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Standards Committee

Wednesday 18th March 2015 at 10.00am

COMMITTEE ROOM 1, PARK NORTH, NORTH STREET, HORSHAM

Councillors: Brian Donnelly (Chairman) Godfrey Newman
David Coldwell (Vice-Chairman) Brian O'Connell
Andrew Baldwin Tricia Youtan
Sheila Matthews

Co-opted advisory members: Mary Jagger Independent person
John Donaldson Independent person
Valerie Court Parish Council representative

You are summoned to the meeting to transact the following business

TOM CROWLEY
Chief Executive

AGENDA

- | | Page No. |
|---|----------|
| 1. Apologies for absence | |
| 2. To approve as correct the minutes of the meeting of the Committee held on 3 rd December 2014 | 1 |
| 3. To receive any declarations of interest from Members of the Committee | |
| 4. To receive any announcements from the Chairman of the Committee, the Chief Executive or the Monitoring Officer | |
| 5. To receive the minutes of the meeting of the Local Assessment Sub-Committee held on 11 th February 2015 | 5 |
| 6. To receive the following reports of the Monitoring Officer: | |
| (a) The Ethical Framework Update | 9 |
| (b) The Local Government Ombudsman Update 2014-2015 | 25 |

7. Items not on the agenda which the Chairman of the meeting is of the opinion should be considered as urgent because of the special circumstances

STANDARDS COMMITTEE

3rd December 2014

Present: Councillors: Brian Donnelly (Chairman), David Coldwell (Vice-Chairman), Andrew Baldwin, Sheila Matthews, Godfrey Newman, Tricia Youtan

Advisory Members

Present: Parish Council representative: Val Court, Isabel Glenister
Independent persons: Paul Byford, Mary Jagger

Apologies: Councillors: Brian O'Connell

SC/17 **MINUTES**

The minutes of the meeting of the Committee held on 10th September 2014 were approved as a correct record and signed by the Chairman.

SC/18 **DECLARATIONS OF INTEREST**

There were no declarations of interest.

SC/19 **MINUTES OF THE MEETING OF SUB-COMMITTEES**

The minutes of the meeting of the Local Review Sub-Committee held on 10th September 2014 were received.

SC/20 **TO RECEIVE ANY ANNOUNCEMENTS FROM THE CHAIRMAN OF THE COMMITTEE, THE CHIEF EXECUTIVE OR THE MONITORING OFFICER**

The Chairman announced that this was Paul Byford's last meeting as an Independent Person and thanked him for his efforts over the years, and valuable contribution to the work of the Committee.

The Monitoring Officer advised the Committee of ongoing changes to the Legal Department that included a restructuring of the department, a customer led service and 'paper light' working. There was currently a fully staffed temporary structure in place.

The Monitoring Officer advised that he had issued dispensations to the four dual hatted Councillors to enable them to debate and vote on the relocation of HDC office premises at the Council meeting on 9th October. He also confirmed that he would issue dispensations, on the basis of public interest and democratic accountability, to those District Councillors who were also Parish Councillors so they could debate and vote on the proposed grants to Parish Councils for 2015/16 at the Council meeting on 10th December.

SC/20 To receive any announcements from the Chairman of the Committee, the Chief Executive or the Monitoring Officer (Cont.)

The Monitoring Officer confirmed that responses to the 'Members Survey and Support Survey' had been received from approximately 25% of Members. It was agreed that those who had not responded yet would be contacted individually.

The Monitoring Officer updated Members on the recruitment process for a new Independent Person. It was agreed that the Monitoring Officer would write to the Chairman of HALC to ask for their help by contacting Parish Councils, with a view of publicising the role on their websites. Other ways of filling the role were also discussed including advertising in local newspapers and approaching previous applicants. It was confirmed that the interview panel would include the Chairman of the Committee, Leader of the Council and Leader of the Opposition.

SC/21 **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: It was noted that an Induction of Councillors Working Group had been set up in anticipation of the May elections. Members emphasised the importance of training in ethical governance for new Councillors. The need for ongoing training for all Councillors was also discussed.

The Monitoring Officer and Deputy Monitoring Officer intended to visit local Parish and Neighbourhood Councils to offer training. Members suggested that two seminars on the Code of Conduct, one in the south of the district and one in the north, could be arranged for District and Parish Councillors.

- Local assessment, review, other action, investigations and determinations: There had been two new complaints received and assessed by the Monitoring Officer, and one complaint reviewed by the Local Review Sub-Committee since the last ethical update on 10th September 2014.
- Parish Clerks' Meetings: The Deputy Monitoring Officer had attended the Society of Local Council Clerks' meeting on 14th October 2014. The Annual Meeting of HDC and HALC had been held on 11th November.
- Register of Interests: All District Councillors had returned their Register of Interests update forms and these had been uploaded onto the Council website. Parish Councils with websites were being encouraged by the Monitoring Officer to ensure their websites were updated.
- Case summaries – October 2014 and November 2014: Members noted the case updates from other local authorities at Appendix 4 of the report.

SC/21 Ethical Framework update (Cont.)

