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Standards Committee

Wednesday, 30th November, 2016 at 10.00 am
Hastings & Knepp, Parkside, Chartway, Horsham

Councillors: Tricia Youtan (Chairman)
David Coldwell (Vice-Chairman)
Brian Donnelly
Christian Mitchell
Mike Morgan
Godfrey Newman

Co-opted advisory members

John Donaldson	Independent Person
Mary Jagger	Independent Person
Val Court	Parish Council Representative
Kieran Diamond	Parish Council Representative

You are summoned to the meeting to transact the following business

Agenda

	Page No.
1. Apologies for absence	
2. Minutes	3 - 6
To approve as correct the minutes of the meeting held on 14 th September 2016	
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	
To consider the following report of the Customer Services Manager	
5. The Local Government Ombudsman Update 2016-2017	7 - 14
To consider the following reports of the Monitoring Officer	
6. The Ethical Framework Update	15 - 26
7. Analysis of Sanctions Before and After the Localism Act 2011	27 - 30
8. 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	

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Standards Committee
14 SEPTEMBER 2016

Present: Councillors: Tricia Youtan (Chairman), David Coldwell (Vice-Chairman), Mike Morgan, Godfrey Newman
John Donaldson, Mary Jagger and Val Court

Apologies: Councillors: Brian Donnelly, Christian Mitchell
Kieran Diamond

SC/7 **MINUTES**

The minutes of the meeting of the Committee held on 8th June 2016 were approved as a correct record and signed by the Chairman.

SC/8 **DECLARATIONS OF MEMBERS' INTERESTS**

There were no declarations of interest.

SC/9 **ANNOUNCEMENTS**

There were no announcements.

SC/10 **MINUTES OF THE LOCAL ASSESSMENT SUB-COMMITTEE**

The minutes of the meeting of the Local Assessment Sub-Committee held on 8th June 2016 were received.

SC/11 **THE 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.

Training and awareness: Training for Parish Councillors in Steyning had taken place in August, where the Monitoring Officer had given a presentation on the importance of Ethical Governance and the Code of Conduct, in particular with regard to members' interests. Parish Councillors attending the training said that it had been very useful. The Monitoring Officer anticipated offering this training to other Parish Councils. It was noted that quarterly training for Parish Clerks was already organised by the District Council, and that Parish Councils were in a position to organise their own training.

Members discussed the annual report of the Committee on Standards in Public Life, which had recently been published and noted that the number of vexatious complaints had reduced since the new standards regime had been introduced by the Localism Act, and that the role of Independent Persons was generally very well received.

The report had also found that the effectiveness of sanctions available was still a concern. The Committee echoed this concern and discussed the possibility of lobbying the government to bring back some sanctions that had been available before the Localism Act, in particular the authority to suspend a Councillor.

- It was agreed that the Monitoring Officer would bring a report to the next meeting of the Committee detailing sanctions that had been available before the Localism Act and recommending how best the Committee could lobby the government.

Local assessment, other action, investigations and determinations: Members noted that the spike in the number of complaints received earlier in the year had come to an end, with only two received since the beginning of April, one of which had been withdrawn.

Members noted a recent case that had been reported in the press regarding an ex-Councillor from Derby City Council who had been imprisoned for two months after pleading guilty to giving a false address to an Electoral Registration Officer.

Members of the Committee acknowledged the amount of work that officers undertook in compiling cases for assessment by the Local Assessment Sub Committee, and the Monitoring Officer thanked Committee Members for undertaking all the additional work that these cases brought.

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/12 **COUNCILLOR IAN HOWARD**

The Chairman of the Committee closed the meeting by paying tribute to Councillor Ian Howard, who had passed away on the 30th August, saying that he was a moral and upstanding Councillor who would be sorely missed.

The meeting closed at 10.30 am having commenced at 10.00 am

CHAIRMAN

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Report to Standards Committee
30th November 2016
By the Customer Services Manager
INFORMATION REPORT
Not exempt



**Horsham
District
Council**

The Local Government Ombudsman Update 2016-2017

Executive Summary

This report is to update Members on the number of complaints and nature of complaints received by the Council that were made to the Local Government Ombudsman (the "LGO") in quarters one and two 2016-17.

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

Background Papers: [SCD 12] - LGO Focus Report

Consultation: None

Wards affected: All

Contact: David Plank
Customer Services Manager
Extension 5371

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.

