

STANDARDS COMMITTEE
19th March 2014

Present: Councillors: Brian Donnelly (Chairman), David Coldwell (Vice-Chairman), Andrew Baldwin, Philip Circus, Sheila Matthews

Co-opted advisory members

Present: Parish Council representatives: Val Court, Isabel Glenister
Independent person: Mary Jagger

Apologies: Councillors: Godfrey Newman, Tricia Youtan
Independent person: Paul Byford

SC/27 **MINUTES**

The minutes of the meeting of the Committee held on 4th December 2013 were approved as a correct record and signed by the Chairman.

SC/28 **DECLARATIONS OF INTEREST**

There were no declarations of interest.

SC/29 **MINUTES OF THE MEETINGS OF SUB-COMMITTEES**

The minutes of the meetings of the Local Assessment Sub-Committee held on 4th December 2013 and 12th February 2014 were received, and the minutes of the Local Review Sub-Committee held on 12th February were received. The minutes of the Dispensation Sub-Committee held on 15th January were received.

SC/30 **ANNOUNCEMENTS**

There were no announcements.

SC/31 **INDEPENDENT PERSON REPORT**

There was no report.

SC/32 **PARISH REPRESENTATIVE REPORT**

There was no report.

SC/33 **STANDARDS COMMITTEE REPORTS AND DOCUMENTS AVAILABLE FOR INSPECTION**

The list was noted.

SC/34 **ETHICAL FRAMEWORK UPDATE**

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

- Training and awareness: The Council continued to subscribe to the Standards Exchange interactive website which gave access to latest news on Standards issues, including case studies and best practice. All Members of the Committee had been trained on the Code of Members' Conduct and the Council's Arrangements for assessing complaints.
- Local assessment, review, other action, investigations and determinations: Members noted there had been two local assessments and two reviews since the last ethical update.
- Parish Clerks' Meetings: The Monitoring Officer had attended the Society of Local Council Clerks' meeting on 7 January 2014 and was due to attend a further meeting on 25 March 2014 to provide an update on the local standards regime review.
- Parish Related Matters: In September 2013 the government had published proposed changes to make it easier to create new Parish Councils. The Local Audit and Accountability Act 2014 now amended the procedures for Parish Polls. Further regulations were anticipated and an update would be reported to a future meeting.
- Register of Interests: All District Councillors had completed their Register of Interests update forms. Rusper and West Chiltonton Parish Councils had yet to upload or send to the Monitoring Officer completed copies of their forms. The Monitoring Officer confirmed that these parishes would be chased up again.
- Local Standards regime – Review one year on: The review of the local standards regime had taken place, with the final meeting of the working group taking place on 15 January. The working group's recommendations would be considered by the Committee under item 11 (c) of this meeting's agenda.
- Committee on Standards in Public Life: On 22 January 2014 the CSPL had announced its programme of work for 2014 – 2015. Members noted that this would include independent research on risks created by the development of new models of public service delivery; research into how ethics can be included across public sector organisations; and a study of international comparators on trust, in response to recent evidence of declining trust in UK public institutions.
- Survey of public attitudes towards conduct in public life 2012: Members noted the survey conducted by the CSPL and the debate led by Lord Bew, the Chairman of the Committee, in the House of Lords.

SC/34 Ethical Framework Update (cont.)

- The Localism Act 2011 – Survey Results and Report: In December 2013 survey results and a report on the progress of the Localism Act 2011 were published by Local Government Lawyer and Freeth Cartwright LLP. The report had found that the legislation had not delivered what the government had promised. 22% of respondents to the survey had found that the new standards regime had led to a fall in the number of vexatious complaints with 63% finding the new standards regime had made no difference to the number of vexatious complaints. The survey also found that 25% of respondents had seen a worsening in the standard of councillors' behaviour, with 71% finding that the measures had made no difference to standards of conduct amongst councillors.

The survey had found that 85% of respondents considered sanctions to be too weak. Members agreed that the sanctions lacked teeth and considered that in general the new regime had had little impact on the Council with regards to the number and nature of complaints received.

- Transparency Bill: Members noted details of the revised Code of Recommended Practice for Local Authorities on Data Transparency.
- Local Authority Publicity: Members noted the proposed changes to the Code of Recommended Practice on Local Authority Publicity (the Code) which were included in the Local Audit and Accountability Act 2014. The proposed changes would increase the power of the Secretary of State to enforce the Code.
- Filming of Public Meetings: The Department for Communities and Local Government (DCLG) had published guidance to encourage transparency. Members noted that guidance to strengthen the rights of local authority councillors to access information about items discussed at a public or private meeting were aimed at those local authorities where Cabinet meetings were conducted in private. It was noted that exempt material and meetings held in exempt sessions would continue to be subject to privacy laws.

