

5. INDEPENDENT MEMBERS FORUM REPORT

Notes on meeting at Arun District Council 19th October 2009

Trevor Swainson and David Brown attended

1) National Assembly – Birmingham 12-13th October

Kathy Vagg (Arun) gave a very positive report re the quality of the organisation, presentations and handouts. We learned that more than 270 independent members attended – out of a total of 800+

Several interesting points were raised:

1. An Effective Standards Committee - apparently the Standards Board has published a list of criteria.* (see note below) Perhaps we should measure ourselves against them.
2. Dealing with the media - several Committees have established protocols (as per Isle of Wight) We have discussed this and decided that in our area where there is not one newspaper or other media source that covers the entire district it was not practical. However one approach suggested is to monitor meetings of the Full Council and (say) the Planning Committee to see who from the media attends and focus on them. In our case we suspect this will be the Mid Sussex Times.
The general advice seems to be to work through the Council's Press Officer, though there could be occasions when the Chairman might wish to speak directly to the media
3. Sanctions – “Other action”---care needed; no finding of fact made; cannot direct that action be taken only make suggestion ; requires consent to be effective.
4. Sanctions – apologies must be in writing, appropriately worded , timely and sincere. (See Standards Board bulletin 45 August 09)

2) Mediation Process

Arun District Monitoring Officer described the mediation process used by them to help turn around a dysfunctional Parish Council. They hired the services of an independent mediator (at cost of 4k) for whom this was a first time outside the realm of marriage counselling!. Process took 6 months but considered successful. An interesting story but hopefully an approach we will not require.

3) Relations with Monitoring Officer

This matter was treated as a confidential item and officers of Arun DC withdrew.

A Chairman described continuing difficulties with her Monitoring Officer where she felt that the officer failed to consult with her. One delegate suggested mediation!! An interesting comment was made during lunch that suggested the problem was not confined to the Monitoring Officer.

4) Future Meetings

17th March 2010 at Horsham.

Volunteers sought for future meetings. East Hampshire (Petersfield) half offered. We did not but perhaps we should have.

Conclusion

A fairly low key meeting with plenty of navel gazing and minutiae. We both detected attempts to create an industry which left us feeling uncomfortable.

.
* Have not been able to find this yet. Have asked Arun DC for help

.
TS/DJB 19/10/09

6. STANDARDS COMMITTEE ASSESSMENT AND REVIEW HEARINGS WORK.

REPORT OF: Tom Clark, Solicitor to the Council and Monitoring Officer
Email: TomC@midsussex.gov.uk Tel: 01444 477459
Wards Affected: All
Key Decision No

Purpose Of Report

1. This report looks at the assessment and review sub-committee work over the first eighteen months from 8th May 2008 when the District Council took over this filtering job from the Standards Board for England.

Summary

2. The level of complaints has remained steady at approximately one complaint every other month with many complaints resulting in no action but followed by a request for a Review. This has meant that in most months there is something for a sub committee of the Standards Committee to deal with. Generally we have dealt with all the assessment committees within twenty working days of receipt of the written signed complaint and within twenty working days of receiving a written request for a review.

Recommendations

3. **To note the report and consider any changes to the process used to deal with these complaints.**
-

Background

4. From the 8th May 2008 the District Council was required to act as the filter for complaints against District Council Members and Members of Town and Parish Councils in the Mid Sussex area alleging breaches of the relevant Members Code of Conduct. A revised Members Code of Conduct is likely to be published shortly and training for all District Council members and all members of the Standards Committee has been arranged for 6.30pm on 12th January 2010 in the Council Chamber. This work is done in accordance with the background legislation in Section 57 of the Local Government Act 2000 (as amended) by the Local Government in Public Involvement in Health Act 2007 (the 2007 Act), by the Standards Committee (England) Regulations 2008 Statutory Instrument 2008 No. 1085 and in further guidance received from the Standards Board for England and in particular their Local Standards Framework Guidance. The Standards Board for England have produced a DVD entitled "Assessment made clear" which we will be viewing.
 - 4.1 At Mid Sussex District Council our Assessment and Review Sub Committees are composed of three members with an independent chairman and generally two District Council members for a District Council complaint and one District Member and one Town/Parish Council Member where the complaint is

against a Town or Parish Councillor. The sub-committees have reached unanimous decisions on most matters before them.

- 4.2. An issue that is raised by members in receipt of complaints is the level of information given to them when the complaint has been received. When the Standards Board for England dealt with these matters members were not given any information about the initial complaint until a decision had been taken whether or not to investigate the complaint because legislation prevented this. Section 57C of the Local Government Act 2000 introduced by the 2007 Act allows some basic information about the complaint to be given to the member in receipt of the complaint. This section says that the Standards Committee must take reasonable steps to give a written summary of the allegations to the person who is the subject matter of the complaint but this is subject to regulations made by the Secretary of State. The regulations are Statutory Instrument 2008 No. 1085. These regulations say that details of the complaint can be given to the member in receipt of the complaint but not to the extent that the disclosure would be contrary to the public interest or prejudice any future investigations.
- 4.3 The Standards Board guidance suggests that when advising the member in receipt of the complaint the Monitoring Officer should confirm the complaint has been made, the name of the complainant (unless the complainant has asked for confidentiality) and the relevant paragraphs of the Code of Conduct that may have been breached. The specimen letter for advising members in receipt of a complaint is drafted on this basis. I have adopted this procedure in notifying members in receipt of a complaint. When the assessment sub committee have taken their decision, the decision notice goes both to the complainant and to the member being complained about so they then have details of the complaint. I would not wish to send the member in receipt of the complaint the original complaint document which may include allegations of a potentially defamatory nature and in copying these to the member in receipt of the complaint, I would be bringing the Council within this area of possible defamation. I would therefore not wish to go beyond explaining how the Code of Conduct could have been potentially breached and would not wish to give a detailed summary of the complaint received before the Assessment Sub –Committee have considered it. The Standards Committee are asked to give their views on this issue.

5. The complaints received

- 5.1 Out of the eight complaints received only one has involved a Parish Councillor. In six complaints, we have decided not to take any action and out of those six, five have asked for a Review. A Review Sub-Committee has reached the same conclusion as the assessment sub committee but sometimes for different reasons. There is one complaint that has been referred to the Standards Board for England for investigation and the Standards Board for England is commencing that investigation. There is one complaint that would be dealt with by an assessment sub committee on the 2nd December 2009.

6. **Financial Implications**

- 6.1 To-date the District Council has not investigated any complaints, but should it need to do so, the cost of such investigations would be a minimum of £3,000 to include the hearing before a further Hearings sub- committee.

7. **Legal Implications**

- 7.1 It is for the Standards Committee under Section 57C(2) to decide the level of information that can be given to a person in receipt of a complaint bearing in mind the public interest and the need not to prejudice any investigation. Section 63 of the Local Government Act 2000 as amended restricts the disclosure of information received by the Monitoring Officer and the Monitoring Officer must be sure that the disclosure is required for the purposes of the Standards Committee functions and does not go wider than that which is necessary.

Background Papers

Local Government Act 2000 as amended

The Standards Committee (England) Regulations 2008

Statutory Instrument 2008 No. 1085

General Guidance from the Standards Board for England contained in the local standards framework guide for Authorities.