



BROMLEY CIVIC CENTRE, STOCKWELL CLOSE, BROMLEY BRI 3UH

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DATE: 9 July 2024

To: Members of the  
**STANDARDS COMMITTEE**

Councillor Nicholas Bennett J.P., Councillor Josh Coldspring-White, Jonathan Farrell, Councillor Julie Ireland, Councillor Mike Jack, Andrew Jackson, Councillor Josh King, Kath Nicholson, Gary Rogers, Councillor Melanie Stevens, Councillor Michael Tickner, Councillor Gemma Turrell and Councillor Thomas Turrell

A meeting of the Standards Committee will be held at Bromley Civic Centre, Stockwell Close, Bromley, BR1 3UH on **WEDNESDAY 17 JULY 2024 AT 7.00 PM**

TASNIM SHAWKAT  
Director of Corporate Services & Governance

## A G E N D A

**1 APPOINTMENT OF CHAIRMAN AND VICE-CHAIRMAN**

**2 APOLOGIES FOR ABSENCE**

**3 DECLARATIONS OF INTEREST**

**4 QUESTIONS**

In accordance with the Council's Constitution, members of the public may submit one question each on matters relating to the work of the Committee. Questions must have been received in writing 10 working days before the date of the meeting.

Questions seeking clarification of the details of a report on the agenda may be accepted within two working days of the normal publication date of the agenda – by **5pm on Thursday 11 July 2024.**

**5 MINUTES OF THE MEETING HELD ON 20 FEBRUARY 2024 (Pages 1 - 6)**

**6 MONITORING OFFICER'S GENERAL REPORT (Pages 7 - 28)**

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## STANDARDS COMMITTEE

Minutes of the meeting held at 7.00 pm on 20 February 2024

### Present:

Councillor Nicholas Bennett J.P. (Chairman)  
Councillor Melanie Stevens (Vice-Chairman)  
Councillor David Cartwright QFSM, Councillor Julie Ireland, Councillor Tony McPartlan, Councillor Michael Tickner, Jonathan Farrell, Andrew Jackson and Kath Nicholson

### Also Present:

Councillor Simon Jeal, Councillor Colin Smith, Councillor Mark Smith and Councillor Simon Fawthrop

## 6 APOLOGIES FOR ABSENCE

Apologies were received from Councillor Jack.

## 7 DECLARATIONS OF INTEREST

There were no additional declarations of interest.

## 8 MINUTES OF THE MEETING HELD ON 2 NOVEMBER 2023

**RESOLVED:** That the minutes of the meeting held on 2 November 2023 be agreed, and signed as a correct record.

## 9 QUESTIONS

There were no questions.

## 10 DISCUSSION WITH GROUP LEADERS

The Chairman welcomed the Group Leaders to the meeting and the Committee asked the following questions:

*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 said that broadly speaking Members' behaviour did measure up to the high ethical standards expected in Bromley. In the past two years, two complaints about Labour Members had been received and neither had been taken forward for investigation. A Group

Leader had to lead by example and model the behaviour that was expected of all Members by honouring the Nolan Principles.

The Leader of the Conservative Group and Leader of the Council confirmed that broadly Members of the majority party acted with the class and decorum expected of elected Members. The Leader of the Conservative Group said that he liked to believe that Members knew what was socially acceptable and acted accordingly. For a Group Leader, leading by example was critical to ensuring that all Members conducted themselves to the Standards expected. Also, as a Leader, when Members of the Group failed meet the levels of behaviour expected it was important to move firmly and decisively and remove them from the Group until such time as the Members proved themselves.

The Leader of the Chislehurst Matters Group noted that there were only three Members of the Group and as such they worked as a Team and supported and monitored each other. The Leader of the Chislehurst Matters placed on record that he had been very impressed with the way in which two particular issues that had arisen during the current term had been handled by the Leader of the Majority Group.

The Leader of the Liberal Democrat Group explained that at the beginning of the term some key principles for behaviour had been agreed by the Group. Members of the Group were conscious of being courteous at all times whether it be to residents, councillors or officers.

The Leader of the Biggin Hill Independent Group explained that the two Members of the Group tended to work together. They called on advice when needed.

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

The Leader of the Conservative Group confirmed that he was not aware of any inappropriate influencing behaviour within the broader councillor community. There were instances where individual councillors tried to lobby other councillors. If there were any mild concerns, they may be around relationships with the developer community, although there has never been any evidence to report concerning inappropriate behaviour. Where concerns did arise, conversations took place with individual Members, but on the whole it was the view of the Leader that Bromley was very “clean nosed” as a Councillor Community.

The Leader of the Labour Group largely agreed with the Leader of the Council. All councillors received chain emails that tried to influence the views of Members. Developers were a challenge and the Leader of the Labour Group explained that he personally refused invitations and hospitality from developers who may have interest in the Borough. It could however be easy for new Councillors to be put in an awkward position if they were not provided with suitable advice and guidance.

The Leader of the Liberal Democrat Group confirmed that she was not aware of any inappropriate influence worth reporting. In relation to meetings with developers, Members of the group ensured that every meeting was fully documented.

The Leader of the Chislehurst Matters Group confirmed that Members of the Group were careful and non-committal with developers and ensured that meetings were noted and documented.

The Leader of the Biggin Hill Independents highlighted the importance of Leaders providing guidance and advice to new members as influence was not always obvious.

The Chairman of the Committee suggested that in the future the Committee should undertake a review of the guidance for members around interaction with developers and companies seeking to do business with the Council to ensure that there were clear rules in place.

In response to a question from one of the Independent Persons, a discussion took place around whether Members (and particularly Members of the Planning Sub-Committees) met with developers on their own. The Leader of the Conservative Group confirmed he was not on a Plans Committee but nevertheless only ever met with developers with a fellow ward member present.

The Leader of the Liberal Democrat Group explained that due to time constraints members of the Group often did meet with developers on their own, but notes were taken. Members of the Group felt that site visits were an important part of the planning process.

A Member of the Committee suggested that it was wise for any Member to be accompanied when meeting with developers and that a cautious approach needed to be taken to such meetings.

