

STANDARDS COMMITTEE

JULY 2006

COUNCIL

13 JULY 2006

ANNUAL REPORT OF THE COUNCIL'S MONITORING OFFICER- 2005/6

BACKGROUND

1. The recent introduction of new procedures for local determination and local investigation of complaints about councillor misconduct makes this a timely first annual report by the Monitoring Officer. The principal purpose of the report is to focus on and assess activity in probity matters including formal complaints about alleged breaches of approved protocols and codes of conduct by parish and borough councillors. The Standards Committee has received similar interim reports since 2003 but it has been decided to also introduce an annual report which will give the Standards Committee and the Council an opportunity (as required by CPA procedures) to review the effectiveness of current practices based on more robust data. The year on which the data is based is 1 April 2005 to 31st March 2006.
2. The Local Government Act 2000 introduced a new ethical framework for all local councils. All relevant councils, including districts and parishes, were required to adopt Codes of Conduct based on a national model code by May 2002. Further details on the new regime are contained within the orange pages of the Council's Constitution. The model code is currently under review by central government and a number of changes to it are likely to be made in the near future. The Standards Committee contributed to the consultation process on this review.
3. Although the new ethical framework is overseen by the national Standards Board for England (to whom all complaints are initially directed) regulations have now been introduced which enable the Board to refer matters back to me as Monitoring Officer to arrange for local determination or local investigation, through our own Standards Committee. During the year 2005/6 some parish councillor cases have been referred back to me under these new procedures.
4. In October 2004 the Council adopted a 'Good Practice Protocol for Councillors when Dealing with Planning Matters'. This protocol sets out detailed best practice rules for this specialist and sensitive area of the Council's work and which go well beyond the general rules set out in the Council's adopted Code of Conduct. The protocol is not part of the Council's Code of Conduct but is overseen by the Council's own Standards Committee. The protocol does not apply to Parish Councils although discussions about this are ongoing through the Kent Association's local area Committee.
5. In February 2006 the Audit Commission published a detailed project report on 'Probity in Planning' at Ashford, the purpose of the project being to assess whether the Council has systems in place to deliver sound and consistent decisions through its period of significant growth and development. Amongst the conclusions in the report were findings that " protocols and procedures are in place to ensure fairness and probity and are working well" and "in our review we found no concerns expressed about probity in the planning process."

ANALYSIS OF COMPLAINTS REGARDING CODE OF CONDUCT

6. The attached table gives brief details of all formal complaints made to the Standards Board for England in 2005/6 regarding borough councillors and parish councillors within the borough.
7. During 2005/6 a total of eleven formal complaints were made to the Board. Of these, eight related to parish councillors and six of those came from just two parish councils.

Seven of the eight parish complaints are being or have been investigated. Of the three complaints made about borough councillors, none was regarded as worthy of investigation by the Standards Board for England.

8. Three of the parish councillor complaints were referred from the Board to the Monitoring Officer for local determination or local investigation. The Standards Committee has now made decisions upon those cases. The resources involved in processing and investigating these cases was considerable and it became apparent during the proceedings that some confusion exists amongst some parish councillors about the precise nature of their obligations under the Code of Conduct, particularly in relation to declaration of interests. The Monitoring Officer has offered to give additional training to members of the relevant parish council and awaits the clerk's response. The Monitoring Officer is also contacting other parish clerks to gauge the need for / interest in similar training events and, of course, further events on the Code of Conduct to which all parish clerks and councillors will be invited will be held immediately after the elections in May 2007.
9. The Monitoring Officer is currently undertaking an audit of all parish councils to ensure that all current elected and co-opted members have properly completed interest and Code of Conduct declarations.
10. Subject to the above matters, the Monitoring Officer is satisfied that all available evidence points to the conclusion that borough councillors are indeed "effectively complying with the Code of Conduct" (as referred to in CPA Key Line of Enquiry 4.3). The incidence of complaints is extremely low and not a single complaint about a borough councillor has been deemed worthy of investigation during 2005/6. Indeed no complaint against a borough councillor has needed to be investigated since adoption of the Code in May 2002.

