





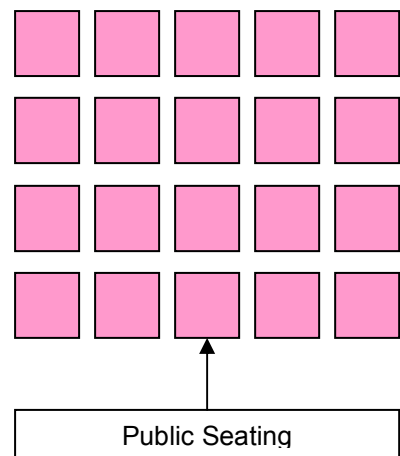
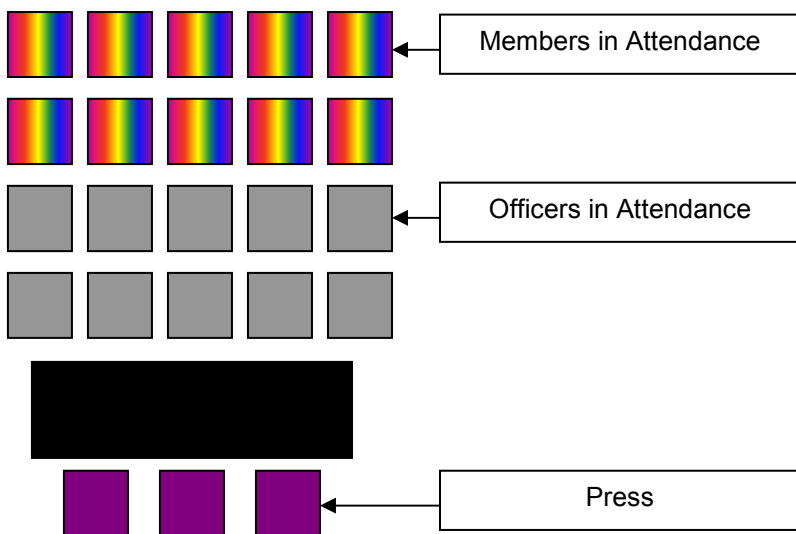
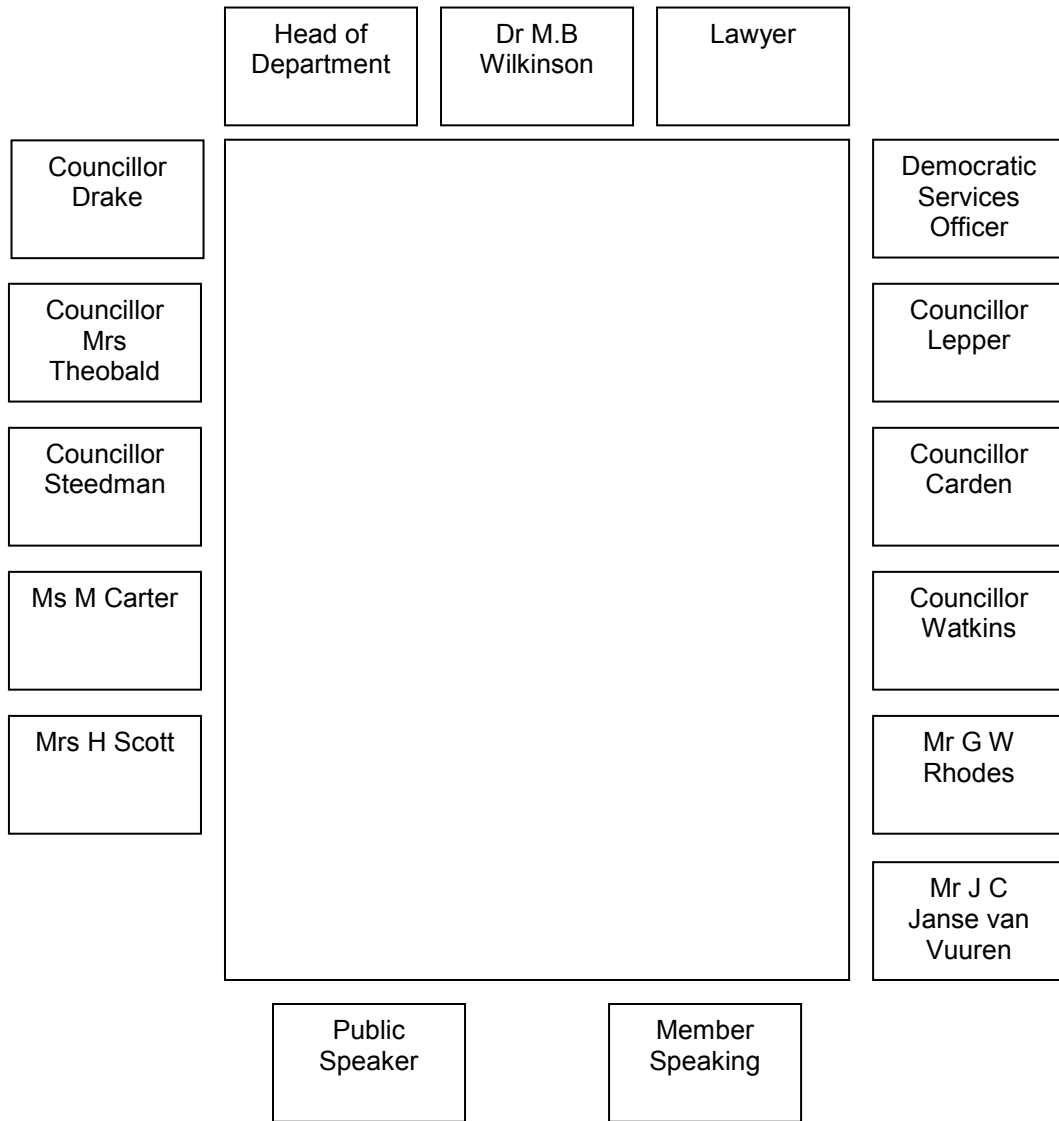
Brighton & Hove  
City Council

# Standards Committee

Title:	<b>Standards Committee</b>
Date:	<b>8 September 2009</b>
Time:	<b>5.00pm</b>
Venue	<b>Committee Room 1, Hove Town Hall</b>
Members:	<b>Councillors:</b> Carden, Drake, Lepper, Steedman, Mrs Theobald and Watkins  <b>Independent Members:</b> Dr M Wilkinson (Chairman), Ms M Carter and Mrs H Scott  <b>Rottingdean Parish Council Representatives:</b> Mr J C Janse van Vuuren and Mr G W Rhodes
Contact:	<b>Jane Clarke</b> <b>Democratic Services Officer</b> 01273 291064 jane.clarke@brighton-hove.gov.uk

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# Democratic Services: Meeting Layout



## AGENDA

### 6. 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.*

### 7. MINUTES OF THE PREVIOUS MEETING

1 - 4

Minutes of the meeting held on Wednesday 17 June 2009 (copy attached).

