



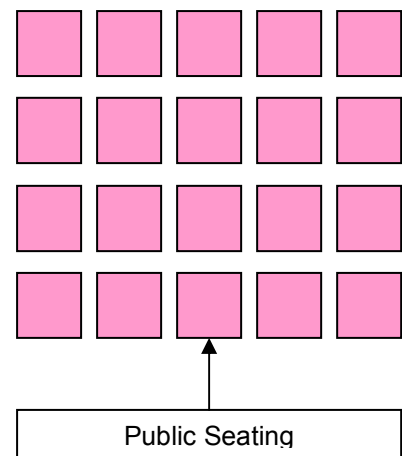
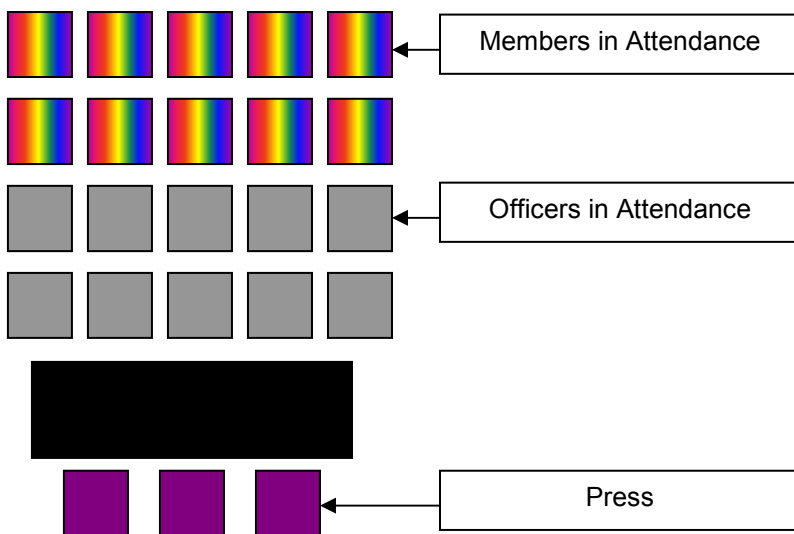
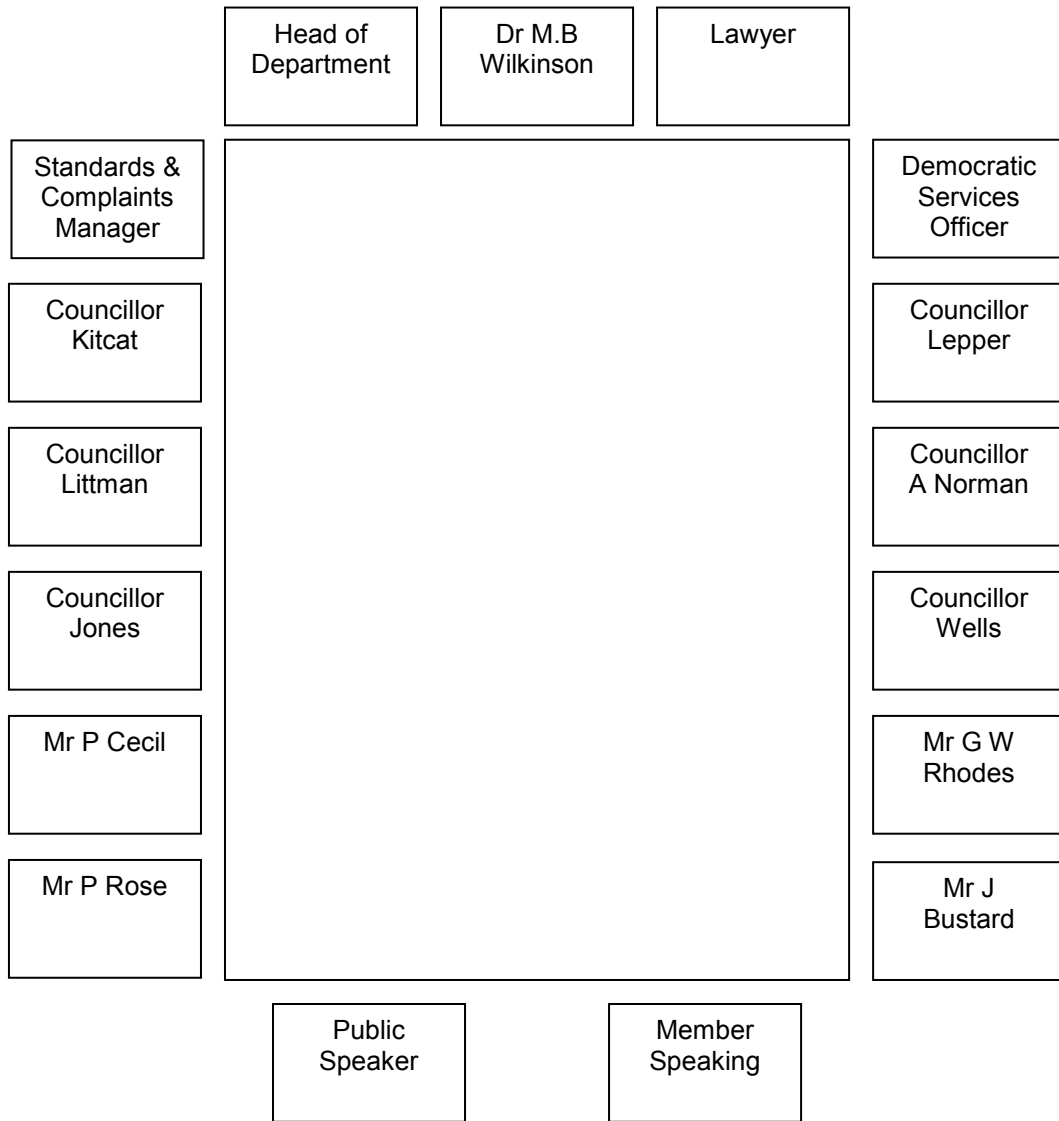
Brighton & Hove
City Council

