

## **STANDARDS COMMITTEE**

**23 MARCH 2011**

### **ALLHALLOWS PARISH COUNCIL: GOVERNANCE REVIEW UPDATE**

Report from/Author: Deborah Upton, Monitoring Officer

#### **Summary**

This report advises Members of the progress of the Governance review undertaken to date at Allhallows Parish Council.

#### **1. Background**

- 1.1 Under section 57A(2) of the Local Government Act 2000 (as amended), the Standards Committee is able to refer allegations that a Councillor has failed to comply with the Code of Conduct to the Monitoring Officer for action other than investigation.
- 1.2 The Referrals Sub-Committee of the Standards Committee has previously met to consider a number of complaints concerning the conduct of various Parish Councillors at Allhallows Parish Council. The following paragraphs provide some background to these complaints.
- 1.3 The Referrals Sub-Committee of the Standards Committee met on 03 February 2010 to consider DU/MO/117, a complaint concerning the alleged conduct of Parish Councillor Forrest, a member of Allhallows Parish Council. At this meeting it was decided to refer the allegation to the Monitoring Officer for investigation and this is continuing, as detailed in the Work Programme report within the agenda for this meeting.
- 1.4 The Referrals Sub-Committee of the Standards Committee met on 01 April 2010 to consider DU/MO/120, a complaint concerning the alleged conduct of Parish Councillor Forrest. At this meeting, in accordance with Section 57A(2) of the Local Government Act 2000, as amended, the Referral Sub-Committee of the Standards Committee considered that "other action" to an investigation should be taken in respect of these complaints and decided to adjourn the meeting and ask the Monitoring Officer to investigate whether the involved parties would cooperate with the option of other action.
- 1.5 The Referrals Sub-Committee of the Standards Committee then met on 26 May 2010 to further consider DU/MO/120 as one of the parties decided not to cooperate with the option of other action. At this meeting it was decided that:
  - 1.5.1 A governance review be undertaken of Allhallows Parish Council's procedures to ensure that they are fit for purpose;

- 1.5.2 A gap analysis of skills be undertaken and that a programme of appropriate training for all members of Allhallows PC be put in place;
  - 1.5.3 Training be given to Members as a whole on appropriate use of information, data protection and what are categories of exempt information;
  - 1.5.4 The Monitoring Officer report back to the Standards Committee within three months giving a report back on progress.
- 1.6 The Referrals Sub-Committee of the Standards Committee then met on 07 July 2010 to consider DU/MO/122, a complaint concerning the alleged conduct of Parish Councillor Skudder, a Member of Allhallows Parish Council. At this meeting it was decided that this complaint was part of a series of complaints at Allhallows Parish Council, and as such the Sub-Committee considered that it would be dealt with under the direction for other action given to the Monitoring Officer contained in Decision Notice DU/MO/120 (as above in paragraph 1.5).
- 1.7 The Referrals Sub-Committee were concerned that the main issues surrounding the complaints were that due process had not been carried out and that there were concerns relating to information being withheld, and decided to refer the matter for other action so as to support the Parish Council.
- 1.8 As part of this decision, the Monitoring Officer appointed an investigating officer to action the directions of the Referral Sub-Committee which were to carry out:
- 1.8.1 A governance review of Allhallows Parish Council's procedures to ensure that they are fit for purpose;
  - 1.8.2 A gap analysis of skills is undertaken and that a programme of appropriate training for all members of Allhallows Parish Council is put in place;
  - 1.8.3 Training for Members as a whole on appropriate use of information, data protection and what are categories of exempt information; and
  - 1.8.4 Report back to the Standards Committee within 3 months giving a report back on progress.
- 1.9 A copy of the Independent Officer's report that was previously considered by the Standards Committee on 24 November 2010 is attached at Appendix 1.
- 1.10 The Independent Officer has since been unable to make significant developments in the Governance review, due to one of the major issues in contention causing a delay to its progress.
- 1.11 In addition to this, the Monitoring Officer received a further seven complaints concerning the conduct of various Parish Councillors at Allhallows Parish Council. The Standards Committee agree that these be included as part of the governance review, due to their content being part of a series of similar complaints.

## **2. Current Position**

- 2.1 The Monitoring Officer and ward councillor, Phil Filmer, met with parish councillors on 17 February 2011 to try and agree a way forward on an

informal basis. All parties present agreed that the issues surrounding the youth club needed to be resolved, and the Monitoring Officer set out an agreed way forward with timescales.

