

**LONDON BOROUGH OF BRENT**  
**STANDARDS COMMITTEE – 22 JANUARY 2004**  
**REPORT FROM THE BOROUGH SOLICITOR**

FOR ACTION

WARDS AFFECTED: ALL

<b>REPORT TITLE:    CHANGE OF TERM OF OFFICE FOR INDEPENDENT MEMBERS                              &amp; APPOINTMENT PROCESS</b>
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**1.0    SUMMARY**

- 1.1    This is a report from the Borough Solicitor to the Standards Committee concerning the change of term of office for independent members of the Standards Committee. The report also seeks to inform members of the appointment process for independent members prior to the Special Meeting on 17th May 2004.

**2.0    RECOMMENDATIONS**

- 2.1    To note the suggested change to standing order 55(b) by the Constitution Monitoring Group which will allow for a two year term of office for independent members.
- 2.2    To endorse the suggested appointment process and documents as set out in Appendix II.

**3.0    FINANCIAL IMPLICATIONS**

- 3.1    There are no direct financial implications arising from this report other than the advertising costs for independent members.

**4.0    STAFFING IMPLICATIONS**

- 4.1    There are no direct staffing implications.

## **5.0 LEGAL IMPLICATIONS**

- 5.1 The new ethical arrangements involving a new code of conduct for members and the set up of a Standards Committees were introduced by Part III of the Local Government Act 2000. Section 53(4) of that Act specifies that a standards committee of a relevant authority must include, in addition to two members of the authority, at least one person who is not a member, or an officer, of that or any other relevant authority. At Brent, the Standards Committee is comprised of 3 members of the authority and 2 independent members.
- 5.2 There is no particular term of office prescribed in the Local Government Act 2000 or subsequent regulations relating to the appointment of independent members on Standards Committees. Statutory Guidance issued by the Standards Board states that 'your council should decide how long an independent representative should sit on the committee. This should be long enough to gain an understanding of the committee, your council and its workings, but not so long that they lose their independence.
- 5.3 Standing Order 55(b) of the Brent Constitution identifies that independent members will be appointed for a period of one year. In November 2003, the Constitution Monitoring Group recommended that the term of office be extended to two years. The Standing Order has been amended at Appendix I to reflect the longer term of office.
- 5.4 In respect of the appointment process, Regulation 4 of the Local Authorities (Standards Committee) Regulations 2001 require that the appointment is:
- i) approved by a majority of the members of the Authority;
  - ii) advertised in one or more newspapers circulating in the area of the Authority;
  - iii) the person has actually submitted an application to the Authority;
  - iv) the person has not within the period of 5 years immediately proceeding the date of the appointment been a member or officer of the Authority; and
  - v) the person is not a relative or a close friend of a member of the Authority.
- 5.5 The statutory guidance issued by the Standards Board for England suggests that local authorities could try advertising for an independent representatives in a number of places including the suggestion that the Authority could approach someone who the Authority considers appropriate for the position and tell him or her about the advertisement.

## **6.0 DETAIL**

- 6.1 In May 2003, it was suggested by a member of the Council that the term of office of independent members be extended so that independent members could remain in office longer than one year.

- 6.2. This suggestion was the subject of a briefing paper to the Constitution Monitoring Group in November 2003 where the change was agreed. Members of that group took account of the Standards Board Guidance which advised that members need to remain on the committee 'long enough to gain an understanding of the Committee, the Council and its workings'.
- 6.3. The Constitution Monitoring Group also noted that a change of the term of office would reduce the advertising and administrative costs required to re-advertise and re-appoint on a yearly basis.
- 6.4. In respect of the appointment process, a draft information pack is attached to this report at Appendix II which sets out the role of independent members and further requirements to bring the appointment within the requirements set out in regulation 4 of the Local Authorities (Standards Committees) Regulations 2001. A person specification is set out at Appendix III.
- 6.5. The positions will be advertised in Brent Magazine, the Wembley Observer and Brent website as set out in the timetable at para 6.6 below. The wording of the advertisement is attached at Appendix 3. Short listing will be completed by the Monitoring Officer and the Chief Executive in consultation with the group leaders. Short listed applicants will be invited for an interview with the Monitoring Officer and the Chief Executive who will make recommendations to the Full Council. The Monitoring Officer will provide the leaders of the political groups with feedback on the interview stage of the process and the recommendations. A report will then be drafted for their appointment at the Special Meeting of Council on the 17<sup>th</sup> May 2004.
- 6.6. A timetable for the appointment of Independent Members is included below to coincide with the Special Meeting to be held on the 17<sup>th</sup> May 2004:

Copy deadline for Brent Magazine (March/April) issue	28 <sup>th</sup> Jan 2004
Advertisement placed in Wembley Observer	23 <sup>rd</sup> February 2004
Advertisement placed on website	23 <sup>rd</sup> February 2004
Advertisement in Brent Magazine March/April issue	1 <sup>st</sup> March 2004
Closing date	19 <sup>th</sup> March 2004
Short listing applicants, Consultation with groups and notification of interviews	22 <sup>nd</sup> March – 8 <sup>th</sup> April 2004
Interviews	13 <sup>th</sup> – 16 <sup>th</sup> April 2004
Feedback to political groups on interview stage, formulating	19 <sup>th</sup> – 23 <sup>rd</sup> April 2004

recommendations and notification to successful candidates	
Final Dispatch for reports to Full Council	3 <sup>rd</sup> May 2004
Special Meeting of Council (appointments and Constitution)	17 <sup>th</sup> May 2004

## **7.0 Background Information**

Local Government Act 2000

Local Authorities (Standards Committee) Regulations 2001

Standards Board Guidance

Any persons wishing to inspect the papers in connection with the above proposals should contact Helen Keep at:-

Town Hall Annexe  
Forty Lane, Wembley, Middx HA9 9HD  
Tel: 020 8937 1337

Terry Osborne  
Borough Solicitor

**54 Appointments to Council Committees and Sub-Committees**

- (a) Full Council may appoint such Council committees as it is required or permitted to appoint, such committees to be set out in Part 5 of the Constitution, together with their terms of reference and the number of members to be appointed.
- (b) Chairs and Vice Chairs of the Overview Committee and the Scrutiny Committee shall be appointed by the members of those committees except as prescribed by Standing Order 19(d). In all other cases, Full Council shall, appoint a Chair for each of the Council Committees and if it so wishes a Vice Chair.
- (c) Full Council may at any time dissolve a committee or remove any of its members or change the size of its membership.
- (d) Full Council shall determine the extent to which any functions may be exercised by any sub-committee and the terms of reference will be set out in Part 5 of the Constitution.
- (e) Appointment of the Council's sub-committees and agreeing the number of members to be appointed shall be by the parent committee and the Chair and (if considered necessary) Vice Chair of the sub-committees shall be appointed by the parent committee.
- (f) No member may be appointed to any committee or sub-committee so as to hold office later than the next Annual Meeting or until the Special Meeting of Full Council which meets after the next Annual meeting to agree appointment to committees except as set out in standing order 55(b) below.
- (g) Co-opted members may be appointed to committees and sub-committees in accordance with the rules for membership for committees and sub-committees contained in Part 5 of the Constitution.

**55. Independent Members**

- (a) The Full Council shall appoint 2 Independent Members to its Standards Committee one of whom shall be appointed as Chair.
- (b) The Independent Members shall hold office for up to two years or until the date of the Annual Meeting nearest to the expiry of that two year period (or until the date of the Special Meeting pursuant to Standing Order 36). Such appointments shall be subject to confirmation by Full Council at each Annual Meeting that follows their appointment (or the Special Meeting held pursuant to Standing Order 36).
- (c) No Independent Member appointed by Full Council shall be entitled to act as an Independent Member until they have delivered to the Monitoring Officer a signed undertaking agreeing to be bound by the Brent Members Code of Conduct and shall register any interest which by that Code they are required to so register in the Register of Member Interests.
- (d) The Independent Members shall not take their place on the Standards Committee unless and until they have given the undertaking required to be given in accordance with paragraph (c) above.
- (e) If the Independent Members fail or refuse to notify the Democratic Services Manager of any change to the information contained in the Register of Member

Interests within a period of 28 days of the occurrence of the change, he or she shall be removed from the Standard Committee.

