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Standards Committee

Wednesday, 29th November, 2023 at 5.30 pm
Conference Room, Parkside, Chart Way, Horsham

Councillors: Tony Bevis (Chairman)
Belinda Walters (Vice-Chairman)
Mark Baynham
Joan Grech
Lynn Lambert

David Skipp
Tricia Youtan

Co-opted advisory members

John Donaldson
Michael Rumble
David Green
Stephen Watkins

Independent Person
Independent Person
Parish Council Representative
Parish Council Representative

You are summoned to the meeting to transact the following business

Jane Eaton
Chief Executive

Agenda

| | Page No. |
|--|----------|
| 1. Apologies for absence | |
| 2. Minutes | 3 - 8 |
| <i>To approve as correct the minutes of the meeting held on 26 July 2023 (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. 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. **The Local Government & Social Care Ombudsman Annual Review 2022/23** 9 - 16
To consider the report of the Feedback Officer

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
26 JULY 2023

Present: Councillors: Tony Bevis (Chairman), Joan Grech, Lynn Lambert,
David Skipp, Belinda Walters (Vice-Chairman), Tricia Youtan,

Independent Persons: John Donaldson and Michael Rumble
Parish Representative: Stephen Watkins

Apologies: Councillors: Mark Baynham

Also Present: Councillors: Martin Boffey and Victoria Finnegan

SC/4 **MINUTES**

The minutes of the meeting held on 15 March and 24 May were approved as a correct record and signed by the Chairman.

SC/5 **DECLARATIONS OF MEMBERS' INTERESTS**

There were no declarations of interest.

SC/6 **ANNOUNCEMENTS**

The Chairman wished to thank the Committee for electing him as Chair of Standards Committee in his absence at the Annual Council due to Covid.

SC/7 **STANDARDS UPDATE**

The Legal Services Business Manager presented the Standards Update report to give a general update into relation to; Code of Conduct complaints, Standard's Committee's composition and seek approval to the amendments to the Code of Conducts Complaints Procedure.

Code of Conduct Complaints

Data was provided; from 1 April 2022 to 31 March 2023 there was a total of twenty-two code of conduct complaints. These were official written complaints received via the required complaints form detailing alleged breaches of the code of conduct.

During 2022-2023, 14 complaints related to Steyning Parish Council, four related to Horsham District Council and Nuthurst, Pulborough, Storrington & Sullington and Shipley Parish Councils' each received one code of conduct complaint each.

Since 1 April 2023 to 15 July 2023, 19 code of conduct complaints have already been received. Eleven complaints related to Steyning Parish Council, three related to Pulborough Parish Council and Horsham District Council, Nuthurst, Storrington & Sullington, Cowfold and Parham Parish Councils' each received one code of conduct complaint each.

Of these 19 complaints received (in just over a three month period) and following assessment and consultation with the Independent Person, no breach or no further action was required in 10 of the cases.

Three cases relating to Steyning Parish Council had been assessed and dealt with by informal resolution. Of the 19 recent complaints six have recently been received and are currently being assessed.

Standard Committee Composition

The Standards Committee is required to have two Independent Persons and two Parish Council Representatives.

The Committee were advised that there is presently one vacant post for a Parish Council Representative owing to Parish Councillor Philip Baxter retiring in May 2023.

The Monitoring Officer is working with the Horsham Association of Local Council's (HALC) who will nominate candidate(s) to fill this vacancy in the near future.

It is hoped that a new Parish Representative will be in place for the September Standards Committee.

Amendments to the Code of Conduct Complaints Procedure

The Committee were reminded that many of the Standards Members were involved in streamlining the revised December 2021 Code of Conduct Complaints Procedure and new amended model of Code of Conduct for Councillors.

It was generally working well however owing to the volume of work experienced by the Standards Team it was considered appropriate to incorporate some minor amendments to the procedure.

