

STANDARDS COMMITTEE – 22ND APRIL 2010

COMPLAINTS AND TRAINING

Report of the: **Monitoring Officer**

Status: For consideration

Executive Summary: The Committee is advised of complaints received for the periods 1st October to 31st December 2009 and 1st January to 31st March 2010 and reported to Standards for England during those periods in the quarterly returns. It is also advised of the training and development that has taken place since the last Standards Committee meeting on 3rd December 2009.

This report supports the Key Aim of effective management of Council resources

Portfolio Holder Cllr. Elaine Bracken

Head of Service Head of Legal and Democratic Services – Christine Nuttall

Recommendation: It be RESOLVED that Members consider the report .

Background

- 1 The Monitoring Officer is responsible for receiving all allegations that a Member may have breached the Members' Code of Conduct, which are then processed by the Assessment Sub-Committee of the Standards Committee. Standards for England monitors local standards regime arrangements via an online information return system. The Standards Committee is also responsible for Member training and development in relation to the ethical framework.

Complaints

- 2 As the national regulator responsible for monitoring and promoting ethical standards, Standards for England monitors local standards regime arrangements via an online information return system. Returns are made by authorities on a quarterly basis. The last returns submitted were for the periods 1st October to 31st December 2009 and the 1st January to 31st March 2010.
- 3 During the period 1st October to 31st December 2009 two complaints were assessed and both matters related to District Councillors (Complaint reference numbers FC17 and FC18). Both assessments took place on the 6th October 2009.

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- 4 In respect of complaint FC17 it was alleged that three paragraphs of the Code of Conduct had been breached: namely a failure to treat others with respect (paragraph 3(1)); you must not bully any person (paragraph 3(2)(b)); and you must not use your position improperly to the advantage or disadvantage of yourself or anyone else (paragraph 6(a)). It was resolved by the Assessment Sub-Committee, whilst making no finding of fact, that there was no prima facie evidence of any wrongdoing. The matter was resolved some time ago and the present situation amounted to unsubstantiated third party comments.
- 5 In respect of complaint FC18 it was alleged that paragraph 5 of the Code of Conduct had been breached, namely that you must not bring your office or authority into disrepute. It was resolved by the Assessment Sub-Committee, whilst making no finding of fact, that it is the ethical standards of Members which is regulated, rather than their opinions or the quality of their work and allegations concerning whether members told the truth do not normally disclose a potential breach of the Code of Conduct (Case B, Local Assessment Toolkit).
- 6 Complaint FC18 was reviewed on the 1st December 2009. The Review Sub-Committee resolved to uphold the decision of the Assessment Sub-Committee on the basis that there was insufficient initial evidence to warrant investigation of the complaint.
- 7 During the period 1st January to 31st March 2010 eleven complaints were received, ten of which were allegations against Parish Council Members. One complaint was against a District Council Member. (Complaint Reference Numbers FC19, 20, 21, 22, 23, 24, 25, 26, 27, 28 and 29).
- 8 The assessment sub-committee met on the 2nd February 2010 in respect of complaints FC19 and FC20 both of which were complaints against Parish Council Members. In relation to FC19 it was alleged that paragraph 3(2)(a) of the Code of Conduct had been breached, namely you must not do anything which may cause your authority to breach any equality laws. It was resolved by the Assessment Sub-Committee, whilst making no finding of fact, to refer the complaint to the Monitoring Officer for investigation. The matter is currently under investigation and subject to the rules on confidentiality. Similarly complaint FC20 was in relation to an alleged breach of paragraph 3(2)(a) of the Code of Conduct and this complaint was similarly referred to the Monitoring Officer for investigation. This matter is also under investigation and likewise subject to the rules on confidentiality.
- 9 The Assessment Sub-Committee met again on the 2nd March 2010 to consider complaints FC21 and FC22. FC21 was against a Parish Council Member and FC22 was against the same Member but in their capacity as a District Council Member. In respect of both complaints, it was alleged that paragraph 3(2)(c) had been breached in that you must not intimidate or attempt to intimidate any person who is or is likely to be a complainant, a witness, or involved in the administration of any investigation or proceedings, in relation to an allegation that a Member (including yourself) has failed to comply with his or her authority's code of conduct.

