

BRIGHTON & HOVE CITY COUNCIL

SPECIAL MEETING STANDARDS COMMITTEE

5.00PM – 19 OCTOBER 2004

BRIGHTON TOWN HALL

MINUTES

Present: Councillor Framroze (Chair); Councillors Lepper, Mallender, Simson (OS), G Theobald and Watkins.

Independent Members: Mrs H Scott, Dr M B Wilkinson (Deputy Chair).

Rottingdean Parish Council Representative: Mr G Rhodes.

Apologies were received from Councillor Williams and Ms Carter

Purpose of the meeting

Before proceeding to the formal business of the meeting it was explained that the meeting had been called in order to enable Members of the Committee to consider and comment upon the two draft consultation documents received from the Office of the Deputy Prime Minister (ODPM) prior to the deadline date for receipt of responses, 19 November 2004.

PART ONE

ACTION

12. PROCEDURAL BUSINESS

12A. Declarations of Substitutes

12.1 Substitute Councillor For Councillor

Mallender

Williams

12B. Declarations of Interest

12.2 There were none.

12C. Exclusion of Press and Public

12.3 The Committee considered whether the press and public should be excluded from the meeting during the consideration of any items contained in the agenda, having regard to the nature of the business to be transacted and the nature of the proceedings

and the likelihood as to whether, if members of the press and public were present, there would be disclosure to them of confidential or exempt information as defined in Section 100A(3) or 100 1 of the Local Government Act 1972.

12.4 **RESOLVED** – That the press and public be not excluded from the meeting during consideration of any of the items on the agenda.

13. DRAFT MODEL CODE OF CONDUCT FOR LOCAL GOVERNMENT EMPLOYEES

13.1 The Committee considered a report detailing the content of the recent consultation paper issued by the Office of the Deputy Prime Minister (ODPM) on a draft model code of conduct for local government employees. The report also outlined the key issues contained in the draft code and recommended suggested responses to the accompanying consultation paper for the Committee's approval (for copy see minute book).

13.2 The Senior Lawyer explained that the main issue raised by the consultation paper was the registration of interests for local authority employees and that this was dealt with differently by the Welsh Code. The ODPM had raised the suggestion that an employee must comply with the requirements of the authority to (a) register or declare interest and (b) declare hospitality, benefits or gifts received as a consequence of employment. Unlike the Members Code of Conduct there was no monetary value, above which, gifts and hospitality received in the course of their job must be declared by employees. For Members the value currently stood at £25.00 or more.

13.3 The Local Government Act 2000 required Monitoring Officers to establish and maintain a register of interest for their authority's Members and it appeared that this code was intended to mirror that. The Members' register provided an accessible record of elected Members' interests and indicated the sorts of influences which might affect the way that the Member made decisions. However, the type of decision making that most local authority officers were engaged in was not the same as the policy making decisions that elected Members were involved in (except in situations where delegated authority was used) and so it could be argued that a distinction could be drawn between the Members and Officer codes.

13.4 In considering the need for a register it was important to note that the Local Government Act 1972 already obliged staff to declare interest which might affect the tendering process. Some authorities, including this Council, had already considered the issue

of personal interest when developing local codes of conduct for employees. This authority's current code of conduct for employees required that employees must declare, to an appropriate manager, any financial and non-financial interest that they consider could bring about conflict with the authority's interests; and membership of any organisation not open to the public, without formal membership and commitment of allegiance and which has secrecy about rules or membership or conduct. It is suggested that this Council's approach to such declarations of financial and non-financial interest is sufficient as opposed to the need to maintain a register of such interests.

13.5 It was considered that the register of a standard list of interests covering financial and non-financial interest would extend the current position considerably. This was considered not only an extremely onerous responsibility for local authorities to maintain but also that it was inappropriate for an employee's personal and family circumstances to be open to unnecessary scrutiny when it might have no relevance to their job or the interests of the authority. It was considered that it would be appropriate for this authority to support the need for declarations of a financial and non-financial nature to be made to the employee's line manager, on the basis of as and when potential conflicts of interest might arise and that there should be a standard list of financial and non-financial interest that must always be registered.

13.6 Councillor G Theobald enquired regarding current arrangements in place particularly in regard to the processing of planning applications. It was explained that the mechanisms were already in place whereby if either the applicant or agent was known to the officer that this was declared on receipt of the initial application. The officer concerned then had no dealings with the processing of that application or formation of any recommendations in respect of it. If the application was considered subsequently by the Planning Applications Sub-Committee a formal declaration to the effect was made and recorded in the minutes.

