Committee's terms of reference, the annual report be referred to the Court of Common Council for information.

**10. REQUESTS FOR DISPENSATION**

The Committee considered a total of twelve written requests for dispensations from the following Members:

- Randall Anderson (Common Councilman for the Ward of Aldersgate);
- Deputy David Bradshaw (Common Councilman for the Ward of Cripplegate);
- Mary Durcan (Common Councilman for the Ward of Cripplegate);
- Gregory Lawrence (Common Councilman for the Ward of Farringdon Without) ;
- Deputy Edward Lord (Common Councilman for the Ward of Farringdon Without) (TABLED);
- Deputy Joyce Nash (Common Councilman for the Ward of Aldersgate);
- Barbara Newman (Common Councilman for the Ward of Aldersgate);
- Susan Pearson (Common Councilman for the Ward of Cripplegate);
- William Pimlott (Common Councilman for the Ward of Cripplegate) ;
- Stephen Quilter (Common Councilman for the Ward of Cripplegate) (TABLED);
- Oliver Sells QC (Common Councilman for the Ward of Farringdon Without);
- Deputy John Tomlinson (Common Councilman for the Ward of Cripplegate)

It was noted that the majority of the requests were in relation to forthcoming discussions relating to the charging policy for car parking and stores at the Barbican Residential Committee. The Chairman therefore suggested that these requests be dealt with first.

The Comptroller and City Solicitor reiterated the relevant criteria against which dispensations might be granted. He added that the composition of the Barbican Residential Committee (BRC) requires representation from resident Members. He reported that, under the previous Standards Regime, this was specifically excluded from being a prejudicial interest and so, in the past, dispensations had been approved.

A Member reported that the quorum for these Committee meetings was defined as any four non-resident Members and that this was a deliberate attempt to anticipate these types of issues. The Comptroller and City Solicitor agreed that this meant that the criteria for granting a dispensation which stated that 'without



the dispensation the proportion of Members and Co-opted Members prohibited from participating in any particular business would be so great as to impede the transaction of the business' would not be met in this case.

Members commented that this kind of context was extremely useful when considering these requests and suggested that, in future, covering reports from the Comptroller and City Solicitor setting out the relevant criteria and context on a case by case basis would be useful. The Comptroller and City Solicitor agreed to provide such covering reports going forward.

Members were generally of the view that there should be a clear distinction in terms of speaking and voting on matters where Members had clear, disclosable pecuniary interests as might be the case with car parking.

In response to questions regarding car parking spaces for Barbican Residents, a Member (also the serving Chairman of the BRC) reported that, whilst all tenants and leaseholders may rent or purchase a lease on car parking spaces, there is no entitlement to car parking in leases to flats. There were now proposals to convert underused spaces to storage.

Members were of the view that each request should be viewed on its individual merit and that the Committee should also be very aware of public perception and pay due regard to the Principles of Public Life.

In response to further questions, the Comptroller and City Solicitor clarified that dispensations were entirely permissive in nature and did not impose any restrictions on speaking or voting where no such restrictions otherwise exist. The Committee should therefore assume for present purposes that the dispensations being sought were required in order to participate.

Members requested that the Comptroller and City Solicitor produce a report for their next meeting on the need for dispensations in relation to the setting of council tax.

The Committee were of the view that Delegated Authority should be granted to the Town Clerk, in consultation with the Chairman and Deputy Chairman of the Standards Committee, to take decisions on any subsequent applications for dispensations received ahead of the next Standards Committee meeting.

**RESOLVED:** That the following decisions be communicated to Members:

- **Randall Anderson – Partially Granted** - A dispensation be granted until the ward Elections in 2021 to speak at meetings where the charging policy for Car Parking and Stores in the Barbican were under consideration but the request for a dispensation to vote on such matters, should he have a disclosable pecuniary interest, be refused;
- **Deputy David Bradshaw – Rejected** – The Committee felt that further information was required and that the application was too wide reaching

by requesting to speak and/or vote on any matter impacting on either Barbican or Golden Lane residents;