### **Information for Prospective Independent Members of the London Borough of Brent's Standards Committee**

#### **Introduction**

Brent is one of 32 London boroughs. The Council comprises 63 members representing 21 wards. The Council follows a Cabinet/Leader political arrangement and adopted a new Constitution in May 2002. The borough is home to a culturally and ethnically diverse community. The Council aims to continually focus on service and performance improvement and seeks to ensure that Brent will be a borough where all its communities enjoy a high quality of life and will be able to fully participate in society. One of the aims of Brent Council is to establish a reputation for good, democratically accountable leadership, strong partnerships and excellent services. Brent is a borough proud of its diversity, served by an ambitious, progressive and outward looking council.

#### **Background**

"Confidence in local democracy is a cornerstone of our way of life. It can only be achieved when elected and co-opted members of local authorities are seen to live up to the high standards the public has a right to expect from them"

Standards Board for England

The new ethical framework introduced by Part III of the Local Government Act 2000 seeks to promote this confidence. The London Borough of Brent, in accordance with statutory requirements, first adopted the Brent Members Code of Conduct at its annual meeting on 19<sup>th</sup> May 2002 and set up the current Standards Committee comprising 3 Councillors and 2 Independent Members.

Brent also has a Monitoring Officer (the Borough Solicitor) with the responsibility of producing a report should any possible illegality, maladministration or justice within Brent Council come to her attention. The Local Government Act 2000 has extended the Monitoring Officer's duties to include, amongst others, investigating allegations of misconduct referred to him or her by the Standards Board.

#### **Features of the Ethical Framework**

##### **(i) Brent Members Code of Conduct**

Brent's Code of Conduct is based on the statutory code which was made by the Secretary of State under section 50 of the Local Government Act 2000. It follows a model code issued by the Government apart from the incorporation within the code of the 10 general principles of conduct to which members must adhere when acting in an official capacity or in any way which is connected to or relates to the Council.

The ten principles of conduct are:

- Selflessness
- Honesty and integrity
- Objectivity
- Accountability
- Openness
- Personal Judgement
- Respect for others
- Duty to uphold the law
- Stewardship
- Leadership

In addition to the Member's Code of Conduct, the Council has adopted two local codes: the Planning Code of Practice and the Licensing Code of Practice. Breaches of these codes will also be dealt with by the Standards Committee. A copy of all three codes are enclosed.

## **(ii) Standards Committee**

The terms of reference for Brent's Standards Committee can be found at Part 5 of Brent's Constitution and are reproduced at appendix 1 for ease of reference.

In the last year the Standards Committee dealt with the following issues:

- Whistle blowing
- Audit service plan
- Internal audit plan
- Independent review of the Planning Code
- Ethical Governance Audit
- Training for members of the Standards Committee

The work programme of the Standards Committee is ongoing. Items presently under consideration for the 2003/2004 year include a review of member interests, a review of the register of gifts and hospitality, the procedure for local determination of allegations of misconduct, the employee code of conduct, the annual review of the operation of the Planning Code of Practice and ethical governance.

Under the Brent Constitution, the Standards Committee must include at least two independent members, one of which will be the Chair of the Committee and the other the Vice Chair. To avoid domination of the Committee by the authority's Executive, only one Member on the Executive can be a member of the Standards Committee. In fact, at Brent, none of the Executive members sit on the Standards Committee.

