



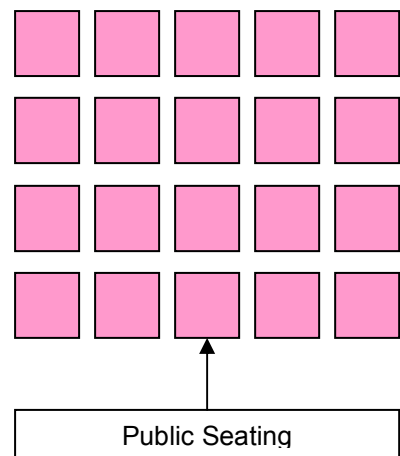
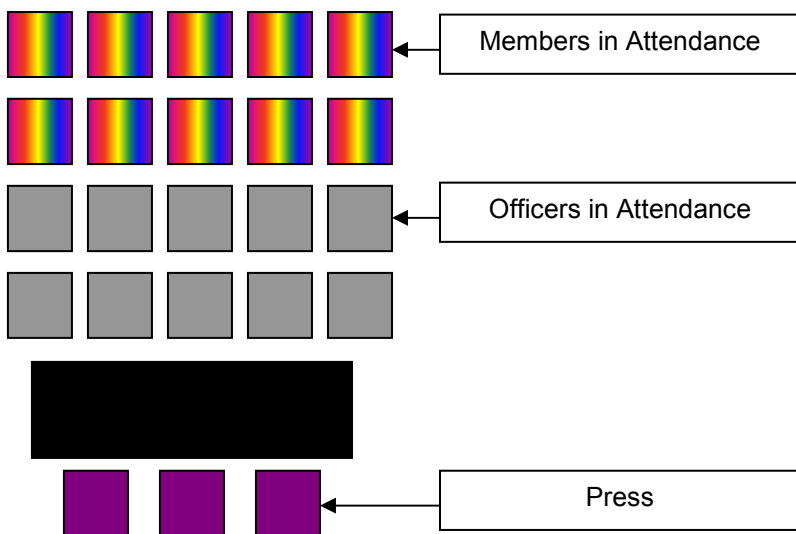
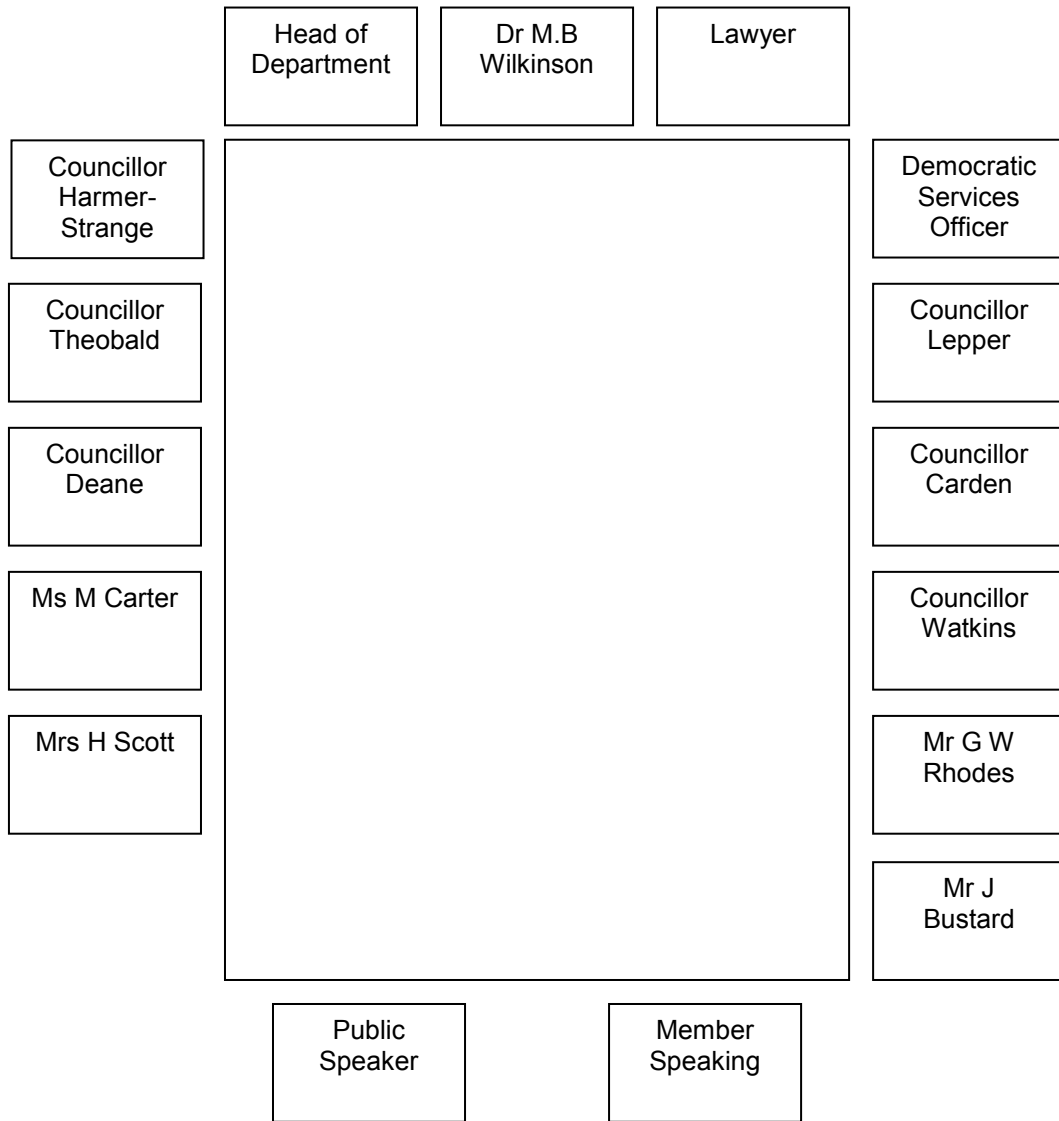
**Brighton & Hove
City Council**

Standards Committee

Title:	Standards Committee
Date:	14 September 2010
Time:	5.00pm
Venue	Committee Room 1, Hove Town Hall
Members:	<p>Councillors: Carden, Deane, Harmer-Strange, Lepper, C Theobald and Watkins</p> <p>Independent Members: Dr M Wilkinson (Chairman), Ms M Carter and Mrs H Scott</p> <p>Rottingdean Parish Council Representatives: John Bustard and Mr G W Rhodes</p>
Contact:	<p>Jane Clarke Senior Democratic Services Officer 01273 291064 jane.clarke@brighton-hove.gov.uk</p>

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Democratic Services: Meeting Layout



AGENDA

10. PROCEDURAL BUSINESS

- (a) Declarations of Interest by all Members present of any personal interests in matters on the agenda, the nature of any interest and whether the Members regard the interest as prejudicial under the terms of the Code of Conduct.
- (b) Exclusion of Press and Public - To consider whether, in view of the nature of the business to be transacted, or the nature of the proceedings, the press and public should be excluded from the meeting when any of the following items are under consideration.

NOTE: Any item appearing in Part 2 of the Agenda states in its heading the category under which the information disclosed in the report is exempt from disclosure and therefore not available to the public.

A list and description of the exempt categories is available for public inspection at Brighton and Hove Town Halls.

11. MINUTES OF THE PREVIOUS MEETING

1 - 8

Minutes of the meeting held on 22 June 2010 (copy attached).

12. CHAIRMAN'S COMMUNICATIONS

13. PUBLIC QUESTIONS

(The closing date for receipt of public questions is 12 noon on 7 September 2010).

No public questions received by date of publication.

14. REVIEW OF THE CODE OF CONDUCT AND THE ARRANGEMENTS REGARDING THE REGISTER OF MEMBER'S INTERESTS

9 - 36

Report of the Monitoring Officer (copy attached).

Contact Officer: Liz Woodley Tel: 29-1509
Ward Affected: All Wards;

15. THE APPOINTMENT OF INDEPENDENT MEMBERS

37 - 40

Report of the Monitoring Officer (copy attached).

Contact Officer: Liz Woodley Tel: 29-1509
Ward Affected: All Wards;

STANDARDS COMMITTEE

16. REVIEW OF THE CODE OF CONDUCT FOR MEMBER/OFFICER RELATIONS 41 - 58

Report of the Monitoring Officer (copy attached).

Contact Officer: Liz Woodley *Tel:* 29-1509
Ward Affected: All Wards;

17. COMPLAINTS UPDATE 59 - 78

Report of the Monitoring Officer (copy attached).

Contact Officer: Brian Foley *Tel:* 01273 291229
Ward Affected: All Wards;

The City Council actively welcomes members of the public and the press to attend its meetings and holds as many of its meetings as possible in public. Provision is also made on the agendas for public questions to committees and details of how questions can be raised can be found on the website and/or on agendas for the meetings.

The closing date for receipt of public questions and deputations for the next meeting is 12 noon on the fifth working day before the meeting.

Agendas and minutes are published on the council's website www.brighton-hove.gov.uk. Agendas are available to view five working days prior to the meeting date.

Meeting papers can be provided, on request, in large print, in Braille, on audio tape or on disc, or translated into any other language as requested.

For further details and general enquiries about this meeting contact Jane Clarke, (01273 291064, email jane.clarke@brighton-hove.gov.uk) or email democratic.services@brighton-hove.gov.uk

Date of Publication - Monday, 6 September 2010

BRIGHTON & HOVE CITY COUNCIL

STANDARDS COMMITTEE

5.00pm 22 JUNE 2010

COMMITTEE ROOM 1, HOVE TOWN HALL

MINUTES

Present: Councillors: Carden, Harmer-Strange, Lepper (Opposition Spokesperson), Steedman, C Theobald and Watkins

Independent Members: Dr M Wilkinson (Chairman), Mrs H Scott

Rottingdean Parish Council Representatives:

Apologies: John Bustard (Rottingdean Parish Council), Ms M Carter (Independent Member) and Mr G W Rhodes (Rottingdean Parish Council)

PART ONE

1. PROCEDURAL BUSINESS

1a Declarations of Interests

1.1 There were none.

1b Exclusion of the Press and Public

1.2 In accordance with section 100A of the Local Government Act 1972 ('the Act'), the Standards 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(1) of the Act).

1.3 **RESOLVED** – That the press and public be not excluded.

2. MINUTES OF THE PREVIOUS MEETING

2.1 **RESOLVED** – That the minutes of the meeting held on 19 January 2010 be signed by the Chairman as a correct record.

3. CHAIRMAN'S COMMUNICATIONS

- 3.1 The Chairman welcomed Councillor Harmer-Strange to the Committee. He took the opportunity to thank Councillors Drake and Janse Van Vuuren for their dedication and commitment and noted that the Committee would miss their experience, wisdom and good humour.

The Chairman noted that the Standards for England Annual Assembly had been cancelled due to the expected changes at a national level to the standards regime.

4. PUBLIC QUESTIONS

- 4.1 There were none.

5. WORK PROGRAMME FOR STANDARDS COMMITTEE 2010/11

- 5.1 The Committee considered a report from the Director of Strategy & Governance regarding the Work Programme for Standards Committee 2010/2011.
- 5.2 The Senior Lawyer, Ms Woodley, introduced the report which recommended that the Committee agree a work programme for the coming year to ensure the Committee's effectiveness and to keep it in the public arena. She noted that certain documents and protocols needed to be reviewed which would be in line with the Committee's remit, and noted that the Code of Conduct and elections advice would be needed for the upcoming 2011 elections, and suggested this as a prudent place to start. She added however that depending on the outcome of this Autumn's review of the Standards regime, the Committee may no longer be required to meet.
- 5.3 The Chairman believed that it was essential for the Council to maintain a Standards forum, in spite of any lack of requirement from central government as there was now a sharper focus on standards and ethical issues, and transparency in Council business needed to be maintained.
- 5.4 Independent Member Ms Scott agreed with the Chairman and felt that some sort of regime that included a Committee that oversaw standards issues within the Council needed to be maintained.
- 5.5 Councillor Lepper also agreed and felt that the current arrangements needed to be maintained locally despite what happened on a national scale.
- 5.6 Councillor Watkins referred to the work programme suggestions and felt that advice on Outside Bodies appointments and dealing with Planning Applications were documents that were essential to review as they would be most valuable to the new Members entering the Council in 2011.
- 5.7 The Deputy Monitoring Officer, Mr Ghebre-Ghiorghis addressed the Committee and believed that if the Standards Regime was abolished at a national level, there would be an even greater need for effective and impartial guidance and support for Members and Officers on a local level. He added that the Council had maintained a Standards

Committee before the statutory requirement for the same was brought in, and he believed it would be retained if the regime was abolished in the autumn.

- 5.8 Councillor Mrs Theobald asked if the complaint process relating to Assessment, Consideration and Review Panels would continue and the Chairman replied that there was currently not enough information in the public realm to know what may come of the autumn review, but that the Committee would be updated by Officers as and when was necessary.
- 5.9 The Standards and Complaints Manager, Mr Foley noted that comments on standards arrangements were being fed back to central government following a request for comments on the regime from Paul Hoey.
- 5.10 Councillor Carden referred to the new proposals to allow Councils to return to a Committee based system, and asked if this would have an effect on the Standard regime at the Council. The Chairman noted that these proposals would be permissive rather than compulsory if they came into effect, and as such it would depend on the decision of the Council at that time.
- 5.11 Councillor Harmer-Strange asked if the proposals only affected the 12 largest authorities in the country and the Deputy Monitoring Officer replied that this in fact related to proposals on elected Mayors. As Brighton & Hove City Council was ranked 14th largest Council based on population size, it would not be affected by these proposals. New proposals for a Committee based system were to be extended to all Councils however.
- 5.12 **RESOLVED** – That the Committee approves the work programme as set out in paragraph 3.2 and includes a review of the Guidance When Appointed to Outside Bodies and Protocol for Members Regarding Planning Applications to be conducted before the May 2011 elections.

