

Body: Full Council

Date: 17 November 2010

Subject: Enhanced governance arrangements for member learning and development

Report of: Monitoring Officer, Head of Human Resources and Local Democracy Manager

Purpose: To approve enhanced governance arrangements for member learning and development activities and approve a new protocol and associated changes to the constitution.

Contact: Victoria Simpson, Lawyer to the Council and Monitoring Officer. Tel (01323) 415018 or internally on ext. 5018
E-mail Victoria.simpson@eastbourne.gov.uk

Caroline Freeman, Head of Human Resources. Tel (01323) 415106 or internally on ext. 5106
E-mail Caroline.freeman@eastbourne.gov.uk

David Robinson, Local Democracy Manager. Tel. (01323) 415022 or internally on ext. 5022.
E-mail David.robinson@eastbourne.gov.uk

Summary:

This report reviews the current requirements for members of the Council to undertake specified learning and development events appropriate to their individual roles. It proposes enhanced governance arrangements which are intended to improve the profile, engagement with and delivery of the Member Development programme.

Proposed measures include giving the authority's Standards Committee ownership of the member development activities and asking that Committee to act as a "critical friend" by carrying out regular reviews of learning and development activity and monitoring of members' needs and proficiencies.

By adopting these measures, we believe that this will ensure that Eastbourne Borough Council has a strong framework of accountability and governance in place for its elected Members in the future.

Recommendations:

(1) That the revised terms of reference of the Standards Committee as set out in appendix 1 be approved.

(2) That references in part 3, section B of the constitution to obligations to undertake training (listed in the individual terms of reference of committees) be deleted and replaced with a new protocol on member learning and development as set out in appendix 2 and that associated amendments to the documents 'Roles, duties and responsibilities of Councillors' and the current 'Member Development Plan' be agreed.

1.0 Introduction

1.1 Members will recall that Council at its last meeting in September endorsed the member development programme proposed by the Cabinet. Much was said in the Council meeting debate about the wide range of opportunities on offer to members, however, concerns were expressed that some events were not well attended. The purpose of this report is to review the governance arrangements for member development activity and suggest ways to build upon the success of the current programme and embed a culture of learning and development among all members.

1.2 In recent years, with the introduction of the cabinet style of administration, member development activity has been reported to both the Cabinet and to the Scrutiny Committee at different times. Whilst Cabinet can play a useful role in fostering member development activity, it may be more appropriate to place this responsibility in the hands of a cross-party committee of the Council. We propose, therefore, to give this role to Standards Committee which already has responsibility for overseeing training relating to standards and ethical matters. This would provide for the active participation of backbench and opposition councillors in the review and monitoring process underpinning member development activity.

2.0 The role of the Council's Standards Committee

2.1 The authority's role in overseeing the training of members on standards and ethical matters is conferred by section 54(2)c of the Local Government Act 2000. This requires internal standards committees to assume responsibility for advising, training or arranging to train members and co-opted members of the authority on matters relating to the authority's code of conduct. This responsibility is framed as a part of the Standards Committee's general function of promoting high standards of conduct by members.

2.2 Recognising the linkage with that Committee's role in promoting high standards and ethical behaviour among councillors, the Standards

Committee is an ideal owner for endorsement of and monitoring of all member development activity. In particular, the committee might act as a "critical friend" to in-house programmes and offer a custodial overview of member engagement in the Council's statutory and governance activities.

- 2.3 The committee would take responsibility for
- Agreeing the annually updated programme of learning and development for Council members.
 - Reviewing progress against the plan.
 - Receiving regular updates on attendance and engagement by members. It is proposed that reports are made to committee on a quarterly basis during the first year post election, with provision to move to a six monthly basis thereafter.

It is envisaged that full Council "sign-off" would continue to be sought for significant changes or enhancements to the annual programme, with delegated provision for necessary in-year adjustments. Each political group is asked to continue to nominate a Member Development champion with whom the Council's Member Development Officer will maintain close liaison.

- 2.4 The above proposal will require a formal change to the terms of reference of the Standards Committee and the suggested amendments are set in **appendix 1** to this report.

