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Standards Committee

Wednesday, 13th March, 2019 at 10.00 am
Conference Room, Parkside, Chartway, Horsham

Councillors: David Coldwell (Chairman)
Mike Morgan (Vice-Chairman)
Peter Burgess
Brian Donnelly
Paul Marshall
Godfrey Newman
Michael Willett

Co-opted advisory members

John Donaldson
Philip Baxter
Val Court
Independent Person
Parish Council Representative
Parish Council Representative

You are summoned to the meeting to transact the following business

Glen Chipp
Chief Executive

Agenda

	Page No.
1. Apologies for absence	
2. Minutes To approve as correct the minutes of the meeting held on 12 th September 2018 <i>(Note: If any Member wishes to propose an amendment to the minutes they should submit this in writing to committeeservices@horsham.gov.uk at least 24 hours before the meeting. Where applicable, the audio recording of the meeting will be checked to ensure the accuracy of the proposed amendment.)</i>	3 - 6
3. Declarations of Members' Interests To receive any declarations of interest from Members of the Committee	
4. Announcements To receive any announcements from the Chairman of the Committee, the Chief Executive or the Monitoring Officer	
5. Standards Update: March 2019 To receive the report of the Monitoring Officer	7 - 14
6. Urgent Business 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
12 SEPTEMBER 2018

Present: **Councillors:** David Coldwell (Chairman), Mike Morgan (Vice-Chairman), Peter Burgess, Brian Donnelly, Godfrey Newman, Michael Willett, Mary Jagger, Philip Baxter and Val Court

Apologies: Councillor Paul Marshall and John Donaldson

SC/9 **MINUTES**

The minutes of the meeting of the Committee held on 6 June were approved as a correct record and signed by the Chairman.

SC/10 **DECLARATIONS OF MEMBERS' INTERESTS**

There were no declarations of interest.

SC/11 **ANNOUNCEMENTS**

The Chairman announced that Mary Jagger was resigning from the role of Independent Person and this would be her last Standards Committee. Members of the Committee joined him in thanking her for her exemplary service of many years and for her helpful and wise advice.

SC/12 **THE LOCAL GOVERNMENT & SOCIAL CARE OMBUDSMAN ANNUAL REVIEW 2017-2018**

The Feedback Officer reported on the number, nature and outcomes of complaints about the Council that had been made to the Local Government and Social Care Ombudsman (LGSCO) in 2017/2018. There had been 26 complaints, which was an increase on the 14 complaints made in 2016/17.

Members noted details of the complaints as set out in the report: 13 had been closed without investigation after initial enquires; six had been referred back to the Council for local resolution; four had not been upheld; and three had been upheld. The three upheld complaints were minor in nature, with no injustice found and no financial remedy sought.

Committee Members congratulated officers for their work and considered that the Ombudsman's summary of investigated complaints reflected well on the Council.

The Customer Services Manager said that there were about a dozen persistent complainers who took up a significant amount of officers' time. Members discussed the impact of persistent complainers and vexatious complainers.

The Monitoring Officer advised that legal advice was being sought, with the backing of the Chief Executive, on what actions could be taken to address this issue, in particular on how to address offensive and vexatious complainers. With regards to Code of Conduct complaints, this could include a collective approach with some Parishes where necessary.

The Chairman requested that the Monitoring Officer report back to the Committee on the outcome of these discussions.

RESOLVED

That the contents of the report be noted.

REASONS

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. In addition the Council uses its complaints process to improve services delivery.

SC/13 **STANDARDS UPDATE: SEPTEMBER 2018**

The Monitoring Officer presented an update on recent developments in matters of interest relating to ethical standards and the code of conduct. The report focussed on training and awareness, and local assessment and investigations.

Training for Parish and District Councillors was being arranged by the Monitoring Officer. This would be facilitated by a leading public law barristers chambers and include training on Declaration of Interests, Code of Conduct matters and using social media. The Committee agreed with the Monitoring Officer that the training, which has been offered for free, should be arranged for November. The Parish Representative requested that Parish Clerks be invited to attend.

Members noted the report from NALC that advised that a majority of councils would support a single mandatory code of conduct and new powers to impose additional sanctions. The NALC Chairman's statement regarding the need for a national training programme and concern that the current ethical standards arrangements were not working well was also noted.

The NALC report broadly reflected the views expressed by the Standards Committee in its response to the Local Government Ethical Standards consultation carried out by the Committee on Standards in Public Life. The Monitoring Officer advised that the report following this consultation should be available by the end of the year.

The Monitoring Officer advised the Committee that she was intending to update the published information on the Council website regarding the complaints

assessment process. This was to make it clearer by removing potentially conflicting advice and ensuring it was in line with the provisions of the Localism Act. The Committee agreed with this approach.

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/14 **URGENT BUSINESS**

There was no urgent business.

