

STANDARDS COMMITTEE
21st September 2011

Present: Councillors: David Coldwell, Brian Donnelly, Sheila Matthews,
Claire Vickers

Parish Council Representatives: Val Court, Isabel Glenister

Independent Representatives: Eric Blackburn, Paul Byford, Mary
Jagger

Apologies: Councillors: Andrew Baldwin, Godfrey Newman

Independent Representatives: David Tilsey

SC/8 **MINUTES**

The minutes of the meeting of the Committee held on 8th June 2011 were approved as a correct record and signed by the Chairman.

SC/9 **DECLARATIONS OF INTEREST**

There were no declarations of interest.

SC/10 **ANNOUNCEMENTS**

There were none.

SC/11 **STANDARDS COMMITTEE REPORTS AND DOCUMENTS AVAILABLE FOR INSPECTION**

The list was noted. It was reported that documents were being added to the Standards Committee page on the website.

SC/12 **REPORT BY PARISH COUNCIL REPRESENTATIVES**

Val Court reported that there was concern amongst the Parishes regarding the abolition of the Code of Conduct and what would come next.

Parish Councils had found the laminated cards provided by the District regarding declaration of interests helpful.

SC/13 **REPORT BY MEMBERS OF THE ASSOCIATION OF INDEPENDENT MEMBERS OF STANDARDS COMMITTEES IN ENGLAND (AIMSCE)**

Mary Jagger had nothing to report as the national association was being wound up.

SC/14 **ETHICAL FRAMEWORK UPDATE**

The Monitoring Officer reported on developments in the ethical framework that affected the role and activities of Councillors and the Council's business, including:

- **Training and awareness – Standards for England:** Standards committee training for members of the committee had been provided on 8 June 2011. Planning training had been provided by the District Council for Parish Councillors on 21 September 2011.
- **Annual Report:** Standards for England had presented to Parliament its Annual Report and Accounts for 2010/11.
- **Public Bodies Bill:** The Commons Public Bill Committee began considering the Bill on 8 September 2011 and was expected to report by 13 October 2011.
- **The Department for Communities and Local Government (DCLG) Business Plan:** Members were updated on the progress which had been made in delivering the government's agenda, of which the Localism Bill formed a major part.
- **The Localism Bill:**
 - The Bill was now passing through the Lords.
 - The provisions relevant to the proposed revised standards regime were principally contained in clauses 14-20 and schedule 4 to the Bill.
 - Throughout the Lords Committee Stage a number of amendments had been proposed on such matters as making a code of conduct mandatory, the preservation of the standards committee and the retention of independent members. Certain Lords identified the problems which would be created if all interests' aspects of standards were to be criminally enforced, the problem of disparity that would be created with merely a voluntary code and the fact that Parish Councils seem to be left "in some sort of limbo". There had been considerable discussion and concern on what the standards clauses would achieve resulting in a concession from the Lords CLG Minister Baroness Hanham to have further discussions. With the offer of further discussions all amendments had been withdrawn.
 - The Association of Council Secretaries and Solicitors (ACSeS) supported the principles of localism but believed that there needed to be some fundamental national consistency in local ethical and corporate governance. ACSeS believed that the voluntary nature of the present proposals was likely to lead to public confusion as to the essential standards to be expected of those whom electors choose to represent at local level. The association also believed that whilst they agreed the maintenance of high standards of conduct by local authority members was an essential pillar of public trust in local democracy, criminal sanctions should be reserved for objectively egregious behaviour. It was the view of ACSeS that some breaches of the interests provisions might fall within this category, many would not and a blanket criminalisation proposal was therefore disproportionate.

SC/14 Ethical Framework Update (cont.)

- Line by line examination of the Bill had commenced in the Lords Report Stage on 5 September 2011. Of particular interest were the amendments proposed by Baroness Hanham, the government sponsor in the Lords, in relation to registration of interests, pecuniary interests, sensitive interests and dispensations. Also amendments had been proposed by Lord Lytton, Lord Bichard, Lord Filkin, Lord Newton of Braintree and Lord Tope regarding a duty to adopt a code, establish a standards committee with an independent chairman, an appeals panel and the removal of criminal sanctions in relation to interests. These amendments were debated on 14 September 2011. The Government Whip, Lord Taylor of Holbeach agreed:
 - to hold discussions ahead of the Third Reading;
 - conceded there was some merit in the amendments which had been proposed;
 - indicated it was sympathetic to the proposal that there should be an obligation on Local Authorities to have a Code of Conduct and that there should be some core element to it;
 - to accept that criminal sanctions for breach of the Members' Interests provisions can also be a matter for discussion and clarification;
 - there is a need to agree the shape of the future standards regime and then give consideration as to how it applied to Parishes;
 - to look again at the way the government's localist view can be implemented to ensure that the best elements of the pre-standards regime are incorporated into the new system that will replace it;
 - to provide a government position paper describing the factual information that the Lords were seeking, in particular:
 - what sanctions are available beyond the criminal offence;
 - clarification of the proposals regarding dispensations and
 - definitions of a Member's member of the family beyond spouse or civil partner.

