

Public Document Pack

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Director of Law and Assurance

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4 June 2021

Standards Committee

A meeting of the Committee will be held at **2.15 pm** on **Monday, 14 June 2021** at **County Hall, Chichester, PO19 1RQ**.

Note: In response to the continuing public health restrictions, there will be limited public access to the meeting. Admission is by ticket only, bookable in advance via: democratic.services@westsussex.gov.uk

The meeting will be available to watch live via the Internet at this address:

<http://www.westsussex.public-i.tv/core/portal/home>

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Agenda

1. Membership

The membership of the Standards Committee was confirmed at the County Council meeting held on 21 May 2021 as follows:

Cllr Bradbury (Chairman)
Cllr Wickremaratchi (Vice-Chairman)
Cllr Burrett
Cllr Cherry
Cllr Gibson
Cllr Johnson
Cllr Kenyon
Cllr A Jupp
Cllr Sparkes

2. Declarations of Interest

Members and officers must declare any pecuniary or personal interest in any business on the agenda. They should also make declarations at any stage such an interest becomes apparent during the meeting. Consideration should be given to leaving the meeting if the nature of the interest warrants it. If in doubt please contact Democratic Services before the meeting.

3. **Minutes of the last meeting of the Committee** (Pages 5 - 10)

The Committee is asked to agree the minutes of the meeting held on 2 November 2020 (cream paper).

4. **Urgent Matters**

Items not on the agenda which the Chairman of the meeting is of the opinion should be considered as a matter of urgency by reason of special circumstances.

5. **Standards Committee Terms of Reference** (Pages 11 - 22)

The Committee is asked to note its terms of reference.

6. **Standards Committee Annual Report** (Pages 23 - 26)

Report by the Director of Law and Assurance.

The report sets out a draft annual report for submission to the County Council, which the Committee is asked to approve.

7. **Code of Conduct Updates, including IT Policy** (Pages 27 - 32)

Report by the Director of Law and Assurance.

The report sets out proposed minor changes to the Code of Conduct in the Constitution. The Committee is asked to endorse these changes and submit them to the County Council for approval.

8. **Whistleblowing Policy**

The Committee is invited to note that the Director of Law and Assurance has not received any referrals via this Policy since the last meeting of the Committee.

No background papers.

Contact: Charles Gauntlett 033 022 22524

9. **Date of Next Meeting**

The next meeting of the Committee will be held at 2.15 pm on 29 November 2021 at County Hall, Chichester.

To all members of the Standards Committee

Webcasting

Please note: this meeting is being filmed for live and subsequent broadcast via the County Council's website on the internet. The images and sound recording may be used for training purposes by the Council.

Generally the public gallery is not filmed. However, by entering the meeting room and using the public seating area you are consenting to being filmed and to the possible use of those images and sound recordings for webcasting and/or training purposes.

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Standards Committee

2 November 2020 – At a virtual meeting of the Standards Committee held at 2.15 pm.

Present: Cllr Duncton (Chairman)

Cllr Patel, Cllr Barnard, Cllr A Jupp, Cllr Lea (arrived at 2.45pm),
Cllr Smytherman and Cllr Sparkes

Apologies were received from Cllr Barton, Cllr R Oakley and Mr Cooper

Also in attendance: Mr Donaldson (Independent Person)

Part I

1. Declarations of Interest

- 1.1 In accordance with the Code of Conduct, Cllr. Sparkes declared a personal interest as a member of Worthing Borough Council and as having an involvement in the Chichester Group of Colleges.

2. Minutes of the last meeting of the Committee

- 2.1 Resolved - that the minutes of the meeting of the Committee held on 26 July 2019 be approved as a correct record and that they be signed by the Chairman.

3. Complaints and Compliments Annual Report 2019

- 3.1 The Committee considered a report by the Director of Communities (copy appended to the signed minutes), concerning Complaints and Compliments received by the County Council in 2019 in relation to Children's Social Care, Adults' Social Care and Council's Corporate Services, captured in three separate documents.
- 3.2 The report was introduced by David Tominey (Complaints Manager) who gave an overarching summary:
- The number of complaints had increased from 812 in 2018 to 854 in 2019, a 5% increase. This was in line with projections
 - Adults' Services, Children's Services and Highways remained the main source of all complaints traffic, 85% last year, 73% this year
 - In the years 2016/17/18 33% of complaints were upheld by the Ombudsman. In 2019 22% of complaints were upheld
 - With regard to compliance on response times, 80% of responses were sent out on time, a slight drop from 2018 and the team continued to strive to improve this figure
 - A new 'Infreemation' service had been launched to support the processing of complaints (as well as Freedom of Information) enquiries.
 - Senior Leadership teams were now approached individually to discuss opportunities to drive service improvements using learning and insight on complaints received
 - Next years' report would reflect on the effect of COVID-19 in 2020.

3.3 The Committee made comments including those that follow:

- To question the reason for the increase in the cost of financial remedies in 2019 compared with 2018. It was explained that these sums were determined by the Ombudsman rather than the County Council and reflected the nature of each unique complaint. It was noted that the Ombudsman had issued guidance on the size of financial remedies two years ago, that the sums had risen from rather a low base and they include one large payment of compensation for financial loss.
- To question whether the reports could be more streamlined as there appeared to be some duplication of information in each one. Noted that this would be considered for future reports.
- To note the increase in complaints on the behaviour of staff and to ask if this was a behavioural issue and whether staff training is given. Noted that the level of complaints of this nature was not seen as concerning and none had been upheld by the Ombudsman. It was also explained that people often focus complaints on the person they are in closest contact with, often when the officer's action is not welcomed (such as in social care matters). Should a complaint about a member of staff be upheld this would be addressed by their manager.
- To note that it was pleasing to see that the number of compliments concerning Adult's Services outweighed the number of complaints.