A visiting Member who was also Chairman of one of the Plans Sub-Committees confirmed that he never met developers on his own. Specific guidelines were in place for planning, and it was hoped that all Members followed the guidelines.

The Monitoring Officer reported that the Constitution Working Group would be undertaking a further review of the planning protocol.

*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 Liberal Democrat Group explained that she was not comfortable with the complaints process as the Code of Conduct had failed to deal with some outrageous behaviour that had occurred during the current

term. The legal framework placed limitations on the sanctions that could be put in place and there needed to be a Code of Conduct which enabled reprimand.

The Leader of the Chislehurst Matters Group said that whilst he had some sympathy for the comments made by the Leader of the Liberal Democrat Group he had felt that the issues that had occurred during the term had been adequately dealt with albeit through the Group disciplinary system rather than the Code of Conduct. The Leader of the Chislehurst Matters Group felt that the Standards Committee worked well and the system for reporting and considering complaints against Members worked well.

The Leader of the Conservative Group explained that in his view, the system had become a little messier since the legislative changes to the standards regime in 2011/12. It would not be a bad thing if there were a little more means and grip to sanction in cases where it was deemed necessary.

The Leader of the Labour Group suggested that the current legal framework, put in place thirty years ago, was out dated and needed to be updated to reflect the context of the modern world of technology and social media. The political party system acted as a back stop to ensure that issues of poor conduct were addressed but the downside of this was that the process was not transparent. The Leader of the Labour Group suggested that the Code of Conduct and the process for handling complaints worked well, given the legislative limitations. However, there could be a possible update to the process in respect of closing down complaints that were not possible to investigate from the outset (if for example no subject member was identified) to ensure that any Member that was implicated with no evidence was notified that the complaint would not be taken forward. The Leader of the Labour Group also highlighted that it was worth recognising that Members may become anxious when complaints were made and the complaints handling procedure should be conducted as efficiently as possible with Members supported through the process as necessary.

The Leader of the Biggin Hill Independents confirmed that she felt that the complaints process worked well, and that Members were treated with respect and courtesy throughout. In the experience of the Leader of the Biggin Hill Independent Group timely responses to complaints were provided and Members kept well informed and supported. The Leader of the Biggin Hill Independent Group agreed that there were issues around the sanctions that were available, and this needed to be addressed through legislation.

In response to some of the comments that had been made, the Monitoring Officer provided an overview of the process for handling complaints and the limited action that could be taken. It was recognised that there was a lack of understanding about the sanctions that could and could not be put in place – there were very few sanctions available. It was agreed that it would be helpful to provide a Member briefing around the operation of the law.

In response to a question, the Leader of the Conservative Group confirmed that he had received adequate support with handling the two sensitive issues that had arisen during the current term.

In response to a further question around managing the expectations of complainants, the Monitoring Officer explained that in general responses were sent promptly. Responses generally followed a standard format which explained the legislative framework and set out the limited sanctions available.

In response to a question, the Group Leaders set out the different processes adopted by the parties for vetting and selecting new candidates. It was noted that in all cases Group Leaders had no involvement in the process but that there was a clear role for Leaders in ensuring that any newly selected candidates fully understood the restrictions that were put on councillors in terms of commenting on potential issues (especially in relation to planning) and there was a clear role for training in this matter.

The Chairman thanked all the Group Leaders for attending the meeting and sharing their views with the Committee.

## **11            MONITORING OFFICER'S GENERAL REPORT                  Report CSD24018**

The report updated the Committee on a range of standards issues. It was noted that the changes proposed in paragraph 3.13 of the report could not be taken forward at the current time as the necessary legislative changes had not yet taken place to enable the changes. Currently there was no legal basis to without allowances from Members.

The Monitoring Officer confirmed that there would be a review of the Code of Conduct. Further benchmarking would take place as some other Councils had done some work around sanctions.

The Committee agreed that plans should be put in place to provide training for Members around cyber security and data protection. It was suggested that the training could be offered in a similar format to the training provided to staff.

**RESOLVED: That the report be noted and that Cyber Security and Data Protection training be made available to all Councillors.**

The Meeting ended at 7.52 pm

Chairman

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# Agenda Item 6

Report No.  
CSD24083

London Borough of Bromley

PART ONE - PUBLIC

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**Decision Maker:** STANDARDS COMMITTEE

**Date:** Wednesday 17 July 2024

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

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

**Contact Officer:** Philippa Gibbs, Deputy Democratic Services Manager  
Tel: 0208461 7638 E-mail: Philippa.Gibbs@bromley.gov.uk

**Chief Officer:** Tasnim Shawkat, Director of Corporate Services and Governance

**Ward:** All

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1. Reason for decision/report and options
    - 1.1 To update the Committee on a number of issues.
- 

## 2. RECOMMENDATION

**That the Committee**

1. **Note the Monitoring Officer's report;**
2. **Consider how the recommendations from the Executive, Resources and Contracts PDS Committee concerning Freedom of Speech should be reflected when reviewing the Council's Member Code of Conduct;**
3. **Agree the amendments to the Council's Procedure for Handling Code of Conduct (Standards) Complaints set out in the body of the report.**

### Impact on Vulnerable Adults and Children

1. Summary of Impact: Not Applicable
- 

### Transformation Policy

1. Policy Status: Existing Policy:
  2. Making Bromley Even Better Priority (delete as appropriate):  
(5) To manage our resources well, providing value for money, and efficient and effective services for Bromley's residents.
- 

### 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: £376k
  5. Source of funding: Revenue Budget
- 

### Personnel

1. Number of staff (current and additional): 6fte (although Standards Complaints are filtered by either the Democratic Services Manager or Deputy Democratic Services Manager in consultation with the Monitoring Officer)
  2. If from existing staff resources, number of staff hours: The number of staff hours requires fluctuates depending on the volume of complaints received at any given time.
- 

### Legal

1. Legal Requirement: Statutory Requirement:
  2. Call-in: Not Applicable:
- 

### Procurement

1. Summary of Procurement Implications: Not Applicable
- 

### Property

1. Summary of Property Implications: Not Applicable
- 

### Carbon Reduction and Social Value

1. Summary of Carbon Reduction/Sustainability Implications: Not Applicable
- 

### Customer Impact

1. Estimated number of users or customers (current and projected):
- 

### Ward Councillor Views

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

### 3. COMMENTARY

#### Dispensations

- 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 local 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.
- 3.2 There have been no dispensations granted since the Committee's last meeting.

