

# City of Bradford Metropolitan District Council

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## Minutes of a meeting of the Standards Committee held on Thursday 4 December 2008 at City Hall, Bradford

Commenced 1305  
Concluded 1530

### PRESENT –

#### Independent Persons

Mrs P Essler, Mr G Dobson, The Very Revd Dr D J Ison and Mr M Shakeel

#### Parish and Town Council Members

Parish Councillors Jay and Mitchell

#### Councillors

CONSERVATIVE	LABOUR	LIBERAL DEMOCRAT
Binney	Ferriby	Q Khan
Owens	Ikram	
D Smith		

Observer: Parish Councillor Bowen

Apologies: Councillor Flowers

### Mrs Essler in the Chair

#### 24. DISCLOSURES OF INTEREST

- (i) Ivan Harrison, Consultant, Suzan Hemingway, Assistant Director Corporate Services (City Solicitor) and Tracey Sugden, Committee Services Officer each disclosed a personal interest in the item relating to proposals to introduce a national Code of Conduct for local government employees as a result of their employment/connection with CBMDC.



Suzan Hemingway, Assistant Director Corporate Services (City Solicitor)



- (ii) All the District and Parish Councillors present disclosed a personal interest in the item relating to the proposed amendments to the Code of Conduct for elected Members as a result of their elected status.

As none of the above interests was prejudicial, all those concerned remained in the meeting throughout.

**ACTION:** *Assistant Director Corporate Services (City Solicitor)*

## 25. MINUTES

**Resolved -**

**That the minutes of the meeting held on 30 October 2008 be signed as a correct record.**

## 26. INSPECTION OF REPORTS AND BACKGROUND PAPERS

There were no appeals submitted by the public to review decisions to restrict documents.

## 27. MONITORING OFFICER'S REPORT ON COMPLAINTS

The Monitoring Officer reported to the meeting the receipt of complaints notified to her, the stage that any notified complaint had reached and the final outcome on the consideration of complaints, where appropriate as set out in the table below.

<b>Date of Complaint</b>	<b>District or Parish/Town Councillor</b>	<b>Initial Action of Standards Committee</b>	<b>Current Position</b>	<b>Outcome</b>
13 May 2008	District 2008/01	Initial assessment undertaken on 14 August 2008	Two issues raised. The Hearing Panel determined that one issue was not suitable for investigation or alternative action and that the second issue was to be referred to the Standards Board for England for investigation	First issue – complainant appealed to be referred to Appeals Panel, to be considered on 3 December 2008  Second issue – Standards Board for England determined no further action
29 June 2008	District 2008/02	Initial assessment undertaken on 14 August 2008	Referred to Monitoring Officer for investigation	Investigation ongoing

16 Sep 2008	District 2008/03	Initial assessment undertaken on 3 December		
16 Sep 2008	District 2008/04	Initial assessment undertaken on 3 December		
23 Sep 2008	Parish/Town 2008/05	Initial assessment undertaken on 3 December		
25 Sep 2008	District 2008/06	Initial assessment undertaken on 3 December		
16 Sep 2008	District 2008/07	Initial assessment undertaken on 3 December		

The Monitoring Officer indicated that she would advise on the outcome of the assessments heard earlier in the week at the next meeting of the Committee, in order to be able to inform the complainants and members concerned before making the decisions public.

**ACTION:** *Assistant Director Corporate Services (City Solicitor)*

## 28. STANDARDS COMMITTEE WORK PROGRAMME

An updated copy of the Committee's work programme was appended to the agenda for Members' information.

The Monitoring Officer also circulated a guidance note on alternative action as had been requested at the previous meeting.

The Chair noted that this matter would probably need to be revisited in future as it was a rapidly evolving area of work.

**Resolved –**

**That the updated work programme be noted.**

**ACTION:** *Assistant Director Corporate Services (City Solicitor)*

## 29. STANDARDS COMMITTEE PROCEDURES

Members were invited to consider revised procedures set out in **Document "E"** for adoption in connection with the determination of complaints alleging that members of the Council including voting co-opted members and Town and Parish Councillors had acted in breach of the Member Code of Conduct or of local protocols.

The Chair stressed that it was important that the procedures adopted were robust as they related to the final and most high profile stage of the process. She was pleased to note that the suggested procedures were very much in line with SBE guidance.

The Monitoring Officer also indicated that determination hearings would take place in public unless there was a strong case for hearing 'in camera'.

Members asked the following questions and made the following comments in respect of the detail of the report:-

- who would prepare the statement mentioned in paragraph 4.1, if it were to be the Monitoring Officer, would that lead to a conflict of roles?
- there should be some way of differentiating between the Monitoring Officer and the investigating officer.
- the principle of avoidance of conflict should be clear in the procedures.
- would the Monitoring Officer remain with the panel in the adjournment referred to?
- under what circumstances would the panel meet in private?