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. 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 Complaints and Feedback Officer are considered by the Finance & Performance 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 The LGO may publish 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

- 3.1 There have been four complaints about Horsham District Council made to the LGO in quarters one and two of 2016-17. Anonymised details of these complaints can be found in Appendix two.
- 3.2 Three of the four complaints are with regards to planning (two of which await response from the LGO) and one was referred back for local resolution. The Local Government Act 1974 requires the LGO to give authorities an opportunity to try and resolve a complaint before they get involved. Usually the LGO 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 LGO.
- 3.3 The complaint referring to Environmental Services & Public Protection & Regulation was from a customer complaining that the Council failed to deal with her report of a litter dropping offence in a timely manner and failed to get all the evidence. The Ombudsman investigated these claims but confirmed the expectation for the Council to have appropriate processes in place to deal with cases like this one. More time has elapsed since the original incident and the Council's solicitor supports the view there is not now a reasonable chance of success if the Council tried to prosecute.
- 3.4 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]***.

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 Next Steps

- 4.1 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. In its Annual Review letter 2016 the LGO recognised that that the total number of complaints will not, by itself, give a clear picture of how well those complaints are being responded to. So in the coming year they will be gathering more comprehensive information about the way complaints are being remedied. This will assist the Council in improving its performance in the future.

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 LGO 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 recommendations have been made in 2016-17 to date.

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>

Appendix two – Ombudsman Complaints Q1 & Q2 2016-17

LGO Case ID	Authority	Category Group	Received Date	Overall decision date	Annual Letter Decision Type
16001050	Horsham DC	Planning & Development	04/Jul/2016		Comment awaited from LGO
16006210	Horsham DC	Planning & Development	01/Aug/2016		Comment awaited from LGO
16006544	Horsham DC	Planning & Development	05/Aug/2016	05/Aug/2016	<p>Referred back for local resolution.</p> <p>The Local Government Act 1974 requires LGO to give authorities an opportunity to try and resolve a complaint before we will get involved. Usually the LGO tell complainants how to complain to an authority and ask them to contact it directly. In many instances, authorities are successful in resolving the complaint and the complainant does not re-contact the LGO.</p>
16007215	Horsham DC	Environmental Services & Public Protection & Regulation (Littering)	23/Aug/2016	14/Sep/2016	<p>The Ombudsman decided not to investigate this complaint because their involvement cannot be justified when it is very unlikely to have any effect on the outcome of this case.</p>

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Report to Standards Committee

30 November 2016

By the Monitoring Officer

INFORMATION REPORT



**Horsham
District
Council**

Not Exempt

Ethical Framework Update: November 2016

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;
 - Register of Interests;
 - Work programme update.

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 and Background

- 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 September 2016.
- 1.2 Members regularly receive reports on developments in the ethical framework and this report continues that approach. Members of this Committee are also reminded of the following helpful websites:
 - Department for Communities and Local Government:
<http://www.communities.gov.uk/>
 - Local Government Ombudsman:
www.lgo.org.uk

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

Training and Awareness

- 3.1.1 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.
- 3.1.2 The Monitoring Officer has prepared some training slides to undertake Ethical Governance and Code of Conduct Training for Parish Councils. The first training session took place at Steyning Parish Council and the Monitoring Officer subsequently notified the Parish Clerks of the proposed training sessions when attending the Clerks Meeting on the 11th October 2016.
- 3.1.3 A full programme of visits to the parishes by the Monitoring Officer to undertake Ethical Governance Training is underway. The next training session has been arranged to take place at North Horsham Parish Council on the 23rd November 2016 with details being finalised for training sessions at other parish councils throughout December, January and February.

- 3.1.4 On 18th November 2016 the Monitoring Officer and Ben Bix, Governance Project Manager, attended the Lawyers in Local Government (LLG) Awards in Leeds. Horsham finished runners-up in the category Governance Lawyer/Team of the year with the judges praising 'the innovation and engagement' that had taken place in the review of governance at Horsham.

Local assessment, other action, investigations and determinations

- 3.2 Attached as Appendix 1 is the schedule of all assessment, other action, investigation and determination decisions since September 2015.

Work Programme update

- 3.3 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 2016-2017. A copy is attached at Appendix 3.

3 Next Steps

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

5 Views of the Policy Development Advisory Group and Outcome of Consultations

- 5.1 Not applicable.

6 Other Courses of Action Considered but Rejected

- 6.1 Not applicable.

7 Resource Consequences

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

8 Other Considerations

- 8.1 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.

The current code of conduct includes the expectation of respect for others defined in the General Principles as:

“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”.

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.