Regulations governing the procedure for holding hearings into allegations of misconduct came into force at the end of June 2003. Guidance on these regulations (issued by the Standards Board for England) followed in July 2003. The procedure for holding hearings is currently being developed.

Meetings of the committee usually take place at the Town Hall in the evenings. The committee meets approximately four times a year although more special meetings may be necessary once the committee starts hearing complaints against individual councillors. The meetings of the committee are open to the public to attend and observe. Support to the committee comes from existing officers of Council, principally the Borough Solicitor, and from committee services.

## **(iii) The Standards Board**

The Standards Board of England was set up as an independent body with a regional structure and a regional chair. All written complaints of a breach of code of conduct via a Councillor are referred to the Regional Office of the Board who may refer the alleged breach to an Ethical Standards Officer to investigate matters.

There are four possible outcomes under Section 59(4) of the Local Government Act 2000. The purpose of an Ethical Standards Officer's investigation is to determine which of the following four findings is appropriate in the circumstances. Possible findings are:



- that there is no evidence of any failure to comply with the Code of Conduct of the relevant authority concerned;
- that no action is required in respect of any matters which are the subject of the investigation;
- that the matter should be referred to the Monitoring Officer of the relevant authority for determination by the Local Standards Committee;
- that the matter should be referred to the adjudication panel for England for adjudication by a tribunal.

Under Section 66 of the Local Government Act 2000, an Ethical Standards Officer may also cease an investigation at any stage and refer the matter back to the Monitoring Officer of the relevant authority for investigation at a local level. This procedure will also be governed by regulations under Section 66. We are still awaiting those regulations.

When an Ethical Standards Officer refers the matter to the Monitoring Officer of Brent, the Monitoring Officer has to arrange for the authority's Standard Committee to consider the Ethical Standards Officer's report and determine the matter.

The Standards Committee, upon hearing the matter, can make one of the following findings:

- The Member has not failed to comply with the Authority's Code of Conduct.
- The Member has failed to follow the Authority's Code of Conduct but no action needs to be taken; or
- The Member has failed to follow the Authority's Code of Conduct and a sanction should be imposed.

If the Standard Committee finds that a member has failed to follow the code of conduct and that he or she should be penalised, it may do any one or a combination of the following:-

- Censure of that member.
- Restrict the member's access and use of the resources of Brent for up to three months (subject to certain guidelines).
- Partial suspension of the member for up to three months (can be reduced by written apology and/or training or conciliation specified by the Standards Committee).
- Suspend the member for up to three months (can be reduced by written apology and/or training or conciliation specified by the Standards Committee).

#### **(iv) The Role of Independent Members**

Independent members are involved in the promotion and maintenance of high standards of conduct by councillors and co-opted members in Brent. As an independent member, you will be required to:

1. Assist and advise councillors and co-opted members on observance of the Brent Code of Conduct and any other local codes of conduct adopted by the Council.

2. Contribute to the future development of the Brent Members' Code of Conduct and any other local codes adopted by the Council.
3. Contribute to or develop training for councillors in ethical conduct.
4. Deal with other matters for which the Committee is responsible for as indicated in its terms of reference.
5. Prepare and present reports and attend and participate in meetings of Brent's Standards Committee.
6. Carry out the duties of the position at all times with regard to the Council's Equal Opportunities and Customer Care policies and to observe confidentiality at all times.

Applicants should also refer to the person specification at appendix 2.

**(v) Time Commitment**

As mentioned earlier, the committee meets approximately four times a year although more special meetings may be necessary once the committee starts hearing complaints against individual councillors. Independent members will be asked to consider committee reports sent to them 5 days in advance of the committee meeting. Such meeting will usually take +- 2 hours however, a special meeting may take longer.

Independent members will be asked to attend training or assist in training of members from time to time.

**(vi) Payment**

In accordance with Brent's Members Allowance Scheme adopted by Full Council on the 17<sup>th</sup> November 2003, independent members are entitled to an allowance of £200 per annum.