6. REVIEW OF THE STANDARDS FRAMEWORK

- 6.1 The Committee considered a report from the Director of Strategy & Governance regarding the Local Standards 2.0 – the proportionality upgrade? A review of the local standards framework.
- 6.2 The Senior Solicitor, Ms Woodley stated that there had been wide ranging consultation on this review and seventeen recommendations had been issued to address particular criticisms of the current framework. Those recommendations felt to be particularly important to the Standards regime at Brighton & Hove were recommendation 2, recommendation 6, recommendation 10, recommendation 11 and recommendation 12.

Ms Woodley stated that recommendation 2 would be particularly useful to implement as it would give the Chairman the ability to sift through the complaints and rebut trivial or frivolous complaints in the first instance. The option would remain to refer the complaint to an Assessment Panel should there be any doubt or misgivings about the seriousness of the complaint.

Recommendation 6 would remove the right of a complainant to request a review of a decision of a panel. The power to refer the complaint to a review panel would remain in

the gift of the authority, but Ms Woodley expressed caution about the implementation of this recommendation as it would be a difficult protocol for the complainant to accept.

Recommendation 10 was felt to be a pragmatic solution to a difficult problem. Ms Woodley noted that at the initial stages of an investigation it could be very difficult for members and officers to discern the seriousness of the allegations, and this often only became clear later in the investigation process. Currently, if during the course of the investigation it became clear that there was no basis or grounding for the complaint, the case would still need to follow through each step in the process before being dismissed. It was also recognised that complaints could often be resolved satisfactorily by an apology, but the investigation would need to continue regardless of whether the complainant was satisfied with the response given. This could put a strain on resources and officer time, and it was felt to be more efficient to allow the Monitoring Officer the power to recommend to the Standards Committee that a complaint be stopped at any stage.

Recommendation 11 was already put largely in practice at Brighton & Hove, but would give the subject Member the right to know that a complaint had been made about them.

Recommendation 12 was seen as cost-effective, and Ms Woodley noted that a recent public notice in the local paper which she had placed cost in the region of £4,000. This was not felt to be value for money and it was recognised that the internet could be utilised more in this regard.

Ms Woodley finally noted that most of the recommendations could not be implemented without a change in the current legislation however.

- 6.3 Councillor Watkins asked if City News could be used to advertise decision notices for Standards Panels as a more cost effective solution. Ms Woodley did not believe that City News would fall under the current definition of a newspaper, and believed that greater use of the internet was the best solution.
- 6.4 Dr Wilkinson felt it would be more effective for the Chairman of the Standards Committee to be given the power of first sift of the complaints and this would hopefully result in a more robust system.
- 6.5 Councillor Watkins recognised that very few changes could be made to the current system, but believed that elected Members should always be given the right to be judged by their peers rather than solely by Independent Members, and he felt that giving the power of first sift of complaints to the Chairman would pose problems. Dr Wilkinson felt the recommendation would only be applied when faced with very trivial complaints however, and the majority would continue on to a full Panel assessment.
- 6.6 Councillor Lepper felt that complaints could be more easily initially assessed via email discussions between panel members, which would save time and be much more cost effective for all. She noted that she at times journeyed across the city to attend a Panel that had taken minutes to consider.
- 6.7 The Deputy Monitoring Officer, Mr Ghebre-Ghiorghis, noted that guidance on the recommendations and the future of the Standard regime would be forthcoming, and

when this was available a more detailed report would be brought to Committee for Members to consider.

6.8 **RESOLVED** – That the Committee notes the report.

7. REVIEW OF THE CODE OF CONDUCT FOR MEMBERS/OFFICERS RELATIONS

7.1 The Committee considered a report from the Director of Strategy & Governance regarding the Review of the Code of Conduct for Member/Officer Relations.

7.2 The Senior Solicitor, Ms Woodley, stated that the Audit Commission had undertaken a review of governance in 2008/09. Whilst the review recommendations were now slightly out-of-date, a review of the Code of Conduct for Member/Officer Relations was proposed by the Council and it was recommended that the Standards Committee form a working group of three Members to conduct this review. Ms Woodley suggested that the working group report back to the September 2010 Standards Committee.

7.3 Dr Wilkinson, Councillor Lepper, Councillor Mrs Theobald and Councillor Watkins agreed to form the working group that would review the Code of Conduct for Member/Officer Relations.

7.4 **RESOLVED** – That a working group of four Members is formed to review the Code of Conduct for Member/Officer Relations and the findings of the review are reported back to the September 2010 Standards Committee meeting.

8. STANDARDS FOR ENGLAND ANNUAL RETURN

8.1 The Committee considered a report from the Monitoring Officer regarding the Standards for England Annual Return.

8.2 The Standards & Complaints Manager, Mr Foley stated that this would be the last Annual Return due to the expected changes to the Standards Regime in the autumn. The Return prompted interesting questions about the work of the Standards Committee in Brighton & Hove and proposals for further work to take forward were given.

It was felt that the Annual report needed to be communicated more broadly and deeply to members of the public and it was suggested that the Committee look into this in more detail at the September 2010 meeting. There were perceived benefits in creating a dedicated Standards webpage where complaints information would be more accessible and it was felt that the Committee needed to seek ways of increasing its influence and status within the Council. It was suggested that a rolling programme of meetings with the Group Leaders and Members of the Committee be implemented. Finally, it was noted that work could be conducted around the training and support of Standards Committee Members, and a discussion on how information regarding complaints and their outcomes is disseminated to Members, and how points of best practice from this could be identified.

8.3 Councillor Watkins noted that the District Auditors gathered information on the Standards regime in Brighton & Hove and asked if they had the power to ensure our compliance. He also asked whether complaints about outside bodies who were working

in partnership with the Council were currently dealt with under our complaints procedures. Councillor Watkins felt that this could become a particularly important issue in the coming months given the proposed changes to the way the Council operated across the city. Mr Foley replied that Standards for England currently sent information to the District Auditors but whether this would continue under the new arrangements was unclear. He recognised the issues around outside bodies and their compliance with the codes of conduct and protocols of the Council, and noted that whilst some partnerships had originally signed-up to the codes, this had been many years ago and had not in all likelihood been updated.

8.4 **RESOLVED –**

1. That the Annual Return is used as a basis for formulation of a work programme for Standards Committee for the year 2010/11.

9. **COMPLAINTS UPDATE**

- 9.1 The Committee considered a report from the Monitoring Officer regarding the Complaints Update.
- 9.2 The Standards and Complaints Manager, Mr Foley stated that for Council year 2009/10 the average number of days a complaint took to reach assessment panel stage was 18, which was within the recommended limit. The average number of days a complaint took to investigate was within acceptable limits on the majority of cases, but it was recognised that one case in particular was taking an exceptionally long time to resolve and had been referred to Hearing Panel stage.
- 9.3 The Chairman felt that in the case that was still unresolved, it was very unfair on both the complainant and the subject Member to have taken so long and he believed the delay was excessive.
- 9.4 Councillor Steedman asked what lessons had been learned from this process to ensure cases that were referred to Hearing stage did not take so long to process. Mr Foley stated that there was now a better understanding of the process that this complaint had gone through and there was now a much clearer picture for officers about what processes needed to be implemented should another case get to the same stage in the complaints process.
- 9.5 The Senior Solicitor, Ms Woodley agreed with this and noted that certain forms that were necessary to the process, which had not been readily available at the time, were now constructed as templates and could be utilized more quickly in the future.
- 9.6 Councillor Steedman asked if Officers were confident that they could meet the time limitations should another case be referred to Hearing Panel stage and Ms Woodley believed the Officers were confident in this.
- 9.7 The Chairman noted that at the time a lot of complaints had come in at the same time, and the decision had been taken to expedite some of the complaints and take them out of the order in which they had been received. This was now recognised as not the

correct approach to take and all future cases would be taken and assessed in the order in which they were received.

- 9.8 Councillor Lepper asked details around the current complaints that were awaiting consideration and Mr Foley updated the Committee that complaint 3 was now in draft report stage and complaint 15 had been referred to the Monitoring Officer after Assessment Panel stage for further investigation.
- 9.9 **RESOLVED** – That the Committee notes the report.

The meeting concluded at 6.00pm

Signed

Chairman

Dated this

day of

Subject:	<i>Review of the Code of Conduct and the Arrangements regarding the Register of Members' Interests</i>		
Date of Meeting:	14 September 2010		
Report of:	<i>Monitoring Officer</i>		
Contact Officer:	Name: Liz Woodley	Tel: 29-1509	
	E-mail: liz.woodley@brighton-hove.gov.uk		
Wards Affected:	All		

FOR GENERAL RELEASE**1. SUMMARY AND POLICY CONTEXT:**

- 1.1 This report sets the council's existing Code of Conduct and the Arrangements regarding the Register of Members' Interests and recommends amendments to the Arrangements.

2. RECOMMENDATIONS:

- 2.1 That the Committee notes the Code of Conduct and Arrangements regarding the Register of Members' interests and recommends to council that the Arrangements regarding the Register of Members Interests be updated and amended as proposed in paragraphs 3.3.5 and 3.3.6.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 The council's Scheme of Delegation imposes on the Standards Committee responsibility for promoting and monitoring high standards of conduct within the council, and for monitoring the operation of the Codes of Conduct, associated registers and declarations of interest. At its meeting on 22 June the Committee approved a work programme which included at the September meeting a Review of the Code of Conduct and the Arrangements regarding the Register of Members' Interests.

3.2 The Code of Conduct

- 3.2.1 Under section 50 of the Local Government Act 2000 the Secretary of State may issue a model code as regards the conduct which is expected of members and co-opted members of local authorities in England. Local authorities must adopt a code which incorporates the mandatory provisions of the model code and may incorporate other provisions which are consistent with the model code. The council adopted a new Code of

Conduct on 15 May 2008 to coincide with the introduction of Executive arrangements. A copy is attached as appendix 1. The legislative framework referred to above leaves little scope for the council to amend the Code.

3.2.2 Apart from an additional paragraph – paragraph 15 – the council’s code follows the model code. Paragraph 15 allows members to register on a voluntary basis membership of private clubs which are otherwise not registerable. Failure to register such an interest does not amount to a breach of the code.

3.3 **Arrangements Regarding the Register of Members’ Interests**

3.3.1 Paragraph 13 of the Code of Conduct requires all Members (Councillors and co-optees) to register prescribed personal interests within 28 days of the adoption of the code, or (if later) within 28 days of their election or appointment to office. This is done by providing written notification to the council’s Monitoring Officer.

3.3.2 There is an ongoing requirement to keep the information up to date. Members must within 28 days of becoming aware of any new registrable personal interest or change to any registered interest, give written notification to the Monitoring Officer.

3.3.3 Where Members consider that the information relating to any of their registrable personal interests is sensitive information, and the Council’s Monitoring Officer agrees, they need not include that information when registering that interest, or, as the case may be, a change to that interest. “Sensitive information” means information whose availability for inspection by the public creates, or is likely to create, a serious risk that the Member or a person who lives with him/her may be subjected to violence or intimidation.

3.3.4 The register of interests is available for public inspection both online and in hard copy, although the online version only contains the home address of any Councillor where he/she has requested that it be included. The current hard copies of the public registers for Councillors are kept by Democratic Services in Room 120 King’s House.

3.3.5 On a regular basis, Democratic Services send reminders to elected members to update their register of interests. The procedure for so doing is attached at Appendix 2. In the Arrangements regarding the Register of Members’ Interests, there are a number of references to the Standards Board for England. The Board now operates under the name “Standards for England” and it is suggested that all references to the Standards Board for England be changed to Standards for England. Similarly the website for Standards for England should be substituted for SBE.

3.3.6 Annex 1 of the Arrangements gives guidance on some frequently asked questions. SfE has updated its guidance, and it is proposed that that the following comprehensive guidance in relation to gifts and hospitality be

substituted for the existing question 2. SfE issued the guidance in October 2009.

“Gifts and hospitality” are covered by paragraphs **8** and **13** of the Code.

What do I have to do?

- You must register any gifts or hospitality worth £25 or over.
- You must also register the donor (for example, the person, company or body) of the gift or hospitality.
- You only have to register gifts that you receive in connection with your official duties as a member. You do not have to register other gifts and hospitality, such as birthday gifts from family.
- Ask yourself “Have I been given this because I am a member?” If the answer is “yes” then you must register the item.
- You should register an accumulation of small gifts you receive from the same donor over a short period that add up to £25 or more.
- You must register the gift or hospitality and its donor within 28 days of receiving it, and if an accumulation, when it gets to £25.

What are the implications?

- You will have a **personal interest** in a matter if it relates to, or is likely to affect, the donor of the gift or hospitality that is registered.
- You must declare the existence and nature of the gift or hospitality, the donor and how the business under consideration relates to that donor. You must then decide whether that interest is also a prejudicial interest.
- If more than three years have passed since you registered the gift or hospitality, you will no longer have to declare a personal interest in a matter that relates to or is likely to affect the donor.

For further information on interests see our fact sheet on personal and prejudicial interests.

What happens if I do not know the value of the gift?

- We suggest you register it anyway as a matter of good practice.

Do I have to register gifts or hospitality I do not accept?

- No, but you may wish to do so as a matter of good practice.

What does “hospitality” mean under the Code?

- Hospitality can be defined as any food, drink, accommodation or entertainment provided free of charge or heavily discounted.

Do I have to register the interests of the donor of the gifts or hospitality?

- No. We believe the Code only requires you to register the gift or hospitality worth £25 or over, received in connection with your official duties, and the donor of that gift or hospitality.

Do I have to register the gifts or hospitality given to the civic mayor or chair of a council?

- Yes. Wholly-owned companies are separate bodies from the authority.

What about official gifts or hospitality given to the civic mayor or chair of a council?

- There are no special rules for those who serve as mayor or chair of an authority.
- Gifts that are clearly made to the authority do not need to be registered.
- Gifts made directly to a mayor or chair's charity appeal also do not need to be registered.
- We take the view that there is no requirement under the Code to register hospitality, if that hospitality has been extended to the office holder for the time being rather than the individual.