On the basis of these concessions by the government, the cross party amendments were not moved.
- Earlier on 12 September the Lords had debated an amendment to clause 14 of the Bill regarding predetermination. Some Lords expressed concern as to what the clause actually does.
- **Parish Clerks' Meeting:** The Monitoring Officer had attended the Society of Local Council Clerks' meeting on 14 June 2011 and provided an update arising from the Committee's last meeting in June 2011. A general update was also provided on the Coalition Government's proposals in the Localism Bill in relation to the standards regime and in particular the government's desired abolition of Standards for England. The Clerks had been concerned about the potential loss of support to parish councils in relation to member conduct cases from Horsham District Council. Clerks had been advised that no decision had been made as to what support would be available for parishes post localism, although clerks had been asked to

SC/14 Ethical Framework Update (cont.)

obtain views from members as to what they may require. Billingshurst Parish Council had subsequently contacted the Monitoring Officer and had expressed a view that in the first instance they would want to use in house procedures to seek to resolve any conduct complaints locally. For matters that could not be resolved or that were more serious, the parish council would like to be able to pass them to an outside body such as Horsham District Council Standards Committee or SALC.

A revised legal briefing from NALC dated 20 July 2011 on the Localism Bill proposals in relation to standards was discussed

The Monitoring Officer also visited the Parish Clerks on 13 September to give further updates on the Localism Bill.

- **Local Assessment, Review, Other Action, Investigations and Determinations:** There have been three premature cases of complaint since the last Ethical Framework Update, involving advice from the Monitoring Officer, which have not to date been formalised. An updated Schedule of forthcoming Local Assessment Sub-Committee dates and Sub-Committee membership had been circulated.
- **Freedom of information:** There had been several requests for information concerning Members during this period: Members' expenses, attendance at award ceremonies and conferences, number of Members in council tax arrears and Members attendance at meetings. For the period 1 January to 30 June 2011, the Council had received 256 requests for information under the Freedom of Information Act, Environmental Information Regulations and Data Protection Act. Of those requested, 213 had been responded to within the 20 working day statutory timeframe. A further 43 responses were made at an average timescale of 26 days. The Protection of Freedoms Bill, currently going through Parliament, included proposals to require all public authorities to release datasets in a re usable electronic format. The Government had launched a public consultation entitled Making Open Data Real. This sought views on whether the current fees regulations and costs limits under the Freedom of Information Act should be amended to facilitate the release of more data
- **Performance management:** The Complaints and Information Officer had submitted a report to the Performance Management Working Group meeting on 3 August to report on details of all complaints, compliments and suggestions to the Council from 1 April to 31 June 2011. During that period, the Council received 116 complaints, 1 suggestion and 56 compliments. During the previous monitoring period of 1 January to 31 March 2011, the Council had received 93 complaints, 4 suggestions and 82 compliments.
- **Data Protection:** Training on Data Protection had been provided to Members as part of the induction process after the recent elections. The Data Protection Officer was currently Peter Dawes, Head of Corporate

SC/14 Ethical Framework Update (cont.)

Support Services, but he hoped to incorporate this role into a new post due to commence in October 2011.

The Information Commissioner's Office had written to all councillors to urge them to check if they were fulfilling their obligations. Advice about Elected Members' obligations under the Data Protection Act had been published in the Members' Bulletin in January 2011. This is a decision for each Member and advice had been provided by the legal department.

