

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