

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