**(vii) Training**

Brent encourages the sharing of information and experience and recently organised an event with Standard Committee Members of the West London Boroughs. Training will be provided to any new members appointed to the Committee.

**APPLICATION FORM FOR INDEPENDENT MEMBERS ON THE STANDARDS COMMITTEE**

**IN CONFIDENCE**

**INDEPENDENT MEMBERS FOR STANDARDS COMMITTEE**

Form to be completed by the person seeking appointment to the Standards Committee

Please provide the following details:-

SURNAME.....

FORENAMES.....

TITLE (Mr/Mrs/Miss/Ms or other, please specify).....

ADDRESS (Normal address where you can be contacted)

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.....  
.....  
.....

TELEPHONE: Home:..... Business.....

Mobile.....

E-MAIL: .....

FAX NUMBER: .....

OCCUPATION: (Former occupation if retired or currently out of work)

.....

Upon answering the questions set out below, please refer to the person specification attached to this form and demonstrate how you meet the requirements of the position. If necessary, use a separate sheet to answer any of the following questions.

- (A) Please set out your experience or contact in dealing with local authorities or voluntary bodies

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- (B) Please say why you are interested in becoming an independent member for the standards committee.

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- (C) Please give details of your knowledge/experience in the field of local government ethical or propriety matters or sitting on any quasi-judicial bodies

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- (D) Please indicate whether you have ever been a member of a Standards Committee for any other local authority including dates of appointment and any other relevant information.

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(E) Have you had any previous contact with Brent Council? If your answer is yes, please explain the nature of this contact.

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(F) Please indicate where you saw the advertisement for this position?

.....

**I confirm that I am not a former Councillor or employee of the London Borough of Brent nor do I hold any office or position with a political party and that the information I have provided is correct.**

**SIGNATURE.....**

**DATE.....**

Please endorse the envelope "Confidential" and return this form to:

Anne Reid  
London Borough of Brent  
Town Hall  
Forty Lane  
Wembley  
Middlesex  
HA9 9HD

By: 19<sup>th</sup> March 2004

## **STANDARDS COMMITTEE**

### **Membership**

- The committee is comprised of 5 members.
- 3 members are elected councillors (one from each of the three largest political groups) and 2 are Independent Members, as defined in Section 53 of the Local Government Act 2000 and the Relevant Authorities (Standards Committee) Regulations 2001.
- The Leader shall not be a member of the committee.
- No more than 1 member of the Executive may be a member of the committee.
- The Chair shall be one of the Independent Members (but a non-executive member may chair a meeting in the absence of the Chair and Vice Chair if necessary).
- The quorum shall be 3 and must include an Independent Member, unless the Independent Members are required to withdraw from the meeting because of a prejudicial interest.

### **Terms of reference**

The committee is responsible for the following functions: -

1. To promote and maintain high standards of conduct by members including any co-opted members.
2. To assist members and co-opted members to observe the Brent Members' Code of Conduct, the Planning Code of Practice, the Licensing Code of Practice and any other code of conduct or practice which is adopted ("the Codes").
3. To advise the Council on the adoption or revision of the Codes.
4. To monitor the operation and effectiveness of, and compliance with, the Codes and to recommend changes.
5. To advise members and co-opted members on matters relating to the Codes and on any other matters related to their conduct and treatment of their personal interests.
6. To provide or arrange training for members and co-opted members on matters relating to the Codes.
7. To determine and keep under review procedures to facilitate confidential reporting by employees of suspected fraud, corruption or any other wrongdoing.
8. To consider and make reports to Council regarding the operation and effectiveness of, and compliance with, the Constitution and to recommend changes to it.
9. To keep under review the handling of complaints administration and any reports from the Local Government Commissioner.
10. To receive reports from the Monitoring Officer.

