

5. STANDARDS COMMITTEE ANNUAL REPORT 2013

REPORT OF: SOLICITOR TO THE COUNCIL AND MONITORING OFFICER
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Wards Affected: All
Key Decision: Not Applicable
Report to: Standards Committee on 19th February 2014

Purpose of Report

1. To present to the Committee the Annual Report for 2013 for onward transmission to Council on 9th April 2014.

Summary

2. The report shows a rise in formal complaints from 2012 and there have been a growth in issues around the formulation of Neighbourhood Plans by Parish Councils where complainants have asked about the potential interests of Parish Councillors in sites coming forward for consideration.
3. There have also been efforts to formulate complaints as Code of Conduct matters when in reality it is the decision that the Parish Council has taken that the member of the public does not like. These matters have been time consuming for the Monitoring Officer and Interested Persons to deal with.

Recommendations

4. **Members are recommended to refer the 2013 Annual Report of the Standards Committee to Council for information.**

Background

5. The Standards Committee had a busy year in 2012 with the introduction of a new Code of Conduct for all Councils in Mid Sussex and an increase in the number of complaints about Councillors from Town and Parish Councils. In 2013, more than half the complaints have come from one Parish Council and relate to a controversial planning application and one Member's declaration of interest form being scrutinised with forensic intensity by one complainant.
6. The Committee have worked to ensure that the information on the MSDC web site makes clear that the Standards Committee can only deal with complaints alleging a breach of the relevant Code of Conduct and not complaints about Parish Council decisions and the limited powers the Standards Committee now have to deal with any Member thought to be in Breach of the Code of Conduct.
7. The Committee have looked again at the procedure used to deal with complaints and refined it and adopted amended assessment criteria which are published on the MSDC web site. They have also clarified the role of the independent persons

8. The only change in membership in 2013 was the replacement of Councillor Catrin Ingram by Councillor Denis Jones. Councillor Jones had previously served on the Standards Committee and was elected Chairman of the Committee in June 2013 in place of Councillor Callaghan. Town Councillor Chris Ash-Edwards was elected Vice-Chairman in place of Councillor Marples. Councillor Callaghan and Councillor Marples continue to serve on the Committee.
9. The independent persons remain Sir Roger Sands who deals with District Wards and Parish Councils after "E" in the alphabet and Gerard Irwin who deals with District Wards and Parish Councils up to and including "E" in the alphabet. This division of labour avoids any conflict in the advice given and any possible local connections to the area of complaint.

The Complaints Received

10. Members are referred to the seven complaints set out in the appendix to this report. As mentioned in paragraph 5, four of the complaints arise from one Parish Council with two individuals making two each of these four complaints. It was one of these four complaints that was referred for investigation which resulted in a finding that the Member had not sought to prevent the claimant seeing notes of an informal meeting.
11. The first of the remaining three complaints involved a Parish Chairman allegedly making a false statement at a meeting organised by a developer (if Members do meet with potential developers in their area it is best just to listen and say very little). The second matter involved aggressive behaviour towards a member of the public but the Councillor was not in a situation where the Code of Conduct applied. The third matter involved a correctly disclosed pecuniary disclosable interest but a failure on the part of the Member to leave the room when the relevant item on the agenda was reached. He should have been prompted to leave by the Chairman of the meeting and/or the clerk.

Policy Context

12. Sections 26 to 37 inclusive of the Localism Act 2011 sets out the requirements for the District Council to promote high standards of elected Member conduct within its own membership and within the membership of the towns and parishes in its area. The legislation gives the Standards Committee no real sanctions to impose on the finding of a breach of the Code of Conduct. There are criminal sanctions for failure to properly declare and act on disclosable pecuniary interests but any such action can only be brought by the director of public prosecutions and there have been no such actions taken in England since the legislation came into force in July 2012.

Other Options Considered

13. The Council must have a committee dealing with Standards matters but this can be combined with other functions such as Audit committee. At Mid Sussex District Council these committees have been kept separate and this spreads the workload.

Financial Implications

14. There is a cost in having a Standards Committee and dealing with complaints. There is no ability to recharge Town and Parish Councils. The cost of conducting a full investigation is clearly a lot more. There was sufficient budget to conduct the one investigation in 2013.

Risk Management Implications

15. There is a risk that numerous potential breaches of the Code of Conduct might arise if behaviour of members at MSDC or at the Towns and Parish Councils was to decline. It is important that efforts are made to remind elected Members of the importance of appearing to act correctly and in accordance with the relevant Code of Conduct. This would put a financial strain on the District Council and would attract adverse publicity to the area.

Equality and Customer Service Implications

16. Our procedures require complaints to be put in writing. For complainants that cannot write for whatever reasons assistance will be given to formulate their concerns in a written form that identifies the paragraphs in the relevant Code of Conduct that may have been breached.