3.4 Resolved - that the report be noted.

4. Standards Committee Annual Report

4.1 The Committee received a report by the Director of Law and Assurance (copy appended to the signed minutes), which set out a proposed Standards Committee Annual Report for submission to the County Council.

4.2 The report, outlining the priorities and activities of the Committee from April 2019 to March 2020, was introduced by Charles Gauntlett (Senior Adviser, Democratic Services).

4.3 Resolved - that the draft report be approved for submission to the County Council meeting on 11 December 2020.

5. Merger of Planning and Rights of Way Committees: Code of Conduct Revisions

5.1 The Committee received a report by the Director of Law and Assurance (copy appended to the signed minutes), which concerned a recommendation to the County Council on 06 November that the Planning and Rights of Way Committee be merged.

5.1 The report was introduced by the senior adviser, Democratic Services who explained that it was the role of the Committee to consider the proposed revisions to the Code of Practice in Probity in Planning and Rights of Way. The proposals set out in the report were noted to

include changes to the name of the Committee to 'Planning and Rights of Way' throughout and to remove sections 10 to 13 which had not been used in 10 years and were therefore obsolete.

- 5.3 The Committee noted that the decision to merge the Committees lay with the County Council following endorsement of the proposal from the Governance Committee.
- 5.4 Resolved - that the proposed revisions to Part 5, Section 3 of the Constitution as outlined in the appendix to the report be supported for submission to the County Council for approval on 6 November 2020.

6. Member Officer Relations Protocol Report

- 6.1 The Committee received a report by the Director of Law and Assurance (copy appended to the signed minutes) which sought approval from the Committee to a proposed replacement of the Protocol on Relationships between Members and Officers which formed part of the Code of Conduct section of the County Council's constitution.
- 6.2 The Director Law and Assurance explained that, as part of the Good Governance work that had been undertaken this year, the council's policies in the areas of discipline and grievance and those reflecting changes to the culture of the organisation had been reviewed and changes made to the Protocol attached at Appendix 1. The Committee's approval was sought prior to submission for decision at December County Council. The Committee made comments including those that follow:
- To note that a councillor had asked for a change to be made to add the word 'specific' at para 22 to ensure that committee members were able to ask specific officers to attend meetings
 - The need to highlight for both members and officers the guidance on keeping members informed and to emphasise how important this is in helping members to do their job
 - To propose an addition between paragraphs 12 and 13 to set out guidance for officers that they should not, when dealing with the public, endeavour to pass operational responsibilities to a member.
 - To question whether all members would have an opportunity to see the document again before it went before full Council. It was agreed that it would be helpful for members and officers to have the opportunity and any further changes requested would be shared with Committee members for informal endorsement prior to submission to County Council in December
 - That it may be helpful to include this document in induction packs for new members.
- 6.3 Resolved that the Committee supports the proposed revised protocol with the:
- a. addition of the word 'specific' in paragraph 22
 - b. addition of a paragraph setting out that officers, when dealing with the public, do not give the impression that members may be responsible for operational matters

- c. correction of the spelling of 'behaviour' at 2.1 and 2.2
- d. further circulation of the protocol to members and officers and that any additional revisions be circulated to the Committee for endorsement.

7. Standards Best Practice Report

- 7.1 The Committee received a report by the Director of Law and Assurance (copy appended to the signed minutes) explaining that the Committee for Standards in Public Life had made a request to the County Council asking it to set out how it had met the published best practice guidance over the previous year. The Committee was invited to note the response that had been sent in October 2020.
- 7.2 Resolved that report be noted.

8. Whistleblowing Policy

- 8.1 The Committee received a report by the Director of Law and Assurance (copy appended to the signed minutes) which asked the Committee to note activity generated by referrals made pursuant to the Council's Whistleblowing Policy and to endorse the subsequent actions.
- 8.2 The Director Law and Assurance apologised that, due to a need for urgent revision and timing constraints, this report had already been presented to and approved by the Governance Committee in July of this year. Notwithstanding this it was the task of the Standards Committee to oversee this process.
- 8.3 The Director explained that in order to be respectful of confidentiality the information in the report was at a high level but that any member requiring further information could have this confidentially outside the meeting. The Committee heard that the Good Governance work being undertaken during the year had recognised a need to better promote the Whistleblowing Policy and work was underway with the Director of Human Resources and Operational Development to deal with that. The Committee made comments including those that follow:
 - To propose that a specific recommendation be included for endorsement at full council to add that the Policy also pertain to members and further whether the Council should use a different authority to oversee activity under the policy. The Director explained that such considerations would need to be examined and subject to a further report for the Committee to consider, especially as it has only recently been approved by the Governance Committee. These options would therefore be brought back to a future meeting of the Committee.
 - To suggest, in light of the infrequency of meetings of the Standards Committee and difficulty timetabling agenda items and some committee members being common to the two committees, that consideration be given to the merging of the Standards and Governance Committees. The Committee noted this for consideration later once this item had been completed.

