

# **BRIGHTON & HOVE CITY COUNCIL**

## **STANDARDS COMMITTEE**

**5.00PM – 21 DECEMBER 2004**

### **BRIGHTON TOWN HALL**

#### **MINUTES**

Present: Councillor Framroze (Chair); Councillors Lepper, Simson (OS), G Theobald, Watkins and Williams.

Independent Member: Mrs H Scott.

Apologies were received from: Dr M B Wilkinson (Deputy Chair) Miss M Carter and Mr G Rhodes.

#### **PART ONE**

#### **ACTION**

#### **17. PROCEDURAL BUSINESS**

##### **17A. Declarations of Substitutes**

17.1 There were none.

##### **17B. Declarations of Interest**

17.2 Councillor Watkins declared a non-prejudicial interest in Item 25 relating to Members' use of mobile phones, by virtue of the fact that he had been present at the Leaders' Group meeting when this had been discussed. The interest was not such that it would be necessary for him to leave the meeting during the discussion or voting thereon.

##### **17C. Exclusion of Press and Public**

17.3 The Committee considered whether the press and public should be excluded from the meeting during the consideration of any items contained in the agenda, having regard to the nature of the business to be transacted and the nature of the proceedings and the likelihood as to whether, if members of the press and public were present, there would be disclosure to them of confidential or exempt information as defined in Section 100A(3) or 100 1 of the Local Government Act 1972.

17.4 **RESOLVED** – That the press and public be not excluded from the meeting during consideration of any of the items on the agenda.

**17D. CHAIR'S COMMUNICATIONS**

17.5 There were none.

**18. MINUTES OF THE MEETING HELD ON 15 JUNE 2004**

18.1 **RESOLVED** – That the minutes of the meeting held on 15 June 2004 be approved and signed by the Chair.

**19. MINUTES OF THE SPECIAL MEETING HELD ON 19 OCTOBER 2004**

19.1 **RESOLVED** – That the minutes of the Special meeting held on 19 October 2004 be approved and signed by the Chair.

**20. MEMBER COMPLAINTS AND SERVICE COMPLAINTS**

20.1 The Committee considered a report of the Director of Strategy and Governance providing information regarding complaints about Member conduct and complaints about service issues dealt with under the Council's complaints procedures from 1 April 2004 to 30 September 2004 (for copy see minute book).

20.2 Members were pleased to note that the matter in respect of Councillor 'B' had now been resolved and that the arrangements for dealing with complaints once received by the Standards Board itself appeared to have been revised to ensure that they were dealt with more swiftly. In this particular instance the matter had taken an inordinately long time to resolve and it was unacceptable that a Councillor was placed under such a long period of stress whilst the matter was resolved; in the final analysis there had been no case to answer.

20.3 Councillor Theobald stated that it was imperative that matters were dealt with expeditiously as the longer the time delay involved, it was possible that a Member might be less able to remember the particulars surrounding an alleged incident with sufficient clarity. Councillor Lepper referred to the instance where allegations had been made by a member of the public in relation to the manner in which a planning application had been processed. Subsequently the complainant decided not to proceed with the matter. She stated that from time to time all Members could potentially have such allegations which were not pursued made against them; such instances could be very unpleasant and it was therefore important for the substance of such complaints to be established as quickly as possible. Councillor Watkins referred to the detail contained in minutes of the Planning Applications Sub-Committee which recorded the rationale for any decision taken and the salient points made by individual Members and records of how they had voted. This was particularly valuable if any decision or the way in which it had been

reached later gave rise to a complaint.

20.4 The Director of Strategy and Governance and Monitoring Officer noted the points raised, particularly in respect of the detail contained within minutes but considered that a distinction needed to be made between such as the Planning Applications Sub-Committee which held a quasi-judicial function and other Committees and Sub-Committees of the Council where the need for such detailed recording might not be as great.

20.5 **RESOLVED** – That the contents of the report be noted.

## **21. LOCAL INVESTIGATION AND DETERMINATION OF ALLEGATIONS OF MEMBER MISCONDUCT**

21.1 The Committee considered a report of the Director of Strategy and Governance and Monitoring Officer setting out the implications of the new regulations set out in (The Local Authorities (Code of Conduct) (Local Determination) (Amendment) Regulations 2004) and recommending a model procedure for such local investigations and a revised procedure for local determination hearings, for approval and adoption by the Committee (for copy see minute book).