Standards Committee

Title:	Standards Committee
Date:	17 April 2012
Time:	5.00pm
Venue	Committee Room 1, Hove Town Hall
Members:	Councillors: Jones, J Kitcat, Lepper, Littman, A Norman and Wells Independent Members: Dr M Wilkinson (Chair), Mr Paul Cecil and Mr Peter Rose Rottingdean Parish Council Representatives: Mr John Bustard and Mr Geoff Rhodes
Contact:	Ross Keatley Democratic Services Officer 01273 291064 ross.keatley@brighton-hove.gov.uk

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Democratic Services: Meeting Layout



AGENDA

25. PROCEDURAL BUSINESS

- (a) Declarations of Interest by all Members present of any personal interests in matters on the agenda, the nature of any interest and whether the Members regard the interest as prejudicial under the terms of the Code of Conduct.
- (b) Exclusion of Press and Public - To consider whether, in view of the nature of the business to be transacted, or the nature of the proceedings, the press and public should be excluded from the meeting when any of the following items are under consideration.

NOTE: Any item appearing in Part 2 of the Agenda states in its heading the category under which the information disclosed in the report is exempt from disclosure and therefore not available to the public.

A list and description of the exempt categories is available for public inspection at Brighton and Hove Town Halls.

26. MINUTES OF THE PREVIOUS MEETING**1 - 4**

Minutes of the meeting held on 17 January 2012 (copy attached).

27. CHAIR'S COMMUNICATIONS**28. PUBLIC QUESTIONS**

(The closing date for receipt of public questions is 12 noon on 10 April 2012)

No public questions received by date of publication.

29. REVIEW OF PROTOCOL FOR PUBLIC QUESTIONS**5 - 10**

Contact Officer: Liz Woodley Tel: 29-1509
Ward Affected: All Wards

30. STANDARDS UPDATE**11 - 18**

Contact Officer: Liz Woodley Tel: 29-1509
Ward Affected: All Wards

31. COMPLAINTS UPDATE**19 - 24**

Contact Officer: Brian Foley Tel: 29-3109
Ward Affected: All Wards

STANDARDS COMMITTEE

The City Council actively welcomes members of the public and the press to attend its meetings and holds as many of its meetings as possible in public. Provision is also made on the agendas for public questions to committees and details of how questions can be raised can be found on the website and/or on agendas for the meetings.

The closing date for receipt of public questions and deputations for the next meeting is 12 noon on the fifth working day before the meeting.

Agendas and minutes are published on the council's website www.brighton-hove.gov.uk. Agendas are available to view five working days prior to the meeting date.

Meeting papers can be provided, on request, in large print, in Braille, on audio tape or on disc, or translated into any other language as requested.

For further details and general enquiries about this meeting contact Ross Keatley, (01273 291064, email ross.keatley@brighton-hove.gov.uk) or email democratic.services@brighton-hove.gov.uk

Date of Publication - Thursday, 5 April 2012

BRIGHTON & HOVE CITY COUNCIL**STANDARDS COMMITTEE****5.00pm 17 JANUARY 2012****COMMITTEE ROOM 1, HOVE TOWN HALL****MINUTES****Present:** Councillors: Lepper, A Norman and Wells**Independent Members:** Dr M Wilkinson (Chair), Mr Paul Cecil and Mr Peter Rose**Rottingdean Parish Council Representatives:** Mr John Bustard and Mr Geoff Rhodes**Apologies:** Councillors: Jones, Kitcat and Littman**PART ONE****17. PROCEDURAL BUSINESS****17a Declarations of Interest**

17.1 There were none.

17b Exclusion of the Press and Public

17.2 In accordance with section 100A of the Local Government Act 1972 ('the Act'), the Committee considered whether the press and public should be excluded from the meeting during an item of business on the grounds that it was likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the press or public were present during that item, there would be disclosure to them of confidential information (as defined in section 100A(3) of the Act) or exempt information (as defined in section 100I of the Act).

17.3 **RESOLVED** - That the press and public not be excluded from the meeting during consideration of any item on the agenda.

18. MINUTES OF THE PREVIOUS MEETING

18.1 **RESOLVED** – That the minutes of the Standards Committee Meeting held on 27 September 2011 be agreed and signed as a correct record.

19. CHAIR'S COMMUNICATIONS

19.1 The Chair welcomed the new Officer from Democratic Services to the meeting.

20. PUBLIC QUESTIONS

20.1 There were none.

21. ANNUAL REPORT OF THE STANDARDS COMMITTEE

21.1 The Committee considered a report of the Monitoring Officer in relation to the annual report of the Standards Committee. The Senior Solicitor, Liz Woodley, outlined the report and noted that the changes to the Standards regime, as part of the Localism Act, had formed a significant portion of the Committees work in the last year. The report explained the Council met the requirements of current legislation in relation to: the composition of the Committee; the formation of Sub-Committees; the Code of Conduct; Register of Interests and the role and functions of the Monitoring Officer.