The current procedure presently allows Deputy Monitoring Officers to deal with standards related matters only in the absence of the Monitoring Officer. The suggested revision would allow the Monitoring Officer to delegate any standards related work to nominated deputies at any time and not just during periods of absence. This was considered necessary owing to the current volume of standards work being generated by Parish Councils throughout the District.

It was also suggested to update item 4.4 in the Code of Conduct Complaints procedure to provide the Monitoring Officer complete discretion as to whether to accept a code of conduct complaint or a response that does not strictly comply with these procedures.

A further revision had been incorporated to allow the Monitoring Officer to vary the procedure when considered appropriate and desirable to do so. This was considered necessary to provide the Monitoring Officer and Standards Team with a greater degree of flexibility when dealing with code of conduct complaints.

Further remaining revisions were considered minor adjustments and were published in the report and shown as tracked changes.

The committee were supportive of the proposed amendments to the Code of Conduct Complaints Procedure.

It was suggested that amendment 10.1 on page 30 should include; “reasonable and justified” as well as variations being communicated to relevant parties. The amendment would be changed to:

The Monitoring Officer may vary this procedure in any particular instance where reasonable and justified and he or she is of the opinion that such variation is desirable and does not conflict with statutory requirements. Any such variation will be communicated to relevant parties.

The Chairman requested that a revision page showing amendments be included at the front of the document when the Code of Conduct Complaints Procedure was republished.

It was therefore proposed and seconded to approve the recommendations set out in the report.

RESOLVED

The amendments to the Code of Conduct Complaints Procedure be approved, subject to the approval of Council.

RECOMMENDED TO COUNCIL

That Council approve the amendments to the Code of Conduct Complaints Procedure.

SC/8

STEYNING PARISH COUNCIL - REVIEW SUPPORT & RECOMMENDATIONS

The Head of Legal & Democratic Services & Monitoring Officer provided the Committee with a brief overview and update on Steyning Parish Council.

The Committee were reminded of the difficulties which have existed at Steyning Parish Council for several years; code of conduct complaints contributed to 80% of all complaints in the financial year 2021/22, 64% in 2022/23 and 58% in the first three months of this financial year 2023/24.

In March 2022 it was agreed at Standards Committee that specialist consultants Hoey Ainscough Associates would undertake a review and whilst this was taking place those complaints received would not be investigated formally. Following the review, an Action Implementation Plan was agreed in November 2022 and progress would be reported at 6 and 12 month intervals to Horsham District Council.

A progress report had been recently received from Steyning Parish Council and the Monitoring Officer advised the committee that the reports contents had already been disputed by some Steyning Parish Councillors. The committee learnt that the report was produced largely prior to the May 2023 elections and since then a number of new Councillors had been appointed.

The Committee generally felt that there were still some underlying issues at Steyning Parish Council however it was hoped that newly elected Parish Councillors would bring a more positive approach. The Committee thoroughly supported the recommendations and hoped the next progress report due at the end of the year showed some positive changes.

The Standards Committee were requested to consider the content of the Committee report and approve recommendations.

RESOLVED

The Standards Committee therefore approved the following recommendations set out in the report:

- i) Approve that the Monitoring Officer and Standards Team continue to support Steyning Parish Council in implementing its plan to tackle issues, which was recommended by the Hoey & Ainscough intervention.
- ii) Approve that all outstanding code of conduct complaints are considered dealt with and completed by way of informal resolution under the Hoey & Ainscough intervention.

- iii) Approve that any new code of conduct complaints received after 26 July 2023 are considered by either the Monitoring Officer or a Deputy Monitoring Officer and/or a Standards Sub Committee in consultation with the Independent Person to assess the merits and seriousness of any alleged code breaches. If (i) the facts and evidence demonstrate that a formal investigation is warranted, and (ii) it is in the public interest, the complaints will be referred for formal investigation and determination. If appropriate, sanctions will be recommended, and Decision Notices will be published.

SC/9 **URGENT BUSINESS**

There was no urgent business.