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- 10 It was resolved by the Assessment Sub-Committee in both instances, whilst making no finding of fact, that there was no prima facie evidence of a breach of the equalities enactments in the contents of the complaint. Nothing that was said would suggest any bullying of the complainant. There was no suggestion of personal disrespect. The Livingstone Case would suggest that at the closure of a meeting the Councillor is not speaking on behalf of the Parish Council and would be more likely to bring himself into disrepute than the Parish Council. However, the Sub-Committee did identify a potential breach of paragraph 3(2)(c) of the Code and as a result recommended other action; this was one to one training at the discretion of the Monitoring Officer. Such one to one training took place on the 4th March 2010 with a course assessment form being completed by the Member concerned in which it was identified that the Member strongly agreed that the objectives of the session were met, attending was worth the effort and the course material was helpful and informative. The Member also concluded that the training was very helpful with courteous instruction.
- 11 Complaints numbered FC23, 24, 25, 26, 27, 28, 29 were received on the 19th March 2010 and were all complaints against Members of one Parish Council. The complaints FC23,24,25,26,27,28 and 29 alleged that paragraph 3(2)(b) was breached, namely you must not bully any person. They also alleged that paragraph 6(a) was breached in that you must not use or attempt to use your position as a Member improperly to confer on or secure for yourself or any other person, an advantage or a disadvantage.
- 12 In addition complaint FC26 and FC28 also alleged a breach of paragraph 3(1) of the Code in that you must treat others with respect and complaint FC 28 further alleged a breach of paragraph 5 of the Code in that you must not conduct yourself in a manner which could reasonably be regarded as bringing your office into disrepute.
- 13 The Assessment Sub-Committee met on the 8th April 2010 to consider these seven complaints along with a further complaint received on the 6th April 2010. This later complaint involved a Parish Council Member and an alleged breach of paragraph 5 of the Code of Conduct, namely that you must not conduct yourself in a manner which could reasonably be regarded as bringing your office into disrepute. The cases decided on the 8th April 2010 fall outside of the reporting period 1st January to 31st March 2010 and so the outcomes will be reported to the Standards for England in their next reporting period. However, the outcome of all the cases heard that day was that there was no prima facie evidence of a potential breach of the Code and the decision was “no further action”.

Training and Development

- 14 Since the last report to this Committee on the 3rd December 2010 the following training workshops have taken place:
- On the 27th January a training and conciliation session took place for one Member of Dunton Green Parish Council who was experiencing difficulties. This had followed on from a previous session that took place on the 9th December 2009.

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- On the 3rd February 2010 a training workshop took place with three Members attending including the Parish Clerk from Hever Parish Council. The Clerk from West Kingsdown Parish Council and the Clerk from Westerham Parish Council also attended.
 - A training workshop took place on the 24th February 2010 with nine members of staff from the Community and Planning Department and the Corporate Resources Department attending.
 - On the 9th March 2010 a training workshop took place for Chevening Parish Council with seven Members attending including the Parish Clerk.
 - One to one training took place for a Member of Hartley Parish Council on the 4th March 2010 following an Assessment Sub Committee meeting on the 2nd March 2010 where it was decided to take other action, namely training at the discretion of the Monitoring Officer.
 - The Standards Committee undertook a training session at the last Standards Committee meeting on the 3 December 2009 which centred on the DVD from the Standards for England “Assessment made clear”.
 - A training workshop took place for Sevenoaks Town Council on the 24th and 25th November 2009 which unfortunately was not reported at the last Standards Committee meeting on the 3rd December 2009. One Member from Halstead Parish Council and one from Chevening Parish Council also attended.
 - A training workshop will take place on the 15th April 2010 for Members of West Kingsdown and Kemsing Parish Councils.
 - Members of the Standards Committee are invited for training on the 14 June 2010 at Weightmans Offices in London on the work of the Assessment Sub-Committee.
- 15 All the training feedback forms have revealed that all attendees at the training workshops have agreed or strongly agreed the following:
- That the objectives of the session were met.
 - Attendance was worth the effort.
 - They learnt something new and useful that they could apply.
 - They are likely to recommend the training session to others.
- 16 Training workshops are continuing to take place and dates will be circulated so that Members of the Committee can give available dates to help with training sessions.

