

STANDARDS COMMITTEE
14th March 2012

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

Parish Council Representatives: Val Court, Isabel Glenister

Independent Representatives: Paul Byford, Eric Blackburn (Chairman), David Tilsey

Apologies: Councillors: Andrew Baldwin, Godfrey Newman

Independent Representatives: Mary Jagger (Vice-Chairman)

SC/25 **MINUTES**

The minutes of the meeting of the Committee held on 7th December 2011 were approved as a correct record and signed by the Chairman.

SC/26 **DECLARATIONS OF INTEREST**

There were no declarations of interest.

SC/27 **ANNOUNCEMENTS**

There were no announcements.

SC/28 **MINUTES OF THE LOCAL ASSESSMENT SUB-COMMITTEES ON 11TH JANUARY 2012 AND 10TH FEBRUARY 2012**

The minutes of the meetings of the Local Assessment Sub-Committee held on 11th January 2012 and 10th February 2012 were received.

It was noted that the Sub-Committee had resolved that the complainant's details be kept anonymous at the meeting on 11th January because of exceptional circumstances.

SC/29 **STANDARDS COMMITTEE REPORTS AND DOCUMENTS AVAILABLE FOR INSPECTION**

The list was noted.

SC/30 **REPORT BY PARISH COUNCIL REPRESENTATIVES**

Val Court, thanked the Monitoring Officer for delivering a presentation on the Localism Act at the most recent meeting of HALC, which had been well received. The meeting had been well attended by parish councillors.

Isabel Glenister reported that the next meeting of HALC would take place on 26 March 2012 in Rudgwick.

SC/31 **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:

- **Standards for England:** The regulatory role of Standards for England had ceased on 31 January 2012 and it was in the process of passing outstanding cases back to the relevant standards committees. The statutory instrument abolishing the body had now been issued and was to take effect on 1 April 2012.
- **Training and awareness** – The Monitoring Officer had provided training on the standards framework and conducting local assessments for Val Court and on the Code of Members' Conduct for Stuart Ritchie, the newly elected District Councillor.
- **Local Assessment, Review, Other Action, Investigations and Determinations:** Two Local Assessment meetings had taken place since the last Ethical Framework Update; in both cases the Sub-Committee decided to take no further action. A draft schedule of membership for upcoming Local Assessment meetings was attached to the report for approval running to 27 June 2012, the final scheduled Local Assessment meeting under the current regime. Two further meetings of the Standards Committee were currently scheduled under the existing regime, on 30 May and 27 June 2012.
- **The Localism Act 2011:**
Complaints:

The Localism Act required the Council to put in place arrangements for investigating complaints of breaches of the Code of Members' Conduct by both district and parish members and co-opted members. Members favoured the retention of an ordinary committee of Council to carry out this function, with sub-committees to hear complaints in certain circumstances. The committee would comprise elected councillors with voting rights. It was considered that two Independent Persons and two Parish Representatives should be co-opted to this committee but it was noted that they would have no voting rights. It was considered that it would not be appropriate for the Monitoring Officer to deal with all complaints herself considering the scope for conflicts to arise, especially where complaints were about District Councillors but that she should be given greater discretion to settle complaints without the need for an investigation where possible. At the very least it would be necessary to have a mechanism in place to enable the Monitoring Officer to obtain support for any decisions reached from a

SC/31 Ethical Framework Update (cont.)

committee of members. An Independent Person should be consulted before complaints were considered by an assessment sub-committee; a Parish Representative should also be consulted where the complaint concerned a parish councillor. It was considered that the same procedures should be used for both District and Parish Council complaints.

There was no requirement in the legislation to have a mechanism for a complainant to appeal any decisions reached on conduct complaints to take no action; counsel's opinion had been sought which had concluded this was not a violation of human rights since there was the possibility of going to the Local Government Ombudsman or challenging the decision through judicial review. However, Members considered that a right of appeal for the complainant in conduct cases should be retained.

Independent Person(s):

The Localism Act required the Council to appoint an Independent Person. Currently the existing Independent Members of the Committee would be ineligible to apply, although it was anticipated that this may change. It was noted that experienced Independent Members could be lost if the position did not change. The Monitoring Officer had obtained authority from Council to advertise for an Independent Person; even if the existing Independent Members became eligible there would still be a requirement to advertise the position. It was intended that two Independent Persons be recruited so that there was a reserve in case one of them had a conflict of interest. An allowance of up to £1195 per year for each Independent Person had been approved by Council, the same amount paid to the current Independent Members. This would result in a saving for the Council as two rather than four people would be receiving the allowance. There would be a requirement to consult the Independent Person on conduct complaints. There had been discussion with other local authorities in the area about the possibility of sharing Independent Persons, but in light of the differences in pay between the authorities and the fact the Independent Persons were likely to have a relatively heavy workload this was not considered to be a feasible option.