3.0 Members' obligations to undertake specified training

- 3.1 A few years ago Parliament and Government reviewed this issue. Although this was primarily in the context of planning training, the debate and conclusions had more general application. In their report (14 July 2008) the House of Commons Select Committee on Communities and Local Government Committee concluded:

We agree with the principle that councillors should be as well informed as they can be in order to perform their tasks freely, fairly and properly. We profoundly disagree, however, with the idea that compulsory training for councillors is either essential or necessary.

The Government at the time responded:

"... it is not considered that making councillor training mandatory is the most effective way of ensuring that the right people get the right training. Any training provided should be tailored to the needs of particular councillors and their roles within the Council, rather than a mandatory training course for all."

- 3.2 From research it is apparent that most, if not all, councils specify a number of training events or activities which relevant members are expected to undertake. Typically the term "mandatory" is used in this

context, although we would prefer to use the term "essential". What is apparent, however, is the variation in approach from "...must...", through "...should..." to "...are encouraged to undertake" and the range of inducements employed to achieve the desired level of participation by their members. For example, a number of councils publish their member attendance at training events whilst others rely on encouraging members through group leaders and party whips, all with varying degrees of success.

- 3.3 Any consideration of training should take into account those aspects of the rationale for its existence which go beyond individual members' personal development. Training on relevant changes in the law is designed to assist members in carrying out their duties lawfully. Much of the authority's training offer has the additional, important, objective of minimising the risk to the authority of legal challenge. It is in this context that the word "essential" is used, the proposal being that the Standards Committee will determine which events or activities are deemed essential.

4.0 Review of constitution and associated protocols

- 4.1 We have also reviewed what the constitution and associated protocols currently have to say about members' obligations in respect of undertaking specified training in relation to particular functions. Whilst the wording in relation to training on standards matters is taken from the Local Government Act, that in relation to the authority's other functions varies. For example, the terms of reference of the licensing committee say "...undertake relevant training in regulatory matters." Other committees, such as planning and audit, have something similar, although the actual wording varies. There would be benefit in having a standardised form of wording where possible and to apply this where appropriate to a wider range of member activity.
- 4.2 Further, in the document 'Roles, duties and responsibilities of Councillors' in the Council's Constitution (Part 3, section G), under the heading "To be effective", it says:

You should attend all meetings of bodies on which you serve together with seminars and training sessions on subjects of relevance to you and your particular areas of involvement and interest.

You should accept personal responsibility to take up opportunities for training and development that may be provided and generally to extend and broaden your knowledge of local government affairs through reading, discussion and enquiry.

4.3 Future protocol

It is proposed that the separate statements in the terms of reference of the various Council bodies be replaced by a "**protocol on member learning and development**" which sets out in full the Council's

expectations of members in undertaking development activities and attending training and other events. In addition, where an activity which is either listed in the member development plan or has been arranged by the Council or a committee as an addition to the programme is deemed by the standards committee to be essential, this fact will be highlighted and drawn to the attention of relevant members. The proposed text of the protocol is set out in **appendix 2** to this report.

4.4 **Engagement with learning events**

A record of member attendance or participation in learning and development activity is currently maintained and it is proposed that this information be shared with the Standards Committee as part of the proposed monitoring of member development activity. We recognise that merely "ticking a box" to report that a member has attended this or that event is simplistic and offers only face validity as to a member's proficiency. Learning events (in all forms) will be matched to the needs of individual members. Attention will be given to developing methods to assess the knowledge levels and competencies of members in relevant matters.

4.5 **Use of sanctions**

What steps might be taken if a member who is expected to engage in essential topics fails to do so within a reasonable period of time or cannot otherwise demonstrate that they have the desired level of knowledge? The Council's monitoring officer will be empowered to report to the Standards Committee on any instance where a councillor or co-opted member persistently fails to co-operate in essential training with a view to making a recommendation to full Council that the member be removed from the relevant committee (or in the case of a cabinet appointment, report to the Council leader). This is very much seen as a last resort and not one that would be lightly implemented. This proposal has been reflected in the amended terms of reference for the Standards Committee at appendix 1.

4.6 **Proportionality**

Council will note that sanctions of the sort that could be imposed following a breach of the code of conduct - such as suspension and with-holding of allowances - are not possible and nor would they be appropriate. The measures proposed in this report seek to balance the need to ensure that members have the knowledge and skills necessary to enable them to act appropriately and within the law against the need to acknowledge that members are elected to represent their local community and are subject first and foremost to democratic accountability.

