

# West Suffolk Joint Standards Committee

<b>Title of Report:</b>	<b>Update on Standards Activity</b>	
<b>Report No:</b>	<b>JST/JT/18/004</b>	
<b>Report to and date/s:</b>	West Suffolk Joint Standards Committee – 10 December 2018	
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<b>Purpose of report:</b>	To update the Joint Standards Committee on the work of the Monitoring Officer since the previous report produced in June 2018.	
<b>Recommendation:</b>	<b>It is recommended that the West Suffolk Joint Standards Committee note the activity report.</b>	
<b>Key Decision:</b>	<i>Is this a Key Decision and, if so, under which definition?</i> No, it is not a Key Decision - <input checked="" type="checkbox"/>	
<b>Consultation:</b>	None	
<b>Alternative option(s):</b>	None	
<b>Implications:</b>		
<i>Are there any <b>financial</b> implications? If yes, please give details</i>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
<i>Are there any <b>staffing</b> implications? If yes, please give details</i>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
<i>Are there any <b>ICT</b> implications? If yes, please give details</i>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
<i>Are there any <b>legal and/or policy</b> implications? If yes, please give details</i>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
<i>Are there any <b>equality</b> implications? If yes, please give details</i>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	

<b>Background papers:</b> <i>(all background papers are to be published on the website and a link included)</i>	None
<b>Documents attached:</b>	(Exempt) Appendix A – list of Standards Cases (Exempt) Appendix B – Position report regarding one organisation

## 1. Standards Activity

- 1.1 At the previous Standards Committee, the Committee requested further details in relation to individual standards cases. In this regard, exempt Appendix A has been provided which gives additional information in comparison to previous reports on all complaints received during the 2018/19 year.
- 1.2 As this shows, there is no clear consistency in the type or nature of standards complaints raised. Whilst social media complaints were on the increase, we have only received 2 such complaints in this period.
- 1.3 Only 5 complaints had been received between April and the end of October 2018. However, in the 4 weeks prior to this report, 8 complaints were received. Clearly, when complaints are received, all parties want to reach a conclusion, but this is challenging given the sudden increase in complaints. This also means that there are presently 9 open cases, but as the appendix demonstrates, all are being progressed.
- 1.4 As is mentioned below, particular details relating to one series of complaints are included in Appendix B, and the Committee are also requested to consider a specific complaint as a separate item on this agenda.
- 1.5 Comparative volumes of complaints are as follows:

Year	Complaints About:	Outcome – no breach	Outcome – breach	Open case	Total
2018/19 To date	Parish	0	0	7	7
	District	1	1	0	2
	Borough	2	0	2	4
2017/18	Parish	11	3	0	14
	District	1	1	0	2
	Borough	4	1	0	5
<b>Total</b>		<b>16</b>	<b>5</b>	<b>0</b>	<b>21</b>
2016/17	Parish	12	4	0	16
	District	0	0	0	0
	Borough	5	0	0	5
<b>Total</b>		<b>17</b>	<b>4</b>		<b>21</b>
2015/16	Parish	5	1	0	6
	District	2	0	0	2
	Borough	6	2	0	8
<b>Total</b>		<b>13</b>	<b>3</b>	<b>0</b>	<b>16</b>

## **2. Update on Consultations**

- 2.1 Over the past year, the Standards Committee has supported responses to two consultations – firstly, the disqualification criteria for Councillors, and secondly the Committee for Standards in Public Life consultation on standards in Local Government.
- 2.2 In October, the Government published its response to the consultation on disqualification criteria for Councillors. The response is available here: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/749152/Disqualification\\_criteria\\_for\\_councillors\\_consultation\\_response.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/749152/Disqualification_criteria_for_councillors_consultation_response.pdf) .
- 2.3 The response indicates that the Government intends to disqualify Councillors who met any of the criteria that was subject to the consultation – including banning those subject to sexual risk orders and anti-social behaviour orders. This is consistent with the response put forward by West Suffolk Councils.
- 2.4 The Government hasn't yet indicated when they will bring this into effect, and as such it is unlikely to have effect before the 2019 local government elections. It is also unlikely that these new rules will be applied retrospectively.
- 2.5 The Committee for Standards in Public Life last updated their review on Local Government Standards in August 2018, indicating that 317 responses had been received and they still intended to publish their findings by the end of 2018. The minutes of the Committee for September 2018 indicate that draft findings were considered but it is unclear when the outcomes of this can be expected.