3.3.7 The above guidance addresses some of the issues that have been raised in the last year at the Standards Committee, such as "Do members have to register gifts and hospitality that they have refused?"

3.4 OPERATION OF THE CODE OF CONDUCT:

3.4.1 Members who have a personal interest in any business of the authority and who attend a meeting at which that business is considered must disclose the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent. As with all rules, there are exceptions to the rule about disclosing interests. Where the interest arises solely from membership of, position of control or management on:

- any other body to which the Member was appointed or nominated by the authority;
- any other body exercising functions of a public nature, for example a school governor, the interest need only be declared if and when the member speaks on the matter, provided that he/she does not have a prejudicial interest.

3.4.2 Each agenda issued by the Council contains the following item of business: -

Declarations of Interest by all Members present of any personal interests in matters on the agenda, the nature of any interest and whether the

Members regard the interest as prejudicial under the terms of the Code of Conduct.”

Notwithstanding the careful phrasing of the item, declarations of interest are not always as comprehensive as they might be.

4. CONSULTATION:

- 4.1 The Chairman and Monitoring Officer have been consulted and support the proposed amendment to the Annex to the Arrangements regarding the Register of Members’ Interests.

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 5.1 Adherence to the code of conduct minimises the financial risks for Members and the Council.

Finance Officer consulted: Anne Silley

Date: 23 August 2010

Legal Implications:

- 5.2 These are addressed in the body of the report.

Lawyer consulted: Liz Woodley

Date: 24 August 2010

Equalities Implications:

- 5.3 There are no direct equalities implications arising from the report.

Sustainability Implications:

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

Crime & Disorder Implications:

- 5.5 There are no crime and disorder implications arising from this report.

Risk and Opportunity Management Implications:

- 5.6 There are no risk or opportunity management implications arising from this report.

Corporate / Citywide Implications:

- 5.7 There are no corporate/citywide implications arising from this report.

SUPPORTING DOCUMENTATION

Appendices:

1. Code of Conduct.
2. Arrangements Regarding Register of Members' Interests.

Background Documents:

1. None.

Documents In Members' Rooms:

1. None.

PART 9.1 CODE OF CONDUCT FOR MEMBERS

INTRODUCTION

The Text of the Code

This code has been prepared and adopted by Brighton & Hove City Council (“the authority”) in accordance with Section 51 of the Local Government Act 2000. The text of the code follows this introduction and is in 3 parts: 1 General Provisions; 2 Interests and 3 Registration of Members’ Interests. All text printed in ordinary type comprises the mandatory provisions prescribed by the Secretary of State under Section 50 of the Local Government Act 2000. Any text underlined comprises additional or variant text approved by the authority. Any text in italics comprises comments and informal guidance only and is not part of the authority’s code.

The authority’s code applies to you if you are an elected Member of the authority or a co-opted Member with voting rights.

The Undertaking

You must sign a formal undertaking to observe the authority’s code. If you fail to do so, you will not be able to act as Member of the authority.

Sanctions for Breach of the Code

Any person may make a written complaint that you have acted in breach of the code. Investigation of any such complaint may lead to sanctions being applied to you by a Case Tribunal or, where the Secretary of State provides by regulations, by a panel of the authority’s Standards Committee. It should be noted that a Case Tribunal has power to order you to be suspended or partially suspended from the authority for a period not exceeding one year, or to be disqualified from being a Member of the authority for a period not exceeding five years.

Observing the Code

You should make sure that you are familiar with the requirements of the code, including any guidance issued by the Standards Board for England and the Authority’s standards committee. It is your responsibility to make sure that you comply with the code. You should regularly review your personal circumstances with this in mind, particularly when those circumstances change. If in any doubt, you should seek advice from the authority’s monitoring officer or from your own legal adviser. (The Standards Board for England is unable to give guidance on specific cases.) In the end, however, the decision and the responsibility are yours in each case.

Documents forming part of the constitution issued by the authority which include some particularly relevant guidance on, or requirements relating to, conduct, are:-

- Part 3.2 – Council Procedure Rules
- Part 9.2 - Arrangements regarding the register of Members' Interests
- Part 9.3 - Practice Note – Use of Council Facilities
- Part 9.5 - Protocol for Members regarding Planning Applications
- Part 9.7 - Code of Conduct for Member/Officer relations

Also relevant are the following strategy / policy documents:-

- Anti-Fraud and Corruption Strategy,
- Whistleblowing Policy
- Full Inclusive Council Policy

You should familiarise themselves with all the above documents.

Main Provisions of the Code

You should note that:

- The code must be observed when you are acting in an official capacity, defined in Paragraph 2. There are some circumstances, also mentioned in paragraph 2, where the code will apply at other times if you are convicted of a criminal offence.
- Any personal interest (defined in Paragraph 8) in a matter under consideration must usually be disclosed by you at meetings where the matter is being considered, but there are some limited exceptions, mentioned in Paragraphs 9(2) to 9(5).
- You may have a personal interest through your family or any person with whom you have a close association.
- Any personal interest which is also a prejudicial interest (defined in Paragraph 10) in a matter under consideration must be disclosed by you at meetings where the matter is being considered and you must withdraw from the meeting, except in the limited circumstances set out in Paragraph 12.
- To determine whether you have a prejudicial interest, you should
 - (1) bear in mind the ten principles of public life (set out below)
 - (2) consider how the public would judge you if you were to participate in discussing and/or deciding the relevant matter and
 - (3) apply the provisions in Paragraphs 10 and 11 of the code.
- You must keep up to date the information held on the Register of Interests maintained by the Monitoring Officer and give due notification of any gift or hospitality received as failure to do so will automatically be a breach of the code even though the circumstances may not seem important.
- There is provision in the code for you to make a voluntary declaration of your membership of private clubs.

The Ten General Principles of Public Life

The ten general principles are the fundamental values which, by virtue of the relevant Authorities (General principles) Order 2001, underpin the code. You should therefore read them in conjunction with the code, even though they are not directly part of the code.

1. Selflessness - You should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.

2. Honesty and Integrity - You should not place yourself in situations where your honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.

3. Objectivity - You should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

4. Accountability - You should be accountable to the public for your actions and the manner in which you carry out your responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to your particular office.

5. Openness - You should be as open as possible about your actions and those of your authority, and should be prepared to give reasons for those actions.

6. Personal Judgement - You may take account of the views of others, including their political groups, but should reach your own conclusions on the issues before you and act in accordance with those conclusions.

7. Respect for Others - You should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. You should respect the impartiality and integrity of the authority's statutory officers, and its other employees.

8. Duty to Uphold the Law - You should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in you.

9. Stewardship - You should do whatever you are able to do to ensure that your authority uses its resources prudently and in accordance with the law.

10. Leadership - You should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence.

BRIGHTON & HOVE CITY COUNCIL
CODE OF CONDUCT FOR MEMBERS
(Adopted 15 May 2008)

Part I - General provisions

Introduction and interpretation

I(1) This Code applies to you as a Member of an authority.

I(2) You should read this Code together with the general principles prescribed by the Secretary of State.

I(3) It is your responsibility to comply with the provisions of this Code.

I(4) In this Code—

“meeting” means any meeting of—

- (a) the authority;
- (b) the executive of the authority
- (c) any of the authority’s or its executive’s committees, sub-committees, joint committees, or joint sub-committees, or area committees;

“Member” includes a co-opted Member and an appointed Member.

Scope

2(1) Subject to sub-paragraphs (2) to (5), you must comply with this Code whenever you—

- (a) conduct the business of your authority (which, in this Code, includes the business of the office to which you are elected or appointed); or
- (b) act, claim to act or give the impression you are acting as a representative of your authority,

and references to your official capacity are construed accordingly.

2(2) Subject to sub-paragraphs (3) and (4), this Code does not have effect in relation to your conduct other than where it is in your official capacity.

2(3) In addition to having effect in relation to conduct in your official capacity, paragraphs 3(2)(c), 5 and 6(a) also have effect, at any other time, where that conduct constitutes a criminal offence for which you have been convicted.

2(4) Conduct to which this Code applies (whether that is conduct in your official capacity or conduct mentioned in sub-paragraph (3)) includes a criminal offence for which you are convicted (including an offence you committed before the date you took office, but for which you are convicted after that date).

2(5) Where you act as a representative of your authority—

(a) on another relevant authority, you must, when acting for that other authority, comply with that other authority's code of conduct; or

(b) on any other body, you must, when acting for that other body, comply with your authority's code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

General obligations

3(1) You must treat others with respect.

3(2) You must not—

(a) do anything which may cause your authority to breach any of the equality enactments (as defined in section 33 of the Equality Act 2006);

(b) bully any person;

(c) intimidate or attempt to intimidate any person who is or is likely to be—

(i) a complainant,

(ii) a witness, or

(iii) involved in the administration of any investigation or proceedings,

in relation to an allegation that a Member (including yourself) has failed to comply with his or her authority's code of conduct; or

(d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your authority.

4 You must not—

(a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where—

(i) you have the consent of a person authorised to give it;

(ii) you are required by law to do so;

(iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or

(iv) the disclosure is—

(aa) reasonable and in the public interest; and

(bb) made in good faith and in compliance with the reasonable requirements of the authority; or

(b) prevent another person from gaining access to information to which that person is entitled by law.

5. You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.

6 You—

(a) must not use or attempt to use your position as a Member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and

(b) must, when using or authorising the use by others of the resources of your authority—

(i) act in accordance with your authority's reasonable requirements; and

(ii) ensure that such resources are not used improperly for political purposes (including party political purposes).

(c) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

7(1) When reaching decisions on any matter you must have regard to any relevant advice provided to you by—

(a) your authority's chief finance officer; or

(b) your authority's monitoring officer,

where that officer is acting pursuant to his or her statutory duties.

7(2) You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority.

Part 2 – Interests

Personal interests

8(1) You have a personal interest in any business of your authority where either—

(a) it relates to or is likely to affect—

(i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;

(ii) any body—

(aa) exercising functions of a public nature;

(bb) directed to charitable purposes; or

(cc) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union),

of which you are a member or in a position of general control or management;

(iii) any employment or business carried on by you;

(iv) any person or body who employs or has appointed you;

(v) any person or body, other than a relevant authority, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties;

(vi) any person or body who has a place of business or land in your authority's area, and in whom you have a beneficial interest in a class of securities of that person or body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital (whichever is the lower);

(vii) any contract for goods, services or works made between your authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi);

(viii) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25;

(ix) any land in your authority's area in which you have a beneficial interest;

(x) any land where the landlord is your authority and you are, or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi) is, the tenant;

(xi) any land in the authority's area for which you have a licence (alone or jointly with others) to occupy for 28 days or longer; or

(b) a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision.

8(2) In sub-paragraph (1)(b), a relevant person is—

(a) a member of your family or any person with whom you have a close association; or

(b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;

(c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or

(d) any body of a type described in sub-paragraph (1)(a)(i) or (ii).

Disclosure of personal interests

9(1) Subject to sub-paragraphs (2) to (5), where you have a personal interest in any business of your authority and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.

9(2) Where you have a personal interest in any business of your authority which relates to or is likely to affect a person described in paragraph 8(1)(a)(i) or 8(1)(a)(ii)(aa), you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.

9(3) Where you have a personal interest in any business of the authority of the type mentioned in paragraph 8(1)(a)(viii), you need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.

9(4) Sub-paragraph (1) only applies where you are aware or ought reasonably to be aware of the existence of the personal interest.

9(5) Where you have a personal interest but, by virtue of paragraph 14, sensitive information relating to it is not registered in your authority's register of Members' interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.

9(6) Subject to paragraph 12(1)(b), where you have a personal interest in any business of your authority and you have made an executive decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.

9(7) In this paragraph, "executive decision" is to be construed in accordance with any regulations made by the Secretary of State under section 22 of the Local Government Act 2000

Prejudicial interest generally

10(1) Subject to sub-paragraph (2), where you have a personal interest in any business of your authority you also have a prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.

10(2) You do not have a prejudicial interest in any business of the authority where that business—

(a) does not affect your financial position or the financial position of a person or body described in paragraph 8;

(b) does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 8; or

(c) relates to the functions of your authority in respect of—

(i) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;

(ii) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;

(iii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;

(iv) an allowance, payment or indemnity given to Members;

(iv) any ceremonial honour given to Members; and

(vi) setting council tax or a precept under the Local Government Finance Act 1992.

Prejudicial interests arising in relation to overview and scrutiny committees

11 You also have a prejudicial interest in any business before an overview and scrutiny committee of your authority (or of a sub-committee of such a committee) where—

(a) that business relates to a decision made (whether implemented or not) or action taken by your authority's executive or another of your authority's committees, sub-committees joint committees or joint sub-committees; and

(b) at the time the decision was made or action was taken, you were a member of the executive, committee, sub-committee, joint committee or joint sub-committee mentioned in paragraph (a) and you were present when that decision was made or action was taken.

Effect of prejudicial interests on participation

12(1) Subject to sub-paragraph (2), where you have a prejudicial interest in any business of your authority—

(a) you must withdraw from the room or chamber where a meeting considering the business is being held—

(i) in a case where sub-paragraph (2) applies, immediately after making representations, answering questions or giving evidence;

(ii) in any other case, whenever it becomes apparent that the business is being considered at that meeting;

unless you have obtained a dispensation from your authority's standards committee;

- (b) you must not exercise executive functions in relation to that business; and
- (c) you must not seek improperly to influence a decision about that business.

12(2) Where you have a prejudicial interest in any business of your authority, you may attend a meeting (including a meeting of the overview and scrutiny committee of your authority or of a sub-committee of such a committee) but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

Part 3 - Registration of Members' Interests

Registration of Members' interests

13(1) Subject to paragraph 14, you must, within 28 days of—

- (a) this Code being adopted by or applied to your authority; or
- (b) your election or appointment to office (where that is later),

register in your authority's register of Members' interests (maintained under section 81(1) of the Local Government Act 2000) details of your personal interests where they fall within a category mentioned in paragraph 8(1)(a), by providing written notification to your authority's monitoring officer.

