

Agenda Item

Brighton & Hove City Council

For general release

Meeting: Standards Committee

Date: 10 June 2008

Report of: Director, Strategy and Governance

Subject: The Standards Committee within the new Constitution

Ward(s) affected: All

1. Purpose of the report

- 1.1 The purpose of this report is to inform the Committee, particularly those who are not Members of the Council, about the new constitution and the provisions in it relating to the Standards Committee, the functions of which are set out in **Appendix 2** to the report. The new constitution took effect at the Council's Annual General Meeting (AGM) on 15 May 2008.

2. Recommendations

- 2.1 To note the report.

3. Information/background

- 3.1 Councillors, but not necessarily other members of the Committee, will be aware of the Local Government and Public Involvement in Health Act 2007 and in particular its implications for the City Council's "alternative arrangements" Committee System. The Act required the Council to cease to operate alternative arrangements and to introduce a "new style" Leader & Cabinet system.
- 3.1 On 13 March the Council approved the outline proposals in **Appendix 3** to this report. Based on these, the final detailed report on adopting the new constitution was submitted to the Council on 24 April 2008. Council approved the much fuller details presented to it for a new constitution and this came into force at the Council's AGM on 15 May 2008.

- 3.2 The work in developing the constitution was guided by principles approved by Council on 18 October 2007, which meant preserving the best aspects of the current constitution that have worked well while taking the opportunity to improve other aspects, all within the requirements of the law.
- 3.3 Under the new arrangements, the Council continues to have 54 Councillors, elected on the same basis as now. On the introduction of the new constitution and after each election, the Council will elect a Leader, and the Leader will then appoint up to nine other Councillors to serve in his or her Cabinet.
- 3.4 The Leader and Cabinet will exercise all of the executive functions of the Council, being the day to day decision making and running of the authority. They will do this within the budget and policy framework set by the whole council. Licensing and Planning decisions, as well as other regulatory functions such as those of the Standards Committee, will continue to be dealt with by Committees.
- 3.5 The arrangements include provision to ensure that every Cabinet Meeting or meeting where a Cabinet Member makes a decision will be taken in public with full public access, as now. There will be a Forward Plan which identifies key decisions planned over the coming four months.
- 3.6 The number of Overview and Scrutiny Committees will increase to six. This will build on the current provision of three committee, to facilitate the review and scrutiny of the decisions of the Cabinet and Executive Members and the ways in which the Council's executive and non-executive functions are exercised.

4. Standards Committee

- 4.1 The Committee will note from **Appendix 3** and the diagrammatic form of the proposals in the chart at **Annex 2 to the Appendix 3** that the arrangements being made for regulatory committees and sub-committees, including the Standards Committee and its Panels.
- 4.2 The Standards Committee remains basically the same with the same functions, although, of course changes are coming in from a different source in relation to the local assessment of complaints.

- 4.3 There are many references to ethical standards matters in the Articles of the new constitution.
- 4.4 Article 2.03 states that all Councillors will maintain the highest standards of conduct and ethics.
- 4.5 Article 3 makes it clear that citizens of Brighton & Hove have the right to complain to the Standards Committee about any breach of the local Code of Conduct for Members.
- 4.6 Article 8.04 summarises the membership and functions of the Committee.
- 4.7 Article 9 relates only to the Standards Committee and provides as follows:-

ARTICLE 9 – THE STANDARDS COMMITTEE

9.01 Standards Committee

The Council meeting will establish a Standards Committee.

9.02 Role and Composition

- (a) The Standards Committee deals with issues of conduct which includes assessing and determining complaints against Members, granting dispensations regarding Members' interests and promoting high ethical standards generally.
- (b) The full terms of reference of the Standards Committee are set out in the Scheme of Delegation to Committees and Sub-Committees at Part 5 of the constitution.
- (c) The Standards Committee consists of six Councillors, two Parish Council representatives from Rottingdean Parish Council and four independent members, none of whom are Councillors or officers of the Council or any other body having a Standards Committee. A Rottingdean Parish Council Member must be present when matters relating to that Parish Council or its Members are being considered.
- (d) All members of the Standards Committee are entitled to vote at meetings. The Chair of the Standards Committee must be one of the independent members. Standards Committees are not subject to the political balance rules in section 15 of the Local Government and Housing Act 1989.

- (e) The Standards Committee when dealing with complaints acts through one or more of its Sub-Committees as set out in Part 5 of this Constitution.

