

Standards Committee

Wednesday 16th September at 10.00am
Pevensey & Rye Rooms, Parkside, Chart Way, Horsham

Councillors: Ian Howard (Chairman)
David Coldwell (Vice-Chairman)
Brian Donnelly
Mike Morgan
Godfrey Newman
Brian O'Connell
Tricia Youtan

Co-opted advisory members:
John Donaldson
Mary Jagger
Val Court *
Kieran Diamond*
Independent Person
Independent Person
Parish Council Representative
Parish Council Representative

* Subject to approval by Council on 9th September

You are summoned to attend 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 10 th June 2015 (attached)	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 of the Monitoring Officer	
5. To consider the following reports of the Monitoring Officer	
a) The Ethical Framework Update	5
b) Report on the Sussex Independent Person Conference (oral)	
6. 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

10th June 2015

Present: Councillors: David Coldwell, Ian Howard, Godfrey Newman, Tricia Youtan

Advisory members

Present: Independent Person: John Donaldson

Apologies: Councillors: Brian Donnelly, Brian O'Connell
Independent Person: Mary Jagger

SC/1 **ELECTION OF CHAIRMAN**

RESOLVED

That Councillor Ian Howard be elected Chairman of the Committee.

SC/2 **APPOINTMENT OF VICE-CHAIRMAN**

RESOLVED

That Councillor David Coldwell be appointed Vice-Chairman of the Committee.

SC/3 **TIMES OF MEETINGS OF THE COMMITTEE FOR THE ENSUING YEAR**

RESOLVED

That meetings of the Committee be held at 10.00am for the ensuing Council year.

SC/4 **MINUTES**

The minutes of the meeting of the Committee held on 18th March 2015 were approved as a correct record and signed by the Chairman.

SC/5 **DECLARATIONS OF INTEREST**

There were no declarations of interest.

SC/6 **ANNOUNCEMENTS**

The Monitoring Officer advised that two new Parish Council representatives to sit on the Standards Committee would be nominated at the Horsham Association of Local Councillors meeting on 6th July 2015.

SC/6 Announcements (cont.)

The Monitoring Officer announced that an Independent Persons Conference, hosted by Horsham District Council, would be held at the Capitol Theatre on 17th July. There would be three external trainers at the Conference, including from Hoey Ainscough Associates who are one of the leading trainers in Standards matters. There was an excellent take up for the conference with most of the Independent Persons from local authorities in Sussex scheduled to attend.

New government regulations regarding disciplinary matters for statutory officers had been introduced. The Monitoring Officer advised that this change would give Independent Persons a new role in advising on relevant disciplinary cases, with any decision to be made by full Council.

Membership of the Committee, as agreed at Council in May, now resulted in there being two Cabinet Members following the announcement of appointments to Cabinet. This was contrary to the Constitution. The Chairman would therefore discuss the makeup of the Committee with the Leader of the Council and a new member would be appointed accordingly.

SC/7 **MINUTES OF THE LOCAL ASSESSMENT SUB-COMMITTEE**

The minutes of the meeting of the Local Assessment Sub-Committee held on 15th April 2015 were received.

SC/8 **STANDARDS COMMITTEE WORKS PROGRAMME**

The Standards Committee works programme was discussed by the Committee. In particular the following points were noted:

- 4 Prepare annual report for presentation to full Council: This was considered to be good practice and Members agreed that the Monitoring Officer would prepare a draft report for circulation to the Committee and for it to be included on the next Committee agenda.
- 5 Promotion of the role and work of the Standards Committee: It was agreed that the information about Standards Committee on the website should be reviewed and discussed at the next meeting.
- 6 Attendance at Council and other meetings: The Monitoring Officer advised that this item had been required by the previous standards regime when the Chairman and Vice Chairman of the Committee had been independent members. The item would therefore be removed from the works programme.
- 7 Liaison with Chief Executive, Leader and Leader of Opposition: The Monitoring Officer would mention this informally to the Chief Executive and

SC/8 Standards Committee Works Programme (cont.)

