

BRIGHTON & HOVE CITY COUNCIL

STANDARDS COMMITTEE

5.00pm 18 JANUARY 2011

COMMITTEE ROOM 1, HOVE TOWN HALL

MINUTES

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

Independent Members: Dr M Wilkinson (Chairman), Mr Paul Cecil, Mr Peter Rose

Rottingdean Parish Council Representatives: Mr John Bustard, Mr Geoff Rhodes

Apologies: Councillor Lizzie Deane (St. Peter's & North Laine) and Councillor Carol Theobald

PART ONE

18. PROCEDURAL BUSINESS

18a Declarations of Interest

18.1 There were none.

18b Exclusion of the Press and Public

18.2 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 of the Act).

18.3 **RESOLVED** - That the press and public be not excluded from the meeting during consideration of any items.

19. MINUTES OF THE PREVIOUS MEETING

19.1 **RESOLVED** – That the minutes of the Standards Committee Meeting held on 14 September 2010 be agreed and signed as a correct record.

Note: A spelling error in the minutes contained within the agenda papers at paragraph 16.3, which should have read “consistent” was noted, however this error had already been corrected on the published minutes and was correct on the minutes signed by the Chairman.

20. CHAIRMAN'S COMMUNICATIONS

20.1 The Chairman welcomed two new Independent Members to the Committee, Mr Paul Cecil, and Mr Peter Rose. He extended a warm welcome to both Members and felt sure that they would make a positive contribution to the proceedings of the Committee.

21. PUBLIC QUESTIONS

21.1 There were none.

22. ANNUAL REPORT OF THE STANDARDS COMMITTEE

22.1 The Committee considered a report from the Monitoring Officer regarding the Annual Report of the Standard Committee.

22.2 The Senior Solicitor, Ms Woodley, introduced the report, which outlined the work of the Committee over the last year. She noted that the undertaking to comply with the Code of Conduct had been duly signed by all Members of the Committee, and that the Membership of the Committee, which had remained fairly consistent over the life of the Committee, had promoted and maintained high standards across the Council for the period.

The functions of the Committee and its terms of reference were broad, and this was demonstrated in the varied work programme. The statistics for the number of Panel (or sub-committee) meetings held over the year were noted, and it was noted that Mr Ghebre-Ghiorghis had become the Monitoring Officer for the Council in August 2010. It was noted that Standards for England were in the process of winding down, following the publication of the Localism Bill, and periodic returns had been suspended. An update on the current status of the Localism Bill, and its implications for the Council would be dealt with in a following report.

22.3 Councillor Watkins asked where standards complaints would be escalated to if Standards for England was being decommissioned. Mr Ghebre-Ghiorghis reminded Members that a following report would deal with the implications of the Localism Bill as far as they were known.

22.4 RESOLVED –

1. That the Committee has reviewed the period January 2010 to December 2010 and has agreed the action it wishes to be taken.
2. That the Chairman be authorised to present the report to Council.

23. LOCALISM BILL

- 23.1 The Committee considered a report from the Monitoring Officer regarding the Localism Bill.
- 23.2 Ms Woodley introduced the report and explained that it was a very brief outline and consideration of what was currently known. She highlighted to Members that there was still great scope of the Bill to change before it became law. The main feature for the Standards Committee was that Local Authorities would no longer be required to have a Code of Conduct or a Standards Committee. Authorities would be able to choose to adopt local codes, and arrangements would need to be made to consider and investigate allegations of breaches under adopted codes. The penalties available to the Committee would be very limited and they would no longer have the power to suspend Members.
- 23.3 Mr Rose asked if the Full Council would have the power to suspend a Member. Mr Ghebre-Ghiorghis advised that it would not, but explained that committee appointments were made based on proportionality to the number of seats each group held on the Council. Where this was not legally necessary, such as appointments for the Standards Committee and for Licensing Panels, the Council could take into account the conduct of a Member when appointing to these committees and sub-committees.
- Censure would be the main sanction available to the Council where breaches of the adopted code were proved. All other allegations of misconduct would be dealt with under criminal law, which would be strengthened to cover Councillors' misconduct.
- It was currently felt that some form of Standards Committee and code of conduct should be retained that could assist the Council in developing guidance and policies around standards in public life and to support the functions of the Monitoring Officer, which would remain unchanged. The Standards Committee would need to advise the Council on the options available for adoption and recommendations would need to be brought forward by the Committee over the coming year.
- 23.4 Mr Rhodes asked if the Parish Council would need to adopt the same code as the City Council Mr Ghebre-Ghiorghis replied that it would be for the Parish Council to decide if they adopted a code at all, whether they adopted the same one as the Council, or if they tailored the Model Code of Conduct to their authority.
- 23.5 Councillor Lepper felt that the high number of Independent Members on the Committee was a great strength and she believed that her Group would support the retention of a Standards Committee with Independent Members.
- 23.6 Councillor Harmer-Strange agreed, and said that all Members would likely feel the need for some form of code that should be adhered to.
- 23.7 Councillor Watkins felt it was also important for members of the public to be able to see that Councillors could be held to account if they were complained about.