21.2 There were no questions from Members of the Committee.

21.3 **RESOLVED** – That the Committee note the report and the Chair present the report to Council.

22. COMPLAINTS UPDATE

22.1 The Committee considered a report of the Monitoring Officer regarding the complaints update. The Standards and Complaints Manager, Brian Foley, said that there had been six complaints this year, and the last three investigations had all been completed well under the 130 working day timescales.

In 2010/11 three complaints had been referred to the Monitoring Officer for investigation; in two cases it was found that there had been no breach of the code of conduct, the third case has yet to be determined.

In 2011/12, of the six complaints received so far, one case had been referred to the Monitoring Officer for investigation; another case had been referred for further action, and the remaining four the Standards Assessment Panel had had taken the decision that no further action should be taken.

Two of the investigations which had recently been determined were of significant public interest. It was noted that in relation to one complaint the Hearing Panel had found insufficient evidence of a breach; and in relation to the second the Panel had found a breach, but imposed no sanctions owing to mitigating circumstances and the co-operation of the Member in question.

In relation to complaints to the Local Government Ombudsman it was noted that as many cases have not yet been determined by the Ombudsman there was difficulty in interpreting the figures at that point in the year; however, the number of complaints was fewer than in 2010/11. The Committees attention was drawn to one case with a finding

of maladministration causing injustice; the Council had fulfilled its obligation to publish details locally, awarded the recommended level of compensation and implemented the suggested improvement package.

- 22.2 The Chair said that details of complaint two had related to the use of recording devices at public meetings, and it was agreed this matter would be taken up by the Monitoring Officer with Democratic Services.
- 22.3 **RESOLVED** – That the Committee note the report.

23. LOCALISM ACT 2011

- 23.1 The Committee considered a report of the Monitoring Officer regarding the Localism Act 2011. The Senior Solicitor explained that the original proposals had been to abolish Standards for England, the requirement for local authorities to have a Standards Committee and the Code of Conduct. Amendments to the legislation now set a requirement for local authorities to maintain high standards of conduct, set a local Code of Conduct in line with the Nolan Principles and establish rules in relation to pecuniary and non-pecuniary interests. Suitable arrangements would also need to be in place to respond to written allegations of breaches of the Code of Conduct.

A recent opinion from leading counsel suggested that current independent members would not be eligible to sit under the new arrangements. It would also become a criminal offence without reasonable excuse to fail to declare a pecuniary interest, or participate in a meeting when a Member was not able to do so.

- 23.2 The Senior Solicitor noted that the report recommended the Localism Bill working party be reconvened to consider the changing regulations. The Head of Law and Monitoring Officer, Abraham Ghebre-Ghiorghis, said that the Working Party would also be able to feed into the governance changes for the new style committee system. It was noted that the feed in from the Working Party would need to be completed quickly, and potentially a special meeting of the Standards Committee would need to convene to consider its proposals.
- 23.3 The Head of Law and Monitoring Officer highlighted the limited powers local authorities would have, under the new legislation, to sanction Members for breaches of the Code of Conduct. There would be no provision to disqualify or suspend Members; nor could Members be removed from Committee appointments as these were made by individual group leaders and most Committees were subject to proportionality rules; there would also be no power to withhold allowances. It was explained that Magistrates' Courts did have the power to disqualify Members upon conviction.
- 23.4 Councillor Lepper expressed her concern that the inability of local authorities to enforce real sanctions on Members, who were found to be in breach in of the Code of Conduct, could prevent the proper mitigation of inappropriate behaviour. It was also explained that anyone could bring a case to the attention of the Director of Public Prosecution; the new legislation did not exclude other legislation that could cover wrong doing such as the Fraud Act or the Bribery Act.

- 23.5 The Head of Law and Monitoring Officer also highlighted that the new legislation would have some inbuilt checks as there would always be the potential for breaches of the Code of Conduct to be made public; and it was suggested moves could be made to make arrangements with group leaders for the removal of Members from Committees.
- 23.6 **RESOLVED** – The report be noted, and the Localism Bill Working Party be reconvened to consider arrangements under the Localism Act for the assessment, investigation and determination of Code of Conduct complaints.
- 24. REVIEW OF PART 9.4 OF THE CONSTITUTION**
- 24.1 The Committee considered a report of the Strategic Director of Resources in relation to the review of part 9.4 of the Council's Constitution guidance to Members and Officers serving on outside bodies. The Senior Lawyer, Oliver Dixon, explained that the report recommended the Committee agree a proposed set of amendments. Part 9.4 of the Constitution provided guidance to Members and Officers, and it was highlighted there had been recent regulatory changes which had created the necessity for an update; particularly in relation to directors' duties, bribery and indemnity.
- 24.2 Councillor Lepper said that many Members sat on outside bodies which they were not appointed to by the Council, and the Senior Lawyer clarified that the revised guidance would reflect and cover this.
- 24.3 The Head of Law and Monitoring Officer also noted that the guidance could be adopted, or used as an informative, by Rottingdean Parish Council.
- 24.4 **RESOLVED** – That the Committee agrees the amended version of Part 9.4 of the Councils Constitution, as set out at Appendix 1, and recommends it to the Governance Committee for consideration and Council for approval.