- **Deputy Joyce Nash – Partially Granted** - A dispensation be granted until the ward Elections in 2021 to speak at meetings where the charging policy for Car Parking and Stores in the Barbican were under consideration but the request for a dispensation to vote on such matters, should she have a disclosable pecuniary interest be refused;
- **Mary Durcan – Partially Granted** - A dispensation be granted for a specific meeting of the Barbican Residential Committee on 5<sup>th</sup> June 2017 only to speak on the charging policy for Barbican car parking and storage spaces charging but the request for a dispensation to vote on such matters be refused (N.B. The limited duration of the dispensation reflects the application);
- **Barbara Newman – Partially Granted** - A dispensation be granted from 16/5/17 to 1/8/17 to speak at meetings where Car Parking charges were under consideration but the request for a dispensation to vote on such matters, should she have a disclosable pecuniary interest, be refused(N.B. The limited duration of the dispensation reflects the application) ;
- **William Pimlott – Partially Granted** - A dispensation be granted until the ward Elections in 2021 to speak at meetings where Parking for Barbican Residents was under consideration but the request for a dispensation to vote on such matters, be refused;
- **John Tomlinson - Rejected** - The Committee felt that further information was required and that the application was too wide reaching by requesting to speak and/or vote on any matter at the Barbican Residential Committee and the Community & Children's Services Committee;
- **Stephen Quilter (tabled) – Partially Granted** - A dispensation be granted until the ward Elections in 2021 to speak on Car Parking and Baggage Stores in the Barbican at meetings of the Barbican Residential but the request for a dispensation to vote on such matters be refused;
- **Susan Pearson – Rejected** - The Committee felt that further information was required (particularly in terms of which criteria the Member considered had been meant where no explanation was provided) and that the application was too wide reaching by requesting to speak and/or vote on any housing and other matters to do with Golden Lane Estate;
- **Gregory Lawrence – Partially Granted** - A dispensation be granted until the ward Elections in 2021 to speak on all matters concerning the London Central Markets, other than those in which he has a disclosable pecuniary interest as a shareholder or director of any company which holds a tenancy in the market, and which would affect only him

personally or his business interests as opposed to the generality of the tenants within the market. The request for a dispensation to vote on such matters be refused;

- **Oliver Sells QC – Rejected** - The Committee felt that further information was required and that the application was too wide reaching by requesting to speak and/or vote on any matter relating to his residency in the City of London and membership of the Inner Temple;
- **Deputy Edward Lord – APPLICATION WITHDRAWN BY DEPUTY EDWARD LORD.**

11. **QUESTIONS ON MATTERS RELATING TO THE WORK OF THE COMMITTEE**

There were no questions.

12. **ANY OTHER BUSINESS THAT THE CHAIRMAN CONSIDERS URGENT**

There were no additional, urgent items of business for consideration.

13. **EXCLUSION OF THE PUBLIC**

**RESOLVED** - That under Section 100A(4) of the Local Government Act 1972, the public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Part I of Schedule 12A of the Local Government Act.

Item No(s).	Paragraph No(s).
14	2 & 3

14. **NON PUBLIC MINUTES**

The non-public minutes of the previous meeting held on 3 February 2017 were considered and approved as a correct record.

15. **NON PUBLIC QUESTIONS ON MATTERS RELATING TO THE WORK OF THE COMMITTEE**

There were no questions raised in the non-public session.

16. **ANY OTHER BUSINESS THAT THE CHAIRMAN CONSIDERS URGENT AND WHICH THE BOARD AGREE SHOULD BE CONSIDERED WHILST THE PUBLIC ARE EXCLUDED**

There were no additional, urgent items of business for consideration in the non-public session.

**The meeting ended at 1.32 pm**

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Chairman

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<b>Committee:</b> Standards Committee	<b>Date:</b> 6 October 2017
<b>Subject:</b> Dispensations in relation to the setting of council tax	<b>Public</b>
<b>Report of:</b> Comptroller & City Solicitor	<b>For Information</b>
<b>Report author:</b> Edward Wood, Chief Solicitor	
<b>Summary</b>	
<p>Members must make their own decision on whether to apply for a dispensation in order to speak or vote on the setting of council tax, where they have a home within the City. The Department for Communities and Local Government has issued guidance stating that this is not necessary. However, this Committee should continue to consider such requests when received.</p>	
<b>Recommendation:</b>	
<p>Members are asked to note the report.</p>	

## Main Report

### Background

- At the last meeting of this Committee on 19 May 2017, Members requested that the Comptroller & City Solicitor produce a report on the need for dispensations in relation to the setting of council tax.

