

BIRMINGHAM CITY COUNCIL

STANDARDS COMMITTEE

**Wednesday, 10th October 2018 at 14:00 hours in Committee Room 2,
Council House, Birmingham B1 1BB**

A G E N D A

1 APOLOGIES

2 DECLARATION OF INTERESTS

Members are reminded that they must declare all relevant pecuniary and non-pecuniary interests arising from any business to be discussed at this meeting. If a disclosable pecuniary interest is declared, a Member must not speak or take part in that agenda item. Any declarations will be recorded in the Minutes of the meeting.

Attached 3 MINUTES

To agree the Minutes of the meeting held on 8th August 2018.

Attached 4 UPDATE ON AMENDMENTS TO STANDARDS COMMITTEE ROLE AND MEMBERSHIP

To note the changes to the Constitution agreed at City Council on 11 September 2018.

5 ARRANGEMENTS FOR APPOINTMENT OF INDEPENDENT CHAIR AND DEPUTY CHAIR

To note the appointment arrangements.

To Follow 6 REVIEW OF 2017/18 CASES

Report of the City Solicitor.

To Follow 7 UPDATE OF CASES APRIL - SEPTEMBER 2018

Report of the City Solicitor.

8 OTHER URGENT BUSINESS

To consider any items of business by reason of special circumstances (to be specified) that, in the opinion of the Chairman, are matters of urgency.

9 AUTHORITY TO CHAIRMAN AND OFFICERS

Chairman to move:-

'In an urgent situation between meetings, the Chair jointly with the relevant Chief Officer has authority to act on behalf of the Committee'.

BIRMINGHAM CITY COUNCIL

STANDARDS COMMITTEE 8 AUGUST 2018

MINUTES OF A MEETING OF THE STANDARDS COMMITTEE HELD ON WEDNESDAY, 8 AUGUST 2018 AT 1400 HOURS IN COMMITTEE ROOM 2, COUNCIL HOUSE, BIRMINGHAM

PRESENT: - Mr Peter Wiseman in the Chair;

Councillor Deirdre Alden, Councillor Mahmood Hussain,
Councillor Narinder Kaur Kooner, Councillor Shafique Shah,
Frankley Parish Councillor Ian Bruckshaw, Sutton Coldfield
Parish Councillor Derrick Griffin, Professor Stephen Shute and
Raymond Tomkinson (Independent Observer).

ALSO PRESENT:-

Rob Connelly, Acting Assistant Director - Governance
Paul Willimott, Senior Solicitor, Finance and Governance
Safeena Tonks, Electoral Services Manager, Finance and Governance

APOLOGIES

278 Apologies were received from Councillor Mike Sharpe, Kate Charlton and
Steven Jonas.

DECLARATIONS OF INTEREST

279 No interests were declared.

MINUTES

280 The Minutes of the meeting held on 20 June 2018, having been previously
circulated, were agreed as a correct record.

PROCEDURE IN DEALING WITH INVESTIGATION COMPLAINTS AND CODE OF CONDUCT

Rob Connelly, Acting Assistant Director - Governance, advised the Committee
that this was the first draft and that they had not consulted any further at this

stage as it was felt that the document should be submitted to the Standards Committee first for their input. He stated that they did not think that the Standards Committee was being used enough and that they had started to see complaints regarding councillors dealing with matters. They were trying to sift claims that had merit and those that were service related. Some issues were about timings and in some cases these were general decisions, and some were using this as a tool.

There had been a drop-off in the number of complaints since May 2018, but there were complaints from constituents even when councillors had done all that they could. They wanted to build in the process going forward greater use of the independent person. The aim was to have an oversight of those decisions, taking into account the right factors, additional scrutiny of what was being done and introduction to performance standards. It was about shifting those into the right place.

The Code was in two parts – *do* and *not do*. It was difficult to write a code. The aim was to have a number of guidance that sat behaving it by the end of the year as a working draft.