- 8.4 Resolved - that the Committee notes the report and agrees to commission a further report for consideration at the next meeting as to whether the Whistleblowing Policy could be amended to pertain to members and whether reciprocal arrangements be considered between authorities to support the activity under the Whistleblowing Policy.
- 8.5 The Committee returned to the proposal by Cllr. Smytherman, seconded by Cllr. Jupp, that the County Council's Governance Committee be invited at its next meeting to consider whether a report should be drawn up for its consideration of a proposal that the Governance and the Standards Committee be merged.
- 8.6 Resolved - that a proposal be put to the Governance Committee at its next meeting that it considers whether a report be drawn up concerning a merger of the Standards Committee and the Governance Committee.

9. Date of Next Meeting

- 9.1 The Committee noted that the next meeting was due to be held on 14 June 2021.

The meeting ended at 3.29 pm

Chairman

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Standards Committee

Extract from the Constitution, Part 3, Appendix 6

Standards Committee

Constitution

Nine members of the County Council, including the Chairman and Vice-Chairman of the Council who are ex-officio Chairman and Vice-Chairman respectively. Quorum is three.

Terms of Reference

1. To promote and maintain high standards of conduct by members and co-opted members.
2. To consider complaints against any member relating to alleged breaches of the Code of Practice on Probity in Planning and the Codes of Conduct for members and officers, to make findings of fact and decisions in respect of the action to be taken and, where necessary, to make recommendations to the County Council.
3. To deal with allegations that a member or co-opted member has failed or may have failed to comply with the Code of Conduct, in accordance with the relevant provisions of the Localism Act 2011 and any relevant regulations ("the regulations").
4. To establish sub-committees to undertake the initial assessment of allegations and to conduct hearings in accordance with the procedure set out hereunder.
5. To hear appeals against the decisions of Hearings Sub-Committees which will be in the form of a complete re-hearing.
6. In cases regarded as appropriate to grant an indemnity or partial indemnity to a member for or make a contribution towards costs reasonably incurred in respect of:
 - (a) a hearing before the Hearings Sub-Committee for determination, after an investigation arranged by the Monitoring Officer; or
 - (b) a hearing of an appeal against a finding of the Hearings Sub-Committee which results in a hearing before the Standards Committee

But in any case, only to the extent that the member is found not to have breached the Code of Conduct.

7. To consider the implications for the County Council and the proper conduct of its business of the application of the Code of Conduct and to advise and bring forward modifications to the Code as appropriate.

Agenda Item 5

8. To assist members to observe the Code of Conduct.
9. To oversee the implementation of the Code including, in particular, the training of members on the Code and on matters of conduct.
10. To advise the County Council on any aspects of Standing Orders relating to conduct, or otherwise on propriety including the Code of Practice on Probity in Planning, Protocol on Relationships between Members and Officers, Protocol for Use of IT Equipment Supplied to Members, Code of Practice on Publicity, Guidance on Propriety and Official Conduct for Officers and Confidential Reporting Policy (Whistle Blowing).
11. To receive for resolution any issue as to the discharge of responsibilities by any member arising from the outcome of a Disclosure and Barring Service check relating to that member and to appoint a panel of members from the Committee to determine the matter.
12. To have responsibility for reviewing monitoring and advising upon the County Council's complaints procedure including the Council's exercise of its powers to settle any claims for maladministration.
13. To appoint an independent investigating officer to investigate any charges of misconduct by the Head of Paid Service, the Chief Finance Officer or the Monitoring Officer.
14. To review and adjust delegations to officers within the functions delegated to the Committee.
15. To delegate powers, when appropriate and on the recommendation of the Director of Law and Assurance, to another local authority including a borough or district borough council and to be able, subsequently, to review, amend or withdraw that delegation.
16. To make arrangements for the appointment of at least one independent person to advise the Committee, particularly on investigations into allegations that a member has breached the code of conduct, and to advise any individual member of the County Council who is the subject of a complaint under the Code of Conduct.
17. To consider a petition under the Petitions Scheme in accordance with Standing Order 3.43 (b).
18. To receive reports from and review the recommendations of the Local Government and Social Care Ombudsman in any instance where it is proposed that the recommendations are not accepted and to make a final decision on the County Council's response.

Investigation of Allegations

Assessment Sub-Committee

A sub-committee comprising three members of the Standards Committee. The sub-committee will be appointed by the Director of Law and Assurance after consultation with the Chairman, from members of the Standards Committee subject to members' availability and ensuring the make-up of the sub-committee includes at least one minority member, and, as far as possible, an even distribution of workload. The sub-committee will be discharged once its work is completed.

Terms of Reference

To make an initial assessment of a specific allegation that a member or co-opted member has failed or may have failed to comply with the Code of Conduct and determine whether:

- (a) to refer the allegation to the Monitoring Officer for investigation or other action; or
- (b) to take no action in respect of the allegation.

Pre-assessment Activity and Report

Upon receipt of an allegation against a member, the Monitoring Officer shall consider whether it is one which needs to be dealt with under this procedure, or whether it is more suitable to be dealt with under the County Council's general complaints procedure or protocols in which case he may arrange for it to be handled accordingly. The Monitoring Officer shall have discretion to seek to resolve disputes or complaints informally at any stage, including involving group leaders where appropriate to achieve conciliation.

