

27 May 2021

PLEASE NOTE START TIME OF MEETING

Advisory Committees can meet virtually with appropriate Councillors attending via remote video link. Public access is available via a live stream video through the [Mid Sussex District Council's YouTube channel](#).

Dear Councillor,

A meeting of **STANDARDS COMMITTEE** will be held **VIA REMOTE VIDEO LINK** on **MONDAY, 7TH JUNE, 2021 at 6.00 pm** when your attendance is requested.

Yours sincerely,
KATHRYN HALL
Chief Executive

A G E N D A

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| 1. | Roll Call and Virtual Meeting Explanation. | |
| 2. | Election of Chairman. | |
| 3. | Appointment of Vice-Chairman. | |
| 4. | To receive apologies for absence. | |
| 5. | To consider any items that the Chairman agrees to take as urgent business. | |
| 6. | To receive Declaration of Interests from Members in respect of any matter on the Agenda. | |
| 7. | To confirm the Minutes of the Meeting of the Committee held on 8 March 2021. | 3 - 4 |
| 8. | Criteria for Assessing Code of Conduct Complaints. | 5 - 8 |

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9. Questions pursuant to Council Procedure Rule 10.2 due notice of which has been given.

To: **Members of Standards Committee:** Councillors C Ash-Edwards, A Bennett, L Bennett, P Bradbury, R Clarke, D Denham St Pinnock, K Healy, A Eves, S Smith and B Von Thunderclap

Independent Persons: Paul Cummins, Dr David Horne and Wendy Swinton-Eagle

**Minutes of a meeting of Standards Committee
held on Monday, 8th March, 2021
from 6.00 pm - 6.14 pm**

Present: P Bradbury (Chairman)
C Ash-Edwards (Vice-Chair)

A Bennett	K Healy	B Von Thunderclap
R Clarke	A Eves	
D Denham St Pinnock	S Smith	

Absent: Councillors L Bennett

Also Present: Councillors N Webster and R De Mierre.

1. ROLL CALL AND VIRTUAL MEETING EXPLANATION.

The Chairman carried out a roll call to establish attendance at the meeting.

Tom Clark, Head of Regulatory Services provided information on the format of the virtual meeting.

2. TO RECEIVE APOLOGIES FOR ABSENCE.

Apologies were received from Cllr Bennett.

3. TO CONSIDER ANY ITEMS THAT THE CHAIRMAN AGREES TO TAKE AS URGENT BUSINESS.

The Chairman had no urgent business.

4. TO RECEIVE DECLARATION OF INTERESTS FROM MEMBERS IN RESPECT OF ANY MATTER ON THE AGENDA.

No declarations were made.

5. TO CONFIRM THE MINUTES OF THE MEETING OF THE COMMITTEE HELD ON 18 JANUARY 2021.

The Minutes of the meeting of the Committee held on 18 January 2021 were approved as a correct record and electronically signed by the Chairman.

The Chairman noted a matter that was discussed at the previous meeting; the proposal to reinforce the Code of Conduct from Cllr. Denham St Pinnock in respect of Social Media and particularly the abuse and lack of manners on Social Media. He highlighted that the discussion was postponed until guidance was received from government in respect of the Code of Conduct. Although it was due to be received at

the meeting however its publication has been delayed until April and the Chairman confirmed his intention to have the discussion when the advice has been received.

6. STANDARDS COMMITTEE ANNUAL REPORT 2020.

Tom Clark, Head of Regulatory Services, introduced the report which detailed the work of the Standards Committee in 2020. He outlined that the Committee spent a lot of time considering the new Code of Conduct however the final advice from government won't be received until April so he believed it would be sensible to look at that when the advice is received. He highlighted that the year has in fact been busier than previous years and drew attention to Appendix A which detailed the various complaints. He added that Members may think penalties available are quite limited in reference to No.5 of the Appendix where it was unfortunate that further could not be taken against a Member from East Grinstead Town Council.

An Independent Person on Standards Matters noted that the Committee normally provides to training to Members of the District Council and asked for a reference in the report that due to the pandemic the Council wasn't able to provide the customary training opportunities for Members. He also asked that, whilst it is not a perfect science, the inclusion of the volume of complaints in relation to the total number of District Councillors and potentially Parish/Town Council Members would be welcome.

The Head of Regulatory Services believed that the comment on training difficulties is fair. He briefly noted the volume of complaints which a third pertained to District Council Members and the remainder to Parish and Town Council Members.

The Chairman recommended the inclusions from the Independent Person in the report. He stated that the training is normally very interactive which is hard to replicate in the virtual format. He hoped that later in the year, when permissible to meet other people, that a training session could be brought forward however he suspects that it may have to wait until the following year. He noted the two addition points for inclusion and then moved to the recommendation to forward the report to Council for information which was approved unanimously.

RESOLVED

That the Standards Committee forward the report, with the additional reference to the pandemic preventing training and the inclusion of more detailed volume of complaints, to Council for information.