Other Material Implications

17. The District Council is required to have procedures to deal with Code of Conduct complaints about its own elected members and elected Town and Parish Councillors in its area.

Background Papers

The 2012 Standards Report to Council.

Appendix to 2013 Annual Report

1. A report from a member of the public was received alleging that the Chairman of a rural Parish Council had given false information at a meeting to which that Councillor and other Councillors had been invited to discuss a large planning application in their area. The complainant alleged breach of paragraph 3.1 of the Code of Conduct relating to failure to treat others with respect and paragraph 5 of the Code of Conduct alleging that the Member had brought their office into dispute.

The matter was considered by both an Assessment Sub-Committee and a Review Sub-Committee. Both concluded that the meeting to which the Councillor was invited was a meeting to which the Code of Conduct applied given that the invitation had been on the basis of that councillor's position on the Parish Council but both further concluded that any misinformation given was not a breach of paragraph 3.1 or paragraph 5 of the relevant Code of Conduct. In reaching this conclusion the members had looked back on the types of behaviour that had been held to be a breach of paragraph 3.1 and 5 of the Code of Conduct in the days of Standards for England.

2. A complaint was received that a Parish Councillor had failed to complete the Declaration of Interest form correctly in relation to a company in which they were involved. The Councillor responded that the company was dormant. While there was a plan to make the company dormant this had not yet occurred. This resulted in a further complaint that the information given during the complaints process had been inaccurate. The Assessment Sub Committee noted that there was a potential breach of paragraph 12 of the Parish Code of Conduct in that the information given in the Members' Code of Conduct form was incomplete and needed to be completed but that an investigation was not necessary. This matter came to a Review Sub-Committee who concluded that the revised Declaration of Interest form was also incomplete but once again concluded the matter did not need investigating but an accurate form needed to be completed.
3. A complaint was received from a member of the public who alleged that a District and Town Councillor had failed to treat him with respect and in breach of paragraph 5 in that he had brought his office into disrepute when the Member had used strong language to the person while walking across a public car park. Both the Assessment Sub-Committee and the Review Sub-Committee concluded that the Member was not acting in his capacity as a Councillor at the time of the incident and therefore the Code of Conduct did not apply. This decision was based on High Court decision under a similarly worded code of conduct.
4. A further complaint was received against the Parish Councillor in 2 above from the same complainant in relation to his declaration of interest form. On this occasion the Assessment Sub-Committee were of the view that the Declaration of Interest form was accurate in that it set out the information required. They also noted that the alleged breach had no impact on the workings of the Parish Council and therefore could be viewed as an abuse of process.
5. A complaint was brought against a District Councillor who also sat as a Parish Councillor by a fellow Parish Councillor alleging that the District Councillor had prevented disclosure of information the complainant had requested through an FOI request contrary to paragraph 4 of the District Council Code of Conduct. The complaint was dismissed by the Assessment Sub-Committee in that they did not feel the information to disclose any potential breach of paragraph 4 of the Mid Sussex Code of Conduct. The Review Sub Committee however requested the matter to be investigated by an independent investigator. The report of the independent investigator concluded that

the District Member had given the information requested by the FOI Officer, was not aware of the minutes of a meeting that he was alleged to have withheld and had not taken any steps to prevent the disclosure of information to the complainant who had in fact received a copy of those minutes.

6. The complainant in 5 above brought a second complaint against 4 District Councillors alleging that they had improperly met a landowner who was submitting a planning application and had therefore attempted to use their position as a Member to improperly confirm an advantage on another and had acted in a way that was likely to bring their office or authority into disrepute. The matter was considered by an Assessment Sub-Committee which concluded that on the information given by the 4 members there was no wish to advance or assist any particular planning application but merely to give information about the planning process. The Assessment Sub-Committee were therefore satisfied that there was no potential breach of the Code of Conduct. Following a request for a review the matter was considered by a Review Sub-Committee who reached the same conclusion in that the meeting was in no way a pre-application or any other such meeting to make any decision on a planning application. It was a meeting to impart information.

7. A complaint was received that a Parish Member had failed to leave the room in accordance with the Parish Code of Conduct having declared a prejudicial disclosable interest in a matter. Secondly that Member had treated members of the public in an intimidating and bullying manner contrary to paragraph 3 of the Members' Code of Conduct. The Assessment Sub-Committee agreed that the Member should have left the room when items relevant to his prejudicial declaration of interest arose at the meeting. They were satisfied this was clear from the papers and that no investigation was required. In relation to the second complaint they made no finding but based on the draft minutes of the meeting they concluded that the meeting had been lively and it was unlikely that an investigation would reach a definitive conclusion on this question. They therefore could not agree that it would be a useful expenditure of public money. No request for a review has been received within the 20 working day time frame.