The meeting concluded at 5.47pm

Signed

Chairman

Dated this

day of

Subject:	Review of Protocol for Public Questions		
Date of Meeting:	17 April 2012		
Report of:	Monitoring Officer		
Contact Officer:	Name:	Liz Woodley	Tel: 291509
	Email:	liz.woodley@brighton-hove.gov.uk	
Ward(s) affected:	All		

FOR GENERAL RELEASE**1. SUMMARY AND POLICY CONTEXT:**

- 1.1 One of the functions of the Standards Committee is to carry out periodic reviews of the Council's constitution. This report addresses the Protocol for Public questions.

2. RECOMMENDATIONS:

- 2.1 That the Committee considers whether any changes to the Protocol for Public Questions are necessary.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 At its meeting in June 2011, the committee agreed that as part of its systematic review of the council's constitutional documents, it should review the Protocol for Public Questions. The existing protocol at Part 9.9 of the constitution deals with questions at Cabinet, Cabinet Member and Committee meetings. At its meeting on 20 March 2012, the Governance Committee recommended for adoption by full council, a new constitution dealing with the return to the committee system. That new constitution includes a protocol for public questions at Committees and Sub-Committees. The revised protocol is attached as Appendix 1.
- 3.2 The Protocol does not apply to questions at full Council. These are regulated by the Council Procedure Rules, although the procedures are substantially the same.
- 3.3 Not all local authorities make provision for public questions. Where they are permitted, the rules relating thereto vary.

3.4 A review of some other local authority public question protocols has identified a number of areas upon which the Committee may wish to comment. As the officer with responsibility for, and experience of, operating the existing protocol, the Head of Democratic Services was invited to comment on those areas. His observations are included in the commentary below.

3.4.1 Should officers be precluded from asking questions?

In some councils, council officers cannot ask questions. If such a restriction were to be introduced, officers would be disenfranchised. In practice, questions from officers at Brighton & Hove are rare.

3.4.2 If a question is being posed on behalf of an organisation, should there be a requirement to disclose the organisation's name?

3.4.3 Should a limit be imposed on the number of questions being asked by an organisation at a meeting?

This is not considered necessary by the Head of Democratic Services.

3.4.4 In relation to a question, the same or similar to one which have been asked within the last 6 months (paragraph 6 (c)), should the protocol provide for a copy of that earlier answer to be provided to the questioner?

Whilst the existing protocol does not provide for this, in practice a copy is provided. The Head of Democratic Services does not consider an express requirement to provide a copy is necessary.

3.4.5 Should questions be excluded where the questioner has a commercial or financial interest in the matter?

3.4.6 Should questions be excluded which refer to current legal proceedings being taken by or against the council?

It is arguable that such questions are already excluded as they are likely to fall within the "disclosure of confidential or exempt information" qualification at paragraph 6 (d). However, the Head of Democratic Services has expressed the view that it would be helpful to expressly state no questions on legal proceedings. It may be helpful also to exclude cases where legal action has been threatened but not commenced. An additional subparagraph at Note 3 (c) in the following terms may be appropriate.

3 (c) matters which are the subject of legal proceedings, or which are the subject of threatened legal proceedings, following service of a pre-action protocol letter

4. COMMUNITY ENGAGEMENT AND CONSULTATION

4.1 The Head of Democratic Services has been consulted. His comments have been incorporated into section 3 above.

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

5.1 There are no financial implications arising from the report

Finance Officer Consulted: Name Ann Silley Date: 26/03/12

Legal Implications:

5.2 Most changes to the council's constitution require approval by full Council. However, under Article 15 of the council's constitution the Head of Law has delegated powers to amend the Protocol for Public Questions at Committees and Sub-Committees. Therefore any changes considered by the Committee to be necessary or desirable can be made without reference to full Council. The new draft constitution at Article 13 provides a similar power for the Head of Law to amend the protocol.

Lawyer Consulted: Name Liz Woodley Date: 26/03/12

Equalities Implications:

5.3 There are none.

Sustainability Implications:

5.4 There are none.

Crime & Disorder Implications:

5.5 There are none.

Risk and Opportunity Management Implications:

5.6 There are none

Public Health Implications:

5.7 There are none

Corporate / Citywide Implications:

5.8 There are none.

SUPPORTING DOCUMENTATION

Appendices:

Draft Protocol for Public Questions

Documents in Members' Rooms

None

Background Documents

None

PART 8.8 – PROTOCOL FOR PUBLIC QUESTIONS AT COMMITTEES AND SUB-COMMITTEES OF BRIGHTON AND HOVE CITY COUNCIL

1. A period of not more than fifteen minutes shall be allowed at each ordinary meeting of any Committee or Sub-Committee (see note 1 below), but not any Joint Committee, for questions submitted by any member of the public who either lives or works in the area of the authority.
2. References below to “Committee” include “Sub-Committee” (see note 1 below).
3. A list of the questions of which notice has been given shall be circulated to Members of the relevant Committee at, or before, the meeting at which they are to be asked.
4. A public question shall be put at a meeting of the relevant Committee provided that:-
 - (a) a copy of the question has been delivered to the office of the Chief Executive by not later than 12 noon on the fifth working day prior to the day of the Committee meeting at which it is to be asked;
 - (b) the name and address of the questioner is indicated on the question;
 - (c) the questioner is present at the time when the question is put.
5. A question shall not exceed 100 words in length. The Chief Executive, after consultation with the questioner, may summarise a question to comply with this requirement.
6. The Head of Democratic Services may reject a question (see also notes 2 & 3 below) if it:
 - (a) is not about a matter for which the Committee to which it is addressed has any responsibility;
 - (b) is defamatory, frivolous or offensive;
 - (c) is substantially the same as a question which has been put at a meeting of any Committee or Council in the past six months; or
 - (d) requires the disclosure of confidential or exempt information.
7. The questioner may not put the same or substantially the same question which is taken at a Committee meeting to a Council meeting.
8. If the Chair considers that, by reason of special circumstances, it is desirable that a question shall be asked at a meeting of a Committee although due notice of the question has not been given, and if the Chair is satisfied that as much notice as is possible has been given to the person of whom it is to be asked, he/she may permit the question to be asked.
9. Questions will be asked in the order notice of them was received, except that the Chair may group together similar questions.
10. Any question shall be notified to the relevant Member of the Committee as determined by the Chair and shall be put to such Member (see note 4 below) at the Committee meeting by the questioner.

