

**COUNCIL
30 JANUARY 2002**

REPORT FROM THE STANDARDS COMMITTEE

1 INTRODUCTION

1.1 This report presents the recommendations of the Standards Committee from its meeting on 13 December 2001. These deal with three matters:

- (a) the adoption of the Model Code of Conduct for Members;
- (b) the constitution of the Standards Committee; and
- (c) the creation of a new sub committee to undertake the Borough Council's functions in respect of Parish Council Standards.

2 RECOMMENDATIONS

It is recommended that

- (i) the "Model Code of Conduct – Authorities Operating Executive Arrangements" be adopted as the Council's Code of Conduct for Members as set out in Appendix 1;
- (ii) each Member of the Council attend a mandatory training seminar on the new Code of Conduct;
- (iii) further work to develop a local protocol relating to planning matters, revisions to the member/officer protocol and the Employee Code of Conduct should await publication of national guidelines.
- (iv) the Council take advantage of the transitional provisions relating to independent members set out in the Local Authorities (Standards Committee) Regulations 2001 which permit the retention of the current independent members of the Standards Committee until August 2003.
- (v) the composition and terms of reference of the Standards Committee be approved as set out in Appendix 2.
- (vi) the Borough Council's functions relating to Parish Council standards should be discharged by a Sub Committee of the Standards Committee with constitution and terms of reference as set out in Appendix 3.

3 ADVICE RECEIVED FROM STATUTORY AND OTHER OFFICERS

Borough Solicitor

3.1 The advice of the Borough Solicitor has been incorporated into this report.

Borough Finance Officer

- 3.2 There are no financial implications directly arising from this report.

Access Implications

- 3.3 None.

4 SUPPORTING INFORMATION

Code of Conduct for Members

- 4.1 At its meeting on 13 December 2001 the Standards Committee was advised that the Secretary of State for Transport, Local Government and The Regions had recently issued a model code of conduct for local authority members. Separate model codes had been issued for Parish Councils and Police Authorities. The report summarised the provisions of the model code, identified significant amendments to the earlier draft code reported to the Committee and proposed the adoption of the model code as the Council's code of conduct for members.
- 4.2 As the adoption of the new code of conduct would mark a significant departure from previous arrangements it was proposed that officers should arrange two training seminars for members. The Committee proposed that attendance at these seminars should be mandatory.
- 4.3 In addition to the new Code of Conduct for Members there will be an Employee Code of Conduct (to be issued by the Secretary of State) and it is also intended to develop local protocols governing member/officer relations and planning matters. Further guidance is anticipated on the content of these protocols and the Committee suggested that further work on these should await publication of national guidelines.

Constitution of the Committee and Parish Council Standards

- 4.4 The Committee was advised that, under the Local Government Act 2000, the Council was required to reconsider the membership and terms of reference to the Standards Committee. The report described the combined effects of the new legislation and associated regulations, which included the requirement that either the Standards Committee or a Sub Committee of it must act as the Standards Committee for Parish Councils within the Borough. There were also requirements as to the composition of the Committee and the appointment of independent members. Under transitional provisions the existing independent members would be able to continue to serve until August 2003.
- 4.5 The Committee gave extensive consideration to the issue as to whether standards issues relating to Parish Councils should be dealt with by the full Standards Committee or by a Sub Committee specifically established for the function. The views expressed by Parish Councils were included within the report and the Committee noted that the Parish Councils' preference was for the main Standards Committee to assume responsibility for Parish Council Standards, with Parish Councillors being appointed to the Standards Committee. The Committee wished to ensure that Parish Councils had a sense of ownership of the body which was dealing with their standards issues, rather than it being a relatively minor part of the Committee's role. The Committee was also keen to preserve the political balance on the Committee which they felt worked well at the moment with an equal number of

members of the Borough Council's party groups. The introduction of Parish Councillors to the Standards Committee could put that at risk.

- 4.6 Having taken account of these matters and the views expressed by the Parish Councils the Committee concluded that a Sub Committee should be established to discharge Parish Council standards functions. The proposed composition of the Sub Committee is set out in Appendix 3.

Background Papers

Agenda and Minutes Standards Committee 13 December 2001.