#### Gifts and Hospitality Register

- 3.3 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. A schedule of the gifts and hospitality declarations made since the Committee's last meeting is attached as Appendix A.

#### Work Programme/Matters Outstanding

- 3.4 The Council's 2024/25 programme of meetings includes three scheduled meetings of this Committee. The confirmed dates are: 17 July 2024, 7 November 2024, and 2 April 2025. Members of the Standards Committee are encouraged to put forward items for discussion at future meetings to be added to the Work Programme attached at Appendix B.

#### **Recommendation from ERC PDS to amend the Code of Conduct to reflect Members freedom of speech.**

- 3.6 At its meeting on 27 November 2023, the Executive Resources and Contracts PDS Committee considered a report: Review of The Council's Measures on Freedom of Speech for Employees. The report had been added to the agenda at the request of the Chairman of Executive Resources and Contracts PDS Committee.
- 3.7 Members of the Standards Committee are being asked to consider the recommendations from that Committee and the minutes of the meeting which are attached at Appendix C.
- 3.8 The Executive Resources and Contracts PDS Committee resolved that:
1. *The fundamental importance of the right to freedom of speech to the Council's activities, and the narrow scope for interfering with political expression be noted;*
  2. *The potential liabilities faced by the council if it fails to protect that right, either in relation to Councillors or Council employees be noted;*
  3. *Officers are asked to take the following actions in support of the resolutions (1) and (2) above:*
    - (a) *to review the Council's policies, procedures and Constitution with a view to ensuring that they reflect the fundamental importance of the right to freedom of speech; and*

(b) *to report to the Executive and Constitutional Working Party on progress with the review recommended at paragraph 3(a) above.*

4. *GP&L and the Constitutional Improvement Working Party be recommended to note this report and update the Code of Conduct for Officers and Members and inform members of the Standards Committee to reflect the above recommendations.*

5. *Note the additional text added to the body of the report.*

3.9 Following this meeting, the report was considered by the Executive on 29 November 2023, the Constitution Working Group on 22 January 2024, and General Purposes and Licensing Committee on 6 February 2024. The minutes from those meetings are attached at Appendix C.1.

3.10 Members of the Standards Committee are being asked to consider how the recommendations from the Executive, Resources and Contracts PDS Committee should be reflected when reviewing the Council's Member Code of Conduct.

### **Review of the Threshold for Investigation (Procedure for Handling Complaints)**

3.11 Paragraph 3.3 of the Council's Procedure for Handling Complaints (attached at Appendix D) includes the following thresholds for investigation of Code of Conduct complaints received:

*"3.3 The following types of complaint will usually not be considered as 'valid complaints': -*

- a) Complaints which are submitted anonymously (though the Monitoring Officer reserves the right to investigate if he/she thinks appropriate).*
- b) Complaints which do not identify a Subject Member.*
- c) Complaints which relate to a Member's personal or private life including personal use of social media.*
- d) Complaints concerning a failure to respond to a request from a Constituent or other individual.*
- e) Complaints which relate to the alleged actions of employees of the Council or non-voting Co-opted Members.*
- f) Complaints which relate to dissatisfaction with a Council, Executive or Committee decision or delivery of a Council service.*
- g) Complaints which relate to a person who is no longer a Member of the Council or which refer to alleged incidents before the person became a Member of the Council, or after they have resigned or otherwise ceased to be a Member.*
- h) Complaints which refer to alleged incidents which happened so long ago that there would be little benefit in taking action now.*
- i) Complaints regarding substantially similar alleged behaviour which has already been the subject of an investigation or enquiry or some form of action. However, a series of complaints demonstrating a pattern of behaviour will be given due consideration.*
- j) Complaints which relate to conduct which is alleged to have taken place more than 3 months prior to the submission of the complaint, unless there are exceptional circumstances to justify the later submission of the complaint.*
- k) Complaints which are considered malicious, vexatious, politically motivated, tit-for-tat or not sufficiently serious to warrant further action.*
- l) Complaints which arise from general political activity or campaigning when the Councillor is not acting as a Councillor."*

3.12 It is being proposed that (j) be amended to read: “Complaints which relate to conduct which is alleged to have taken place more than 3 months prior to the submission of the complaint, unless there are exceptional circumstances to justify the later submission of the complaint. *In the case of complaints alleging bullying and/or harassment the alleged conduct must have taken place no more than 6 months prior to the submission of the complaint, unless there are exceptional circumstances to justify the later submission of the complaint.*”

3.13 It is also proposed that the following additions be made to the criteria for investigation:

- m) The Monitoring Officer facilitates an informal resolution without the need for a formal investigation. This may involve the member accepting that his/her conduct was unacceptable and offering an apology or other remedial action by the Council. If the Monitoring Officer considers an offer of informal resolution is reasonable but the person making the allegation is not willing to accept it, the allegation will be referred to the Standards Committee for determination.

### Complaints Summary

3.14 An anonymised summary of complaints against Councillors, received since the Committee’s last meeting, is included at Appendix E.

