

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.