The meeting closed at 6.10 pm having commenced at 5.30 pm

CHAIRMAN

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Report to Standards Committee

29 November 2023

By the Feedback Officer

INFORMATION REPORT

Not exempt



The Local Government & Social Care Ombudsman Annual Review 2022/2023

Executive Summary

The purpose of this report is to update Members on the number, nature and the outcomes of complaints made to the Local Government & Social Care Ombudsman (LGSCO) in 2022/23.

Recommendations

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

Reasons for Recommendations

- i) To update members in relation to the complaints position for 2022/2023.

Background Papers: None

Consultation: None

Wards affected: All

Contact: Richard Winch
Feedback Officer
Extension 5470

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 findings of complaints made to the LGSCO in 2022/23.

Background

- 1.2 The LGSCO requires complainants to exhaust the Council's internal complaints procedure before it will investigate a complaint. Where the LGSCO receives a complaint that has not first been processed by the Council, it will normally refer the complainant to the Council's internal complaints procedure. In urgent circumstances, however, the LGSCO will inform the Council that it has opted to investigate a complaint without referral to the Council.
- 1.3 The LGSCO continues to investigate complaints following exhaustion of the Council's internal complaints procedure. However, it also 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 Feedback Officer are reported quarterly to the Senior Leadership Team and trends included in the corporate plan priorities, finance and performance report considered by the Overview & Scrutiny Committee.

2 Statutory and Policy Background

Statutory background

- 2.1 The LGSO is the independent body for investigating complaints made against public bodies where it is alleged that there has been maladministration causing injustice.
- 2.2 The LGSO, its power to investigate and its jurisdiction are governed by three primary pieces of legislation:
- (i) The Local Government Act 1974 (LGA 1974);
 - (ii) The Regulatory Reform (Collaboration etc between Ombudsmen) Order 2007 (SI 2007/1889); and
 - (iii) The Local Government and Public Involvement in Health Act 2007.
- 2.3 The LGSO has the power to investigate complaints where there has been (i) maladministration causing injustice, (ii) a failure to provide a service that it was the public body's function to provide, and, (iii) there was a total failure to provide such service.
- 2.4 There is no specific definition of maladministration but it can include cases where a public body has taken, or has failed to take, action (section 26(1) LGA 1974). Injustice can include the loss or a right or service which the complainant is legitimately entitled to and costs associated with pursuing a complaint.

- 2.5 The LGSCO is only allowed to investigate the procedure behind the decision-making. Once maladministration has been established, it must be confirmed that it has led to personal injustice for the complainant (section 26A(a), LGA 1974).
- 2.6 Complaints to the LGSO should be made within 12 months of the action complained of (section 26B(2) LGA 1974 (even though the LGSO has discretion to investigate complaints outside of this time limit (section 26B(3) LGA 1974)).
- 2.7 The LGSCO has power to make recommendations to a public body following a complaint and how to improve its services and to put things right for the complainant. However, these recommendations are not mandatory and a public body does not have to accept or follow them.
- The LGSCO may issue a 'statement of reasons' instead of a report if they are satisfied with the council's proposals to remedy its failures;
 - The LGSCO may publish decisions other than reports.

Relevant Government policy

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

Relevant Council policy

- 2.9 The Council's Complaints Procedure for handling comments, representations, criticisms of policy and formal complaints can 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

- 3.1 There were 10 complaints about Horsham District Council made to the LGSCO in 2022/23 which have been decided. This is a significant decrease from the 18 complaints received and decided during 2021/22.
- 3.2 These LGSCO investigations resulted in:
- No complaints being upheld
 - No complaints not upheld
 - 8 complaints being closed without investigation after initial enquiries being made by the LGCSO
 - 1 complaint being referred back to the Council for local resolution
 - 1 complaint incomplete / invalid

Closed without investigation

3.3 Details of these complaints are set out in the table below including the reason that the Ombudsman did not investigate them.