### 8. CHAIRMAN'S COMMUNICATIONS

### 9. PUBLIC QUESTIONS

(The closing date for receipt of public questions is 12 noon on Tuesday 1 September 2009).

No public questions received by date of publication.

### 10. STANDARDS COMMITTEE (FURTHER PROVISIONS) (ENGLAND) REGULATIONS 2009

5 - 10

Report of the Monitoring Officer (copy attached).

Contact Officer: Liz Woodley

Tel: 29-1509

Ward Affected: All Wards

### 11. STANDARDS COMPLAINTS UPDATE

11 - 18

Report of the Monitoring Officer (copy attached).

Contact Officer: Brian Foley

Tel: 29-1229

Ward Affected: All Wards

**12. MEMBERS' WEB PAGES**

**19 - 30**

Report of the Director of Strategy & Governance (copy attached).

*Contact Officer:*     *Caroline Banfield,*                     *Tel: 29-1126, Tel: 29-*  
                                  *Elizabeth Culbert*                     *1515*

*Ward Affected:*     *All Wards*

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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.

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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 Penny Jennings, (01273 291064, email [jane.clarke@brighton-hove.gov.uk](mailto:jane.clarke@brighton-hove.gov.uk)) or email [democratic.services@brighton-hove.gov.uk](mailto:democratic.services@brighton-hove.gov.uk)

Date of Publication - Friday, 28 August 2009

**BRIGHTON & HOVE CITY COUNCIL****STANDARDS COMMITTEE****5.00pm 17 JUNE 2009****COMMITTEE ROOM 1, HOVE TOWN HALL****MINUTES****Present:** Councillors: Carden, Drake, Lepper, Steedman, C Theobald and Watkins**Independent Members:** Dr M Wilkinson (Chairman), Ms M Carter and Mrs H Scott**Rottingdean Parish Council Representatives:** Mr J C Janse van Vuuren and Mr G W Rhodes**PART ONE****1. PROCEDURAL BUSINESS****1a Declarations of Substitute Members**

1.1 There were none.

**1b Declarations of Interests**

1.2 There were none.

**1c Exclusion of the Press and Public**

1.3 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).

1.4 **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 3 March 2009 be signed by the Chairman as a correct record.

**3. CHAIRMAN'S COMMUNICATIONS**

- 3.1 The Chairman noted that he and the Monitoring Officer had held a series of meetings with the Leaders of each political party within Brighton & Hove City Council.

**4. PUBLIC QUESTIONS**

- 4.1 There were none.

**5. STANDARDS COMPLAINTS UPDATE**

- 5.1 The Committee considered a report from the Monitoring Officer regarding the Standards Complaint Update [for copy see minute book].
- 5.2 The Standards & Complaints Manager addressed the Committee and stated that the report gave a brief update to members on the situation of standards complaints currently being dealt with in the Council.
- 5.3 Councillor Lepper asked if the figures regarding complaints to the Local Government Ombudsman could be broken down by service or department and the Standards & Complaints Manager agreed that this report provided a top-level overview of the situation, but a more detailed report was submitted regularly to DMT. He stated that the Standards Committee could receive a more detailed report, but felt that this might provide too much information for the general purposes of the Committee.
- 5.4 Councillor Watkins was concerned that this information was not being disseminated to all members, and stated that under the old governance system it would have been. He asked for more explanation on the two withdrawn complaints. The Standards & Complaints Manager explained that a complainant had withdrawn their complaints after they had been heard at an Assessment Panel, and this was believed to be down to personal reasons. There were no indications that pressure had been placed on the complainant to withdraw the matter.
- 5.5 Councillor Watkins asked if it was correct for the Council to end the complaints process simply because the original complaint was withdrawn and the Monitoring Officer stated that if a complaint was submitted to the Standards Board for England for investigation it was no longer a civil complaint and could not be withdrawn by the complainant. He was unsure if this provision was contained within the local provisions for standards complaints, but agreed to confirm the situation.

The Standards & Complaints Manager noted that it would have been more correct to consult with the Panel members and ask if they were happy for the complaint to be withdrawn. The Senior Solicitor stated that there were set circumstances in which a

withdrawal was allowable and these were contained within the adopted standards of the Council.

The Standards & Complaints Manager noted that two of the complainants had each brought an identical set of two complaints. It had therefore seemed prudent to allow a withdrawal of one of the sets of complaints.

Ms Carter did not feel it should be the prerogative of the complainant to withdraw a complaint once it had been submitted, as it could be in the interests of the authority to investigate, regardless of whether the original complainant wanted to pursue the complaint or not. The Monitoring Officer agreed to confirm the position of the Council in this regard and update Standards Committee Members via email.

5.6 **RESOLVED** – That the contents of the report is noted.

The meeting concluded at 5.15pm

Signed

Chairman

Dated this

day of





**Subject:** *The Standards Committee (Further Provisions) (England) Regulations 2009*

**Date of Meeting:** **8 September 2009**

**Report of:** *Monitoring Officer*

**Contact Officer:** Name: **Liz Woodley** Tel: **29-1509**

E-mail: [liz.woodley@brighton-hove.gov.uk](mailto:liz.woodley@brighton-hove.gov.uk)

**Wards Affected:** All

## **FOR GENERAL RELEASE**

### **1. SUMMARY AND POLICY CONTEXT:**

- 1.1 This report is to advise the Committee of the Standards Committee (Further Provisions) (England) Regulations 2009, (the 2009 Regulations) which came into force on 15 June 2009.