11. The question will be answered without discussion. The questioner may ask one relevant supplementary question which shall be put and answered without discussion. The Member to whom a question, or supplementary question, has been put may decline to answer it. (See notes 2 & 3 below.)

12. An answer may take the form of:-

(a) a direct oral answer; or

(b) where the desired information is contained in a publication of the Council, a reference to that publication; or

(c) where the reply to the question cannot conveniently be given orally, a written answer given to the member of the public submitting the question and circulated to the Committee.

13. No questioner may submit more than one question for answer at the same meeting.

14. Any question properly submitted but not dealt with at the relevant Committee meeting shall be answered in writing to the questioner as soon as reasonably practicable after the meeting.

Notes:

1. Public questions are not permitted under this Protocol at meetings of the Licensing Panel or the Standards Panel.

2. There is a separate, but similar, procedure in the Council's Procedure Rules for public questions to meetings of the full Council.

3. It will not normally be appropriate for a Chair to answer questions under this Protocol about:-

(a) matters which are subject to quasi-judicial processes such as particular applications for planning permission, licences, registration, consents or other permissions, or

(b) matters for which there are other processes under the Council's Constitution, such as individual complaints or cases, personnel or disciplinary matters, ethical matters or allegations of fraud.

4. There is a separate Protocol under which it may be possible to make representations about particular applications for planning permission. This is the "Protocol for Public Representations at Planning Committee" in Part 8 of the Council's Constitution.

5. Questions will usually be answered by the Chair or Deputy Chair or person presiding at the meeting.

QUERIES ABOUT THIS PROTOCOL?
Please contact the Head of Democratic Services
Phone number 01273-291006

Subject: Standards Update
Date of Meeting: 17 April 2012
Report of: Monitoring Officer
Contact Officer: Name: Liz Woodley Tel: 29-1509
E-mail: liz.woodley@brighton-hove.gov.uk
Key Decision: No
Wards Affected: All

FOR GENERAL RELEASE.**1. SUMMARY AND POLICY CONTEXT:**

- 1.1 The main standards provisions of the Localism Act 2011 are expected to come into force on 1 July 2012. This report outlines the steps that are being taken to prepare for their implementation. It also deals with the future of the Standards Committee after the return by the council to the Committee system.

2. RECOMMENDATIONS:

- 2.1 That the Committee notes the report.

3. RELEVANT BACKGROUND INFORMATION:

- 3.1 The Department of Communities and Local Government (DCLG) has advised the Association of Council Secretaries and Solicitors (ACSeS) that the majority of the new standards provisions under the Localism Act will come into force on 1 July 2012. The Standards Board was abolished on 31 March 2012. After that date, all standards matters including the consideration and determination of complaints made during the period the Standards Board was operating become the responsibility of local authorities.

Code of Conduct

- 3.2 A new Code must be adopted to come into force on 1 July. Last year the Localism Bill Working Party expressed the view that the existing Code would be a useful basis from which to develop a new code. The trend in Sussex appears to be in favour of adopting a code which is not very different from the existing one. A draft code had been worked up in the east Sussex area by the County and District Councils including Brighton & Hove. The main difficulty in drafting a new Code is that DCLG has not yet issued regulations under the Act defining "disclosable pecuniary interests". Members will be required to disclose such interests. ACSeS had started

drafting a model code, but recently handed over their work to the LGA. There is no date for a draft to be issued, although the LGA has indicated that it was hoped that their version would be ready by the end of March.

Code of Conduct complaints

- 3.3.1 The Council has to put in place arrangements to investigate and make decisions on written allegations that a member has or may have breached the code of conduct. The council already has very detailed procedures dealing with the assessment, investigation and determination of complaints. Officers are working to simplify and shorten them. ACSeS circulated a draft complaints procedure which was favourably received by the Localism Act Working party, and forms the basis of the new assessment procedure. The main change in the assessment process is that instead of a formal meeting convened to consider complaints, the Monitoring Officer, after consultation with Members and an independent person will decide whether a complaint should be investigated.
- 3.3.2 Under the new Act, there are no powers to suspend or disqualify a member or withdraw allowances. In fact, the Act is silent on the sanctions available. Counsel's advice is that the following options would be available:-
- Formal letter to the councillor found to have breached the code
 - Formal censure by motion
 - Removal by the authority of the member form committee(s) subject to statutory and constitutional requirements
 - Press release/other publicity

Independent Persons

- 3.4.1 The Localism Act requires the council to appoint at least one independent person to carry out various advisory functions under the new regime, but this person will not become a co-opted member of the Audit and Standards Committee. It does not appear as though the council's existing independent members can be an independent person for the purposes of the Localism Act. It is not been possible to make any progress on the selection and appointment of the new independent person(s) as the necessary Regulations have not yet been made.
- 3.4.2 It is likely that most authorities will need more than one independent person's services, as there will be times when a single independent person is unavailable or has a conflict of interest. The council expects to appoint two independent persons.

