

STANDARDS COMMITTEE

Minutes of the meeting held at 6.30 pm on 27 October 2020

Present:

Councillor Will Harmer (Chairman)
Councillor Vanessa Allen (Vice-Chairman)
Dr Simon Davey, Ken Palmer, Councillor Melanie Stevens,
Councillor Michael Tickner and Councillor Stephen Wells

1 APOLOGIES FOR ABSENCE

There were no apologies for absence.

2 DECLARATIONS OF INTEREST

Councillor Melanie Stevens declared that she was named in Appendix 4 of the Monitoring Officer's Report.

3 MINUTES OF THE MEETING HELD ON 12 MARCH 2020

The minutes of the meeting held on 12th March 2020, were agreed and signed as a correct record.

Matters Arising from the Minutes:

In relation to the meeting with the Group Leader's, the Chairman confirmed that as there were no urgent issues to discuss with the Group Leaders the session would be carried over to the next meeting (on 2nd March 2021) when it was hoped that an 'in person', rather than a virtual, meeting could be facilitated.

Concerning the review of the Governance Statements, the Committee noted that Co-opted Members with voting rights were required to sign the Code of Conduct meaning that they were bound by rules of confidentiality. In addition, the Council's Constitution set out rules and protocols for Co-opted Members and these stressed the need to maintain confidentiality and avoid conflicts of interest. The Monitoring Officer suggested that it may be helpful to refresh the protocols and it was agreed that an item on this would be included in the agenda for the next meeting.

Members noted that the Planning Protocol had been adopted by Full Council in July 2020 and was now included in the Council's Constitution. In respect of training on planning matters, the Monitoring Officer confirmed that he worked closely with the Assistant Director for Planning to deliver training which was well attended by Members. The Member induction programme following the 2022 local elections would also include training on planning matters.

The Committee considered whether it would be helpful for the Standards Committee to have a broad overview if any training attended by Members. It was agreed that it may be helpful to review this issue at a future meeting.

4 QUESTIONS

No questions had been received.

5 MONITORING OFFICER'S GENERAL REPORT Report CSD20102

The report updated the Committee on a number of standards issues.

Revised Code of Conduct

It was noted that the revised Code of Conduct had been adopted by Full Council on 12th October 2020.

Response to Committee on Standards in Public Life

In reviewing the best practice recommendations that had been made by the Committee on Standards in Public Life, Members noted that LB Bromley had gone a long way in complying with the recommendations that had been made.

It was agreed that Members of the Standards Committee would feedback any comments on the Monitoring Officer's proposed response by Tuesday 3rd November 2020.

Members noted that the response to the Committee on Standards in Public Life was separate to the LGA Consultation on a draft Code of Conduct.

Local Government Association (LGA) Draft Code of Conduct Consultation

The Committee noted that whilst LB Bromley was not a Member of the LGA, from time-to time the LGA, at the request of the Government, took forward initiatives which impacted on Local Government as a whole. This was one such initiative and on that basis, Bromley was entitled to contribute toward the LGA draft code as the LGA were taking representations from local authorities irrespective of whether they were members.

Council Complaints Process

The Committee noted that there were two stages to the complaints handling process – 1. An initial filtering process and, 2. A full investigation. Effectively what happened was when a complaint was received it would be considered by Officers at face value, comments would be obtained from the relevant member and a view would be taken on whether firstly, the Code was engaged (i.e. determining - using the public interest test – whether the Member was acting in an official capacity), and secondly whether there was the potential,

following an investigation, for a finding that the Member may have breached of the Code of Conduct. It was noted that if the Member was not acting in an official capacity the complaint would fall immediately. Since March 2020, one of the Independent Persons had been engaged at the filtering stage to seek a view. The Independent Person became involved at the point at which the response had been drafted. The Independent Person provided feedback on the substance of the complaint and the response prior to it being forwarded to the complainant and the subject member. It was important that only one Independent Person was engaged at the filtering stage as if a matter was recommended for investigation by the Standards Committee there was an obligation to again consult with an Independent Person on any sanction or remedy taken. To date, the threshold for complaints had not been passed in the filtering exercises that had been undertaken. Experience had demonstrated that both the complainant and the subject member provided a reasonable amount of information at the filtering stage. The key point was that the investigation stage involved the formal review of documentation and the formal report to be considered by the Standards Committee with the opportunity to drill down into detail to determine whether there had been a breach. The Committee noted that all Code of Conduct complaints received by the Council received due consideration and a formal response from Officers irrespective of whether they proceeded to the investigation stage.

Members noted that in the event of a disagreement between the Independent Person and the Officer undertaking the filtering process it would ultimately be the decision of the Monitoring Officer that would prevail as the Independent Person was a consultee in the process.

In relation to concerns expressed around the disclosure of information, the Committee noted that the recent revision to the Code of Conduct made it mandatory to co-operate with a Standards Investigation as such non co-operation was itself a breach of the Code which could be dealt with regardless of the substance of the original complaint. In terms of the sanctions available, Members noted that unless a Member breached the rules around disclosure of pecuniary interest (which would create a criminal offense dealt with by the Police) there was very little that could be put in place by way of sanctions. Currently the Standards system advocated persuasion rather than regulation and an authority had to look at the sanctions it was permitted to implement rather than those it was desirable to implement.

The Committee discussed issues around social media activity and whether individuals who were clearly known to be local councillors were or were not acting in an official capacity when engaged in activity on social media. The Monitoring Officer advised that the [2006 "Ken Livingstone"](#) case created a clear distinction between the actions of an individual in their private life and their professional actions and they type of behaviour that would bring an office into disrepute. Members noted that previous cases that had been determined had held that a passive reference to being a councillor did not engage the Code. The Monitoring Officer suggested that consideration could be given to developing a Code of Practice for Members around the use of social media and the need to maintain high ethical standards.

The Committee suggested that it may be helpful to review the wording that was used in responses where it was determined at the initial filtering stage that there was little likelihood of an investigating finding that the Code of Conduct had been breached. It was suggested that the current wording did nothing to exonerate the subject of the complaint. The Monitoring Officer agreed that the wording, which was used with regularity when responding to complaints, could be reviewed however the key issue was that until a full investigation had been undertaken Officers were unable to say with certainty that the Code had not been breached consequently, the wording had an element of 'legalese' in order to reflect this. It was acknowledged that it was unpleasant for a councillor to have a complaint made against them and therefore the wording would be reviewed with the Independent Persons to see if there was a more sympathetic form of wording that could be used in cases where it was unlikely that a breach of the Code would be found.

RESOLVED: That the report be noted.

6 LOCAL GOVERNMENT ACT 1972 AS SUBSEQUENTLY AMENDED

RESOLVED that the Press and public be excluded during consideration of the items of business referred to below as it is likely in view of the nature of the business to be transacted or the nature of the proceedings that if members of the Press and public were present there would be disclosure to them of exempt information.

**The following summaries
refer to matters involving exempt information**

7 MONITORING OFFICER'S GENERAL REPORT - PART 2 APPENDIX

The Committee noted the Part 2 appendix.

The Meeting ended at 7.25 pm

Chairman