- **Regulation of Investigatory Powers Act 2000 (RIPA):** The Office of Surveillance Commissioners (OSC) had conducted an inspection of the Council on 16 June 2011. The Inspector had reviewed the Council's RIPA Policy and related documentation and had attended the offices for a day during which she interviewed 16 members of staff, including the Chief Executive, all Directors and Heads of Service. Sir Christopher Rose, the Chief Surveillance Commissioner, had stated that Horsham District Council should be "highly commended" and "congratulated" and that unusually there were no recommendations for improvement.
- **A Local Government Ombudsman case update April 2011 - September 2011** was presented.
- **A Standards for England case review for April 2011 – September 2011** was presented.
- **Membership of the Committee:** The consequences of the proposals for co-opted Members of the Committee within the Localism Bill were noted.
- **Constitution update:** An update of the Constitution had been undertaken prior to the elections in May 2012 to take on board amendments already approved by Council. Further changes to the Constitution had been considered by Council on 7th September 2011 in connection with the new Cabinet portfolio responsibilities and changes to the responsibilities of Personnel Committee.
- **Work Programme update** was reviewed.
- **Members' Bulletin** was noted.
- **Duty to Promote Standards:** The article by the Chairman of the committee for the autumn edition of Horsham District News was noted.
- **Register of Interests annual update:** Since the last meeting, the majority of the outstanding forms had now been received.
- **Standards regime post-localism at Horsham:**
An issues and options paper entitled 'Standards Regime post localism at Horsham' was discussed. Members noted the new duty to promote and maintain high standards of conduct among elected and co-opted Members of the Council within the Localism Bill. Members considered how this new duty could be satisfied.
Members considered that there should be a mandatory Code of Conduct. It was agreed the Member/officer protocol should be retained. Any complaints relating to Members should go through Committee and those relating to employees would be dealt with by HR. Members felt the Code

SC/14 Ethical Framework Update (cont.)

should be displayed on the wall of relevant meeting rooms. A full report would be presented to Council in December.

RESOLVED

- (i) That the matters set out in the report be noted.
- (ii) That the following views of the Committee as to the issues and options for a standards regime following enactment of the Localism Bill be expressed:
 - 1 A Member Code of Conduct should be mandatory.
 - 2 A Code of Conduct should be in common form so County, District and Parish Councillors signed up to the same obligations.
 - 3 There would need to be a Committee to handle complaints about Members.
 - 4 An appeal process for Members should be included.
 - 5 The retention of Independent Members on any committee provided essential safeguards.
 - 6 Parish membership of any committee would need to be retrained if the Committee had continued responsibility for Parish Councillor Complaints.
 - 7 Concern was expressed as to the proposal to criminalise sanctions regarding Interests.

REASONS

- (i) To ensure that the Committee, the Members of the Council and others to whom the report is circulated are kept up to date with developments in the ethical framework.
- (ii) To enable the Committee to provide advice and assistance to the Council on the issues and options available for a standards regime following enactment of the Localism Bill.

SC/15 **THE OMBUDSMAN UPDATE – SEPTEMBER 2011**

The Monitoring Officer reported on the developments, volume and nature of complaints about the Council to the Local Government Ombudsman, including figures for the 2010/11 reporting year.

SC/15 The Ombudsman Update – September 2011 (cont.)

The Ombudsman prepared annual statistics for each local authority, presented in the form of an Annual Review. The Council's Annual Review for 2010/11 had now been received.

Twenty enquiries and complaints had been received about the Council in the year 2010/11 up to 31 March 2011. This was a slight increase on the 18 received in 2009/10.

Planning and building control had generated most complaints, 11 in total, of which seven were forwarded for investigation. Four other complaints had been forwarded for investigation, three relating to benefits & Council Tax and one for Environmental Services.

Decisions had been issued in nine complaints. Six had been decided as no maladministration (without a report) and three had been decided as being the Ombudsman's discretion (without report). There were no local settlements or findings of maladministration. The figure for local settlements this year was zero, compared to £1,400 last year.

The average time taken by the Council to reply to the Ombudsman's written enquiries had been 23.5 days compared with 31.8 days last year. The target response time was 28 days.

Annual Reviews had been published for other local authorities in the area which provided useful comparative statistics.

A case report identifying Ombudsman files opened by the legal department was considered to the period 2 March 2011 – 5 August 2011 (5 months).

RESOLVED

That the report be noted.

REASONS

- (i) to ensure that the Committee has the necessary information to ensure that complaints can be easily made to the Council and properly responded to.
- (ii) to assist with learning lessons and improving performance following complaints made to the Local Government Ombudsman about the Council.

SC/16 **URGENT ITEMS**

There were no urgent matters to be considered.

The meeting finished at 12 noon having commenced at 10.00am.

CHAIRMAN