3.15 There are no formal standards investigations outstanding at present.

### Appendices

- (A) Gifts and Hospitality Register
- (B) Matters Outstanding
- (C) Minutes from Executive, Resources and Contracts PDS Committee
- (C.1) Minutes from Executive, Constitution Working Group and General Purposes & Licensing
- (D) Council’s Procedure for Handling Complaints
- (E) Anonymised Schedule of Complaints

|   |   |
|---|---|
| <b>Non-Applicable Headings:</b>                       | Impact on vulnerable adults and children/Policy/Finance/Personnel/Legal/Procurement/Property/Ward Councillors |
| Background Documents:<br>(Access via Contact Officer) | None  |

**Gifts and Hospitality Declarations (7 February 2024 to 01 July 2024)**

| <b>Councillor</b>           | <b>Date</b> | <b>Provider</b>                        | <b>Gift or hospitality</b>  |
|-----------------------------|-------------|--|---|
| <b>Cllr Jeremy Adams</b>    | March 2024  | Keston Mosque                          | Iftar meal and gift of a box of dates.  |
| <b>Cllr Mark Brock</b>      | 05.05.24    | Bromley FC                             | Match ticket and hospitality for the National League Play-Off Final at Wembley (via Cllr Kate Lymer)      |
| <b>Cllr Hannah Gray</b>     | 05.05.24    | Bromley FC                             | Complimentary ticket and hospitality for the National League Play-Off Final at Wembley                    |
| <b>Cllr Colin Hitchins</b>  | 05.05.24    | Bromley FC                             | Complimentary ticket and hospitality for the National League Play-Off Final at Wembley                    |
| <b>Cllr Mike Jack</b>       | 16.03.24    | Bromley Rotary Club                    | Corporate Hospitality (£60) attending Bromley FC  |
|                             | 05.05.24    | The Cockpit, Royal Parade, Chislehurst | Drinks value in excess of £25 for a reception to celebrate the second anniversary of our election victory |
| <b>Cllr Kate Lymer</b>      | 05.05.24    | Bromley FC                             | 3 match tickets and hospitality for the National League Play-Off Final at Wembley                         |
| <b>Cllr Mark Smith</b>      | 05.05.24    | The Cockpit, Royal Parade, Chislehurst | Drinks value in excess of £25 for a reception to celebrate the second anniversary of our election victory |
| <b>Cllr Alison Stammers</b> | 05.05.24    | The Cockpit, Royal Parade, Chislehurst | Drinks value in excess of £25 for a reception to celebrate the second anniversary of our election victory |
| <b>Cllr Melanie Stevens</b> | 01.06.24    |  | 2 tickets for Night of Boomusicals  |

**Work Programme and Matters Outstanding from Previous Meetings**

Matters Outstanding from Previous Meetings:

There are currently no matters outstanding from previous meetings.

Work Programme:

The next meeting of the Committee will be held on 7 November 2024.

Items to be considered:

- Review of the criteria for the decision to investigate or not including timescales for submitting complaints.

**EXECUTIVE, RESOURCES AND CONTRACTS POLICY DEVELOPMENT AND SCRUTINY  
COMMITTEE**

Minutes of the meeting held at 7.00 pm on 27 November 2023

**Present:**

Councillor Simon Fawthrop (Chairman)

Councillors Jeremy Adams, Felicity Bainbridge,  
Mark Brock, David Cartwright QFSM, Adam Jude Grant,  
Julie Ireland, Simon Jeal, Tony Owen, Shaun Slator,  
Mark Smith, Melanie Stevens, Ryan Thomson,  
Michael Tickner and Pauline Tunnicliffe

**Also Present:**

Councillor Christopher Marlow, Portfolio Holder for Resources,  
Commissioning and Contracts Management

**50 DECLARATIONS OF INTEREST**

Councillor Julie Ireland confirmed that she was still hosting a Ukrainian family.

The Chairman, Councillor Fawthrop, declared that he was a Member of the Free Speech Union.

**58 POLICY DEVELOPMENT AND OTHER ITEMS**

**E REVIEW OF THE COUNCIL'S MEASURES ON FREEDOM OF SPEECH FOR  
EMPLOYEES  
Report CSD22020**

The Chairman of ERC PDS committee had requested a report to review the Council's process, policy and procedure to protect and defend freedom of speech for Council staff and for those who work for the Council's contactors. The report looked at the process, policy, and procedure to protect and defend freedom of speech for Council staff and considers the measures available to staff who work for the Council's contractors.

The Committee noted the following amendments (in italics) to the recommendation and report had been proposed by the Chairman:

Paragraph 2.1 (recommendation): Members are asked to note the following:

- 2.1.1 *the fundamental importance of the right to freedom of speech to the Council's activities, and the narrow scope for interfering with political expression; and*
- 2.1.2 *the potential liabilities faced by the council if it fails to protect that right, either in relation to Councillors or Council employees.*



2.2 Officers are asked to take the following actions in support of the recommendations under paragraph 2.1 above:

2.2.1 to review the Council's policies, procedures and Constitution with a view to ensuring that they reflect the fundamental importance of the right to freedom of speech; and

2.2.2 to report to the Executive and Constitutional Working Party on progress with the review recommended at paragraph **Error! Reference source not found.** above.

2.3 GP&L and the Constitutional Improvement Working Party is recommended to note this report and update the code of conduct for Officers and Members, and inform members of the Standards Committee to reflect the above recommendations.

2.4 Note the additional text added to the body of the report.

### Body of the report

4.6 ... Doing so risks discrimination unless an employer has also considered whether the action is both a necessary and proportionate *interference with the right to freedom of expression*. Any objective justification of a restriction is always dependent on context and is employment-specific.

4.9 ... Freedom of expression and the protection of these individual characteristics have been tested in the employment tribunal due to the potential conflict that arises between competing rights, *particularly as damages for discrimination are uncapped*.

5.2 ... A public interest disclosure must be made to certain people (e.g. the employer) in order to attract statutory protection. *An employee complaining about suppression of certain beliefs is also likely to have whistleblower protection under the Employment Rights Act and the Equality Act.*

Members sought clarification around whether the report author had agreed to the changes made to the body of the report and the Assistant Director for Legal Services (the report) confirmed that the changes were the Chairman's. A Member highlighted that during his five years serving on the Council he had never seen the body of an Officer report amended in this way. In response the Assistant Director of Legal Services confirmed that it was unusual for any Member to amend an officer report in this way and the changes has been neither approved nor disapproved by the report author.

