

28 February 2018

Dear Members of the Standards Committee,

A meeting of the **STANDARDS COMMITTEE** will be held in the **Council Chamber** at these offices on **MONDAY 12 MARCH at 6.00 p.m.** when your attendance is requested.

Yours sincerely

KATHRYN HALL

Chief Executive.

A G E N D A

Pages

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|----|--|----------------|
| 1. | To receive apologies for absence. | |
| 2. | To receive Declaration of Interests from Members in respect of any matter on the Agenda. | |
| 3. | To confirm the Minutes of the meeting of the Committee held on 30 October 2017. | 3 - 6 |
| 4. | To consider any items that the Chairman agrees to take as urgent business. | |
| 5. | Standards Committee Annual Report – 2017 | 7 - 9 |
| 6. | Standards in Public Life: Consultation on Local Government Ethical Standards | 10 - 15 |
| 7. | Questions pursuant to Council Procedure Rule 10 due notice of which has been given. | |

Working together for a better Mid Sussex



To: **Members of the Standards Committee –**

District Councillors:- J Belsey, Bennett, Bradbury, Brunsdon, Jones and Marples.

Town and Parish Councillors:- C. Ash-Edwards, W. Blunden, M. Fielding and S. Hand.

Independent Persons: Dr David Horne, Anthony Cox

Minutes of a meeting of the Mid Sussex District Council Standards Committee held on Monday 30 October 2017 from 6:00 p.m. to 6:44 p.m.

Present: Cllr Pete Bradbury (Chairman)
Town Cllr Christopher Ash-Edwards (Vice-Chairman)

Cllr Liz Bennett*	Cllr Heidi Brunsdon	Cllr Anne Jones
Parish Cllr William Blunden	Parish Cllr Maria Fielding*	Cllr Gordon Marples
Cllr John Belsey	Parish Cllr Stephen Hand	

* Absent

Also Present: Anthony Cox and Dr David Horne, Independent Person on Standards Matters.

1. APOLOGIES

Apologies were received from Councillor Liz Bennett and Councillor Maria Fielding.

2. DECLARATIONS OF INTEREST

None.

3. MINUTES

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

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

None.

5. CONSULTATION ON NEW DISQUALIFICATION CRITERIA FOR COUNCILLORS AND MAYORS

Tom Clark, Solicitor to the Council, introduced the Report relating to the expansion of the disqualification criteria for councillors and mayors to include sexual offences and certain anti-social behaviour. He drew Members attention to Page 16 of the Papers which outlines the current disqualification criteria and asked Members to consider if the new criteria are set at a reasonable level or if they needed lowering.

The Chairman informed Members that the questions on Page 23 would be most pertinent to the discussion as the Members of the committee would answer the questions after they have debated the topic.

A Member queried if there was an omission in the Report as it outlines how Parish Councillors are applicable for disqualification however Town Councillors are not.

The Chairman confirmed that in this context Town and Parish Councillors are the same in all but name.

The Member then queried whether the disqualification criteria could include membership of extremist groups such as the BNP.

The Vice-Chairman suggested that the disqualification criteria should be more specific to certain banned groups as the interpretation of extremists groups differs from one person to another.

The Chairman noted that there is no mention of Borough or Unity Councils so enquired with the Solicitor to the Council if Borough and Unity Councils are listed in the Report as District and County.

The Solicitor confirmed Borough Councils are District Councils and Unitary Councils are County Councils for the purposes of this consultation.

A Member questioned whether Q.1 on Page 19 and Q.2 on Page 23 are contradicting questions. The Member expressed her concern with Q.2 and believed that it should not be allowed.

A number of Members supported the Member's comments, with one stating that an individual must have behaved in a certain way for them to have received the Sexual Risk Order which may occur at another point in the future.

The Member wondered if the Committee is minded to approve Q.2 on Page 23 could a clause be put in to ensure full disclosure of the Sexual Risk Order.

A Member referred to Political Parties having responsibility to resolve matters of this nature and hoped that a party leader would address the issue if an existing councillor had a Sexual Risk Order. The Chairman added to the Member's comment stating that usually a Party asks if there is anything in the Member's past that could affect the Party image.