Leader of the Council. It was not considered necessary at this time to invite them to attend a Standards Committee meeting.

9 Standards Training: Training on standards and other aspects of governance had been arranged for Members on 15th July as part of the schedule of induction events for new Councillors. Further training for Committee Members, possibly on an individual basis, would be arranged as and when required.

10 Review of Register of Interests: All District Councillors had returned their Members Interest forms by the deadline. The information required on this form would be reviewed by the Committee in due course.

13 Review of Local Standards Regime: The Council had resolved in May 2014 that the standards regime be reviewed within the first year of the new Council. This would be undertaken later in the year.

The meeting finished at 10.54 having commenced at 10.00am.

CHAIRMAN

Report to Standards Committee

16 September 2015

By the Monitoring Officer

INFORMATION REPORT

Not exempt



Horsham
District
Council

Ethical Framework Update: September 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' Horsham Association of Local Councils (HALC) Meeting;
 - Parish Representatives
 - Register of Interests;
 - Work programme update.
 - 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

Relevant Legislation

Wards affected: All

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 March 2015.

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 As part of the programme of Induction for new Members, the Monitoring Officer conducted a training session on 15 July 2015 on the Structure of the Council including the Constitution and the Code of Conduct. The session was well attended by Councillors and provoked some interesting debate.
- 3.3 On 17 July 2015 a conference for Sussex Independent Persons was held at the Capitol Theatre, Horsham. The majority of Independent Persons in Sussex attended and nearly every Sussex Council was represented by at least one Independent Person. The speakers at the conference were three of the leading practitioners in the area, Natalie Ainscough and Paul Hoey from Hoey Ainscough Associates and Jonathan Goolden from Wilkin Chapman LLP Solicitors. As a result of the conference Independent Persons across Sussex exchanged emails so that an informal forum could be facilitated and going forward Independent Persons were enthused to attend a similar event in 6-12 months.

Local assessment, other action, investigations and determinations

- 3.4 Attached as Appendix 2 is the schedule of all assessment, other action, investigation and determination decisions since March 2015.

Local Assessment

- 3.5 Since the last Ethical Framework Update was presented to this Committee in March 2015 the Local Assessment Sub-Committee has met once to assess a complaint, details are contained in Appendix 2.
- 3.6 Two further complaints relating to Parish Councillors have recently been received but have yet to be assessed.

Other Action Directed

- 3.7 Since the date the last Ethical Framework Update was presented to this Committee in March 2015, no cases have been referred to the Monitoring Officer for Other Action.

Local Investigations

- 3.8 Since the date the last Ethical Framework Update was presented to this Committee in March 2015, no Local Investigations have been carried out.

Local Determinations

- 3.9 Since the date the last Ethical Framework Update was presented to this Committee in March 2015, no Local Determinations have been carried out.

Parish Clerks' HALC Meeting

- 3.10 The Monitoring Officer and Deputy Monitoring Officer attended the HALC Clerks meeting on 19 May 2015 together with the new Development Manager. The Monitoring Officer gave a talk about the latest corporate update from Horsham

District Council. The Development Manager then gave an overview of the Planning Department. All the HDC Officers present then answered questions from the audience of Parish Clerks.

Parish Representatives on the Standards Committee

- 3.11 Following the Elections every four years it is necessary for HALC to nominate two Parish Representatives for the Standards Committee. HALC has nominated Val Court of Nuthurst Parish Council and Kieran Diamond of Southwater Parish Council. Appointments are a decision for Full Council and the nominations will therefore be recommended to Full Council on 9 September 2015.