### **2. RECOMMENDATIONS:**

- 2.1 That the Committee note the report.

### **3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:**

- 3.1 The 2009 Regulations include three significant provisions - to enable the Standards Board to suspend a local authority's power to undertake the initial assessment function; to enable authorities to establish a joint standards committee and to revoke the Relevant Authority (Standards Committees) (Dispensations) Regulations 2002. Each element is described in more detail below.

#### **Suspension of initial assessment functions**

- 3.2 Although the Standards Board's role after May 2008 is primarily that of a strategic regulator, it is empowered under section 57D of the Local Government Act 2000 to remove a standards committee's initial assessment function.
- 3.3 The 2009 Regulations prescribe that the Standards Board may direct a local authority's initial assessment function to be suspended where: -
- a) The standards committee has failed to comply with guidance on the conduct regime available on the Standards Board's website and contained in the Local Standards Framework guide for authorities, issued by the Standards Board;
  - (b) The standards committee of the specified authority has failed to comply with a direction given by the Standards Board;

- (c) The standards committee or the monitoring officer has failed to carry out functions in relation to the conduct of members in a timely or appropriate manner; or
  - (d) The authority or the standards committee invited the Standards Board to give a direction.
- 3.4 The decision to suspend will be taken on a case –by -case basis, and informed by information gathered by the Board about the performance of standards committees and the authority’s monitoring officer. If the Board is satisfied that any of the circumstances set out above apply, it may suspend the initial assessment function, even if the authority is not failing in the discharge of the initial assessment function. Once an allegation has been allocated in a particular manner, the Board has no power to intervene further.
- 3.5 Except where an authority or standards committee has invited the Standards Board to give a direction, the Regulations require the Board to give notice of its intention to do so. The notice, given to the chair of the standards committee and monitoring officer must include reasons why the Board intends to give a direction, and set a date no later than 6 months from the date of service before which a direction may be given. It must give the authority no less than 28 days in which to submit observations to the Standards Board. If no direction is made in the six months referred to above, then the Board must serve a fresh notice before giving a direction.
- 3.6 Where a direction under section 57D is in place, the initial assessment function will be undertaken either by the Standards Board, or with its consent, the standards committee of another authority.

### **Joint Standards Committees**

- 3.7 In order to promote more effective ways of working locally, the Government believes that two or more relevant authorities should be able to establish a joint standards committee. Regulation 14 of the new Regulations provides that two or more authorities may establish a joint standards committee to exercise any or all of the functions under Part 3 of the 2000 Act or the functions of granting and supervising exemption from political restrictions imposed by the Local Government and Housing Act 1989.
- 3.8 The Regulations allow authorities a degree of flexibility to decide for themselves which functions they wish to be exercised by a joint standards committee, based on their own needs and circumstances. This may involve discharging only the initial assessment functions jointly, which was the preference in the Standards Board joint working pilot; or all of the standards committee’s functions, as was the preference in the pilot of some single purposes authorities such as police and fire authorities.

- 3.9 Should a joint committee be established, the provisions of Part 3 of the 2000 Act, associated regulations and Part 1 of the Local Government Act 1989 will apply – this means that the joint committee must be chaired by an independent member and that a joint standards committee must establish a sub-committee to consider allegations of misconduct, and a different sub-committee to deal with review requests.
- 3.10 Where an authority has decided to discharge its functions through a joint standards committee one of its elected members must sit on the committee.
- 3.11 Those authorities establishing a joint standards committee must agree terms of reference, which are to be sent to the Standards Board. The terms of reference must
- Identify the functions to be discharged;
  - Make provision for the administrative arrangements including procedures for conducting meetings, a protocol setting out the role of each authority’s monitoring officer, and financial arrangements for the joint committee;
  - Specify the number of members to be appointed to the joint committee, their terms of office and make provision for the appointment of sub-committees;
  - Specify the provisions, if any, which will apply to the payment of allowances;
  - Make provision for withdrawing from the arrangement.
- 3.12 Expenses incurred by the joint standards committee shall be defrayed by the component authorities in such proportions as they may agree.
- 3.13 The Government considers that joint committees may allow for the more efficient use of common resources and aid the sharing of information, expertise, advice and experience. If a joint committee is to be established, it would seem sensible for the authorities concerned not to be too distant from each other in order to reduce members’ travelling time to meetings. Based on information currently available, it is clear that there is not much interest in a joint committee within East Sussex. The formal view of the East Sussex Secretaries and Solicitors (ESSAS) is that, *“There are a number of areas where heads of East Sussex are examining the scope for joint working, but these do not include forming any joint standards committees. They have gained the impression that their Members would prefer to keep the decisions on standards complaints within the remit of their own authorities’ standards committees and sub-committees. The power to co-opt additional independent persons on an ad hoc basis has removed the main concern about having insufficient independent persons to deal with any complaint which has to go to an assessment, a review and then a hearing. Authorities are more likely to need to call on each other for assistance in the less formal stages, such as providing an officer to carry out an investigation, or a trained mediator.”* In the circumstances, it is recommended that the Council take no steps to establish a joint standards committee, but that officers keep the matter under review.