- 4.8 Article 12.04 sets out the main functions of the Monitoring Officer in relation to ethical standards. It states that the Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee. The Monitoring Officer will also receive and act on reports made by ethical standards officers and decisions of the case tribunals. Finally the Article indicates that the Monitoring Officer will conduct investigations into matters referred by the Standards Committee (acting through its Hearing Panels) or the Standards Board for investigation and make reports or recommendations in respect of them to the Standards Committee (or its Hearing Panels).

- 4.9 Article 15.03 preserves the role of the Standards Committee in commenting on constitutional change in appropriate cases. It mentions that (subject to some qualifications) changes to the constitution will only be approved by the full Council after consideration of proposals from the Governance Committee, the Standards Committee, the Chief Executive, or the Monitoring Officer.

- 4.10 Article 17.02(5) makes it clear that Committee and Sub-Committee Chairmen in fulfilling their role are expected to ensure that high standards of ethical conduct are maintained by the Council's Members and officers – particularly the Council's Code of Conduct for Members.

- 4.11 Part 5 of the constitution contains the full functions of the Standards Committee and its Panels (see extract at **Appendix 2**). These follow the requirements of the relevant legislation and are not significantly changed from the previous constitution, except that they include provision for the new assessment procedures for dealing with complaints.

- 4.12 Part 9 of the constitution contains Codes and Protocols, including the newly revised local Code of Conduct for Members (9.1), the arrangements in relation to the Register of Members' interests (9.2) and a practice note on the use of Council facilities (9.3)

Appendix 1

Meeting/Date	Standards Committee – 10 June 2008
Report of	Director, Strategy & Governance
Subject	The Standards Committee within the new Constitution
Wards affected	All

Financial implications

This report is for information and there are no direct financial implications.

Finance Officer consulted:

Legal implications

The new constitution is based on the relevant legal requirements.

Lawyer consulted: John Heys 21 May 2008

Corporate/Citywide implications	Risk assessment
The new constitution applies to the whole of the area of the Council.	No formal risk assessment has been carried out in relation to this report.
Sustainability implications	Equalities implications
There are no direct implications arising from the report.	There are no direct implications arising from the report.
Implications for the prevention of crime and disorder	
There are no direct implications arising from the report..	

Background paper

No unpublished background papers have been relied on to a material extent in writing this report..

Contact Officer

John Heys, Principal Solicitor : ext 1549

The Standards Committee

Explanatory Note

The Standards Committee deals with issues of conduct which includes assessing and determining complaints against Members, granting dispensations regarding Members' interests and promoting high ethical standards generally. The Standards Committee consists of six Councillors, two Parish Council representatives from Rottingdean Parish Council and four independent Members, none of whom are Councillors or Officers of the Council or any other body having a Standards Committee. All Members of the Standards Committee are entitled to vote at meetings. The Chair of the Standards Committee must be an independent Member, not an elected Councillor. Standards Committees are not subject to the political balance rules in section 15 of the Local Government and Housing Act 1989.

Delegated Functions

The Standards Committee will have the following delegated functions:

Setting standards of conduct throughout the City Council

1. promoting and monitoring high standards of conduct within the Council;
2. advising the Council on the adoption or revision of Codes of Conduct for Members and Officers;
3. monitoring the operation of the Council's Codes of Conduct, associated registers and declarations of interests;
4. responsibility for the overview of internal and external audit in so far as it relates to standards of conduct;
5. responsibility for the overview of the whistleblowing policy;
6. at the request of the Governance Committee, to review parts of the constitution and make recommendations to the Governance Committee and the Council.
7. receiving and considering reports or recommendations of the Monitoring Officer;

8. responsibility for the overview of complaints handling and Ombudsman investigations;

Building capacity to meet high standards of conduct

9. advising, training or arranging to train Members and Officers on probity and ethical matters including Code of Conduct issues;
10. granting dispensations to Councillors and co-opted Members from requirements relating to interests set out in the Code of Conduct;
11. supporting the Monitoring Officer in his/her statutory role and issuing guidance on his/her role;
12. supporting the Chief Finance Officer in his/her statutory role and issuing guidance on his/her role;

Enforcing standards of conduct

13. In relation to any written allegation that a Member, Co-opted Member or Independent Person (or former Member, Co-opted Member or Independent Person) of the Council or any of its Committees or Sub-Committees has failed, or may have failed, to comply with the Code of Conduct for Members:-
 - (a) assessing what action to take in relation to the allegation;
 - (b) dealing with any request for review of an assessment decision to take no action;
 - (c) receiving and making a determination in relation to any investigation report referred to the Committee;
14. determining and implementing appropriate action on other matters referred to the Council or Committee by the Standards Board for England or the Monitoring Officer;
15. appointing Sub-Committees (panels) to carry out the assessment, review and determination processes and for any other purposes connected with the function of dealing with complaints. For the avoidance of doubt, the appointment of such panels shall not be subject to the approval of the Governance Committee and such appointments may be made on a task and finish basis or on an ongoing basis.