Return to the Committee system

- 3.5.1 It is proposed that the council returns to the committee system immediately after the conclusion of annual council on 17 May 2012. That will signal the end of both the Audit and standards Committees, and in their place will be an Audit and Standards Committee. There will also be a sub-committee. The draft terms of reference for both are attached as Appendix 1. The

standards functions do not differ significantly from the current Standards Committee's functions.

3.5.2 Until the relevant standards provisions come into force, it will be necessary to continue to operate under the existing system. That means that voting independent members and Parish Council representatives will continue to be members of the committee until the new standards regime commences. It has therefore been proposed that :_

- a) the merger of the Audit and Standards Committees takes place on the date that the constitution comes into force;
- b) the committee, as an interim measure, adopts a two part agenda starting with standards followed by audit;
- c) the independent member chairs the committee when sitting as a Standards Committee and a Councillor chairs the meeting when the committee acts as an Audit Committee;
- d) the existing independent members (3) and Parish Council representatives (2) continue as members of the committee with voting rights on standards matters;
- e) the above arrangements cease to operate once the provisions of the Localism Act relating to standards come into force;
- f) Once the new regime is in force, the Audit and Standards Committee is authorised to adopt such arrangements (including chairing) as are consistent with the requirements of the law and having regard to the advice of the Monitoring Officer and the Director of Finance.

5 COMMUNITY ENGAGEMENT AND CONSULTATION

5.1 The Chairman and Monitoring Officer have been consulted on the report.

6 FINANCIAL & OTHER IMPLICATIONS

6.1 There are not expected to be any additional costs arising from the proposed arrangements other than the costs of advertising for new independent members which can be met within the allocated budget.

Finance Officer consulted *Anne Silley*

Date 27/03/12

6.2 Legal Implications:

These are addressed in the body of the report.

Lawyer Consulted: Liz Woodley

Date: 26 /03/12

6.3 Equalities Implications:

There are none.

6.4 Sustainability Implications:

There are none.

6.5 Crime & Disorder Implications:

There are none.

6.6 Risk & Opportunity Management Implications:

There are none.

6.7 Corporate / Citywide Implications:

There are none.

SUPPORTING DOCUMENTATION

Appendices:

1. Standards Committee's Terms of Reference

Documents in Members' Rooms

None

Background Documents

None

AUDIT & STANDARDS COMMITTEE

Explanatory Note

The Audit functions of this Committee relate to the Council's arrangements for the discharge of its powers and duties in connection with financial governance and stewardship, risk management and audit. The Committee makes recommendations to the Council, Policy & Resources Committee, Officers or other relevant body within the Council.

The Standards functions of this Committee seek to ensure that the Members, Co-opted Members and Officers of the Council observe high ethical standards in performing their duties. These functions include advising the Council on its Codes of Conduct and administering related complaints and dispensation procedures.

In addition to the Councillors who serve on the Audit and Standards Committee, the Committee includes at least two independent persons who are not Councillors. They are appointed under Chapter 7 of the Localism Act, or otherwise co-opted, and act in an advisory capacity with no voting powers.

In the terms of reference of this Committee a "Member" is an elected Councillor and a "Co-opted Member" is a person co-opted by the Council, for example to advise or assist a Committee or Sub-Committee of the Council.

General Audit and Standards Delegated Functions

To review such parts of the constitution as may be referred to the Committee by the Policy and Resources Committee and to make recommendations to the Policy Resources Committee and the Council.

To appoint, co-opt or (in any case where only the Council has power) to recommend the appointment or co-option of a minimum of two independent persons

- to give general assistance to the Committee in the exercise of its functions; and
- to give views on allegations of failure to comply with a Code of Conduct as required by Chapter 7 of the Localism Act.

To have an overview of

- the Council's whistleblowing policy
- complaints handling and Local Ombudsman investigations

To deal with any audit or ethical standards issues which may arise in relation to partnership working, joint committees and other local authorities or bodies.

To ensure arrangements are made for the training and development of Members, Co-opted Members and Officers on audit, ethical and probity matters, including Code of Conduct issues

To support and advise the Chief Finance Officer and the Monitoring Officer in their statutory roles.

Delegated Audit Functions

To carry out independent scrutiny and examination of the Council's financial and non-financial processes, procedures and practices to the extent that they affect the Council's control environment and exposure to risk, with a view to providing assurance on the adequacy and effectiveness of:

- the work of internal and external audit;
- the governance arrangements of the council and its services;
- the risk management and performance management frameworks and the associated control environment;
- the financial management process;
- arrangements for the prevention and detection of fraud and corruption
-

To meet the requirements of the Accounts and Audit Regulations Act 2011 in respect of:

- conducting an annual review of the effectiveness of the system of internal control;
- conducting an annual review of the effectiveness of internal audit;
- reviewing the outcome of annual review of governance arrangements and approving the Annual Governance Statement, ensuring it contains any actions for improvement; and
- considering and approving the Council's annual Statement of Accounts.

To consider the External Auditor's Annual Audit and Inspection Plan, Annual Governance Report, Annual Audit Letter and other relevant reports.

Consider and agree the Internal Strategy and Annual Audit Plan, Head of Audit & Business Risk's Annual Internal Audit Report including Opinion, periodic progress reports and other relevant internal audit reports.