## **Dispensations**

- 3.14 In the light of concerns raised by some authorities about the provisions of the 2002 Dispensation Regulations, the 2009 Regulations revoke them and replace them with new provisions to clarify the rules which apply to standards committees when granting dispensations to local authority members.
- 3.15 The circumstances where a dispensation may now be granted to a member or co-opted member with voting rights are:-
- Where more than 50% of the members who would, but for the granting of any dispensation in relation to that business, be entitled to vote at a meeting are prohibited from voting; or
  - Where the number of members that are prohibited from voting at a meeting would but for the granting of any dispensations in relation to that business, upset the political balance of the meeting to the extent that the outcome of the voting would be prejudiced.
- 3.16 Any previously granted dispensations are disregarded for the purposes of working out whether the two circumstances referred to above apply. Thus if there were 10 members of a committee, six of whom would be prohibited from voting on some business, all 6 are entitled to seek a dispensation. If previously granted dispensations were not disregarded a situation could arise whereby once 4 dispensations had been granted, the remaining 2 would be ineligible to seek a dispensation – since at that point there would be fewer than 50% of the Members prohibited from voting.
- 3.17 In order to obtain a dispensation, a member must submit a written request to the standards committee, explaining why a dispensation is desirable. That committee must satisfy itself that having regard to all the circumstances that it is appropriate to grant a dispensation. As now, a dispensation may only be granted for a maximum of 4 years.
- 3.18 If a member acts in accordance with the grant of a dispensation, any participation in business prohibited by the mandatory provisions of the Code of Conduct does not amount to a failure to comply with the Authority's code of conduct.
- 3.19 Standards committees must ensure that the existence, duration and nature of any dispensation is recorded in writing and that such record is kept with the register of Members' Interests.

## **4. CONSULTATION:**

- 4.1 There has been no consultation.

## **5. FINANCIAL & OTHER IMPLICATIONS:**

### **5.1 Financial Implications:**

The costs of administering the standards regime under the 2009 Regulations will be met from within existing budgets.

*Finance Officer Consulted: Patrick Rice*

*Date: 20 August 2009*

### **5.2 Legal Implications:**

These are addressed in the body of the report.

*Lawyer Consulted: Liz Woodley*

*Date: 3 August 2009*

### **5.3 Equalities Implications:**

There are none.

### **5.4 Sustainability Implications:**

There are none.

### **5.5 Crime & Disorder Implications:**

There are none.

### **5.6 Risk and Opportunity Management Implications:**

There are none.

### **5.7 Corporate / Citywide Implications:**

There are none.

## **SUPPORTING DOCUMENTATION**

### **Appendices:**

1. None.

### **Documents In Members' Rooms:**

1. Guidance from Standards for England on Dispensations and Joint Standards Committees.

### **Background Documents:**

1. None.

**Subject:** *Complaints Update*  
**Date of Meeting:** **08 September 2009**  
**Report of:** *Acting Monitoring Officer*  
**Contact Officer:** Name: **Brian Foley** Tel: **29-3109**  
E-mail: [brian.foley@brighton-hove.gov.uk](mailto: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 report gives information about Standards Complaint being dealt with in the council year 2009/10.
- 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 very 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 **Summary of complaints about member conduct progressed in the Council year 2009/10**

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

**Complaint 1**

Case Number **SCT068STDS / BHC-000214**

Complainant: Elected Member

Date of complaint: 21 February 2009

Date of Assessment Panel: 20 March 2009

Date of Determination: 25 June 2009

**Allegation:** It was alleged that the Subject Member had breached Section 6 of the Code of Conduct which states *“You must when using or authorising the use of the resources of the authority (ii) ensure that such resources are not used improperly for political purposes (including party political purposes)”*.

**Decision of Assessment Panel:**

The complaint was referred to the Monitoring Officer to be investigated.

**Outcome:** The Panel agreed with the findings within the Investigator’s Report which concluded that the subject member had not improperly used council resources for political purposes and therefore there had been no breach of the code of conduct.

**Recommendations of the report:** That a review of the member’s Website Policy be carried out so that clear boundaries can be established on what matters can be communicated using Council resources with particular reference to support for political events and information about visiting politicians.

**Complaint 2**

Case Number **SCT069STDS / BHC-000005**

Complainant: Elected Member

Date of complaint: 21 February 2009

Date of Assessment Panel: 20 March 2009

Date of Determination: 25 June 2009

**Allegation:** It was alleged that the Subject Member had breached Section 6 of the Code of Conduct which states *“You must when using or authorising the use of the resources of the authority (ii) ensure that such resources are not used improperly for political purposes (including party political purposes)”*.



**Decision of Assessment Panel:**

The complaint was referred to the Monitoring Officer to be investigated.

**Outcome:** The Panel agreed with the findings within the Investigator's Report which concluded that the subject member had not improperly used council resources for political purposes and therefore there had been no breach of the code of conduct.

**Recommendations of the report:** That a review of the member's Website Policy be carried out so that clear boundaries can be established on what matters can be communicated using Council resources with particular reference to support for political events and information about visiting politicians.

**Complaint 3**

Case Number **SCT065STDS / BHC-000861**

Complainant: Elected Member

Date of complaint: 16 February 2009

Date of Assessment Panel: 11 March 2009

**Allegation:** It was alleged that a Member had breached Section 5 of the Code of Conduct in that they had failed to conduct themselves in a manner which could reasonably be regarded as bringing their office or authority into disrepute. It was further alleged that the Member failed to declare a Personal Interest which was also a Prejudicial Interest and was in breach of sections 8(1) and 10(1) of the Code of Conduct.

**Decision of Assessment Panel:**

The complaint was referred to the Monitoring Officer to be investigated. Investigation work is in progress.

**Complaint 4**

Case Number **SCT066STDS**

Complainant: Elected Member

Date of complaint: 27 February 2009

Date of Assessment Panel: 11 March 2009

**Allegation:** It was alleged that a Member had breached Section 5 of the Code of Conduct.

**Decision of Assessment Panel:**

The complaint was referred to the Monitoring Officer to be investigated. Investigation work is in progress.

**Complaint 5**

Case Number **SCT070STDS**

Complainant: Elected Member

Date of complaint: 27 February 2009  
Date of Assessment Panel: 02 April 2009

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

Section 3(1) in that they had failed to treat others with respect.  
Section 5 in that they had failed to conduct themselves in a manner which could reasonably be regarded as bringing their office or authority into disrepute.  
Section 6 (b)(i) in that they had failed when using or authorising the use by others of the resources of the authority to act in accordance with the authority's reasonable requirements, and, 6(b)(ii) failed to ensure that such resources are not used improperly for political purposes (including party political purposes).

**Decision of Assessment Panel:**

The complaint was referred to the Monitoring Officer to be investigated. Investigation work is in progress.