- Work Programme update: Members noted the updated Work Programme, in particular the recommendation to prepare an annual report for presentation to full Council at the end of the municipal year. This was considered good practice and the Chairman agreed that a report should be prepared.

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.

The meeting finished at 11.38 having commenced at 10.00am.

CHAIRMAN

STANDARDS COMMITTEE
LOCAL ASSESSMENT SUB-COMMITTEE
11 FEBRUARY 2015

Present: Councillors: Brian Donnelly, Godfrey Newman, Brian O'Connell

LA/1 **ELECTION OF CHAIRMAN**

RESOLVED

That Brian Donnelly be appointed Chairman of the Sub-Committee for the purposes of this meeting.

LA/2 **DECLARATIONS OF INTEREST**

There were no declarations of interest.

LA/3 **EXCLUSION OF THE PRESS AND PUBLIC**

RESOLVED

That under Section 100A of the Local Government Act 1972 as amended the press and public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Part I of Schedule 12A of the Local Government Act 1972 by virtue of the paragraph specified against the items and in all the circumstances of the case the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

LA/4 **TO CONDUCT AN ASSESSMENT UNDER THE LOCALISM ACT 2011**
CHAPTER 7 AND THE 'ARRANGEMENTS' WHICH THE COUNCIL HAS
PUT IN PLACE FOR THE ASSESSMENT OF SUCH COMPLAINTS
UNDER S 28(6) OF THE ACT IN RELATION TO THE ALLEGED
CONDUCT OF A DISTRICT COUNCILLOR (CASE REFERENCE CES 105)

The Local Assessment Sub-Committee assessed a complaint that a District Councillor had failed to comply with the Council's Code of Members' Conduct ("the Code").

On 19 December 2014 an allegation against the Councillor had been received under section 28 (6) Localism Act 2011. It was alleged that the Councillor was in breach of the following paragraphs within the Code of Members' Conduct:

- 6(1)(a) You must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and

LA/4 To conduct an assessment under the Localism Act 2011 Chapter 7 and the 'Arrangements' which the Council has put in place for the assessment of such complaints under S 28(6) of the Act in relation to the alleged conduct of a District Councillor (Case Reference CES105) (Cont.)

6(1)(b) You must, when using or authorising the use by others of the resources of your authority

- (i) act in accordance with your authority's reasonable requirements;
- (ii) ensure that such resources are not used improperly for political purposes (including party political purposes).

Members of the Sub-Committee considered the view of the Independent Person appointed by the Council under the Localism Acts 28(7), and considered the advice of the Monitoring Officer.

Members considered that the subject matter of the allegation was within the jurisdiction of the Local Assessment Sub-Committee, and therefore considered whether the allegation appeared to disclose a potential failure by the Member to comply with the Code of Members' Conduct.

The Sub-Committee agreed, by a majority vote, that no further action should be taken because the allegation did not appear to disclose a failure by the District Councillor to comply with the Code of Members' Conduct when acting in that capacity.

RESOLVED

In accordance with Chapter 7 of the Localism Act 2011 and the Arrangements adopted by the District Council to deal with Code of Conduct complaints regarding Councillors, the Local Assessment Sub-Committee decided that no action should be taken on the allegation.

REASON

- (i) The allegation relates to the Member's role as a District Councillor and to this extent the member was acting in their official capacity.
- (ii) The Sub-Committee considered the information supplied by the Complainant and other information including emails and statements from third parties.

LA/4 To conduct an assessment under the Localism Act 2011 Chapter 7 and the 'Arrangements' which the Council has put in place for the assessment of such complaints under S 28(6) of the Act in relation to the alleged conduct of a District Councillor (Case Reference CES105) (Cont.)

- (iii) The Sub-Committee considered that a number of assumptions had been made by the complainant that could not be substantiated or were contrary to

statements within the other information they considered.

- (iv) On the balance of probabilities the Sub-Committee accepts the statements made by the District Councillor and third parties rather than the assumptions made by the Complainant.

- (v) The Sub-Committee therefore concluded that the allegation does not appear to disclose a failure by the Member to comply with the Code of Members' Conduct when acting in that capacity.

The meeting finished at 11.25am having commenced at 10.00am.

Report to Standards Committee

18 March 2015

By the Monitoring Officer

INFORMATION REPORT

Not exempt



Horsham
District
Council

Ethical Framework Update: March 2015

Executive Summary

This report is to:

- (i) Inform and update Members of the Council about recent developments in the ethical framework, which affect the role and activities of Councillors and the Council's business. In particular this report gives details on the following matters:
 - Training and awareness;
 - Local assessment, other action, investigations and determinations;
 - Parish Clerks' HALC Meeting;
 - Independent Person
 - Register of Interests;
 - Work programme update.
 - Local Government Ombudsman Case Summaries and Standards case summaries

Recommendations

The Committee is recommended:

- (i) To note the matters set out in the report.

Reasons for Recommendations

- (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; and
- (ii) To promote and maintain high standards of conduct amongst members.