Seeking a clarification regarding the Chairman's intention in proposing the amendment to paragraph 5.2, a Member queried whether the Chairman was expressing a desire which could be phrased as *"where possible, an employee complaining about suppression of certain beliefs should receive whistleblower protection under the Employment Rights Act...etc."*

Paraphrasing Voltaire, the Chairman explained that the right to respectfully dissent from other points of view and give voice to that via free speech formed the basis of an enlightened society. As such, the basis of the report was to strengthen the fundamental human right to free speech within the Council, the Chairman highlighted that within the 1948 Declaration of human Rights Freedom of Speech was a right under Article 19 yet there was no right to equality. The right set out in Article 19 established that "Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers." Much of the declaration was enshrined in UK law under Article 10 of the Human rights Act, which established that "The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society..." The Chairman highlighted the importance of recognising as a Council, through processes and procedures, that everyone needed to be protected from excessive restrictions or attempts to infringe freedoms, either

through incorrectly applied “Groupthink” or societal bullying against reasonably held beliefs. The Chairman highlighted that there was no right to not be offended, because being offended was a choice an individual made. Freedom of speech was not democratic but was at the core of upholding fundamental democratic values. It was also understood that freedom of speech was necessarily constrained by the law however, in the free speech case of *Redmond-Bate v Director of Public Prosecutions* [1999] Lord Justice Sedley set out that this freedom encompassed “the irritating, the contentious, the eccentric, the heretical, the unwelcome and provocative”. Invoking the classical Greek philosopher Socrates, he warned against state attempts to control unofficial ideas by saying “Freedom only to speak inoffensively is not worth having.”

The amendments set out above were proposed by the Chairman and seconded by Councillor Slator. Upon being put to the vote 12 were in favour, 3 were against. The amendments were therefore CARRIED.

(In voting against the motion, Councillor Jeal and the Labour Members on the Committee clarified that there were not opposed to free speech but were fundamentally opposed to the principle of editing a report written by a Legal Officer.)

**RESOLVED: That**

- 6. The fundamental importance of the right to freedom of speech to the Council’s activities , and the narrow scope for interfering with political expression be noted;**
- 7. The potential liabilities faced by the council if it fails to protect that right, either in relation to Councillors or Council employees be noted;**
- 8. Officers are asked to take the following actions in support of the resolutions (1) and (2) above:**
  - (c) to review the Council’s policies, procedures and Constitution with a view to ensuring that they reflect the fundamental importance of the right to freedom of speech; and**
  - (d) to report to the Executive and Constitutional Working Party on progress with the review recommended at paragraph 3 (a) above.**
- 9. GP&L and the Constitutional Improvement Working Party be recommended to note this report and update the Code of Conduct for Officers and Members and inform members of the Standards Committee to reflect the above recommendations.**
- 10. Note the additional text added to the body of the report.**

The Meeting ended at 9.15 pm

**EXECUTIVE**

Minutes of the meeting held on 29 November 2023 starting at 7.00 pm

**Present:**

Councillor Colin Smith (Chairman)  
 Councillors Kate Lymer (Vice-Chairman), Yvonne Bear,  
 Nicholas Bennett J.P., Christopher Marlow, Angela Page,  
 Will Rowlands and Diane Smith

**105 CONSIDERATION OF ANY OTHER ISSUES REFERRED FROM  
 THE EXECUTIVE, RESOURCES AND CONTRACTS POLICY  
 DEVELOPMENT AND SCRUTINY COMMITTEE**

On behalf of the Chairman of the Executive, Resources and Contracts PDS Committee, the Portfolio Holder for Resources, Commissioning and Contracts Management referred the report received by the Committee concerning the Review of the Council's Measures on Freedom of Speech for Employees. At the PDS meeting, the Committee had agreed certain amendments to both the recommendations and to the body of the report, proposing that the Executive adopt the recommendations. Expressing support for the aims of the report, the Portfolio Holder highlighted that a request to consider was not an instruction.

The Director of Corporate Services and Governance (and Monitoring Officer) explained that the Chairman of the Executive, Resources and Contracts PDS Committee (ERC PDS) had asked Officers to take a report to the PDS Committee on the topic. At the meeting, amendments to the recommendations had been tabled along with a request to change the body of the report. The Monitoring Officer advised firstly that the recommendations from the ERC PDS did not relate to Executive functions. Therefore, the Executive could not make the decisions requested, and the relevant decision-making committees were General Purposes & Licensing and Standards Committee. Secondly the report on which the recommendations are based was not on the Executive agenda for consideration and Members of the Executive had not seen the report. Thirdly the report would not be on the Executive agenda as the first point would apply i.e., subject matters were not for the Executive. The Monitoring Officer also confirmed that the body of an Officer report could not be amended by Members, although Committees' views on how the report might be amended could and would be noted in the minutes.

The Portfolio Holder for Transport and Highways (who was also the Chairman of both the Constitution Working Group and the Standards Committee) while expressing full support for the concept of Freedom of Speech noted that there were some necessary limitations on Freedom of Speech for Officers of the Council. Furthermore, he noted that the route taken by the Chairman of the PDS Committee was not the correct one as this was a matter for consideration by the Constitution Working Group, the General Purposes and Licensing Committee and, if necessary, Full Council and the Standards Committee.

In conclusion, the Executive noted the referral from the Executive, Resources and Contracts PDS Committee with interest and broadly agreed with the stated aims of the report. As such, the Executive strongly encouraged the Chairman of the Executive, Resources and Contracts PDS Committee to resubmit the report through the correct parent committee. The Monitoring Officer pointed out that the recommendations had already included referral to the Constitution Working Group, General Purposes & Licensing and Standards Committee. Therefore, officers would action.