13(2) Subject to paragraph 14, you must, within 28 days of becoming aware of any new personal interest or change to any personal interest registered under paragraph (1), register details of that new personal interest or change by providing written notification to your authority's monitoring officer.

Sensitive information

14(1) Where you consider that the information relating to any of your personal interests is sensitive information, and your authority's monitoring officer agrees, you need not include that information when registering that interest, or, as the case may be, a change to that interest under paragraph 13.

14(2) You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph (1) is no longer sensitive information, notify your authority's monitoring officer asking that the information be included in your authority's register of Members' interests.

14(3) In this Code, “sensitive information” means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subjected to violence or intimidation.

Voluntary Registration of Membership of Private Clubs

15. You may provide written notification to the authority's monitoring officer of your membership of any private club and of any subsequent change or addition to your membership.

PART 9.2 ARRANGEMENTS REGARDING THE REGISTER OF MEMBERS' INTERESTS

Information for all councillors and co-opted members with voting rights

You must register your interests

- The Council adopted a new local Code of Conduct (“local Code”) on 15 May 2008. You must register in the Council’s register of Members’ interests details of your registerable **personal interests** within 28 days of this date, or (if later) within 28 days of your election or appointment to office. These are the interests which fall within any of the categories mentioned in paragraph 8(1)(a) of the Council’s local Code.
- To satisfy the requirement to register, you must provide **written** notification to the Council’s Monitoring Officer (the Director of Strategy and Governance).
- **Please do this by completing all the sections of the attached form. For sections where you have no declarations to make, please put “nil” or “not applicable” rather than leaving them blank. Then please sign the form, date it & return it without delay to the Director of Strategy and Governance, c/o Angela Woodall, Democratic Services, Room 120 King’s House, Grand Avenue, Hove, BN3 2SR.** If there is insufficient space at any particular category on the form, please supply the details on an additional sheet.

You must keep the information up to date

- You must within 28 days of becoming aware of any new registerable personal interest or change to any such interest that you have registered, register details of that new registerable personal interest or change by providing written notification to the Council’s Monitoring Officer.
- You can do this either by completing and sending a new version of this form or the short form (see Annex 2), or a letter or e-mail with the necessary information, to the Director of Strategy and Governance, c/o Angela Woodall, Democratic Services, Room 120 King’s House, Grand Avenue, Hove, BN3 2SR.

Possible exception - sensitive information

- Under paragraph 14 of the local Code, where you consider that the information relating to any of your registerable personal interests is sensitive information, and the Council’s Monitoring Officer agrees, you need not include that information when registering that interest, or, as the case may be, a change to that interest.

- “Sensitive information” means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subjected to violence or intimidation.
- **Please contact the Monitoring Officer if you wish to seek his agreement to the omission of any information under this provision.**
- NB, you must, within 28 days of becoming aware of any change of circumstances which means that excluded information is no longer sensitive information, notify the Council’s Monitoring Officer asking that the information be included in the Council’s register of Members’ interests.

Queries / Contacts

- If you have any queries about the register, or making your declaration of personal interests, or amending your declaration, do please contact any of the following as appropriate:-
- Mark Wall, Head of Democratic Services - ext 1006 - and Angela Woodall, Democratic Support Manager – ext 1354 – for routine matters as the Democratic Services team keeps the register and the forms that you submit. They also deal with any requests for inspection by the public.
- Liz Woodley, Senior Solicitor – ext 1509 – for more complex or legal queries about the obligation to register or interpretation of the local Code and its requirements.
- Abraham Ghebre-Ghiorgis, Head of Law – ext 1500 – is the Deputy Monitoring Officer and Alex Bailey, Director of Strategy & Governance – ext 1295 – is the Monitoring Officer.
- You may also find the Standards Board website at www.standardsboard.gov.uk to be helpful. Under “code of conduct” it has an extensive section on “frequently asked questions about the Code”.

**BRIGHTON & HOVE CITY COUNCIL – MEMBER DECLARATIONS
PUBLIC REGISTER OF MEMBERS' INTERESTS**

Please complete all the sections of the form. For sections where you have no declarations to make, please put “nil” or “not applicable” rather than leaving them blank.

This entry is from _____ [please print name]
My registerable personal interests (under paragraph 8(1)(a) of the Council’s local Code of Conduct for Members) are as listed in column 3 below:-

	Type of Interest as described in the local Code.	Declaration – My interests
i	Any body of which I am a member or in a position of general control or management and to which I am appointed or nominated by the Council.	The Council has appointed / nominated me to:-
ii	Any body (1) exercising functions of a public nature; or (2) directed to charitable purposes; or (3) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union); of which I am a member or in a position of general control or management.	The following are <ul style="list-style-type: none"> • my other public bodies, • my charities & • my memberships of groups aiming to influence public opinion or policy (including political parties & trade unions):-

iii	Any employment or business carried on by me.	My job(s) are:-
iv	Any person or body who employs or has appointed me.	I do work for:-
v	Any person or body <u>other than a relevant authority</u> (“<u>relevant authority</u>” includes Brighton & Hove City Council, East Sussex Fire Authority, the Police Authority or any parish council) who has made a payment to me in respect of my election or any expenses incurred by me in carrying out my duties.	I get election or other expenses (including any <u>political</u> or <u>private</u> donations) from:-
vi	Any person or body who has a place of business or land in the Council’s area (the City of Brighton & Hove) and in whom I have a beneficial interest in a class of securities of that person or body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital (whichever is the lower). (See explanatory note I at Annex I)	I have such an interest in the following persons/bodies with a local connection:-

vii	<p>Any contract for goods, services or works made between the Council and me or a firm in which I am a partner, a company of which I am a remunerated director, or a person or body of the description specified in box (vi) above.</p>	<p>I, my partnership, or a company / person / body that I am connected with has the following contracts with the Council:-</p>
viii	<p>Any person from whom I have received a gift or hospitality with an estimated value of at least £25. (See explanatory note 2 at Annex 1)</p> <p>NB (1) In each case please list</p> <ul style="list-style-type: none"> • the giver; • the date of receipt; • description of gift/hospitality; • any other comments eg whether you kept the gift or passed it on. <p>NB (2) Gifts / hospitality which you have previously declared will be retained on the register – there is no need to declare them again.</p>	<p>The following gift(s) / hospitality were given to me in connection with or by reason of my membership of the Council:-</p>
ix	<p>Any land in the Council's area (the City of Brighton & Hove) in which I have a beneficial interest. (See explanatory note 3 at Annex 1)</p>	<p>I have the following property interests (eg freehold, leasehold or tenancy) in the Council's area:-</p>

x	Any land where the landlord is the Council and the tenant is me or a firm in which I am a partner, or a company of which I am a remunerated director, or a person or body of the description specified in box (vi) above.	I, my partnership, or a company / person / body that I am connected with is the tenant of the Council at the following addresses(es):-
xi	Any land in the Council's area (the City of Brighton) for which I have a licence (alone or jointly with others) to occupy for 28 days or longer.	I have a licence to occupy the following land in the Council's area:-
<p style="text-align: center;">Voluntary registration of membership of private clubs</p> <ul style="list-style-type: none"> • Paragraph 15 of the Council's local Code of Conduct indicates that you may provide written notification to the Monitoring Officer of your membership of any private club and of any subsequent change or addition to this information. • You are encouraged to make such a declaration since the Council considers this promotes the interests of openness and represents good practice. However failure to declare membership of private clubs will not be a breach of the Code. • The space below is for this purpose. This voluntary declaration would include clubs such as cricket, football and other sports clubs, social clubs or other similar organisation, but NB any clubs or organisations which are charities, for example Rotary or the Grand Charity (Freemasons) MUST be declared at section ii of this form (above) and not here. 		

I declare to Brighton & Hove City Council that the above are my interests, as required to be declared by the Council's local Code of Conduct.

Signed _____ Date _____

Name (please print) _____

BRIGHTON & HOVE CITY COUNCIL – MEMBER DECLARATIONS

Guidance based on information supplied by the Standards Board in relation to some of the questions the Board is frequently asked about the register of personal interests

1. The local Code refers to the nominal value of shares. What is this - is it different to the market value of shares?

The nominal value of shares is the face value of those shares (the value recorded on the share certificate). For example:

You bought 10,000 £1.50 shares (face value) in 1999. The market value at the time was £3.00 each, so the total paid was £30,000. Those shares are now worth £45,000. *You are required to declare the nominal value of shares held in excess of £25,000.* The nominal value of those shares would be £15,000 (10,000 x £1.50). Therefore you would not be obliged to enter the shares on the register of interests, even though the current market value of the shares is £45,000. *This will be the case unless the number of shares you hold represents more than one hundredth of the total issued share capital of the relevant corporate body.*

2. Do I need to register all gifts and hospitality I receive?

No. You only need to register gifts and hospitality worth at least £25 that you receive in connection with your official duties as a Member. The local Code says that it does not apply to Members outside their official capacity apart from certain specified circumstances. Gifts received in a personal capacity do not fall within those circumstances, so do not need to be registered.

3. Do I need to register land that I own overseas or in parts of England outside the Council's area?

No. You only need to register land you own or in which you have a beneficial interest that is within the Council's area.

**BRIGHTON & HOVE CITY COUNCIL – MEMBER DECLARATIONS
PUBLIC REGISTER OF MEMBERS' INTERESTS**

1. This form is for you to notify changes to your declaration of interests as a Member. Please send the completed form within 28 days of the change to: The Director of Strategy & Governance, c/o Angela Woodall, Democratic Services, King’s House, Grand Avenue, Hove, BN3 2LS

2. NB in relation to gifts and hospitality received by you in your role as a Member, only gifts or hospitality with an estimated value of at least £25 must be declared.

Please list below any gifts & hospitality received by you		
1.	Name of person who, or organisation which, supplied gift / hospitality to you	
2.	Date of receipt of gift / hospitality	
3.	Description of gift / hospitality	
4.	Any other comments / information (eg you may wish to say whether you have kept a gift or passed it on)	
Please list below any other changes to your interests		

Please amend the declaration of my personal interests under Brighton & Hove City Council’s local Code of Conduct for Members to record the change(s) listed above:-

Signed _____ Date _____

Name (please print) _____

Subject: *Appointment of Independent Members*
Date of Meeting: **14 September 2010**
Report of: *Monitoring Officer*
Contact Officer: Name: Liz Woodley Tel: 29-1509
E-mail: liz.woodley@brighton-hove.gov.uk
Wards Affected: All

FOR GENERAL RELEASE**1. SUMMARY AND POLICY CONTEXT:**

- 1.1 This report sets out the requirements regarding the appointment of Independent Members and a timetable for the recruitment of two new independent members.

2. RECOMMENDATIONS:

- 2.1 That the report be noted.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 According to the council's constitution, the membership of the Standards Committee comprises six members of the Council, plus two representatives from Rottingdean Parish Council and 4 independent members who are not members of the Council. For some time the Committee has been operating with only three independent members, but the recent resignation of Helen Scott with effect from 30 September has caused a review of that position.
- 3.2 Independent Members are important in helping to increase public confidence in local government. They provide a clear signal that standards committees act fairly and impartially. They also bring with them a wider perspective from their outside experiences. They are an essential part of the Local Assessment of Complaints in that each Assessment, Review and Hearing Panel must include at least one independent member. It is clear that Helen needs to be replaced, and the opportunity is therefore being taken to appoint a fourth independent member.
- 3.3 The Relevant Authorities (Standards Committees) Regulations 2001 ("the 2001 Regulations") regulate the appointment of independent persons. They provide that Independent Members cannot be appointed unless the appointment: -
- i) is approved by a majority of the full members of the Authority
 - ii) is advertised in one or more local newspapers
 - iii) is of a person who has submitted an application to the Authority

- iv) is of a person who has not within the period of 5 years immediately preceding the date of appointment been a member or officer of the authority
 - v) is of a person who is not a relative or close friend of a member or officer of the authority (Relative and Partner are defined in Regulation 2 of the 2001 regulations).
- 3.4 Apart from the notice in a local newspaper advertising the position, Standards for England (SfE) advises that an authority may wish to consider additional methods of attracting candidates. These could include:-
- i) Placing articles in the local press about the role of the independent member;
 - ii) Placing advertisements on the authority's website or local radio station;
 - iii) Placing flyers in libraries, adult learning centres, or places of worship;
 - iv) Advertising through other authorities' partnerships or through the local voluntary or community sector;
 - v) Approaching a citizens' panel;
 - vi) The personal approach – eg contacting neighbouring authorities which may have more suitable candidates than they can appoint;
 - vii) Approaching a person who is an independent member of a standards committee of a different authority.
- 3.5 The current appointments will be advertised in the Evening Argus on 9 September with a closing date of 17 September 2010. The advertisement has been sent to the Brighton & Hove Community and Voluntary Sector Forum and appears on the website of both the Brighton Chamber of Commerce and the Council. Although there is no requirement for interviews, they will be conducted by a Panel comprising the Chairman of the Standards Committee, two elected Members from the Committee and the Monitoring Officer. The Panel's recommendations will be reported to full Council at its meeting on 21 October for the appointments to be approved by a majority of the full members of the Council

Terms of appointment

- 3.6 In its Local Standards Framework guide, SfE advises that it is for an authority to decide how to select independent members and how long they should sit on a Panel. It recommends a fixed period of 4 years, being long enough for the member to gain an understanding of the panel, the authority and its workings, but not so long that they could be perceived as losing their independence. Existing independent members can be re-appointed, but SfE recommends that independent members should serve no more than two terms – which is a maximum of eight years. It is proposed that the current appointments be for a 4-year term.
- 3.7 Although the Council is legally entitled to pay an allowance to independent members of the Standards Committee, its current scheme of Members' Allowances only makes provision for payment of a co-optees allowance to the independent Chair and Deputy Chair if one is appointed. The new independent

members will therefore not be eligible for an allowance, although they will be eligible for Travel & Subsistence, Childcare and Dependant Carer's' Allowances

4. CONSULTATION:

- 4.1 Dr Wilkinson and the Monitoring Officer have been consulted on the arrangements for the appointment of new independent members.

