

# Public Document Pack

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Date: 13 December 2016

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## MEETING OF STANDARDS COMMITTEE

**On:** Wednesday 21 December 2016 **At:** 2.00 pm

**Venue:** Town Hall - Bridge Street, Bideford, EX39  
2HS

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### NOTICE OF MEETING

**To:** Councillor K Carroll (Chair)  
Councillor B Boundy (Vice-Chair)  
Councillors: M Langmead, S Robinson, D Brenton, M Brown and G Dezart

Town & Parish Representatives: Richard Clark and Harold Martin

Independent Persons: Barbara Berkhauer and Mr Roger Levick

**Members are requested to turn off their mobile phones for the duration of the meeting**

### AGENDA PART I - (OPEN SESSION)

1.	<b>Apologies for Absence</b>
2.	<b>Minutes</b> (Pages 3 - 5) Confirmation of the Minutes of the meeting held on 7 September 2016.
3.	<b>Declarations of Interest</b> Members with interests to declare should refer to the agenda item and describe the nature of their interest when the item is being considered.
4.	<b>Agreement of Agenda between Parts I and II (if applicable)</b>
5.	<b>Urgent Matters of Information to be brought forward with the permission of the</b>

	<b>Chair and the Committee</b>
6.	<b>Applications for Dispensation - Councillors Margaret Brown and Cathrine Simmons</b> (Pages 6 - 9) To receive a report from the Senior Solicitor
7.	<b>Standards Committee Substitutions</b> (Pages 10 - 12) To receive a report from the Senior Solicitor.
8.	<b>Forward Plan</b> (Page 13)
9.	<b>Exclusion of Members of the Public</b> The Chair to move :  That the public be excluded from the remainder of the meeting because of the likely disclosure of exempt information as defined in Part 1 of Schedule 12A of the Local Government Act.
10.	<b>Part II (Closed Session)</b>
11.	<b>Complaint Update</b> (Pages 14 - 42) To receive a report and appendices from the Senior Solicitor.
	Meeting Organiser: Tom Vanstone - Democratic Services

TORRIDGE DISTRICT COUNCIL

STANDARDS COMMITTEE MEETING

Town Hall, Bideford, EX39 2HS

7 September 2016 at 2.00pm

PRESENT: Councillor K Carroll (Chair)  
Councillors: B Boundy, G Dezart, M Langmead, M Brown and S Robinson

Mr R Clark (Parish Representative)

ALSO PRESENT: Mr R Levick (Independent Person)

Councillor P Hackett

J Hollis - Senior Solicitor

T Vanstone & M Richards - Democratic Services Officers

The Chair welcomed everybody to the meeting.

01. APOLOGIES FOR ABSENCE

An apology for absence was received from Councillor Brenton and Barbara Berkhauer (Independent Person).

Members discussed the elected members for the Standards Committee. It was confirmed that Councillor Robinson will continue as an elected member and Councillor Langmead had joined the Committee.

02. MINUTES

It was proposed by Councillor Boundy, seconded by Mr Clark and –

Resolved:

That the Minutes of the meeting held on 3 June 2016 be agreed and signed as a correct record.

(Vote: For 4 , Abstentions 4)

Matters Arising From The Minutes

7. The Chair asked the Senior Solicitor if he had investigated the possibility of making changes to substitutions for the Standards Committee. The Senior Solicitor confirmed that he will look into this and will add the item to the next Agenda.

03. DECLARATIONS OF INTEREST

The Chair asked that declarations of interest be made as and when the specific agenda item to which they related was under discussion.

04. AGREEMENT OF AGENDA BETWEEN PARTS I AND II

It was proposed by Councillor Carroll, seconded by Councillor Brown, and

Resolved: That the agenda, as circulated, be agreed.

(Vote: For – unanimous)

05. URGENT MATTERS OF INFORMATION BROUGHT FORWARD WITH THE PERMISSION OF THE CHAIR AND THE COMMITTEE

There were no urgent matters.

06. LIASON WITH PARISH AND TOWN COUNCILS

Members discussed ways in which they can help keep complaints to a minimum. Members agreed that it would be advantageous if Members of the Standards Committee could attend Town and Parish Council Meetings.