With regards to filming Council meetings, Section 40 of the Local Audit and Accountability Act 2014 now required, subject to the issue of regulations, local authorities to permit the filming and reporting of meetings. A report would be submitted to Council as soon as the regulations setting out the detail were made.

- Recorded Votes at Budget Meetings: The Local Authorities (Standing Orders) (England)(Amendment) Regulations 2014, which had come into force on 25 February, required councils to amend their standing orders to include provisions requiring recorded votes at budget meetings. It was confirmed that there had been a recorded vote when the Council's Budget for 2014/15 and Medium Term Financial Strategy had been determined by Council on 26 February.

SC/34 Ethical Framework Update (cont.)

- LGO case summaries and Standards case summaries December 2013 – March 2014: Four LGO case summaries were provided and noted by the Committee. Three Standards case summaries were provided and noted by the Committee.
- LGO Update: The LGO had published new guidance to remedy complaints on its website. The guidance, which was designed for its investigators, could also be used by other organisations.
- Performance Management: The quarterly report of complaints had been submitted to the Finance & Performance Working Group in February 2014. For the period 1 October to 31 December 2013 there had been 32 complaints and 16 compliments, with a further 52 complaints and four compliments recorded for Operational Services.
- Freedom of Information: The number of requests for the period 1 April 2013 to 31 January 2014 totalled 529. This compared to 439 for the same period in 2012 – 2013. Members were advised that a Disclosure Log on the Council website gave a monthly breakdown of FOI requests. It was noted that a number of requests regarding the Horsham District Planning Framework preferred strategy were dealt with by Strategic Planning as part of the consultation process and had not been recorded as FOI requests.
- Data Protection Act 1998: The Information Commissioner had not alerted the Council to any complaints that the Council had breached the Data Protection Act 1998. The Data Protection Officer continued to make improvements to reduce the risk of breaches of the Act, including information on good practice and changes to the use of remote access.
- Work Programme update: Members noted the updated Work Programme.

RESOLVED

That the contents of the report be noted.

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 promote and maintain high standards of conduct amongst Members.

SC/35 **LOCAL GOVERNMENT OMBUDSMAN UPDATE 2013 – 2014**

The Monitoring Officer reported on the number and nature of complaints about the Council made to the Local Government Ombudsman (LGO).

Members noted that since 1 March 2013 eleven complaints had been made to the LGO, which was the same number as during the previous reporting period 2012 – 2013. Eight of these complaints had been determined without investigations, two of these complaints were currently being investigated, and one had resulted in a payment of £250 to the complainant.

The Monitoring Officer advised that the LGO's Annual Review letter for 2014 had not yet been received. The letter was expected to include an update on LGO developments, details of complaints that had been received, and complaint statistics.

RESOLVED

That the contents of the report be noted.

REASONS

- i) To ensure that the Committee has the necessary information to ensure that complaints can be made to the Council with ease and complaints are dealt with appropriately.
- ii) To assist with establishing learning lessons so that the Council can improve its performance in the provision of its services.

SC/36 **STANDARDS REGIME REVIEW**

The Monitoring Officer reported that the review of the locally agreed Standards Regime to assess the effectiveness and efficiency of the process had now been completed. The review, one year after the implementation of the new regime, had been requested by Council when the regime had been agreed in June 2012. In addition, in December 2013, Council had requested the Committee consider the issue of dispensations and dual hatted membership.

The review had been carried out by a working group of five members of the Standards Committee, assisted by an Independent Member and a Parish Representative, established in June 2013. The recommendations of the working group, which had met twice in 2013 and once in 2014, were considered. All members of the Council, the Leader of the Council, the Leader of the Opposition and the Senior Leadership Team had been consulted.

SC/36 Standards Regime Review (Cont.)

The Monitoring Officer had carried out an online survey of local authorities from Sussex and Surrey to enable the working group to take into account the final content of standards regimes adopted by neighbouring authorities. A report from Hoey Ainscroft Associates had provided information regarding local authorities nationally.

Members discussed the right for a complainant to request a review of a decision to take no action on a complaint made to the Committee and noted that, of the 22 complaints assessed by the sub-committee since adoption of the new regime in July 2012, 16 had requested a review of the decision. All but one of the review hearings had found the original decision to be a reasonable one. In one case new information submitted had resulted in a reference to the Local Assessment Sub-Committee being made as a new complaint. 80% of local authorities responding to the Monitoring Officer's online survey had not retained a right of review. Members considered that complainants who wished to pursue a complaint further would have the option of approaching the Ombudsman which, as an independent body, could review the procedure of the Sub-Committee. In addition a complainant could seek a judicial review of any decision made by the sub-committee.