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 5.1 The costs associated with the appointment of two Independent Members and the ongoing allowances can be met from existing budgets.

Finance Officer consulted: Anne Silley

Date: 23 August 2010

Legal Implications:

- 5.2 These are addressed in the body of the report.

Lawyer consulted: Liz Woodley

Date: 24 August 2010

Equalities Implications:

- 5.3 There are no direct equalities implications arising from the report.

Sustainability Implications:

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

Crime & Disorder Implications:

- 5.5 There are no crime and disorder implications arising from this report.

Risk and Opportunity Management Implications:

- 5.6 There are no risk or opportunity management implications arising from this report.

Corporate / Citywide Implications:

- 5.7 There are no corporate/citywide implications arising from this report.

SUPPORTING DOCUMENTATION

Appendices:

None.

Background Documents:

None.

Documents In Members' Rooms:

None.

Subject:	<i>Review of the Code of Conduct for Member/Officer Relations</i>		
Date of Meeting:	14 September 2010		
Report of:	<i>Monitoring Officer</i>		
Contact Officer:	Name: Liz Woodley	Tel:	29-1509
	E-mail:	liz.woodley@brighton-hove.gov.uk	
Wards Affected:	All		

FOR GENERAL RELEASE**1. SUMMARY AND POLICY CONTEXT:**

- 1.1 This report sets conclusions of the Working Group set up to review the Council's Code of Conduct for Member/Officer Relations, and recommends the adoption of a revised Code.

2. RECOMMENDATIONS:

- 2.1 That the Standards Committee recommends to the Council that the revised Code of Conduct for Member/Officer Relations set out in Appendix 1 to the report be adopted.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 Between October 2008 and March 2009 the Audit Commission undertook a review of governance in Brighton & Hove. The review was based on the Good Governance Standards for Public Services developed by the Independent Commission on Good Governance in Public Service. It included a recommendation to "Review the framework for member and officer relations and the related arrangements to ensure that they are understood and followed in practice."
- 3.2 At its meeting on 22 June 2010 the Committee agreed to set up a working group to review the Code of Conduct for Member/Officer Relations. The Chairman together with Councillors Lepper, Mrs Theobald and Watkins agreed to serve on the Group.
- 3.3 The Group met twice, in July and August, and identified some areas of concern. It proposed that a revised Code be adopted, as shown in Appendix 1. The recommended changes are shown in italics.

3.4 **Issues Considered:**

Co-opted members

- 3.4.1 The existing Code does not make it clear whether it applies to co-opted members as well as elected members. The Group saw no reason why the Code should not apply and therefore recommended an addition to the Introduction at paragraph 1a) to make the position clear.

Employee Volunteering Scheme

- 3.4.2 The Council has recently approved an Employee Volunteering Scheme. It allows employees paid time off to work for a local voluntary or community organisation. There is clearly scope for employees to come into contact with Members while volunteering. The Group considered that Members and Officers need to be reminded that the Code would apply in this situation – hence the suggested addition to paragraph 2a)

Political Assistants

- 3.4.3 The Council employs 3 political assistants. Their existence is not acknowledged in the existing Code, let alone their unique position regarding political activity. It was therefore deemed appropriate to add a brief paragraph at 4g).

Keeping Members informed

- 3.4.4 Elected members cited a number of examples where they had not been made aware of significant events happening in their wards. They therefore wanted paragraph 6a) strengthened to remind officers of the need to keep them informed.

Harassment and bullying

- 3.4.5 The council has recently adopted a Dignity & Respect at Work Policy. Instead of reporting alleged bullying and harassment by Members to line managers, employees may choose to use the less formal Dignity & Respect policy. A reference to this has therefore been included in paragraph 13 c).

Updating

- 3.4.6 Since 17 January 2010 the Standards Board has no longer been able to impose sanctions for a breach of the Code of Conduct. That power now rests with the First Tier Tribunal. Accordingly references to the Standards Board have been replaced with references to the First Tier Tribunal.
- 3.5 The Working Group noted that the Government had announced its intention to make changes to the Freedom of Information Act. It considered that no substantive changes should be made to Appendix 1 – Access to Information – the “Need to Know” until the legislation had been published.

4. CONSULTATION:

- 4.1 The proposed changes to the Code have been the subject of consultation with the independent Chairman of the Standards Committee and three elected Members. The Monitoring Officer attended both meetings of the Working Group.

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 5.1 There are no direct financial implications arising from the recommendations of this report.

Finance Officer consulted: Anne Silley

Date: 24 August 2010

Legal Implications:

- 5.2 The Code of Conduct for Member/Officer Relations is one of a number of documents comprising the council's constitution. With limited exceptions, all changes to the constitution must be approved by full council.

Lawyer consulted: Liz Woodley

Date: 24 August 2010

Equalities Implications:

- 5.3 There are no direct equalities implications arising from the report.

Sustainability Implications:

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

Crime & Disorder Implications:

- 5.5 There are no crime and disorder implications arising from this report.

Risk and Opportunity Management Implications:

- 5.6 There are no risk or opportunity management implications arising from this report.

Corporate / Citywide Implications:

- 5.7 There are no corporate/citywide implications arising from this report.

SUPPORTING DOCUMENTATION

Appendices:

- 1 Revised Code of Conduct for Member/Officer Relations.

Background Documents:

- 1 None.

Documents In Members' Rooms:

- 1 None.

PART 9.7 CODE OF CONDUCT FOR MEMBER/OFFICER RELATIONS

1. Introduction

- (a) An effective and productive working relationship between Members and officers is critical to the successful operation of the Council's business. This code deals with the Member/officer interface in general terms and then refers to the working relationship between Members and Chief Officers, senior officers and other officers who formally advise the Council. *Unless the context indicates otherwise, the terms Member and Members include co-opted Members as well as elected councillors.*
- (b) Excellent working relationships between Members and officers are required both to deliver high quality services to local people and to maintain public confidence in the machinery of local government in Brighton & Hove.

2. Mutual Respect and Courtesy

- (a) For the effective conduct of the Council's business there must be mutual respect and courtesy in all meetings and contacts, both formal and informal, between Members and officers. *Members and officers should be aware that contact may occur outside the traditional local government environment, as officers who undertake voluntary work within the City as part of the Employee Volunteering Scheme remain Council employees while they are volunteering.* The basic tenets of common courtesy apply in both formal and informal settings. This plays an important part in safeguarding the Council's reputation and the regard in which it is held by members of the public.
- (b) It is important that both Members and officers remember their respective obligations to enhance the Council's reputation and do what they can to avoid criticism of Members or officers in public. The quality of the interface between the two is vital in ensuring that the highest ethical standards permeate the Council in both its private and public dealings.
- (c) Members should be aware that officers are constrained in the response they may make to public comment from Members and should not abuse officers in public or through the press nor seek to undermine their position by abuse, rudeness or ridicule. This in no way reduces Members' proper right and duty to criticise the reports, actions and work of a department or section of the Council where they believe such criticism is merited. If Members believe they have reason to criticise the work of an individual junior officer, the proper approach should be

through the senior manager of the section or Chief Officer of the relevant department. Equally where officers feel they have good cause to criticise a Member, an approach by the relevant Chief Officer to that Member's party whip, group leader or convenor is a sensible first step.

3. Roles and Responsibilities

- (a) All Members have responsibilities towards the Council, effectively as trustees. However, certain Members will exert more influence and direction than other. The Leader and Cabinet Members have special responsibilities as they have collective and individual powers to take decisions on matters that fall within the category of executive functions. They need to work closely with senior officers to ensure that they discharge their functions lawfully and in the interests of the Council and council tax payers. Committee/Sub-Committee Chairmen will also exert influence and guidance within the area covered by their Committees/Sub-Committees. The role of Committee/Sub-Committee Chairmen is recognised for procedural purposes, for example, conducting meetings or exercising a casting vote. They too need to liaise with senior officers on significant matters, even though they cannot reach individual decisions on behalf of the Council.
- (b) Members are responsible to the electorate and may serve until their term of office expires or until it is ended before that, for whatsoever reason. Officers are employed by, and are responsible to, the Council. Their job is to give advice to Members and the Council and to carry out the Council's work under the direction and control of the Council, its Leader, Cabinet Members, Committees and Sub-Committees and the management of the Chief Executive and the relevant Chief Officer.
- (c) Officers are employed to advise the Council and to implement its decisions. Officer advice must be full and impartial and should include all relevant options. It must not seek to second-guess the decisions of Members, for example by excluding presumed unpalatable options, and must be clear and professional at all times. Members should respect officers' political neutrality at all times. But Members are entitled to reject officer advice and to give effect to their lawful policies even if these are clearly at variance with the views of officers. It is by this means that, for example, the Leader and Cabinet Members are able to implement the policies for which they regard themselves as responsible to the electorate and the opposition groups are able to challenge them and put forward their own policies.

4. Political Activity

- (a) Senior officers, except those specially exempted, cannot be local authority Members or MPs, nor can they "speak or publish written work for the public at large or to a section of the public with the apparent intention of affecting public support for a political party". Such officers are nevertheless able to engage in such activity to "such extent as is

necessary for the proper performance of their duties". (Sections 1-3 of the Local Government and Housing Act 1989 and Local Government Officers (Political Restrictions) Regulations 1990.

- (b) Officers are employed by the Council not by the Leader, Cabinet Members, Committees/Sub-Committees or individual Members and are subject to the application of the Council's employment policies and procedures including the Council's Code of Conduct for Officers.
- (c) National conditions of service provide that officers cannot be required to advise any political group of the Council, either as to the work of the group or as to the work of the Council, neither can they be required to attend any meetings of any political group. Nonetheless it is common practice for party groups to give preliminary consideration to matters of Council business and officers may properly be called upon to support and contribute to such deliberations.
- (d) Normally, only the Chief Officer will be expected to attend meetings, write reports or carry out other work relating to Council business (including drafting Notices of Motion) for a party political group. Subject to the Chief Officer's discretion, other senior officers may be invited to attend meetings, provide information, write reports and draft Notices of Motion, or carry out other work relating to Council business for party political groups. However, neither the Chief Officer nor any other officer can be instructed to do so nor can they be instructed to carry out any party political work. This provision covers meetings of or reports to a party political group or meetings designated for one party only. It is, of course, open to the Leader, Cabinet Members, any Committee or any Sub-Committee to require reports from Chief Officers on matters within their terms of reference.
- (e) Officers must respect the confidentiality of any party group discussions at which they are present and should not relay the contents of any such discussions to another party group.
- (f) The principle in (d) above does not deny the necessity for regular contact on matters affecting the Council between Chief Officers, other senior officers and the leadership of political groups, and on matters affecting executive or committee functions between Chief Officers, other senior officers and the Leader, Cabinet Members, Committee/Sub-Committee Chairmen and party spokespersons.
- (g) *The principles outlined at c) and d) above, do not apply to political assistants appointed pursuant to section 9 of the Local Government and Housing Act 1989. Schedule 1 to the Local Government Officers (Political Restrictions) Order 1990 sets out a number of terms and conditions which are deemed to be incorporated into a political assistant's contract of employment. These include a prohibition on standing for election, acting as an election agent or being a manager or officer of a Political Party. Further, a political assistant cannot speak to the public at large or to a section of the public in circumstances which are likely to create an impression that they are speaking as an authorised representative of a political party, whether so authorised or not. Separate detailed guidance has been issued for political assistants.*

5. Contact between Members and Officers

- (a) Regular contact between Members and senior officers is necessary to ensure the efficient working of the Council. In this context, it is the responsibility of Chief Officers to identify within each department the senior officers who should have regular contact with Members and this will depend upon the nature of the service they provide and the nature of the Member contact envisaged. However Members should always bring major concerns about issues affecting a department directly to the attention of the Chief Officer concerned.
- (b) Serious problems can arise if Members bypass appropriate lines of communication to Chief Officers and their senior officers and, for example, deal with more junior members of staff to seek views on policy issues, non-routine business, or attempt to give instructions to staff. This has the effect of depriving Members of the formal, informed and accountable advice they have a right to expect from Chief Officers. It may also serve to undermine the formal accountability of staff to their line manager.
- (c) However, there are circumstances when Members may need direct contact with relatively junior staff, for example, with junior officers in Housing District Offices when dealing with constituency casework presented by tenants. Approaches by Members to junior officers are proper when casework is detailed and ongoing or matters are routine but wherever appropriate Members should keep Chief Officers informed by copying them correspondence, e-mails etc., and routing general enquiries through them.

6. Information for Members

- (a) It is important that officers keep Members informed both about the major issues concerning the Council and, more specifically, about issues and events affecting the wards which Members represent. Ward Members should be informed *in a timely manner* about all proposals which affect their area *including, but not limited to*, declarations of surplus property, a new traffic management scheme or a local planning application. Ward Members should also be invited to attend the opening of new Council buildings or road schemes or other similar ceremonies within their wards. *Whenever a public meeting is organised by the Council to consider a local issue, all Members representing the ward or wards affected should as a matter of course be invited to attend the meeting.* It should also be borne in mind that Members who are not Cabinet Members or Members of a particular Committee/Sub-Committee may be able to attend and speak at meetings of the Cabinet, of Cabinet Member or of Committees/Sub-Committees with the agreement of the Chairman or person presiding at the meeting.

- (b) The disclosure of information by Members which they have gained as Members when the information is confidential, is restricted. It should not, therefore, be made available by the Member concerned to the press or public nor should it be passed onto another Member who cannot demonstrate a similar “need to know”.