- 2.2 The Monitoring Officer met again with members of the parish council on 02 March 2011 to agree the format of a licence to be granted to the youth club. This allowed for concerns to be raised and matters dealt with prior to a public meeting, to ensure that there were no arguments at the meeting of the council, which could not be resolved. The public can have greater confidence in their parish councillors and decision making if the meeting is run smoothly and is amicable and this has not always been the case at All Hallows.
- 2.3 The Monitoring Officer also gave advice on interests, and advised that the items on the youth club should not be taken in private, as they were in the public interest of the village and no confidential information would be disclosed in the report.
- 2.4 The Monitoring Officer will give a verbal update on the outcome of the meeting, but the recommendation was that a licence be granted to the youth club.
- 2.5 It is not known as yet whether All Hallows parish council will contested, but the Monitoring Officer would recommend that, once the outstanding issues with the youth club have been finalised, that the governance review cover the checklist set out in the attached appendix two, and that a final report be brought to this committee when the work is completed.

### **3. Financial implications**

- 3.1 This report contains no specific financial implications, although there will be costs incurred with the full Governance review and training to all Parish Councillors.

### **4. Legal implications**

- 4.1 Legal implications are identified within this report.

### **5. Recommendations**

- 5.1 Members are recommended to note the contents of this report and to agree that the matters set out in the parish council checklist at appendix two be part of the governance review and that this be reported back to this committee when completed.

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#### **Background papers:**

None



**Interim Report – Referral for other action relating to Allhallows Parish Council-DU/MO/120, DU/MO/121 and DU/MO/122**

1. The matters relating to Allhallows Parish Council (PC) referred to above were first considered by the Referrals Sub Committee of the Standards Committee on 7<sup>th</sup> July 2010, with the result that the decision was made that it was appropriate for them to be dealt with as a referral for other action. This was because the individual complaints were part of a series of complaints and thus met the suggested criteria set out by Standards for England for such a referral for other action. The committee accordingly made the following decision:
  - 1.1 That a governance review be undertaken of Allhallows Parish Council's procedures to ensure they are fit for purpose;
  - 1.2 That a gap analysis of skills be undertaken and that a programme of appropriate training for all members of Allhallows Parish Council be put in place;
  - 1.3 That training be given to Members as a whole on appropriate use of information, data protection and what are categories of exempt information; and
  - 1.4 That the Monitoring officer report back to the Standards Committee within 3 months giving a report back on progress.
2. In due course I was appointed by the Monitoring Officer to implement the decision of the committee. I am the former Head of Legal Services for Swale Borough Council and before my retirement from full time work had been in Local Government service for 35 years. I accordingly have considerable experience of Monitoring Officer / Standards issues. At the start of the investigation the Monitoring Officer supplied me with a copy of the appropriate decision notices together with extensive background papers.
3. Following my initial instructions I have carried out a preliminary fact finding meeting with the Chair and Clerk of the PC on 9<sup>th</sup> August 2010 and have carried out telephone interviews with all other members of the PC. I have also attended two meetings of the PC on 8<sup>th</sup> September and 13<sup>th</sup> October 2010. I have now accordingly witnessed the problems that are being encountered at first hand and have had the opportunity of familiarising myself with the various sites of contention, namely the Brimp and the Crosspark.
4. As was suspected from the initial reading of the background papers most of the problems being faced by the PC relate to the contentious matters surrounding the Brimp and the Crosspark scheme. The Brimp, which is an old wooden building and enclosure, is owned by the P C and currently used by Allhallows Youth Club. The Crosspark, which is also owned by the PC, consists of a 1960's building surrounded by a country park. Opinions on the Brimp in particular are almost completely polarised and dominate the PC proceedings.