Political Restriction

16. discharging the functions conferred on standards committees by section 3A of the Local Government and Housing Act 1989 in relation to the grant and supervision of exemptions from political restriction;

General

17. discharging any other functions conferred by law on standards committees;

Functions in relation to bodies other than the City Council

18. exercising the above-mentioned functions in relation to Rottingdean Parish Council and the Members of that Parish Council, so far as the functions are relevant to them;
19. exercising the functions of the Council in relation to the ethical framework and standards of conduct of joint Committees and other bodies;

Procedure

The Standards Committee may develop its own procedures and protocols for dealing with matters of conduct.

The Standards Panels known as Assessment Panels, Assessment Review Panels and Hearing Panels

Explanatory Note

These Panels are Sub-Committees of the Standards Committee and their main roles are to (a) assess allegations that Members have breached the Code of Conduct, (b) deal with any requests for review of assessment decisions to take no action and (c) hear cases and make determinations in relation to any allegations which are referred to them after investigation. They have been set up in accordance with Guidance from the Standards Board for England and the requirements of the relevant Regulations. Each Panel consists of Members drawn from the Standards Committee. Differently constituted Panels are set up to deal with cases involving Brighton & Hove City Council and cases involving Rottingdean Parish Councillors. The latter Panels, as required, include a Parish Councillor. The Sub-Committees are to be known as Assessment Panels, Assessment Review Panels or Hearing Panels, as appropriate.

Delegated Functions

1. To conduct assessment, assessment review and determination hearings in relation to allegations of breaches of the Code of Conduct for Members received by or referred to the Standards Committee or the Monitoring Officer under Part III of the Local Government Act 2000 as amended and regulations made thereunder;
 2. In relation to the hearing panel that deals with Brighton & Hove City Council matters-

To hear and determine any applications from Members (including Co-Opted Members with voting rights) of Brighton & Hove City Council for dispensation under the Relevant Authorities (Standards Committee) (Dispensation) Regulations.
 3. In relation to the hearing panel that deals with Rottingdean Parish Council matters –

To hear and determine any applications from Members of Rottingdean Parish Council for dispensation under the Relevant Authorities (Standards Committee) (Dispensation) Regulations.
 4. To discharge any of the functions of the Standards Committee in connection with the above functions, as appropriate to the circumstances.
- NB The proceedings of the Panels are governed by procedures approved by the Standards Committee from time to time.



Brighton & Hove City Council
Proposals for a Leader and Cabinet System
Local Government & Public Involvement in Health Act 2007

1. Introduction

- 1.1 This document sets out the Council's proposals for a Leader and Cabinet System. It describes in outline the role of Full Council, the Cabinet, Overview & Scrutiny, the "local choice" functions and the proposals regarding transitional arrangements. Any move to implement these proposals requires the approval of the Council.

2. Council

- 2.1 Full Council will consist, as now, of 54 councillors appointed every 4 years at the annual election. The meetings of the Council are presided over by the Mayor who is elected by the Council every year.
- 2.2 The full Council appoints the Leader and approves the Council budget at budget Council. Council also approves a number of key plans and strategies (collectively known as the Policy Framework), which are developed by the cabinet. These include:

(i) **those required under the law to be adopted by full Council:-**

- Annual Library Plan;
- Best Value Performance Plan;
- Children's Services Plan;
- Community Care Plan
- Community Strategy;
- Crime and Disorder Reduction Strategy;
- Early Years Development Plan;
- Education Development Plan;
- Local Transport Plan;
- Plans and strategies which together comprise the Development Plan (the Local Plan, the Waste Local Plan, the Minerals
Local
Plan and the County Structure Plan);
- Youth Justice Plan
- Statement of Licensing Policy

- Statement of Gambling Policy.