Background Papers: Standards Committee Documents
SCD 1
SCD 14
SCD 15

Relevant Legislation

Wards affected: All

Consultation:

SLT

Contact:

Paul Cummins
Monitoring Officer
Ext. 5435

BACKGROUND INFORMATION

1 Introduction

The purpose of this report

- 1.1 The purpose of this report is to inform and update Members of the Council of recent developments in the ethical framework, since the preparation of the last report in December 2014.

Background/Actions taken to date

- 1.2 Members regularly receive reports on developments in the ethical framework and this report continues that approach. Members of this Committee should be aware of the following helpful websites:
- Department for Communities and Local Government:
<http://www.communities.gov.uk/>
 - Local Government Ombudsman:
www.lgo.org.uk

2 Statutory and Policy Background

Statutory background

- 2.1 The statutory background can be found in the Localism Act 2011, Part 1 Chapters 6 and Chapter 7 and the Regulations made under that Act.

Relevant Government policy

- 2.2 The relevant Government policies, with regard to the ethical framework are contained in Department for Communities and Local Government Guidance 'Openness and Transparency on Personal Interests: A Guide for Councillors' and the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012.

Relevant Council policy

- 2.3 The Council's policy is set out in its Constitution and through the activities of this Committee and Council.

3 Details

Training and Awareness

- 3.1 The authority has subscribed to the Hoey Ainscough Associates' interactive website, the Standards Exchange, which allows access to the latest news on standards issues, including cases and best practice from other authorities, access to help and support a dedicated forum and a regular standards bulletin. Learning from this resource is provided to this Committee.

- 3.2 The Legal Department compiles a list of Standards Committee documents to assist members. A new list has been started from January 2015, the previous list of Standards Committee documents, dating from July 2012 is available on request.
- 3.3 All members on the Standards Committee have received training on the Code of Conduct and the Council's "arrangements" for assessing complaints against Members.

Local assessment, other action, investigations and determinations

- 3.4 Attached as Appendix 2 **[SCD 1]** is the schedule of all assessment, other action, investigation and determination decisions since 01 December 2014.

Local Assessment

- 3.5 Since the last Ethical Framework Update was presented to this Committee in December 2014, the Monitoring Officer has assessed one complaint and the Local Assessment Sub-Committee has met once, details of both complaints are contained in Appendix 2.

Other Action Directed

- 3.6 Since the date the last Ethical Framework Update was presented to this Committee in December 2014, no cases have been referred to the Monitoring Officer for Other Action.

Local Investigations

- 3.7 Since the date the last Ethical Framework Update was presented to this Committee in December 2014, no Local Investigations have been carried out.

Local Determinations

- 3.8 Since the date the last Ethical Framework Update was presented to this Committee in December 2014, no Local Determinations have been carried out.

Parish Clerks' HALC Meeting

- 3.9 The Monitoring Officer attended the HALC Clerks meeting on 27 January 2015 together with the Senior Electoral Services Officer. The meeting was attended by a number of new Parish Clerks and therefore the Monitoring gave an introductory talk about the Standards regime. He then gave a general update on the main corporate issues relating to Horsham District Council. The Senior Electoral Services Officer then gave an overview of requirements for the Election 2015.

Independent Person

- 3.10 The new Independent Person, Mr John Donaldson, has been appointed to the Standards Committee for a term of 4 years in compliance with Section 28 of the

Localism Act 2011. The Council would like to welcome him to his first meeting of the Standards Committee.

Register of Interests

- 3.11 The Registers of Interest forms for newly elected parish councillors will need to be completed after the elections in May. Parish councillors who are re-elected will need to complete their annual Register of Interest Update forms after the May elections. It has been noted that some parish councils are still using incorrect update forms, which refer to previous legislation and not the Localism Act, so the correct template form will be emailed to all parish clerks nearer the time.
- 3.12 Most parish councils with websites have uploaded their councillors' Register of Interest forms to their websites; these can be accessed via links on the District Council website. The Register of Interests forms for Parish Councils without websites have been uploaded to the Horsham District Council website: <http://www.horsham.gov.uk/councilanddemocracy/councillors/about-councillors/parish-registers-of-interests>
- 3.13 Registers of Interest forms for any newly elected district councillors will need to be completed after the elections in May. District councillors who are re-elected will need to complete their annual Register of Interest Update forms after the May elections. Any forms for councillors who are not re-elected will be removed from the Council's website as soon as possible.
- 3.14 All district councillors have completed and returned their Register of Interest forms and Registers of Interest Update forms. These are available to view on their individual Councillor pages on the Horsham District Council website: <http://www.horsham.gov.uk/councilanddemocracy/councillors/about-councillors/councillor-details>.

Work Programme update

- 3.15 Members will recall at the meeting in January 2012 that the Committee agreed a programme of forthcoming work to be put before the Committee. The Work Programme incorporates the key responsibilities of the Standards Committee. This is a live document and Members are asked to consider any update or amendment required for 2014-2015. A copy is attached at Appendix 3.

4 Next Steps

- 4.1 The Committee is asked to note the matters contained in this report.

5 Outcome of Consultations

- 5.1 The Senior Leadership Team were consulted on this report.