7. QUESTIONS PURSUANT TO COUNCIL PROCEDURE RULE 10.2 DUE NOTICE OF WHICH HAS BEEN GIVEN.

None.

The meeting finished at 6.14 pm

Chairman

CRITERIA FOR ASSESSING CODE OF CONDUCT COMPLAINTS

REPORT OF: Solicitor & Head of Regulatory Services
Contact Officer: Tom Clark, Solicitor & Head of Regulatory Services
Email: Tom.Clark@midsussex.gov.uk - Tel: 01444 477459
Wards Affected: All
Key Decision No
Report to: Standards Committee
Monday 7th June 2021

Purpose of Report

1. To consider Criteria for consideration of Code of Conduct Complaints.

Summary

2. The Standards Committee last looked at these Criteria in July 2016. It is time that these were reviewed. At the present time, the complaints are more wide and varied than they were in 2016 when most complaints related to Neighbourhood Plans and disputes about whether the register of interest has been properly completed. Members are asked to consider whether any additions or changes should be made so that resources are spent on matters of public concern.
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Recommendations

3. **The Standards Committee is asked to consider the present criteria used to assess complaints and to delegate the update of the criteria to the Monitoring Officer in the light of that debate.**

Background

4. There is a cost to the public purse in dealing with Code of Conduct complaints. However it is important that the public have confidence in the way Council matters are dealt with and therefore investigating the reasonable concerns of the public is important.
5. It is also important that there are sufficient resources to investigate potential misuse of Council resources or actions of Councillors in the course of Council business likely to result in personal gain.
6. There is a danger that the Council could receive a lot of complaints between members of a personal nature. It is important members stick to factual statements rather than statements of a personal nature about each other particularly when using social media.
7. The assessment criteria should direct the work to matters of public concern and away from matters of personal insult which all Members should avoid.
8. As the law currently stands the Code of Conduct only applies to the activities of elected members when they relate to the business of the relevant Council or the work of an elected member as a Councillor the reference by the elected member to them being a councillor being a material consideration.

Financial Implications

9. The cost of running the Standards Committee and investigating complaints falls on the District Council. Problems at Parish Councils resulting in a lot of Code of Conduct complaints can cause financial pressures and have done for some local District and Borough Councils.

Risk Management Implications

10. A series of Code of Conduct Complaints against the Parish Council or between Parish Councillors is very unsettling for the work of that Parish Council and is to be avoided if possible.

Equality and Customer Service Implications

11. Complaints need to be made in writing, but assistance can be given where necessary.

Other Material Implications

12. The sanctions available under the Localism Act 2011 are very limited, but are subject to review and may be the subject matter of future legislation so that where breaches of the Code of Conduct are found, the public can see sanctions being taken.

LOCAL ASSESSEMENT CRITERIA

The following criteria shall be applied by the Standards Sub- Committee when considering allegations that a member has failed to comply with the Members' Code of Conduct. The first 5 criteria are also used by the Monitoring Officer in consultation with the independent persons to judge whether a complaint can be brought before a Sub Committee as a possible breach of the Members' Code of Conduct. The Sub Committees however need to make their own decision on these 5 criteria if a matter is brought before them.

If an investigation is carried out and a Hearings Sub-Committee find there has been a breach of the Members Code of Conduct the only penalty available to that Sub-Committee is one of censure.

- 1) Is the complaint within the jurisdiction of the Committee?
- 2) Is it a complaint against one or more named members or co-opted members of the authority covered by the Members' Code of Conduct?
- 3) Was the named member in office at the time of the alleged conduct and the Code of Conduct was in force at the time?
- 4) Would the complaint, if proven, be a breach of the Code under which the member was operating at the time of the alleged misconduct?
- 5) Is the complaint really about dissatisfaction with a Council decision?

Note – If the complaint fails one or more of the above tests it cannot be investigated as the breach of the Code.

- 6) Is there a prima facie evidence of a breach of the Code?
- 7) Is it serious enough to require investigation?
- 8) Is this part of a continuing pattern of less serious misconduct that is unreasonably disrupting the business of the authority and there is no other avenue left to deal with it except investigation?
- 9) In considering the case the Sub Committee will take into account the time that has passed since the alleged conduct occurred.
- 10) Is the case suitable for local investigation?
- 11) There is not enough information currently available to justify a decision to take the matter further for investigation?

While anonymous complaints will not be accepted in exceptional circumstances the name of the complainant will not be disclosed to the Member that is the subject of the allegation applying the following factors.

- 12) There are reasonable grounds for believing the complainant will be at risk of physical harm if their identity is disclosed.
- 13) The complainant is an Officer who works closely with the Member and is afraid of the consequences to their employment if their identity is disclosed.
- 14) There is evidence of medical risks associated with the complainant's identity being disclosed.

- 15) Is it feasible for the complaint to be investigated without the complainant's identity being disclosed?
- 16) Are there grounds to believe that disclosure of the complainant's identity and/or the provision of the written summary of the allegation may lead to intimidation of the witness or the destruction of evidence?