Register of Interests

- 3.12 The Registers of Interest forms for parish councillors were completed after the elections in May. 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 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

- 3.14 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 2015-2016. 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

<p>What are the risks associated with the proposal?</p> <p>Risk Assessment attached Yes/No</p>	<p>Failure to keep Members up to date with developments in the ethical framework may lead to a diminution of ethical standards amongst Members.</p> <p>No.</p>
<p>How will the proposal help to reduce Crime and Disorder?</p>	<p>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.</p>
<p>How will the proposal help to promote Human Rights?</p>	<p>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.</p>
<p>What is the impact of the proposal on Equality and Diversity?</p> <p>Equalities Impact Assessment attached Yes/No/Not relevant</p>	<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> <p>No.</p>
<p>How will the proposal help to promote Sustainability?</p>	<p>Where possible electronic means of communication are used.</p>

Appendix 2 Local Assessment schedule

Local Assessment of Complaints from March 2015

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
CES107	District	15 April 2015	Councillor	12 March 2015	The Complainant alleged that the Subject Member had breached the Code of Conduct by using the resources of the Authority not in accordance with the Authority's reasonable requirements and/or using the resources of the authority for party political purposes by asking the Press Office to send a press release (that the Councillor had draft) to the media. The Sub-Committee found that the Councillor had not breached the Code of Conduct because the Councillor had acted innocently in trying to deal with a media enquiry on behalf of a another Councillor.	23	LASC	No Further Action

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.	Monitoring Officer to advise
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

A former leader of Dorset County Council is thought to have become the first councillor to be found guilty of an offence under the pecuniary interest provisions of the Localism Act 2011.

The charge against Spencer Flower, who is also a councillor at East Dorset District Council, was that on 25 February 2013 at Dorset, he was present at a meeting about the East Dorset Core Strategy and had a disclosable pecuniary interest in a matter considered at that meeting and without reasonable excuse, participated in the vote taken at that meeting.

At the time Flower was a non-executive director of Synergy Housing, a charity that exists to provide homes for those in need. He held that role from 2004 until 24 September 2013. Although not paid a salary, he received remuneration payments of £29,920 for the years 2010 to 2013

Flower listed this interest in pecuniary interests forms submitted to East Dorset and the county council in July 2012.

The defendant pleaded not guilty to one requisition under sections 31 (1) and (4) and 34 (1) (b) and (3) of the 2011 Act. Two other charges against him had been dropped.

At Bournemouth Magistrates' Court District Judge Nicholls noted that the defendant was a man of good character and the court had received a number of character references from people speaking highly of his abilities, his conscientiousness and his years of public service.

Flower's view was that the matters at the relevant meeting in relation to the Core Strategy were of a broader nature and did not concern detailed issues of planning and ownership.

The judge nevertheless concluded that the defendant should – prior to the meeting – have taken time to consider his position.

The 2011 Act made it clear that having declared his interest in Synergy Housing, the defendant could not take part in that meeting, the judge said.

Flower could have obtained a dispensation, he added, and had previously made use of such a dispensation in relation to council tax.

District Judge Nicholls suggested that it would not have been unreasonable for the defendant to have consulted the monitoring officer. The onus remained on the member to deal with matters.

The judge found that Flower was prevented by the Localism Act from taking part in the meeting on 25 February 2013. Without a dispensation, he could not take part.

The meeting, District Judge Nicholls noted, was to consider the Core Strategy. Synergy had responded to the consultation, owned land (Cuthbury Close in Wimborne*) that was being considered and was a part of the details contained in the Core Strategy.

Flower had previously attended a meeting of Synergy where the long-term use of the land at Cuthbury Close had been discussed. It was not a reasonable excuse to effectively fail to consider those matters in the defendant's knowledge, the judge said.

It was incorrect to assert, as the defendant had done, that the Core Strategy had no relevance to the pecuniary matters considered at a meeting as set out in paragraph 31 of the 2011 Act.

The defendant was under a positive duty under s. 31 (4) not to participate and not to vote, the judge said.

District Judge Nicholls said that whilst Flower's participation in the 25 February 2013 meeting could not on the evidence before the court lead to any direct benefit to him, the 2011 Act made it clear he should not take part or vote at that meeting. The defendant had failed to satisfy the court that what he did amounted to a reasonable excuse.

