

Subject: **Review of Part 9.4 of the Council's Constitution: guidance to members and officers serving on outside bodies**

Date of Meeting: Standards Committee – 17 January 2012
Governance Committee – 20 March 2012
Council – 22 March 2012

Report of: **Strategic Director Resources**

Contact Officer: **Name:** Oliver Dixon **Tel:** 291512

Email: oliver.dixon@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 those parts of the council's constitution relating to member and/or officer conduct. This report addresses Part 9.4 of the constitution: guidance to Members and officers serving on outside bodies.
- 1.2 A number of changes to the regulatory framework relevant to outside appointments have occurred since Part 9.4 was last reviewed. This report highlights those and other changes and proposes an amended version of Part 9.4, which the Committee is asked to recommend to Governance Committee and Full Council.

2. RECOMMENDATIONS:

- 2.1 That Governance Committee agrees the amended version of Part 9.4 of the council's constitution, as set out in Appendix 1, and recommends it to Full Council for approval.

3. RELEVANT BACKGROUND INFORMATION

- 3.1 Part 9.4 of the council's constitution comprises guidance for Members and officers serving on outside bodies. At Annual Council, Members are appointed to a range of outside bodies, to serve in their capacity as a councillor. In addition, Members may be appointed directly by the outside body itself to serve in a private capacity (for instance as a member of the community) rather than as an elected member of the council, or they may be a serving member of that body before being elected a Member of the council. In all cases, it is important both for the Members and bodies concerned that appointees understand the duties and responsibilities that accompany the appointment.

- 3.2 It is several years since the content of the guidance was substantively revised, and during that time there have been a number of changes to the regulatory framework relevant to outside appointments. Of these, the most significant has been the provisions in the Companies Act 2006 which have put the common law duties of company directors onto a statutory footing – see paragraph 2.7 of the amended guidance.
- 3.3 In addition, the proposed amendments reflect recent changes to other relevant legislation and policy, in particular the Bribery Act 2010 – see paragraph 7.5 of the amended guidance – and the council’s general indemnity for Members and officers appointed or nominated to serve on outside bodies. The indemnity came into force in July 2005 and is provided for under the Local Authorities (Indemnities for Members and Officers) Order 2004 and therefore subject to certain requirements and exclusions; it is referred to in the amended version of the guidance at paragraph 1.8.

4. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 5.1 There are no direct financial implications from the recommendations. However, through complying with the updated guidance, the risk of corporate and/or individual liability is reduced, thus limiting the council's potential exposure to financial penalties or paying out on indemnities.

Finance Officer Consulted: Anne Silley

Date: 05/01/12

Legal Implications:

- 5.2 The proposed amended guidance takes into account relevant legislation and sets out the legal duties and potential liability of members and officers appointed to or serving on outside bodies.

Proposed amendments to Part 9.4 of the constitution require the approval of Full Council following consideration by Standards Committee and Governance Committee.

Lawyer Consulted: Oliver Dixon

Date: 03/01/12

Equalities Implications:

- 5.3 Any outside organisation to which a Member or officer is appointed is likely to be subject to the Equality Act 2010 which, amongst other things, prohibits unfair treatment in the workplace, when providing goods, services or facilities, and in the management and disposal of premises. Members and officers may wish to satisfy themselves that any organisation to which they are appointed is adhering to the relevant parts of that Act.

Sustainability Implications:

- 5.4 There are no sustainability implications arising directly from this report

Crime & Disorder Implications:

- 5.5 The guidance has been updated to reflect the latest regulatory environment applicable to appointments to outside bodies. By following the guidance, Members and officers should reduce their potential criminal liability under relevant legislation.

Risk and Opportunity Management Implications:

- 5.7 Those appointed to outside bodies need to be aware of the legal duties and prohibitions that accompany such appointments and the potential liability associated with breaching those provisions. Equally, becoming part of the management of an outside body gives members and officers an opportunity to complement and enhance their council role.

Corporate / Citywide Implications:

- 5.8 The proposed amended guidance should provide assurance to an external body that when a Member or officer of the council is appointed to it, that person is aware of their key duties and liabilities on appointment and thereby contributes to the good governance of the body in question.

SUPPORTING DOCUMENTATION

Appendices:

1. 'Guidance for Members and Officers Appointed to Outside Bodies' in its proposed amended form. For ease of reference, amendments are shown as tracked changes

Documents in Members' Rooms

None

Background Documents

1. The Local Authorities (Indemnities for Members and Officers) Order 2004
2. The Companies Act 2006
3. The Bribery Act 2010