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

**Complaint 6**

Case Number **SCT067STDS**  
Complainant: Elected Member  
Date of complaint: 21 February 2009  
Date of Assessment Panel: 20 March 2009

**Allegation:** It was alleged that a Member breached Section 6(b)(ii) of the Code of Conduct which states "*You must when using or authorising the use of the resources of the authority (ii) ensure that such resources are not used improperly for political purposes (including party political purposes)*".

**Decision of Assessment Panel:**

No Further Action.

**Review Requested:**

Date Review requested: 24 March 2009  
Date of Review: 18 May 2009

**Decision of Review Panel:**

No further action

**Complaint 7**

Case Number **BHC-000379**  
Complainant: Member of the public  
Date of complaint: 20 May 2009  
Date of Assessment Panel: 22 June 2009

**Allegation:** It was alleged that the Member breached Section 3(1) in that they had failed to treat others with respect. It was also alleged that there had been a breach of Section 6(b)(i) in that there had been a failure when using or authorising the use by others of the resources of the authority to act in accordance with the authority's reasonable requirements.

**Decision of Assessment Panel:**

No Further Action

**Review Requested:**

Date Review requested: 26 June 2009

Date of Review: 11 September 2009

**Decision of Review Panel:** tbc

**Complaint 8**

Case Number **BHC-000554**

Complainant: Elected Member

Date of complaint: 21 May 2009

Date of Assessment Panel: 22 June 2009

**Allegation:** It was alleged that a Member breached Section 5, *You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.*

**Decision of Assessment Panel:**

No Further Action.

**Review Requested:**

Date Review requested: 29 June 2009

Date of Review: 08 September 2009

**Decision of Review Panel:** tbc

**Complaint 9**

Case Number **BHC-000555**

Complainant: Elected Member

Date of complaint: 21 May 2009

Date of Assessment Panel: 22 June 2009

**Allegation:** It was alleged that a Member breached Section 5, *You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.*

**Decision of Assessment Panel:**

No Further Action

**Review Requested:**

Date Review requested: 29 June 2009

Date of Review: 08 September 2009

**Decision of Review Panel:** tbc

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

**Complaint 10**

Case Number **BHC-001168**

Complainant: Member of the public

Date of complaint: 28 July 2009

Date of Assessment Panel: 02 September 2009

**Allegation:** It was alleged that a Member breached Section 5, *You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.*

**Decision of Assessment Panel:** tbc

**3.3 Summary of complaints received under the corporate complaints procedures in Quarter 1, 2009/10**

**3.3.1 Local Government Ombudsman Complaints**

The following table shows the number of complaints received from the Ombudsman during the first quarter of 2009/10. There is comparative data for the full year 2008/09.

There has been a substantial reduction in numbers of complaints investigated by the Ombudsman.

Directorate		Reports	LS	NM	OD	OJ	Prem	NYD	Totals
<b>ASCH</b>	<b>Q1- 09/10</b>							<b>2</b>	<b>2</b>
	08/09	0	4	17	2	2	8		33
<b>CYPT</b>	<b>Q1- 09/10</b>								<b>0</b>
	08/09	0	2	9	1	1	0		13
<b>Culture</b>	<b>Q1- 09/10</b>								<b>0</b>
	08/09	0	0	0	0	0	0		0
<b>Env</b>	<b>Q1- 09/10</b>			<b>1</b>				<b>2</b>	<b>3</b>
	08/09	0	1	14	3	4	8		30
<b>F&amp;R</b>	<b>Q1- 09/10</b>			<b>1</b>				<b>1</b>	<b>2</b>
	08/09	0	2	3	0	4	6		15
<b>S&amp;G</b>	<b>Q1- 09/10</b>							<b>1</b>	<b>1</b>
	08/09	0	1	1	0	1	0		3
<b>Total</b>	<b>Q1- 09/10</b>								<b>8</b>
	08/09	0	10	44	6	12	22		94

Reports: There have been no formal reports identifying maladministration causing injustice issued by the LGO against the Council.

Local Settlements: In such cases the investigation is discontinued because the LGO is satisfied that a suitable action has been agreed by the local authority.

No Maladministration: The LGO concludes their investigation by writing a formal report finding no maladministration by the council.

Ombudsman Discretion: The ombudsman issues a decision letter in which they decide to discontinue the investigation most commonly because there is found to be insufficient injustice to warrant continuing to investigate.

Outside Jurisdiction: These are cases that the LGO is unable to investigate.

Premature Complaints: Complaints that the local authority have not yet had opportunity to consider.

Not Yet Determined: Cases where the Council are awaiting a decision from the LGO.

### 3.3.2 Corporate Stage One and Two Complaints

The following table summarises data about numbers of complaints for each directorate during the first quarter of 2009/10 and compares this to information for 2008/09. Over all there has been a reduction in the number of Stage One and Stage Two complaints. The Adult Social Care and Housing directorate have contributed most significantly to this reduction.

	Stage One		Stage Two	
	Q1- 2009/10	2008/09	Q1- 2009/10	2008/09
ASC&H	93	522	1	34
CYPT	7	54	0	2
Culture	6	45	0	0
Environment	263	1058	7	42
F&R	80	298	4	19
S&G	4	10	0	1
<b>Totals</b>	<b>453</b>	<b>1987</b>	<b>12</b>	<b>98</b>

## 4. CONSULTATION:

4.1 There has been no consultation.

## **5. FINANCIAL & OTHER IMPLICATIONS:**

### **5.1 Financial Implications:**

There are no direct financial implications arising from the report.

*Finance Officer Consulted: Anne Silley*

*Date: 20 August 2009*

### **5.2 Legal Implications:**

There are no legal implications.

*Lawyer Consulted: Liz Woodley*

*Date: 20 August 2009*

### **5.3 Equalities Implications:**

There are no equalities implications.

### **5.4 Sustainability Implications:**

There are no sustainability implications.

### **5.5 Crime & Disorder Implications:**

There are no crime and disorder implications.

### **5.6 Risk and Opportunity Management Implications:**

There are no risk and opportunity management implications.

### **5.7 Corporate / Citywide Implications:**

There are no Corporate or Citywide implications.

