



BROMLEY CIVIC CENTRE, STOCKWELL CLOSE, BROMLEY BRI 3UH

TELEPHONE: 020 8464 3333

CONTACT: Philippa Gibbs
philippa.gibbs@bromley.gov.uk

DIRECT LINE: 020 8461 7638

FAX: 020 8290 0608

DATE: 6 October 2020

To: Members of the
STANDARDS COMMITTEE

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

A meeting of the Standards Committee will be held on **TUESDAY 27 OCTOBER 2020 AT 6.30 PM**

PLEASE NOTE: This is a 'virtual meeting' and members of the press and public can see and hear the Committee by visiting the following page on the Council's website: – <https://www.bromley.gov.uk/councilmeetingslive>

Live streaming will commence shortly before the meeting starts.

MARK BOWEN
Director of Corporate Services

A G E N D A

1 APOLOGIES FOR ABSENCE

2 DECLARATIONS OF INTEREST

3 MINUTES OF THE MEETING HELD ON 12 MARCH 2020 (Pages 1 - 6)

4 QUESTIONS

In accordance with the Council's Constitution, questions that are not specific to reports on the agenda must have been received in writing 10 working days before the date of the meeting.

Questions specifically on reports on the agenda should be received within two working days of the normal publication date of the agenda. Please ensure that questions specifically on reports on the agenda are received by the Democratic Services Team by **5pm on Thursday 8th October 2020.**

5 MONITORING OFFICER'S GENERAL REPORT (Pages 7 - 14)

6 LOCAL GOVERNMENT ACT 1972 AS SUBSEQUENTLY AMENDED

The Chairman to move that the Press and public be excluded during consideration of the items of business listed 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 confidential information.

Items of Business

Schedule 12A Description

- | | | |
|----------|--|---|
| 7 | MONITORING OFFICER'S GENERAL REPORT - PART 2 APPENDIX (Pages 15 - 18) | Information relating to any individual. |
|----------|--|---|

STANDARDS COMMITTEE

Minutes of the meeting held at 7.00 pm on 12 March 2020

Present:

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

30 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor Tickner.

31 DECLARATIONS OF INTEREST

There were no declarations of interest.

32 MINUTES OF THE MEETING HELD ON 31 OCTOBER 2019

The minutes of the meeting held on 31st October 2019, were agreed and signed as a correct record.

33 QUESTIONS

There were no questions.

34 DRAFT PLANNING PROTOCOL Report CSD20047

The report presented the draft Planning Protocol to the Standards Committee seeking the views of the Standards Committee.

The Assistant Director for Planning attended the meeting and introduced the report explaining that the Protocol had been drafted in response to the findings of the review undertaken by the Planning Advisory Service. The Protocol was designed to support the member decision making process and encourage a shift in member focus when considering planning application from a parochial perspective to a more strategic perspective.

Referring to the report produced by the Planning Advisory Service, a the Vice-Chairman suggested that the draft Planning Protocol under consideration was not as robust as the Planning Advisory Service may have envisaged and it therefore remained to be seen whether the Protocol would in fact address the issues that had been identified. The Vice-Chairman expressed concern that councillors continued to call-in planning applications and seemingly ignore the recommendations being made by Officers.

The Director of Corporate Services highlighted that in considering planning applications members had to exercise independent judgement however, a key consideration was advice from officers. This key consideration had now been codified in the Planning Protocol ensuring that the Planning Officer is the last person to speak on an application prior to the decision being put to a vote. The Committee also noted that proposed amendments had been made to the Council's Scheme of Delegations to further support this with the proposed amendments being considered by the Development Control Committee at its next meeting.

Turning to the issue of complaints regarding councillor conduct in relation to planning applications, following discussion it was agreed that the Standards Committee was the most appropriate committee to assume responsibility for overseeing and managing this type of complaint as the Standards Committee was more remote from the planning process than the Development Control Committee.