The meeting closed at 11.20 am having commenced at 10.00 am

CHAIRMAN

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Report to Standards Committee

13 March 2019

By the Monitoring Officer

INFORMATION REPORT



**Horsham
District
Council**

Not Exempt

Standards Update: March 2019

Executive Summary

The Council has determined that the Standards Committee shall be responsible for receiving and considering reports on matters of probity and ethics. This report provides details regarding the long awaited report of the Committee for Standards in Public Life report published on 30 January 2019.

Recommendations

The Committee is asked to note the contents of 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

Localism Act 2011

Wards affected: All

Contact: Sharon Evans
Monitoring Officer
Ext. 5538

Background Information

1 Introduction and Background

- 1.1 The purpose of this report is to inform and update Members of the Council on matters of interest relating to ethical standards and the code of conduct.

2 Relevant Council and Government policy

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

3 Details

The Committee on Standards in Public Life (the "CSPL") was established in 1994 and is responsible for promoting the Seven Principles of Public Life: selflessness, integrity, objectivity, accountability, openness, honesty, and leadership – commonly known as the Nolan Principles. The full report, which runs to 108 pages and is therefore not attached, can be accessed here:

<https://www.gov.uk/government/organisations/the-committee-on-standards-in-public-life>

- 3.2.1 The terms of reference for the CSPL's review were to:

- 3.2.1 Examine the structures, processes and practices in local government in England for:
- a. Maintaining codes of conduct for local councillors
 - b. Investigating alleged breaches fairly and with due process
 - c. Enforcing codes and imposing sanctions for misconduct
 - d. Declaring interests and managing conflicts of interest
 - e. Whistleblowing

- 3.2.2 Assess whether the existing structures, processes and practices are conducive to high standards of conduct in local government

- 3.2.3. Make any recommendations for how they can be improved

- 3.2.4 Note any evidence of intimidation of councillors, and make recommendations for any measures that could be put in place to prevent and address such intimidation.

- 3.3 The CSPL observed that local government impacts the lives of citizens every day. Local authorities are responsible for a wide range of important services: social care, education, housing, planning and waste collection, as well as services such as

licensing, registering births, marriages and deaths, and pest control. Their proximity to local people means that their decisions can directly affect citizens' quality of life.

- 3.4 High standards of conduct in local government are therefore needed to protect the integrity of decision-making, maintain public confidence, and safeguard local democracy.
- 3.5 The evidence received by the CSPL supports the view that the vast majority of councillors and officers maintain high standards of conduct. There was, however, clear evidence of misconduct by some councillors. The majority of these cases relate to bullying or harassment, or other disruptive behaviour. There was also evidence of persistent or repeated misconduct by a minority of councillors.
- 3.6 The CSPL were also concerned about a risk to standards under the current arrangements, as a result of the current rules around declaring interests, gifts and hospitality, and the increased complexity of local government decisionmaking.
- 3.7 The CSPL considered that giving local authorities responsibility for ethical standards has a number of benefits. It allows for flexibility and the discretion to resolve standards issues informally. The CSPL specifically considered whether there is a need for a centralised body to govern and adjudicate on standards, in the same way as there used to be the Standards' Board for England, however the Committee concluded that whilst the consistency and independence of the system could be enhanced, there is no reason to reintroduce a centralised body, and that local authorities should retain ultimate responsibility for implementing and applying the Seven Principles of Public Life in local government.
- 3.8 Recommendations and identified best practice was highlighted by the CSPL to improve ethical standards in local government. The recommendations are made to government and to specific groups of public office-holders and these recommendations include a number of changes to primary legislation, including the introduction of the right to suspend a member for up to 6 months, all of which would be subject to Parliamentary timetabling; but also to secondary legislation and the Local Government Transparency Code, which the CSPL indicates could be implemented more swiftly. The government have a period of 3 months in which to formally respond to the CSPL recommendations.
- 3.9 Of particular interest to Members will be the CSPL best practice recommendations for local authorities which they indicate should be considered a benchmark of good ethical practice, which the Committee expects that all local authorities can and should implement. The Committee has indicated that they propose reviewing the implementation of the best practice in 2020. A full set of the good practice recommendations are set out at Appendix A for Members' ease of reference.
- 3.10 The report by the CSPL deals with a number of specific areas. Of particular interest to members will be the provisions relating to Codes of Conduct, declaring and managing interests, investigations and safeguards and sanctions. More detail is provided in relation to each of these areas below.

Code of Conduct

- 3.11 Local authorities are currently required to have in place a code of conduct of their choosing which outlines the behaviour required of councillors. The CSPL found that there is considerable variation in the length, quality and clarity of codes of conduct and considered that this creates confusion among members of the public, and among councillors who represent more than one tier of local government. The CSPL considered that many codes of conduct fail to address adequately, important areas of behaviour such as social media use and bullying and harassment. The CSPL therefore recommends that an updated model code of conduct should be made available to local authorities in order to enhance the consistency and quality of local authority codes.
- 3.12 The CSPL considered that there are, however, benefits to local authorities being able to amend and have ownership of their own codes of conduct. The updated model code should therefore be voluntary and able to be adapted by local authorities. There is a specific recommendation that the scope of the code of conduct should also be widened, with a rebuttable presumption that a councillor's public behaviour, including comments made on publicly accessible social media, is in their official capacity.