The Meeting ended at 7.37 pm

**CONSTITUTION WORKING GROUP**

**Present:**

Councillor Nicholas Bennett J.P. (Chairman)  
Councillor Simon Fawthrop  
Councillor Colin Hitchins  
Councillor Mark Smith  
Councillor Melanie Stevens  
Councillor Pauline Tunnicliffe

**Also present:**

Tim Horsman, AD, Planning and Building Control  
Shupriya Iqbal, AD, Legal Services  
Tasnim Shawkat, Director of Corporate Services and Governance  
Graham Walton, Democratic Services Manager

**10 Review of the Council's Measures on Freedom of Speech for Employees**

The Executive, Resources and Contracts PDS Committee, at its meeting on 27<sup>th</sup> November 2023, received a report reviewing the Council's policies around protecting freedom of speech for Council employees and contractors. The report reviewed the Council's policies and the legal framework under Article 10 of the Human Rights Act, as well as Council procedures around Whistleblowing ("raising Concerns"), Staff Surgeries, Departmental Representatives and Trade Unions, the Grievance Procedure and Bromley Values. The report recognised that as a part of good governance of an organisation it was important that employees felt free to speak out about issues of concern or poor practice. The report noted that there was also wider legal framework to protect freedom of speech/expression for individuals and the rights of an organisation to protect confidentiality and rights of others.

At the PDS meeting, Members noted some additional text which the Chairman suggested should be included in the report, and asked officers to "review the Council's policies, procedure and Constitution with a view to ensuring that they reflect the fundamental importance of the right to freedom of speech" and report to this Working Group, the Executive, General Purposes and Licensing Committee and Standards Committee. Members of the Working Group stated that they supported the extra text added to the officer report.

In response to a question, it was noted that one issue had been raised under the Whistle-Blowing procedure in the last year – however, this had really been a grievance.

**AGREED that the report on Freedom of Speech be referred to General Purposes and Licensing Committee for consideration, with the PDS Chairman's additional wording included.**

The Meeting ended at 6.45 pm

**Present:**

Councillor Pauline Tunnicliffe (Chairman)  
Councillor Colin Hitchins (Vice-Chairman)  
Councillors Jessica Arnold, Nicholas Bennett J.P.,  
Robert Evans, Kira Gabbert, Christine Harris, Mike Jack,  
Simon Jeal, Josh King, Melanie Stevens, Harry Stranger,  
Sam Webber, Simon Fawthrop and Jonathan Andrews

**92 REVIEW OF THE COUNCIL'S MEASURES ON FREEDOM OF  
SPEECH FOR EMPLOYEES**

Report CSD24016

At its meeting on 27<sup>th</sup> November 2023, the Executive, Resources and Contracts PDS Committee had considered a report on the Council's measures on freedom of speech for employees and contractor staff. Officers had reviewed the legal background to freedom of speech in Article 10 of the Human Rights Act and other legislation and showed how this was reflected in a range of relevant Council policies and procedures, including the Raising Concerns whistleblowing policy, Staff Surgeries, Departmental Representatives and Trade Unions, the Grievance Procedure and Bromley's values. This Committee was responsible for non-executive HR matters, so the report was referred here for consideration.

Councillor Simon Jeal requested that it be noted in the minutes that, at the Executive, Resources and Contracts PDS Committee meeting, he had objected to the Chairman adding text to the officer report.

**RESOLVED that**

- (1) The report be noted, including the additional text and recommendations made by Executive, Resources and Contracts PDS Committee.**
- (2) It is noted that the Standards Committee will consider how the recommendations should be reflected when reviewing the Council's Member Code of Conduct.**
- (3) It is agreed that officers carry out further work on relevant sections of the Constitution, such as the Member/Officer Protocol and the Officer Employment Rules, and report to Members where additional changes are required.**

The Meeting ended at 8.08 pm



## Procedure for the consideration of Code of Conduct (Standards) complaints against elected Councillors

Updated February 2023

Bromley has adopted a Code of Conduct for Councillors. If anyone - which can include an employee, a member of the public or even another councillor - feels that behaviour by a Councillor or co-opted member of the Council may have fallen short of the standards required by the Code of Conduct they need to tell us about this so that we can consider their complaint.

The Council has adopted procedures for considering Complaints against Councillors which were reviewed following the publication in January 2019 of the Committee for Standards in Public Life report on ethical standards in local government.

### 1. How to make a complaint

- 1.2 Anyone wishing to make a complaint against a councillor is asked to consider the [Councillors Code of Conduct](#).
- 1.3 You will need to provide details about the nature of the complaint, which part of the code you think the councillor has breached and how, and evidence to substantiate your complaint.
- 1.4 Complaints can be submitted by completing our [complaints form](#) or alternatively please write to the Monitoring Officer, Civic Centre, Stockwell Close, Bromley BR1 3UH.

### 2. What happens once a complaint has been submitted

- 2.1 Complaints under the Code are addressed to the Monitoring Officer who will take a view on whether a complaint should be dealt with under the Council's Code of Conduct or another process. This stage of the process is routinely conducted by the Monitoring Officer's nominated representative.
- 2.2 Upon receipt of the complaint, the Subject Member will be notified of the complaint in writing and asked to provide comment.
- 2.3 Complaints which contain a request for the Complainant's identity to be withheld may be considered to be 'valid complaints', although the Complainant's identity will only be withheld in exceptional circumstances. If the Monitoring Officer does not consider it appropriate to withhold the Complainant's identity, the Complainant will be given the opportunity to withdraw their complaint before it proceeds to the next stage.
- 2.4 If the complaint identifies criminal conduct (including a failure to register disclosable pecuniary interests) or breach of other regulations by any person, the Monitoring Officer will refer the complaint to the police or other regulatory agencies. No further action will be taken in relation to such complaints until any related criminal/regulatory investigation, proceedings or processes have been concluded.