(ii) **those which the Council has determined should be adopted by full Council as part of the Policy Framework:**

- Food Law Enforcement Service Plan;
- The plan and strategy which comprise the Housing Investment Programme;
- Lifelong Learning Development Plan;
- Sustainability (Local Agenda 21) Strategy;
- Adult Learning Plan
- Quality Protects Management Action Plan;
- The Council's Corporate Plan
- Equalities Strategy
- Regeneration Strategy
- Local Area Agreement.

2.3 In addition to the Policy Framework, full Council approves Members allowances, the Code of Conduct for Members, appointments to external bodies, establishment and terms of reference of Council committees, changing the name of the area, conferment of titles and honours, appointment of Chief Executive, making and amending byelaws. Most of its other functions, such as planning, licensing, audit and standards, are delegated to committees and sub committees or officers.

3. Local Choice Functions

3.1 A number of functions are designated by law as local choice functions, which means the council can choose to designate them council functions or executive function to be discharged by the executive. A list of the local choice functions with proposals, as to how they are to be exercised is attached in annex 1 [*NOTE, The annex is not included with this report*].

4. The Executive

4.1 All the functions that are by law vested in the executive and any local choice functions that the council decides to designate as executive functions will be exercised by the Leader and up to 9 other Cabinet Members. The Leader decides how many executive Councillors to have and their portfolios. He/she may subsequently change the numbers or the portfolios by notifying the Chief Executive.

4.2 Subject to the approval of the Leader, it is proposed to have the following Cabinet portfolios in addition to the Leader.

- Children and Young People
- Adult Social Care and Health

- Environment
- Housing
- Culture, Recreation & Tourism
- Enterprise, Employment and Major Projects
- Finance
- Central Services
- Community Affairs and Internal Relations

4.3 Executive decisions may be made by the Leader, by the Cabinet as a whole, individual Cabinet Members or Officers. These will be set out in the scheme of delegations to the various decision-making bodies. Any such delegation operates without prejudice to the powers of the Leader or the delegating body to exercise the function.

4.4 It is proposed that all meetings of the Cabinet and Individual Cabinet Member meetings will be public unless discussing confidential or exempt business.

5. Overview and Scrutiny Committee

5.1 The Council proposes to have 6 Overview and Scrutiny Committees as follows:

- (a) Overview & Scrutiny Commission:- to oversee and to co-ordinate the work of the scrutiny function with special responsibility for resources, performance, partnerships and central services.
- (b) Health Overview & Scrutiny Commission:- to discharge the functions of a Health Overview & Scrutiny Function as requested by law.
- (c) Children & Young People Overview & Scrutiny Committee:- to scrutinise the functions of the Council regarding children and young people including education and children's social services.
- (d) Adult Social Care & Housing Overview & Scrutiny Committee:- to deal with Adult Social Care and Housing
- (e) Environment and Community Safety:- this will discharge the Overview & Scrutiny functions regarding environmental services, including the discharge of functions as the Crime and Disorder Committee.
- (f) Culture, Tourism & Enterprise Overview & Scrutiny Committee:- to discharge the Overview & Scrutiny functions regarding culture, enterprise, major projects and economic development.

6. Regulatory Committee and Sub-Committee

6.1 In addition to the Overview and Scrutiny Committee, it is proposed to have the following committees and sub-committees:

- (a) Planning Committee
- (b) Personnel Appeals Committee
- (c) Audit Committee
- (d) Governance Committee
- (e) Licensing Committee
- (f) Licensing Panel
- (g) Standards Committee
- (h) Standards (Determination) Panel x2
- (i) Standards (Appeal) Panel x2

7. Joint & Other Committee

7.1 It is proposed to retain the following joint committees and joint arrangements:

- (a) Children & Young People Trust Board
- (b) Joint Commissioning Board
- (c) Integrated Waste Management Services Contract Committee
- (d) South Downs Joint Committee

7.2 Where the function exercised is exclusively or in part an executive function, appropriate adjustments will be made to the Council's representation or the voting arrangements to comply with legal requirements.

7.3 It is proposed to replace the existing Housing Management Sub-Committee with the Housing Management Consultative Committees that retain membership.

8. Structure Chart

8.1 A chart showing the executive, overview & scrutiny as well as council parts is attached in **annex 2** to this document.

9. Transitional Arrangements

9.1 It is proposed that the arrangement come into force at the Council's annual general meeting on 15 May 2008 and it is not proposed to make any transitional arrangements.

Brighton & Hove City Council Constitution - Draft Proposal

25 Feb 2008