### Position under the Localism Act 2011

- Members will know that under the Localism Act 2011 and The Relevant Local Authorities (Disclosable Pecuniary Interests) Regulations 2012 there are a number of disclosable pecuniary interests that prevent a Member from participating in any discussion or vote on a connected item of business. The disclosable pecuniary interest that is potentially engaged in relation to the setting of council tax is:-
  - any beneficial interest in land which is within the area of the relevant authority.
- The Localism Act 2011 does not provide any additional guidance on judging whether a disclosable pecuniary interest is engaged or not. It simply states that the prohibition on speaking or voting on a matter is engaged where a Member:-

- (a) is present at a meeting;
  - (b) has a disclosable pecuniary interest in any matter to be considered, or being considered, at the meeting; and
  - (c) is aware that the condition in paragraph (b) is met.
4. A Member commits a criminal offence if, without reasonable excuse, they participate in any discussion or vote on any matter in which they have a disclosable pecuniary interest. A Member who is found guilty of such an offence can be fined up to £5,000 and disqualified from holding office for up to five years. A prosecution may only be instigated by or on behalf of the Director of Public Prosecutions (DPP).
5. Members will also know however that a relevant authority may, on a written request made to the proper officer of the authority by a Member of the authority, grant a dispensation relieving the Member from either or both of the restrictions on speaking or voting in cases described in the dispensation. The granting of such dispensations is a function of this Committee and its Dispensations Sub-Committee. A relevant authority may only grant a dispensation if, after having had regard to all relevant circumstances, the authority:-
- (a) considers that without the dispensation the number of persons prohibited from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business;
  - (b) considers that without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business;\*
  - (c) considers that granting the dispensation is in the interests of persons living in the authority's area;
  - (d) if it is an authority operating executive arrangements, considers that without the dispensation each Member of the authority's executive would be prohibited from participating in any particular business to be transacted by the authority's executive;\* or
  - (e) considers that it is otherwise appropriate to grant a dispensation.

\* Grounds (b) and (d) are not directly applicable to the City Corporation but are included for completeness and context.

## Comparison with previous regime

6. The previous standards regime under the Local Government Act 2000 expressly allowed Members to vote on a number of matters in which they would otherwise have had a 'prejudicial interest' (the equivalent of a disclosable pecuniary interest). In the context of a beneficial interest in land in an authority's area, this included business relating to the functions of the authority in respect of:-
  - (a) housing, where the Member was a tenant of the authority, provided that those functions did not relate particularly to their tenancy or lease;
  - (b) setting council tax or a precept under the Local Government Finance Act 1992.
7. Given the absence of an equivalent provision in the Localism Act 2011 it was initially assumed that dispensations would be required to speak or vote on such matters under the new arrangements. Consequently, when Members were first advised in writing about the new arrangements, and the need to apply for a dispensation in certain circumstances, these areas were both highlighted on the relevant application form.

## Guidance from DCLG

8. However the Department for Communities and Local Government (DCLG) subsequently produced a guide for councillors on 'Openness and transparency on personal interests'. The relevant section of the guidance states that:-

***Do I need a dispensation to take part in the business of setting council tax or a precept?***

*Any payment of, or liability to pay, council tax does not create a disclosable pecuniary interest as defined in the national rules; hence being a council tax payer does not mean that you need a dispensation to take part in the business of setting the council tax or precept or local arrangements for council tax support.*

*If you are a homeowner or tenant in the area of your council you will have registered, in accordance with the national rules, that beneficial interest in land. However, this disclosable pecuniary interest is not a disclosable pecuniary interest in the matter of setting the council tax or precept since decisions on the council tax or precept do not materially affect your interest in the land. For example, it does not materially affect the value of your home, your prospects of selling that home, or how you might use or enjoy that land.*

*Accordingly, you will not need a dispensation to take part in the business of setting the council tax or precept or local arrangements for council tax support, which is in any event a decision affecting the generality of the public in the area of your council, rather than you as an individual.*

9. The final paragraph of the DCLG guidance does seem to assume that a decision in relation to the level of council tax will affect the generality of Members and the electorate of a relevant authority, which is not the case in relation to the City Corporation. However, Members will note that the main rationale for the DCLG position is not predicated on this point.