21.2 It was explained that the new regulations (The Local Authorities (Code of Conduct) (Local Determination) (Amendment) Regulations 2004) now enabled the Standards Board for England to refer allegations of Member misconduct to the Monitoring Officer of a local authority for local investigation, instead of investigation by the Standards Board's Ethical Standards Officers, before a allegation is determined by the Authority's Standards Committee (or Sub-Committee). The Standards Board had published statutory guidance as to how local authorities should arrange for the conduct of such local investigations, and the first cases could now start to be referred to individual authorities for local investigation and determination under these regulations. The regulations also made important amendments to the powers of the Hearing Panel, even in cases which had been investigated by an Ethical Standards Officer.

21.3 This provided a further step in giving the local authority Hearing Panel responsibility for complaints of Member misconduct, and would assist the Standards Board in ensuring that less serious complaints were dealt with promptly. A model revised procedure for local determination hearings was also commended for approval and adoption by the Standards Committee. Members' attention was drawn to the minor revisions circulated (for copy see minute book) and it was agreed that these be included in the procedures.

21.4 Members welcomed the streamlined arrangements and the provision for a local authority Hearing Panel to deal with initial complaints thus ensuring that less serious complaints could be dealt

with more quickly than had been the case in the past. Whilst fully supporting the revised procedures which were proposed Councillor Simson sought clarification regarding whether this additional work could be contained within the Council's existing resources and whether it was likely to create additional financial pressure. The Director of Strategy and Governance and Monitoring Officer responded that although the level of work involved could differ depending on the nature of the complaints received it was not envisaged that additional staff or resources would be required. It was possible, however, that relative to specific cases rare instances might arise where external expertise or staffing might be required on a 'one-off' basis.

21.5 **RESOLVED** – (1) That the Committee approves and adopts the Procedure for Local Investigations set out in Appendix One to the report as amended by the revisions circulated at the meeting;

(2) That the Committee approves and adopts the amended Procedure for Local Determination Hearings set out in Appendix One to the report as amended by the revisions circulated at the meeting; and

(3) That the same procedures be applied for Local Investigation and Local Determination Hearings for the enforcement by the Hearing Panel of complaints of breaches of local protocols as set out in the procedures.

## **22. STANDARDS BOARD GUIDANCE TO MEMBERS RELATIVE TO 'LOBBY GROUPS, DUAL HATTED MEMBERS AND THE CODE OF CONDUCT'**

22.1 The Director of Strategy and Governance and Monitoring Officer referred to the guidance document provided by the Standards Board for England and Wales which had been forwarded to Members of the Committee; inviting Members to raise any queries they might have in respect thereof. Members considered the advice provided to be clear and straightforward and therefore raised no questions in respect of it (for copy see minute book).

22.2 **RESOLVED** – That the contents of the guidance document be received and noted.

## **23. APPOINTMENT OF MEMBERS OF THE SUB-COMMITTEE TO BE A HEARING PANEL**

23.1 The Committee considered a report of the Director of Strategy and Governance and Monitoring Officer recommending that the five Members of the Sub-Committee of the Standards Committee be appointed to act as a Hearing Panel to determine any Standards complaints which are required to be determined by the Council (for

copy see minute book).

23.2 Members were in agreement with the officer's recommendations and wished Councillors Lepper and Simson be appointed as the representatives on behalf of Council Members. It was agreed that these meetings would be chaired by Dr M B Wilkinson (Deputy Chair). It was agreed that the Parish Panel consist of three independent persons, plus the Independent Member from Rottingdean Parish Council plus the Labour Member of the other Panel.

23.3 **RESOLVED** – (1) That the Committee appoints the following Members as the Sub-Committee to be the Hearing Panel for determining complaints against Members of the City Council:

Councillor J Lepper	-	Council Member
Councillor D Simson	-	Council Member
Dr M B Wilkinson	-	Independent Member
Miss M Carter	-	Independent Member
Mrs H Scott	-	Independent Member

(2) That the five named Members of the Sub-Committee for determining complaints against Members of Rottingdean Parish Council be the five Members named above but with the substitution of Mr G Rhodes (Rottingdean Parish Council) for Councillor Simson;

(3) That Membership of the Panels be reviewed in twelve months time; or earlier if any Member of a Panel ceases to serve on the Standards Committee.