6 Other Courses of Action Considered but Rejected

6.1 Not applicable.

7 Staffing Consequences

7.1 There are no specific staffing consequences flowing from this report.

8 Financial Consequences

8.1 The delegation to the Monitoring Officer of the initial assessment of complaints does represent a reduction in cost of this part of the process.

9 Other Consequences of the Proposed Action

9.1 Other consequences of the proposed action are set out in Appendix 1.

Appendix 1

Consequences of the Proposed Action

What are the risks associated with the proposal?	Failure to keep Members up to date with developments in the ethical framework would lead to a diminution of ethical standards amongst Members.
Risk Assessment attached Yes/No	No.
How will the proposal help to reduce Crime and Disorder?	Creating the right climate for decision-making and ensuring adequate probity measures are in place will ensure that the Council's duty to seek to reduce crime and disorder is properly taken into account.
How will the proposal help to promote Human Rights?	There is a positive obligation on the Council under the Human Rights Act 1998 to have regard for human rights. The Convention rights are scheduled in the Act. The creation of the right climate for decision-making and adequate probity measures will ensure that human rights are regarded and in some cases enhanced.
What is the impact of the proposal on Equality and Diversity?	<p>The current code of conduct includes the expectation of respect for others defined in the General Principles as:</p> <p>“Members should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability”.</p> <p>In addition there is a general obligation in the code in which members undertake “Not to do anything which may cause your authority to breach any of the equality enactments.</p>
Equalities Impact Assessment attached Yes/No/Not relevant	No.
How will the proposal help to promote Sustainability?	Where possible electronic means of communication are used.

Appendix 2 Local Assessment schedule

Local Assessment of Complaints from 1 December 2014 [SCD 1]

File ref	District or Parish Council	Decision Date	Complainant	Date complaint received	Nature of complaint (Personal data removed)	Working days (receipt of complaint to assessment)	Monitoring Officer or Local Assessment Sub-Committee Decision	Decision
CES104	Parish	17.12.14	Public	26.11.14 (Initial letter received 04.11.14)	Complainants' neighbour is a member of the Parish Council and sits on the planning committee. Complainants allege that <ol style="list-style-type: none"> 1. Activities being carried out on his land are in breach of a Restrictive Covenant made with previous owners of the property that is binding on all successors in title to the land. 2. The councillor has not registered as an interest his alleged manufacturing from his home address. 3. The councillor is in breach of the general principles of public life and brings the Council into disrepute because he had sworn at the complainants. 	17	MO	No Further Action
CES105	District	11.02.15	Councillor	19.12.14	The complainant councillor was in the HDC offices and spoke to a council officer who was sorting through copies of the West Sussex County Times. The officer said she had been asked by another councillor to go through the newspapers and cut out all letters one member of the public had written to the paper. The complainant councillor said that the member of the public was a potential candidate for a local political party to be a candidate for the May 2015	40	LASC	No Further Action

					<p>elections. The councillor who requested the letters is the elected councillor for the same seat.</p> <p>The complainant alleges that the councillor requesting the letters breached the HDC Code of Conduct by:</p> <ul style="list-style-type: none"> a. Attempting to use their position as a councillor to improperly secure an advantage; and b. Attempting to use the authority's resources for political purposes. 			
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APPENDIX 3

STANDARDS COMMITTEE WORK PROGRAMME 2014/15

No	Activity	Who is responsible	Completion	Notes	Legislative Root
1	Undertake Local Assessment of Complaints	MO/Standards Committee	Ongoing	Effective July 2012. See also Local Arrangements adopted by the Council July 2012 and revised May 2014.	Localism Act 2011.
2	Undertake investigations and Local determination hearings as necessary	MO/Standards Committee	Ongoing	Effective July 2012. See also Local Arrangements adopted by the Council.	Localism Act 2011.
3	Consider dispensation requests	MO/Standards Committee	As received	Scheme of dispensations in Constitution.	Localism Act 2011.
4	Prepare annual report for presentation to full Council	Chairman	Annually	At end of municipal year.	Good practice.
5	Promotion of the role and work of the Standards Committee	Chairman/Standards Committee and MO	Ongoing	<p>Promote the work of the SC internally through the Members Bulletin and 'Grapevine'. SC to pursue programme of awareness raising within the Community.</p> <p>Promote the work of the SC through the Horsham District Council Magazine and use of the Council website to include biography pages for Independent Persons and Parish Representatives.</p> <p>Liaison with Parish Councils by regular attendance at Parish Clerks' quarterly meetings and the distribution of SC agenda and reports.</p> <p>Investigate other ways of raising profile of role and work of SC.</p>	Localism Act 2011.