Noting that the Standards Committee had not considered and discussed the complaints that had been received in relation to planning matters a member highlighted that the Committee had not be in a position to judge whether the required standard for member behaviour had been upheld or not. In response the Director of Corporate Services highlighted that now two Independent Persons had been appointed it would be possible for the outcome of any first stage consideration of the complaint to be reviewed by an Independent Person prior to a response being sent.

The Chairman raised the issue of the most suitable way to monitor councillor substitutions on planning committees to ensure that any substitutions that were made were appropriate and did not result in any one particular ward being over represented on a committee. The Assistant Director for Planning confirmed that this issue had been reflected in the report from the Planning Advisory Service however when the issue had been presented to the Development Control Committee some members had been reluctant to implement changes. It was recognised that Plans Sub-Committees often considered applications from a number of wards across the Borough and this could present challenges in terms of managing substitutions on the Committee.

Members of the Standards Committee agreed that the draft Protocol should be strengthened to clearly emphasise that all decisions had to be based purely on material planning considerations – for example, point 1 of paragraph 2.1 should be amended to “1. They are subject to a written ‘call-in’, providing detailed *planning* grounds, by a councillor” and paragraph 7.4 should be amended to “The Chairman should be careful to ensure that additional conditions or *planning* reasons for refusal...”

It was also agreed that all councillors sitting on the Development Control Committee and its Sub-Committees should be fully conversant with the report of the Planning Advisory Service and the Probity in Planning document as these document clearly set out expectations for standards of behaviour.

The Committee also agreed that once the Protocol had embedded the Chairman of the Development Control Committee should also be invited to a Standards Committee meeting to discuss the impact of the changes.

It was agreed that following the meeting Dr Davey and Mr Palmer would be provided with a copy of the report from the Planning Advisory Service.

RESOLVED: That

- 1. The draft protocol be strengthened to clearly emphasise that all decisions in relation to planning applications have to be based purely on material planning considerations;**
- 2. All councillors sitting on the Development Control Committee and its Sub-Committees should be fully conversant with the report of the Planning Advisory Service and the Probity in Planning document as these document clearly set out the expectations for standards of behaviour; and**
- 3. Once the Planning Protocol has embedded the Chairman of the Development Control Committee be invited to a Standards Committee meeting to discuss the impact of the Protocol.**

35 GDPR COMPLIANT STORAGE, PROCESSING AND DISPOSAL OF INFORMATION

The Head of Information Management attended the meeting to provide the Committee with an update on GDPR complaint storage, processing and disposal of information.

Noting that Part 2 agendas were posted to Co-opted Members, Dr Davey suggested that consideration should be given to sending any documents that may contain confidential personal information by recorded delivery. In response the Director of Corporate Services confirmed that recorded delivery could be considered for the small number of Part 2 agendas that were posted to co-opted members, however it had to be recognised that the expectation in the United Kingdom remain that the postal service across the Country was secure and there were severe penalties in place for third parties that tampered with post. Across the Council the presumption was that ordinary post would be used however there were exceptions to this for specific reasons and exempt information could be one such exception.

A Member also suggested that further consideration should be given to delivering agendas via electronic means such as Egress Switch.

The Head of Information Management explained that plans were in place for Bromley to become a digital Council. Plans were being made to move to a Cloud based system which would enable better remote working with strict

systematic controls in place for accessing information. This would enable the Council to retain better organisational control of data.

The Chairman noted that whilst there could be strict systematic controls in place for electronic data these robust rules and practices tended to break down when paper was used. Consequently the Standards Committee discussed how the Council could enforce a policy of paperless working. Members noted that in order to introduce and enforce paperless working the infrastructure would need to be in place to support end to end processes and there would need to be cultural change amongst both Members and Officers across the Council.

In relation to Committee papers, the Director of Corporate Services explained that a number of the rules for committee papers originated in the 1970s and 1980s and consequently did not take account of more modern methods of disseminating information. In the case of the summons for meetings of the Full Council, there remained a statutory obligation to deliver a paper summons.

Dr Davey also suggested that it would be helpful to review the governance statements applicable to co-opted members and for the Director of Corporate Services, on behalf of the Council, to seek reassurance that co-opted members on committees were complying with the rules and requirements around data protection and data security.