## 24. INDEMNITIES FOR MEMBERS AND OFFICERS

24.1 The Committee considered a report of the Director of Strategy and Governance and Monitoring Officer providing an update on the new powers granted to local authorities specifying the circumstances in which authorities might provide indemnities to their officers and Members or might insure them instead of providing an indemnity. The new powers were of particular importance to the Committee in relation to breaches of the Members' Code of Conduct (for copy see minute book).

24.2 The Director of Strategy and Governance and Monitoring Officer explained that for some time previously there had been uncertainty regarding the circumstances in which Members and officers should be indemnified by their authorities for any personal liability arising from actions or decisions taken by them in the course of their official duties. He explained that "The Local Authorities (Indemnities for Members and Officers) Order 2004" clarified the position and sought to provide a firm foundation on which authorities might grant indemnities or might take out insurance to cover Members and officers in respect of

personal liabilities incurred in connection with their service on behalf of their authority.

24.3 Councillor Theobald welcomed the order which did provide greater clarity than had previously been the case, however, he was of the view that there were potentially still some 'grey' areas citing an example in relation to the South Downs Conservation Board.

24.4 The Director of Strategy and Governance and Monitoring Officer explained that the Policy and Resources Committee would take a view as to when/whether indemnities were appropriate, but the Order had been designed to address those instances (which were becoming increasingly common) where local authorities were agreeing major redevelopments/urban regeneration projects where a number of partners and or enabling development were often envisaged. Whilst the individual local authorities would be eligible for an element of cost if elements of such schemes failed indemnities would probably be appropriate but were not intended to mitigate against professional negligence or recklessness by the individuals involved.

24.5 **RESOLVED** – That the contents of the report be received and noted.

## **25. MEMBERS USE OF MOBILE PHONES**

25.1 The Committee considered a report addressing the issue of the need for Members issued with a Council mobile phone to make a contribution to the cost of the phone bills. It was recognised that there was a clear need for Leading Members from all parties on the Council to be contactable and to be able to contact appropriate officers within the Council at all times (for copy see minute book).

25.2 Councillors Lepper, Theobald and Williams considered that the suggested sum seemed reasonable in that it recognised that there would be instances when Members might need to use their phones for personal calls and obviated the need for exhaustive checking and reimbursement on such occasions. Councillor Watkins whilst not averse to the introduction of the flat charge proposed also considered that this should be subject to a future review. Several Members referred to the fact that the equipment which some Councillors had at their disposal was rather outmoded. The Strategic Director explained that this was being addressed as part of a rolling programme and that a further series of upgrades was due to take place in the near future. It was intended that all Councillors would have the option of a laptop or personal computer for use at home.

25.3 Mrs Scott considered that there should be parity between the conditions of issue of a mobile phone to officers and Members and it

was agreed that this would be looked into.

25.4 **RESOLVED** – (1) That the Committee agrees that a figure of £5.88 (inclusive of VAT) be deducted to cover the costs of personal calls made by those Councillors who are provided with mobile phones for Council business;

(2) That this sum of £5.88 be deducted from the monthly allowances paid to relevant Councillors;

(3) That it be noted that the amount to be deducted will be reviewed by officers on an annual basis and any proposed increases will be reported to the Leaders' Group for consideration; and

(4) That it be noted that Members will be expected to adhere to the Council's mobile phone policy (set out at Appendix 2 to the report) and to abide by the guidance issued in respect of the use of mobile communication equipment.

## **26. ITEMS FOR INCLUSION ON THE AGENDA FOR THE NEXT MEETING**

26.1 Items in addition to those items presented as 'Standing Items' to be advised.

## **27. ITEMS TO GO FORWARD TO COUNCIL**

27.1 **RESOLVED** - That none of the items considered go forward to Council.

## **PART TWO**

## **28. ITEMS TO REMAIN EXEMPT FROM DISCLOSURE TO THE PRESS AND PUBLIC**

28.1 **RESOLVED** – That no items remain exempt from disclosure to the press and public.

The meeting concluded at 6.05pm

Signed

Chair

Dated this

day of

2005