11. In accordance with the Relevant Authorities (Standards Committee) (Dispensation) Regulations 2002, to grant dispensations to councillors and co-opted members, in respect of participation in any business which they would otherwise be prohibited from participating in by virtue of any provision in the Brent Members Code of Conduct.
12. To be responsible for any reports from a case tribunal or interim case tribunal, and any report from the Monitoring Officer or any matter which is referred by an Ethical Standards Officer to the Monitoring Officer.

**LONDON BOROUGH OF BRENT**

**Standards Committee**

**Independent Member**

**Description of this post**

**Purpose:** the promotion and maintenance of high standards of conduct by councillors and co-opted members in Brent.

7. To assist and advise councillors and co-opted members on observance of the Brent Code of Conduct and any other local codes of conduct adopted by the Council.
8. To contribute to the future development of the Brent Members' Code of Conduct and any other local codes adopted by the Council.
9. To contribute to or develop training for councillors in ethical conduct.
10. To deal with other matters for which the Committee is responsible for as indicated in its terms of reference.
11. To prepare and present reports and attend and participate in meetings of Brent's Standards Committee.
12. To carry out the duties of the position at all times with regard to the Council's Equal Opportunities and Customer Care policies and to observe confidentiality at all times.

**Person specification**

To be appointed a person must:

1. Be able to devote sufficient time to the role, including attending meetings out of office hours.
2. Possess tact and good interpersonal skills and have the ability and desire to treat people equally.
3. Have no previous contact with the authority that could be seen to prejudice their independence, not have been a member or officer of the authority for at least 5 years, not be a relative or close friend of a member or officer of the authority, not have a criminal record, not hold any current political office, not hold a politically restricted post in any other authority (unless the candidate intends to resign from that post prior to taking up the appointment on the Standards Committee), and must be seen to be clearly impartial.
4. Be able to evaluate evidence with analytical skill so as to reach rational and reasoned decisions.
5. Be able to prepare and present reports if necessary.
6. Have a knowledge of local government and an understanding of the role of a Council and its Councillors.



7. Maintain confidentiality when required to do so.

It would be desirable for the appointed person to have:

8. Experience of dealing with Local Government or a similar public sector or voluntary organisation;
9. Experience of considering and evaluating information or evidence;
10. Experience of decision-making involving sensitive issues;
11. Experience of dealing with people where their conduct and actions should be of the highest standard;
12. Experience of chairing meetings;
13. Experience of acting as an independent member on a Standards Committee;
14. An understanding and interest in issues of standards in public life;
15. A knowledge of the borough of Brent.

**WORDING OF ADVERTISEMENT FOR STANDARDS COMMITTEE INDEPENDENT MEMBERS**

**SETTING THE STANDARD**

**WHY NOT APPLY TO BECOME AN INDEPENDENT MEMBER?**

In May 2002, Brent Council set up a Standards Committee to promote and maintain high standards of behaviour of our Councillors and to advise on good practice in relation to ethics and probity.

The Committee consists of three Councillors and two independent members, one of whom will chair the Committee. We will be looking to appoint two independent members prior to May next year and are seeking expressions of interest from people now. You must be able to consider complex information and act impartially at all times, you will have the ability to present reports and other information to the Committee and contribute to the Committee's discussions. You will at times be required to decide whether or not a Councillor has failed to follow the Authority's code of conduct and, if so, decide whether or not any penalty should be applied and what form any penalty should take within the regulations issued by the Government.

You will need to demonstrate an independent mind (with no political affiliations), analytical skills, possess tact and good interpersonal skills. Previous experience acting as a member of a Standards Committee is an advantage.

Members receive a small allowance per annum and some expenses may be met.

For an application form please contact: -

ANNE REID  
BRENT TOWN HALL  
FORTY LANE  
WEMBLEY  
MIDDLESEX  
HA9 9HD

Tel: 020 8937 1359

e-mail: [anne.reid@brent.gov.uk](mailto:anne.reid@brent.gov.uk)

Application Deadline: 19<sup>th</sup> March 2003

Brent is an equal opportunities employer and welcomes applicants from all sections in the community.

(Insert logo positive about disabled people).