In response to those points, the Monitoring Officer clarified that:-

- the Monitoring Officer had two roles in the process, these would usually be divided between two individuals to avoid any possible conflict.
- the procedure would be redrafted to show that the statement would be prepared by the Monitoring Officer who had advised the panel.
- the Monitoring Officer would remain with the panel while it adjourned.
- the Monitoring Officer would not be able to act for the panel if they he/she had a conflicted of interest, most commonly if they had previously given informal advice about prejudicial interests.
- a hearings panel would meet in private only if requested to do so under one of the provisions shown in the appendix and if that request satisfied the test which stated that the circumstances must outweigh the public interest of remaining in the public domain. A note explaining that would be added to the procedure to clarify the situation.

**Resolved –**

**That the procedures attached to Document “E” be approved with the modifications made by the Committee.**

***ACTION: Assistant Director Corporate Services (City Solicitor)***

### **30. PROPOSED AMENDMENTS TO THE CODE OF CONDUCT FOR ELECTED MEMBERS**

The report of the Assistant Director Corporate Services (City Solicitor) (**Document “F”**) set out the issues raised in the consultation document “Communities in Control; Real People, Real Power Codes of Conduct for Local Authority Members and Employees – A Consultation” specifically in relation to proposed amendments to the Code of Conduct for Elected Members.

The Monitoring Officer highlighted that she had provided a commentary to the points raised in the consultation document as a basis for discussion for the Committee. She also noted that she considered that the Code was subject to amendment so frequently that it was difficult to ensure that all codes operating under the national code were also amended and to ensure that Members appreciated the most up to date provisions.

In response to a request from the Chair, the Monitoring Officer clarified that the latest proposed amendments to the Code were a response to the issues raised by a complaint involving the former Mayor of London and related to the extent to which activities in a persons private life should be taken into account. The proposals intended that examination of activities undertaken in a "non-official" capacity would be restricted to those which resulted in a criminal conviction.

The Committee then considered each question in the report in turn.

Question 1 – Do you agree that the Members' Code should apply to a Member's conduct when acting in their non-official capacity?

Members discussed this question at length, with views being expressed both for and against the proposal.

In response to a question from a Member, the Monitoring Officer clarified that the present provision for a Member to be disqualified applied only to criminal convictions carrying sentences of over five years so the proposed provision would strengthen that.

Members then agreed that their response to question 1 should be in the affirmative with the proviso that it be limited to actions which resulted in a criminal conviction or police caution.

Question 2 – Do you agree with the definition of "criminal offence" for the purposes of the Members' Code?

Members agreed with the definition in the consultation paper, along with a suggestion from the Deputy Chair that the Standards Committee should have the power to act in a case where a member had a finding upheld against them in civil court proceedings which clearly showed that the defendant had acted in a manner which would render them liable to a criminal charge which if proven would require a sentence which would not include the opportunity of paying a fixed penalty.

Question 3 – Do you agree with the definition of 'official capacity' for the purposes of the Members' Code?

Members agreed with the definition proposed, considering that it was a simple matter to make it clear whether a person was acting as a Councillor or not.

Question 4 – Do you agree that the Members' Code should only apply where a criminal offence and conviction abroad would have been a criminal offence if committed in the UK?

Members agreed with this proposal.

Question 5 – Do you agree that an ethical investigation should not proceed until the criminal process has been completed?

Members agreed with this proposal.

Question 6 – Do you think the amendments suggested in this chapter are required?

A number of amendments had been suggested and were set out in detail in Appendix A.

Members agreed to the suggestions.

Question 7 – Are there any aspects of conduct currently included in the Members' Code that are not required ?.

Members did not identify any aspects as superfluous.

Question 8 – Are there any aspects of conduct in a Members official capacity not specified in the Members' Code that should be introduced?

The appendix to the report explained that the Welsh Code for Members extended the definition of meetings to informal meetings between a Member and one or more other members or officers of the authority, other than group meetings.

Members agreed to recommend the Welsh definition for adoption.

Question 9 – Does the proposed timescale of two months provide Members with sufficient time to undertake to observe the Code?

Members agreed the proposed timescale.

Question 10 – Do you agree with the addition of a new General Principle applied specifically to conduct in a Member's non-official capacity to the effect that a Member should not engage in conduct which constitutes a criminal offence?

Members agreed with the addition of the new general principle, including that criminal offence should also mean offences resulting in a police caution.

Question 11 – Do you agree with the broad definition of `criminal offence` for the purpose of the General Principles Order?

