

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