7. Access to Information

- (a) Members have wide-ranging legal rights of access to documents in the possession or under the control of the Council and officers should implement requests for information from Members who need that information for the fulfilment of their duties as a Member.
- (b) Normally, officers will accept that Members do not ask for information without good reason and will not question the Member’s “need to know”. But in the words of relevant legal arguments, a Member has no right to a “roving commission” and “mere curiosity or desire” is not sufficient. Nor can the Member exercise the right for some improper motive, e.g. to assist someone in litigation with the Council, its staff, suppliers or service users.
- (c) In rare cases therefore a Chief Officer may apply the “need to know” test. The Member will need to show why the information is necessary to fulfil Council duties. Further guidance on the “need to know” issues is set out in Appendix 1 to this code. Where an officer considers that a Member has not established a “need to know” in support of a request for access to information and refuses to provide the information requested, the officer shall state reasons for doing so. Where the Member is dissatisfied with the outcome the matter shall be referred to the Monitoring Officer for a decision.
- (d) A Member asking for complex or bulky information should be flexible in his or her demands if compiling and reproducing the documentation results in significant cost to a department. The Member will normally be able to view relevant material and to copy individual documents and retain them but may not make use of such information for an improper purpose or one unrelated to the Member’s duties.
- (e) Members are reminded of their duty not to disclose confidential information which they have gained access to as Members (see also 6(b) of this Code). To do so is not only a breach of this code but is also very likely to be a breach of the Code of Conduct for Members for which the Council’s Standards Committee or *the First-Tier Tribunal* can impose penalties. If any Member believes that he or she may have justification for disclosing confidential information, he or she must first seek advice from an appropriate officer such as the Monitoring Officer, Chief Finance Officer or Chief Executive.

8. Preparation of Officer Reports for the Leader, Cabinet Members or Committees/Sub-Committees

- (a) Officer reports to the Leader, Cabinet Members, Committees and Sub-Committees should be written by the Chief Officer or other officer authorised by him or her. All sensitive officer reports shall be discussed with, as appropriate, the Leader, the relevant Cabinet Member, or the relevant Committee/Sub-Committee Chairman at one of the regular meetings held with the Chief Officer.
- (b) However, the draft officer report belongs to the officer concerned and even if the Leader, relevant Cabinet Member, Chairman or another Committee/Sub-Committee Member in exceptional circumstances is unhappy with its contents, it should not be amended by them save with the express approval of the Chief Officer. It is for the Chief Officer to determine when a draft officer report should be amended in the light of Members' views, taking advice from the Chief Executive, Monitoring Officer or Chief Finance Officer as appropriate.
- (c) It should be noted that the guidance above relates to reports prepared by officers. In any case where the Leader or a Cabinet Member writes a report relating to his or her functions, the report will belong to the Member concerned and be that Member's responsibility. In such cases the Member will ensure that relevant officers, including the Chief Finance Officer and the Monitoring Officer, are consulted, to ensure that the report's content is practical, lawful, in compliance with the fiduciary duty to council tax payers and in the interests of the Council.

9. Correspondence

- (a) Frequently Members and officers correspond and, where it is appropriate to regard the correspondence as non-confidential, it may be copied by either the sender or the recipient to others, subject to the provisions of paragraphs 9(b) to (d) below and to the requirement that correspondence should be courteous and wide circulation of it should not be employed as a means of administering a public rebuke to a Council officer.
- (b) Officers should not copy correspondence with a Member of one party to a Member of another party without consent. This does not prevent officers or Members copying correspondence to each other about casework across ward or interest group boundaries. Nor does it preclude a Chief Officer from advising the Leader, a Cabinet Member, or a Committee/Sub-Committee Chairman in general terms of an issue raised with the Chief Officer in correspondence, or otherwise, with a Member.

- (c) Members and officers must treat as confidential any personal information protected from disclosure by the Data Protection Act unless the disclosure is permitted under the Act or by other legislation.
- (d) Members should bear in mind that if they disclose any information which should have been regarded as confidential, this is very likely to be a breach of the Code of Conduct for Members, as mentioned at paragraph 7(e) above. If in doubt as to the status of the correspondence, the Member should check with the officer concerned before taking any steps to distribute it more widely.

10. Undue Pressure

- (a) Members need to be aware that it is easy for officers, particularly junior members of staff, to be overawed and feel at a disadvantage in their dealings with Members. Such feelings can be intensified where Members hold official and/or political office. Therefore, the usual point of contact for Members should be the relevant Chief Officer or Deputy Chief Officer.
- (b) A Member should not request an officer to do anything that she or he is not empowered to do, nor to cease any action which the officer is properly taking or proposes to take, nor to undertake work outside normal duties or outside normal hours, nor to provide information to which the Member is not entitled. Advice on the appropriateness of such requests is available from either the Chief Officer or the Monitoring Officer.
- (c) Similarly, an officer must neither seek to use undue influence on an individual Member to make a decision in their favour nor to raise personal matters to do with their job, nor make claims or allegations about other officers. The Council has formal procedures for consultation, grievance and discipline.

11. Familiarity

- (a) Close personal familiarity between individual Members and officers can damage the principle of mutual respect. It could also, intentionally or accidentally, lead to the passing of confidential information or information which should not properly be passed between them, e.g. personal details. Such familiarity can also cause embarrassment to other Members and/or other officers and even give rise to suspicions of favouritism.
- (b) For the above reasons, it is evident that close personal familiarity should be avoided, and in any event must be declared both by the Member and the officer. Such declarations should be made by the officer to the officer's Chief Officer and by Members to the Chief Executive.

12. Officers and Overview and Scrutiny

- (a) Where an Overview and Scrutiny Committee exercises its powers to require officers to attend to answer questions or discuss issues it should also consider the seniority of officers it would be appropriate to require to appear before them, in order to ensure that more junior officers are not put under undue pressure. Guidelines on this matter are included in the Overview and Scrutiny Procedure Rules at Part 4 of the Constitution.
- (b) Overview and Scrutiny Committees should always bear in mind that when officers appear to answer questions their evidence should, as far as possible, be confined to questions of fact and explanation relating to policies and decisions. Officers may explain what the policies are, the justification and objectives of those policies as the decision makers see them, the extent to which those objectives may have been met, and how administrative factors may have affected both the choice of policy measures and the manner of their implementation. They may be asked to explain and justify advice they have given to Members prior to decisions being taken and/or decisions they themselves have taken under delegated authority.
- (c) As far as possible, officers should avoid being drawn into discussion of the merits of alternative policies where this is politically contentious. Any comment by officers on the Council's policies and decision makers' actions should always be consistent with the requirement for officers to be politically impartial.

13. Redress and Breach of this Code

- (a) If a Member has a complaint about a junior or senior officer, it should be raised with the relevant Chief Officer. If the complaint concerns a Chief Officer it should be raised with the Chief Executive as Head of Paid Service. A complaint about the Chief Executive should be raised with the Leader, who will consider whether the issue can be dealt with as part of routine liaison, supervision and appraisal, or should be referred for formal action in accordance with Council procedures and the statutory provisions governing disciplinary action against Local Authority Chief Executives. This does not however preclude a Member from making public, at a Council meeting or in another appropriate way, a concern about the manner in which a Council department has acted, or dealt with a constituent, or a service has performed generally. Nor does it prevent Members at meetings of the Leader, Cabinet Member, Committees or Sub-Committees being critical of officer advice or action or of the quality of reports before them. But the manner of such criticism should have regard to the guidance in respect of mutual respect and courtesy at paragraph 2 of this Code.
- (b) If a Member considers that he or she has not been treated with proper respect or courtesy by an officer or that an officer is otherwise in

breach of this Code, the Member may raise it with the officer's line manager or Chief Officer without delay if the Member fails to resolve it through direct discussions with the officer. A Member may raise the issue with the Chief Executive, after discussion with the relevant Chief Officer. If the issue still remains unresolved, appropriate disciplinary action may be taken against the officer.

- (c) If an officer has similar concerns about a Member, the officer should raise the matter with his or her line manager or Chief Officer as appropriate without delay, especially if the officer does not feel able to discuss it with the Member concerned. In such circumstances the Chief Officer will take such action as is appropriate either by approaching the individual Member and/or party group leader. The Chief Officer will inform the Chief Executive and the Monitoring Officer if the party group leader or the Leader, a Cabinet Member, a Committee/Sub-committee Chairman becomes involved, or in any other case where that is appropriate. *Alternatively, any officer who feels that he or she has been bullied by a Member may invoke the Dignity & Respect at Work Policy.*
- (d) If an officer is concerned that another officer is in breach of this Code, or if a Member is concerned that another Member is in breach of this Code, he or she should raise the issue directly with either their line manager or Chief Officer or with their party group leader. Similar redress may be sought as in the previous paragraph.

14. Conclusion

- (a) Mutual understanding, openness and basic respect are the greatest safeguards of the integrity and reputation of the Council, its Members and officers.
- (b) If Members or officers have any concerns about the content of this Code, or wish any interpretation or advice upon its contents, they should contact in the first instance the Monitoring Officer or the Chief Executive.

ACCESS TO INFORMATION – THE “NEED TO KNOW”

1. The courts have given guidance on the circumstances in which a Member seeking information from an officer can be presumed to have a “need to know”. This was formulated before the establishment of executive powers for individual Members, but the principles have been extended appropriately in the note below.
2. Members are presumed to have a good reason for access to all written material relating to a function controlled by a Committee on which they serve or an executive function for which they have responsibility either as an individual or jointly with other Cabinet Members. Also a Member of a Committee would have a good reason for access to papers relating to the business of a Sub-Committee of that Committee.
3. A Member with a legitimate concern in a matter in which she or he is representing a constituent or other person or organisation may be able to demonstrate a “need to know” in relation to papers relevant to that matter, even if the Member concerned is not on the relevant Committee/Sub-Committee or does not have any related responsibilities as a Cabinet Member.
4. However, even where a Member is
 - (a) a Member of a Committee/Sub-Committee and wishes to see papers relating to the work of that Committee or a Sub-Committee of it, or
 - (b) wishes to see papers relating to his or her responsibilities as a Cabinet Member,there will not be an automatic right of access to papers if the Member’s interest springs from something other than the wish to pursue rights as a Member of that Committee/Sub-Committee or a Cabinet Member.
5. Party leaders may be able to demonstrate a “need to know” in respect of written material relating to all Committees/Sub-Committees. A Cabinet Member may be able to demonstrate a “need to know” in respect of written material relating to functions of other Cabinet Members for any matter which is to be dealt with by a committee of Cabinet Members which includes that Member.
6. Notwithstanding that the information requested may come within the above categories, an officer may refuse a request to provide the information if she or he has cause to think that the information may

have been requested for an improper purpose or is otherwise unreasonable or is of a personally sensitive nature.

7. In this context, the courts have been critical of a request by a Member for details of many contracts, and have ruled that a request for details of a Chief Officer's attendance at the office amounted to harassment.
8. An officer in judging whether a Member requesting information has a right to it is entitled to know the reasons for wanting it, and in the absence of cogent reasons is entitled to refuse. Where an officer considers that a Member has not established a "need to know" in support of a request for access to information and refuses to provide the information requested, the officer shall state reasons for doing so.
9. Members are entitled to have enough information to be able to perform their functions properly and the Courts will protect this position. Members should however bear in mind that unreasonable requests or pressure for information may amount to a breach of the Code of Conduct for Members, for which the Council's Standards Committee or *the First-Tier Tribunal* can impose penalties.
10. Access to Confidential Cabinet and Cabinet Member Reports
- 10.1 Members' rights of access to Cabinet and Cabinet Member reports are set out in paragraph 24 of the Access to Information Procedure Rules. Without prejudice to any rights that Members may have under those rules, this guidance or the law, the following practice and procedure should apply.
 - (a) The Council's approach regarding access to Cabinet or Cabinet Member reports will be guided by the general principles of openness and transparency.
 - (b) In the practical application of the principles, the Council will have regard to any legal duty of confidentiality and the need to be able to run its business as a responsible authority.
 - (c) As far as possible, and to the extent that it is consistent with legal duties and good practice, the Council will endeavour to put as many of the reports as possible in the public part or, where this is not appropriate, to have an item in the open part that gives the public an indication of the nature of the issue.
 - (d) As general rule the Chairman of the Scrutiny Commission and all Group Leaders will be provided with copies of any part II reports to the Cabinet or Cabinet Member meetings and there will be a presumption in favour Group Leaders and relevant Scrutiny Chairmen having access to part II reports.

- (e) In some cases, the matter under consideration may be such that it is necessary to limit the distribution of reports to Cabinet Members only or to restrict the copying, distribution, or retention of the reports by Members or Officers.
- (f) In exceptional cases, if the Chief Executive and the Monitoring Officer are of the opinion that significant legal, financial or commercial reasons exist, then the distribution of the reports may be restricted to the person/s making the decision. In coming to such a decision, the Chief Executive and the Monitoring Officer will have regard to the following:
- Whether the distribution of confidential papers to persons outside the decision-makers would be likely to constitute a breach of any legal duty to which the Council is subject , whether such duty arises from legislation, court order, contractual duty or other express or implied legal obligation;
 - Whether the disclosure of the information would be likely expose the Council to financial loss;
 - whether the disclosure of the information would be likely to have a detrimental effect on any commercial negotiations;
 - whether the report includes sensitive personal information the disclosure of which would expose the council to legal or reputational damage;
 - whether the report contains matters relating to labour relations or negotiations with trade unions and the disclosure of such information would be likely to compromise those negotiations.
- (g) steps taken to limit distribution or restrict the manner of use shall be proportionate to the perceived risk. Depending on the Chief Executive and the Monitoring Officer's assessment, any such measures may include, but are not limited to:
- Circulating the report to the decision makers only;
 - Collecting the reports at the conclusion of the meeting;
 - Making arrangements for relevant Members to read the report at a pre-arranged venue and not take the report away;
 - Restricting any copying of the report.
 - Marking reports
- (h) Where a restriction or limitation on distribution is imposed under the above provisions, the Chief Executive or the Monitoring Officer shall inform the Group Leaders and the Chairman of the Scrutiny Commission.

- (i) The procedure to restrict circulation of reports or the manner of use shall be applied only in exceptional circumstances and the presumption remains that Group Leaders and relevant scrutiny chairmen would be entitled see part II reports.
- (j) The above procedures are without prejudice to any right that Members may have to access information and documents under the common law principle of “need to know.”