Again, Members agreed with the broad definition, including a police caution.

Question 12 – Do you agree with the definition of `official capacity` for the purposes of the General Principles Order?

Members agreed with the definition.

**Resolved –**

- (1) That the response to the consultation paper agreed at the meeting be submitted to the relevant Government department.**
- (2) That a report be presented to a future meeting of the Committee arising from the outcome of the consultation process reviewing the implications for the Committee.**

***ACTION: Assistant Director Corporate Services (City Solicitor)***

31. **PROPOSALS TO INTRODUCE A NATIONAL CODE OF CONDUCT FOR LOCAL GOVERNMENT EMPLOYEES**

The report of the Assistant Director Corporate Services (City Solicitor) (**Document “G”**) set out the issues raised in the consultation document “Communities in Control; Real People, Real Power Codes of Conduct for Local Authority Members and Employees – A Consultation” specifically in relation to the proposals to introduce a National Code of Conduct for Local Government Employees.

A Parish Council representative indicated that his Parish Council had already considered the proposals and had considered them to be wholly covered by a contract of employment and so would be sending a response to the effect that the proposals were not necessary.

A Member cautioned that employees were seen by the public as representatives of the Council. Another Member concurred with that and added that it was important for employees to behave appropriately.

The Monitoring Officer advised that, if Members did not consider a national Code to be necessary, a report could be prepared expanding on the Nolan Principles and how they could be observed locally. She noted that some other Local Authorities already had local Codes but that they were concerned how that would work if a national Code were to be imposed.

Members discussed the merits of a local Code over a nationally imposed Code which they considered would not necessarily achieve the desired emphasis on ethical principles within local government employment.

They then considered each question posed by the Consultation Document in turn, as they had done with the previous report.

Question 13 – Do you agree that a mandatory model Code of Conduct for Local Government employees, which would be incorporated into employees' terms and conditions of employment, is needed?

Members considered that a model Code could be useful, but should not be mandatory.

Question 14 – Should we apply the employees' Code to firefighters, teachers, community support officers and solicitors?

Members considered that an employees' Code should apply to all staff.

Question 15 – Are there any other categories of employee in respect of whom it is not necessary to apply the Code?

Members agreed that there was no such category.

Question 16 – Does the employees' Code for all employees reflect the core values that should be in the Code?

Members agreed that it did so.

Question 17 – Should the selection of qualifying employees be made on the basis of a 'political restriction' model or should qualifying employees be selected using the delegation model?

Members agreed that political restriction should be used.

Question 18 – Should the Code contain a requirement for qualifying employees to publicly register any interests?

Members considered that such a requirement should be included, subject to the considerations of openness and transparency being measured against those of personal security.

Question 19 – Do the criteria of what should be registered contain any categories which should be omitted, or omit any categories which should be included?

Members agreed with the provisions set out in the Monitoring Officer's commentary in the appendix to Document "G".

Question 20 – Does the section of the employees' Code which will apply to qualifying employees capture all pertinent aspects of the Members' Code?

Members indicated that they would prefer the provision around prejudicial interests to be more specific in terms of officers not being permitted to deal with an issue.

Question 21 – Does the section of the employees Code which will apply to qualifying employees place too many restrictions on qualifying employees?

Members agreed that the requirement to register interests with the Monitoring Officer was impractical and that the most appropriate person would be the line manager, who should have access to legal advice.

Question 22 – should the employees' Code extend to employees of Parish Councils?

Members agreed that it should do so.

**Resolved –**

- (1) That response to the consultation paper agreed at the meeting be submitted to the relevant Government department.**
- (2) That a report be presented to a future meeting of the Committee reviewing the existing arrangements relating to guidance and monitoring of standards of behaviour among Council employees.**

***ACTION: Assistant Director Corporate Services (City Solicitor)***

## **32. SEVENTH ANNUAL ASSEMBLY OF STANDARDS COMMITTEES**

**Document "H"** provided information to the Standards Committee on the 7<sup>th</sup> Annual Assembly of Standards Committees held on 13 and 14 October 2008 attended by the Assistant Director Corporate Services (City Solicitor).



**Resolved –**

- (1) That Document “H” be noted and discussed further at the forthcoming member development event.

***ACTION: Assistant Director Corporate Services (City Solicitor)***

**33. CHANGE TO SCHEDULE OF DATES**

**Resolved –**

**That the meeting scheduled for 22 January 2009 be amended to an informal member development event and that a formal meeting be held on 5 February 2009.**

***ACTION: Assistant Director Corporate Services (City Solicitor)***

Chair

**Note: These minutes are subject to approval as a correct record at the next meeting of the Committee.**