No	Activity	Who is responsible	Completion	Notes	Legislative Root
6	Attendance at Council and other meetings	Chairman/Vice Chairman Standards Committee	As timetabled	Chairman to regularly attend Council meetings to present minutes of the Standards Committee and to present Annual Report. Standards Committee members to attend other meetings as required.	Local Government Act 2000.
7	Liaison Chief Executive, Leader of Council, Leader of Opposition, Chairman of Standards on standards issues	Chairman and Monitoring Officer	Six monthly	From April 2010. To include annual attendance of Chief Executive at Standards Committee meetings and as required.	Localism Act 2011. Good practice.
8	Liaison Chief Executive and MO on standards issues	CE/MO	Monthly 121 and as required	From February 2010	Good practice.
9	Standards Training	Chairman and MO	New Code July 2012 and as required. Member induction training May 2015.	MO to organise training throughout the year, to include awareness training for Parish Councils. Dedicated training on Local Assessment, Local Determination and Hearings for the Standards Committee, Independent Persons and Parish Representatives. Awareness training of the Code of Conduct for Members and Management Team of HDC to form a part of Member Development Programme. Use of on-line resources, DVDs etc. as training aide. Attendance at external training events as required. Ethics and governance training to be incorporated in member induction May 2015.	Localism Act 2011. HDC Corporate Learning and Development Plan.

No	Activity	Who is responsible	Completion	Notes	Legislative Root
10	Review of Register of Interests	MO	Annual	To ensure that Members of HDC and Parish Councils review the content of their Register of Interests at least once annually. To ensure that updated ROI are available online at HDC website for HDC members and at parish council website for parish members.	Localism Act 2011 and local Code of Conduct.
11	Consider regular Ethical Framework update reports	MO/Standards Committee	Quarterly	To ensure that the Standards Committee Members are kept up to date with issues of ethics and governance. Provide access to reports for all HDC members through Members Bulletin on website. Distribute to Parishes with the Standards Committee agenda.	Localism Act 2011.
12	Consider regular Ombudsman update reports	MO/Standards Committee	Six monthly	To ensure that the Committee has the necessary information to ensure that complaints can be easily made to the Council and properly responded to. To assist with learning lessons and improving performance following complaints made to the Local Government Ombudsman about the Council. To feed this information into the Performance Management Working Group report on Complaints, Compliments and Suggestions.	Local Government Act 2000. Local Government Ombudsman good practice.
13	Review of local standards regime	MO/Standards Committee	Within first year after election of new Council in May 2015.	Council resolution 14 May 2014.	Localism Act 2011

Fylde Borough Council – 6 August 2014

The complaint was made by a resident's group about the way the council, through the Board of directors of a company it owned, decided to sell the company's shares and its housing development, to a developer who was not a registered social land lord. The group complained the housing was meant for the retired with limited income; the sale to the developer resulted in a loss of protection against rent rises for the residents and the insecurity of possible development on the site.

The Ombudsman upheld the complaint and found fault by the council causing injustice.

Recommendations from the LGO

The council apologise to each resident for failing to consult them properly on disposing of housing to the developer; and

- pay £100 to each resident, in recognition of the lost opportunity for consultation on the future of their housing; and
- pay £100 to each resident, for the confusion caused by the lack of consultation with them.

Hertfordshire County Council – 5 November 2014

The Complainant complained that the Council had acted unfairly by treating her as an unreasonable complainant and limiting her contact with it. The Ombudsman found that as this matter was considered under an earlier complaint to the Ombudsman it will not be pursued again.

Previously the Complainant had raised complaints with the Council, and then the Ombudsman, about the Council's night street lighting policy and about the conduct of Councillors involved in the meeting about the lighting policy with which the Complainant disagreed. Despite an earlier request from the Council that she write and not telephone about matters relating to night street lighting, the Complainant telephoned both the Chief Executive's Personal Assistant and the Council's Chief Legal Officer's Personal Assistant. As a result of this contact the Council wrote to the Complainant on 8 August to tell her that it viewed her as having acted unreasonably by continuing to contact the Council about matters relating to the street lighting. It informed her it would cease, with immediate effect, all contact with her about these matters and that should she make contact no acknowledgement or response would be sent although a record of her communication would be retained.

The Complainant contacted the Ombudsman to complain about this action by the Council and stated she had only called to query a handwritten note attached to a copy document she had obtained from the Council.

The Ombudsman stated that it will not re-investigate matters which have already been the subject of a complaint to the Ombudsman.

No fault by the Council was found by the Ombudsman in either of the earlier complaints to her. In the first complaint it was explained to the Complainant that the Council was entitled to limit how she contacts it. It had not prevented her from contacting the Council or denied her access to any Council service.

St Albans City Council – 15 September 2014

The Ombudsman found there had been unreasonable delay by the Council before it concluded its investigation for which the Council agreed to apologise to the complainants.

The complainants submitted a complaint to the Council about two district councillors in May 2013. On 30 May they submitted a complaint about three town councillors. The Monitoring Officer arranged a meeting with them on 19 June. The complainants were asked to clarify their complaints and did so on 4 July. The Monitoring Officer sent them his decisions on the complaints on 25 October. He decided neither of their complaints warranted further investigation for breach of the City Council's Members Code of Conduct or for breach of the Town Council's Code of Conduct.

The Ombudsman found that the Council's complaints policy sets out a period of 20 working days for a complaint response from a Head of Service. It therefore considered there was unreasonable delay by the Council in the time it took to consider the complaints.