3.4

| Complaint Reference | Department | Details |
|---------------------|------------------------|--|
| 21017414 | Planning & Development | We will not investigate this complaint about the Council's consideration of Mr X's proposals to develop a plot of land he owns. There is insufficient evidence of fault which would warrant an investigation. |
| 21017991 | Parking | We will not investigate Mr X's complaint about the Council issuing him with penalty charge notices. Mr X had a right of appeal to the Traffic Penalty Tribunal for each ticket, and it would have been reasonable for him to use this. |
| 22002141 | Housing | We will not investigate this complaint about the suitability of temporary accommodation provided by the Council. It was reasonable for Mrs X to seek a review and appeal to the courts to challenge the Council's decision. |
| 22004555 | Planning & Development | We will not investigate this complaint about the Council's handling of planning matters in relation to a property Mr X bought. This because we are unlikely to find evidence of fault by the Council. |
| 22005640 | Planning & Development | We will not investigate this complaint about how the Council dealt with the complainant's planning applications. This is because the complainants have appealed to the Planning Inspector. Parts of the complaint are also late. |
| 22008068 | Planning & Development | We will not investigate this complaint about the Council's handling of the complainant's discharge of condition and retrospective planning applications. This is because the complaint does not meet the tests in our Assessment Code on how we decide which complaints to investigate. It is reasonable to expect the complainant to have appealed to the Planning Inspectorate against any delays in determining his applications, and he has already appealed against the imposition of Community Infrastructure Levy surcharges. |
| 22009611 | Planning & Development | We will not investigate this complaint about how the Council dealt with the Complainant's planning application. This is because the complainant had the right to appeal to the Planning Inspector. |
| 22014645 | Planning & Development | We will not investigate this complaint about how the Council dealt with the complainant's planning application. This is because the complainant had the right to appeal to the Planning Inspector. The Information Commissioner's Office is best placed to deal with the complainant's concerns about how the Council dealt with his request for information. |

Referred back for local resolution

- 3.5 The Local Government Act 1974 requires the LGSCO to give authorities an opportunity to try and resolve a complaint before they get involved. Usually the LGSCO will tell complainants how to complain to an authority. In many instances, authorities are successful in resolving the complaint and the complainant does not re-contact the LGSCO. This accounts for the single complaint being referred back for local resolution.

Incomplete / Invalid

- 3.6 In the annual results supplied by the LGSCO they have listed a single complaint as incomplete stating that it related to a housing case but the complainant did not provide sufficient information for them to proceed. No other details were provided so we are unable to identify the case or if it had already been through our internal complaints procedure.
- 3.7 The LGSCO have published their annual report which shows a total of 15,488 complaint enquiries were received by them in 2022/23. The report also shows that of the cases that went to a full investigation 74% were upheld which is a 7% increase from last year. However this has been impacted by the decision not to investigate the borderline cases reported to them.

4 Next Steps

- 4.1 This report is based on the complaints that the LGSCO has investigated. It is intended that this report will assist with learning lessons and improve the Council's performance. Findings from the LGSCO are reviewed by the Feedback Officer with the relevant service manager to ensure improvements are made where necessary.

5 Outcome of Consultations

- 5.1 Not applicable.

6 Other Courses of Action Considered but Rejected

- 6.1 Not applicable.

7 Staffing Consequences

- 7.1 There are no staffing consequences resulting from this report.

8 Financial Consequences

- 8.1 Members should note that as the LGSCO can recommend compensation payments where it determines that complaints should be upheld, the Council must pay those compensation payments to the complainant(s). No such awards were made in this reporting year.

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>The report will assist the Council with learning lessons and improving its performance.</p> <p>No.</p> |
| <p>How will the proposal help to reduce Crime and Disorder?</p> | <p>This report does not directly affect the Council's duty to reduce crime and disorder.</p> |
| <p>How will the proposal help to promote Human Rights?</p> | <p>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.</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 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> <p>No.</p> |
| <p>How will the proposal help to promote Sustainability?</p> | <p>This report does not directly help to promote sustainability.</p> |

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