### 3. The Initial Assessment Process

- 3.1 Under the Council's procedures an initial assessment known as filtering is undertaken, in consultation with the Independent Person, with complaints which do not amount to a breach of the Code of Conduct for councillors or those considered unlikely to do so following investigation being filtered out at this stage.
- 3.2 The first issue to consider is whether the Code of Conduct is engaged or not. The Standards committee has adopted criteria for considering complaints alleging Breaches of the [Code of Conduct](#).
- 3.3 The following types of complaint will usually not be considered as 'valid complaints': -
- a) Complaints which are submitted anonymously (though the Monitoring Officer reserves the right to investigate if he/she thinks appropriate).
  - b) Complaints which do not identify a Subject Member.
  - c) Complaints which relate to a Member's personal or private life including personal use of social media.
  - d) Complaints concerning a failure to respond to a request from a Constituent or other individual.
  - e) Complaints which relate to the alleged actions of employees of the Council or non-voting Co-opted Members.
  - f) Complaints which relate to dissatisfaction with a Council, Executive or Committee decision or delivery of a Council service.
  - g) Complaints which relate to a person who is no longer a Member of the Council or which refer to alleged incidents before the person became a Member of the Council, or after they have resigned or otherwise ceased to be a Member.
  - h) Complaints which refer to alleged incidents which happened so long ago that there would be little benefit in taking action now.
  - i) Complaints regarding substantially similar alleged behaviour which has already been the subject of an investigation or enquiry or some form of action. However, a series of complaints demonstrating a pattern of behaviour will be given due consideration.
  - j) Complaints which relate to conduct which is alleged to have taken place more than 3 months prior to the submission of the complaint, unless there are exceptional circumstances to justify the later submission of the complaint.
  - k) Complaints which are considered malicious, vexatious, politically motivated, tit-for-tat or not sufficiently serious to warrant further action.
  - l) Complaints which arise from general political activity or campaigning when the Councillor is not acting as a Councillor.
- 3.4 If the Code of Conduct is engaged the Monitoring Officer will consider whether the complaint is likely to amount to a breach of the Code of Conduct having regard to the public interest test adopted by the Committee and the criteria in paragraph 3.3. Before reaching a decision, the Monitoring Officer may request further information from the Complainant and the Subject Councillor and consider information which is readily available e.g. minutes of Council meetings
- 3.5 The Monitoring Officer will, after consultation with the Independent Person, either set out the outcome of the initial assessment process in writing or seek informal resolution or instigate an investigation. If the initial assessment indicates that the Code is not engaged or no breach of the Code, or indicates no further action is required, the Monitoring Officer, after consultation with the Independent Person will advise all parties accordingly. There is no Appeal Process for decisions taken by the Monitoring Officer at this stage.

#### **4. The Role of the Independent Person(s)**

4.1 Throughout the process, the Council's Independent Person is consulted.

4.2 The Independent Persons are people who have been appointed under the Localism Act 2011, by the Council. The Independent Person must be consulted and have their views taken into account before the Council makes a finding as to whether a Member has failed to comply with the Code of Conduct or decides on action to be taken in respect of that Member. The views of the Independent Person may also be sought at any other stages of the complaints process.

4.3 The Member complained about can seek the views of a duly appointed Independent Person.

4.4 The Independent Persons do not represent and are not advisors to the Councillor who is the subject of the complaint, but they can assist in providing factual information on the complaints process. The Independent Person must remain completely impartial and objective and cannot take sides. Their role is to assess complaints and form a view on them. There is no right for the complainant to seek the views of the Independent Person and no such contact will be permitted.

#### **5. Informal Resolution**

5.1 If following the initial Assessment Process, it is considered that a breach of the Code of Conduct may have occurred, prior to referring a matter for formal investigation, The Monitoring Officer after consulting with the Independent Person can decide whether a matter is suitable for informal resolution.

5.2 The Subject Member will be asked to consider whether he/she is prepared to agree to or propose an informal resolution of the complaint which will be communicated to the Complainant.

5.3 Whilst not an exhaustive list, types of informal resolution might include -

- a) an apology from the Subject Member
- b) an agreement from the Subject Member to attend relevant training or to take part in a mentoring process
- c) an agreement from the Subject Member to engage in a process of mediation or conciliation between the Subject Member and the Complainant.
- d) Referral of the matter to the Councillor's Group Leader or
- e) Any other action capable of resolving the complaint.

5.4 The Monitoring Officer will determine if a matter has been informally resolved.

#### **6 Referral for Investigation**

6.1 When it is considered after the initial assessment that a complaint may amount to a breach of the Code of Conduct which has not been informally resolved and where further action may be necessary if a breach is proven, the Monitoring Officer will either undertake or commission a formal investigation.

6.2 The Investigator will consider all relevant material and interview all persons they consider necessary including but not limited to the Complainant and Subject Member.



- 6.3 The Subject Member as required by the Code of Conduct must co-operate fully with the Investigation and is entitled to have a friend or representative present during any interview.
- 6.4 Where an investigation report recommends that there is no evidence of failure to comply with the Members' Code of Conduct, or that no further action is appropriate the Monitoring Officer shall prepare a report to the Standards Committee who may:
- a) accept the recommendation resolve that no further action is required and dismiss the allegation, or
  - b) remit the matter back to the Monitoring Officer for further consideration/investigation
- 6.5 If after further consideration/investigation, the Investigator concludes that there is no breach of the Code of Conduct or that further action is not required, the Committee shall dismiss the complaint.
- 6.6 Where the investigation finds evidence of a failure to comply with the Code of conduct, the Monitoring Officer in consultation with the Independent Person(s), may seek a further attempt at local resolution to the satisfaction of the complainant in appropriate cases, with a summary report for information to Standards Advisory Committee. Where such local resolution is not appropriate or not possible the Monitoring Officer shall report the investigation findings to a Hearings Panel of the Standards Advisory Committee for hearing and recommendation.

## **7 Standards Hearings**

- 7.1 Where the investigation report concludes that a breach of the Code of Conduct has occurred and that further action may be appropriate the Monitoring Officer shall prepare a report to the Standards Committee who shall appoint a Hearing sub-committee of at least 3 Members to consider the complaint.
- 7.2 The Monitoring Officer will agree a date for the Hearing Sub-Committee with the Investigator and the Subject Member to be held within 28 days of the appointment of the Hearing Sub-committee. In advance of the Hearing the Monitoring Officer will:
- a. provide a timetable for the Member to provide details about whether they wish to give evidence (and whether orally or in writing) at the hearing and any witnesses they intend to call, and additional papers they may wish to provide in time for inclusion in the committee papers
  - b. establish whether the Member will be represented or accompanied at the hearing
  - c. establish whether the Member wishes any part of the investigation report to be kept confidential or the hearing itself to be held in private, and the reasons for this
  - d. provide information about the procedure to be used at the hearing
  - e. establish whether the Member disagrees with any of the findings of fact in the investigation report
  - f. establish whether the investigating officer intends to call any witnesses
- 7.3 The Independent Person will be invited to attend the meeting of the Hearings Sub-Committee and his or her views must be sought and taken into consideration before the Hearings Panel takes any decision on whether the Respondent's conduct constitutes a failure to comply with the Code of Conduct, and as to any action to be taken following a finding of failure to comply with the Code of Conduct
- 7.4 The Subject Councillor may at their own cost arrange for legal or other representation at the Hearing Sub-Committee meeting or may be accompanied by a friend.