- 23.8 The Chairman stated that the Committee was in agreement that there was an area of misconduct which fell short of criminal proceedings, which was none-the-less important to regulate and monitor. This was essential to the good workings of the authority. He felt the question of how public complaints were dealt with when they fell short of criminal behaviour was an important one.
- 23.9 Mr Cecil stated that good business relied on the good conduct of Councillors. The localisation of decisions advocated by the current government would make these issues more serious as local representatives had more power to decide what happened in their local areas. Councillors needed a guide for the behaviour expected of them and he did not feel that the ultimate sanction of Councillors not getting re-elected if their behaviour fell short would work unless some kind of flagging system for those Councillors who had been censured over the term was instigated at election time. He felt it was also important for the public to understand how Councillors should behave.
- 23.10 Councillor Harmer-Strange felt that it was wrong for the public to have to wait four years to resolve the issue of a badly behaving Councillor.
- 23.11 Councillor Watkins asked if Full Council had the power to take Councillors off committees.
- 23.12 Mr Ghebre-Ghiorghis replied that some committees were not subject to proportionality rules and therefore the good behaviour of a Councillor could be taken into account. He expected the finalised Act would have some amendments to give local authorities more power to deal with badly behaving Members however. Mr Ghebre-Ghiorghis asked that the Committee consider setting up a working group to discuss the options for the future regarding this issue, which would report its findings back at the end of the year to Full Council.
- 23.13 The Chairman thanked Ms Woodley for her work on condensing a very large amount of information regarding the Bill into a clear and readable report.
- 23.14 **RESOLVED** – That the Committee notes the report.

24. REVIEW OF ELECTION GUIDANCE

- 24.1 The Committee considered a report from the Monitoring Officer regarding a Review of Election Guidance.
- 24.2 Ms Woodley introduced the report and stated that the guidance issued in 2007 was appended to the report, with some updates such as job title changes, included. She asked the Committee for their thoughts on the areas that needed addressing within the guidance.
- 24.3 Councillor Lepper referred to the guidance on the use of Council facilities and felt that it needed to be highlighted to Members that stationery in particular could not be used for campaign purposes.
- 24.4 Councillor Watkins noted that Council provided computers, telephones and emails should not be used for campaign purposes, but asked what a Councillor should do if

they were contacted independently by a constituent through their Council telephone or email, who wanted to discuss elements of the campaign.