Code of Conduct:

The Localism Act required the Council to adopt a Code of Members' Conduct. Members supported the idea of retaining a Code of Members' Conduct similar to the existing Code, incorporating the Nolan Principles, paragraphs 3 to 5 of the existing Code and provisions in relation to interests. Members were hopeful that the parish councils in the District would all adopt the same Code of Conduct as the District Council. It was noted that West Sussex County Council had resolved to adopt a new regime which was the same as the existing regime, save that dispensations would now be dealt with by the Monitoring Officer rather than the Standards Committee.

SC/31 Ethical Framework Update (cont.)

- **Standards' Liaison Group:** A meeting of the Chairman's Standards' Liaison Group had been held on 6 March 2012. It had been agreed that a Code of Conduct similar to the existing one should be adopted. The general consensus was also in favour of creating an ordinary committee of Council to promote and maintain high standards of conduct and deal with complaints about member conduct as under the current regime. Decisions as to the grant of dispensations should be delegated to the Monitoring Officer.
- **Parish Clerks' Meeting:** The Monitoring Officer had attended the Society of Local Council Clerks' meeting on 24 January 2012 and provided an update from the last Standards Committee meeting and general advice on the Localism Act in relation to the standards regime. The Clerks were relieved to note that the District Council would have to have arrangements in place for dealing with complaints of breaches of the Code of Conduct by Parish Councillors. They agreed it would be preferable if all parish councils and the District Council adopted the same Code. The Monitoring Officer hoped to be in a position to give them more information at their meeting in April.
- **Standards in Public Life:** The Committee on Standards in Public Life had published its submission to the Select Committee carrying out pre-legislative scrutiny on a draft Bill on the recall of MPs. If the Bill were to be enacted similar arrangements for councillors could follow.
- **Freedom of information:**
For the period 1 October to 31 December, the Council had received 126 requests for information under the Freedom of Information Act, Environmental Information Regulations and Data Protection Act. The Information Commissioner had issued guidance in December 2011 outlining when information held in private email accounts falls within the scope of the Freedom of Information Act. All members had been advised of this guidance.
- **Performance management:** From 1 October to 31 December 2011 the Council had received 18 complaints, no suggestions and 23 compliments. During the previous monitoring period of 1 July to 30 September 2011 the Council had received 26 complaints, no suggestions and 42 compliments.
- **Data Protection:** The Information Commissioner had not alerted the Council to any breaches of the Data Protection Act within the last six months. The Information Commissioner had fined local authorities in England, Wales and Scotland over £1 million since his power to serve monetary penalties was introduced in 2010.
- **Regulation of Investigatory Powers Act 2000 (RIPA):** On 20 January 2012 a briefing note on RIPA and the proposed changes in the Protection of Freedoms Bill had been circulated to members of the Scrutiny & Overview Committee. On 1 February 2012 a new Procedure and Guidance document from the Office of Surveillance Commissioners had been circulated to members of the RIPA Forum.
- **A Local Government Ombudsman case update January to March 2012** was presented.

SC/31 Ethical Framework Update (cont.)

- **A standards case update January to March 2012** was presented.
- **Constitution update:** On 22 February 2012 Council had approved structural changes at the Council and Councillor Ray Dawe had been elected as Leader and selected his Cabinet; consequential changes to the Constitution were to be drafted.
- **Standards Annual Report:** The Chairman of the Committee was in the process of drafting the Standards Committee Annual Report 2011-12, which would be presented to Council on 25 April 2012.
- **Work Programme update:** The work programme would be considered further when the future of the standards regime at Horsham was clearer.
- **Members' Bulletin:** An update on the core provisions of the revised standards regime had been included in the Members' Bulletin on 5 December 2011.

RESOLVED

- (i) That the matters set out in the report be noted.

REASON

- (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.

SC/32 THE OMBUDSMAN UPDATE

The Standards Support Officer reported on the developments, volume and nature of complaints about the Council to the Local Government Ombudsman, including figures for the 2011/12 reporting year.

The latest draft Annual Review statistics from the Ombudsman were expected in late April or early May and would be reported to the Committee at its next meeting.

In the past 12 months since 1 March 2011, 13 cases had been referred to the Ombudsman. This compared with 14 in the previous reporting period, which had only covered 11 months.

Seven cases had been deemed premature as they had not yet been through the Council's corporate complaints mechanism. One case was ongoing, four had been determined as showing no or insufficient evidence of maladministration and one had been withdrawn by the complainant.

SC/32 The Ombudsman Update (cont.)

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/33 URGENT ITEMS

There were no urgent matters to be considered.

The meeting finished at 11.32am having commenced at 10.00am.

CHAIRMAN