To assist the sub-committee the Monitoring Officer shall undertake or secure such pre-assessment enquiries as he considers necessary and shall provide the sub-committee with a report summarising the allegation made and including:

- (a) whether it is within the jurisdiction of the committee;
- (b) the paragraph(s) of the Code of Conduct to which the allegation may relate;
- (c) any further information likely to assist the sub-committee.

The Independent Person (a person appointed by the County Council to advise the Standards Committee and its sub-committee, particularly on individual cases) will be consulted on the allegation and whether it could amount to a breach of the Code of Conduct. His or her views will be included in the Monitoring Officer's report and he or she may be invited to attend the meeting of the sub-committee.

Provided that neither the pre-assessment enquiries conducted by the Monitoring Officer nor the work of the Assessment Sub-Committee shall be carried out in such a way as to amount to an investigation of the allegation.

The Monitoring Officer shall, at the earliest opportunity, notify the member subject to the complaint that a complaint has been made.

Initial Tests

In assessing any allegation brought before it, the Assessment Sub-Committee must first determine whether it passes the following tests:

- (a) that the allegation is a complaint against one or more named members or co-opted members of the County Council;
- (b) that the named member was in office at the time of the alleged conduct and the Code of Conduct was in force at the time;
- (c) that the allegation, if proven, may amount to a breach of the Code of Conduct under which the member was operating at the time of the alleged misconduct.

If the allegation fails to meet one or more of these requirements it cannot be investigated as a breach of the Code, and the sub-committee will inform the complainant, through the Monitoring Officer, that no further action will be taken.

Assessment Criteria

In assessing allegations in accordance with its terms of reference the Assessment Sub-Committee shall address all relevant considerations and may ask itself whether:

- (a) there is enough information to enable the sub-committee to determine what action should be taken in respect of the allegation (and it may resolve to take no further action pending receipt of further information);
- (b) the allegation concerns someone who is no longer a member of the County Council but is a member of another authority (in which case the sub-committee may resolve to refer the allegation to the other authority);
- (c) the allegation has already been the subject of an investigation or other action (in which case the sub-committee may resolve that further action would be inappropriate);
- (d) so much time has passed since the events giving rise to the allegation that there would be little benefit in taking action now (in which case the sub-committee may resolve that further action is unwarranted);
- (e) the allegation is too trivial to warrant further action (in which case the sub-committee may resolve accordingly);
- (f) whether the allegation appears to be malicious, politically or personally

motivated and not sufficiently serious to warrant further action (in which case the sub-committee may resolve accordingly).

[NB - The Assessment Sub-Committee will only consider referring allegations made anonymously for investigation or other action if they include corroborative evidence and where the gravity of the allegation warrants it]

Initial Assessment Decision

The Assessment Sub-Committee will normally complete its assessment of an allegation and reach a decision on the action to be taken as early as possible but within 20 working days of the allegation being received by the Monitoring Officer. If it is apparent that there is likely to be any substantial delay in the sub-committee completing its work the Monitoring Officer shall advise the person making the allegation and the member who is the subject of the allegation and shall tell them when the assessment is likely to be completed.

Upon completion of its assessment, the sub-committee may decide:

- (a) to refer the allegation to the Monitoring Officer for investigation, or (subject to consultation with the Monitoring Officer), for action other than investigation* and to receive a report on the outcome within three months or such earlier time as the sub-committee may decide. In the case of investigation, the Monitoring Officer will appoint an officer other than himself or herself to investigate;
- (b) that no action is required in respect of the allegation;
- (c) whether the complainant's request for confidentiality in any notification to the subject of the complaint should be respected.

[*NB – "Action other than investigation" means arranging for any member against whom an allegation is made to attend a training course; arranging for that member and the person making the allegation to engage in a process of conciliation; and/or such other appropriate actions such as recommending changes to the procedures of the County Council if they have given rise to the complaint. If the Assessment Sub-Committee, after consultation with the Monitoring Officer, chooses this option, the Monitoring Officer shall invite the member concerned, and the party making the allegation, if appropriate, to confirm their willingness to co-operate.]

In any case, the sub-committee shall notify its decision to the person making the allegation and the member who is the subject of it within two working days.

If the sub-committee decides that no action is required the notification shall give the sub-committee's reasons for the decision.

If the sub-committee decides to refer the allegation to the Monitoring Officer its notification of that decision should not give reasons for the decision, but it will normally include a summary of the allegation.

Access to Meetings and Decision Making

Meetings of the Assessment Sub-Committee convened to assess allegations will usually include confidential personal information and, in such cases, will not be open to the public or press.

Written summaries of the proceedings of the sub-committees will be produced and made available for inspection if this would not be in breach of any duty of confidence or data protection principle.

Withdrawal of Allegations

If a person who has made an allegation to the Monitoring Officer that a member or co-opted member has failed or may have failed to comply with the Code of Conduct wishes to withdraw the allegation, the Monitoring Officer shall have discretion to allow the withdrawal, without prior consideration by the Assessment Sub-Committee, if he considers it appropriate, except in the case of an allegation of a serious nature. Where requests are considered by the Assessment Sub-Committee, in deciding whether to accede to the request, the sub-committee shall have regard to all relevant considerations including whether:

- (a) the public interest in taking some action on the allegation outweighs the wishes of the person making it;
- (b) the allegation is such that it can be investigated or subjected to other action without the participation of the person making it;
- (c) there is an identifiable underlying reason for the withdrawal request such that the request should be declined (e.g. information to suggest that the person making it may have been pressured to withdraw it).