Flower was given a six-month conditional discharge and ordered to pay £930 in costs.

After the hearing, he [told the BBC](#) : "I am surprised and disappointed that the court has found for the prosecution this morning on a technicality.

"The decision was a conditional discharge for six months - the lowest possible penalty.

"The court emphasised the total lack of any personal gain or intent on my part."

Detective Inspector Neil Devoto of Dorset Police said: "This was a meticulous and impartial investigation into allegations under section 31 and 34 of the Localism Act 2011 following a referral from the East Dorset District Council (EDDC) Monitoring Officer. The Localism Act 2011 is relatively new and I believe that this is one of the first offences brought to trial under this legislation.

"Dorset Police is duty bound to consider evidence and investigate all allegations of criminality. In conjunction with the CPS a decision was made to bring charges. It was decided that charging Mr Flower was in the public interest. It is important that the public have confidence in local representatives and local politics and can trust that due process takes place."

A Dorset County Council spokesman said: "The county council requires the highest standards of probity and compliance from its members, and takes such matters extremely seriously.

"The Localism Act 2011 protects communities and individuals. It ensures that the work we do is transparent and is in the best interest of Dorset residents.

"The court has allowed Cllr Flower to remain an elected member and he can continue as a valued member of the county council."

* The prosecution asserted that the terms of a deal between Synergy and a local building firm meant the charity's flats in Cuthbury Close would be demolished and open up better development opportunities for the firm at the Cuthbury site. The building firm would then provide

Synergy with replacement modern housing units at Cuthbury Allotments.

Kingston Council has unveiled plans to give voters the chance to remove their councillor if they fail to meet a set of defined standards.

Under the Royal Borough's proposals, a number of scenarios could trigger a petition calling for a by-election. These include:

- if a councillor's attendance at meetings over a municipal year falls below 20%;
- if a councillor attends fewer than two full council or neighbourhood committee meetings within a year;
- if a councillor is convicted of a crime for which a prison sentence has been imposed and the appeal period has expired without the sentence having been overturned;
- if a councillor moves their main residence outside of the borough.

Where one or more of these criteria are met, Kingston's monitoring officer would consider the circumstances and whether a petition should be launched on the council web site calling for the resignation of the councillor concerned. Such a petition would remain live for three months.

If more than 33% of the registered electors in the ward in question sign the petition, there would be an expectation that the councillor concerned would resign thereby triggering a by-election.

The arrangement would be a non-statutory protocol that members would be required to sign at the earliest opportunity on taking office.

The council has acknowledge that the arrangements could not be forced upon any member as this would require legislation.

Kingston said the move was designed to build greater trust in local government and elected representatives. It forms part of a wider programme of constitutional reforms called *Renewing Kingston's Democracy* which the council said it was taking forward in a bid to improve the way it works by engaging better with local people.

The plans – which have been backed by the area’s two MPs, Zac Goldsmith and James Berry – will go before full council in July 2015.

Cllr Kevin Davis, Leader of Kingston Council, said: “At a time of massive challenges for local government we need to connect better than ever before with local people. In order to do that we must win greater trust and that is exactly what these measures are designed to help us do.

“Most local councillors work incredibly hard on behalf of their constituents. But occasionally the behaviour of local councillors falls below a standard that voters have a right to expect. Under these new recall proposals, voters in Kingston would be able to do something about it; to kick them out of office and have a fresh election.”

Cllr Davis added that he would be writing to all the Leaders of the 150 unitary authorities calling on them to follow Kingston’s approach. He will also be lobbying ministers to consider introducing new legislation that would give the protocol a statutory footing.

“I believe this approach should be used across local government to open up transparency, but also show Government that when it comes to recall we must trust the voter and not leave it to committees of politicians to decide when wrong has been done,” he said. “The voter knows best, let’s trust them.”