Training Details

- 17 Those that attend training workshops are given a training manual and the new local assessment process is explained in detail along with the provisions of the Code of Conduct. The Monitoring Officer identifies which parts of the Code Members may wish to concentrate on so that training can be tailored to individual needs. A lot of the training material produced by the Standards for England is used in the training sessions.

Options

- 18 Members of the Committee are thanked for helping to deliver training via the training workshops. The Monitoring Officer greatly appreciates the help given which has proved invaluable. Members of this Committee will be circulated with fresh training dates in order that availability to give help and assistance can be identified.

Key Implications

Financial

- 19 Training sessions as well as the new assessment of Member complaints processes have been accommodated within the Council's existing budgets

Impact on and Outcomes for the Community

- 20 This report sets out the number of allegations of Member misconduct received by the Committee within the periods 1st October to 31st December 2009 and 1st January to 31st March 2010 and the training that has taken place since the last meeting. The systems that have been put in place appear to be working well for the community of Sevenoaks District.

Legal, Human Rights etc.

- 21 Training for Members in respect of the Code of Conduct and generally in respect of the ethical framework is an essential part of the Standards Committee's responsibilities as set out in the Constitution.

Resource (non-financial)

- 22 Training has been essential in enabling a smooth transition to the new locally based assessment process. Training ensures a speedy and accurate assessment takes place. Training should also reduce the number of complaints that need to be investigated and determined.

Value For Money

- 23 Training is essential to help reduce the number of Member complaints. In addition training is vitally important so that the new assessment process can be undertaken in a confident and robust fashion. No additional resources have been allotted to the new process.

Equality

- 24 Training on the Code of Conduct and the new assessment process is essential in giving Members and the Public equal access to the new locally based system. It should also give Members and the Public confidence in the new processes with no one being disadvantaged either in their ability to pursue an allegation or in defending themselves against an allegation.

Sustainability Checklist

- 25 The training that has taken place in relation to the Code of Conduct and the new assessment process should provide Members and the public with confidence that robust systems are in place for enabling high ethical standards across the district and should eventually reduce the number of genuine allegations of Member misconduct.

Conclusions

- 26 Training is essential to enable Members to acquire the key competencies to comply with the Code of Conduct and the changes that have taken place with the new assessment process. Members should benefit from the training that is on offer. The number of allegations of Member misconduct will continue to be monitored and reported.

Risk Assessment Statement

- 27 Training is essential to avoid flawed judgements being made by Members when carrying out the new local assessment process. In addition training will avoid procedural errors.
- 28 To carry out the new local assessment process Members of the Committee will also need to have a detailed knowledge of the Code of Conduct which training can help to achieve.
- 29 Without the necessary training there is a greater risk that a decision may be made that is subject to a successful judicial review which may have adverse cost consequences for the Council as well as the Council suffering a loss of reputation and standing.
- 30 Allegations of Member misconduct must be assessed fairly according to the assessment criteria to avoid any risk of a successful judicial review. In addition Standards for England can intervene and suspend an authority's initial assessment functions if the authority fails to have regard to Standards for England's guidance or comply with a direction issued by Standards for England or when the Standards Committee or Monitoring Officer fails to carry out their functions properly. The chances of this happening are assessed as negligible.

Sources of Information: Training material produced by the Standards for England

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