OTHER RELEVANT FACTORS

11. No complaints have been made regarding breaches of the Council's approved planning protocol. No complaints to the Local Government Ombudsman have involved alleged code breaches by councillors. The recent external review of probity in planning supports the conclusion that good procedures and high standards exist at Ashford. All meeting agendas include a first item (after apologies) seeking declarations of interests. Declarations of personal interests are made and minuted and where appropriate checked against councillors' registered interest forms. Ad hoc advice on interests is regularly sought from the Monitoring Officer and his staff by borough councillors (and on occasions parish clerks/councillors) particularly in relation to Planning Committee matters and this process shows a good general level of understanding by borough councillors and a desire to comply with the Code of Conduct.
12. In early 2005 the Standards Committee met to consider the grant of dispensations to speak and vote for a number of Parish Councillors in High Halden who had interests in a particular planning matter.

CONCLUSION

13. I am satisfied that all of the above factors support the overall conclusion that the Council's Code of Conduct (and good practice protocol) are widely understood and observed.
14. Members are invited to consider the Monitoring Officer's annual report.

T W MORTIMER

Monitoring Officer &
Head of Legal & Demorcatc Services

June 2006

PART A - CASES INVESTIGATED DURING 2005/6

COUNCIL/ REF	ALLEGATION	DECISION	COMMENTS
BIDDENDEN PARISH 10924.05	Failure to properly declare interests and withdraw at parish council meeting. Allegation by member of public and parish councillors	Failure to declare the nature of interest in a planning application but minor breach not justifying any further action.	This decision reflects the fact that the councillor declared an interest but not the nature of it, as required by the code.
BIDDENDEN PARISH 13761.06 AND 13808.06	Failure to declare personal and prejudicial interests and withdraw from meetings. Allegation by members of the public and parish councillors	STILL UNDER INVESTIGATION BY STANDARDS BOARD	
BIDDENDEN PARISH 10925.05	Failure to declare personal and prejudicial interests and withdraw from meetings. Allegation by members of the public and parish councillors	Referred to Monitoring Officer for local determination by ABC Standards Committee. Hearing held April 2006. councillor suspended for two months or until training undertaken (whichever is sooner)	Parish councillor resigned after Standards Committee Decision
BIDDENDEN PARISH 10926.06	Failure to declare personal and prejudicial interests and withdraw from meetings. Allegation by members of the public and parish councillors	Referred to Monitoring Officer for local determination by ABC Standards Committee. Hearing held April 2006. councillor suspended for two months or until training undertaken (whichever is sooner)	Suspension expires 12 June 2006 Training for all Parish Councillors under discussion with clerk
WYE PARISH 10890.05	Failure to treat others with respect, disclosure of confidential information, bringing office into dispute, failure to disclose interests and withdraw from meetings. Allegations by a former Parish councillor	One comment in an e-mail did disclose failure to treat clerk with respect but overall found that no action needs to be taken	
WYE PARISH 12704.05	Improperly securing advantage/ failure to declare interest and withdraw in relation to a matter which affected the councillor personally and financially. Allegation made by Parish councillor	Insufficient evidence on most allegations but failure to declare interest and withdraw was found. No action taken.	This decision reflects the fact that the Parish councillor the subject of the report was no longer a councillor at the time it was issued.
KINGSNORTH PARISH 10761.05	Bringing office into disrepute/ Improper use of position as councillor/Failure to declare interest and withdraw all in relation to handling of planning applications made by a particular developer. Allegations by a councillor	Referred to Monitoring Officer for local investigation and the matter was then referred to the ABC Standards Committee who found no breaches had taken place	

PART B - CASES WHERE STANDARDS BOARD DECIDED NO INVESTIGATION JUSTIFIED			
COUNCIL/ REF	ALLEGATION	DECISION	COMMENTS
ASHFORD BOROUGH 11448.05	Failure to treat others with respect in e-mail correspondence Allegation by member of public	no investigation as conduct, even if it occurred, did not justify an investigation.	These decisions are all examples illustrating that the Boards "filtering" system does weed out a number of unmeritorious complaints
ASHFORD BOROUGH 11926.05	improper use of position to gain personal political advantage by withholding information and making false accusations. Allegations by a Borough councillor	No investigation. Information provided by complainant did not support the claim	
ASHFORD BOROUGH 13481.05	Failure to treat another with respect in remarks at a meeting . Allegation by a borough councillor	No investigation - conduct did not meet threshold to warrant a publicly funded investigation	
MOLASH PARISH 14364.06	Failure to treat with respect in remarks made during telephone conversation. Allegation by a member of the public.	No investigation - conduct not of sufficient significance even if it occurred.	