The Monitoring Officer sent copies of the complaints to the Town Clerk before coming to a decision. The complainants' alleged that their complaints had not been kept private and confidential because the Town Clerk was then able to give guidance to the town councillors. The Ombudsman decided that town councillors can seek advice from the Town Clerk and so it did not consider there was any fault in the Monitoring Officer deciding to inform the Town Clerk before making a decision.

Additionally the complainants also alleged that

- a) the Monitoring Officer's response was biased and
- b) the handling of the complaint was designed to put residents off complaining.

The Ombudsman views on these additional allegations are

- a) the Monitoring Officer **did** take proper account of the facts presented in the complaints because he provided reasoned justifications for his conclusions.
- b) There was unreasonable delay by the Council dealing with the complaint; but the officer's actions as a whole were not designed to put residents off from making complaints.

The Ombudsman decided there was evidence of some fault; namely the unreasonable delay before the Monitoring Officer made a decision. The Ombudsman considered the injustice to the complainant, and decided the remedy for the injustice was that the Council should apologise for the delay.

South Northamptonshire District Council – 16 September 2014

The Complainant complained that the Council's Monitoring Officer decided not to investigate his concerns about the actions of a parish councillor.

The Ombudsman does not have jurisdiction to investigate a complaint about the Parish Council or the actions of parish councillors. The District Council could investigate a complaint that a parish councillor had breached the Code of Conduct for Councillors. It is for

the Council's Monitoring Officer to decide whether an investigation would be in the public interest.

The Ombudsman found that the Monitoring Officer had explained why, having considered the available information, he decided not to investigate the complaint about the parish councillor. The Ombudsman saw no evidence of fault in how the Monitoring Officer came to his decision.

City of Bradford Metropolitan District Council – 10 October 2014

The complainant complained that the Council did not investigate his complaint about the behaviour of a councillor properly. He alleged the councillor lied to him about why he stood down from an appeal hearing the councillor was involved in with his father. The Ombudsman found no fault with the way the Council investigated the complaint.

The complainant alleged that the member concerned, who was part of the panel hearing his appeal, told the leader of the Council about the complaint, thereby breaching the Data Protection Act and failing to uphold all six parts of the Members' Code of Conduct.

The Monitoring Officer and Chair of the Standards Committee met and decided to take 'no further action'. Their decision recorded that a councillor standing down from a decision making body, because of a perceived conflict of interest, was not a matter for the Code of Conduct. The decision stated that the Code of Conduct may have applied if the councillor had misled the complainant.

The Ombudsman's role is to consider the process the Council has put in place to enable an investigation into a Standards complaint. The Council had followed its procedure when investigating this complaint. The Monitoring Officer and Chair of the Standards Committee identified that this complaint was not a breach of the Code of Conduct. Once they had reached this conclusion, they could decide to take no further action.

Worthing Borough Council – 6 October 2014

The complainant complained about the behaviour of a councillor to the Council and was unhappy with the time it took to investigate her complaint. She said the Council delayed in dealing with her complaint in the hope she would give up. She complained to the Council on 22 November 2013 about a visit by a Councillor to her home. She said the Councillor had introduced himself and then threatened her about some comments he said she had put on Facebook about him. The complainant shut the door on the Councillor and he tried to push it open. When he was not successful he shouted through the letterbox at her and only left when she called the police.

The Monitoring Officer responded and told the complainant he would discuss the matter with an Independent Person and contact her again.

The Monitoring Officer e-mailed the complainant on 26 November to say he had discussed her complaint with the Independent Person. The Monitoring Officer said they had decided, if her complaint was proved, there would be a breach of the Code. The Monitoring Officer said he would appoint an independent investigator to carry out an investigation.

The Monitoring Officer said if there was a recommendation the Code may have been breached then the Joint Standards Committee would hold a hearing. The Committee would consider the facts and make a recommendation, where necessary to the Full Council.

Worthing Council eventually used an internal investigator to produce a report. The investigator decided there had been a breach of the Code. The investigator sent the report to the Monitoring Officer on 26 February 2014. The Monitoring Officer contacted the complainant to arrange her availability for a meeting of the Joint Standards Committee to hear the complaint and decide what action to take.

The Council explained shortly after this, it would need to put the arrangements for the meeting on hold because of the election campaign until at least early June 2014. The Complainant complained to the Ombudsman at the beginning of July about the Council's delay in setting up the hearing.

The Council eventually arranged the hearing for 14 August 2014.

At the hearing the Monitoring Officer outlined the Council's case with information from witnesses. The Member's case was then heard with information from witnesses. The Committee deliberated and decided the case was "not proven".

The complainant complained to the Ombudsman about the result of the hearing. She said the Independent Person's view had not counted and Committee had discounted the internal investigator's findings.

The Ombudsman could not consider the result of the hearing. It is only able to consider the process the Council has put in place to enable the hearing to go ahead. The Ombudsman has no power to prescribe the Council's standards procedures, or suggest what timescales it should adopt when dealing with complaints.

The only grounds on which the Ombudsman might criticise the Council about delay could be on good 'administrative governance' grounds. There are generally held views in local government about what forms good governance. An unexplained or lengthy delay in dealing with a complaint might be considered poor 'administrative governance'.

