

STANDARDS COMMITTEE

Minutes of the meeting held at 6.50 pm on 2 March 2021

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

Also Present:

Councillor Colin Smith and Councillor Angela Wilkins

8 APOLOGIES FOR ABSENCE

There were no apologies for absence.

9 DECLARATIONS OF INTEREST

There were no additional declarations of interest.

10 MINUTES OF THE MEETING HELD ON 27 OCTOBER 2020

The minutes of the meeting held on 27 October 2020, were agreed and signed as a correct record.

11 QUESTIONS

No questions had been received.

12 DISCUSSION WITH THE GROUP LEADERS

The Chairman welcomed the Group Leaders to the meeting explaining that the role of the Standards Committee was apolitical. Recently the Committee had been doing a lot of work around the importance of standards for Councillors, in this respect the Chairman expressed particular thanks to the two Independent Persons who had dedicated significant time to supporting ethical standards across the Council.

The Group Leaders responded to the following questions from Members of the Committee:

How do you feel your Members behaviour measures up to the high ethical standards we expect in Bromley and what do you do as a leader to hold yourself accountable to ensuring those standards?

The Leader of the Labour Group highlighted that with eight members it was a smaller group to manage. The Leader of the Labour Group confirmed that she was not aware of any problems and had not received complaints concerning standards within the Labour Group either through the formal Code of Conduct complaints system or informal systems. The Committee noted that as a Party there was a very clear 'rule book' and strict processes in place for approving candidates for selection. This tried to ensure a high calibre of candidate. There was also an internal Group disciplinary process which operated in parallel to Council processes to investigate any complaints that were made about Councillors. There were a range of penalties that were available internally.

The Leader of the Council confirmed that 99% of the time he was content with the integrity of members. In relation to the other 1% of the time, it had been made very clear to the odd Member on the rare occasion that better was expected. The Committee noted that on the rare occasions that the Leader received complaints directly, they were forwarded to the Monitoring Officer for consideration. It had been made clear to members of the Conservative Group that involvement in 'dishonourable' process would not be tolerated. The Party had a Chief Whip to administer discipline and the Leader confirmed that broadly speaking he felt the system worked well and all councillors needed to aspire to the high standards set by the Act. The Committee received reassurance that any emerging issues were drawn to the attention of the Monitoring Officer to ensure full diligence.

The Leader of the Independent Group confirmed that as a Party of 2 there were very few issues. Where any issues arose, both Members of the Independent Group would seek advice from the Monitoring Officer if necessary.

Are you aware of any inappropriate influencing behaviour within the broader councillor community?

The Leader of the Labour Group confirmed that complaints had been made to her, with two of the major complaints centring on planning which was a particularly sensitive area and an area that was particularly open to allegations of inappropriate and undue influence as well as false allegations. Whilst there had been an awareness of allegations it had never been possible to prove the allegations. In that context it was the view of the Leader of the Labour Group that the processes for trying to investigate those complaints were not necessarily adequate. The Leader of the Labour Group suggested that there was a fundamental problem when there were large numbers of planning committee members who were members of political parties and who also worked in the property development sector. The instinct of the Leader of the Labour Group was that such members should not sit on planning committees due to obvious potential conflict of interest.

The Leader of the Council concurred with the view of the Leader of the Labour Group in respect of concerns around the appearance of the influence of developers across the Borough. However, a key problem was that concerns

were based on supposition, impression and appearance with the key issue being that appearances counted as much as fact in a politically sensitive environment. The Leader stated that whilst there was an appearance of influence he hated to think that this was the case in substance and fact. However, separating the two was where there was an evident need for the Standards Committee to intercede on occasion. It was noted that it was the perception issue around planning that concerned a number of people. The Leader stressed that if at any point he became aware of inappropriate influence he would immediately draw it to the attention of the Monitoring Officer, irrespective of the political background of the councillor involved.

In relation to the issue of perception, the Chairman of the Committee highlighted that there was a clear perception on social media that when any planning application was submitted, Bromley Council would grant permission because members and council officials were 'in the pocket of some developer' yet there was never any evidence provided to substantiate the perception. The Committee noted that it was unfortunate that the professional reputation of Planning Officers was sometimes besmirched on social media with no evidence.

The Leader of the Independent Group suggested that it would be difficult to move away from perception issues around planning and consequently members had to ensure that all relevant interest were declared where necessary and members acted with integrity at all times.

The Code of Conduct was updated by the Standards Committee in October 2020, have the Group Leaders read the updated Code?

All Group Leaders confirmed that they had.

Complaints come in for all sorts of reasons, do Group Leaders feel the processes in place are an effective and timely way of addressing complaints and dealing with the issues raised by residents?

