

STANDARDS COMMITTEE BUSINESS 2019/20

REPORT OF: Solicitor & Head of Regulatory Services and Monitoring Officer
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Wards Affected: All
Key Decision N/A
Report to: Standards Committee on 10th June 2019 at 6 pm

Purpose of Report

1. To outline the expected work of the Standards Committee in 2019/20 given we have a newly elected District Council and many new councillors in the towns and parishes.

Summary

2. In the past couple of years there have been very few Member Code of Conduct complaints given members have become familiar at all levels of Council work with the Members Code of Conduct. The amount of Neighbourhood planning reduced in the last two years which had been a primary source of the complaints in the first part of the 2015/19 Council term. The Committee on Standards on public life reported in January 2019 on proposed changes to the Code of Conduct regime. A particular change is to reintroduce the ability of the Standards Committee to suspend a member without pay for a serious breach of the Code of Conduct. Some of the changes will require primary legislation and therefore are unlikely to be in place for another 12 months.

Recommendations

3. **Standard Committee members are asked to consider the report and note its contents.**
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Background

4. At Mid Sussex District Council we have retained a Members Code of Conduct similar to the one prescribed prior to the changes in the Localism Act 2011. We therefore include interests of a personal and prejudicial nature in addition to the statutory disclosable pecuniary interests. Disposable pecuniary interests arise when a member has a direct interest in a particular item. Personal and prejudicial interests are wider and include interests near to or adjacent to the subject matter. Most town and parish councils in Mid Sussex follow a similar Code of Conduct to the District Council which in turn has followed the West Sussex County Council Members Council Code of Conduct. The Committee on Standards in Public Life recommended the same Code of Conduct will apply throughout a county area to avoid any confusion for the public in attending various meetings and finding the rules are different. It is likely the recommended Members Code Conduct will be similar to the one currently adopted by Mid Sussex District Council with additions and updates. Once this new Code of Conduct is available the Council will need to adopt the same and encourage town and parish councils to do the same.
5. The case of R (Harvey)-v-Ledbury Town Council and Herefordshire County Council confirms it is only the District Council that can deal with Code of Conduct matters. Any residuary power town and parish councils had to deal with conduct matters were removed by the Localism Act 2011. It also gave advice that where there is an issue between a councillor and the Council clerk it is for the Chairman to consider reporting the matter to the relevant District or County Council.

Dealing with a Code of Conduct Complaint.

6. When the Monitoring Officer receives a Code of Conduct complaint it must be recorded in writing. The Monitoring Officer then considers the complaint and then refers it one or both of the independent persons for their opinion. If the complaint reveals a possible Code of Conduct breach the matter is referred to a panel of the Standards Committee members composed of at least one District member and one Town/Parish member with 3 in total. The panel consider first whether the Code of Conduct applies to the activity described in the complaint. If it does then they go on to consider whether there is a potential breach of the Code of Conduct. If the answer to that question is yes they go on to consider whether it is in the public interest (bearing in mind the cost of any investigation is paid for from the public purse) for the matter to be fully investigated and reported it to the hearing.
7. If the panel decided against taking any further action the person who made the complaint can ask for a review panel to reconsider the matter afresh. The review panel goes through the same process and considers once again whether an investigation is required subject to the Code of Conduct applying and there being a potential breach of that Code of Conduct. In the past review panels have reached the same conclusion as the original panel but not necessarily for the same reasons.
8. If an investigation is requested this will be carried out by someone who is unconnected with the original complaint or its submission to the Standards panel. This will normally preclude the Monitoring Officer of this Council from investigating the complaint. It may be done by a Deputy Monitoring Officer, a Monitoring Officer in another authority or by an independent investigator.

9. Once the investigation is completed a report is prepared which is shared with the Monitoring Officer and the independent person. The report may suggest that there is a matter to be heard at a Hearings Panel or otherwise there is no breach of the Members Code of Conduct. The report is shared with both the complainant and the member in receipt of the complaint for comments. Assuming they are content with the report and there is no breach of the Code of Conduct suggested that it is the end of the matter subject to any publicity that arises. If however a hearing is required a fresh panel is set up and a hearing takes place in public. The Hearings Panel have to decide once they've heard from the investigating officer and the member in receipt of the complaint whether or not there is a breach of the Code of Conduct. If they conclude there is such a breach they then receive submissions on possible penalties for that breach which could include suspension once the provisions recommended by a Committee on Standards on Public Life are included in the legislative background.
10. We currently have the possibility of members being prosecuted subject to the consent of the Attorney General. Such prosecutions arise if members fail to disclose disclosable pecuniary interests in their Declaration of Interest form or fail to disclose such interest were relevant at a meeting or when conducting Council business. So far there have been about 3 such prosecutions which have resulted in convictions on two occasions. This is over an 7 year period and therefore is a rare event. The Committee on Standards and Public Life felt it was an inappropriate way to deal with breaches of the Members Code of Conduct and therefore these offences may go when the legislation is reviewed and re-enacted.

Maintaining High Standards Of Conduct.

11. From working with the Standards Committee over the past 12 years it is clear where a Council takes steps early on to point out and deal with behaviour below the Standard the average member of the public would expect Member Code of Conduct complaints are minimised. Where there is in fighting in Councils or there is a disregard of the Members Code of Conduct such complaints can arise quite readily and can be a pressure on the budget of the District Council to deal with these Standards matter. The Monitoring Officer offers to go to talk to town and parish councils about the Code of Conduct. Similarly the independent persons are also been willing to talk to town and parish councils. It is envisaged that in the autumn further training will be provided to District councillors on the Members Code of Conduct and this will be widened to parish clerks and their chairman.

The High Court involvement in Code of Conduct matters.

12. As indicated above the High Court has been involved with Code of Conduct matters The R (Harvey)-v-Ledbury Town Council and Herefordshire County Council case was extensively reported. The cost to all parties involved is high. Other recent cases include a Coventry member who failed to properly disclose land interests in Coventry city centre in his Statement of Interests form. Another complaint that got to the High Court was the former leader of Devon County Council who was found to have behaved inappropriately with female employees of Devon County Council.

Conclusion.

13. In maintaining a Standards Committee which meets regularly and discusses Code of Conduct issues Mid Sussex District Council has sort to promote high standards of conduct among members of its own Council and those in towns and parishes within the District. In the recent past there have been very few Code of Conduct complaints and on the whole these have not involved the District Council or the 3 town councils.

Policy Context

14. Sections 26-37 inclusive of the Localism Act 2011 require District Councils to deal with Standards Complaints and promote good standards in its area.

Financial Implications.

15. Any formal hearings or High Court challenges are expensive to the local council tax payers. It is therefore important that any bad behaviour is recognised quickly and dealt with locally.

Risk Management Implications.

16. Early intervention should enable good relations within parish councils to be maintained.

Quality and Customer Services Implications.

17. All parties must be treated on an equal basis and should a complainant not be able to put their complaint in writing the Monitoring Officer would assist.