### **Current position**

10. Following the circulation of the DCLG guidance this Committee updated the application form for applying for a dispensation and specific reference to the need for resident Members to apply for a dispensation to speak or vote on the setting of council tax was removed. However this Committee has continued to consider written requests for a dispensation in relation to the setting of council tax where received, and such applications have been deemed to meet the relevant criteria for granting a dispensation.
11. Officers submit that this is the correct approach – not to actively invite applications in relation to the setting of council tax, but to consider them on request. Although the DCLG guidance will provide much comfort to Members, it is not definitive, and the document specifically advises individuals to seek their own legal advice if necessary on the matters raised. Any guidance issued by this Committee on the subject would similarly not be definitive.
12. Although the prosecution of a Member with a home in the City for speaking or voting on the setting of council tax without a dispensation is highly unlikely to be deemed to be in the public interest by the DPP, given the public pronouncement by DCLG – even supposing that the DPP were to view this as a breach of the relevant statutory provisions – this cannot be absolutely guaranteed. In the circumstances, and given the criminal nature of any breach, Members should be entitled to apply for a dispensation should they wish to have greater assurance on this point.

### **Conclusion**

13. It would be disproportionate for this Committee to actively encourage Members of the City Corporation to apply for a dispensation where they have a home in the City and wish to speak or vote on the setting of council tax, given the national guidance from DCLG on this issue. However this Committee should continue to consider a request for such



a dispensation where received, in order to provide additional assurance to the Member concerned.

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<b>Committee(s):</b> Standards Committee	<b>Date:</b> 6 October 2017
<b>Subject:</b> Annual review of the Protocol on Member/Officer Relations 2016-17	<b>Public</b>
<b>Report of:</b> Director of Human Resources	<b>For Information</b>
<b>Report author:</b> Tracey Jansen, Town Clerk's Department	

## Summary

This report provides the Committee with the annual review of the Protocol on Member/Officer Relations highlighting any related issues that have arisen in the year 1 August 2016 – 31 July 2017. The report also includes commentary from the Comptroller and City Solicitor on Employment Tribunal cases in the past year.

## Recommendation

Members are asked to note the report.

## Main Report

### Background

1. This annual report has been requested by the Committee to:
  - review the Protocol on Member/Officer Relations highlighting any related issues in the past year
  - keep under review the Employee Code of Conduct
  - include a commentary about the Employment Tribunal cases in the past year

### Current Position

2. The Protocol on Member/Officer Relations was reviewed by the Committee at its meeting in October 2014. The Committee's Terms of Reference were amended to include responsibility to keep under review and monitor the Protocol on Member/Officer Relations. A copy of the Protocol is attached as Appendix 1 to this report.
3. There have been no formal disputes raised under the Disputes Procedures which is set out in the Protocol.
4. The Terms of Reference also include keeping under review by way of annual update the Employee Code of Conduct. The Employee Code of Conduct broadly sets out the standards of conduct expected of employees and covers political neutrality, relationships with Members and the wider Nolan Principles. Breaches of the Code of Conduct are dealt with as disciplinary matters although minor

breaches are dealt with informally in accordance with the statutory ACAS Code of Practise. A summary of the cases that have been dealt with formally are as follows:

5. Formal Disciplinary Cases during this reporting period  
17 cases related to conduct and/or behaviour that fell short of the standards expected under the Code of Conduct  
1 case related to attendance
6. Formal Grievances  
4 cases related to standards of conduct in relation to bullying and harassment  
2 related to management issues  
2 related to discrimination
7. There were no disciplinary or grievance cases which related to the Protocol on Member/Officer Relations.
8. Members are not of course ordinarily involved in day-to-day employment matters but may be required to hear appeals against dismissal of employees as part of the Staff Appeals Committee. Of the 18 disciplinary cases listed above, 2 resulted in dismissal. One of these was considered by the Staff Appeals Committee and the appeal was upheld.
9. The Protocol on Member/Officer Relations has been updated to include specific reference to equality and inclusion. In the interests of transparency, the Protocol on Member/Officer Relations is now referenced in and appended to the Employee Code of Conduct in the Employee Handbook.
10. The Establishment Committee receives regular reports in relation to the progress of Employment Tribunal cases. Three cases were concluded in this reporting period. There are currently three outstanding cases, none of which relate to the Protocol on Member/Officer Relations.