APPENDICES TO REPORT

Appendix 1 – Local Assessment Schedule

Appendix 2 - Work Programme Update

Appendix 1 Local Assessment schedule (Complaints which have been determined)

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
CES109	Parish	23 Nov 2015	Parish Councillor	4 Sept 2015	The Complainant alleged that the Subject Member had breached the Code of Conduct by failing to treat the Complainant with respect in respect of emails sent. The complainant also raised other matters which are not part of the Code of Conduct. The Monitoring Officer noted that there was a high threshold for the paragraph of the Code dealing with respect as it had formed the basis of many of the complaints dealt with by the Standards Board for England (who had applied such a high threshold). Whilst the Monitoring Officer considered the emails could have been interpreted as being forceful they would not be considered a breach of the Code of Conduct.	55	MO	No Further Action
CES115 A	District	29/03/16	Parish Councillor	10/10/15	The Complainant alleged that the Subject Member had breached the Code of Conduct by failing to treat the Complainant and others with respect in a speech made at a public meeting.	116	MO	No Breach and No Further Action

Appendix 1 Local Assessment schedule (Continued)

CES115 B	District	29/03/16	Parish Councillor	10/10/15	The Complainant alleged that the Subject Member had breached the Code of Conduct by failing to treat the Complainant and others with respect by agreeing with the contents of a speech made by another Councillor and not correcting another Councillor's alleged wrong statement.	116	MO	No Breach and No Further Action
CES116	District	16/03/16	Member of the Public	11/12/15	The Complainant alleged that the Subject Member had failed to treat a number of people with respect in relation to an exchange of words in a bank.	58	LASC	No Further Action
CES117	Parish	16/03/16	Parish Councillor	05/01/16	The Complainant alleged that the Subject Member had failed to treat others with respect, had not declared a prejudicial interest and had brought their office into disrepute contrary to the Code of Conduct.	47	LASC	No Breach and No Further Action
CES118	Parish	16/03/16	Parish Councillor	28/01/16	The Complainant alleged that the Subject Member had failed to treat others with respect, had withheld information and had bullied another person contrary to the Code of Conduct.	30	LASC	No Breach and No Further Action
CES120	Parish		Member of the Public	25/11/15	The Complainant alleged that the Subject Member had failed to treat others with respect, had bullied and intimidated another person and had failed to declare a personal and prejudicial interest contrary to the Code of Conduct.	90	DMO	No further action
CES121	Parish		Member of the Public	11/02/16	The Complainant alleged that the Subject Member had deliberately failed to complete the Register of Members' Interests form correctly	71	DMO	No breach and no further action
CES122	Parish		Member of the Public		Complaint withdrawn	N/A	DMO	No further action

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
CES123	Parish		Member of the Public	17/02/16	The Complainant alleged that the Subject Member was in breach of the General Principles of Public Life.		LASC	No Breach but training required
CES124	Parish		Parish Councillor	17/02/16	The Complainant alleged that the Subject Member was in breach of the Code of Conduct in failing to maintain confidentiality.		LASC	Breach, Training required
CES125	Parish		Parish Councillor	24/03/16	The Complainant alleged the Subject Member failed to disclose an interest.		LASC	Breach, Training required
CES126	Parish		Parish Councillor	24/03/16	The Complainant alleged the Subject Member failed to disclose an interest.		LASC	Breach, Training required
CES127	Parish		Parish Councillor	22/03/16	The Complainant alleged the Subject Member failed to disclose an interest and intimidated another person in breach of the Code of Conduct.		LASC	Breach, Training required
CES128	Parish		Parish Councillor	22/03/16	The Complainant alleged the Subject Member failed to disclose an interest.		LASC	Breach, Training required
CES129	Parish		Parish Councillor	22/03/16	The Complainant alleged the Subject Member failed to disclose an interest and conferred an improper advantage.		LASC	Breach, Training required

CES130	Parish		Parish Councillor	22/03/16	The Complainant alleged the Subject Member failed to disclose an interest.		LASC	Breach, Training required
CES131	Parish		Parish Councillor	05/04/16	The Complainant alleged the Subject Member failed to disclose an interest.		LASC	Breach, Training required
CES132	Parish		Parish Councillor	05/04/16	The Complainant alleged the Subject Member failed to disclose an interest.		LASC	Breach, Training required
CES133	Parish		Parish Councillor	21/03/16	The Complainant alleged the Subject Member failed to disclose an interest.		LASC	Breach, Training required
CES134	District		District Councillor	23/05/16	The Complainant alleged that the Subject Member had breached the Code of Conduct by failing to treat the Complainant and others with respect in respect of an email that was sent. Complaint withdrawn			
CES135	Parish		Parish Councillor	24/08/16	The Complainant alleged that the Subject Member had used abusive language in emails regarding Parish Council business. Complaint withdrawn			
CES137	Parish		Parish Councillor	3/10/16	The Complainant alleged that the Subject Member tried to deceive Monitoring Officer and wasted officer time		LASC 30/11/16	
CES138	Parish		Member of Public	15/10/16	Failure to declare an interest at a public meeting		DMO	

APPENDIX 4

STANDARDS COMMITTEE WORK PROGRAMME 2016/17

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	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
7	Liaison Chief Executive and MO on standards issues	CE/MO	Monthly 121 and as required	From February 2010	Good practice
8	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. Ethical Governance training arranged for 10 March 2016.	Localism Act 2011 HDC Corporate Learning and Development Plan

No	Activity	Who is responsible	Completion	Notes	Legislative Root
9	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
10	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
11	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

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Report to Standards Committee

30 November 2016

By the Monitoring Officer

INFORMATION REPORT



Horsham
District
Council

Not Exempt

Analysis of Sanctions Before and After the Localism Act 2011

Executive Summary

This report compares the sanctions that are currently available to the Standards Committee with those sanctions that were available to the Committee prior to their abolition by the Localism Act 2011.