- 7.5 The Hearing will be conducted in accordance with the procedure set out in Appendix A - Member Disciplinary Hearing Procedure.
- 7.6 The Hearing Sub Committee must decide:
- a) whether the subject Member has failed to comply with the Members' Code of Conduct
  - b) whether further action is warranted; and
  - c) what form of action might be appropriate
- 7.7 If the Hearing Sub-Committee Considers that there has been a breach of the Code of conduct after consulting with the Independent Person(s) it may -
- a) decide no further action is required.
  - b) censure the Respondent.
  - c) request the Respondent to submit a written apology in a form specified by the Panel
  - d) request the Respondent to undertake such training as the Panel may specify
  - e) request that the Respondent participates in such conciliation as the Panel may specify
  - f) report to the relevant Council on the outcome of the hearing with an appropriate recommendation
  - g) require a report be submitted to Council requesting Council Issue a formal Censure notice
  - h) advise the Leader of the Political Group to which the person belongs, of the outcome of the hearing in order that they can consider what appropriate disciplinary or other action should be taken, taking into account any relevant case law, which could include securing the removal of a member from any Council, committees
  - i) advise the Leader of the Council, and where the Member complained of is also a Member of the Executive, request the suspension from or removal from the Executive.
  - j) where permitted by law to recommend withdrawal of facilities or equipment.
  - k) any other sanction permitted by law.
- 7.8 A Member cannot be disqualified or suspended from sitting as a Member of the Council.
- 7.9 The recommendations of the Hearing Panel shall be published.
- 7.10 There is no right of appeal available against a decision on a Code of Conduct complaint, except through the courts by way of judicial challenge.

## **8 Appeals**

- 8.1. The complainant has no right of appeal against the decision of the Standards Committee. If the complainant feels that the Council has failed to deal with the complaint properly and that this failure has caused injustice, they may make a complaint to the Local Government Ombudsman.
- 8.2. However, if it is resolved that the Member has breached the Code, the Member will have an opportunity to appeal against the decision by advising the Monitoring Officer in writing within 14 days of the outcome of the Standards Hearing. The Member will be required to detail the grounds upon which an appeal is sought.
- 8.3. Upon receipt of notification of appeal the Monitoring Officer will consult an Independent Person for their views. The Monitoring Officer will forward a report detailing the allegations, views of the Independent Person and the findings of the investigation to a second (Appeal) Hearing

Sub-Committee who will determine the appeal case. This Sub-Committee will comprise three different Members to that of the first Sub-Committee. The decision of the Appeal Hearing Sub-Committee will be final.



## Conduct of Standards Hearings

Where a Standards Hearing is called under Section 7 the following procedure shall apply.

- i. The Investigating Officer will present their case in the presence of the Subject Member and will call any witnesses.
- ii. The Subject Member (or his/her representative) may ask questions of the Investigating Officer and witnesses (if any).
- iii. The Subject Member (or his/her representative) will put his/her case in the presence of the Investigating Officer and will call any witnesses.
- iv. The Investigating Officer may then ask questions of the Subject Member, and witnesses (if any).
- v. The Members of the Standards Hearing Sub-committee may ask questions of the Investigating Officer, the Subject Member and their witnesses at any time.
- vi. The Investigating Officer and the Subject Member (or his/her representative) can sum up their cases if they wish.
- vii. The Investigating Officer and the Subject Member, their representatives and witnesses will then withdraw.
- viii. The Sub-Committee, with the clerk and Monitoring Officer in attendance, will consider the evidence in private. They may recall either party to clear points of uncertainty on the evidence already given. If recall is necessary, both parties are to return even if only one is concerned with the point-giving rise to doubt.
- ix. The Sub-Committee will consult with the Independent Member before deciding on any course of action.
- x. When the Sub-Committee has reached a decision, it will recall the parties and the Chairman of the Sub-Committee will announce the decision which will be confirmed in writing with full reasons within 10 working days.

**Standards Complaints against Councillors**

| <b>Complainant</b>   | <b>Subject Member</b> | <b>Date of complaint</b> | <b>Issue</b>                  | <b>Independent Person</b> | <b>Date of Reply</b> | <b>Summary of Response</b>           | <b>Follow Up</b>   |
|----------------------|-----------------------|--------------------------|-------------------------------|---------------------------|----------------------|--------------------------------------|--|
| <b>2022/23</b>       |                       |                          |                               |                           |                      |                                      |  |
| <b>Complainant A</b> | <b>Councillor A</b>   | 26.03.24                 | Personal Matter               | Jonathan Farrell          | 09.04.24             | Code of Conduct not engaged          |  |
| <b>Complainant B</b> | <b>Councillor B</b>   | 08.04.24                 | Conduct at Plans Committee    | Kath Nicholson            | 15.05.24             | No evidence of a breach of the Code. | Complaint responded raising concerns around the planning process. These were referred to the service for response. |
| <b>Complainant C</b> | <b>Councillor C</b>   | 09.05.24                 | Facebook post                 | Andrew Jackson            | 14.05.24             | Apology offered and accepted.        |  |
| <b>2024-25</b>       |                       |                          |                               |                           |                      |                                      |  |
| <b>Complainant D</b> | <b>Councillor B</b>   | 20/05/24                 | Conduct at a Planning meeting | Gary Rogers               | 14/06/24             | No evidence of a breach of the Code. |  |

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