Confidentiality

A member will usually be informed as to who has made an allegation against them. Exceptionally, however, the Assessment Sub-Committee may accede to a request for confidentiality by the person making the allegation. The sub-committee will consider any such request alongside its consideration of the substance of the allegation. In deciding whether to accede to the request, the sub-committee shall have regard to all relevant considerations including whether:

- (a) the person making the allegation has a reasonable belief that they will be at risk of harm if their identity is disclosed;
- (b) that person is an officer who has a reasonable belief that they will be adversely affected in their employment if their identity is disclosed;
- (c) that person suffers from a serious medical condition (of which medical evidence has been provided) and there are medical risks associated with their identity being disclosed.

If the Assessment Sub-Committee decides that there are reasonable grounds for

acceding to the request it will also consider whether it is possible to investigate the allegation without disclosing the identity of the person making it.

If the sub-committee refuses to accede to the request, it may give the person making the allegation the opportunity to withdraw it unless the sub-committee concludes that the public interest in proceeding with the investigation outweighs the wishes of the person making the allegation to have their identity withheld.

Local Hearing of Allegations

Hearings Sub-Committee

A sub-committee comprising at least three members of the Standards Committee. The sub-committee will be appointed by the Director of Law and Assurance to undertake a particular hearing, after consultation with the Chairman, from members of the Standards Committee subject to members' availability and ensuring the make-up of the sub-committee includes at least one minority member, and, as far as possible, an even distribution of workload. The sub-committee will be discharged once its work has been completed.

Procedure for Local Determination of Allegations of Member Misconduct by the Standards Committee or Appointed Sub-Committee

The following procedure shall apply to any hearing held by a Hearings Sub-Committee or, in the case of an appeal in accordance with paragraph 32, the Standards Committee to consider a report referred to it by the Monitoring Officer. Where an appeal is limited to certain outcomes only (such as the penalty imposed) the procedure will be adapted accordingly and with the agreement of the member.

Interpretation

1. 'Member' means the member of the County Council who is the subject of the allegation unless stated otherwise. It also includes the member's nominated representative where relevant.
2. 'Investigator' means the investigating officer, and his or her nominated representative.
3. 'Legal adviser' means the officer responsible for providing legal advice to the Committee or sub-committee. This may be the Monitoring Officer, another legally qualified officer of the County Council, or someone appointed for this purpose from outside the County Council.
4. "Committee" means the Committee or any of its sub-committees.
5. "Independent Person" means a person appointed by the County Council to advise the Standards Committee and its sub-committees, particularly on individual cases. A different Independent Person may have advised the member during the investigation process.

Representation

6. The member may be represented or accompanied during the meeting by a solicitor, counsel, or, with the permission of the Committee, another person.

Legal Advice

7. The Committee may take legal advice from its legal adviser at any time

during the hearing or while it is considering what action to take. The substance of any legal advice given to the Committee will be shared with the member and the investigator and any representative if they are present.

Introductions

8. The Chairman will introduce the members and everyone involved and will explain how the Committee is going to conduct the hearing.

Preliminary Procedural Issues

9. The Committee will resolve any issues or disagreements about how the hearing should continue, which have not been resolved during the pre-hearing process.
10. The Committee will consider any request for an adjournment and, if relevant, take any decision on whether to proceed in the absence of the member.

Process of Hearing and Finding of Facts

11. The Committee will consider whether or not there are any significant disagreements about the facts contained in the investigator's report.
12. If there is no disagreement about the facts, the Committee will move on to the next stage of the hearing.
13. If there is a disagreement, the investigator (if present) will be invited to make representations to support the relevant findings of fact in the report and may call any necessary supporting witnesses to give evidence. The Committee may give the member an opportunity to challenge any evidence put forward by or question any witness called by the investigator.
14. The member will then have the opportunity to make representations to support his or her version of the facts and may call any necessary witnesses to give evidence.
15. At any time, the Committee may question any of the people involved or any of the witnesses, and may allow the investigator to challenge any evidence put forward by or question witnesses called by the member. It may also question the Independent Person.
16. If, during the course of a hearing, the Committee feels that it needs additional evidence, it can adjourn and request the Monitoring Officer to provide such further information or commission further investigation, but the Committee can only do so once on any one matter.
17. If the member disagrees with any relevant finding of fact in the investigator's report, without having given prior notice of the disagreement, he or she must give good reasons for not mentioning it

before the hearing. If the investigator is not present, the Committee will consider whether or not it would be in the public interest to continue in his or her absence. After considering the member's explanation for not raising the issue at an earlier stage, the Committee will then either:

- (a) continue with the hearing, relying on information in the investigator's report;
 - (b) allow the member to make representations about the issue, and invite the investigator to respond and call any witnesses as necessary; or
 - (c) postpone the hearing to arrange for appropriate witnesses to be present, or for the investigator to be present if they are not already.
18. The parties will then withdraw to allow the Committee to consider the representations and evidence in private.
19. Upon the Committee's return, the Chairman will announce its findings of fact.

Did the member fail to follow the Code of Conduct?

20. The Committee will then consider whether or not, based on the facts it has found, the member failed to follow the Code of Conduct.
21. The member will be invited to give reasons why the Committee should not decide that he or she failed to follow the Code.
22. The Committee will then consider any oral or written representations from the investigator.
23. The Committee may, at any time, question anyone involved on any point raised in their representations, including the Independent Person.
24. The member will be invited to make any final relevant points but without introducing new information.
25. The parties will withdraw to allow the Committee to consider the representations.
26. Upon its return, the Chairman will announce the Committee's decision as to whether or not the member has failed to follow the Code of Conduct.