Contact for further information

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Doc. Ref

Report from Standards Committee 13.12.01

BRACKNELL FOREST BOROUGH COUNCIL CODE OF CONDUCT FOR MEMBERS

Part 1

GENERAL PROVISIONS

Scope

1. (1) A member must observe the authority's code of conduct whenever he –
 - (a) conducts the business of the authority;
 - (b) conducts the business of the office to which he has been elected or appointed; or
 - (c) acts as a representative of the authority,and references to a member's official capacity shall be construed accordingly.
- (2) An authority's code of conduct shall not, apart from paragraphs 4 and 5(a) below, have effect in relation to the activities of a member undertaken other than in an official capacity.
- (3) Where a member acts as a representative of the authority –
 - (a) on another relevant authority, he must, when acting for that other authority, comply with that other authority's code of conduct; or
 - (b) on any other body, he must, when acting for that other body, comply with the authority's code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.
- (4) in this code, "member" includes a co-opted member of an authority.

General Obligations

2. A member must –
 - (a) promote equality by not discriminating unlawfully against any person;
 - (b) treat others with respect; and
 - (c) not do anything which compromises or which is likely to compromise the impartiality of those who work for, or on behalf of, the authority.
3. A member must not –
 - (a) disclose information given to him in confidence by anyone, or information acquired which he believes is of a confidential nature, without the consent of a person authorised to give it, or unless he is required by law to do so; nor
 - (b) prevent another person from gaining access to information to which that person is entitled by law.
4. A member must not in his official capacity, or any other circumstance, conduct himself in a manner which could reasonably be regarded as bringing his office or authority into disrepute.

5. A member –
 - (a) must not in his official capacity, or any other circumstance, use his position as a member improperly to confer on or secure for himself or any other person, an advantage or disadvantage; and
 - (b) must, when using or authorising the use by others of the resources of the authority –
 - (i) act in accordance with the authority's requirements; and
 - (ii) ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the authority or of the office to which the member has been elected or appointed.

6. (1) A member must when reaching decisions –
 - (a) have regard to any relevant advice provided to him by –
 - (i) the authority's chief finance officer acting in pursuance of his duties under section 114 of the Local Government Finance Act 1988; and
 - (ii) the authority's monitoring officer acting in pursuance of his duties under section 5(2) of the Local Government and Housing Act 1989; and
 - (b) give the reasons for those decisions in accordance with the authority's and any statutory requirements in relation to the taking of an executive decision.

(2) in sub-paragraph (1)(b) above and in paragraph 9(2) below, "executive decision" is to be construed in accordance with any regulations made by the Secretary of State under section 22 of the Local Government Act 2000.

7. A member must, if he becomes aware of any conduct by another member which he reasonably believes involves a failure to comply with the authority's code of conduct, make a written allegation to that effect to the Standards Board for England as soon as it is practicable for him to do so.

Part 2

INTERESTS

Personal Interests

8. (1) A member must regard himself as having a personal interest in any matter if the matter relates to an interest in respect of which notification must be given under paragraphs 14 and 15 below, or if a decision upon it might reasonably be regarded as affecting to a greater extent than other council tax payers, ratepayers or inhabitants of the authority's area, the well-being or financial position of himself, a relative or a friend or –
 - (a) any employment or business carried on by such persons;
 - (b) any person who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
 - (c) any corporate body in which such persons have a beneficial interest in a class of securities exceeding the nominal value of £5,000; or
 - (d) any body listed in sub-paragraphs (a) to (e) of paragraph 15 below in which such persons hold a position of general control or management.

- (2) In this paragraph –
- (a) “relative” means a spouse, partner, parent, parent-in-law, son, daughter, step-son, step-daughter, child of a partner, brother, sister, grandparent, grandchild, uncle, aunt, nephew, niece, or the spouse or partner of the preceding persons; and
 - (b) “partner” in sub paragraph (2)(a) above means a member of a couple who live together.

Disclosure of Personal Interests

9. (1) A member with a personal interest in a matter who attends a meeting of the authority at which the matter is considered must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.
- (2) Subject to paragraph 12(1)(b) below, a member with a personal interest in any matter who has made an executive decision in relation to that matter must ensure that any written statement of that decision records the existence and nature of that interest.