The Investigating Officer completed his report for the Monitoring Officer in four months. The Ombudsman did not think this is evidence of any administrative delay. It was unfortunate the election cut across the Council's actions. It would always be the case that an election would delay a decision due to be made by a committee. This is because any change of political control in a local election leads to changes in the personnel who make up committees.

The only material delay the Ombudsman could see was between mid-June and mid-August. During this time the Monitoring Officer changed. This further contributed to the delay in setting the hearing date.

The Ombudsman did not feel, given the events described, and the Council's actions throughout the life of this complaint there was any attempt to "put Mrs X off" continuing it". The Ombudsman found no fault by the Council in the time it took to investigate and resolve the complaint.

Report to Standards Committee

18 March 2015

By the Monitoring Officer

INFORMATION REPORT

Not exempt



**Horsham
District
Council**

The Local Government Ombudsman Update 2014-2015

Executive Summary

This report is to update Members on the number of complaints and nature of complaints against the Council that were made to the Local Government Ombudsman (the “LGO”), and provide details on the changes to the LGO’s complaints processes and its Annual Review letter.

Recommendations

The Committee is recommended to note the contents of the report.

Reasons for Recommendations

- 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.

Background Papers: [SCD 12] - LGO Focus Report
[SCD 13] - LGO Publication

Consultation: None

Wards affected: All

Contact: Paul Cummins, extension 5435

Background Information

1 Introduction

The purpose of this report

- 1.1 The purpose of this report is to update Members on the number, nature and the current position of complaints made to the LGO. The report shall also provide details on the changes to the LGO's complaints processes and its Annual Review letter.

Background/Actions taken to date

- 1.2 The LGO requires complainants to exhaust the Council's internal complaints procedure before it will investigate a complaint. Where the LGO receives a complaint that has not first been processed internally by the Council, it will normally refer the complainant to the Council's internal complaints procedure, and log such complaints as "premature complaints". In urgent circumstances, however, the LGO will inform the Council that it has opted to investigate a complaint without referral to the Council's internal complaints procedure.
- 1.3 The LGO continues to investigate complaints following exhaustion of the Council's internal complaints procedure. The LGO now, however, issues decisions without investigation, for example, where the details provided by the complainant appear to show that a lengthy timescale has elapsed from the date of the subject matter of the complaint.
- 1.4 Details of all complaints, compliments and suggestions advised to the Complaints and Information Officer are considered by the Performance Management Working Group on a quarterly basis.

2 Statutory and Policy Background

Statutory background

- 2.1 The statutory background is found in the Local Government Act 1974 (as amended) and the Local Government and Public Involvement in Health Act 2007.
- 2.2 The Local Government Act 1974 (as amended) specifies the two main statutory functions for the LGO:
- 2.2.1 To investigate complaints against councils and some other authorities; and
- 2.2.2 To provide advice and guidance on good administrative practice.
- 2.3 The Local Government and Public Involvement in Health Act 2007, also sets out the LGO's role:
- 2.3.1 The LGO may look at service failure in addition to maladministration;
- 2.3.2 The LGO will have a limited power to investigate where an apparent case of maladministration comes to light even though they have received no complaint about the matter;

- 2.3.3 Complaints about the procurement of goods and services are within its jurisdiction;
- 2.3.4 The LGO may issue a 'statement of reasons' instead of a report if they are satisfied with the council's proposals to remedy its failures;
- 2.3.5 There are new powers to publish the LGO's decisions other than reports; and
- 2.3.6 Complaints no longer need to be in writing.

- 2.4 The LGO also has jurisdiction in areas that do not directly relate to the Council's services, and its jurisdiction and operations are set out within the Local Government and Public Involvement in Health Act 2007, the Health Act 2009 and the Apprenticeship, Skills, Children and Learning Act 2009.

Relevant Government policy

- 2.5 The relevant Government policy is contained within the legislation cited in paragraph 2.1 above.

Relevant Council policy

- 2.6 The Council's Complaints Procedure for handling comments, representations, criticisms of policy and formal complaints can now be found on the Council's website via the following link: <http://www.horsham.gov.uk/contact/comments-and-complaints>. It was decided that it should be removed from Part 5D of the Constitution at the meeting of the full Council on 25 February 2015.

3 Complaints

Since the last Local Government Ombudsman Update to the Standards Committee in September 2014, there have been six complaints about Horsham District Council to the LGO; anonymised details of these complaints can be found in Appendix 2.

The first complaint concerned the Council's response to a complaint about possible noise nuisance. The other recorded complaints concerned enforcement of Council Tax arrears, errors/delays in Housing Benefit payment and the final three were planning related.

In 1974, the first year of the Local Government Ombudsman it received more complaints about planning than any other area. Over forty years later planning is still one of the most complained about matters. In response to requests from local authorities, councillors and MPs to share more information from its investigations the LGO produced a focus report about learning lessons from planning complaints. The report published in December 2014 called - ***Not in my back yard: Local people and the planning process [SCD 12]*** can be accessed via the following link: <http://www.lgo.org.uk/publications/advice-and-guidance#focus>

The LGO indicated that the main aims of the report are to

- Help local people understand more about the planning process and the impact they can have on planning decisions

- Help explain the role and powers of the LGO in providing redress and supporting independent scrutiny of decisions
- Encourage greater transparency in the way councils reach decisions through sharing the lessons from complaints.