13.7 The Senior Lawyer further explained that when considering the declaration and registration of hospitality, benefits or gifts, officers should be advised to treat such offers with caution and on such occasions it was suggested that the Council supports that:

- ◆ The acceptance of the gift or hospitality should be authorised by the appropriate director and recorded.
- ◆ Authorities should permit employees to keep insignificant items of token value such as pens, diaries etc.
- ◆ The suggestion of a maximum permitted monetary value be

considered such as is contained in the Members' Code but that this level should be set at £15 or more. This would remove the need, for example, for home helps to declare boxes of chocolates which they receive from clients at Christmas.

13.8 Members were in agreement but considered that the monetary level for declaration of "gifts"/hospitality should be set at £25 in line with the figure applicable for Members.

13.9 In answer to questions the Senior Lawyer explained that once agreed and adopted a suitable campaign would be launched to ensure that staff were made fully aware of the Code of Conduct and its requirements.

13.10 **RESOLVED** – (1) That Members note the provisions of the draft Model Code of Conduct for Local Government employees; and

(2) That the Monitoring Officer be instructed to respond to the consultation paper with the comments as set out in the report and with any further comments of the Director of Human Resources. The maximum permitted monetary value at which a gift be declared should be set at £25.00.

14A. CONSULTATION PAPER: POLITICAL RESTRICTIONS FOR LOCAL GOVERNMENT EMPLOYEES

14.1 The Committee considered the recent consultation paper issued by the Office of the Deputy Prime Minister (ODPM) on proposals to review the existing legislation in respect of the political activities that Local Government employees can engage in. (for copy see minute book).

14.2 The report also outlined the background to the existing legislation, the draft proposals contained in the review and the proposed responses that the Local Government Information Unit (LGIU) intended to submit in response to the consultation. The report was intended to form the basis for informed discussion by the Committee and to agree the Council's formal response to the consultation.

Issues

14.3 The consultation paper invites views on whether modifications should be made to existing legislation. It asks whether reducing the number of officers covered by the restrictions would have an adverse effect on Local Government and, if it were desirable to reduce the restrictions, what the best way to achieve this would be. It specifically considered the following issues:

- ◆ Reviewing the salary threshold
- ◆ Allowing local authority staff to participate in national politics
- ◆ Defining certain posts as exempt from restrictions
- ◆ Redefining political activity
- ◆ Changing the role of the Independent Adjudicator (who governs the application process for exemptions)
- ◆ Political assistants

Salary Threshold

14.4 The consultation paper proposes that the current salary threshold, which is currently NJC spine point 44 (£32,127), could be changed. It is an arbitrary threshold that limits those earning above this level of remuneration from participating in active politics. Raising it would require secondary legislation and would therefore be a relatively easy change to make and would be a first step to addressing the issues of excessive political restriction. The consultation paper seeks view on the appropriate spine point.

14.5 Following discussions Members were in agreement that a salary threshold of £40,000 or its equivalent NJC spine point would be more appropriate than the current figure NJC spine point 44 (£32,127).

14.6 Dr Wilkinson (Deputy Chair) and Councillor G Theobald considered that it would be appropriate for an officer to resign only on election as a Councillor, MP or MEP rather than on announcement as was currently the case, particularly if the officer was not standing in an area covered by the City Council. Councillor Lepper was of the view that the current position should remain in force and that following announcement of candidature when it became clear what an officer's political views were it would be appropriate for them to resign as the perception of their political neutrality could be considered to be compromised. Following a vote it was agreed that this Council should support the status quo, that an officer would be required to resign on the announcement of their candidature as a Councillor, MP or MEP.

14.7 **RESOLVED** – (1) That the draft proposals contained in the consultation paper be noted; and

(2) That the Monitoring Officer be instructed to respond to the consultation paper with the comments as set out in the report, with the exception of those in paragraph 3.10 where it had been agreed that the current position should be maintained, and any further

comments of the Director of Human Resources.

14B. REPORT OF THE STANDARDS BOARD FOR ENGLAND AND WALES

14.8 Members noted the contents of the formal report recently received from the Standards Board for England and Wales (for copy see minute book) and expressed their disquiet that it had taken so long for this matter to be dealt with and resolved. It had been found that there had been no case to answer and yet it had taken over a year to resolve this matter and the Member concerned had had that matter hanging over them for that period of time which was unacceptable. The Monitoring Officer explained that a letter had been sent to the Board on behalf of the Committee setting out their concern in the strongest possible terms.

14.9 **RESOLVED** – That the position be noted.

15. ITEMS TO GO FORWARD TO COUNCIL

15.1 **RESOLVED** – That none of the items considered go forward to Council.

PART TWO

16. ITEMS TO REMAIN EXEMPT FROM DISCLOSURE TO THE PRESS AND PUBLIC

16.1 **RESOLVED** – That no items remain exempt from disclosure to the press and public.

The meeting concluded at 7.10pm

Signed

Chair

Dated this

day of

2004