Prejudicial Interests

10. (1) Subject to sub-paragraph (2) below, a member with a personal interest in a matter also has a prejudicial interest in that matter if the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the member’s judgement of the public interest.
- (2) A member may regard himself as not having a prejudicial interest in a matter if that matter relates to –
- (a) another relevant authority of which he is a member;
 - (b) another public authority in which he holds a position of general control or management;
 - (c) a body to which he has been appointed or nominated by the authority as its representative;
 - (d) the housing functions of the authority where the member holds a tenancy or lease with a relevant authority, provided that he does not have arrears of rent with that relevant authority of more than two months, and provided that those functions do not relate particularly to the member’s tenancy or lease;
 - (e) the functions of the authority in respect of school meals, transport and travelling expenses, where the member is a guardian or parent of a child in full time education, unless it relates particularly to the school which the child attends;
 - (f) the functions of the authority in respect of statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where the member is in receipt of, or is entitled to the receipt of such pay from a relevant authority; and
 - (g) the functions of the authority in respect of an allowance or payment made under sections 173 to 176 of the Local Government Act 1972 or section 18 of the Local Government and Housing Act 1989.

Overview and Scrutiny Committees (Select Committees)

11. (1) For the purposes of this Part, a member must if he is involved in the consideration of a matter at a meeting of an overview and scrutiny committee of the authority or a sub-committee of such a committee, regard himself as having a personal and prejudicial interest if that consideration relates to a decision made, or action taken, by another of the authority's-
- (a) committees or sub-committees; or
 - (b) joint committees or joint sub-committees,
- of which he may also be a member.
- (2) But sub-paragraph (1) above shall not apply if that member attends that meeting for the purpose of answering questions or otherwise giving evidence relating to that decision or action.

Participation in Relation to Disclosed Interests

12. (1) Subject to sub-paragraph (2) below, a member with a prejudicial interest in any matter must –
- (a) withdraw from the room or chamber where a meeting is being held whenever it becomes apparent that the matter is being considered at that meeting, unless he has obtained a dispensation from the authority's standard's committee;
 - (b) not exercise executive functions in relation to that matter; and
 - (c) not seek improperly to influence a decision about that matter.
- (2) A member with a prejudicial interest may, unless that interest is of a financial nature, and unless it is an interest of the type described in paragraph 11 above, participate in a meeting of the authority's –
- (a) overview and scrutiny committees; and
 - (b) joint or area committees,
- to the extent that such committees are not exercising functions of the authority or its executive.
13. For the purposes of this Part, "meeting" means any meeting of –
- (a) the authority;
 - (b) the executive of the authority; or
 - (c) any of the authority's or its executive's committees, sub committees, joint committees, joint sub-committees, or area committees.

Part 3

THE REGISTER OF MEMBERS' INTERESTS

Registration of Financial and Other Interests

14. Within 28 days of the provisions of an authority's code of conduct being adopted or applied to that authority or within 28 days of his election or appointment to office (if that is later), a member must register his financial interests in the authority's register maintained under section 81(1) of the Local Government Act 2000 by providing written notification to the authority's monitoring officer of -
- (a) any employment or business carried on by him;