If the member has not failed to follow the Code of Conduct

27. If the Committee decides that the member has not failed to follow the Code, the Committee will move on to consider whether it should make any recommendations to the County Council.

If the member has failed to follow the Code of Conduct

28. If the Committee decides that the member has failed to follow the Code, it will consider any verbal or written representations from the investigator and the member as to:
 - (a) whether or not the Committee should set a penalty;
 - (b) what form any penalty should take.
29. The Committee may question the investigator and member, and take legal advice, to make sure it has the information it needs in order to make an informed decision. It may also seek advice from the independent person.
30. The parties will withdraw to allow the Committee to consider whether or not to impose a penalty on the member and, if so, what the penalty should be.
31. Upon the Committee's return, the Chairman will announce its decision.
32. If the member has been found to have breached the Code they will have the right to appeal against the findings and/or against any penalty in form of a re-hearing by the Standards Committee. Members of the original Hearings Sub-Committee will be excluded from sitting on the Standards Committee when the appeal is heard.

Recommendations to the County Council

33. After considering any oral or written representations from the investigator, the Committee will consider whether or not it should make any recommendations to the County Council, with a view to promoting high standards of conduct amongst members.

Access to Meetings and Decision Making

34. Meetings of the Committee convened to determine allegations of member misconduct will usually include confidential personal information and, in such cases, will not be open to the public or press.
35. The Committee will announce its decision on the day and provide a short written decision on that day. It will also issue a full written decision shortly after the end of the hearing. The decision will be published on the County Council's web site and in such other way as the Committee may decide.

Retention of Papers

36. All papers relating to the investigation and any hearing of an allegation under this procedure shall be retained by the Monitoring Officer until the end of a period of six years from the date of the hearing or other

conclusion of the investigation.

37. Written summaries of the proceedings of the Committee will be produced and made available for inspection if this would not be in breach of any duty of confidence or data protection principle.

Independent Panel

Constitution

A panel comprising of two or three independent persons who advise either the County Council's Standards Committee or who advise another Standards Committee. The Panel membership must be agreed 20 days prior to a meeting and will be arranged by the Director of Law and Assurance or in the case of any action against that officer, by the Deputy Monitoring Officer.

Terms of Reference

1. To investigate proposed disciplinary action against the Chief Executive, Director of Finance and Support Services or the Director of Law and Assurance.
2. To offer advice, views or recommendations to the Member Panel and the County Council on the proposed course of action, including any proposal for dismissal.

**Key decision: Not applicable
Unrestricted**

Standards Committee

14 June 2021

Standards Committee Annual Report

Report by Director of Law and Assurance

Electoral division: Not applicable

Summary

The attached appendix is recommended as the Annual Report to the Council.

Recommendations

- (1) That, subject to any amendments agreed by the Committee, the draft report be approved for submission to the County Council on 16 July 2021.
-

Proposal

1 Background and context

- 1.1 The Committee is able to submit an annual report to the County Council to outline its activities over the last year. A draft report is attached that sets out the key activities of the Committee from April 2020 - March 2021.

2 Proposal details

- 2.1 The Committee is invited to approve the draft report subject to any amendments it feels would be appropriate. The final version will be submitted to the County Council on 16 July 2021.

3 Other options considered (and reasons for not proposing)

- 3.1 Not applicable.

4 Consultation, engagement and advice

- 4.1 Not applicable.

5 Finance

- 5.1 There are no revenue budget consequences.

6 Risk implications and mitigations

Risk	Mitigating Action (in place or planned)
Reputational risks and risks to decision-making through members not maintaining high standards.	An annual report made available to all members assists the Committee in its role to promote high standards of conduct.

7 Policy alignment and compliance

7.1 Not applicable.

Tony Kershaw

Director of Law and Assurance

Contact Officer: Charles Gauntlett, 033022 22524
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Appendix – Draft Council Report

Background papers – None.

Standards Committee: Annual Report 2020/21

Introduction

- 1** This report outlines the activities of the Committee from May 2020 to April 2021 and records issues the Committee considers important for the future. In summary, the work of the Standards Committee is:
 - Promoting and maintaining high standards of conduct.
 - Casework conducted through Sub-Committees
 - Ensuring that appropriate training is organised for members.
 - Overseeing Council policies on complaints handling and whistle blowing.

Promoting and maintaining high standards of conduct

- 2** The promotion of high standards of conduct was principally demonstrated through the comprehensive training provided for members and the casework undertaken. Following the County Council elections in May 2017, a comprehensive induction programme included sessions on standards and the code of conduct, including an initial introduction for new members on 16 May 2017, then workshop training for all members during June 2017, undertaken by the Monitoring Officer and Deputy Monitoring Officer. Only one member was unable to attend a workshop and this member attended a meeting with the Monitoring Officer to undergo the training.
- 3** All members newly elected in May 2017 submitted their register of interests forms by 24 May 2017. All members have been reminded to keep their register of interests up to date and many updates have been recorded over the last year. Advice was given by the Monitoring Officer and Democratic Services staff to assist members in making complete and correct entries. The most recent reminder to all members was issued in October 2020.
- 4** Plans were put in place ahead of the May 2021 elections to ensure that members receive appropriate standards and code of conduct training from the Monitoring Officer.

