

**Minutes of a meeting of the Mid Sussex District Council
Standards Committee held on Tuesday, 18th June 2013
from 7:00 pm to 7:50 p.m.**

Present:

Town Cllr Christopher Ash- Edwards	Cllr Jack Callaghan Parish Cllr Duncan Cunningham	Cllr Denis Jones Cllr John O'Brien Cllr Gordon Marples Cllr Simon McMenemy
Cllr Liz Bennett Parish Cllr William Blunden	Parish Cllr Jenny Forbes	

Also present: Sir Roger Sands and Gerard Irwin, Independent Persons on Standards Matters.

1. SUBSTITUTES

None.

2. ELECTION OF CHAIRMAN

Tom Clark, Solicitor to the Council, asked for nominations for Chairman.

Councillor Jack Callaghan nominated Councillor Denis Jones as Chairman of the Committee for the 2013/14 Council year and was seconded by Councillor Gordon Marples

RESOLVED

That Councillor Denis Jones be elected Chairman of the Committee for the 2013/14 Council year.

Councillor Denis Jones took over as Chairman.

3. APPOINTMENT OF VICE-CHAIRMAN

Town Councillor Christopher Ash-Edwards was appointed as Vice-Chairman of the Committee for the 2013/14 Council year.

RESOLVED

That Town Councillor Christopher Ash-Edwards be appointed Vice-Chairman of the Committee for the 2013/14 Council year.

4. APOLOGIES

None

5. DECLARATIONS OF INTEREST

None.

6. MINUTES

The Minutes of the meeting of the Committee held on the 27th March 2013 were approved as a correct record and signed by the Chairman.

7. PROSECUTIONS AND THE LOCALISM ACT 2011

Tom Clark, Monitoring Officer, introduced the report. He reminded Members that the report summarised the debate from the previous meeting on how to deal with requests from members of the public to refer a matter to the police for a possible prosecution under the Localism Act 2011. He explained that in the majority of cases the complaint would be dealt with through the Standards procedure and the complainant would be advised that they could make a report to the police. He added that there could be a small number of serious breaches where the Council should refer the matter to the police, but to date this had not happened.

One Member emphasised the need to make it clear to the public that they had the option to make a report to the police.

In response to Members' questions, the Monitoring Officer explained that if the Standards Sub-Committee found that the complaint should be referred to the police, then this would be the Committee's conclusion and would be acted on accordingly. He explained that the schedule setting out the process for dealing with complaints was for internal guidance only. He added that the Council would not support any action by Members against malicious or vexatious allegations. He also confirmed that the prosecutions referred to in the report related only to declarations of interest, specifically failure to complete the form from July 2012 and failure to keep the form up-to-date.

The Chairman took Members to the recommendation, and the procedure to deal with requests for prosecutions under the Localism Act 2011 for a failure to properly disclose a pecuniary interest was agreed unanimously.

RESOLVED

That:

If the Monitoring Officer receives a request from a member of the public to refer a matter to the police for a possible prosecution under the Localism Act 2011 for a failure to properly declare a disclosable pecuniary interest, the Monitoring Officer shall consult with the relevant Independent Person.

If the view of the Monitoring Officer and the Independent Person is that there is a potentially serious breach of the requirements to register and disclose a disclosable pecuniary interest then the matter shall be referred to the police.

If there appears to be a potential breach but it is not apparent that there have been any serious consequences as a result, the complainant shall be invited to make a Code of Conduct complaint and the matter will be dealt with through the standard procedure.

8. DISCUSSION PAPER ON THE PROCESS TO DEAL WITH CODE OF CONDUCT COMPLAINTS

The Monitoring Officer introduced the report. He explained to Members that many of the complaints made by the public were in response to Council actions that they disagreed with, rather than because of a breach of the Code of Conduct. He asked for Members views on the process for dealing with complaints and how it could be improved.

One Member asked for clarification around the role of the Independent Person. He noted that the Monitoring Officer and the Member against which a complaint had been made could speak to the same Independent Person, and asked whether this could be a cause of concern for the complainant and lead to allegations of prejudice. He also noted that the wording of the Schedule could be misleading, suggesting that the Independent Person could give a view on merit.

The Monitoring Officer explained that the Independent Person's role was to listen to all parties involved and that the Independent Person took no part in the decision. He added that this was how the role had been set out in legislation.

The Independent Person for Standards Matters agreed with the role as outlined by the Monitoring Officer. He explained that when a complaint is received, the Monitoring Officer emails the Independent Person with his views and confirmed that neither Independent Person had yet been in a position where they had also spoken to a Member about a complaint. He added that the text should be amended to make it clear that a member of the public should only contact the Independent Person after a complaint had been made to the Monitoring Officer.

In response to Members' questions, the Monitoring Officer explained that there would always be a Hearing Sub-Committee held after a report by an independent investigator and that the independent investigator would be appointed by the Monitoring Officer. In a standard complaint a Council Officer, who had not been involved in the process, would be appointed. If the complaint was against a Cabinet Member then the Monitoring Officer could appoint someone outside of the Council. The Monitoring Officer confirmed that the Assessment Sub-Committee and the Review Sub-Committee were private meetings, but the Hearing Sub-Committee was a public meeting, which the complainant could attend. He also explained that a Member could not ask for a review following the conclusions of the Assessment Sub-Committee.

The Monitoring Officer agreed to amend the wording of the Schedule to clearly set out the points raised in the discussion.

In response to a Member's question, the Monitoring Officer explained that there was no general guidance for the public on what constitutes a complaint because each Council has a different Code of Conduct and because the obligations in the Code of Conduct of treating others with respect and not bringing the office or authority into disrepute could be used to support a number of different complaints. He added that he asked complainants to state what part of the Code of Conduct had been breached.

The Monitoring Officer reminded Members that the Council received approximately 12 complaints per year and that these were usually followed by a request for a review. He added that the Review Committee agreed with the Assessment

Committee in each case. He also explained that there had only been four complaints in 2012-13.

There was a discussion on the types of complaints received by the Council. The Independent Person explained that when a complaint was received, the Monitoring Officer and Independent Persons considered whether it was a complaint against a proper decision that the complainant disagreed with, or whether the complaint was because a decision had been reached as a result of a Member acting inappropriately, in which case it would be considered a breach of the Code of Conduct.

The Chairman took Members to the recommendation, which was agreed unanimously.

RESOLVED

That the procedure set out in Schedule 1 be noted and amended in accordance with the debate.

Chairman