

COUNCIL

26 APRIL 2012

ANNUAL REPORT OF THE MONITORING OFFICER

Report from/Author: Perry Holmes, Monitoring Officer

Summary

This is the Monitoring Officer's Annual Report for the period April 2011 to March 2012. This report gives an update on Member Conduct issues, and the work of the Standards Committee and the Monitoring Officer.

1. Budget and Policy Framework

- 1.1 An annual report on Standards activity will be submitted to Full Council.

2. Background

- 2.1 The various functions of this Committee and the Monitoring Officer include promoting and maintaining high standards of conduct, and monitoring the operation of the Code of Conduct for Members (the "Code").
- 2.2 Members will recall that the Code was adopted in May 2007, and that all Members received training on the Code. Additionally, the Local Government and Public Involvement in Health Act 2007 introduced changes to ethical standards, which placed additional responsibility on the Standards Committee locally for dealing with complaints of breach of the Code.
- 2.3 Further changes have been made to the current Standards regime following the Localism Act 2011 coming into force. Local authorities will have a general duty to promote and retain high standards of conduct by Members and Co-opted Members.
- 2.4 The most relevant change introduced under the Localism Act 2011 to the Council's current Standards regime was that from 30 January 2012, the Council was no longer able to refer new written complaints alleging breaches of the Code to Standards for England ("SfE") for investigation.

2.5 Whilst many of the changes under the Localism Act 2011 will have a significant impact in the future on the Standards Regime, this report shall focus on the current regime and detail Member conduct issues between April 2011 and March 2012. Further details on the future of the Standards regime and Standards procedures shall be provided to Members under a separate report.

3. Local Assessment of Standards Complaints

3.1 Between 1 April 2011 and 12 March 2012, 4 complaints were received against Members of Medway Council.

3.2 Between 1 April 2011 and 12 March 2012, 24 complaints were received against Parish Councils, many of which were duplicates and made by a number of complainants. Since many of the complaints related to a recent Local Governance review at All hallows Parish Council, the Monitoring Officer determined it necessary to deal with each complaint separately, so as to ensure that the Parish Council was adopting good practice.

3.3 All of the 28 complaints have been considered by a Referrals Sub-Committee, the outcome of which was:

3.3.1 One complaint was sent to the Monitoring Officer for investigation; and

3.3.2 Two complaints were referred for local resolution; and

3.3.3 Twenty-four complaints were considered to require no further action.

3.4 On 22 February 2012, a Review Sub-Committee reconsidered and upheld 13 decisions of the Referrals Sub-Committee to “take no further action”, with two being deferred to enable an additional parish council representative to be appointed.

3.5 An additional complaint is at the initial stage of the complaints process and will be considered by a Referrals Sub-Committee shortly.

3.6 The total cost of Independent Investigations for this financial year is £23,727.60.

3.7 The budget for the Monitoring Officer totals £11,300 and so this represents £12,427.60 of un-budgeted spend. The use of external investigators will be reviewed in light of the Localism Act 2011 and upon implementing changes to current Standards arrangements.

3.8 Members will recall that the Monitoring Officer is no longer required to provide quarterly statistics to the Standards Board on the number of complaints and the outcomes, following the Government’s changes to the Standards regime.

4. Register of Members' Interests

- 4.1 The Monitoring Officer is required to establish and maintain a register of interests of Members of the Council. All Members have completed and returned their registers and these are kept by the Monitoring Officer and available for public inspection.
- 4.2 Publication of the register of member's interests on the website began in December 2011, which includes a facility to see at a glance, the record of declarations of interest made by every member of the Council at each meeting they attend.
- 4.3 Internal Audit carry out an annual check of the register of Members' interests to ensure that they are completed, and the Monitoring Officer sends a reminder letter to members and Parish Council members each year advising them to ensure their register is kept up to date.

5. Gifts and Hospitality Register

- 5.1 The Monitoring Officer also maintains a register of Gifts and Hospitality.
- 5.2 Gifts and Hospitality are regarded as personal interests which must be declared for a period of three years after the gift is received, (if any Committee business relates to the person or body providing the gift or hospitality). During the period of this report, none of the Members, have had cause to register gifts and hospitality received with an estimated value of £25.00 or more.

6. Members' Training and Development

- 6.1 After the elections in May 2011 at which new Councillors joined the Council, all Councillors received training on the Code, and training has also been delivered to members this year through their group meetings.

7. Dispensations

- 7.1 Under the Standards Committee (Further Provisions) (England) Regulations 2009, the circumstances in which a Member can apply to the Standards Committee for a dispensation from requirements relating to the interests set out in the Code are as follows:
 - 7.1.1 Where more than 50% of the members who would be entitled to vote at a meeting are prohibited from voting; or
 - 7.1.2 Where the number of members that are prohibited from voting at a meeting would upset the political balance of the meeting to the extent that the outcome of voting would be prejudiced.

- 7.2 Members are required to submit to the Standards Committee a written request for a dispensation explaining why it is desirable.
- 7.3 On 15 June 2011, the Standards Committee considered three requests for dispensations from three Parish Councillors of St Mary Hoo Parish Council. The Standards Committee granted dispensations for a period of four years, which allows the three Parish Councillors to speak and vote on matters concerning St Mary Hoo Parish Council's Conservation/Nature Reserve.

8. Standards Committee – 20 March 2012

- 8.1 The Standards Committee received the Monitoring Officer's Annual Report at its meeting on 20 March 2012. The Monitoring Officer introduced the report to the committee, drawing Members attention to the overspend on the budget to deal with complaints, which was due to a large number of complaints received in 2011/12. He also explained that once a complaint has been lodged it cannot be withdrawn and that once started, complaints had to be investigated appropriately, which often caused increased delays and expense. However, complaints would be able to be withdrawn under the new standards regime.
- 8.2 The Monitoring Officer then answered Members' questions, which included: -
- Confirmation that the duty to keep the register of interests up to date would be withdrawn under the new regime;
 - Concern about the spend in 2011/12;
 - Opportunity to review procedures to make them speedier, more efficient and better value for money;
 - Confirmation that dispensations granted in the last year would continue for the four year period on which they were granted, under the new regime.
- 8.3 The committee noted the report and gave a vote of thanks for staff in Legal Services, Democratic Services and the Independent Investigating Officer for their work on standards issues in 2011/12.

9. Financial Implications

- 9.1 This report contains no specific financial implications, as any training will be provided from within existing budgets.

10. Legal Implications

- 10.1 These are contained in the body of the report.

11. Risk Management

11.1 There are no specific risk management implications arising from this report.

12. Recommendation

12.1 The Council is recommended to note the report and the comments from the Standards Committee.

Lead officer contact

Perry Holmes
Monitoring Officer
Telephone: 01634 332133
Email: perry.holmes@medway.gov.uk

Report Author:

Selena Saroy
Lawyer (Information Management)
Legal Services

Background Papers:

None