

**Minutes of a meeting of the Mid Sussex District Council
Standards Committee held on Wednesday 9th July 2008
From 7.00pm to 8.08pm**

Present:- Sir Roger Sands (Chairman)

David Brown

Ian Church

Town Cllr Richard Goddard*

Cllr Gina Field*

Cllr Sue Hatton

Cllr Jacqui Landriani

Cllr Heather Ross

Parish Cllr Patrick Shanahan

Cllr Christopher Snowling

Trevor Swainson*

Parish Cllr Pat Webster

Parish Cllr Jenny Forbes

(Substitute Parish Member)

* Absent

8. SUBSTITUTES

No substitutions were notified.

9. APOLOGIES

Apologies were received from Richard Goddard, Gina Field and Trevor Swainson. Patrick Shanahan gave his apologies that he would need to leave the meeting at 7:30 pm.

10. APPOINTMENT OF VICE-CHAIRMAN

The Committee noted that it was now a requirement that a Standards Committee could only be chaired by an independent person and that accordingly if the Vice-Chairman was to act as Chairman of the Committee in the absence of the elected Chairman, it would be necessary to appoint an independent person. Christopher Snowling who had been Vice-Chairman in previous years supported this and informed the Committee that he would be happy to continue to deal with any matters raised by Councillors at District Council, on behalf of the Committee. Councillor Mrs. Ross proposed that the Committee's thanks to Councillor Snowling for his years of service as Vice-Chairman should be recorded. This was agreed by the Committee.

Sir Roger Sands proposed that David Brown be appointed as Vice-Chairman of the Committee. This was seconded by Christopher Snowling.

RESOLVED

That David Brown be appointed as Vice-Chairman of the Committee for the 2008/09 year.

11. DECLARATION OF INTERESTS

No declarations of interest were made.

12. MINUTES

The Minutes of the meeting of the Committee held on the 28th May 2008 were approved as a correct record and signed by the Chairman.

Tom Clark, Monitoring Officer informed the Committee that the Independent Persons appointed by each of the Standards Committees across the County were able to sit as members of Panels constituted by any of the Councils in the County. He asked the independent members of the Committee to let him know if they would be prepared to serve on Panels constituted by other Councils in West Sussex.

13. GUIDANCE FOR COMPLAINANTS AND THOSE IN RECEIPT OF COMPLAINTS

The Monitoring Officer presented a report to the Committee setting out draft guidance notes for complainants and for Councillors against whom complaints have been made.

The Monitoring Officer informed the Committee that no complaints had been received to date. The guidance was intended to be a short note explaining the process of the consideration of a complaint.

The Committee gave consideration to the notes and agreed a number of amendments. It was agreed that a revised copy of the notes incorporating the amendments should be circulated to members of the Committee and a copy of each of the notes as amended by the Committee is appended to these minutes as Appendix 1 and Appendix 2.

In the debate a number of issues were given detailed consideration, particularly the number of witnesses that were likely to be appropriate in support of the responding Member's case. Members of the Committee noted however that the notes were intended to provide outline guidance to give the parties an understanding of the process and were not intended to be a detailed procedure note. It was agreed that it would not be appropriate to attempt to give detailed guidance on all aspects of the procedure in these notes. Further detailed guidance would be available to all parties from the Monitoring Officer as required.

RESOLVED

That the procedure notes be amended as agreed by the Committee and the revised notes be approved for circulation (revised notes as agreed appended to these minutes).