An Independent Person for Standards drew to the committee's attention to a time in the run-up to a Police Crime Commissioner election where some candidates had to withdraw after past convictions were disclosed causing some embarrassment. He suggested that convictions, which would lead to a candidate's disqualification, are disclosed earlier on in the process possibly even before the candidate is confirmed. A Member supported the Independent Person for Standards comments and explained that she believes that Central Government should publish the criteria online to outline this before individuals apply to be a candidate.

The Solicitor to the Council confirmed that there will be a section that asks candidates if they have any past convictions. He added that a candidate meets the criteria for disqualification for as long as a court order stands, however does not meet the criteria for disqualification after it has expired.

A Member suggested that a check-list be drafted so that during the consultation process the candidate knows if they are eligible to be a candidate.

An Independent Person for Standards enquired whether a DBS check is conducted at some point during the nomination process.

A Member explained that a DBS check is conducted only after the candidate has been accepted to office.

A Member queried as to whether this procedure will be applicable to all tiers of government mainly parish level during co-option as he is conscious that little information is provided during this process.

The Solicitor to the Council explained that he was aware Parishes don't make many enquiries during the co-option process but suggested that a form could be completed by the person seeking co-option.

A Member raised concerns about the grey area that might exist if, in the case of a Director, a company or business which would be subject to a court order then would the Director be eligible or not.

A Member enquired whether a councillor would receive a disqualification if they were subject to a neighbour dispute which then caused anti-social actions.

The Solicitor to the Council explained that a disqualification would arise if the dispute reached a Court and resulted in an order being issued.

The Chairman then recommended the committee move to the questions detailed in the Report.

The Committee agreed to answer 'Yes' to Q.1, Q.3 and Q.4 on Page 23. The Committee agreed to answer 'No' to Q.2 and Q.5.

The Members then discussed Q.6 on Page 23 with one member proposing that there be a national code of conduct for all politicians to abide by.

Another Member suggested that membership to any banned groups lead to disqualification. Other Members of the committee noted that there is a national list of banned groups which could be used.

A Member also explained that he is keen that these regulations are reviewed on a regular basis as he had concerns that certain parts of these regulations had not been updated since 1972.

The Chairman then noted that no Member wished contribute further so moved to the recommendation to note the contents of the Report after giving their views on the proposals.

RESOLVED

The Committee noted the consultation and answered Q.1 to Q.5 listed on Page 23 of the Report. The answers are as follows:

1. Yes
2. No – should be disqualified while the order remains
3. Yes
4. Yes
5. No

In regard to Q.6 the Committee Members suggested the points listed below be submitted to the Department of Communities and Local Government:

- i. There be a national code of conduct for all politicians to abide be.
- ii. Members of banned organisations are to be disqualified from standing for an election.
- iii. Disqualification criteria are published online.
- iv. Key regulations are reviewed on a regular basis.

6. QUESTIONS PURSUANT TO COUNCIL PROCEDURE RULE 10 DUE NOTICE OF WHICH HAS BEEN GIVEN

None.

Chairman

5. STANDARDS COMMITTEE ANNUAL REPORT - 2017

REPORT OF: Tom Clark
Contact Officer: Solicitor and Head of Regulatory Services & Monitoring Officer
Email: Tom.Clark@midsussex.gov.uk Tel: 01444 477459
Wards Affected: All
Key Decision N/A

Purpose of Report

1. To present to the Standards Committee the proposed report to Council for 2017 of the Mid Sussex Standards Committee.

Summary

2. The report sets out the work of the Standards Committee in 2017 and in particular around training and responding to Central Government consultation.

Recommendations

3. **Members are asked to comment on the report.**
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Background

4. The Standards Committee membership has been consistent in 2017 with Cllr. Pete Bradbury still in the Chair and Cllr. Chris Ash-Edwards Member of Haywards Heath Town Council as the Vice-Chairman. There was no change in membership in May 2017. Dr. David Horne and Tony Cox remain the Independent persons.
5. At the beginning of the year a Review Sub-Committee looked at a complaint from Horsted Keynes Parish Council and indicated support for the decision of the previous Assessment Sub-Committee. This was the only formal complaint considered by the Standards Committee. There were complaints raised about the nature of Members' interests in planning applications and in a District Plan allocation but these did not require Sub-Committee consideration. The Declaration of Interest Form complaints about a Worth parish councillor have stopped in 2017 and there has been little Neighbourhood Plan formulation activity which was the other area of complaint in 2016.
6. The Standards Committee presented their report to Council in March 2017 following discussion and amendment of the draft report by the Standards Committee.
7. At the July meeting of the Committee, the Members Code of Conduct was considered in relation to real life complaints. This worked well and prompted discussion within the Committee. A similar format was adopted for training in September 2017 for District Councillors. This was chaired by Cllr. Pete Bradbury with Tom Clark the Monitoring Officer and Dr. David Horne and

Tony Cox in attendance to answer questions and take part in discussion/training.