Declaring and managing interests

- 3.13 The CSPL found that the current arrangements for declaring and managing interests are unclear, too narrow and do not meet the expectations of councillors or the public. The CSPL recommends that the current requirements for registering interests should be updated to include categories of nonpecuniary interests. There is also a recommendation that the current rules on declaring and managing interests should be repealed and replaced with an objective test, in line with the devolved standards bodies in Scotland, Wales and Northern Ireland.

Investigations and safeguards

- 3.14 Monitoring Officers have responsibility for filtering complaints and undertaking investigations into alleged breaches of the code of conduct. The CSPL noted that each local authority should maintain a standards committee which may advise on standards issues, decide on alleged breaches and sanctions, or a combination of these. Independent members of decision-making standards committees should be able to vote.
- 3.15 Any standards process needs to have safeguards in place to ensure that decisions are made fairly and impartially, and that councillors are protected against politically-motivated, malicious, or unfounded allegations of misconduct. The CSPL considered that the Independent Person is an important safeguard in the current system. This safeguard should be strengthened and clarified: a local authority should only be able to suspend a councillor where the Independent Person agrees both that there has been a breach and that suspension is a proportionate sanction. The CSPL considered that the Independent Persons should have fixed terms and legal protections. The view of the Independent Person in relation to a decision on which they are consulted should be published in any formal decision notice.

Sanctions

- 3.16 There was consensus that the current sanctions available to local authorities are insufficient. Party discipline, whilst it has an important role to play in maintaining

high standards, lacks the necessary independence and transparency to play the central role in a standards system. The CSPL found that the current lack of robust sanctions damages public confidence in the standards system and leaves local authorities with no means of enforcing lower level sanctions, nor of addressing serious or repeated misconduct.

- 3.17 The CSPL therefore recommended to government that local authorities should be given the power to suspend councillors without allowances for up to six months. Councillors, including parish councillors, who are suspended should be given the right to appeal to the Local Government Ombudsman, who should be given the power to investigate allegations of code breaches on appeal. The decision of the Ombudsman should be binding.
- 3.19 Finally, the CSPL indicated that the current criminal offences relating to Disclosable Pecuniary Interests are disproportionate in principle and ineffective in practice, and should be abolished.

4. FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS

- 4.1 There are no direct financial implications arising from this report.

5. LEGAL CONSIDERATIONS

- 5.1 There are no additional legal considerations arising from the contents of this report which are not set out in the body of the report.

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APPENDIX A

List of best practice

Best practice 1: Local authorities should include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition.

Best practice 2: Councils should include provisions in their code of conduct requiring councillors to comply with any formal standards investigation, and prohibiting trivial or malicious allegations by councillors.

Best practice 3: Principal authorities should review their code of conduct each year and regularly seek, where possible, the views of the public, community organisations and neighbouring authorities.

Best practice 4: An authority's code should be readily accessible to both councillors and the public, in a prominent position on a council's website and available in council premises.

Best practice 5: Local authorities should update their gifts and hospitality register at least once per quarter, and publish it in an accessible format, such as CSV.

Best practice 6: Councils should publish a clear and straightforward public interest test against which allegations are filtered.

Best practice 7: Local authorities should have access to at least two Independent Persons.

Best practice 8: An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation, and should be given the option to review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious, or trivial.

Best practice 9: Where a local authority makes a decision on an allegation of misconduct following a formal investigation, a decision notice should be published as soon as possible on its website, including a brief statement of facts, the provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker, and any sanction applied.

Best practice 10: A local authority should have straightforward and accessible guidance on its website on how to make a complaint under the code of conduct, the process for handling complaints, and estimated timescales for investigations and outcomes.

Best practice 11: Formal standards complaints about the conduct of a parish councillor towards a clerk should be made by the chair or by the parish council as a whole, rather than the clerk in all but exceptional circumstances.

Best practice 12: Monitoring Officers' roles should include providing advice, support and management of investigations and adjudications on alleged breaches to parish councils within the remit of the principal authority. They should be provided with adequate training, corporate support and resources to undertake this work.

Best practice 13: A local authority should have procedures in place to address any conflicts of interest when undertaking a standards investigation. Possible steps should include asking the Monitoring Officer from a different authority to undertake the investigation.

Best practice 14: Councils should report on separate bodies they have set up or which they own as part of their annual governance statement, and give a full picture of their relationship with those bodies. Separate bodies created by local authorities should abide by the Nolan principle of openness, and publish their board agendas and minutes and annual reports in an accessible place.

Best practice 15: Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.