## **SUPPORTING DOCUMENTATION**

### **Appendices:**

1. None.

### **Documents In Members' Rooms:**

1. None.

### **Background Documents:**

1. None.

**Subject:** *Members' web pages*  
**Date of Meeting:** **8<sup>th</sup> September 2009**  
**22<sup>nd</sup> September 2009**  
**Report of:** *Director of Strategy and Governance*  
**Contact Officer:** Name: **Elizabeth Culbert** **Tel: 29-1515**  
**Caroline Banfield** **Tel: 29-1126**  
**Wards Affected:** All

**FOR GENERAL RELEASE**

**1. SUMMARY AND POLICY CONTEXT:**

- 1.1 Following two recent complaints, the Standards Committee has asked for some revisions to the existing Members' Web Page Policy, to clarify the guidance given on certain issues. This report sets out a revised Members' Web Page Policy which is in line with the Standards Committee's recommendations.

**2. RECOMMENDATIONS:**

**To Standards Committee:-**

- 2.1 That the Committee notes and approves the content of the revised Members' Web Page Policy, subject to the approval of Governance Committee.
- 2.2 That the revised policy is referred to Governance Committee for approval on 22<sup>nd</sup> September 2009.

**To Governance Committee:-**

- 2.3 That the Committee notes and approves the content of the revised Members' Web Page Policy having taken into consideration comments received from Standards Committee.
- 2.4 That all Members who have pages published on the Members' Web Pages are asked to sign the revised Web Page Policy as a condition of remaining published on the site and that any Members wishing to join the site in the future should be granted access to it on condition that they first sign a copy of the revised Members' Web Page Policy.

### **3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:**

- 3.1 The Members' Web Pages were launched in July 2006 in order to benefit both councillors and residents by:
- Providing information on the local area and councillor activities;
  - Facilitating increased communication and feedback between councillors and constituents;
  - Promoting understanding of the role of councillors and of the local democratic process.
- 3.2 Prior to the launch, an Acceptable Use Policy was drafted to emphasise a number of legal issues that could potentially affect website authors. The policy was approved by the Member Development Working Group and subsequently by Standards Committee at its meeting of 14 July 2006. Any member who wished to publish content on the Members' Web pages was asked to sign his/her acceptance to be bound by the policy as a prerequisite to being supplied with logon details.
- 3.3 On 12 September 2006, Standards Committee approved a revised version of the Acceptable Use Policy, and renamed it the Members' Web Page Policy (copy attached as Appendix One). The revised version contained further information on web page content that could be construed as "political" and also highlighted councillors' duty to promote race equality. All councillors who were live on the site were asked to sign this revised document to indicate their agreement to be bound by it and any new entrants to the site were also asked to sign it.
- 3.4 Since July 2006, the council's complaints team has received two formal complaints regarding content on the Members' web pages. A Standards hearing panel met to consider the complaints in mid June 2009. The substance of the complaints included concern that the Web Page Policy had been breached through inappropriately publicised political events.
- 3.5 The Standards hearing panel concluded that the Web Pages Policy had not been breached but that the complaint had highlighted a need for further guidance to be issued to all members. The panel stated that it would be helpful for the Policy to be reviewed in order to "set more clearly defined boundaries on what matters can properly be communicated using council resources, with particular reference to support for political events and information about visiting politicians."
- 3.6 The hearing panel also called for the Policy to state clearly whether members may use web pages to refer to national events and issues as well as local events and issues.



- 3.7 In response to the recommendations of the Standards hearing panel, paragraph 9 of the Web Pages Policy has been redrafted. The changes from the original text are shown in italics and underlined text in the document at Appendix One.
- 3.8 An additional paragraph has also been added to the Policy (paragraph 6) to remind members of the position when linking to external websites from their Members' web pages.

#### **4. CONSULTATION:**

- 4.1 Changes to the Members' Web Page Policy have been requested by a Standards hearing panel and approved changes will be referred to Standards Committee for information.

#### **5. FINANCIAL & OTHER IMPLICATIONS:**

##### 5.1 Financial Implications:

There are no financial implications arising from the report. On-going support will continue to be met from existing Democratic Services budgets.

*Finance Officer Consulted: Peter Francis*      *Date: 21<sup>st</sup> August 2009*

##### 5.2 Legal Implications:

Members are required to use the Member Web Pages in accordance with the Web Page Policy. The policy addresses the key legal issues for Members to have regard to. They are: (a) avoid inclusion of any defamatory material, (b) avoid inclusion of any political promotion or political campaigning material. (c) comply with data protection confidentiality requirements, (d) comply with the council's Code of Conduct for Members, (e) avoid copyright infringement, (f) observe the terms and conditions of the Members Web Page Policy

*Lawyer Consulted: Elizabeth Culbert*      *Date: 19<sup>th</sup> August 2009*

##### 5.3 Equalities Implications:

The website meets accessibility standards. All members are offered this facility.

##### 5.4 Sustainability Implications:

There are no sustainability implications arising from this report.

##### 5.5 Crime & Disorder Implications:

There are no Crime and Disorder implications arising from this report.

5.6 Risk and Opportunity Management Implications:

The main risks associated with use of the site are that individual members could be found to have breached the code of conduct and/or to be legally liable for any of the other issues outlined in 5.2 above. The main risk for the council is that it could be found to have acted unlawfully in allowing its resources to be used for political purposes, contrary to the Local Government Act 1986. The opportunities associated with the use of this site are that it will improve community engagement and raise the profile of members and the council.

5.7 Corporate / Citywide Implications:

There are none.

## **SUPPORTING DOCUMENTATION**

**Appendices:**

1. Brighton & Hove City Council Members Web Page Policy.

**Documents In Members' Rooms:**

1. None.

**Background Documents:**

1. None.

## Appendix One

### **Brighton & Hove City Council**

## **Members' Web Page Policy**

### **1. Introduction**

1.1 The Councillors' Web Site is designed to provide Councillors with an improved and technological up-to-date medium of communication with their constituents. Web Sites of this nature are increasingly being used as a source of imparting information and facilitating interaction between Councillors and constituents while allowing Councillors to raise their personal profile as well as their democratic role within the local community. Councillors' Web Sites can also be used to encourage feedback from constituents as well as keeping the local community informed of matters affecting the community, news, events, surgery times etc.