5.0 **Consultations**

5.1 Draft copies of this report were shared with members of the Standards Committee, the Group Leaders and Councillor Tester, the lead Cabinet member.

6.0 Legal implications/risk assessment

- 6.1 There is some risk attached to situations in which members are making decisions that affect the lives of citizens, particularly when acting in a quasi-judicial capacity when determining matters such as planning and licensing applications. The conduct of members and their decisions must be in accordance with correct legal process. Any failures or weaknesses in the decision making process expose the Council to the risk of challenge, which in some circumstances, could prove to be very costly. Engagement with learning events on topics such as the code of conduct, equalities and regulatory matters such as licensing and planning will be essential requirements for identified groups of members.

7.0 Policy and performance implications

- 7.1 Adoption of these proposals will support the corporate plan objective of sustainable performance through improved and soundly based decision making.

8.0 Financial and resourcing implications

- 8.1 Projected allocations of budget for member development (excluding salary support costs) have been described at £6,500 per annum for the next two financial years. This provision will be finalised in the 2011-12 service and financial planning process. An additional £3,500 to meet new councillor induction requirements in the 18 months following the May 2011 elections is to be drawn down against earmarked reserves.
- 8.2 Some new resource pressures will arise from the proposals in this report. The Member Development Officer can expect to spend additional time updating members' personal development plans. In addition the requirement to bring regular reports to the Standards Committee will create additional work for that committee, the Monitoring Officer and Human Resources. In particular, the need to carry out assessments of members in relation to their knowledge and understanding of specified essential topics will need to be factored into existing work schedules. It is proposed that this be absorbed within current commitments wherever possible and resources reviewed after 12 months of the revised arrangements being introduced.

9.0 Conclusion

- 9.1 This paper recommends specific changes to the constitution and an enhanced role for Standards Committee in overseeing member learning and development. By adopting these measures, we believe that this will ensure that Eastbourne Borough Council has a strong framework of accountability and governance in place for its elected Members in the future.

Victoria Simpson
Lawyer to the Council and Monitoring Officer

Caroline Freeman
Head of Human Resources

David Robinson
Local Democracy Manager

Background papers:

1. Report to Cabinet on 1 September 2010 on member development plan for 2010/15.
2. Government response to the Communities and Local Government Committee's report: Planning Matters – labour shortages and skills gaps November 2008
3. Eastbourne Borough Council Constitution

(dr/P:member dev/council/10.11.17)

Appendix 1

Part 3, Section B of the Council's Constitution Proposed amended terms of reference for the Standards Committee

N.B. Deleted text shown thus: ~~text~~
New text show in square brackets: [text]

3.2 Terms of Reference:-

A. General

[(1) Receive for consideration the annual Member Development Plan and submit to Full Council for approval, agree in-year adjustments to the plan to reflect changing circumstances and needs, review past activity including receiving regular monitoring reports on learning and development activities undertaken.]

[(2) Receive reports from the Monitoring Officer on any instance of a Councillor or co-opted Member persistently failing to undertake or attend learning or development activity that the Council or a committee of the Council has directed should be undertaken as a requirement for their participation in particular activities and decision making with a view to making a recommendation to Full Council that the Member's appointment should be revoked (or in the case of a Cabinet appointment, to the Council Leader).]

~~(3)~~ (3) Consider applications for exception from post-holders whose posts are listed as politically restricted under the relevant authority.

B. Code of Conduct

~~(2)~~ (4) Promote and maintain high standards of conduct by Councillors and co-opted Members of the Council.

~~(3)~~ (5) Assist Councillors and co-opted Members of the Council to observe the Members' Code of Conduct and the local codes and protocol[s].

~~(3)~~ (6) Monitor the operation of the Members' Code of Conduct and protocol rules.

~~(4)~~ (7) Advise, train or arrange to train Councillors and co-opted Members on matters relating to the Members' Code of Conduct and protocol rules *[as well as overseeing the Member Development Plan under (1) above].*

~~(5)~~ (8) Consider and make recommendations to Full Council where necessary in respect of the adoption or revision of the Members' Code of Conduct and protocol rules or any matter arising from the Committee's functions in paragraphs ~~1-4~~ 4 - 7 above.