### **Implications**

11. This report provides Members with information needed to monitor and review the Protocol on Member/Officer Relations and to consider whether any amendments or actions arising are appropriate.

### **Conclusion**

12. This report summarises activity over the past year in relation to the Protocol on Member/Officer Relations and the Employee Code of Conduct.

### **Appendices**

- Appendix 1 – Protocol for Member/ Officer Relations

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**PROTOCOL ON MEMBER / OFFICER RELATIONS**

**1. Introduction**

- (1) The purpose of the Protocol, which was approved by the Court of Common Council on 13 April 2006, is to provide a guide to working relationships between Members of the Court (including co-opted Members) and Officers, and is in addition to any statutory requirements governing such relationships. The Protocol applies whether such relationships are in the context of the City's role as a local authority, police authority, port health authority or in any of its other roles.
- (2) Although it does not form part of the Members' or Employees' Codes of Conduct, the Protocol should be viewed in conjunction with those documents.
- (3) Responsibility for upholding the Protocol rests with the Chief Commoner and, when necessary, the Standards Committee in relation to Members, and with the Town Clerk in relation to Officers.

**2. Principles Underlying Member / Officer Relations**

- (1) Good administration and effective decision-making are dependent upon the maintenance of successful working relationships between Members and Officers, based on mutual trust, respect and an understanding of respective roles and responsibilities. These relationships, and the trust which underpins them, should not be abused or compromised.
- (2) Whilst it is acceptable for Members, particularly Committee Chairmen as part of their leadership role, to offer guidance to Officers, they must not do anything which compromises or which is likely to compromise the impartiality of those who work for, or on behalf of, the authority. It is the responsibility of Officers to provide clear, impartial advice upon which Members may make decisions.
- (3) In addition to avoiding actual impropriety, Members and Officers should also seek to avoid situations which might give rise to the suspicion and/or appearance of improper conduct.

**3. Role of Members**

- (1) Members are subject to:-
  - (a) the Corporation's Code of Conduct; and,
  - (b) Standing Orders of the Court of Common Council.
- (2) Members have four main areas of responsibility:-
  - (a) determining the policy and strategic direction of the Corporation
  - (b) monitoring and reviewing the performance of the Corporation in implementing that policy and delivering services
  - (c) representing the Corporation externally
  - (d) representing their constituents and stakeholders

- (3) It is not the role of Members to involve themselves in the detail of day to day management of the Corporation's services.
- (4) Members are required to take the advice of Officers into account in reaching a decision on a matter and must respect the Officers' responsibility to provide impartial advice, guidance and information.
- (5) The power to make decisions for the discharge of the authority's functions lies with the Court of Common Council and the properly constituted committees and sub-committees. A Member acting in an individual capacity cannot exercise any lawful authority and Members in general must operate through the Court of Common Council and its committees and sub committees. Members acting individually may not legally commit the Corporation.
- (6) Whilst individual Chairmen are in the same constitutional position as all other Members, having no legal authority to make executive decisions, they have certain other powers (e.g. the control and conduct of meetings) as well as a broader leadership role. Chief Officers are required to consult Chairmen (and Deputy Chairmen) before certain delegated powers are exercised.
- (7) Leading Members i.e. the Lord Mayor, the Chairman of the Policy & Resources Committee, the Chief Commoner and other Committee Chairmen (or Deputy Chairmen with the agreement of, or in the absence of, the relevant Chairman) can speak for the Corporation on matters appropriate to their roles and in accordance with the policy of the Corporation. Arrangements for media interviews and the issue of press releases will be made through or in agreement with the Public Relations Office.
- (8) Whilst all other Members have opportunities to promote the work of the Corporation with the people they meet and when entertaining on behalf of the Corporation, they cannot act as spokesmen for the Corporation.

#### **4. Role of Officers**

- (1) Officers are subject to:
  - (a) the Corporation's Code of Conduct;
  - (b) Standing Orders of the Court of Common Council;
  - (c) Financial Regulations; and,
  - (d) other instructions and professional guidelines relevant to their duties.
- (2) The primary role of Officers is to provide impartial advice, guidance and information to Members, and to implement promptly and efficiently the policies determined by the Court of Common Council and its various committees. Certain Officers have specific statutory responsibilities.
- (3) Officers must recognise the right of Members, as elected representatives, to determine the policy of the authority and must not act in any way to undermine that right.

