

**BRIGHTON & HOVE CITY COUNCIL**

**STANDARDS COMMITTEE**

**5.00pm 11 NOVEMBER 2008**

**COMMITTEE ROOM 1, HOVE TOWN HALL**

**MINUTES**

**Present:** Councillors: Carden, Drake, Fallon-Khan, Lepper, Steedman and Watkins

**Independent Members:** Dr M Wilkinson (Chairman), Ms M Carter and Mrs H Scott

**Rottingdean Parish Council Representatives:** Mr J C Janse van Vuuren

**Apologies:** Mr G W Rhodes (Rottingdean Parish Council)

**PART ONE**

**30. PROCEDURAL BUSINESS**

**30A. Declarations of Substitutes**

30.1 There were none.

**30B. Declarations of Interest**

30.2 There were none.

**30C. Exclusion of Press and Public**

30.3 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 Schedule 12A, Part 5A, Section 100A(4) or 100(1) of the Local Government Act 1972 (as amended).

30.4 **RESOLVED-** That the press and public be not excluded from the meeting.

**31. MINUTES OF THE PREVIOUS MEETING**

31.1 **RESOLVED** -That the minutes of the meeting held on 16 September 2008 be signed by the Chairman as a correct record.

**32. CHAIRMAN'S COMMUNICATIONS**

32.1 The Chairman reported back on the Seventh Annual Conference of the Standards Committee which he had attended recently in Birmingham. He stated that the focus of the sessions he had attended had related to the changes that had occurred following imposition of the new arrangements to carry out the first filter Local Assessment Process and generally towards Standards Committees' taking a more proactive approach than had previously been the case. This mirrored the approach which had been adopted by Brighton & Hove as an authority and by Rottingdean Parish Council.

**33. PUBLIC QUESTIONS**

33.1 There were none.

**34. WRITTEN QUESTIONS FROM COUNCILLORS**

34.1 There were none.

**35. DEPUTATIONS**

35.1 There were none.

**36. PETITIONS**

36.1 There were none.

**37. LETTERS FROM COUNCILLORS**

37.1 There were none.

**38. CORPORATE COMPLAINTS UPDATE**

38.1 The Committee considered a report of the Director of Strategy and Governance detailing complaints received regarding Member conduct administered under new arrangements as defined by the Standards Committee (England) Regulations 2008 which had come into effect on 8 May 2008 and complaints dealt with under the corporate complaints procedures (for copy see minute book).

38.2 Ms Carter stated that it would be useful in order to seek to ensure consistency if Members could be provided with information relative to the outcome of Hearing Panels once they had made their determinations and their work was concluded. The Head of Law agreed that this would be appropriate explaining that thought would need to be given to the means of disseminating that information which would be most appropriate.

38.3 **RESOLVED-** That the contents of the report be noted.

**39. SEVENTH ANNUAL CONFERENCE OF THE STANDARDS COMMITTEE**

- 39.1 The Council's Standards And Complaints Officer gave an oral report detailing the content of the Seventh Annual Conference of the Standards Committee held in Birmingham. The Chairman had also been in attendance as had Councillor Steadman and representatives of the East Sussex Fire Authority. Each of the Delegates had attended different sessions in order to obtain an overview of the conference as a whole. Following the appointment of a new Chief Executive there appeared to be a strong focus on issues relating to ethics and to taking a pro-active approach to ensure that standards were embedded at the heart of an organisation.
- 39.2 Councillor Steadman who had attended the event for first time concurred that common themes had emerged from all of the workshops he had attended. Whilst he considered attendance at the Conference to be worthwhile he considered he did not feel consider that all of the sessions were of equal value and weight and considered that the event was too long and could have taken place of one and a half rather than two days. The Chairman concurred in that view. He went on to explain that a greater emphasis was being placed on how Standards Committees' publicised their work. There appeared to have been a significant and on-going increase in the number of complaints made relative to Parish Council's. Three Panel Hearings had taken place to date in Brighton & Hove under the new guidance to date and, the need for further Panel meetings to be set up was anticipated, although to date none had related to Rottingdean Parish Council, the one Parish within Brighton & Hove.
- 39.3 **RESOLVED-** That the position be noted.