It was agreed that the Director of Corporate Services should discuss with the Head of Information Management how to take this forward.

The following Members indicated that they would not require paper agendas for future meetings

Councillor Will Harmer
Councillor Stephen Wells
Councillor Melanie Stevens
Dr Simon Davey.

RESOLVED: That the update be noted.

36 MONITORING OFFICER'S GENERAL REPORT
Report CSD20039

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

Matters Outstanding and Work Programme

It was agreed that it would be helpful to populate a full Work Programme for the 2020/21 municipal year. All three Group Leaders would be invited to the October 2020 meeting.

Complaints

In order to provide assurances that high ethical standards were operating it was agreed that Dr Davey and Mr Palmer would meet with the Director of Corporate Services to review the complaints that had been received within the last 12 months.

The Director of Corporate Services provided an overview of the complaints that had been received since the last meeting. The Standards Committee noted that when a complaint was upheld details of the complaint would enter the public domain.

The Director of Corporate Services also confirmed that Group Leaders were copied into the responses to complaints that were received.

Revised Code of Conduct

The Standards Committee discussed amendments that had been suggested by the Labour Group. Councillor Allen reported that the Labour Group had felt that Bullying and Harassment should be more defined with a greater emphasis on the perception of the victim.

The Director of Corporate Services highlighted that the section on page 49 of the report contained a definition of bullying and harassment adopted by the UK devolved administrations and to some extent this addressed the issue of the perception of victims. Other Members felt that whilst the perception of the victim of bullying and harassment was an important consideration this was different from it being 'paramount'. Members considered that there were other equally important considerations such as the perception of third parties. Therefore it was agreed that paragraph 1.14 should reflect that the perception of the victim was 'important'.

The Standards Committee requested that formatting changes be made to the draft document, such as extracting definitions from the Statutory Instrument and highlighting the appendix.

The following changes were also agreed

Paragraph 1.12 – “You *must* take adequate steps to familiarise yourself *and comply* with your duties around GDPR complaint storage and disposal of sensitive data.”

Paragraph 1.15 – “You *must not* make trivial or malicious complaints about other Councillors...”

It was noted that the reference to the 2018 Councillors' Code of Conduct in paragraph 2.1.1 needed to be updated.

Members recalled that the Standards Committee had previously adopted some public interests principles in relation to social media and when the

Code of conduct would apply. It was also recognised that, if given the required parliamentary time, the Report on Standards in Public Life may deal with this issue.

The Standards Committee discussed and considered how freedom of speech would apply to co-opted members. It was noted that there would be a distinction between taking part in discussions at Committee meetings – where there would likely be protections around qualified privilege – and a co-opted member acting in a personal capacity.

It was agreed that that the draft Code of Conduct would be updated and circulated to members of the Standards Committee prior to presentation at the next Full Council.

RESOLVED: That

- 1. The report be noted; and**
- 2. The updates outlined above be made to the Code of Conduct.**

37 LOCAL GOVERNMENT ACT 1972 AS SUBSEQUENTLY AMENDED

RESOLVED that the press and public be excluded during consideration of the items of business listed below as 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 and public were present, there would be disclosure to them of exempt information.

38 EXEMPT MINUTES OF THE MEETING HELD ON 31 OCTOBER 2019

The exempt minutes of the meeting held on 31 October 2019, were agreed and signed as a correct record.

39 MONITORING OFFICER'S GENERAL REPORT - PART 2 APPENDICES

The information contained in the Part 2 appendix was noted and discussed.