Independent Persons

- 5** The role of the independent persons is to assist the County Council in ensuring and maintaining a high level of integrity in the conduct of the elected members of the council and in how they discharge the council's business, through the implementation of the Member Code of Conduct and the constitutional arrangements supporting it. A major part of the role is to advise the Standards Committee's sub-committees in casework.
- 6** Mr John Donaldson and Mr Steve Cooper have undertaken the role of Independent Person over the last year, including involvement in individual casework and commenting on Government consultations being considered by the Committee.

Casework

- 7** In the period 1 May 2020 – 31 April 2021 two cases were considered. An Assessment Sub-Committee took place on 12 March 2021, comprising Cllr

Barnard, Cllr R Oakley and Cllr Sparkes. The matters concerned were determined as being of not sufficient importance to warrant further investigation and the matters were closed.

- 8** It is clear that familiarity with the Code helps members feel more confident in their role. Early discussion with the Monitoring Officer about potentially problematic situations is both encouraged and useful. The low number of cases is an indication of the effectiveness of the training and guidance given and of members' positive approach to standards of conduct.

Ethical Governance, Whistle Blowing and Complaints Handling

- 9** The Committee receives reports on any cases under the County Council's Whistleblowing Policy. The reports are helpful in indicating whether any measures are needed to address underlying problems. There have been no cases in the last year.
- 10** The Committee also receives regular reports about complaints handling across the authority. Generally, there is a positive culture within the organisation about complaints and levels of complaints were broadly stable.

Conclusion

- 11** It is clear that maintaining good standards of conduct is taken seriously in the County Council. The Standards Committee believes that this can only serve to improve public confidence.

Recommended

- (1) That the report be noted.

Pete Bradbury

Chairman of the Standards Committee

Contact Officer: Charles Gauntlett, Senior Advisor, 033022 22524

Background papers

None.

**Key decision: Not applicable
Unrestricted**

Standards Committee

14 June 2021

Code of Conduct – Revisions to IT Policy

Report by Director of Law and Assurance

Electoral division: Not applicable

Summary

The IT Policy forms part of the Code of Conduct to promote and maintain good standards of conduct when using the County Council's IT equipment. Minor changes are proposed to reflect the equipment now being offered to members and updates to advice on duties of care.

In the Code of Conduct, there is one reference to the former role of 'Senior Adviser' which the Committee is asked to agree to remove in line with a wider review of the Constitution being undertaken by the Governance Committee.

Recommendations

- (1) That the removal of the term 'senior adviser' in paragraph 8 of the Code of Conduct and the proposed changes to the IT Policy in Appendix 1 be endorsed and submitted to the County Council for approval on 16 July 2021.
-

Proposal

1 Background and context

- 1.1 The Committee is responsible for maintaining an overview of the Code of Conduct in the County Council's Constitution. The IT Policy for members is included as part 6 of the Code of Conduct (Part 5, Section 1 of the Constitution), as this means that appropriate IT use by members is promoted and maintained through the Standards Committee.

2 Proposal details

- 2.1 The IT equipment to be offered to members was reviewed by the Cabinet Member for Economy and Corporate Resources in early 2021, ahead of the elections that took place in May 2021. All members are now offered the opportunity to use the 'Intune' app to access the County network on a private device, so the text in paragraph 2(3)(a) is amended to reflect this.
- 2.2 Printers are no longer included as part of the standard IT equipment provided to members because of the Council's drive to increase digitization and to reduce the use of paper. It is therefore recommended that the direct reference to the

provision of printers in paragraph 2(4)(b) should be deleted. Printing can still be carried out at County buildings where necessary. Paragraph 2(3)(b) gives a general ability for requests for other IT equipment to be made which, in exceptional circumstances could include a printer.

- 2.3 Paragraph 4 contains the duties of care. Two revisions are proposed – firstly, to explicitly refer to data protection duties of care and secondly to update the requirements for members to ensure that their laptops receive updates, to reflect current practice which was changed during the beginning of the pandemic in 2020 when remote working became more common.

3 Other options considered (and reasons for not proposing)

- 3.1 Not applicable.

4 Consultation, engagement and advice

- 4.1 Not applicable.

5 Finance

- 5.1 There are no revenue budget consequences.

6 Risk implications and mitigations

Risk	Mitigating Action (in place or planned)
Reputational risks and risks to decision-making through members not maintaining high standards in IT usage.	Training is made available to all members on the need to promote high standards of conduct and new members received an IT induction that included the principles of acceptable usage.

7 Policy alignment and compliance

- 7.1 Not applicable.

Tony Kershaw
Director of Law and Assurance

Contact Officer: Charles Gauntlett, 033022 22524
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Appendix – Proposed changes to Code of Conduct IT Policy

Background papers – None.

Proposed updates to part 6 of Part 5, Section 1 of the Constitution

Proposed additions are shown in bold italic type with deletions struckthrough.

Part 6

IT Provision and Usage Policy

1. Introduction

- (1) IT equipment is provided to members to support them in carrying out their role as county councillors. All members are expected to adhere to the West Sussex County Council Acceptable Use Policy, which is available on the West Sussex County Council Intranet.
The County Council will conduct routine monitoring of internet and email traffic in order to measure compliance and mitigate security risk.