- (4) Officers serve the Corporation as a whole and must carry out the work of the Corporation under the direction and control of the Court of Common Council and the properly constituted committees and sub-committees.

## **5. Expectations**

- (1) Members have a right to expect from Officers:-
- (a) commitment to the Corporation as a whole
  - (b) a working partnership
  - (c) an understanding of, and support for, respective roles, workloads and pressures
  - (d) timely response to enquiries and complaints and the efficient execution of decisions
  - (e) impartial, professional advice and guidance
  - (f) regular, up to date information on matters appropriate and relevant to their needs, having regard to any individual responsibilities that they have and positions they hold
  - (g) respect, dignity and courtesy
  - (h) integrity, mutual support and appropriate confidentiality
  - (i) not to have personal issues raised with them outside the agreed procedures
  - (k) that they will not use their relationship with Members to advance their personal interests or to influence decisions improperly
  - (l) compliance at all times with the relevant Code of Conduct
  - (m) Commitment to equality, diversity and inclusion in their relationship with Members and colleagues
- (2) Officers have a right to expect from Members:-
- (a) a working partnership
  - (b) an understanding of, and support for, respective roles, workloads and pressures
  - (c) leadership and policy direction
  - (d) respect, dignity and courtesy
  - (e) integrity, mutual support and appropriate confidentiality
  - (f) not to be subject to bullying or to be placed under undue pressure and, in this respect, Members should have regard to the seniority of Officers in their dealings with them ie. they should not engage junior officers in discussions and requests more properly directed at senior officers
  - (g) that they will not use their relationship with Officers to advance their personal interests or to influence decisions improperly
  - (h) compliance at all times with the relevant Code of Conduct
  - (i) Commitment to equality, diversity and inclusion in their relationship with Officers and colleagues

## **6. Members in the Ward Role**

Members will, through their work with their electorate and stakeholders, need to contact Officers to obtain information on behalf of their constituents and others. This is perfectly in order and from time to time it may be appropriate for Officers to reply to constituents etc. on behalf of, or at the request of, Members.

## **7. Correspondence and Communications**

Members may contact (i.e. by letter, e-mail, fax, telephone) Officers to seek advice, guidance or information. Whatever method of communication is used, Members should receive an acknowledgement as soon as possible, but in any event within 2 working days, and a full response as soon as possible thereafter within 10 working days of receipt of the request. If for any reason this is not possible, a holding reply setting out the reasons for the delay should be sent as soon as possible following the acknowledgement, but in any event before the expiry of the 10 working days.

## **8. Limitations on Behaviour**

The separate roles of Members and Officers necessarily impose limitations upon behaviour. By way of illustration:-

- (1) personal relationships between Members and Officers going beyond normal working relationships can confuse/obscure the separate roles and interfere with the proper discharge of the authority's functions, not least in creating the perception in others that a particular Member or Officer may secure advantageous treatment;
- (2) the need to maintain and recognise the separate roles means that there are limits to the matters on which Members may seek the advice of Officers;
- (3) relationships with particular individuals should not be such as to create a suspicion/perception that an Officer favours a particular Member above others.

## **9. Reports**

- (1) Chairmen of committees or sub-committees may, on behalf of the committees or sub-committees concerned, make reasonable requests to Chief Officers or other Officers to prepare written reports on matters relating to the authority for consideration at Member-level. Such requests should not seek confidential information (e.g. relating to case work or personal details of applicants for services).
- (2) Any disagreement relating to such a request (e.g. if the Chief Officer concerned considers that the cost of providing the information or the nature of the request is unreasonable) should be referred to the Town Clerk.

## **10. Members' Access to Documents and Information**

- (1) Members' rights of access to documents and information are governed by the common law and statute. Members have such access to documents and information that is reasonably necessary to enable them properly to perform their duties as elected representatives.
- (2) Generally, information should, therefore, be made available to Members on request unless there is a justifiable legal or other reason for declining access.
- (3) Standing Order No. 42 sets out the detail on Members' access to documents.



- (4) If the information is not readily available or will require significant resources to produce, Officers should seek the guidance of their Chief Officer before taking steps to provide information that has been requested.