Mr Connelly referred to paragraph 3.2.7 of the draft Code of Conduct for Members and sought the views of the Committee as to whether this was appropriate.

The Chairman commented that he suspect that members were erring on the side of caution. He highlighted that the issue was one of fact finding as they wanted more information and was not in any way influenced by politics. He questioned whether this was a burden they were comfortable with.

A view was expressed that the Committee were generally in agreement, but that this needed to be looked at as it had been £25 for a number of years. A brief discussion then ensued concerning the issue. It was noted that the issue was politically sensitive. A question was whether if this was increased by £5 whether it would help. A suggestion was that this could be increased on an annual basis.

The Chairman undertook to take something back from other authorities. Professor Stephen Shute stated that once it was laid into the Code of Conduct, failure to comply would be a serious matter.

In relation to paragraph 6, a suggestion was that this should not be draconian. The Chairman commented that he did not think that the Committee and Monitoring Officer (MO) and the deputy MO will be hard and fast about this. It was about common sense – he requested that members on the Committee exercised common sense without the need to put something in paragraph 6. This was in relation to hospitality.

The Committee was comfortable with paragraph 7. Mr Connelly commented that non-pecuniary interest was something that members often got confused with and that there was a need to have more information in the Code of what it entails. It would be recorded in plain English so that people understand what it

was. The Chairman stated that personal and prejudicial interest under the statutory scheme was abandoned years ago. Following a brief discussion, it was agreed to leave this as it was, but that it needed enough guidance as to what it was. Some of the issues would better sit in a more detailed guidance.

Councillor Deirdre Alden referred to paragraph 3.2.11 in relation to the distribution of newsletters etc. and the use of the Council's email address outside the "pre-election" period.

The Chairman stated that this was an issue that was raised previously, but that the then MO prepared some guidance on the matter. Mr Connelly undertook to investigate the issue and to submit a response at a future Committee meeting. Professor Shute stated that this point was the majority of complaints in the past a lot of which was around the usage of postage stamps, but thought it had been put to bed.

In relation to specific duties, this needed more detailed guidance – the Department of Communities and Local Government (DCLG) was revamping the Code of Conduct.

In relation to the document concerning the procedure for considering complaints, the Chairman stated that it was taking longer to deal with complaints than they wanted. This had been streamlined and the statutory scheme disappeared. Councillors felt that they were side-lined from the decision making process and it was hoped that this would be addressed.

Another issue was the independent person and their role – the majority of local authorities had moved to an ethics committee. The Localism Act had made provisions for an independent person to be appointed, but Birmingham had never called on their services as a level of independence was already built into the system. It was accepted that there was a role for the independent person in the process.

Mr Connelly stated that the discussion needed to be had with the Committee first. Personal self-preservation to ensure the procedures were correct if they were challenged in the courts it could be said that the members had a role. Mr Raymond Tomkinson commented that it was unusual in his experience and that other local authorities he had been involved with used the independent person. The majority of authorities were interested in not just openness and fairness, but had used the procedure to resolve issues as quickly as possible, using the ethics committee and did not use the Standards Committee. The independent person was also used as the sign-off. The culture issue to be decided was whether the Committee wanted to leave it in the hands of the independent person or the hands of the MO.

Attempts by other Councils were to reduce the time adjudication could be made by using the ethics committee in consultation with the Standards Committee. The question was whether the Standards Committee should be used or the efficacy of the system by using the independent person. A brief discussion concerning the issue then ensued. There was a need for the independent

person to be as flexible as possible in their role. It would appear that we did not want to fix the role of the independent person too closely.

The issue was how best to keep people's confidence in the whole thing and they needed to have the independent person. The question was whether this needed to be looked at or changed. Looking at other local authorities, they prosecute the case.

Mr Tomkinson stated that it was the investigating officer that presents the case to the prosecution. It was right for the MO to be at the other side of this. A brief discussion then ensued around whether Stage 1 was the filtering process. A view was that consultation with the independent person was fine in dealing with efficacy.