The Meeting ended at 8.31 pm

Chairman

Report No.
CSD20102

London Borough of Bromley

PART ONE - PUBLIC

Decision Maker: **STANDARDS COMMITTEE**

Date: **27 October 2020**

Decision Type: Non-Urgent Non-Executive Non-Key

Title: **MONITORING OFFICER'S GENERAL REPORT**

Contact Officer: Philippa Gibbs, Deputy Democratic Services Manager
Tel: 020 8461 7638 E-mail: Philippa.Gibbs@bromley.gov.uk

Chief Officer: Director of Corporate Services

Ward: All Wards

1. Reason for report

1.1 To update the Committee on a number of standards issues -

- Dispensations granted
- Gifts and Hospitality declarations
- Register of Interests
- Work Programme and Matters Outstanding
- Complaints
- LGA Draft Code of Conduct Consultation
- Committee on Standards in Public Life
- Revised Code of Conduct

2. **RECOMMENDATION(S)**

That the Committee notes and comments on the Monitoring Officer's report.

Impact on Vulnerable Adults and Children

1. Summary of Impact: Not Applicable
-

Corporate Policy

1. Policy Status: Existing Policy:
 2. BBB Priority: Excellent Council:
-

Financial

1. Cost of proposal: No Cost:
 2. Ongoing costs: Not Applicable:
 3. Budget head/performance centre: Democratic Services
 4. Total current budget for this head: £358,740
 5. Source of funding: 2019/20 revenue budget
-

Personnel

1. Number of staff (current and additional): 6.79fte
 2. If from existing staff resources, number of staff hours: Not Applicable
-

Legal

1. Legal Requirement: Statutory Requirement: Local Government Acts 1972 and 2000 and subsequent legislation.
 2. Call-in: Not Applicable: This report does not involve an executive decision.
-

Procurement

1. Summary of Procurement Implications: Not Applicable
-

Customer Impact

1. Estimated number of users/beneficiaries (current and projected): The standards system affects all Members of the Council, and potentially any member of the public who considers that a member may have breached the Code of Conduct.
-

Ward Councillor Views

1. Have Ward Councillors been asked for comments? Not Applicable
2. Summary of Ward Councillors comments: Not Applicable

3. COMMENTARY

Dispensations Granted

- 3.1 The Council has delegated to the Monitoring Officer, in consultation with members of the Urgency Committee, the authority to grant dispensations to Councillors to attend and speak at meetings of the authority in circumstances where, under the Code of Conduct, they have a disclosable pecuniary interest (Scheme of Delegation to Officer, Part 2A, 3 (xxv)). Where these dispensations have been sought, they are typically about town planning issues, where the Code of Conduct means that councillors have less opportunity to assert their interests than other residents, or about employment, where technically there is a disclosable pecuniary interest, but in practice that interest is not significant. The following dispensation has been granted since the last meeting.

Cllr	Request received	Date of Decision	Decision by Mark Bowen, Director of Corporate Services (Monitoring Officer)
Yvonne Bear	17/6/20	24/6/20	That an unconditional dispensation be granted to Cllr Yvonne Bear to be allowed to attend Plans Sub-Committee No. 2 on 25 th June 2020 for her planning application for Hewitts House, Hewitts Road, Orpington BR6 7QL, and to speak as a member of the public in support of the application. The dispensation applies to any subsequent meetings on the same or similar application until the end of the municipal year.

Gifts and Hospitality Register

- 3.2 Under the Code of Conduct, Councillors are required to declare gifts and hospitality received due to their role as Councillors over the value of £25. These are published on the Council website, with a link from each Member's page. Since the last meeting no Members have registered the receipt of any gifts or hospitality.

Register of Interests

- 3.3 Under the Localism Act 2011, the Register of Interests is required to be published on the Council's website, and a link to each Councillor's declaration is provided on their page. Members of the Standards Committee are asked to review the Register of Interest prior to the meeting. The online Register of Interest will also be available at the meeting.

Work Programme and Matters Outstanding from Previous Meetings

- 3.4 Full Council at its meeting on 8th April 2019 decided that all Council Committees and Sub-Committees should include provision at scheduled meetings to consider matters outstanding from previous meetings. These matters will often form part of the future work programme. A summary of matters outstanding from previous meetings is attached at [Appendix 1](#).
- 3.5 The Council's 2020/21 programme of meetings now includes three scheduled meetings of this Committee. The Committee's next meeting is scheduled to take place on Tuesday 2nd March 2021. Members of the Committee are requested to consider what issues they wish to consider at future meetings.