8. At the October meeting of the Committee the proposals by the Department of Communities and Local Government to introduce new disqualification criteria around persons being on the Sexual Offences Register or subject to a Sexual offences Order were supported. In relation to proposals to disqualify people subject to an anti-social behaviour Order the Committee supported this if it was made by a civil or criminal court but not otherwise. The LGA also responded to this consultation supporting disqualification in the area of sexual offences but raising concerns about disqualification for ant-social behaviour orders even when given by a court. This consultation is now ended and we expect to see proposals in 2018 which will apply to candidates in the Local Elections in May 2019. The Committee for Standards in Public Life have issued a consultation document on Ethical Standards in Public Life which the Standards Committee will consider.

Policy Context.

9. Section 26 – 37 inclusive of the Localism Act 2011 requires the District Council to deal with Standard's complaints and to promote good standards in its area. This Act took away sanctions of disqualification and suspension but introduced, in very serious cases only, the possibility of a prosecution for failing to complete the declaration of interest form accurately or failing to declare interest as appropriately both in terms of failing to declare an interest at all or failing to declare an interest accurately. In the past 6 years there has only been one such prosecution in England.

Other Options Considered.

10. There remains the option of combining the Standards Committee with the Audit Committee. No support has been expressed for this at Mid Sussex District Council where both Committees have a full timetable of business.

Financial Implications

11. The cost of any investigation whether the member is from the District Council or from a Parish Council falls on the District Council. A series of complaints requiring investigation would put a financial burden on the District Council.

Risk Management Implications

12. The Monitoring Officer keeps in close contact with the Parish Clerks and provides advice to try to ensure Code of Conduct matters are dealt with at an early stage before they become a larger and more expensive issue to solve.

Equality and customer service implications

13. All complaints have to be in writing but if anyone has a difficulty with that they can seek assistance from Council officers.

Other Material Implications

14. The website has been revised to ensure that the public can see quickly how to make a Members' Code of Conduct complaint.

6. STANDARDS IN PUBLIC LIFE: CONSULTATION ON LOCAL GOVERNMENT ETHICAL STANDARDS

REPORT OF: Tom Clark
Contact Officer: Tom Clark, Solicitor & Head of Regulatory Services
Email: Tom.Clark@midsussex.gov.uk Tel: 01444 477459
Wards Affected: All
Key Decision N/A

Purpose of the Report

1. To consult the Standards Committee on the consultation issued by the Committee on Standards in Public Life (the Committee) from the 29th January 2018 to 18th May 2018 on the existing ethical standards structure. To seek the Standards' Committee's views on the questions raised to report back to that Committee.

Summary

2. There are 11 questions the Committee seeks the views of interested parties in the present ethical standards structure and how that might be amended to work more satisfactorily as set out in the attached Appendix.

Recommendations

3. **To give views on the 11 questions, to be reported back, in response to the consultation.**
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Background

4. The present ethical standards have been in place since 2012 following the enactment of the Localism Act 2011 ("the Act"). The Act took away the previous regime of Standards for England and a central Code of Conduct to which all Members at every level of local government had to comply. The Act also took away the sanctions of suspension and disqualification. The Act introduced a new offence of failing to properly declare interests and failing to disclose those interests at a meeting. The interests were narrowly defined as disclosable pecuniary interests. In the past 6 years there has only been one prosecution. Prosecutions require the consent of the Director of Public Prosecutions.
5. Questions a & b ask about the existing structures and how they work to ensure high standards of conduct by councillors and what if any gaps exist. There is now no standard form of Code of Conduct and therefore we do not have a body of relevant decisions that we previously had to guide us in our work.
6. Questions c & d talk about the Code of Conduct itself. In West Sussex the County Council's Code of Conduct is used by this District Council and many other Councils. Some Councils have a different Code of Conduct with different variations. It would be easier if there was one Code of Conduct that clearly complied with the 7 principles of public life.