Subject: *Complaints Update***Date of Meeting:** **14 September 2010****Report of:** *Monitoring Officer***Contact Officer:** Name: Brian Foley Tel: 293109E-mail: brian.foley@brighton-hove.gov.uk**Wards Affected:** All**FOR GENERAL RELEASE****1. SUMMARY AND POLICY CONTEXT:**

- 1.1 Complaints regarding Member conduct are administered under the arrangements as defined by The Standards Committee (England) Regulations 2008 which came into effect on 08 May 2008. These regulations are derived from the Local Government Act 2000 as amended by the Local Government and Public Involvement in Health Act 2007.
- 1.2 This paper gives information about active Standards complaints and the time taken to deal with closed complaints.
- 1.3 Corporate complaints are dealt with under the Corporate Complaints Procedure at Stage 1, Stage 2 and via the Local Government Ombudsman. The powers of the Ombudsman are set out in the Local Government Act 1974.
- 1.4 This report contains a brief summary of corporate complaint activity.

2. RECOMMENDATIONS:

- 2.1 The Standards Committee is asked to note the report.

3. RELEVANT BACKGROUND INFORMATION

- 3.1 The Local Government Act 2000 requires the names of complainants and of Members about whom allegations have been made to be kept confidential.
- 3.2 With regard to timescales for complaints Standards for England recommend:
 - Assessments should on average be completed within 20 working days.
 - Review panels should be held within 65 working days.
 - Investigations should be completed within 130 working days from the date of assessment.

3.3 Table 1 below shows the number of working days taken to assess each complaint dealt with under the Local Assessment procedure. Since the introduction in May 2008 the Standards Committee have assessed 40 complaints at an average of 18 days per case.

Table 1

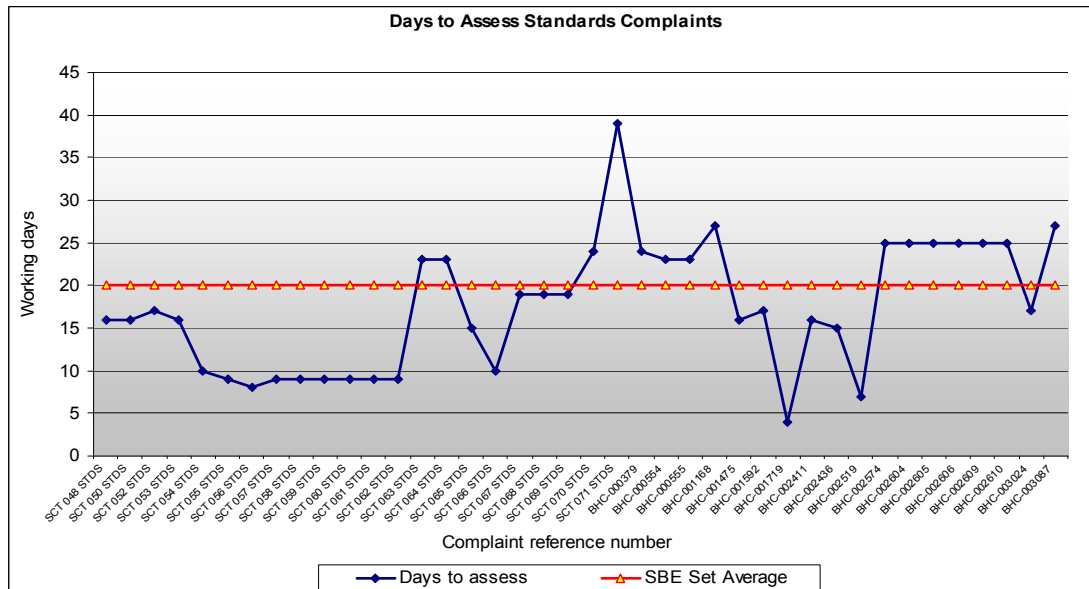
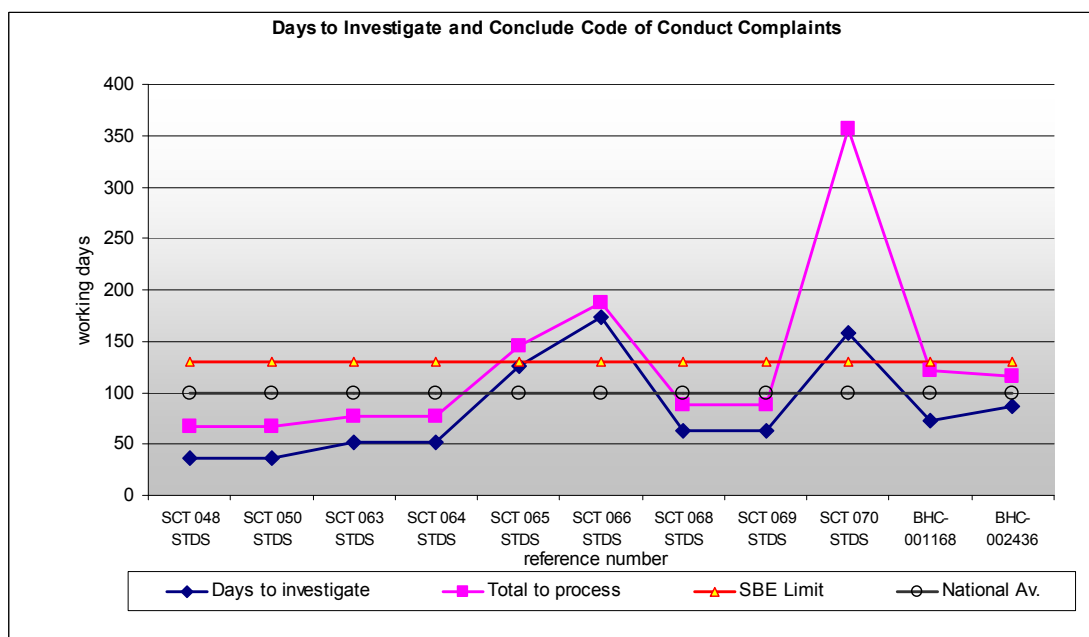


Table 2



3.4 The Standards Committee have referred 11 cases for investigation. Table 2 shows the number of days to carryout the investigation and the working days to complete the complaint process; that is from the date the complaint was received to the date of determination.

3.5 The average time taken to complete complaints referred for investigation has been 128 working days. This average has been affected by a case which is scheduled to be determined after 356 working days.

3.6 **Summary of active complaints about member conduct and cases where decisions have not previously been reported**

3.6.1 **Complaints where Standards Committee Assessment Panel decided to refer the complaint to the Monitoring Officer for Investigation**

Complaint 1 – Referred to the First-tier Tribunal

Case Number **SCT070STDS**

Complainant: Elected Member

Date of complaint: 27 February 2009

Date of Assessment Panel: 02 April 2009

Working days to assess: 21

Date of Consideration Panel: 16 November 2009

Date of Determination Panel: 09 July 2010

Total number of working days to process: 356

Allegation:

It was alleged that a Member had breached the following sections of the Code of Conduct:

- a. Paragraph 3(1): You must treat others with respect.
- b. Paragraph 6(b)(i): You must when using or authorising the use by others of the resources of the authority to act in accordance with the authority's reasonable requirements.
- c. Paragraph 6(b)(ii): You must when using or authorising the use by others of the resources of the authority ensure that such resources are not used improperly for political purposes (including party political purposes).

Decision of Assessment Panel:

Referred to the Monitoring Officer for investigation.

Outcome:

The Determination Panel of the Standards Committee was:

- a. Paragraph 3(1): The subject member had failed to treat another member with respect.
- b. Paragraph 6(b)(i): The subject member did act in accordance with the council's reasonable requirements.
- c. Paragraph 6(b)(ii): The subject member had used council resources improperly for political purposes.

Sanctions

The Determination Panel of the Standards Committee imposed the following sanctions:

- a. Paragraph 3(1): Censure. Suspension for a period not exceeding 6 months, or until such time as the member submits a written apology for the lack of respect shown to the elected member.
- c. Paragraph 6(b)(ii): The subject member undertake training on the roles and responsibilities of being a Councillor within 3 months of the expiry of the appeal period. If the training is not completed the subject member to be suspended for up to 6 months or until such time as he complies with the requirement.

It was not the Panel's intention that the subject member be suspended but without the suspension there was no incentive for the subject member to comply with the sanctions.

Appeal Rights

The Standard Committee (England) Regulations 2008 provide a right of appeal to the First-tier Tribunal within 28 days of service of the decision notice.

The subject member has appealed against the findings and the sanctions.

Complaint 2– Outcome *not previously reported*

Case Number **BHC-002436**

Complainant: Elected Member

Date of complaint: 08 February 2010

Date of Assessment Panel: 26 February 2010

Working days to assess: 15

Date of Consideration Panel: 19 July 2010

Total number of working days to process: 116

Allegation:

It was alleged that a Member had breached the following section of the Code of Conduct:

Paragraph 3(1): You must treat others with respect.

Paragraph 5: You must not conduct yourself in a manner which could reasonably regarded as bringing your office or authority into disrepute.

Decision of Assessment Panel:

Referred to the Monitoring Officer for investigation.

Outcome:

No breach of the code of conduct.

Complaint 3

Case Number: **BHC- 003087**

Complainant: Member of the public

Date of complaint: 09 May 2010

Date of Assessment Panel: 15 June 2010

Total number of working days to assess: 27

Allegation: It was alleged that a Member had each breached the following section of the Code of Conduct:

Paragraph 4(a): You must not disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature

Decision of Assessment Panel:

Referred to the Monitoring Officer for investigation.

Outcome:

Investigation not yet concluded.

3.7 **Complaints where the decision of the Standards Committee Assessment Panel was to take 'other action'**

Previous cases have been reported and concluded. There are no new cases.

3.8 **Complaints where the decision of the Standards Committee Assessment Panel was to take no further action**

Previous cases have been reported and concluded. There are no new cases.

3.9 **Complaints where a decision of the Standards Committee Assessment Panel is pending**

There are no new cases pending.

3.10 **Summary of complaints received under the corporate complaints procedures**

Local Government Ombudsman Complaints 2009/10

3.10.1 The following table is reproduced from the Ombudsman's annual report. It shows that 101 people contacted the Ombudsman for advice, and 67 cases were referred for investigation.

3.10.2 The second table shows the outcome of the investigations. There was one Report against the council. The Council reached a local settlement in 17 cases. The Ombudsman's report gives details of the Report issued and Local Settlements. A copy is included in the appendix.

LGO Advice Team 2009/10										
Enquiries and Complaints	Adult Social Care	Children Social Care	Education	Housing	Benefits	Local Taxation	Planning and Building Control	Transport and Highways	Other	Total
Premature complaint	1	1	0	9	1	1	1	5	4	23
Advice given	0	1	0	1	0	1	1	3	5	12
Forwarded for investigation (Ex prem)	3	0	0	3	2	2	3	0	2	15
Forwarded for investigation (New)	5	0	10	10	2	5	3	7	9	51
Total	9	2	10	23	5	9	8	15	20	101

Investigative Team 2009/10								
Decisions	MI reps	LS	M reps	NM reps	No mal	OMb disc	Outside jurisdiction	Total
2009/10	1	17	0	0	32	10	7	67

Corporate Stage One and Two Complaints

3.10.3 The following table shows the numbers of complaints for each directorate during 2009/10 and compares this to the first quarter for 2010/11.

3.10.4 There general indication is that the total complaint level at Stage One are proportionate to those received in the previous year.

3.10.5 Complaint numbers in Adult Social Care and Housing were increasing throughout 2009/10. That increase has now stopped and it is anticipated that levels will start to reduce.

3.10.6 Complaint levels in Environment fell consistently throughout 2009/10. There has been a slight increase in Q1 of 2010/11.

3.10.7 The proportion of Stage One complaints escalated to Stage Two complaints has dropped slightly from 8.3% to 7.6%.

	Stage One		Stage Two	
	2009/10	2010/11 Q1	2009/10	2010/11 Q1
ASC&H	521	153	44	9
CYPT	110	28	13	2
Culture	38	10	1	0
Environment	894	192	74	19
F&R	278	70	20	5
S&G	13	5	0	0
Totals	1854	458	154	35

4. CONSULTATION:

4.1 There has been no consultation

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

5.1 There are no direct financial implications arising from the report.

Finance Officer Consulted: Anne Silley

Date: 01 September 2010

Legal Implications:

5.2 There are no legal implications.

Lawyer Consulted: Liz Woodley

Date: 01 September 2010

Equalities Implications:

5.3 There are no equalities implications.

Sustainability Implications:

5.4 There are no sustainability implications.

Crime & Disorder Implications:

5.5 There are no crime and disorder implications.

Risk and Opportunity Management Implications:

5.6 There are no Risk and Opportunity management Implications.

Corporate / Citywide Implications:

5.7 There are no Corporate or Citywide implications.

SUPPORTING DOCUMENTATION

Appendices:

1. The Local Government Ombudsman's Annual Review for Brighton and Hove City Council for the year ended 31 March 2010.

Documents In Members' Rooms:

1. None.

Background Documents:

1. None.

Local Government
OMBUDSMAN

**The Local Government Ombudsman's
Annual Review
Brighton & Hove City Council
for the year ended
31 March 2010**

Local Government Ombudsmen (LGOs) provide a free, independent and impartial service. We consider complaints about the administrative actions of councils and some other authorities. We cannot question what a council has done simply because someone does not agree with it. If we find something has gone wrong, such as poor service, service failure, delay or bad advice, and that a person has suffered as a result, we aim to get it put right by recommending a suitable remedy. We also use the findings from investigation work to help authorities provide better public services through initiatives such as special reports, training and annual reviews.

Contents of Annual Review

Section 1: Complaints about Brighton & Hove City Council 2009/10	3
Introduction	3
Enquiries and complaints received	3
Complaint outcomes	3
Liaison with the Local Government Ombudsman	5
Training in complaint handling	5
Conclusions	5
Section 2: LGO developments.....	6
Introduction	6
New schools complaints service launched	6
Adult social care: new powers from October	6
Council first	6
Training in complaint handling	7
Statements of reasons	7
Delivering public value	7
Appendix 1: Notes to assist interpretation of the statistics 2009/10	8
Appendix 2: Local authority report 2009/10	

Section 1: Complaints about Brighton & Hove City Council 2009/10

Introduction

This annual review provides a summary of the complaints we have dealt with about Brighton & Hove City Council. We have included comments on the authority's performance and complaint-handling arrangements, where possible, so they can assist with your service improvement.