- 24.5 Mr Ghebre-Ghiorghis replied that this restriction was subject to practicalities. He agreed it was perfectly normal and proper for a Ward Member to receive calls and emails generated by constituents. The equipment should not be used for electioneering however.
- 24.6 Councillor Lepper asked for clarification that if a Councillor was sending out election material, that Councillor should not use their Council email address on this material. Mr Ghebre-Ghiorghis agreed this was correct. He added that if the constituent already knew the Councillors' email address and used this to contact them, this would be fine.
- 24.7 Councillor Watkins asked if Councillors paid a certain amount to the Council for some personal use of the equipment. Mr Ghebre-Ghiorghis agreed this was the case, but this charge did not cover use for party political purposes. Any form of Council stationery or equipment, including Council letterheads, should not be used for party political purposes.
- 24.8 Councillor Watkins felt that this would cause some difficulty for Councillors in their day-to-day ward work. Mr Ghebre-Ghiorghis replied that any legitimate ward work would not be considered electioneering during the time of Purdah.
- 24.9 Councillor Harmer-Strange asked how Councillors should deal with constituents asking questions of the campaign through the Councillors' email address with the Council. Mr Ghebre-Ghiorghis replied that any factual advice was fine to give. For example if a Councillor was asked if they would be standing in the next election, it would be appropriate to respond factually yes or no. It would not be appropriate to elaborate on why a constituent should vote for that Councillor or party however.
- 24.10 Mr Rose noted that Councillors should not use Council resources that would give them an advantage over other candidates not currently a part of the Council. He asked if the groups would highlight the need for compliance during the Purdah period to their own Members, and what other advice was available to Members.
- 24.11 Mr Ghebre-Ghiorghis replied that it was his responsibility as Monitoring Officer to provide advice to Councillors in this regard. If he was approached with individual questions he would give ad-hoc advice. If he was aware of a series of questions on the same issue, he would then issue guidance to all Councillors on this. Most of the guidance available had already been circulated to Members.
- 24.12 Mr Cecil felt that the situation for using emails during the Purdah period would be confusing for Councillors. He felt that a simple set of examples about what was appropriate use and what was not would be useful to issue, and would help to avoid confusion.
- 24.13 Councillor Harmer-Strange asked if the Monitoring Officer or Senior Solicitor would be able to attend each group to make them aware of their responsibilities around election time. Councillor Lepper did not feel this was necessary as the groups were mostly aware of the requirements during the Purdah period. She was surprised by the

restrictions around email usage however, and felt this needed to be highlighted. Mr Ghebre-Ghiorghis felt that the recommendation for examples regarding email usage was very useful.

- 24.14 Councillor Watkins asked if the links to outside sites would stay in place on the Councillors web pages during Purdah, whether he had to tell constituents asking political questions to contact him using another method if they had submitted the initial query through his Council email, whether he was permitted to talk about political issues during his ward surgeries, which the Council paid for, and whether it was the case that Council room facilities were available to all candidates free of charge during the election period.
- 24.15 Mr Ghebre-Ghiorghis responded that the Councillors web pages were removed during Purdah anyway, and therefore the links would not be available. He felt that sometimes the distinction between Council business and party political business was not mutually exclusive, and Councillors would need to use common sense when dealing with constituents whilst using Council facilities. If the conversation became protracted or wholly political then the conversation should take place using other media or forums not paid for by the Council. It was the case that all Council room facilities were available to candidates free of charge during this time.
- 24.16 Councillor Harmer-Strange was concerned that schools would not be aware that their facilities could be hired out free of charge during this time.
- 24.17 Councillor Carden noted that he used his own equipment when doing council and group work as the screen was much larger and easier for him to view. Councillor Watkins felt this was an important point and that Members ability to use council equipment should be taken into account more often when supplied with equipment.
- 24.18 **RESOLVED** – That the Committee has considered and commented on the draft guidance on publicity and the use of facilities etc for Members for the 2011 local elections.

25. COMPLAINTS UPDATE

- 25.1 The Committee considered a report from the Monitoring Officer regarding the Complaints Update.
- 25.2 The Standards & Complaints Manager, Mr Foley, introduced the report and highlighted the statistical information relating to complaints handling within the Council and the four newest complaints regarding Councillors that had been submitted and were being dealt with, or had been dealt with.
- 25.3 Councillor Watkins referred to complaint four and noted the recommendation from the panel that consideration should be given to how Councillors mark emails that are intended to remain confidential. He suggested that this could be put forward to the Member ICT Working Group for development and consideration. He added that this would become more and more important in the future as paper production was reduced to save costs.

- 25.4 Councillor Lepper noted the situation regarding corporate complaints and asked for further information. Mr Foley replied that Environmental Services received by far the largest amount of complaints, due to the size and nature of work of the service. There had been a massive improvement for this service year on year however, and the complaints had reduced proportionately.
- 25.5 Councillor Watkins asked who could initiate a review of an Appeal Panel decision. Mr Foley replied that only the complainant could initiate a review, the person complained about could only appeal a decision following an investigation.
- 25.6 **RESOLVED** – That the Committee notes the report.

The meeting concluded at 6.20pm

Signed

Chairman

Dated this

day of