7. Question e deals with the investigations and decisions. We have two active independent persons who assist me as Monitoring Officer and to date we have not had a problem with complaints being investigated given the low level of such complaints.
8. Question f deals with sanctions. The sanctions are now effectively bad publicity. The Code of Conduct may have more respect in the public domain if there were real sanctions allowed to be taken. The concern in implementing such sanctions would be possible expensive legal disputes going forward.
9. Question g deals with conflicts of interest. Our Declaration of Interest form requirements are wider than the statutory minimum and seem to work well. A wider national code might better.
10. Question h deals with whistleblowing. We have no general whistle blowing policy. Members are free to report matters to me which can be investigated in an informal way initially.
11. In questions i and j consultees are asked to consider what ways Local Government Ethical Standards could be improved and how Central Government could assist in this process.
12. Finally in question k we are asked about intimidation of local councillors which is recognised to have increased on a national level in the past 24 months with social media used to continually contact Members or pass on abusive views.

Policy Context

13. The District Council is required to promote good standards pursuant to Section 26-37 inclusive of the Localism Act 2011.

Other Options Considered

14. The Standards Committee could choose not to respond to the consultation. It seems worthwhile giving our views since some concerns have been raised at previous meetings of the Standards Committee and among the public about a lack of sanctions for breach of the Code of Conduct.

Financial Implications

15. The investigation of potential Code of Conduct breaches in the District or Parishes in Mid Sussex is a cost to the District Council.

Risk Management Implications

16. Breaches of the Code of Conduct that go without proper recognition are likely to undermine respect for local government.

Equality and customer service implications

17. This report raises no such implications.

Background Papers

The relevant legislation

Review of Local Government Ethical Standards: Stakeholder Consultation

The Committee on Standards in Public Life is undertaking a review of local government ethical standards.

Robust standards arrangements are needed to safeguard local democracy, maintain high standards of conduct, and to protect ethical practice in local government.

As part of this review, the Committee is holding a public stakeholder consultation. The consultation is open from 12:00 on Monday 29 January 2018 and closes at 17:00 on Friday 18 May 2018.

Terms of reference

The terms of reference for the review are to:

1. Examine the structures, processes and practices in local government in England for:
 - a. Maintaining codes of conduct for local councillors;
 - b. Investigating alleged breaches fairly and with due process;
 - c. Enforcing codes and imposing sanctions for misconduct;
 - d. Declaring interests and managing conflicts of interest; and
 - e. Whistleblowing.
2. Assess whether the existing structures, processes and practices are conducive to high standards of conduct in local government;
3. Make any recommendations for how they can be improved; and
4. Note any evidence of intimidation of councillors, and make recommendations for any measures that could be put in place to prevent and address such intimidation.

The review will consider all levels of local government in England, including town and parish councils, principal authorities, combined authorities (including Metro Mayors) and the Greater London Authority (including the Mayor of London).

Local government ethical standards are a devolved issue. The Committee's remit does not enable it to consider ethical standards issues in devolved nations in the UK except with the agreement of the relevant devolved administrations. However, we welcome any evidence relating to local government ethical standards in the devolved nations of the UK, particularly examples of best practice, for comparative purposes.

Submissions will be published online alongside our final report, with any contact information (for example, email addresses) removed.

Consultation questions

The Committee invites responses to the following consultation questions.

Please note that not all questions will be relevant to all respondents and that submissions do not need to respond to every question. Respondents may wish to give evidence about only one local authority, several local authorities, or local government in England as a whole.

Please do let us know whether your evidence is specific to one particular authority or is a more general comment on local government in England.

Whilst we understand submissions may be grounded in personal experience, please note that the review is not an opportunity to have specific grievances considered.

- a. Are the existing structures, processes and practices in place working to ensure high standards of conduct by local councillors? If not, please say why.
- b. What, if any, are the most significant gaps in the current ethical standards regime for local government?