The Senior Solicitor believed this would be a good idea but would require all Members to help cover the Parish meetings as the Senior Solicitor could not cover all 64 parishes.

Members discussed that all Councillors should be contacted to find out if they know of any issues at Parish Meetings they attend; Standards Committee Members can then prioritise attending these meetings.

It was proposed by Councillor M Langmead, seconded by Councillor G Dezart and –

Resolved:

That the Senior Solicitor will:

- Contact all councillors to see if they know of any issues at Parish Councils
- Agree to a member of the Standards Committee to be available to attend Parish Council meetings if required
- Collate all code of conducts from the Parish Councils

(Vote: For – unanimous)

07. ACCESS TO INFORMATION PROCEDURE

The Senior Solicitor presented Constitution Part 4 – Chapter 2: Access to Information Procedure.

Members discussed the Chapter of the Constitution which led to discussions that Members were concerned that Part II might be breached in the future.

The Senior Solicitor confirmed that Constitution Part 4 – Chapter 2: Access to Information Procedure confirms what a Part II item is.

The Members noted the document.

8. FORWARD PLAN

The Senior Solicitor confirmed that substitutions for the Standards Committee would be added to the next Standards Committee.

Also a dispensation for Councillor M Brown and Councillor C Simmons would be added to the forward plan as the current dispensations expired in August 2016.

LOCAL GOVERNMENT ACT 1972 (as amended)

It was proposed by Councillor M Langmead, seconded by Councillor M Brown –

That under Section 100(a)(4) of the Local Government Act (as amended) the public be excluded from the meeting for the following items of business because of the likely disclosure of exempt information by virtue of Paragraph 1 of Part 1 and Paragraph 10 of Part 2 of Schedule 12A of the Local Government Act 1972.

(Vote: For – Unanimous)

**Part II**

9. COMPLAINT UPDATE

The Senior Solicitor provided a verbal update on the two complaints. Brief details were given for the complaints which were outstanding.

The Complaint Update was duly noted.

It was proposed by Councillor Langmead, seconded by Councillor Dezart and

Resolved:

That the meeting return to Part I and that any press and public be readmitted.

(Vote: For – Unanimous)

**Part I**

The Senior Solicitor confirmed that there would be an extraordinary Standards Meeting for the applications for Dispensation for Councillor M Brown. The Senior Solicitor would confirm meeting date via email.

The meeting commenced at 2.00pm and closed at 3.05 pm

Date ..... Signed .....

# Agenda Item 6

**REPORT OF** Senior Solicitor and Monitoring Officer  
**To:** Standards Committee  
**Subject:** Applications for Dispensation – Councillors Margaret Brown and Cathrine Simmons  
**Date:** 21 December 2016 **Reference:** JH

**PURPOSE OF REPORT:** To decide whether to grant a dispensation

## 1. INTRODUCTION

A Councillor who has a registerable interest in a matter, unless that interest relates to an appointment to an outside body, must not take part in the discussion or the vote on that matter and must leave the room while the discussion is taking place.

A Councillor with a registerable interest can seek a dispensation under the Council's Code of Conduct for Members. This report deals with 2 such requests for dispensation.

## 2. REPORT

Section 33 of the Localism Act states that an authority may grant a dispensation relieving a Councillor from the restrictions on voting or taking part in the discussion on a matter.

The dispensation must specify how long it has been granted for and that period can not exceed 4 years. Therefore a dispensation can be granted allowing a Councillor to speak or vote or both on a matter at any time in the following 4 years, or for a shorter period of time.

Before granting a dispensation, the authority must be satisfied, after considering all of the circumstances, that the dispensation is justified by reference to a particular condition set out in s33(2) of the Act. The relevant conditions are:

- (a) That so many members of the decision-making body have an interest preventing participation that it would 'impede the transaction of the business'. In practice, this means that the decision-making body would be inquorate as a result;
- (b) That without the dispensation, the representation of different political groups on the decision-making body would be so upset as to alter the outcome of any vote on the matter;
- (c) Granting the dispensation is in the interests of persons living in the authority's area; or
- (d) It is otherwise appropriate to grant a dispensation.