1.2 Brighton & Hove City Council's Members' Web Page Policy is designed to afford protection for Councillors and to ensure that they get maximum value from their use of their web pages in a way that does not infringe any legislative or regulatory requirements as well as any existing Codes of Practice in a manner that would bring either their own or the Council's reputation into disrepute. The Council makes the facilities available for the use of Members in connection with Council business. Like all the Council's ICT equipment and systems, they must not be used for any purpose other than those directly concerned with official Council business\*, or the work of Elected Members.

\*'Official Council business' means matters relating to a Member's duties as an elected Councillor; as a member of a Committee or Scrutiny Panel, sub-Committee or as a Council representative on another body or organisation.

1.3 The Policy will explain the restrictions that will apply to Councillors in using the Web Site. In summary there are prohibitions against use of the Web Site for:

- any matter that would place the Councillor in breach of the Code of Conduct for Members (see section 2.1 below)
- any matter that would be against the decision making process (see section 3 below)
- financial gain (see section 4 below)
- the posting of illegal or inappropriate content (see section 5-6 below)
- political promotion or political campaign (see section 8-10 below)

- breach of confidentiality and data protection principles (see section 11 below and separate document “Data Protection: A Councillors Guide)

## **2 General usage**

- Councillors are only permitted to use their Web pages in furtherance of their official role as an elected Member of Brighton & Hove City Council.
- Councillors are responsible for the content of their own web pages.
- The Council is not responsible for approving content placed on to Councillors’ web pages.
- The Council does not authorise or in any way sanction or approve the publication of statements that may be construed as defamatory or in breach of equalities laws

2.1 The Council has adopted a Code of Conduct for Members. Councillors must ensure that they observe their obligations and responsibilities in the Code of Conduct together with any guidance that may be issued by the Standards Board for England and the Council’s Standards Committee when using the Councillors’ Web pages. In particular Councillors are reminded that the content of their web pages must comply with:

- the Council’s Code of Conduct for Members
- any guidance issued by the Standards Board for England and the Council’s Standards Committee
- the Council’s Procedure Rules
- the Council’s Equal Opportunities Policy\*
- the Council’s Use of ICT Policy
- the Code of Conduct for member/employee relations

\* In 2000, the government gave most public authorities in Britain a legal duty to promote race equality (‘race equality duty’). This means that, in carrying out its functions, the Council must now also have ‘due regard’ to how it will:

- Eliminate unlawful racial discrimination;
- Promote equal opportunities; and
- Promote good relations between people from different racial groups.

It is the responsibility of all Councillors and Council employees to look for and eliminate institutional racism and discrimination against all communities in the provision of services; as an employer; and as a democratic body, recognising that people are complex and may experience more than one form of discrimination. This includes discrimination on the basis of race and ethnicity (including travellers and Gypsies); homophobia; transphobia; ageism; sexism; and

discrimination as a result of disability/learning disability; mental health; HIV/Aids; social class; refugee and asylum seeker status; and religion or belief.

2.2 Councillors are further reminded that the content of their web pages must:

- promote equality by not discriminating unlawfully against any person
- treat others with respect
- not compromise the impartiality of officers
- not contain information given them in confidence
- not bring them, fellow Councillors or the Council into disrepute
- not be used for political purposes (see below for further information)
- not infringe Copyright Law
- not breach the principles of data protection legislation

### 3. **The Decision making process**

Councillors must use their web pages responsibly and have regard to the decision making process:

- Councillors must not use their web pages in any way which taints the decision making process through biased or closed minds, based on a particular political view/personal interest. This could undermine the Councillor's commitment to consider openly all issues when the matter is determined;
- Councillors who are members of the Planning Application Sub-Committee or Licensing Committee should not express personal opinions about Committee matters on their web pages as this will prevent them from being able to speak or vote as a member of that Committee when an application is determined.

### 4. **Financial gain**

Councillors must not use their web pages for financial gain. For example, web pages cannot be used for advertising a commercial service or for encouraging the Council to purchase a particular item or service.

### 5. **Inappropriate content**

The site must promote equality by not discriminating unlawfully against any person, must treat others with respect and not do anything which compromises the impartiality of people who work for or on behalf of the Council

- Councillors must treat officers' recommendations or known views impartially and should not refer to individual officers by name when commenting on Council recommendations or decisions.

- Councillors must not use their web pages to disclose information, which they know to be confidential.

**6. Distribution/publication of any material on Councillors' web pages**

Councillors must not distribute or publish any material that:

- (i) Infringes any intellectual property rights or is in breach of law, statute or regulation, including the Data Protection Act 1998;
- (ii) Is unlawful, defamatory, libellous, threatening, harassing, racially offensive, obscene, pornographic, indecent or otherwise objectionable;
- (iii) Contains any viruses or other computer programs intended to damage, detrimentally interfere with, surreptitiously intercept or expropriate any personal information

External Links

Where external links to personal blogs, web pages or political web sites exist these sites must comply with the restrictions at 6(i)-(iii) above. External links may be removed without notice at the Council's discretion. The disclaimer below shall appear on Members Web Pages and shall apply to all external blogs or web pages:

**“Please note that external links from this website may include material of a political nature. Brighton & Hove City Council takes no responsibility for information contained on external links from this website. Views expressed by individual Councillors on their own webpages are not necessarily those of the Council itself.”**

**7. Monitoring Web pages and links**

Councillors must:

- Monitor for libellous or defamatory material and must remove any such material when becoming aware of its existence;
- Take responsibility for any legal fees, damages or other expenses that may be incurred as a result of publication by them;
- Maintain and promptly update the information on their web pages to ensure it is true, accurate, current and complete.

Council checks

- One or more Council officers will periodically review the content of web pages authored by Members, including checking compliance with this policy, and if necessary may prevent publication of pages that appear not to comply. However, it must be noted that this is provided only as assistance as reviews are only likely to be carried

out after page(s)/blog content has been authored by the Member, such that the Council accepts no responsibility whatsoever for content. It remains the responsibility of the authoring Member to ensure that the material they produce complies with the law and this policy. Members who are unsure about any permissible uses of these facilities must seek clarification, in the first instance from the Member Support Officer.