~~6~~ (9) Consider requests from Councillors and co-opted Members for dispensations from the requirements relating to the declaration of interests set out in the Members' Code of Conduct.

C. Local Assessment of Complaints

(N.B. These terms of reference relate to the local assessment of complaints and are not amended other than being re-numbered as 10 and 11.)



Protocol on Member Learning and Development

This protocol was approved by Full Council on 17 November 2010 and applies to all elected and co-opted members of the Council.

A copy is to be supplied to all members at the commencement of their term of office.

1. This protocol supplements the statements made in the document 'Roles, duties and responsibilities of Councillors' in the Council's Constitution (Part 3, section G) where, under the heading "To be effective", it says:

You should attend all meetings of bodies on which you serve together with seminars and training sessions on subjects of relevance to you and your particular areas of involvement and interest.

You should accept personal responsibility ~~to take~~ for taking up [all of the]* opportunities for training and development that may be provided and generally to extend and broaden your knowledge of local government affairs through reading, discussion and enquiry.*

*(*suggested amendments to original text)*

2. A Member Development Plan has been approved by the Council and is updated each year. The plan describes the range of opportunities available to develop skills and broaden knowledge. Members are also helped to draw up their own personal development plans. The Member Development Plan asks that each member engages in personal development activities to ensure that s/he:

1. Scrutiny and challenge

Acts as a critical friend by seeking opportunities for scrutiny and providing constructive feedback. Analyses information quickly and presents arguments in a concise, meaningful and easily accessible way.

2. Communication skills

Listens sensitively, uses appropriate language and check for understanding. Communicates regularly with individuals and groups in the community, speaks clearly and confidently in public, and makes sure that people are informed.

3. Community leadership

Engages enthusiastically and empathetically with the community in order to learn, understand and act upon issues of local concern. Mediates fairly and constructively, encouraging trust by representing all sections of the community.

4. Regulating and monitoring

Understands and [exercises the quasi-judicial elements of his or her] ~~executes~~ ~~judicial~~* role by following protocol[s correctly and in accordance with the law]*, evaluating arguments and making decisions that balance public needs and local policy. ~~Ensures progress by~~* Monitoring and intervening where necessary.

*(*suggested amendments to original text)*

5. Working in partnership

Builds positive relationships by making others feel valued, trusted and included and by working collaboratively to achieve goals. Maintains calm and focused, recognises when to delegate or provide support and is able to take a long-term view in developing partnerships.

6. Political understanding

Acts ethically, consistently and with integrity when communicating values or representing group views in decisions and actions. Works across group boundaries without compromising values or ethics

7. Additional skills in framework for Cabinet members.

These sit alongside the Council's leadership behavioural competencies.

Providing vision

Creates a shared Council vision by establishing strategic policies and prioritising actions. Actively encourages involvement of others in policy formation and work collaboratively to analyse information and promote understanding. Open to new ideas and ways of doing things.

Managing performance

Works closely with other to develop, promote and achieve objectives and represent Council at a strategic level. Encourages scrutiny, monitors performance and responds positively to feedback and ideas.

8. Additional skills in framework for EBC leaders

Excellence in leadership

Provides visionary and charismatic leadership, is well prepared, able to troubleshoot and juggle conflicting responsibilities. Works to shape a culture of excellence by acting as the public face of the Council and a role model for other. Encourages co-operation and communication across political and Council boundaries.

3. Where an activity which is either listed in the Member Development Plan or has been arranged by the Council or a committee as an addition to the programme is deemed to be essential, this fact will be highlighted and drawn to the attention of relevant members.

4. A governance framework has been established for promoting and monitoring member development and learning activities. Key features of this framework are:

- Regular monitoring reports made to the Standards Committee.
- Acting upon feedback from Members.
- Updating the Members' Development Plan each year and securing full Council approval to the plan.
- A process of assessment to ensure that relevant members have achieved the desired proficiency where this is deemed to be an essential requirement of their particular role, for example as a member of the Planning Committee.
- Empowering the Council's Monitoring Officer to submit reports to the Standards Committee when, exceptionally, a Member persistently fails to undertake essential training.