The Chairman wondered whether there was duplication here and briefly explained the Stage 1 and Stage 2 processes and when the Standards Committee would be involved. The Chairman believed that by the time the Stage 2 decision had been taken, the independent person along with one or two members of the Standards Committee would be involved and that the rest of the Committee that was not involved would make the decision. It was noted that they needed to look at the balance of the Standards Committee.

Mr Connelly stated that his understanding was that it was a decision as to which Committee the Liberal Democrats Group needed to sit on. He briefly explained the situation and advised that the issue was that if this comes to proportionality, the Conservative Group would need to give up a seat elsewhere. He further stated that he felt that the Committee needed to be non-political. Professor Shute commented that it helps the Committee to have members from all parties.

The Chairman stated that they needed to look at this issue again and to bring it back to the next Committee meeting in October 2018. A suggestion was that they could have a discussion away from the Committee. Mr Tomkinson stated that they had a useful role to play and supports the MO and helps members to concentrate on the lessons to be learnt.

Members agreed for this to be brought to the next meeting. Mr Connelly stated that it needed to sit behind the Constitution and not within the Constitution. It was noted that the Code needed to be agreed at November's Full City Council. It was suggested that the completed Code could be circulated. The Committee agreed to approve the Draft Code subject to clarification. The Committee further agreed that the time limit on complaints should be left at 28 days.

OTHER URGENT BUSINESS

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Mr Connelly undertook to: -

- I. Bring to the Committee the annual report of the Monitoring Officer copies for complainants for 2017/2018; and
- II. To bring the first quarter report for 2018/2019 of copies for complainants referred to the Monitoring Officer.

AUTHORITY TO CHAIRMAN AND OFFICERS

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RESOLVED:-

‘In an urgent situation between meetings, the Chair jointly with the relevant Chief Officer has authority to act on behalf of the Committee’.

The meeting ended at 1510 hrs

CHAIRMAN

5.11 The Standards Committee

Key Roles

- advising the City Council on the adoption or revision of the Code of Conduct;
 - monitoring the operation of the Code of Conduct;
 - advising, training or arranging to train members and co-opted members on matters relating to the City Council's Code of Conduct.
 - determining complaints brought by members of the public alleging a breach of the Code of Conduct by Councillors.
 - determining the penalty to be imposed in the event of a breach of the Code being upheld.
 - hearing appeals as may be necessary.
 - granting any dispensations and dealing with any other powers granted to Standards Committees by legislation.
 - to submit an Annual report on the work of the Standards Committee and, generally, promoting the standards of ethical conduct and behaviour expected of Councillors.
- The Standards Committee shall also determine under Sections 1 and 2 of the Local Government and Housing Act 1989: -
- any application received from any officer of the Council for exemption from political restriction; and
 - any application to consider whether a post should be included in the list maintained by the Council under Section 2(2) of the 1989 Act, and may direct the Council to include a post in that list.

Composition

(i) **Membership.** The Standards Committee will be composed of 14 Members, as follows:

- 6 Councillors, other than those with Special Responsibility Allowances, which will be made up of 2 Councillors from each of the 3 largest political parties represented on the City Council ;
- 6 Independent lay members
- 1 Member of New Frankley in Birmingham Parish Council
- 1 Member of Sutton Coldfield Parish Council

(ii) **Independent Lay Members.** Independent Lay Members will be entitled to vote at meetings;

(iii) **Parish Members.** The Parish Member(s) must be present when matters relating to the parish council or their Members are being considered;

(iv) **Chairing the Committee.** An Independent Member should be appointed as the Chair and Deputy Chair of Standards Committee.

(v) **Quorum.** 5 members, including at least one of the Independent Lay Member and the Parish Councillor if it relates to a Parish Council matter.

(vi) **Independent Person.** There be at least 1 Independent who will have no voting rights although Standards Committee has the discretion to appoint an additional person if required.