

**Minutes of the Overview and Scrutiny Committee
16 May 2012**

Present:

Councillor Philippa Broom (Chairman)
Councillor Mrs Marian Rough (Vice-Chairman)

Councillors:

A. Ayub	M.P.C. Francis	A.C. Patterson
Mrs C.A. Bannister	Mrs I. Napper	Miss J.R. Sexton
Ms M. Bushnell	Mrs C.E. Nichols	Miss S. Webb
R.D. Dunn	Miss D. Patel	

Apologies: Councillors I.J. Beardsmore and D. Gohil.

In Attendance

The Chairman of the committee had extended an invitation to all non committee members to attend this meeting and take part in the discussion on the items relating to the draft Members' Code of Conduct and to participate in the review of the work undertaken by the Committee. Councillors Mrs S. Dunn, A.E. Friday, N. Gething, Cabinet Member for Communications, Mrs V.J. Leighton, Mrs J. Pinkerton, Deputy Leader and Cabinet Member for Health, Wellbeing and Independent Living, and R.L. Watts, Cabinet Member for the Environment were in attendance and took part in the discussions.

132/12 Disclosures of Interest

No disclosures were made.

133/12 Minutes

The minutes of the meeting held on 7 February 2012 were approved as a correct record.

134/12 Matters arising

No matters reported.

135/12 Call in of Cabinet Decisions

No decisions had been called in.

136/12 Code of Conduct and Standards Committee

The Committee discussed with the Monitoring Officer his report providing an update on the implementation of the new ethical standards regime which had been introduced by the Localism Act 2011.

(a) Committee arrangements

The Monitoring Officer reported on the current preference to have a standalone committee to deal with ethical matters and to deal with complaints against councillors including arrangements for investigation. The size of the committee would be 8 councillors (subject to the proportionality rules) plus the retention of the current Independent Chairman and Vice Chairman in an advisory role. The terms of reference for this committee to be similar to that of the current Standards Committee but to include keeping an overview and advising on the Employees Code of Conduct and references to 'advising on the Council's Anti Fraud and Corruption Strategy and Confidential reporting code' being deleted as this was undertaken by the Audit Committee. The new committee to be called the Members' Code of Conduct Committee.

The Chairman invited the committee and those non committee members presents to give a view as to where they feel these arrangements could best sit in the committee structure. Consideration was given to three options (1) a standalone committee as outlined by the Monitoring Officer, (2) for the matters to be incorporated into the work of the Audit Committee or (3) the matters to be incorporated into the work of the Overview and Scrutiny Committee. The majority of members present supported the ethical arrangements being incorporated into the work of the Overview and Scrutiny Committee.

(b) Code of Conduct

The Committee considered what should be included in the new Members' Code of Conduct. To assist the committee the Monitoring Officer had prepared a draft Code which had been circulated with his report. Although it was originally anticipated that the new code would come into force on 1 April 2012 the new regulations were still awaited, and the commencement date had been extended until 1 July 2012.

The Committee noted that the regulations defining a Disclosable Pecuniary Interest had yet to be published.

The Committee felt that without the clarity of regulations defining Disclosable Pecuniary Interests and given the absence of any helpful steer or guidance to what constitutes a fit for purpose code of conduct it was not possible to progress the matter. Furthermore the actual date on which the current standards ethical framework would be superseded by the new regime had not yet been confirmed.

The Committee indicated that if the council was to take its duty to promote and maintain high standards of conduct for its councillors seriously then it

must have in place a robust code and clear guidance as to how councillors should properly conduct themselves when acting in that capacity and the consequences for them if they do not. Therefore training should be arranged on the ethical regime with regular reminders to members of Disclosable Pecuniary Interests.

The Committee indicated that in the absence of the regulations and a confirmed implementation date, progress with the work could not continue and therefore the matters should come back to the committee before the new code and arrangements receive final approval at a council meeting. Consideration was also given to establishing a working group to look at the code and regulations in detail.

(c) Independent Person

The Committee discussed the appointment, role and functions of an Independent Person in the new ethical framework. It was noted that the main role was in an advisory capacity and how the Monitoring Officer must consult with the Independent Person prior to a decision on an allegation of misconduct by a councillor can be made. The member under investigation could also consult with the Independent Person.

The Committee discussed the benefits of appointing an Independent Person (and a reserve) jointly with other neighbouring authorities and to pay expenses only as incurred and no other remuneration.

The Committee noted that the arrangements for the appointment of the Independent Person had already been approved at a recent Council meeting. The committee felt that it would be beneficial if the Independent Person came from outside the borough.

(d) Arrangements for dealing with complaints

The Committee discussed what arrangements needed to be adopted for dealing with ethical standards complaints and for taking action where a councillor is found to have failed to comply with the code of conduct.

It was noted that the Localism Act 2011 had repealed the requirements for separate standards Assessment, Review and Determination Sub Committee and enables the council to establish its own processes. It was noted that the current suggestion was to have a Hearing Panel of three councillors plus an Independent member.

The Committee discussed a draft procedure for dealing with allegations of misconduct under section 28 of the Localism Act 2011 together with two flowcharts procedures showing present position and position which could be adopted.

The committee discussed the powers being given to the Monitoring Officer to take the initial decision on whether a complaint requires investigation, subject to consultation with the Independent Person.

The committee discussed the significant differences between the provisions under the Localism Act 2011 and the current arrangements and noted;

- The absence in the new Act of any specific powers to sanction members who had breached the code; and
- The introduction in the Localism Act 2011 of criminal sanctions relating to breaches of the rules on Disclosable Pecuniary Interests.

RESOLVED that:

- 1 the provisions of the Localism Act 2011 as it affects the ethical framework of the council be noted; and
- 2 The Monitoring Officer to report the committee's views on the changes to the standards regime as identified at this meeting to the Cabinet.

137/12 Review of work undertaken during 2011/12

The Chairman divided the discussion on the review of the work undertaken into two parts the first was to receive reports from the Lead Members of the following Task Groups

Planning Implementation Review Task Group

Parks and Open Spaces

Skate Park Task Group

Food Waste Task Group

RESOLVED that the progress reports from the Lead Members of the Task Groups be received and in relation to:

- (a) The Skate Park Task Group a further meeting be arranged; and
- (b) In relation to the Parks and Open Spaces Task Group the officers agreed to look into the reason for the lack of communication over the playground for disabled children created at Ashford Recreation Ground; and advise all members of the committee.

For the second part of the discussion the Chairman invited members to form into small groups with each group discussing the following questions and presented their finding to the committee.

What have we done well and where have we achieved impact?

What can we improve on?

When scrutiny works – why does it work?

**What do you consider is outstanding from our work programme
and that needs to be carried forward next year?**

138/12 The Year Ahead

RESOLVED that this matter be deferred until the next meeting.

139/12 Cabinet Forward Plan

The Committee received the Cabinet Forward Plan

140/12 Any Other Business

No other business discussed