I hope that the review will be a useful addition to other information your authority holds on how people experience or perceive your services.

Two appendices form an integral part of this review: statistical data for 2009/10 and a note to help the interpretation of the statistics.

Enquiries and complaints received

We received 99 enquiries and complaints about the Council during the year. This is a reduction of around a third since last year. We sent 21 complaints to the Council to be dealt with under its complaints procedure. And in 12 cases we gave advice to the enquirer. The remaining 66 complaints were passed to our investigation team.

Thirteen of the cases passed for investigation were about housing, including housing allocations, homelessness, repairs and tenancy management. Of the 10 education complaints passed for investigation, eight were about school admissions and two were about special educational needs. Most categories of complaint saw a reduction compared with last year, but notable exceptions were those about adult care services, local taxation and waste management.

Complaint outcomes

During the year we decided 67 complaints and in almost half of them we decided there was no or insufficient evidence of maladministration. In 10 cases we exercised discretion not to continue the investigation, in most cases because we felt the injustice was insufficient. Seven complaints fell outside our jurisdiction.

Reports

When we complete an investigation, we generally issue a report. This year I issued one report on a complaint where the Council had taken bankruptcy proceedings to recover council tax arrears against a person with mental health issues. The Council's procedures required special consideration to be given to cases involving vulnerable people but at the time did not require any check to be made with adult care services. Checks are now made and if one had been made in this case the Council would have found that the complainant was known to its adult care service. If that had happened, it is possible that the bankruptcy action would not have proceeded but I could not be certain about that. So there was maladministration by the Council which caused an injustice to the complainant in terms of uncertainty as to whether the outcome might have been different. I recommended that the Council should pay the complainant compensation of £250 and to apologise for the failure in the procedure. The Council agreed to implement my recommendations.

Local settlements

A 'local settlement' is a complaint where, during the course of our investigation, a council takes or agrees to take some action that we consider to be a satisfactory response to the complaint. In 2009/10, 26.9% of all complaints the Ombudsmen decided and which were within our jurisdiction were local settlements. For your Council 28.3% of the complaints within jurisdiction that we decided were local settlements.

Adult care services

Three complaints about adult care services resulted in local settlements. In one, the Council apologised and acknowledged it should have been more proactive in involving a disabled person's parents in a safeguarding investigation. Two other cases related to issues with co-operation and communication between the Council and local NHS trusts when implementing care arrangements. The problems were largely historical and procedural changes had been made to improve co-operation between the bodies, but the Council agreed to apologise for past problems. It implemented further steps to improve the care arrangements in one case and paid £250 compensation in that case and £200 in the other.

Housing

There were also three local settlements on complaints about housing. In the first, a new member of staff had failed to recognise the need for a homelessness assessment but the Council swiftly agreed to carry out a reassessment and reviewed the supervision arrangements for new staff. It paid £100 compensation and was able to provide accommodation to the complainant during the course of the investigation. In the second, the Council accepted there had been delay in arranging for the removal of asbestos from the complainant's home and agreed to increase its offer of compensation to £200. And in the third, the Council delayed in referring an insurance claim to the contractors who had installed a shower and so it agreed to pay £100 compensation.

Public finance including local taxation

Two complaints about council tax resulted in local settlements. In one, the Council agreed to credit the complainant's council tax account with a sum to remedy the injustice caused by its failure to allow him more time to rectify a bank error which had cancelled a standing order. In the other case the Council had issued a refund to the complainant's ex partner despite saying it would not do this without both parties' consent. The Council responded very quickly to this investigation and agreed to pay £200 compensation.

Planning and building control

The Council agreed to settle one complaint about a lack of information about a summer sports event by paying £50 compensation for the complainant's time and trouble in making the complaint. The Council had not properly responded to the complainant's concerns and it was only in response to our enquiries that it provided an adequate explanation and gave assurances that there would in future be discussions with planning and noise teams for events like this.

Transport and highways

Two complaints resulted in local settlements. One happened very swiftly when the Council agreed to reconsider an application for a parking permit that had been incorrectly completed by the complainant's GP. In the other case the Council's response to a complaint about parking problems had been unnecessarily delayed and I felt that although the eventual response was reasonable, the Council should pay £50 compensation for the delay.

Waste management

There were six local settlements of complaints about waste collection. In two complaints the service department took over 10 weeks to reply to our enquiries and although the substantive response to these complaints was reasonable the Council agreed to pay £75 for the unreasonable delay one complainant had experienced while pursuing the complaint.

Another complaint was settled by the Council's contractors agreeing a plan for enforcement action to address bins being left in the street. One complaint was settled by the Council agreeing to move a communal refuse bin to a more convenient location and another by the Council repairing communal bins. The remaining complaint was settled by the Council apologising for the delay in providing recycling facilities and providing a reasonable explanation for the delay.

Liaison with the Local Government Ombudsman

My investigators have commented on very prompt responses to some enquiries and local settlement proposals but it has taken much longer to obtain information relating to some complaints about waste collection. One of my investigators discussed this with the link officer and I understand that the contractor has drawn up a plan to improve complaint handling. I hope this will result in improvements and a swifter response to our enquiries in the future. These delays appear to be the reason why the Council took an average of 32.3 days to reply to our enquiries in the 46 cases where we made written enquiries. This is higher than the figure for last year when the average response time was 28 days, in accordance with the target timescale we set.

Officers from the Council attended our training event for link officers in May 2009 and workshops on the new adult care services complaints procedure which we held in July 2009 and March this year. I hope they found these events useful and informative.

Training in complaint handling

I would like to take this opportunity to remind the Council that part of our role is to provide advice and guidance about good administrative practice. We offer training courses for all levels of local authority staff in complaints handling and investigation. All courses are presented by experienced investigators. They give participants the opportunity to practise the skills needed to deal with complaints positively and efficiently. We can also provide customised courses to help authorities to deal with particular issues and occasional open courses for individuals from different authorities.

I have enclosed some information on the full range of courses available together with contact details for enquiries and bookings.

Conclusions

I welcome this opportunity to give you my reflections about the complaints my office has dealt with over the past year. I hope that you find the information and assessment provided useful when seeking improvements to your authority's services.

**Tony Redmond
Local Government Ombudsman
Millbank Tower
Millbank
London
SW1P 4QP**

June 2010

Section 2: LGO developments

Introduction

This annual review also provides an opportunity to bring councils up to date on developments in the LGO and to seek feedback.

New schools complaints service launched

In April 2010 we launched the first pilot phase of a complaints service extending our jurisdiction to consider parent and pupil complaints about state schools in four local authority areas. This power was introduced by the Apprenticeships, Skills, Children and Learning Act 2009.

The first phase involves schools in **Barking and Dagenham, Cambridgeshire, Medway and Sefton**. The Secretary of State no longer considers complaints about schools in these areas. In September the schools in a further 10 local authority areas are set to join the pilot phase.

We are working closely with colleagues in the pilot areas and their schools, including providing training and information sessions, to shape the design and delivery of the new service. It is intended that by September 2011 our jurisdiction will cover all state schools in England.

A new team in each office now deals with all complaints about children's services and education on behalf of the Ombudsman. Arrangements for cooperation with Ofsted on related work areas have been agreed.

For further information see the new schools pages on our website at www.lgo.org.uk/schools/

Adult social care: new powers from October

The Health Act 2009 extended the Ombudsmen's powers to investigate complaints about privately arranged and funded adult social care. These powers come into effect from 1 October 2010 (or when the Care Quality Commission has re-registered all adult care providers undertaking regulated activity). Provision of care that is arranged by an individual and funded from direct payments comes within this new jurisdiction.

Each Ombudsman has set up a team to deal with all adult social care complaints on their behalf. We expect that many complaints from people who have arranged and funded their care will involve the actions of both the local authority and the care provider. We are developing information-sharing agreements with the Care Quality Commission and with councils in their roles as adult safeguarding leads and service commissioners.

Council first

We introduced our Council first procedure in April last year. With some exceptions, we require complainants to go through all stages of a council's own complaints procedure before we will consider the complaint. It aims to build on the improved handling of complaints by councils.

We are going to research the views of people whose complaints have been referred to councils as premature. We are also still keen to hear from councils about how the procedure is working, particularly on the exception categories. Details of the categories of complaint that are normally treated as exceptions are on our website at www.lgo.org.uk/guide-for-advisers/council-response

Training in complaint handling

Demand for our training in complaint handling has remained high, with 118 courses delivered over the year to 53 different authorities. Our core Effective Complaint Handling course is still the most popular – we ran some of these as open courses for groups of staff from different authorities. These are designed to assist those authorities that wish to train small numbers of staff and give them an opportunity to share ideas and experience with other authorities.

The new Effective Complaint Handling in Adult Social Care course, driven by the introduction of the new statutory complaints arrangements in health and adult social care in April 2009, was also popular. It accounted for just over a third of bookings.

Over the next year we intend to carry out a thorough review of local authority training needs to ensure that the programme continues to deliver learning outcomes that improve complaint handling by councils.

Statements of reasons

Last year we consulted councils on our broad proposals for introducing statements of reasons on the individual decisions of an Ombudsman following the investigation of a complaint. We received very supportive and constructive feedback on the proposals, which aim to provide greater transparency and increase understanding of our work. Since then we have been carrying out more detailed work, including our new powers. We intend to introduce the new arrangements in the near future.

Delivering public value

We hope this information gives you an insight into the major changes happening within the LGO, many of which will have a direct impact on your authority. We will keep you up to date through LGO Link as each development progresses, but if there is anything you wish to discuss in the meantime please let me know.

Mindful of the current economic climate, financial stringencies and our public accountability, we are determined to continue to increase the efficiency, cost-effectiveness and public value of our work.

Tony Redmond
Local Government Ombudsman
Millbank Tower
Millbank
London
SW1P 4QP

June 2010

Appendix 1: Notes to assist interpretation of the statistics 2009/10

Table 1. LGO Advice Team: Enquiries and complaints received

This information shows the number of enquiries and complaints received by the LGO, broken down by service area and in total. It also shows how these were dealt with, as follows.

Premature complaints: The LGO does not normally consider a complaint unless a council has first had an opportunity to deal with that complaint itself. So if someone complains to the LGO without having taken the matter up with a council, the LGO will either refer it back to the council as a 'premature complaint' to see if the council can itself resolve the matter, or give advice to the enquirer that their complaint is premature.

Advice given: These are enquiries where the LGO Advice Team has given advice on why the LGO would not be able to consider the complaint, other than the complaint is premature. For example, the complaint may clearly be outside the LGO's jurisdiction.

Forwarded to the investigative team (resubmitted premature and new): These are new cases forwarded to the Investigative Team for further consideration and cases where the complainant has resubmitted their complaint to the LGO after it has been put to the council.

Table 2. Investigative Team: Decisions

This information records the number of decisions made by the LGO Investigative Team, broken down by outcome, within the period given. **This number will not be the same as the number of complaints forwarded from the LGO Advice Team** because some complaints decided in 2009/10 will already have been in hand at the beginning of the year, and some forwarded to the Investigative Team during 2009/10 will still be in hand at the end of the year. Below we set out a key explaining the outcome categories.

MI reps: where the LGO has concluded an investigation and issued a formal report finding maladministration causing injustice.

LS (local settlements): decisions by letter discontinuing our investigation because action has been agreed by the authority and accepted by the LGO as a satisfactory outcome for the complainant.

M reps: where the LGO has concluded an investigation and issued a formal report finding maladministration but causing no injustice to the complainant.

NM reps: where the LGO has concluded an investigation and issued a formal report finding no maladministration by the council.

No mal: decisions by letter discontinuing an investigation because we have found no, or insufficient, evidence of maladministration.

Omb disc: decisions by letter discontinuing an investigation in which we have exercised the LGO's general discretion not to pursue the complaint. This can be for a variety of reasons, but the most common is that we have found no or insufficient injustice to warrant pursuing the matter further.

Outside jurisdiction: these are cases which were outside the LGO's jurisdiction.

Table 3. Response times

These figures record the average time the council takes to respond to our first enquiries on a complaint. We measure this in calendar days from the date we send our letter/fax/email to the date that we receive a substantive response from the council. The council's figures may differ somewhat, since they are likely to be recorded from the date the council receives our letter until the despatch of its response.

Table 4. Average local authority response times 2009/10

This table gives comparative figures for average response times by authorities in England, by type of authority, within three time bands.

LGO Advice Team

Enquiries and complaints received	Adult care services	Children and family services	Education	Housing	Benefits	Public Finance inc. Local Taxation	Planning and building control	Transport and highways	Other	Total
Formal/informal premature complaints	1	1	0	9	1	1	1	5	4	23
Advice given	0	1	0	1	0	1	1	3	5	12
Forwarded to investigative team (resubmitted premature)	3	0	0	3	2	2	3	0	2	15
Forwarded to investigative team (new)	5	0	10	10	2	5	3	7	9	51
Total	9	2	10	23	5	9	8	15	20	101

Investigative Team

Decisions	MI reps	LS	M reps	NM reps	No mal	Omb disc	Outside jurisdiction	Total
	2009 / 2010	1	17	0	0	32	10	7

Appendix 2: Local Authority Report - Brighton & Hove City

For the period ending - 31/03/2010

Response times	FIRST ENQUIRIES	
	No. of First Enquiries	Avg no. of days to respond
1/04/2009 / 31/03/2010	46	32.3
2008 / 2009	42	28.0
2007 / 2008	42	28.7

Average local authority resp times 01/04/2009 to 31/03/2010

Types of authority	<= 28 days %	29 - 35 days %	> = 36 days %
District Councils	61	22	17
Unitary Authorities	68	26	6
Metropolitan Authorities	70	22	8
County Councils	58	32	10
London Boroughs	52	36	12
National Parks Authorities	60	20	20