Codes of conduct

- c. Are local authority adopted codes of conduct for councillors clear and easily understood? Do the codes cover an appropriate range of behaviours? What examples of good practice, including induction processes, exist?
- d. A local authority has a statutory duty to ensure that its adopted code of conduct for councillors is consistent with the Seven Principles of Public Life and that it includes appropriate provision (as decided by the local authority) for registering and declaring councillors' interests. Are these requirements appropriate as they stand? If not, please say why.

Investigations and decisions on allegations

- e. Are allegations of councillor misconduct investigated and decided fairly and with due process?
 - i. What processes do local authorities have in place for investigating and deciding upon allegations? Do these processes meet requirements for due process? Should any additional safeguards be put in place to ensure due process?
 - ii. Is the current requirement that the views of an Independent Person must be sought and taken into account before deciding on an allegation sufficient to ensure the objectivity and fairness of the decision process? Should this requirement be strengthened? If so, how?
 - iii. Monitoring Officers are often involved in the process of investigating and deciding upon code breaches. Could Monitoring Officers be subject to conflicts of interest or undue pressure when doing so? How could Monitoring Officers be protected from this risk?

Sanctions

- f. Are existing sanctions for councillor misconduct sufficient?
 - i. What sanctions do local authorities use when councillors are found to have breached the code of conduct? Are these sanctions sufficient to deter breaches and, where relevant, to enforce compliance?

- ii. Should local authorities be given the ability to use additional sanctions? If so, what should these be?

Declaring interests and conflicts of interest

- g. Are existing arrangements to declare councillors' interests and manage conflicts of interest satisfactory? If not please say why.
 - i. A local councillor is under a legal duty to register any pecuniary interests (or those of their spouse or partner), and cannot participate in discussion or votes that engage a disclosable pecuniary interest, nor take any further steps in relation to that matter, although local authorities can grant dispensations under certain circumstances. Are these statutory duties appropriate as they stand?
 - ii. What arrangements do local authorities have in place to declare councillors' interests, and manage conflicts of interest that go beyond the statutory requirements? Are these satisfactory? If not, please say why.

Whistleblowing

- h. What arrangements are in place for whistleblowing, by the public, councillors, and officials? Are these satisfactory?

Improving standards

- i. What steps could *local authorities* take to improve local government ethical standards?
- j. What steps could *central government* take to improve local government ethical standards?

Intimidation of local councillors

- k. What is the nature, scale, and extent of intimidation towards local councillors?
 - i. What measures could be put in place to prevent and address this intimidation?

Who can respond?

Anyone with an interest may make a submission. The Committee welcomes submissions from members of the public.

However, the consultation is aimed particularly at the following stakeholders, both individually and corporately:

- Local authorities and standards committees;
- Local authority members (for example, Parish Councillors, District Councillors);
- Local authority officials (for example, Monitoring Officers);
- Think tanks with an interest or expertise in local government;
- Academics with interest or expertise in local government; and
- Representative bodies or groups related to local government.

How to make a submission

Submissions can be sent either in electronic format or in hard copy.

Submissions must:

- State clearly who the submission is from, i.e. whether from yourself or sent on behalf of an organisation;
- Include a brief introduction about yourself/your organisation and your reason for submitting evidence;
- Be in doc, docx, rtf, txt, ooxml or odt format, not PDF;
- Be concise – we recommend no more than 2,000 words in length; and
- Contain a contact email address if you are submitting by email.

Submissions should:

- Have numbered paragraphs; and
- Comprise a single document. If there are any annexes or appendices, these should be included in the same document.

It would be helpful if your submission included any factual information you have to offer from which the Committee might be able to draw conclusions, and any recommendations for action which you would like the Committee to consider.

The Committee may choose not to accept a submission as evidence, or not to publish a submission even if it is accepted as evidence. This may occur where a submission is very long or contains material which is inappropriate.

Submissions sent to the Committee after the deadline of 17:00 on Friday 18 May 2018 may not be considered.

Submissions can be sent:

1. Via email to: public@public-standards.gov.uk
2. Via post to:
Review of Local Government Ethical Standards
Committee on Standards in Public Life
GC:07
1 Horse Guards Road
London
SW1A 2HQ

If you have any questions, please contact the Committee's Secretariat by email (public@public-standards.gov.uk) or phone (0207 271 2948).