The Leader of the Council suggested it was a difficult question as no one could or would have any issues with people complaining. Over the years one of the frustrations that had crept in was around the small percentage of residents who used complaints to the Standards Committee as a threat. Complaints of this nature were tedious, time-wasting, unfair on the individuals. As such it was quite right that it was possible to quickly filter out complaints of this nature. In relation to complaints that were made anonymously, the Leader of the Council suggested that these should be filtered out immediately unless there was a strong reason identified by the Monitoring Officer, Independent Person and Chairman of the Standards Committee that the anonymous complaint should be investigated. There was no place for vexatious anonymous complaints but equally, the standards regime should have slightly more teeth in cases where there was something self evidently and palpably wrong but that did not necessarily meet the threshold for a breach of the Code of Conduct. However, the Leader of the Council was mindful of the fact that these issues often related to individuals and differing

personalities and as such the integrity of the Standards Committee would have to be of a level whereby judgement could be made and penalties imposed for those more minor indiscretions that did not qualify for serious sanction as opposed to the sanctions for the far more serious offenses which had to be referred to other bodies. The Leader of the Council highlighted that the Standards Committee was an important committee in terms of upholding the principle of local integrity.

The Leader of the Independent Group reported that there had been some recent feedback suggested that residents considered that there was no point in complaining as issues were 'pushed under the carpet'. As such it may be helpful to have more openness and transparency around how complaints were handled with detail back to the complainant so they understood that whilst complaints were thoroughly reviewed in most cases there was no other option but to not take the complaint forward. It was stressed that there was clearly a requirement on all Members to 'play by the rules' and uphold the high standards expected.

The Leader of the Labour Group explained that she did not feel the processes in place were satisfactory. The issue was complex and people submitted complaints for a number of reasons with there needed to be a formal process. There was a serious issue around the fact that complainants did not understand how their complaint would be dealt with. Complainants needed to understand that complaints had to fall within the Code of Conduct in order to be considered and then the initial assessment process meant that there was a lack of transparency because very few complaints made it through this filtering process. The Leader of the Labour Group suggested it was unsurprising that residents did not have faith in the system as so few complaints merited formal investigation. It was suggested that it may be helpful to see some national benchmarking with other Councils to identify how issues were managed. It was stressed that councillors were public servants and as such there should be a level of accountability.

The Independent Person provided the Group Leaders with assurance that whilst there may be an issue with transparency, the Council was now in a position where every Code of Conduct complaint (including detail and background) received was reviewed by an Independent Person. It was important therefore to dispel the notion that Officers could simply filter out complaints, not that Officers would do this. The processes were being reviewed very closely by the Standards Committee to ensure further transparency.

The Chairman highlighted that whilst it was important that residents had faith in the complaints system, it was equally important that Councillors had faith in the system. As such it was important that there was evidence that any complaints proceeding to formal investigation met the thresholds for a breach of the Code of Conduct. The Chairman confirmed that he did review other Local Authorities and in cases where councillors had been disciplined the level of activity leading to sanction was proportionate to the fact that the councillor had been disciplined.

The Committee thank the Group Leaders for the time taken to attend the meeting.

**13 MONITORING OFFICER'S GENERAL REPORT
 Report CSD21024**

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

Work Programme and Matters Outstanding

Recognising that a large proportion of Code of Conduct Complaints related to planning matters it was agreed that the Chairman of the Development Control Committee and the Assistant Director for Planning should be invited to the next meeting of the Standards Committee on 15 July 2021. It was agreed that the discussion should centre around the report of the Planning Advisory Service and the Council's existing Planning Protocol.

A Member further requested that the report of the Planning Advisory Service be circulated to the Standards Committee for information.

LGA Draft Code of Conduct Consultation

It was recognised that the Council had only recently approved a compliant Code of Conduct. Members agreed the LGA Code of Conduct should not be adopted at the current time however, it would be worth giving the matter further consideration over the course of the next municipal year in order to determine whether the LGA Code could be adopted for the new Council from 2022.

Publishing Complaints procedure on Website

A Member expressed concern that in the event of a councillor being taken through a formal investigation process there was no right of appeal without going through the High Court. The Member suggested that there should always be a right of appeal without cost to the individual purse and the procedure should be amended to reflect this. In response the Monitoring Officer highlighted that in reality the sanctions available were very limited – reprimand, removal from a committee, requirement to undertake training or removal of resources. Other than a differently constituted Sub-Committee it was difficult to introduce a process of appeal. Members also noted that prior to sanctioning a councillor, the Standards Committee was required to seek the view of the Independent Person and this was an element of safeguard within the system.