## **3. Interesting Cases**

- 3.1 There have been two interesting cases nationally that are worth bringing to Members' attention.
- 3.2 The First Tier Tribunal recently considered a case where a complainant had requested all details of a complaint under the Freedom of Information Act. In this case, the complaint had been considered by the Monitoring Officer to be unsubstantiated. The Monitoring Officer had refused to provide some information associated with the complaint under FOI; the Monitoring Officer's decision was upheld by the Information Commissioner but the complainant went to Tribunal.
- 3.3 The First Tier Tribunal upheld the Monitoring Officer's view. Notably, the Tribunal stated that "we agree with the Council that details of unsubstantiated complaints against Councillors ought not generally to be disclosed to the world at large under the provisions of FOIA". Clearly, a case by case approach would still need to be taken but this does give weight to the view that such cases should not be publicly discussed until such time that a decision is made.
- 3.4 Secondly, the High Court considered a case at Ledbury Town Council. The Town Clerk had raised a grievance against her Council; the Town Council considered the grievance, and found that the Clerk had been bullied by a Councillor who had breached the code of conduct and sanctions were imposed.

- 3.5 It is unclear how the Monitoring Officer at Herefordshire County Council became aware, but nonetheless they raised concern that the standard process for considering code of conduct breaches under the Localism Act had not been followed. As a result, Ledbury Town Council subsequently submitted a complaint to the Monitoring Officer, who determined that the Councillor had not breached the Code of Conduct. This was considered by a Grievance Panel at Ledbury Town Council, who disagreed with the Monitoring Officer and imposed additional sanctions on the Councillor.
- 3.6 The Councillor appealed to the High Court, who decided that the decisions of Ledbury Town Council should be quashed, as they did not follow the requirements of the Localism Act for considering complaints against Councillors. Further, the case highlighted procedural concerns – the Councillor had not been given the right opportunity to put forward their views on the concerns raised against themselves.
- 3.7 The primary concern regarding this case becomes how Councils should deal with complaints where they stem from a grievance case. In the past, it would have been considered appropriate to follow the grievance procedure and, if that highlighted concerns about a Councillor, then the matter would have been referred to the Monitoring Officer to follow the Council's standard procedure. Now, the National Association of Local Councils is recommending that all grievances where there are concerns about Councillor grievances should, in the first instance, be referred to the Monitoring Officer.
- 3.8 This is of significant concern, given that ultimately the Parish / Town Council is the employer, and even though it may be the case that poor Councillor behaviour has been an issue, the Parish / Town Council has a duty to protect its employees. Ledbury raises concern as to the legal ability of Parish / Town Councillors to attempt to put in place ordinary measures to manage such situations (such as limiting an individual Councillor's behaviour). Further, it places a duty on the Borough / District Council who, due to the potential serious consequences of a grievance, is almost duty bound to formally investigate the matter rather than seeking local resolution. Further detail is provided in exempt appendix B.

#### **4. West Suffolk Council**

- 4.1 This is the final, scheduled meeting of the West Suffolk Joint Standards Committee. As Members will appreciate, work is well progressed to handover functions and responsibilities to West Suffolk Council on 1 April 2019.
- 4.2 With respect to matters that may interest or affect the Standards Committee, the Constitution Review Group have considered the terms of reference for the future Standards Committee and will be recommending that these remain unaltered, when the Constitution is put to the West Suffolk Shadow Authority in February 2019.
- 4.3 The Code of Conduct is also recommended to remain unaltered. This is a Suffolk wide code of conduct and to change this document would require all Parish / Town Councils, District Councils and County Councils to agree, unless it was felt that we should have our own Code in future. The work of the Committee for Standards in Public Life may necessitate a wider review of the

Code of Conduct, or changes in the Standards regime generally, and thus it is suggested that this topic should be returned to by West Suffolk when the implications of the Committee's work is understood.

- 4.4 In addition, the Constitution Review Group has been assessing Codes and Protocols for the new Constitution. At present, Forest Heath have a Code of Practice on Licensing and Planning, whereas this is not included in the current St Edmundsbury constitution. The Constitution Review Group have assessed new versions for inclusion in the West Suffolk Constitution, which has been circulated to Members of the Licensing and Planning Committees.
- 4.5 In addition to the Planning and Licensing Code, the constitution will also include a new Member / Officer protocol, confirming the relationship between Members and Officers.
- 4.6 As we approach West Suffolk, attention also turns to the induction plan for Councillors. Clearly, it is important that Members understand from the outset the expected behaviours placed on them and the induction pack given on the day of the election count will include items such as the Code of Conduct. The training programme includes a specific session on Council meeting protocol, to help Councillors understand Council meeting practice and custom, which will also cover the Code of Conduct and behaviour of Councillors more generally. Further sessions are also planned in areas such as using social media effectively.