Two requests for dispensation have been received, both from Councillors who are members of the STITCH Group (Save The Irreplaceable Torrington Community Hospital). The requests are from Councillors Margaret Brown and Cathrine Simmons, both ward members for the Torrington area.

A dispensation was previously granted in relation to both Councillors by the Standards Committee on 8 August 2014 in relation to the same matter. Those dispensations were for a period of 2 years, but the continued activity of the STITCH Group has led to further requests for dispensation.

For reference, the initial requests for dispensation, including the reasons for and scope of the dispensations sought are set out in emails attached as Appendix A to this report. Essentially, both Councillors wish to continue to be able to speak and vote on matters concerning the Torrington Community Hospital for an extended period of time of up to the permissible 4 years.

The earlier dispensations applied to any committee or full Council and were the same for both Councillors. It is recommended the same consistent approach is taken in relation to the current requests.

It is for Members to decide whether the granting of a dispensation is in accordance with the conditions set out in section 33(2) and the terms of any dispensation granted.

### **3. IMPLICATIONS**

#### Legal Implications

There are no legal implications from this decision, although there clearly are if a Member with a registerable interest speaks or votes without a dispensation.

#### Financial Implications

There are no financial implications

#### Human Resources Implications

There are none identified

#### Sustainability Implications

There are none identified

#### Equality/Diversity

There are none identified

#### Risk Management

There are none identified

#### Compliance with Policies and Strategies

There are no non-compliance issues.

#### Ward Member and Leader Member Views

Not applicable

### **4. CONCLUSIONS**

It is for Members to now consider whether a dispensation should be granted after considering all of the relevant circumstances.

## **5. RECOMMENDATIONS**

That Members either:

- (a) Grant a dispensation to one or both Councillors, specifying the scope and duration of that dispensation; or
- (b) Refuse the grant of a dispensation to one or both Councillors.

## **SUPPORTING INFORMATION**

Consultations:	None
Contact Officer:	Jamie Hollis
Background Papers:	Code of Conduct Localism Act



Appendix A:

Chairman Cllr Sam Robinson

I am writing to ask your Committee to grant a dispensation in order that I may both speak and vote on the subject of the NHS/ Clinician Care Closer to Home Pilot Scheme which affects my constituents in Great Torrington.

At this time I am chairman of the STITCH group SAVE THE IRREPLACEABLE TORRINGTON COMMUNITY HOSPITAL which is campaigning for more consultation and the right to be listened to when the Trust are coming to any decision affecting its future.

A dispensation will allow me to take a full part in discussions at the External Scrutiny Committee meetings on this subject .

Yours Sincerely  
Margaret Brown Cllr

Dear Jamie

I reply to the email as follows:-

\* The organisation to which I belong is called STITCH (Save The Irreplaceable Torrington Community Hospital). I has representatives from the League of Friends, 4 Town Councillors including the Mayor, medical representatives and other interested people. There are around 10 regular attenders at the meetings. It is fully supported by the town council which is covering some of its expenses. It has a building society account which holds a small amount of funds for further expenses. There is a mission statement.

\* I would like to be able to vote on matters concerning the closure of Torrington Community Hospital and matters connected to this as I feel I represent the views of the town as their elected representative and also as a member of STITCH

\* My interest in the Community Hospital is as a local resident, member of STITCH and an elected representative of the community both as a town councillor and a district councillor

\* I feel it is necessary to have this dispensation because I feel that the views of the residents of Torrington will not be represented if I do not have a vote. There was a referendum so the view of the residents is clear but I also need the support of the Standard Committee to provide clear approval for this view point.

\* I wish to be able to speak to any matter concerning the closure of the Torrington Community Hospital and other matters concerning the hospital and also to vote on any resolutions.

I hope this covers the points raised  
kind regards Cathrine

# Agenda Item 7

## Agenda Item

**REPORT OF** Senior Solicitor & Monitoring Officer

**To:** Standards Committee

**Subject:** Standards Committee Substitutions

**Date:** 21 December 2016

**Reference:** JH

### **PURPOSE OF REPORT:**

To consider whether the current arrangements relating to substitutions on to the Standards Committee should be altered.