#### **11. Other Members of Corporation Committees**

Co-opted Members of the various committees, the Verderers serving on the Epping Forest & Commons Committee and the Independent Members of the Standards Committee are entitled to receive documents and information relating to their appointments in the same way as if they were elected Members.

#### **12. Dispute Procedures**

- (1) The overriding objective in any dispute is to achieve a satisfactory resolution through informal channels. However, it has to be recognised that this might not always be possible.
- (2) Procedure for Members:-
  - (a) If a Member is dissatisfied with the conduct, behaviour or performance of an Officer, the matter should be raised with the appropriate Chief Officer.
  - (b) If the employee concerned is a Chief Officer, the matter should be raised with the Town Clerk. (In the case of the Town Clerk there is a separate procedure.)
  - (c) If the matter cannot be resolved informally, it may be necessary to resort to the Corporation's Disciplinary Procedure.
- (3) Procedure for Officers:-

If an Officer is dissatisfied with the conduct or behaviour of a Member, the matter should be raised with the appropriate Chief Officer or the Town Clerk.

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<b>Committee:</b> Standards Committee	<b>Date:</b> 6 October 2017
<b>Subject:</b> Report of Action Taken Between Meetings	<b>Public</b>
<b>Report of:</b> Town Clerk	<b>For Information</b>
<b>Report Author:</b> Gemma Stokley, Committee and Member Services Officer	

## Summary

In accordance with Standing Order 41(b), this report provides Members with the details of a decision taken by the Town Clerk, in consultation with the Chairman and Deputy Chairman of the Standards Committee, since the Committee's last meeting on 15<sup>th</sup> May 2015.

### **Recommendation: -**

That the contents of the report be noted.

### **Main Report**

#### **Background**

1. Standing Order no. 41(a) provides a mechanism for decisions to be taken between scheduled meetings of the Standards Committee, where in the opinion of the Town Clerk, it is urgently necessary for a decision to be made. Standing Order No. 41(b) provides a mechanism for decisions to be taken between scheduled meetings of the Standards Committee, where the Committee has delegated power to the Town Clerk, in consultation with the Chairman and Deputy Chairman, to make a decision.

#### **Decisions Taken Between Meetings (Urgency)**

2. In accordance with Standing Order 41(a), a decision has been taken in respect of the following matter since the last meeting of the Standards Committee on 19<sup>th</sup> May 2017:- Request for a dispensation – Deputy David Bradshaw.

3. At its meeting on 19<sup>th</sup> May 2017, the Standards Committee considered a number of requests for dispensations to speak and/or vote in relation to a car park charging report which was scheduled to be considered at a forthcoming meeting of the Barbican Residential committee on 5<sup>th</sup> June 2017. Those requesting dispensations applied on the grounds that as they are Barbican residents, they may have a conflict of interest (pecuniary) and would not therefore be able to speak/vote on the item. The Standards Committee granted a number of requests to speak on the matter – but not vote – but stressed that the dispensation was entirely permissive in nature and did not impose any restrictions on speaking or voting where no such restrictions otherwise exist.
4. Ahead of the meeting on 19<sup>th</sup> May, Mr Bradshaw applied for a dispensation to speak/vote on any matter which impacts on Barbican or Golden Lane residents. The Standards committee considered this request to be too wide-ranging and therefore initially rejected the application.
5. Mr Bradshaw subsequently submitted a further application to speak at the next meeting on the grounds that “as an elected member of the Ward of Cripplegate, I would be failing in my duty and responsibility to speak on behalf of my constituents if I was not granted dispensation to speak on this occasion. This dispensation request has been made in the interest of residents living in the City of London.”
6. Mr Bradshaw acknowledged that he had a pecuniary interest in the matter and could not vote on the car park charging report. The request was consistent with the other applications that were considered and approved on 19<sup>th</sup> May 2017.

### **Conclusion**

7. In accordance with Standing Order 41(a), Members are asked to note the decision taken by the Town Clerk in consultation with the Chairman and Deputy Chairman of the Standards Committee to approve this request for a dispensation since the Committee’s last meeting on 19<sup>th</sup> May 2017.

### **Background Papers:**

- Minutes of the meeting of the Standards Committee on 19<sup>th</sup> May 2017.

### **Gemma Stokley**

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