

Subject:	Review of Code of Conduct Complaints Procedure – Extract from the Proceedings of the Audit & Standards Committee meeting held on 25 March 2014		
Date of Meeting:	1 May 2014		
Report of:	Monitoring Officer		
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Wards Affected:	All		

FOR GENERAL RELEASE

Action Required of the Committee:

To receive the item referred from the Audit & Standards Committee.

Recommendations:

- (1) That the Committee agree to the Standards Panel's designation being altered from a Sub-Committee to a Panel.
- (2) That the Committee agree the recommendation of the Independent Remuneration Panel as set out in the note attached as an annexe to these extracts.

BRIGHTON & HOVE CITY COUNCIL

AUDIT & STANDARDS COMMITTEE

4.00pm 25 MARCH 2014

DRAFT MINUTES

Present: Councillors Hamilton (Chair), A Norman (Opposition Spokesperson), Lepper, Smith, Summers, Sykes and Wealls.

Independent Persons & Co-opted Members: Dr Lel Meleyal

PART ONE

81. REVIEW OF CODE OF CONDUCT COMPLAINTS PROCEDURE

- 81.1 The Committee considered a report of the Monitoring Officer in relation to the review of procedure for dealing with alleged breaches of the Members' Code of Conduct. The report sought agreement to the proposals of the cross-party working group tasked with reviewing the Council's procedure for dealing with alleged breaches of the Code of Conduct for Members. Since the introduction of the current procedure in 2012 a more full review was necessary to address certain issues including those highlighted in a recent case decided by the Council's Standards Panel. At the previous meeting the Committee agreed to the formation of a cross-party working group to review the procedure and to report back to the subsequent Committee meeting. There was also an amendment to paragraph 13.6 of the procedure such that 'if a request for an appeal is granted, a Standards Panel composed of different members and a different Independent Person from those who originally heard the allegation would consider the entire case'. By way of introduction both Dr Meleyal and the Monitoring Officer spoke to the report.
- 81.2 The Monitoring Officer clarified that the proposed change to the status of the Standards Panel was a technical change and the usual rules normally applicable to committees and sub-committees in relation to 'access to information' would apply even if the Panel were to convert from a Sub-Committee to a Panel. The Chair noted the two key changes were the status of the Panel and the appointment of one of the independent persons as the chair.
- 81.3 In response to Councillor Summers the Monitoring Officer explained that the Localism Act had removed the previous structure of the Standards regime; the Act was not as prescriptive as the previous legislation on Standards and the Council only had to have in place "arrangements" for investigating and deciding on allegations of Code of Conduct breaches. It was also important to note that the new regime had no formal sanctions and was simply expressive or could make recommendations; this changed the need for the decision making body to be a Sub-Committee.
- 81.4 In relation to the collective decision of the Panel the Monitoring Officer explained that consideration of matters such as human rights and freedom of speech had been undertaken, but the working group was of the view that the strength of the system required the Panel to collectively own the decision. There was concern that if the decision of the Panel was not cross-party then the process could be open to accusations of being driven by party politics, and the preference would be for the process to be driven by consensus; this needed to be weighed against the desire of a particular Member to speak out.
- 81.5 Councillor Lepper stated that the working group had been extremely useful, and its work had formed part of a regular review process. She considered it appropriate that the Panel be chaired by an independent person and that they not have a vote in the process. If there was a difference of opinion of the Members on the Panel then only the collective decision should be reported; as with the practice with Licensing Panels and Personnel Appeals where Members were free to express their opinion in the decision making process and then reach the final decision collectively. It was felt that if a clear difference of opinion were publicised then this could undermine the whole process.

- 81.6 Councillor A. Norman noted that she agreed with the comments made by Councillor Lepper and felt strongly that the process would be undermined if the decision were not owned collectively. She highlighted how important this piece of work had been and thanked the input of Officers and the independent persons. She was happy with the recommendations and felt that they were fair, and hoped they would be accepted by the Committee.
- 81.7 Councillor Sykes suggested that the wording of decision notices could give an indication of where the decision making had not been unanimous with the use of phrases such as 'on balance'.
- 81.8 **RESOLVED** – That the Committee:
- (1) Subject to recommendation (2) below, agree to the amended procedure for handling alleged breaches of the Members' Code of Conduct, as set out in Appendix 2, based on the proposals of the Standards cross-party working group set out in Appendix 1;
 - (2) Recommend to Policy & Resources Committee that the Standards Panel's designation be altered from a Sub-Committee to a Panel; and,
 - (3) Instruct the Monitoring Officer to co-ordinate a review of the Members' code of conduct later in 2014 and, in consequence of that review, to bring a report with recommendations to the Committee.

Notes of Deliberations of the Independent Remuneration Panel regarding Allowances for Independent Persons

The Independent Remuneration Panel met on 14th April to consider the issue of allowances for the two Independent Persons.

The Panel noted that the workload and the nature of the role of the Independent Persons has turned out to be more demanding and requiring more frequent undertaking of tasks as compared to what was expected when they were appointed. At the moment, they receive a £1000 allowance each. However, the Panel was reminded that:

1. There used to be up to 4 Independent Members under the previous arrangement, as compared to 2 under the new one;
2. The previous standards members would have received (in total and assuming 4 members) £6,505 per annum compared to the £2000 (in total) current allowances;
3. The previous Independent Members covered only standards whereas the new ones cover audit as well;
4. Since their appointment, the Council has relied heavily on the Independent Persons to give initial reasoned views as to whether a complaint should be investigated, as is required under the complaints procedures. This involved them in looking at the paperwork, considering the allegation against the requirements of the code and expressing a view, with written reasons, as to whether a complaint should be investigated. The Panel was informed that they have done this diligently and Officers found this is a useful contribution to the standards process. The Panel was also reminded that the majority of cases are now resolved at this stage;
5. The newly adopted complaints procedure means, in addition to their current role, an Independent Person will always chair the standards hearing panel and be the spokesperson on matters relating to the hearing. This involves not just in chairing the meeting, but also dealing with the preliminary steps before the hearing and afterwards.

Having discussed their roles with the Independent Persons (including the issue of allowances) Officers presented the Panel with proposals. The Panel considered all the evidence, including the additional responsibility that the Independent Persons will have, and agreed to make the following recommendations:

1. There be an allowance of £200 for each Panel hearing actually chaired by the Independent Persons. It is anticipated, based on previous years, there may have up to 4 cases that go to a full hearing in a year, which means they will do 2 hearings each.
2. That this be an interim arrangement until a full review of ALL allowances is undertaken between now and October when there will be a report to Council covering all allowances.

The above recommendation is to be presented to the Policy & Resources Committee on 1st May. The Panel will be undertaking a thorough review of all allowances (including benchmarking) before it makes its longer term recommendations in October 2014.