Recommendations

That the Committee is recommended:

- i) To note the report.
- ii) To consider any further action.

Reasons for Recommendations

- i) The report was requested by the Committee following a discussion of the annual report of the Committee for Standards in Public Life.
- ii) The Committee may decide to take action following consideration of this report.

Background Papers

Annual Report of the Committee for Standards in Public Life.
Standards Committee Determinations by Standards for England (The Standards Board)

Wards affected: All

Contact: Paul Cummins, Head of Legal and Democratic Services (Monitoring Officer)
01403 215435

Background Information

1 Introduction and Background

- 1.1 At its meeting on the 14 September 2016 the Standards Committee examined the then recently published report of the Committee for Standards in Public Life (CSPL).
- 1.2 The CSPL is a non-departmental public body which advises on ethical standards across the whole of public life including local authorities. In their Annual Report CSPL expressed 'concern' at the effectiveness of the sanctions available in local government standards cases.
- 1.3 The Committee therefore requested that the Monitoring Officer write a report comparing the sanctions that were available prior to the coming into force of the Localism Act 2011 and those which were available following that Act.

2 Legal Background

- 2.1 On coming into force July 2012 Section 7 of the Localism Act 2011 abolished what had been known as the 'standards regime'.
- 2.2 The standards regime was statutory having been brought into force by the Local Government Act 2000. It comprised a national regulator 'The Standards Board for England', a national Code of Conduct, a requirement for Council's to have a Standards Committee and a list of statutory sanctions. Those statutory sanctions were available to the Standards Committee (and the Standards Board for England) following a finding that a Councillor had breached the Code of Conduct.
- 2.3 The Localism Act 2011 abolished the 'standards regime' as the Government wanted to introduce more 'light touch' standards arrangements. The effect of the Localism Act on sanctions was to abolish all the statutory sanctions that had been available in the previous standards regime. Thereafter Councils had to look to common law for sanctions that would be available to prescribe following a finding that a Councillor had breached the Code of Conduct.

3 Details

- 3.1 This report compares the previous statutory sanctions that were available prior to the Localism Act 2011 with those common law sanctions that are now available.

A. Statutory Sanctions Prior to the Localism Act 2011

- i) Censure;
- ii) Restriction, for a period of up to 6 months, of access to the premises of the authority and/or the resources of the authority;
- iii) Partial suspension for a period of up to 6 months;
- iv) Suspension for a period of up to 6 months;
- v) Requirement that the Councillor submits a written apology;
- vi) Requirement that the Councillor attends training as specified by the Committee;
- vii) Requirement that the Councillor attends conciliation as specified by the Committee;

- viii) Partial suspension for up to 6 months or until the Councillor has submitted a written apology and/or attended training or conciliation as specified by the Committee;
- ix) Suspension for up to 6 months or until the Councillor has submitted a written apology and/or attended training or conciliation as specified by the Committee;
- x) Where a Councillor is suspended or partially suspended the Committee had discretion to withhold the Member Allowance.

The Localism Act 2011 abolished all the above sanctions.

B. Sanctions currently available under the common law.

- i) Censure;
- ii) Report the findings of the Standards Committee to Full Council and publish the findings on the Council website;
- iii) Exclude the Councillor from premises other than Council meeting rooms when necessary for the attendance at Council/Committee meetings;
- iv) Withdrawal of Council facilities, e.g. computer;
- v) Instruct the Monitoring Officer to arrange training;
- vi) Recommend to Council/Cabinet that the Councillor be removed from any outside body;
- vii) Inform the Group Leader that the Committee recommend the Councillor be removed from Cabinet/Portfolio Responsibilities;
- viii) Inform the Group Leader (or if independent – the Full Council) that the Committee recommend the Councillor be removed from a Committee(s)

4 Next Steps

4.1 The Committee consider any further action.

5 Outcome of Consultations

5.1 Not applicable.

6 Other Courses of Action Considered but Rejected

6.1 Not applicable.

7 Resource Consequences

7.1 There are no resource consequences as a result of this report.

8 Legal Consequences

8.1 The Committee only has power to impose common law sanctions.

9 Other Considerations

- 9.1 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.

The current code of conduct includes the expectation of respect for others defined in the General Principles as:

“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”.

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.