To consider and agree the Head of Audit & Business Risk's Annual Fraud & Corruption Report and consider and approve the Council's Counter Fraud Strategy

Delegated Standards Functions

To advise the Council on the adoption, revision or replacement of Codes of Conduct for (a) Members and Co-opted Members and (b) Officers;

To exercise all other functions of the Council in relation to ethical standards, in particular those under Chapter 7 of the Localism Act, including the following:-

- promoting and maintaining high standards of conduct within the Council and monitoring the operations of the Council's Codes of Conduct and registers of interests;
- in relation to allegations that a Member or Co-opted Member has failed to comply with the Code of Conduct, putting in place arrangements to investigate and make decisions;
- supporting the Monitoring Officer in the exercise of that Officer's ethical standards functions, in particular the duty to establish & maintain registers of interests for the Council and for Rottingdean Parish Council;
- in relation to Members or Co-opted Members with pecuniary interests, putting in place arrangements to grant dispensations, in appropriate cases, from the restrictions on speaking and/or voting.

NOTE: With the exception of the adoption, revision or replacement of the Codes of Conduct referred to above, the Audit and Standards Committee may develop and adopt its own procedures and protocols.

STANDARDS PANEL

Explanatory Note

The Panel of the Audit and Standards Committee is a Sub-Committee and its main roles are to carry out any functions delegated to it by the Audit and Standards Committee in relation to (a) allegations that Members or Co-opted Members have breached the Code of Conduct and (b) the granting of dispensations to Members or Co-opted Members with pecuniary interests.

Panel membership is determined in accordance with procedures approved by the Audit and Standards Committee.

Delegated Functions

In accordance with procedures approved by the Audit and Standards Committee:-

To carry out any arrangements delegated to the Panel by the Audit and Standards Committee in connection with investigating and making decisions on allegations that a Member or Co-opted Member has failed to comply with the Code of Conduct.

To hear and determine applications from Members or Co-Opted Members with pecuniary interests and in appropriate cases to grant dispensations from the restrictions on speaking and/or voting at meetings of the Council, its committees, sub-committees, joint committees or joint sub-committees.

To discharge any of other functions of the Audit and Standards Committee which the Committee delegates to the Panel.

Subject: Complaints Update**Date of Meeting: 17 April 2012****Report of: Monitoring Officer****Contact Officer:** Name: **Brian Foley** Tel: **293109**E-mail: brian.foley@brighton-hove.gov.uk**Wards Affected:** All**FOR GENERAL RELEASE****1. SUMMARY AND POLICY CONTEXT:**

- 1.1 Complaints regarding Member conduct are administered under the arrangements as defined by The Standards Committee (England) Regulations 2008 which came into effect on 08 May 2008. These regulations are derived from the Local Government Act 2000 as amended by the Local Government and Public Involvement in Health Act 2007.
- 1.2 This paper gives information about active Standards Complaints and cases where the outcome has not previously been reported.
- 1.3 There is a brief update on complaints dealt with via the Local Government Ombudsman. The powers of the Ombudsman are set out in the Local Government Act 1974.

2. RECOMMENDATIONS:

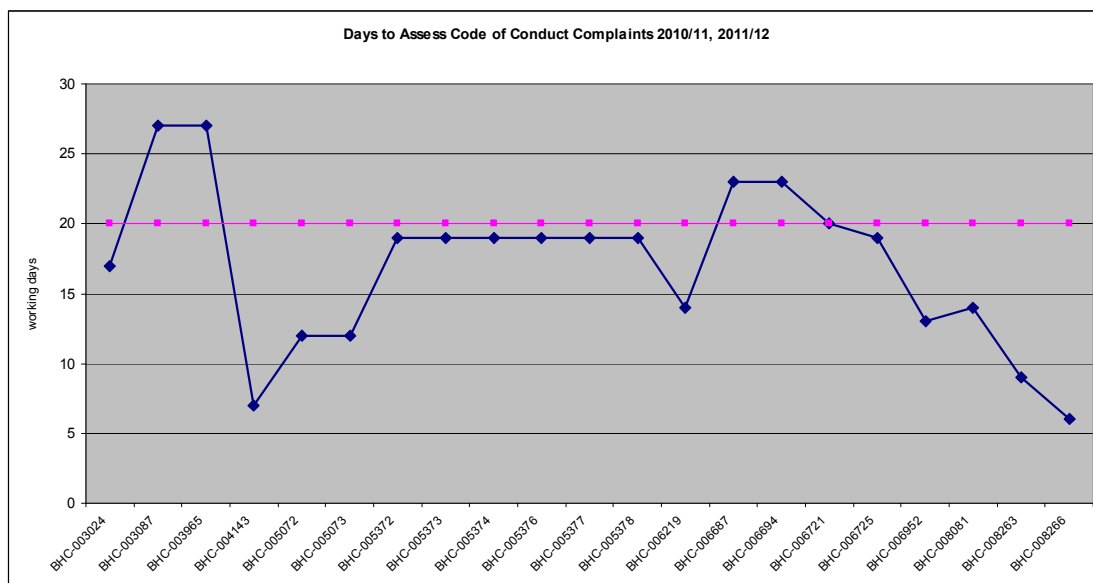
- 2.1 The Standards Committee is asked to note the report.

3. RELEVANT BACKGROUND INFORMATION

- 3.1 The Local Government Act 2000 requires the names of complainants and of Members about whom allegations have been made to be kept confidential.
- 3.2 With regard to timescales for complaints Standards for England recommend:
 - Assessments should on average be completed within 20 working days.
 - Review panels should be held within 65 working days.
 - Investigations should be completed within 130 working days from the date of assessment.