### **1. INTRODUCTION**

The Council's Substitution Scheme is contained within the Rules of Procedure in the Constitution. The Scheme is subject to review by full Council each year at the Annual General Meeting, and would cease to apply at all if not explicitly adopted by full Council.

The current Substitution Scheme prevents substitutions in relation to the Standards Committee, potentially giving rise to issues of the meeting being quorate if some Members are unable to attend. The Committee has asked for a report to enable the issue of substitutions to be considered and an appropriate recommendation made to full Council if necessary.

### **2. REPORT**

The allocation of committee seats and the appointment of Members to those seats occurs annually at the Annual General Meeting of full Council. For most committees, there is a requirement that the appointment of members is undertaken in a way that ensures membership is politically proportionate. The Standards Committee has been excluded from that requirement, and this is reflected in the Committee's Terms of Reference. Full Council therefore can appoint who it wishes to the Standards Committee, in consultation with the group leaders of the political parties.

Against that background, there are some further considerations in relation to substitutions to the Committee.

Prior to the Localism Act 2011, Standards Committees were obliged to comply with a complex statutory framework, and technical, detailed procedures when dealing with allegations of Member misconduct. Under the current regime, the framework and procedures have been largely done away with, leaving Councils to devise their own local arrangements for dealing with complaints. Given the relative simplification of the processes involved, it could be argued that it is now less crucial that only experienced permanent members of the Committee were able to deal with such matters as the system has become more user-friendly.

However, the Standards Committee is still responsible for promoting and maintaining high standards of conduct at a strategic level, so it is necessary that its members have knowledge of the associated legal and policy framework. Additionally, while the process has been simplified, it is still likely to be beneficial for complaints to be dealt with by Members with previous experience of such matters. Similarly, while it may not be compulsory, to ensure

fairness in the determination of a complaint about an individual member, the Committee hearing that complaint should not be comprised of only one political party.

These issues may be overcome by restricting the types of substitutions possible. For example, the Committee may conclude that any member substituting should have undergone suitable training in relation to standards and the Code of Conduct. It could also be required that any substitute is from the same political party as the member being replaced unless the leader of that party agrees otherwise.

Should this Committee wish to amend the Substitution Scheme, this would need to be done by way of a recommendation to full Council as it involves a change to the Constitution. It is suggested that this could be done at the next Annual General Meeting when the Scheme is next due to be considered and adopted, unless Members would prefer a report to be taken to full Council earlier.

### **3. IMPLICATIONS**

#### Legal Implications

Any amendments to the Council's Constitution need to be approved by full Council.

#### Financial Implications

There are none identified

#### Human Resources Implications

There are none identified.

#### Sustainability Implications

There are none identified

#### Equality/Diversity

There are none identified.

#### Risk Management

There are none identified

#### Compliance with Policies and Strategies

There are none identified

#### Ward Member and Leader Member Views

Not applicable.

### **4. CONCLUSIONS**

The Committee is asked to consider the issue of substitutions to the Standards Committee and make an appropriate recommendation to full Council as necessary.

### **5. RECOMMENDATIONS**

That the Committee resolves to either –

- a) Retain the existing arrangements in relation to substitutions on to Standards Committee; or
- b) Recommend specific changes to the Substitution Scheme as it relates to the Standards Committee, to full Council.

**SUPPORTING INFORMATION**

Consultations: Not applicable.

Contact Officer: Jamie Hollis

Background Papers: Articles, Part 2 of the Constitution.  
Rules of Procedure, Part 4, Chp 1 of the Constitution

## STANDARDS COMMITTEE – FORWARD PLAN 2015/16

2015/16	Cycle 1	Cycle 2	Cycle 3	Cycle 4	Cycle 5	Cycle 6	Cycle 7	Cycle 8
			7 September 2016		21 Dec 2016		24 Feb 2017	
	2pm		2pm		2pm		2pm	
					Substitutions for Standards Committee  Dispensation for M Brown & C Simmons			

<b>Standing item</b>	Complaint update		Complaint update		Complaint update		Complaint update	
<b>Standing Item</b>								


# Agenda Item 11

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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