Complaints

- 3.6 A summary of recent complaints against Councillors, since the Committee's last meeting, is included at [Appendix 1](#). As these complaints contain personal details about Councillors and complainants, and also as the Councillors concerned have not necessarily done anything that is clearly against the Code of Conduct, this information is included on the part 2 (private) agenda. There are no formal standards investigations at present.

LGA Draft Code of Conduct Consultation

- 3.7 On 8th June 2020, the LGA published its draft [Member Code of Conduct](#) for consultation. As recommended by the Committee on Standards in Public Life's report into Local Government Ethical Standards the LGA committed to reviewing its current model member code of conduct, and there has been a further commitment to create additional guidance, working examples and explanatory text.
- 3.8 With more communication taking place remotely and online between members and residents, particularly through social media, there may be more difficult and heated discussions as some seek to express the fear, frustration and heightened emotions they are experiencing at this time. However, abuse, threatening and intimidatory communications continue to be unacceptable, and the LGA has sought to address these issues in the draft code.
- 3.9 The Standards Committee was informed of the LGA's consultation on 15th July 2020, and Members were invited to submit their response to the consultation which closed on Monday 17th August 2020.

Revised Code of Conduct

- 3.10 At its meeting on 12th March 2020, the Standards Committee agreed the changes to the Code of Conduct. The revised Code of Conduct will be presented for approval at the next meeting of Full Council on 12th October 2020.

Committee on Standards in Public Life

- 3.11 In January 2019, the Committee on Standards in Public life published its [report](#) on local government ethical standards. In that report, the Committee identified some best practice recommendations which represented a benchmark for ethical practice which they expected local authorities to implement.
- 3.12 The implementation of the best practice recommendations in were due to be reviewed in Spring 2020. However, the unexpected and unprecedented pressures that local authorities have managed this year arising from COVID-19 have led this review to be delayed to the Autumn of 2020.
- 3.13 The recommendations made by the Committee on Standards in Public Life were:

Best practice 1: Local authorities should include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition.

Best practice 2: Councils should include provisions in their code of conduct requiring councillors to comply with any formal standards investigation, and prohibiting trivial or malicious allegations by councillors.

Best practice 3: Principal authorities should review their code of conduct each year and regularly seek, where possible, the views of the public, community organisations and neighbouring authorities.

Best practice 4: An authority's code should be readily accessible to both councillors and the public, in a prominent position on a council's website and available in council premises.

Best practice 5: Local authorities should update their gifts and hospitality register at least once per quarter, and publish it in an accessible format, such as CSV.

Best practice 6: Councils should publish a clear and straightforward public interest test against which allegations are filtered.

Best practice 7: Local authorities should have access to at least two Independent Persons.

Best practice 8: An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation, and should be given the option to review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious, or trivial.

- 3.14 Following a review of its Code of Conduct and procedures around the handling of Code of Conduct complaints brought against Councillors the London Borough of Bromley if Council agrees the report at its meeting on 12th October will be able to demonstrate compliance with all the recommendations made by the Committee on Standards in Public Life.
- 3.15 The Committee on Standards in Public Life has written to local authorities enquiring on progress with implementation of its recommendations and a draft response may be tabled at the Standards Committee following the Council meeting.

This page is left intentionally blank

Work Programme and Matters Outstanding from Previous Meetings

Minute No.	Issue	Update
34	Once the Planning Protocol has embedded the Chairman of the Development Control Committee should also be invited to a Standards Committee meeting to discuss the impact of the changes	Once the Programme of Meetings for 2021/22 has been approved a suitable date could be agreed.
35	that it would be helpful to review the governance statements applicable to co-opted members and for the Director of Corporate Services, on behalf of the Council , to seek reassurance that co-opted members on committees were complying with the rules and requirements around data protection and data security. That the Director of Corporate Services to discuss with the Head of Information Management how to take this forward.	

This page is left intentionally blank

Agenda Item 7

By virtue of paragraph(s) 1 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

This page is left intentionally blank