2. Computers and Phones

(2) Computers and connection

- (a) West Sussex County Council will provide all members with a standard {lightweight} **touchscreen** laptop which will include all software required to connect to the West Sussex County Council network and conduct day-to-day business. This includes an electronic diary, **integrated telephone** ~~phones~~ and video conferencing facilities. Members are encouraged to make full use of the functionality of the IT available to enable virtual working, ~~and~~ reduce paper consumption ~~where appropriate~~ and help ensure the most efficient use of member and officer time.
- (b) The computer equipment will connect to the ~~West Sussex County Council's~~ network via home broadband (and directly in any ~~West Sussex County Council~~ building).

(3) Access via personal mobile devices ~~Smartphones and additional hardware/software~~

- (a) ~~Mobile devices (such as Smartphones) or County network access to a members' own smartphone~~ **Access to Council emails and calendars on personal smartphones or tablets via the Intune Company Portal app is available to all members.** ~~MobileIron Corporate~~ **mobile devices (such as smartphones) can** be issued upon request to members who undertake responsibilities for which they receive a Special Responsibility Allowance (SRA) and subject to approval of the appropriate cabinet member. Should the member cease to undertake such responsibilities the Smartphone will be switched off, recalled and reissued if needed to the member taking over those responsibilities if

~~applicable. Members not in receipt of an SRA will only be issued with a Smartphone or MobileIron access if the appropriate cabinet member responsible for IT approves this following the recommendation of the member's group leader with justification for the request.~~

- (b) Any further hardware or software requirements need to be approved by the appropriate cabinet member following the recommendation of the member's group leader with justification for the request. Any necessary additional software or hardware will be obtained and only installed by IT Services Unit specialists.

(4) **Printing**

- (a) ***Members are encouraged to avoid printing where possible to support digital working and to save paper.*** Through the laptop and software provision, all members will have access to the network printing facilities (which includes photocopying and scanning). This enables members to send documents from their home for collection at any of the main County Council premises and similarly to scan a document from the printing device and send it to the member's County Council e-mail address.

~~(b) Printing if required in your home location will be done using the standard black and white lightweight Laser printer. There is no support for connecting personal printers to a County Council supplied laptop. Paper and black and white toner cartridges for County Council equipment can be obtained through Democratic Services.~~

3. Support and Lost or Stolen equipment

- (1) The equipment is maintained under the County Council's hardware and software support contract. Any faults will be dealt with either by correcting them on the existing equipment or by the provision of replacement equipment.
- (2) The County Council does not offer a home visit service and as such any faults that require hardware replacement or fix will need to be brought in to the nearest County Council building at agreed times to suit both members and support staff.
- (3) You can report any problems or faults through the dedicated Members' Service Desk telephone line (01243 777007) or on the intranet. The operating hours of the service are 7.00 a.m. to 7.00 p.m. on Monday to Friday. Your fault will be logged and you can expect a four hour response and four day fix in line with the service level agreements contracted between the County Council and Capita IT.

- (4) In the unfortunate event of any equipment being lost or stolen contact the IT Service Desk to report the incident on 01243 777007 as soon as possible, you will also need to report the situation to the police if stolen and retain the police incident reference.

4. Duties of Care

- (1) Your principal duties under the Protocol are:
- To take reasonable care to safeguard the computer equipment.
 - To follow instructions given by the County Council, its agents and manufacturers of the equipment as to its use, and not to allow it to be interfered with.
 - To allow reasonable access to the equipment for any necessary work, adjustment, removal or replacement.
 - To report any damage to the equipment within one week of its occurring.
 - Comply with the terms of the Protocol and Acceptable Use Policy.
 - To manage your email mailbox content to ensure removal of old emails no longer required keeping the mailbox within the agreed size limits. Email mailbox sizes limits will not be increased due to mismanagement of emails.
 - **To treat personal information carefully in line with data protection requirements and be aware of the possibility of having to disclose emails as part of freedom of information requests.**
 - You must not send emails or documents from County Council email addresses to your personal or a family email address other than for the purpose of printing or reading the document, after which the document will be deleted. Only your County Council email address may be used for sending information held by the County Council.
 - You must **switch off and restart** your laptop at least once **a week to makes sure that any updates that have been downloaded are installed** every 30 days to a network connection. This is required to ensures that the laptop receives the latest security, antivirus and system updates that will keep the laptop optimised for use. **The longer the time between restarts, the longer it will take to power up a laptop and multiple reboots may be required.**
 - Password resets can be performed over the phone. However, proof of identification is required to ensure details are provided to the correct person. Members will be required to provide these security details during a call to enable the password to be reset.
- (2) The County Council's principal duties are to take reasonable care to carry out its obligations under the Protocol responsibly and to make appropriate and timely arrangements with any agent or contractor for appropriate supply and maintenance. It is important you appreciate, however, that the County Council does not:

- **Accept liability for loss of any personal data stored on the computer.**
- **Accept liability for accidents arising out of work done on your computer in your home, unless they result in death, injury or loss of property and are directly due to the negligence of the County Council or its agents.**

(3) When you cease to be a member of the County Council, for whatever reason, all computer equipment **and** software ~~and lines,~~ which remains the property of the County Council, and will need to be returned to the nearest County Council building normally within a two-week period after the end of your term of office. You should not use the equipment, other than on terms agreed in advance with the County Council, after the date when you cease to be a member. All data on the machine will be deleted so that the equipment can be reused. ~~Where provided by the Council, the County Council will also request the telephone company to disconnect the dedicated telephone line unless it is transferred to your personal use by agreement between yourself and the County Council.~~