- (b) the name of the person who employs or has appointed him, the name of any firm in which he is a partner, and the name of any company for which he is a remunerated director;
 - (c) the name of any person, other than a relevant authority, who has made a payment to him in respect of his election or any expenses incurred by him in carrying out his duties;
 - (d) the name of any corporate body which has a place of business or land in the authority's area, and in which the member has a beneficial interest in a class of securities of that body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital of that body;
 - (e) a description of any contract for goods, services or works made between the authority and himself or a firm in which he is a partner, a company of which he is remunerated director, or a body of the description specified in sub-paragraph (d) above;
 - (f) the address or other description (sufficient to identify the location) of any land in which he has a beneficial interest and which is in the area of authority;
 - (g) the address or other description (sufficient to identify the location) of any land where the landlord is the authority and the tenant is a firm in which he is a partner, a company of which he is a remunerated director, or a body of the description specified in sub-paragraph (d) above; and
 - (h) the address or other description (sufficient to identify the location) of any land in the authority's area in which he has a licence (alone or jointly with others) to occupy for 28 days or longer.
15. Within 28 days of the provisions of the authority's code of conduct being adopted or applied to that authority or within 28 days of his election or appointment to office (if that is later), a member must register his other interests in the authority's register maintained under section 81(1) of the Local Government Act 2000 by providing written notification to the authority's monitoring officer of his membership of or position of general control or management in any –
- (a) body to which he has been appointed or nominated by the authority as its representative;
 - (b) public authority or body exercising functions of a public nature;
 - (c) company, industrial and provident society, charity, or body directed to charitable purposes;
 - (d) body whose principal purposes include the influence of public opinion or policy; and
 - (e) trade union or professional association.
16. A member must within 28 days of becoming aware of any change to the interests specified under paragraphs 14 and 15 above, provide written notification to the authority's monitoring officer of that change.

Registration of Gifts and Hospitality

17. A member must within 28 days of receiving any gift or hospitality over the value of £25, provide written notification to the authority's monitoring officer of the existence and nature of that gift or hospitality.

TERMS OF REFERENCE AND CONSTITUTION OF THE STANDARDS COMMITTEE

Terms of Reference

- 1 To promote and maintain high standards of conduct by the Members and co-opted Members of the Council.
- 2 To assist Members and co-opted Members of the Council to observe the Codes of Conduct.
- 3 To advise the Council on the adoption and revision of its Codes of Conduct.
- 4 To monitor the operation of the Council's Codes of Conduct.
- 5 To advise, train or arrange to train Members and co-opted Members of the Council on matters relating to their Codes of Conduct.
- 6 To advise the Council on the adoption of appropriate protocols governing the ethical standards of the Members and officers of the Council.
- 7 To perform the other functions of a Standards Committee under the Local Government Act 2000 (or any amending or replacement legislation) and any regulations made thereunder.
- 8 To consider and determine allegations against Members of the Council of misconduct, meaning a breach of the Council's Code of Conduct or of any code or protocol adopted by the Council, but excepting any complaints made to the Standards Board unless they have been referred to the Monitoring Officer or the Council, and to determine any sanctions it deems appropriate in the event of misconduct being found.
- 9 To be responsible for liaison between the Council and external agencies, in particular the External Auditor and the Local Government Ombudsman, in connection with matters within the terms of reference of the Committee.

Delegated Powers

All powers necessary to fulfil the functions referred to above including the determination of complaints and sanctions under Paragraph 8.

Composition

2 Independent members
4 Councillors (2:2)

2 Substitute Councillors

TERMS OF REFERENCE AND CONSTITUTION OF THE PARISH COUNCIL STANDARDS SUB COMMITTEE

Terms of Reference

- 1 To promote and maintain high standards of conduct by the Members of the Parish Councils.
- 2 To assist Members of the Parish Councils to observe their respective Codes of Conduct.
- 3 To advise the Parish Councils on the adoption and revision of their respective Code of Conduct.
- 4 To monitor the operation of the Parish Councils' Codes of Conduct.
- 5 To advise, train or arrange to train Members of the Parish Councils on matters relating to their Codes of Conduct.
- 6 To consider and determine allegations against Members of the Parish Councils of misconduct, meaning a breach of the Council's Code of Conduct or of any code or protocol adopted by the Council, but excepting any complaints made to the Standards Board unless they have been referred to the Monitoring Officer or the Council, and to determine any sanctions it deems appropriate in the event of misconduct being found.

Delegated Powers

All powers necessary to fulfil the functions referred to above including the determination of complaints and sanctions under Paragraph 6.

Composition

- 1 Independent Person (*Independent Member of the Standards Committee*)
- 2 Parish Councillors (*nominated by the Parish Councils – may not be Borough Councillors*)
- 1 Borough Councillor (*Member of the Standards Committee*)

Substitute Members

- 1 *Independent Member of the Standards Committee*
- 4 *Parish Councillors (nominated by the Parish Councils)*
- 3 *Borough Councillors (Members of the Standards Committee)*