

7. MID SUSSEX DISTRICT COUNCIL CODE OF CONDUCT AND ITS APPLICATION

REPORT OF: Tom Clark
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Wards Affected: All
Key Decision N/A

Purpose of the Report

1. To remind the Committee of the Code of Conduct adopted in November 2014 and to look at the Code of Conduct in the light of scenarios presented at the meeting.

Summary

2. Mid Sussex District Council has adopted a rules based Code of Conduct which is in a similar format to the West Sussex County Council Members' Code of Conduct.

Recommendations

3. **To note the content of the adopted Code of Conduct and to note its application in various scenarios.**
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Background

4. Prior to 2011 there was a prescribed Local Government Association Code of Conduct which was rules based. Following the implementation of the Localism Act 2011, Councils at all levels had to adopt a Code of Conduct based on the Nolan principles. They could either retain a rules based Code of Conduct or move to a "principles" Code of Conduct and at Mid Sussex we retained a Rules based Members Code of Conduct.
5. We looked at the adopted Code of Conduct at two meetings in 2014 and agreed to recommend to Council that we would retain a rules based Code of Conduct based on the Code of Conduct adopted in West Sussex County Council given that a number of members were dual or triple hatted. Many of the town and parish Councils have also got a rules based Code of Conduct based on the original Local Government Association model but some Councils have moved to a broad based Code of Conduct which may be simpler to read but probably harder to enforce. The Mid Sussex Code of Conduct is annexed to this report.
6. At Mid Sussex District Council we have also retained the Standards for England method of dealing with complaints. The Monitoring Officer in consultation with an independent person decides whether a complaint could involve the breach of the Code of Conduct. If this is thought to be the case the matter is referred to an Assessment Sub-Committee. That Sub - Committee makes a decision whether or not they consider there has been a

potential breach of the Code of Conduct and if the answer to that question is positive it then whether or not it is in the public interest for that potential breach to be investigated in accordance with published criteria. If the Sub - Committee decides there has been no potential breach of the Code of Conduct or decides any potential breach does not need investigating the complainant has a right to ask for that decision to be reviewed. A number of decisions have been reviewed and Sub-Committees usually get to the same conclusion but not necessarily through the same thought processes. The decisions are explained in writing to the complainant and this letter is copied to the member in receipt of the complaint and any relevant town/parish Council.

7. If an investigation is requested, it is done by someone who has not previously been involved in the matter. They interview witnesses and prepare a written report.
8. If that written report discloses no possible breach of the Code of Conduct this is presented to the complainant and the member in receipt of the complaint and subject to their representations is concluded at that stage following consultation once again with the independent person.
9. If the report does disclose a potential breach of the Code of Conduct a hearings committee is set up and the report is presented to the three members of the hearings committee in accordance with the rules relating to public committees. Members hear from the Investigating Officer and representations on behalf of the member in receipt of the complaint. Their job is then to decide whether there has in fact been a breach of the Members Code of Conduct. If they conclude there has, they ask for mitigation representations for the member bearing in mind that their powers of sanction are limited and since 2011 have not included suspension or disqualification.
10. Scenarios will be presented for members to discuss in the light of the provisions of the Mid Sussex District Code of Conduct.

Policy Context

11. Sections 26 to 37 inclusive of the Localism Act 2011 require the District Council to deal with Standards complaints and promote good standards in its area. There are criminal sanctions for not or not properly declaring interests and not accurately completing the Declaration of Interest form. Such criminal prosecutions can only be brought by the Director of Public Prosecutions and in the past 5 years there has only been one such prosecution. The Courts have recently confirmed a Standards Committee can require an elected member to undertake training. The sanctions of disqualification or suspension are no longer available and some members of the public do believe those sanctions should be restored and have petitioned their MP accordingly. There is no sign of any change in legislation from Central Government.

Financial Implications

12. The cost of any investigation falls on the District Council. Complex matters are expensive to investigate because they involve the investigator in interviewing a number of witnesses.

Risk Management Implications

13. Given the Council is responsible for conduct in parish councils it is important that parish councils are given support to maintain good standards of member behaviour to avoid unnecessary Code of Conduct complaints being made. This frequently relies on a strong Chairman.

Equality and customer service implications

14. All complaints must be in writing and give the name of the complainant. If complainants have difficulty writing, officer assistance can be given.

Other Material Implications

15. An explanation of how to make a Code of Conduct complaint is on the Council's website and has been simplified for ease of use.

Background Papers

16. Standards Committee papers from the 21st October 2015.