With regards to the right of appeal for a subject member found to be in breach of the Code, Members noted that the survey had found that 93% of responding local authorities had not included an internal right of appeal for a subject Member following a determination in breach of the Code.

Members discussed whether to delegate the assessment of whether a complaint should be referred for an investigation, both in relation to Parish Councillors and also District Councillors, to the Monitoring Officer. Currently the assessment of every complaint was considered by a sub-committee of elected members. This assessment included several issues including: whether the Member had been acting in their official capacity; whether there had been a potential breach of the Code; whether the complaint was in time; whether it was trivial or vexatious etc. 74% of local authorities responding to the survey had delegated the assessment stage to the Monitoring Officer alone, or with the discretion to refer to elected Members.

The national picture set out in the Hoey Ainscroft report showed that most had delegated assessment decisions to the Monitoring Officer.

It was noted that, should the assessment of complaints be delegated, the Monitoring Officer would continue to seek advice from an Independent Person and Parish Council Representative (for Parish complaints).

SC/36 Standards Regime Review (Cont.)

Members considered the recommendations of the Committee on Standards in Public Life regarding changes to the Nolan Principles of Public Life and noted that the Officer Code of Conduct had already been updated to reflect the revised Principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

Members also considered the provisions within the Code of Members Conduct regarding declaration of interests at meetings. It was noted that 80% of those authorities responding to the Monitoring Officer's survey had included a requirement to declare a DPI (disclosable pecuniary interest) at meetings within the body of their Code.

Members discussed the issue of dispensations and dual hatted Members who would be excluded from participating in a meeting if they declared a DPI (disclosable pecuniary interest) linked to the receipt of an allowance for their Parish Council or County Council Membership. A Member declaring a prejudicial interest where a decision was likely to affect the wellbeing or financial position of either a Parish or County Council of which they were also a member could speak, as a member of the public, but not vote. The Committee considered the implications of this and concluded that a blanket dispensation should be granted within the Code of Members Conduct, under section 33 of the Localism Act 2011, on the ground that it would be in the interests of persons living in the authority's area in relation to a DPI that arose from a Member's dual hatted allowance to enable them to speak but not vote.

Members agreed that the makeup of membership of the Standards Committee should remain unchanged. Members also agreed that the provisions regarding both personal and prejudicial interests should be retained within the Members' Code of Conduct alongside disclosable pecuniary interests. It was noted from the survey that 60% of those authorities responding had retained both personal and prejudicial interests within their Codes in addition to the new DPIs. It was also considered appropriate that a further review of the revised local standards regime should be undertaken within a year of the election of a new Council in May 2015.

RECOMMENDED

That Council is recommended to agree:

- i) That the Arrangements and procedure for dealing with complaints regarding councillor behaviour be revised by:
 - (a) removal of the internal right of review for a complainant; and

SC/36 Standards Regime Review (Cont.)

- (b) removal of the right of appeal for a subject member; and
 - (c) delegation of power to the Monitoring Officer to assess all Code of Conduct complaints and determine what action was appropriate, with the discretion to refer to a Standards Sub-Committee, in consultation with an Independent Person and a Parish Representative.
- ii) That the Code of Members' Conduct be revised by:
 - (a) the inclusion of the updated Nolan Principles in line with the latest recommendation from the Committee on Standards in Public Life; and
 - (b) inclusion of a requirement to declare a DPI at meetings in the same way as a personal and prejudicial interest.
- iii) That under the Council's Dispensation Scheme, a general dispensation be granted to all Members who have a DPI in any business of the authority in relation to themselves or their partners where it relates to category 1 of the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 namely '*any employment, office, trade, profession or vocation carried on for profit or gain*' by virtue of being a dual hatted member in receipt of an allowance from either a Parish or County Council to enable them to speak but not to vote where a member of the public has similar rights on the ground that it would be in the interests of persons living in the authority's area.
- iv) That the Monitoring Officer be authorised to make all necessary revisions to Council's Arrangements for dealing with complaints and to the Constitution to implement the above changes.
- v) That Council instruct the Standards Committee to undertake a further review of the local standards regime within the first year after the election of a new Council in May 2015.

REASON

- i) to implement the recommendations of the Standards Committee for revisions to the standards regime adopted locally;

SC/36 Standards Regime Review (Cont.)

- ii) to authorise the Monitoring Officer to prepare all necessary changes to the standards regime documentation including the Council's Constitution;
- iii) to inform Council and all those who may be interested about developments in the revised standards framework following enactment of the Localism Act 2011 which affect the role and activities of Councillors and the Council's business and the work of the Standards Committee Working Group.

The meeting finished at 12.48 having commenced at 10.00am.

CHAIRMAN