5. The first meeting that I attended started at 6.45pm with a half hour Public Speaking section, which was well attended by supporters of the faction wishing to retain the youth club at the Brimp and was very chaotic. It seemed that those who manage the youth club and who are also Parish Councillors insist that it remains at the Brimp site for all time, whereas the other majority members of the PC wish to debate all possibilities for the site. Other possible scenarios include the sale of the Brimp site and the relocation of the youth club to a refurbished Crosspark building, or the granting of a lease / license of the Brimp to the youth club with appropriate termination clauses.
6. The PC meeting itself started at 7.15 pm and when the article on the Brimp was reached in the agenda I advised as a first step it was necessary for the PC to obtain a full report on the legal position regarding the building i.e. title, covenants etc plus options regarding sale, leasing or licensing of the site under the provisions of the relevant local government legislation. After a protracted debate it was decided to obtain a firm estimate for carrying out the suggested legal work from Medway legal services. This was done and the matter reported to the next meeting of the PC on 13<sup>th</sup> October 2010.
7. As stated I also attended that meeting in order to further observe proceedings and to assist the clerk regarding the question of legal advice for the Brimp i.e. to assist the process of putting matters on a more rational basis. Attending the second meeting was very useful as the novelty value of my first attendance was somewhat diminished. I was therefore able to observe at first hand one member who spent an hour dealing with perceived errors in the draft minutes of the earlier meeting. I understand that this is not an isolated occurrence and that the PC has been taping all meetings in their entirety for some time and that the tapes are frequently referred to. During the meeting there were also problems over declaration of interests, mainly relating to items concerning the Brimp. The decision was finally made to obtain a proper legal report on the Brimp from Medway legal services.

### **Future Action**

8. From the above sections of the report it can be seen that most of the problems being experienced by the PC relate to dealings with the Brimp and the use of the same by the Allhallows Youth Club. Indeed since the last meeting on 13<sup>th</sup> October those who run the youth club, including the two who are also Parish Councillors, have made it clear in writing that they will resign en bloc from the youth club management if there is any attempt to sell the Brimp. Such is the strength of feeling on the issue. It is therefore in my view imperative that every effort is put in to resolving issues relating to the Brimp in order that the business of the PC may be put on more level footing. Unless problems relating to the Brimp are resolved the proceedings of the PC will continue to be very dysfunctional.

## Appendix 1

9. My suggested course of action would therefore be to assist the PC as far as possible with regard to resolving the Brimp issues, before embarking on the training specified in paragraph 4.3 of the decision notice mentioned above.
10. My initial thoughts are that it will be necessary for any training to deal with the provision of a clear set of minutes, dealing with challenges to the same and the general principles of running a PC meeting together with declaration of interest training. There are also issues relating to communication with members and agenda assembly.

W.D. Milne TD LL.B LARTPI

Solicitor

3<sup>rd</sup> October 2010





## PARISH COUNCILS

### Requirements of **effective governance**

<b><i>Achieving effective governance requires a council to:</i></b>	
Understand its statutory duties, powers, and subsequent legal obligations	
Recognise statutory and other legal prohibitions, restrictions and limitations applicable to its decisions and activities	
Engage with its community to consider and, where appropriate, to respond to their views and representations	
Implement comprehensive, proportionate and transparent delegation arrangements	
Assess priorities in relation to resources and manage risk	
Seek, where appropriate, specialist expert advice from for eg solicitors, valuers/chartered surveyors before making decisions	
Make informed rational decisions commensurate to its finances and resources	
Minute decisions of the council, its committees and sub-committees accurately	
Ensure its councillors understand and observe the code of conduct adopted by it	
Employ and develop competent and suitably qualified staff and other resources to deliver and support the council's activities and services	

**NOTE:** *This checklist is published by the National Association of Local Councils in its publication "Standing Orders for Local Councils".*

## PARISH COUNCILS

### Checklist of **essential tools** required for **effective governance**

Clearly expressed resolutions which confirm delegations to other local authorities, committees, sub-committees and employees.	
Clear written terms of reference for committees and sub-committees which evidence both the nature and extent of their powers and responsibilities.	
Standing orders to regulate the transaction of council business, and the conduct and order of council, committee and sub-committee meetings.	
Financial regulations.	
Standing orders to entering into contracts for the supply of goods or materials or for the execution of works. A council must also have standing orders that confirm its arrangements for securing competition and regulating the manner in which tenders are invited ( <b>section 135 Local Government Act 1972</b> ).	
A code of conduct adopted by the council to be observed by all councillors ( <b>section 51 of the Local Government Act 2000</b> ).	
An organised and efficient committee and staffing structure which confirm respective responsibilities.	
Publicised arrangements for access to information under the <b>Freedom of Information Act 2000</b> and the <b>Data Protection Act 1998</b> .	
A clear and accessible complaints procedure (which includes an appeal stage).	
Clear and accurate minutes of meetings of the council, its committees and sub-committees.	

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