

5. ANNUAL REPORT OF STANDARDS COMMITTEE 2012

REPORT OF: SOLICITOR TO THE COUNCIL AND MONITORING OFFICER
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Wards Affected: All
Key Decision No

Purpose of the Report

1. To provide the Committee and the Council with an annual report of the activities of the Standards Committee in 2012.

Summary

2. The Standards Committee have worked to implement the changes made to the Standards regime in the Localism Act 2011 which came into effect on the 1st July 2012. The total number of complaints dealt with in 2012 has reduced and those about Town/Parish councillors now form the majority.

Recommendation

3. **That the 2012 Annual Report of the Standards Committee be referred to Council in the form approved by the Standards Committee.**
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Background

- 4.1 The Standards Committee promotes high standards of conduct by District Council Members and Members of Town/ Parish Councils in Mid Sussex. The Standards Committee complies with the requirements of the Localism Act 2011 and the regulation and guidance provided under that legislation. The Standards Committee worked on a new Code of Conduct which incorporated the new requirement for compliance with the list of Disclosable Pecuniary Interests set out in the relevant regulations (the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012) together with much of the 2007 Code of Conduct to maintain existing arrangements at the District Council and at Town/ Parish Councils who chose to adopt this form of Code. The declaration of interest forms for all Members of the District Council appear on the District Council web site together with those of two parish councils that are not published on their own web site. The biggest area of change has been in the use of dispensations which now has been delegated to me as Monitoring Officer at District Council level and to the individual Town and Parish Councils or their clerk at Town and Parish levels. Dispensations in connection with land ownership and the neighbourhood plan have been discouraged.

4.2 The membership of the Committee prior to May 2012 was as follows:

<u>Independent Members</u>	<u>District Council Members</u>	<u>Town/Parish Council Members</u>
Sir Roger Sands (Chairman)	Jack Callaghan	Chris Ash Edwards
Ian Church (Vice-Chairman)	Dennis Jones	William Blunden
Andrew Lewis	Andrew Lea	Jenny Forbes
Trevor Swainson	Gordon Marples	
	Susan Seward	

4.3 The membership of a committee post May 2012 is as follows:

<u>District Council Members</u>	<u>Town/Parish Council Members</u>
Jack Callaghan (Chairman)	Chris Ash Edwards
Gordon Marples (Vice-Chairman)	William Blunden
Liz Bennett	Jenny Forbes
Andrew Lea	Duncan Cunningham
Catrin Ingham	
Simon McMenemy	

4.4 The legislation requires the Council to appoint at least one Independent person who potentially advises all those involved in a Standards complaint, including me as Monitoring Officer. Through an open advertising process the Council has appointed Sir Rogers Sands, former Chairman of the Standards Committee and Gerard Irwin as two independent persons who split the District alphabetically so that Gerald Irwin deals with Councils beginning with A-F inclusive and Sir Roger Sands deals with Councils beginning with H onwards in the alphabet. They deal with District Council wards on the same alphabetical split. This results in a reasonable split in the overall workload.

Complaints Received

- 5.1 There have been four substantive cases set out in Appendix 1. One of these involved the work of a District councillor and the other three involved the work of Town/Parish councillors. Two of the Town/Parish Council cases involved the conduct of a Town/Parish Council in relation to a planning application. The other two cases involved an allegation of disrespect by the member in receipt of the complaint.
- 5.2 As Monitoring Officer I first discuss any written complaint with the relevant independent person and seek their view on whether there is sufficient likelihood of a breach of the Members Code of Conduct to justify establishing an Assessment Sub-Committee. Assuming there is, the Member in receipt of the complaint is invited to comment in writing on the complaint within 14 days.