**40. CODES OF CONDUCT FOR LOCAL AUTHORITY MEMBERS AND EMPLOYEES**

- 40.1 The Committee considered a report of the Director of Strategy and Governance in respect of proposed Codes of Conduct for local authority members and employees (for copy see minute book).
- 40.2 The purpose of the report was to bring to the Committee's attention a recent consultation paper entitled "Communities in Control: Real People, Real Power Codes of Conduct for Local Authority Members and Employees". The paper had been issued by the CLG on revisions to the model code of conduct for members and the introduction of a model code for officers. The report sought to outline the key issues contained in the paper, and suggested potential responses to the questions proposed therein.
- 40.3 During the course of their discussions relative the matters referred to in Paragraph 3.5 of the report concurred with points as set out by Officers and in respect of the questions set out in the body of the consultation paper and at Annex A where the individual questions were listed in full (page47).

**Question 1 :Do you agree that the members' code should apply to a member's conduct when acting in their non-official capacity**

The Committee considered that it should.

**Question 2: Do you agree with this definition of “criminal offence” for the purpose of the members’ code? if not, what other definition would you support, for instance should it include police cautions ? Please give details**

The Committee considered the definition was clumsy and that there were some inconsistencies / omissions, for example “negligence was not captured except under health and safety legislation. Anti Social Behaviour Orders (ASBO’s) and police cautions were not included as they did not constitute a “criminal” offence. Cautions could also be issued by agencies other than the Police. The Committee considered that these issues should be raised.

**Question 3: Do you agree with this definition of “official capacity” for the purpose of the members’ code? If not what other definition would you support? Please give details.**

The Committee considered the definition was clumsy but were in agreement that it would be difficult to come up with a “tighter” definition.

**Question 4: Do you agree that the member’s code should apply where a criminal offence and conviction abroad would have been a criminal offence if committed in the UK?**

The Committee were in agreement that a conviction abroad should only be considered where the same behaviour would amount to a criminal offence in the UK.

**Question 5: Do you agree that an ethical investigation should not proceed until the criminal process has been completed?**

The Committee were of the view that this was appropriate.

**Question 6: Do you think that the amendments to the members’ code suggested in this chapter are required? Are there any other drafting amendments which would be helpful? If so, please could you provide details of your suggested amendments.**

The Committee considered were in agreement that these definitions were required.

**Question 7: Are there aspects of conduct currently included in the members; code that are not required? If so, please could you specify which aspects and the reasons why you hold this view.**

The Committee were firmly of the view that all aspects of conduct currently included in the code were required

**Question 8: Are there any aspects of conduct in a member’s official capacity not specified in the members’ code that should be included? Please give details.**

The Committee did not consider that there were any additional aspects not specified in the member’s code which should be included.

**Question 9: Does the proposed timescale of two months, during which a member must give an undertaking to observe the members' code, starting from the date the authority adopts the code, provide members with sufficient time to observe the code?**

The Committee were of the view based on previous experience that this timescale was reasonable.

**Question 10: Do you agree with the addition of this new general principle, applied specifically to conduct in a member's non official capacity.**

The Chairman stated that the use of the word "principle" was a misnomer and referred to what should more appropriately be referred to as a "duty". The Committee concurred that this was inappropriate in the code as presently worded.

**Question 11: Do you agree with this broad definition of "criminal offence" for the purpose of the General Principle's order? Or do you consider that "criminal offence should be defined differently?**

The Committee were in agreement that this broad definition was appropriate.

**Question 12: Do you agree with the definition of "official capacity" for the purpose of the General Principles Order?**

The Committee were in agreement with the definition as set out.

**Question 13: Do you agree that a mandatory model code of conduct for local government employees, which would be incorporated into employees' terms and conditions of employment is needed?**

The Committee were in agreement that this would establish a stronger local government professional identity and should be supported.