The middle section of the report details the personal stories of complainants and the redress they were given. The final part of the report covers feedback from complainants and includes a check list of good practice for councils to follow.

- 4** In January 2015 the LGO published findings from a roundtable event about ensuring effective local accountability. The report Local Accountability in a multi-agency environment **[SCD13]** can be accessed via the following link: <http://www.lgo.org.uk/news/2015/jan/lgo-leads-debate-local-accountability/>. It looks at the need for local services to remain accountable to the people that use them where services are provided by a number of agencies pooling their resources in joint venture. As the role of public authorities' changes they will have less direct control of provision of services but retain influence as commissioners of services on behalf of local people, so there need to be clear methods of redress for citizens who receive the services.

5 Next Steps

- 5.1 This report is based on the complaints that the LGO has investigated. It is intended that this report will assist with learning lessons and improve the Council's performance.

6 Outcome of Consultations

- 6.1 Not applicable.

7 Other Courses of Action Considered but Rejected

- 7.1 Not applicable.

8 Staffing Consequences

- 8.1 There are no staffing consequences flowing from this report.

9 Financial Consequences

- 9.1 Members should note that as the LGO can recommend compensation payments where it determines that complaints should be upheld, the Council must pay those compensation payments to the complainant(s).

10 Other Consequences of the Proposed Action

- 10.1 Other consequences of the proposed action are set out in Appendix 1.

Appendix 1

Consequences of the Proposed Action

What are the risks associated with the proposal?	The report will assist the Council with learning lessons and improving its performance.
Risk Assessment attached Yes/No	No.
How will the proposal help to reduce Crime and Disorder?	This report does not directly affect the Council's duty to reduce crime and disorder.
How will the proposal help to promote Human Rights?	Responding to complaints effectively and learning from the process, together with the adoption of the ethical framework will enhance citizens' human rights in all their aspects.
What is the impact of the proposal on Equality and Diversity?	<p>The Council is committed to the values of Equality and Diversity in relation to the provision of services and when serving residents.</p> <p>It has adopted a Single Equality Scheme as a public commitment of how the Council will meet the duties placed upon it by equality legislation.</p> <p>Having the right climate to accept and respond effectively to complaints against the Council will ensure the duties placed upon the Council by equality legislation are considered.</p>
Equalities Impact Assessment attached Yes/No/Not relevant	No.
How will the proposal help to promote Sustainability?	This report does not directly help to promote sustainability.

Appendix 2: Ombudsman Complaints 2014/15 reporting year case schedule from 01 September 2014

Ref	Nature of Complaint	Date Received from LGO	Current Position	Date Determined	Further Action	Lesson Learnt
LGO 001	Failure of the Council to respond to a complaint dated 11 May relating to alleged failure of the council to consult with Environmental Health Officers in relation to siting of Henfield skate park close to residential properties.	17.09.14	24.09.14 Confirmed to LGO that complaint is ongoing as we are engaging consultants to carry out a base line assessment on noise. Once this is received we intend to discuss the matter with the complainant. 29.09.14 LGO confirmed case closed as premature & council must complete the complaints procedure.	29.09.14	Investigation to be completed & appropriate actions to be carried out following discussion with complainant.	
LGO 002	Alleges that errors & delays in processing application for housing benefit caused the complainant to lose their home. Also caused an overpayment which she now has to pay back.	17.09.14	22.09.14 confirmed to LGO that complaints procedure has been exhausted No Further action. Case not investigated by LGO as unlikely to find fault & alternative route of appeal was available at the time.	02.10.14	N/A	N/A
LGO 003	Allegations that the Council's consideration of a complaint made against a councillor and subsequent decision was unjust.	03.10.14	LGO decided not to investigate as the council followed the procedure laid down in the Localism Act 2011 & therefore there is no evidence of fault in decision making.	03.10.14	N/A	N/A

LGO 004	Allegation that the Council delayed unreasonably in pursuing her for council tax arrears covering the time she was living at 2 previous addresses in Horsham. Despite knowing where she was living the Council did not contact her about the debts and instead passed her case on to debt collectors and she has incurred additional charges as a result.	15.12.14	16.02.15 LGO Decision not to investigate further as no evidence of fault by the Council. With regard to parts of complaint relating to Council tax benefit & liability the matter falls outside LGO jurisdiction as Mrs A has or had an alternative appeal by way of appeal rights to the relevant statutory body.	16.02.15	N/A	
LGO 005	Allegation that the Council did not correctly consider their objections to a planning application.	05.02.15	04.02.15 all information requested from Planning & referred to relevant officer for a comment.			
LGO 006	Allegation that a named officer was vindictive and unreasonably pursued the complainants re a planning enforcement matter.	10.02.15	10.02.15 LGO issued draft decision notice as outside jurisdiction as the complainant has appealed to the planning inspector.			