The original complaint and any member response are sent to the Sub-Committee members ahead of the private meeting with a written assessment of the factual situation described against the provisions of the relevant Member Code of Conduct. As previously the sub-committee decide whether they believe there is a potential breach of the Members Code of Conduct and if so whether it should be investigated and the complainant is advised of the outcome in writing with a copy of that letter going to the Member in receipt of the complaint and the Town/Parish Council where relevant. There remains a right to request a Review if no investigation is requested by the Assessment Sub-Committee. If there is an investigation it is likely to be followed by a public hearing at which the independent investigator presents their report, the Member in receipt of the complaint puts their case and the Hearings Sub-Committee decides whether there has been a breach and if so how far their decision is to be published given the old penalties of suspension and disqualification through Standards for England are no longer available. Throughout this process the complainant and the Member in receipt of the complaint can speak to the relevant independent person who will keep the Monitoring Officer briefed of such discussions.

- 5.3 In three of the cases the Sub-Committees concluded that there was no potential breach of the Code of Conduct but in these cases advice was given about procedures and how they might be improved. One case involving an allegation of disrespect, the panel felt there was a potential breach of the Code of Conduct but also felt others, including the complainant, had contributed to the unfortunate situation at the Parish Council. It therefore did not feel that public money should be spent on any investigation.

Financial Implications

6. The assessment and review process has a cost to the District Council. Investigations could run into many hours of officer time.

Risk Management Implications

7. The Monitoring Officer has sought to provide advice both to District Council members and Town/Parish Clerks on the Code of Conduct and in particular the introduction of the new Code of Conduct and requirement to have statements of Member Interests available electronically.

Equality and customer service implications

8. At Town and Parish level there is a tendency to use the Standards Committee system as a general complaints mechanism without much reference to the wording of the Code of Conduct.

Legal Implications

9. The Standards regime is found at Chapter 7 Sections 26-37 inclusive of the Localism Act 2011. Disclosable Pecuniary Interests are defined in the Relevant Authorities (Disclosable Pecuniary Interest) Regulations 2012. In August 2012 the Department of Communities and Local Government issued guidance on the new Code of Conduct which has been discussed at the Standards Committee circulated at District and Town/Parish level.

Complaints in 2012

1. The first complaint prior to the changes on the 1st July 2012 involved a Parish Chairman who also sat as Chairman of the Planning Committee. She had got into correspondence with a planning applicant which resulted in a complaint about disrespect and bringing the councillor's office into disrepute. The Assessment Panel were unanimous in believing there was no potential breach of the Code of Conduct but advised that in future members do not get involved in such correspondence with applicants and that such correspondence is conducted through the Parish Clerk. They felt it important that Parish Councils make clear that they are consultees on planning applications and that the decision on any such applications are taken at District Council level.
2. A complaint was received mid-year alleging disrespect and bullying against a District Councillor dating back to September 2010. Both the Assessment and Review Sub-Committees felt there was no potential breach of the Code of Conduct but also noted that the provisions that had applied in September 2010 had been abolished on the 1st July 2012 and therefore their ability to deal with the complaint was constrained. The complainant also complained to the Ombudsman who for reasons of delay in making the complaint has decided not to look into the matter any further.
3. A complaint was brought by a former Parish Councillor at the Parish Council who had resigned together with two other Parish councillors following various disagreements at the Parish Council. The Assessment Panel agreed that there was a potential breach of the Code of Conduct by the councillor in receipt of the complaint but that other members including the one that had brought the complaint had contributed to an unfortunate situation at the Parish Council. The Assessment Panel were particularly concerned that the member who had brought the complaint had taken the matter to the press before seeking to resolve matters with fellow councillors. The Assessment Panel thought in the circumstances it would not be proper expenditure of public money to investigate this complaint.
4. The final complaint of 2012 involved a Town councillor who had gone to the house of someone opposing a next door planning application but had not gone to the house of the applicant despite an invitation to do so. The Assessment Committee did not find any potential breach of the Code of Conduct but advised that the member should seek to treat both applicant and objectors equally and ensure that she was clear about when she was speaking on behalf of the Town Council and when she was speaking merely as an individual who happened to be a Town councillor.

In summary the complaints continue to arise from the processing of planning applications and from the breakdown in personal relationships. There have been no cases involving any alleged financial improprieties.