Chairman

Appendix 1

Making a Complaint against an Elected District or Parish/Town Councillor

1. If you wish to make a complaint against an elected Councillor on the basis that they have breached the Member Code of Conduct (and not for any other reason) you should address your complaint in writing to the District Council's Monitoring Officer, Tom Clark.
2. On receipt of the complaint, an Assessment Sub Committee will be set up composed of three members of the Standards Committee and chaired by an independent member.
3. That Sub Committee will consider whether there is a sufficient basis in the documentation you have provided for the complaint to be investigated. The written material you give with your complaint should be as detailed as possible given that is what the decision will be based upon.
4. The Assessment Sub Committee can either decide to refer your complaint for investigation either locally or to the Standards Board for England (but only in the most serious of cases) or decide that the matter should not be investigated.
5. You will be advised of the outcome of the Assessment Sub Committee Hearing. If you disagree with their decision you do have a right of appeal to a separately constituted panel of three Standards Committee Members who will consider your original complaint and any further written information you may wish to provide. That panel of three Members can make the same decisions as the Assessment Sub Committee, but there is no appeal (save for a judicial review at the High Court) against the Appeal Sub Committee decision.
6. If the matter is investigated a report is prepared following a series of interviews by the investigating officer. You will see the draft report and be given an opportunity to comment and you will then receive a copy of the final report. The report will go to a Hearings Sub Committee, once again composed of three Members of the Standards Committee. That Sub Committee must decide whether or not there has been a breach of the Members' Code of Conduct or can decide to adjourn the matter while further information is obtained. The Hearings Sub- Committee may decide they would like you to attend the hearing to clarify an evidential uncertainty but there is no obligation for you to attend. The Member who is in receipt of the complaint can make a case in their favour and bring some witnesses with them.
7. If the Sub Committee decide there has been a breach of the Code of Conduct they will then look at the appropriate sanctions. The maximum penalty a Hearings Sub Committee can impose is a six months suspension. A disqualification or longer suspension for up to five years would have to be decided by the Adjudication Panel at the Standards Board for England and is reserved for the very few, very serious cases of breach.
8. Further information can be found on the Standards Board website at: www.standardsboard.gov.uk

Appendix 2

The Standards Committee process on receipt of a complaint.

1. If anybody complains in writing about an alleged Breach of the Code of Conduct by you as an elected District or Parish or Town Council Member it comes to the Monitoring Officer, Tom Clark.
2. He will refer the matter to an Assessment Sub Committee, drawn from the Council's Standards Committee, which will decide, on the basis of the written documentation submitted by the complainant, whether the complaint merits investigation. You will be advised that a complaint has been made but no detail will be given at this early stage. The process at this point is concerned not with establishing facts but with deciding whether the action complained of would, if true, constitute a breach of the code and therefore may warrant further investigation.
3. If the Sub Committee decides that there is no breach requiring investigation the matter will proceed no further and you will be notified accordingly. If, however, the Sub Committee concludes that the alleged action could be a breach of the code requiring investigation, you will be informed by the Monitoring Officer the full nature of the complaint and you will then be contacted by the investigating officer.
4. The Investigating Officer will interview all those involved and prepare a report. You will see a draft report at least two weeks before the report is finalised and be invited to comment on its content. A hearing date will be agreed and all reasonable efforts will be made to avoid delay.
5. Prior to the Hearing date, the report will be circulated to the three Panel Members but will not be made public on the Council's website.
6. You will be invited to attend the Hearing to hear the presentation of the complaint from the Investigating Officer and to raise any questions with him/ her or any witnesses he/she chooses to bring. The original complainant is unlikely to be a witness since their view will be incorporated into the Investigating Officer's report.
7. You will then have a chance to present your own case (otherwise than already set out in the Investigating Officer's report), either in person or through a legal representative. You may also bring a limited number of witnesses to support your views. You can be questioned both by the Investigating Officer and by the Panel Members.
8. The Panel will first decide whether or not there has been a breach of the Code of Conduct.
9. If they decide there has been a breach, you will be invited to make representations about the appropriate penalty. The Sub Committee themselves can only give a maximum of a six months suspension and if they are minded to look at a longer suspension or a disqualification they will need to refer the matter to the Adjudication Panel, part of the Standards Board for England.
10. If at the outset the Assessment Sub-Committee believes the case is very serious, they can refer it straight to the Standards Board for England for investigation by an Ethical Standards Officer in accordance with the guidelines issued by the Standards Board.

11. If at the initial stage the Assessment Sub Committee believes that the matter should not be investigated, they will explain their reasons both to you and the complainant. The complainant then has a right of appeal to an Appeals Sub Committee based on the evidence submitted to the Assessment Sub Committee and any further material submitted in the interim. The decision of the Appeals Sub Committee is only reviewable by Judicial Review.

12. This is a skeleton outline of the procedure, and further details will be given by the Monitoring Officer as the process continues and can also be found on the Standards Board for England website at: www.standardsboard.gov.uk