Members suggested that the wording of Paragraph 3.3(i) should be amended to ensure that there was no risk of allegations demonstrating a pattern of behaviour being rejected. The Monitoring Officer confirmed that the purpose of the criteria was to manage a chain complaint revisiting issues that had previously been investigated and found to have no substance. Dealing with

such complaints may not be a good use of officer resource. The Committee noted that one of the reasons for the list was to address the mismatch between formal investigation and volume of complaints. The Monitoring Officer reported that he had spent some time reviewing the historical complaints that had been received. Throughout the history of the Standards Regime there had been three main means of dealing with the initial assessment of complaints – The Standards Board for England which was totally independent of Local Authorities, the Filtering Sub-Committees led by the Independent Members, and the present approach which was Officer led with support from the Independent Person. When looking at the complaints dealt with totally independently of the Local Authority by the Standards Board for England, there was one matter deemed worth of proceeding beyond initial assessment and ultimately once a further investigation had been completed it had been decided that there was no case to answer. Of the complaints received under the Independent Member led system, one went forward for investigation and that complaint led to a 6-month suspension. Subsequently there had been a number of matters that had not cross the threshold. There were some themes arising from the complaints received including councillors not responding to correspondence. Early Standards Board decisions made it abundantly clear that councillors did not have to respond to correspondence from their residents. If they chose not to respond to correspondence, councillors ran the risk of not being re-elected in future. As such it was a matter for the ballot box rather than the standards system. This threshold was intended to deal with the disparity between expectation and reality. It was not meant to dissuade residents from complaining, rather to divert complaints to more appropriate routes and to provide an indication of what was an acceptable complaint.

There was also a focus on informal resolution. There were a number of complaints (not those where a councillor's integrity was called into question), where on reflection a councillor may consider a matter could have been handled differently and in those circumstances an informal resolution was sought rather than pursuing a formal standards investigation.

In relation to the question of anonymity and whether it was legitimate for a complainant to withhold all details apart from their name when submitting a complaint by email, the Committee noted that where complainants completed the online form they were asked to provide information which would enable due diligence around verification of identity, such as postal address and contact telephone number. The Monitoring Officer confirmed that his personal view was that unless there was an allegation of serious dishonesty or threats of violence (which would more than likely require investigation by the Police), it was right and proper that someone facing accusations should know their accuser. The legislation required complaints to be in writing but then gave local authorities considerable flexibility to determine their own procedures for dealing with complaints. As such, if a complaint did not want to put their name to a complaint or sought to withhold their details for reasons other than personal safety (which would rarely, if ever, be an issue) then the Council should reserve the right not to investigate a matter. Sometimes there were issues where further questions could be asked to verify the validity of a

complaint and if there was an expectation that the Local Authority review and investigate then complainants should be upfront about who they were because ultimately the standards system was in place so that local residents could hold their local councillors to account where they considered that standards had fallen short of what could reasonably be expected.

The Committee noted that minor amendments could be made to the procedure and approved prior to publication on the website.

Recruitment of an Additional Independent Person

It was agreed that arrangements should be put in place for the recruitment of a third Independent Person.

Anonymised Schedule of Complaints

The Monitoring Officer reported that he had received a request from a Member in respect of access to the Part 2 appendix on the Standards Committee agenda. The Committee noted that due to the personal sensitive nature of the information within the Part 2 agenda of the Standards Committee access was more tightly restricted than some other Council Committees.

The Committee agreed that an anonymised schedule could be shared with Members of the Council on request for the purposes of learning, on the condition that information about Code of Conduct complaints in respect of Councillors remained in Part 2 and was not more widely shared. The Chairman stressed that access to information about complaints should not be used as a phishing exercise and should only be used for the purposes of improving ethical standards across the Council.

RESOLVED: That the report be noted.

14 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**

15 MONITORING OFFICER'S GENERAL REPORT - PART 2
APPENDIX

The Committee noted the Part 2 appendix and discussed the further details that had been provided, at the request of the Independent Person, in respect of one particular complaint that had been deemed not to meet the threshold of referral to the Standards Committee following a substantial Initial Assessment process.

The Committee undertook a general discussion in respect of the number of complaints generated as a result of planning matters. Members acknowledged that there was a need to review ways in which processes could be made more transparent in order to improve public perception.

The Committee acknowledged that the Chairman of the Development Control Committee was unlikely to be aware of the volume of complaints received in respect of planning matters as a result on the tighter restrictions on access to information around standards complaints. Consequently, it was agreed that it was appropriate to invite the Chairman of the Development Control Committee to the next meeting to discuss complaints and issues around the wider public perception of planning.

The Meeting ended at 8.34 pm

Chairman