Anyone who believes that they have been defamed by a Councillor will be able to take legal action directly against the Councillor concerned. Therefore care should be taken in what is said on the pages about other people or organisations. If the truth of any such comments could not be proved, then clearly there could be difficulty in defending a claim of defamation.

## **8. Political promotions or campaigns**

According to the Local Government Act 1986, a council must not publish material which “in whole or part appears to affect public support for a political party”. Placing material on a publicly visible website almost certainly constitutes “publication” in this sense. This means that the Council would be acting unlawfully if it published such material on its own website.

The Code of Recommended Practice on Local Authority Publicity sets out detailed guidance on publicity material produced by councils. The Code makes specific reference to the situation in the pre-election period as well as in relation to councils providing “assistance to others to issue publicity” which might be taken to apply to links from council websites. As all Councillors’ web pages are funded by the Council, Councillors may not use their web pages to promote political campaigns or particular political stances on issues. For example:

- They must not use their web pages to promote a political party or persons identified with a political party.
- They must not use it to promote or oppose a view on a question of political controversy which is identifiable as the view of one political party and not of another.

The Code of Recommended Practice on Publicity states:-

“Publicity about individual Councillors may include the contact details, the positions they hold in the Council (for example Chair of a Scrutiny Committee) and their responsibilities. Publicity may also include information about individual Councillors’ proposals, decisions and recommendations only where this is relevant to their position and responsibilities within the Council. All such publicity should be objective and explanatory and whilst it may acknowledge the part

played by individual Councillors as holders of particular positions in the Council, personalisation of issues or personal image-making should be avoided.

Publicity should not be, or liable to misrepresentation as being, party political. While it may be appropriate to describe policies put forward by an individual Councillor which are relevant to her/his position and responsibilities within the Council, and to put forward his/her justification in defence of them, this should not be done in party political terms, using political slogans, expressly advocating policies of those of a particular political party, or directly attacking policies and opinion of other parties, groups or individuals”

## **9. Publicity**

9.1 As set out above, the Council is prohibited from publishing material that appears to be designed to affect public support for a political party and this restriction applies to material placed by individual Members on their Member web Page.

9.2 Subject to complying with the requirement at 9.1, Members may use their web pages to publicise issues relevant to council business or function.

9.3 Members are not precluded from referring in their web pages to an issue or event of a political nature, so long as the content complies with 9.1 and 9.2 above.

9.4 By way of example, subject to satisfying the conditions above, it would not be inappropriate for a Member's web page to mention a forthcoming national political event or a visit by a national politician to Brighton & Hove. However, the Member author should be satisfied that the event or issue they are publicising is relevant to one or more functions of the authority.

## **10. Representation of the People Act 1983 and the Political Parties Elections and Referendums Act 2000**

- These establish controls over political donations. A donation can include the provision of services or facilities. This means that, to the extent that Members website facilities are provided free of charge or at subsidized rates, they are regulated by the Act if they are used for political activity;
- During election times, including By-elections, (i.e. from the “notice of an election” to the election itself), most parts of relevant (in the



case of By-elections) or all Councillors' web pages will be suspended. Visitors will still, however, be able to contact Councillors through the Council's main website.

## **11. Personal confidentiality**

- Councillors must not disclose information given to them in confidence or information acquired, which they believe, is of a confidential nature, without first having the consent of a person authorised to give it. For example, details about a constituent who has made a complaint about a council service to the Councillor but does not wish their personal details to be passed to the Council.
- Councillors must not display or process personal data on their web pages other than for the purpose stated at the time of capture.
- In managing a web page Councillors may receive comments, enquiries or complaints from members of the public. Councillors may refer to (or publish) material that is based upon information drawn from the Council or obtained from external sources. All such personal information should be treated with care and respect for relevant data protection law.

## **12. Data Protection issues**

Anyone processing personal data must comply with the eight Data Protection Act principles. (Please refer to Data Protection: A Councillor's Guide). The principles state that data must be:

- Fairly and lawfully processed;
- Processed for limited purposes;
- Adequate, relevant and not excessive;
- Accurate;
- Not kept longer than necessary;
- Processed in accordance with the data subject's rights'
- Secure;
- Not transferred to countries without adequate protection

Personal data covers both facts and opinions about the individual. It also includes information regarding the intentions of the data controller towards the individual.

The definition of processing incorporates the concept of obtaining, holding and disclosing.

## **13. Breach of the Members' Web Page Policy**

- 13.1 Your authorisation to use the Members' Website automatically terminates without notice, at the Council's sole discretion, should you

fail to comply with any of the Terms and Conditions of this Policy. Upon such termination you must cease all use of your web pages. This provision does not limit the Council's right to terminate at any time for any reason whatsoever.

- 13.2 A message will be posted on the website explaining that any visitor who wishes to complain about any Member's pages should, in the first instance, attempt to resolve any concerns with the Member direct. It is hoped that a number of potential complaints will be resolved informally in this way. It is also anticipated that some visitors will recognise that their concern is more connected to expressing a different point of view about published content rather than complaining that the content is intrinsically offensive, for example.
  
- 13.3 Visitors will also be offered the opportunity, in the case of serious complaints or complaints that were not resolved through discussion with the Member, to raise their complaint with the Standards and Complaints Team. The Standards and Complaints Team will refer all complaints to Democratic Services (who will discuss these with the Member concerned) and/or will direct complainants to the Standards Board as appropriate.
  
- 13.4 Staff in Democratic Services reserve the right to suspend a Member's pages while they or the Standards Board investigate any complaint and they also reserve the right to close a Member's pages permanently in the event of a serious complaint being upheld as well founded.
  
- 13.5 Democratic Services also reserve the right to suspend or remove permanently any pages that they themselves consider to be inappropriate, including in cases where no complaint has yet been received.

***UNDERTAKING***

I have read and understood the above Members Web Page policy and agree to be bound by the terms set out in it.

Signed:..... Date: .....

Print name:.....