- 3.3 Table 1 below shows the number of working days taken to assess each complaint dealt with under the Local Assessment procedure during the council years 2010/11 and 2011/12.
- 3.4 There were twelve complaints in 2010/11. The average time to assess was 18 working days.
- 3.5 The complaints raised in 2010/11 resulted in three cases being referred to the Monitoring Officer for investigation. Two of those have been determined with a finding of no breach of the code of conduct. A third has yet to be determined.
- 3.6 There have been nine complaints in 2011/12. The average time to assess has been 14 working days.
- 3.7 In 2011/12 one case was referred to the monitoring officer for investigation. There was a finding of a breach of Paragraph 5 *“You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute”*. The Panel imposed no sanction.

Table 1



- 3.8 There have been three new complaints since the last report to Standards Committee.
- 3.9 An update on those cases and details of the active case follow below.

Summary of active complaints about member conduct and cases where decisions have not previously been reported.

3.10 Complaints where Standards Committee Assessment Panel decided to refer the complaint to the Monitoring Officer for Investigation

Complaint 1

Case Number: **BHC- 005373 B**

Complainant: Member of the public

Date of complaint: 07 March 2011

Date of Assessment Panel: 31 March 2011

Total number of working days to assess: 19

Allegation: It was alleged that a Member had each breached the following section of the Code of Conduct:

- Paragraph 3(1)
You must treat others with respect.
- Paragraph 5
You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.

Decision of Assessment Panel:

Referred to the Monitoring Officer for Investigation.

Outcome:

Yet to be determined

3.11 Complaints where the decision of the Standards Committee Assessment Panel was to take 'other action'

There are no cases falling into this category.

3.12 Complaints where the decision of the Standards Committee Assessment Panel was to take no further action

Complaint 2

Case Number: **BHC- 008081**

Complainant: Member of the public

Date of complaint: 13 March 2012

Date of Assessment Panel: 30 March 2012

Total number of working days to assess: 14

Allegation: It was alleged that a Member had each breached the following section of the Code of Conduct:

- **Paragraph 3(1)**
You must treat others with respect
- **Paragraph 3(2)(a)**
You must not do anything which may cause your authority to breach any of the equality enactments.
- **Paragraph 5**

You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.

Decision of Assessment Panel:

No Further Action

Complaint 3

Case Number: **BHC- 008263**

Complainant: Member of the public

Date of complaint: 20 March 2012

Date of Assessment Panel: 30 March 2012

Total number of working days to assess: 9

Allegation: It was alleged that a Member had each breached the following section of the Code of Conduct:

- **Paragraph 3(1)**
You must treat others with respect

Decision of Assessment Panel:

No Further Action

Complaint 4

Case Number: **BHC- 008266**

Complainant: Member of the public

Date of complaint: 23 March 2012

Date of Assessment Panel: 30 March 2012

Total number of working days to assess: 6

Allegation: It was alleged that a Member had each breached the following section of the Code of Conduct:

- **Paragraph 5** You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.
- **Paragraph 9**
Where you have a personal interest in any business of your authority and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration or when the interest becomes apparent.
- **Paragraph 10**
Where you have a personal interest in any business of the authority you also have a prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.

Decision of Assessment Panel:

No Further Action

3.13 Complaints where a decision of the Standards Committee Assessment Panel is pending

There are no cases falling into this category.

3.14 The Local Government Ombudsman complaints 2011/12

	Maladministration causing injustice	Dis-continue investigation	Local Settlement	No Maladministration	Not to initiate investigation	Outside Jurisdiction	Premature Complaint	Not yet determined	Total
Adult Assessment	1			2					3
Adults Provider			1	1			1		3
Children and Families		10	1	1	3		1	3	19
City Infrastructure		5		2	3				10
City Services		3	1	1		1			6
Housing and Social Inclusion	1	8	1	1	2	2		2	17
Planning & Public Protection		3		4	1	1		2	11
Resource Units		3		1		1			5
Tourism & Leisure					1				1
	2	32	4	13	10	5	2	7	75

3.14.1 The above table shows the number of complaint investigations carried out by the Local Government Ombudsman from April 2011 to the end of March 2012.

3.14.2 The number of complaints actually investigated by the Ombudsman, excluding Premature Complaints and those where the decision was 'Not to Initiate an Investigation' is very similar to the previous year. 63 were investigated in 2011/12 compared to 67 in 2010/11.

3.14.3 In total the council have paid £5228.20 in compensation at the recommendation of the Ombudsman to the end of March 2012.

4. CONSULTATION

4.1 There has been no consultation

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

5.1 The costs of complaints in terms of administration and compensation are met within the allocated budget.

Finance Officer Consulted: Anne Silley Date: 22 March 2012

Legal Implications:

5.2 There are no legal implications

Lawyer Consulted: Liz Woodley Date: 22 March 2012

Equalities Implications:

5.3 There are no Equalities implications

Sustainability Implications:

5.4 There are no Sustainability implications

Crime & Disorder Implications:

5.5 There are no Crime and Disorder implications

Risk and Opportunity Management Implications:

5.6 There are no Risk and Opportunity Management implications

Corporate / Citywide Implications:

5.7 There are no Corporate or Citywide implications

SUPPORTING DOCUMENTATION

Appendices:

1. None

Documents In Members' Rooms

1. None

Background Documents

1. None