**Question 14: Should we apply the employees' code to fire fighters, teachers, community support officers and solicitors?**

The Committee were of the view that this would be appropriate and should apply to all local public servants regardless of professional codes. It was noted that this was also the view of the East Sussex Fire Authority.

**Question 15: Are there categories of employee in respect of whom it is not necessary to apply the code?**

The Committee reiterated their views set out in respect of Question 14 above.

**Question 16: Does the employees' code for all employees correctly reflect the core values that should be enshrined in the code? If not, what has been included that should be omitted, or what has been omitted that should be included?**

The Committee were in agreement that it did.

**Question 17: should the selection of “qualifying employees” be made on the basis of a “political restriction” style model or should qualifying employees be selected using the delegation model?**

The Committee were strongly of the view that a two tier approach should be adopted and that junior officers (and temporary staff) should be afforded a greater degree of privacy than more senior members of staff and expressed unease were a delegation model to be used.

**Question 18: Should the code contain a requirement for qualifying employees to publicly register any interests?**

The Committee were in agreement that this would be appropriate.

**Question 19: Do the criteria of what should be registered contain any categories that should be omitted or omit any categories that should be included?**

The Committee did not consider that any categories had been omitted nor should any additions be made.

**Question 2: Does the section of the employees’ code which will apply to qualifying employees capture all pertinent aspects of the members’ code. Have any been omitted?**

The Committee were of the view that it did.

**Question 21: Does the section of the employees’ code which will apply to qualifying employees place too many restrictions on qualifying employees? Are there any sections of the Code that are not necessary?**

The Committee were of the view that this section of the code was acceptable as drafted.

**Question 22: should the employees’ code extend to employees of parish councils?**

The Committee considered that this would be appropriate in order to be consistent.

- 40.4 **RESOLVED**– (1) that the proposed changes to the Code of Conduct and the provisions of the draft local model code for local authority employees be approved;
- (2) Monitoring officer be instructed to respond to the consultation paper with the comments set out in the report, together with further comments made and set out in the text above.

#### **41. ANNUAL REPORT OF THE STANDARDS COMMITTEE**

- 41.1 The Committee considered a report of the Director of Strategy and Governance detailing the work carried out by the Committee during the period between September 2007 and October 2008 (for copy see minute book).

- 41.2 The report summarised (Section3) the main ethical requirements of the Local Government Act 2000, and showed how the Council had complied over the 14 months since its previous report of September 2007. Section 3.3 of the report detailed the Monitoring Officer arrangements and an overall assessment was set out in Paragraph 3.20.
- 41.2 **RESOLVED-** That the content of the report be approved and that the report be presented to the meeting of the Council to be held on 4 December 2008 by the Chairman.
- 42. REVISED PROCEDURES FOR LOCAL ASSESSMENT, INVESTIGATION AND DETERMINATION OF COMPLAINTS**
- 42.1 The Committee considered a report of the Director of Strategy and Governance setting out the proposed updated procedures for local assessment, investigation and determination of complaints about member conduct (for copy see minute book).
- 42.2 It was noted that the procedures had been amended to reflect and take account of the most recent amendments received from the Standards Board including a circulated addenda sheet. Following imposition of the new arrangements Members had been called upon to hold three Assessment Hearing Panels and it was anticipated that further Panel meetings would need to be convened. Appendix A to the report detailed the sanctions which could be imposed by a Panel, the Procedure for Local Investigation of "Allegations of Member Misconduct" and the circumstances under which a complaint could be referred back to the Standards Board and or deferred were also set out.
- 42.3 Ms Carter referred to an earlier Panel meeting, Under the previous guidance it had been possible for the Panel to consider the amount of weight they would give to some elements of the complaint and whether it was inappropriate/outside its remit to determine in respect of others. The current guidance did not appear to indicate whether or not this remained the case. The Head of Law of Law stated that in his view the current guidance whilst not giving specific direction on that issue remained capable of that interpretation.
- 42.4 **RESOLVED-**That the updated procedures set out in the report be adopted.

The meeting concluded at 6.20pm

Signed

Chair

Dated this

day of