

AUDIT AND STANDARDS COMMITTEE

26 March 2018



Minutes of the Audit and Standards Committee held at the Town Hall, Bexhill-on-Sea on Monday 26 March 2018 at 6:30pm.

Committee Members present: M. Mooney (Chairman), J. Barnes, R.K. Bird, K.P. Dixon and S.H. Earl.

Parish/Town Council Representatives: Councillor T.A. Stainsby (Part A Only).

Independent Person: Susan Fellows (Part A Only).

Advisory Officers present: Executive Director of Business Operations, Executive Director of Resources, Service Manager – Finance and Welfare, Financial Services Manager, Audit Manager, Democratic Services Manager and Democratic Services Officer.

Also present: Leigh Lloyd-Thomas, Partner, BDO and 2 members of the public.

AS17/39. MINUTES

The Chairman was authorised to sign the minutes of the meeting of the Audit and Standards Committee held on 11 December 2017 as a correct record of the proceedings.

AS17/40. APOLOGIES

Apologies for absence had been received from Councillors A.K. Azad, R.C. Carroll, T.W. Graham and Independent Members Jan Gray and Robert Tye.

PART A STANDARDS REPORTS

PART II DECISIONS TAKEN UNDER DELEGATED POWERS

AS17/41. OMBUDSMAN COMPLAINTS MONITORING – 16 011 157
(5.1)

Complaints made to the Local Government and Social Care Ombudsman (LGO) was usually reported to the Committee twice yearly (June and December). However, following an adverse finding against the Council it was considered necessary to report to this meeting to ensure timely consideration by Members. A copy of the LGO's full report was attached at Appendix A to the report, together with the Council's response to the LGO at Appendix B to the report.

The complaint related to the Council's handling of a homelessness case and it was acknowledged that, on this occasion, the complainant

(Mrs B) did not receive the level of service normally expected. The Council had accepted the LGO's findings and it was confirmed that all of the LGO's recommendations to remedy the injustice caused had already been actioned by the Council, namely:

- the Council had provided an apology to Mrs B for failings highlighted in the report;
- the Council had paid Mrs B £1,250 in recognition of her injustice and arranged to settle any costs awarded against her resulting from her landlord taking possession action;
- any debt owing from Mrs B's stay in the accommodation had been written off;
- a review had been commenced of internal procedures in relation to dealing with homeless enquiries. This would form part of the Council's revised procedures in response to the Homelessness Reduction Act changes coming into force from 3 April 2018.
- the Council was exploring the acquisition/lease of further local properties for temporary accommodation, this was in addition to the already acquired Jameson Road (Bexhill) property;
- temporary accommodation letters were being reviewed to highlight the right of review and appeal;
- all officers had been reminded of the appeal rights for any housing benefit decision if a customer expressed dissatisfaction and the need to ensure this was communicated clearly.

It was requested and agreed that Members would be updated at the next meeting on progress against the recommendations. Members were advised that in addition, the Housing Task and Finish Group at its meeting on Wednesday 28 March would be receiving a report on homelessness that included consideration of access to temporary accommodation.

RESOLVED: That

- 1) the report be noted; and
- 2) an update report on progress against the further recommendations be made at the next meeting.

AS17/42.
(5.2)

REVIEW OF LOCAL GOVERNMENT ETHICAL STANDARDS: STAKEHOLDER CONSULTATION

The Committee on Standards in Public Life (CSPL) was undertaking a review of local government ethical standards and was holding a public stakeholder consultation which ran until 18 May 2018. Views were being invited from all levels of local government and other stakeholders, including the public. All Parish and Town Council Clerks

across the district had also been alerted to the consultation on 21 February and invited to respond direct, if they were so minded.

The Terms of Reference for the review were to:

- a) examine the structures, processes and practices in local government in England for:
 - maintaining codes of conduct for local Councillors;
 - investigating alleged breaches fairly and with due process;
 - enforcing codes and imposing sanctions for misconduct;
 - declaring interests and managing conflicts of interest; and
 - whistleblowing;
- b) assess whether the existing structures, processes and practices were conducive to high standards of conduct in local government;
- c) make any recommendations for how they can be improved; and
- d) note any evidence of intimidation of Councillors, and make recommendations for any measures that could be put in place to prevent and address such intimidation.

Members gave consideration to the consultation questions attached at Appendix A to the report and the following points were made:

- a national standard code of conduct should be re-introduced for all levels of local government;
- allowing all levels of local government to adopt a code, provided it met minimum requirements, had led to different approaches and a weakening of common standards, particularly in town and parishes;
- the lack of effective sanctions was an issue; there was no deterrent for poor conduct;
- the Council's current Code of Conduct could be simplified so it was easier to understand;
- whilst principle authorities such as Rother District Council (RDC) had responsibility for the assessment and determination of complaints arising from the town and parish councils, the town and parish councils were not legally bound to take notice of any findings and recommendations made;
- RDC should invest in delivering training and guidance to parish clerks / councillors which could result in an improvement in conduct and less complaints work for RDC;
- the Council's Monitoring Officer and Members of the former Standards Committee had in the past implemented a series of visits to town and parish councils across the district raising awareness of standards issues and providing more guidance;
- the removal of the requirement in legislation for parish and town council representatives to be voting members of a stand-alone Standards Committee had disenfranchised these Members from the process and the work of the Committee;
- Members had witnessed an increase of intimidating behaviour towards Councillors on Social Media in recent months;

- financial sanctions for councillors at District / Borough / County level could be a deterrent; however, this could not apply to the majority of town and parish councillors who did not receive allowances;
- charging town and parish councils for complaints handling work could be problematic due to the limited budgets of many town and parish councils.

Members were advised that it was for the Council to agree and adopt its Code of Conduct; if Members were minded to review and simplify the current Code it was at liberty to do so, provided that it met the nationally set minimum requirements. Following discussion it was agreed that the outcome of the CSPL's review would be awaited and reported back to the Committee in due course, at which time the Committee could decide what further action it would take.

It was agreed that the Monitoring Officer would modify the response, taking into account the comments made at the meeting, circulate by email to all Committee Members and in consultation with the Chairman of the Committee, agree the final response to be submitted by 18 May 2018. It was also agreed that the final response would be appended to the report of the Audit and Standards Committee at the full Council meeting on 21 May 2018.

RESOLVED: That

- 1) the Audit and Standards Committee's views be incorporated into the Council's response to the Committee on Standards in Public Life's review of local government ethical standards stakeholder consultation;
- 2) the Monitoring Officer be authorised to finalise and submit this Council's response in consultation with all Committee Members prior to the deadline of 18 May; and
- 3) a copy of the Council's final response be submitted to the Annual Council meeting as an Appendix to the report of the Audit and Standards Committee (these Minutes) (see Appendix B added on 30 April 2018).

PART B AUDIT REPORTS

PART II DECISIONS TAKEN UNDER DELEGATED POWERS

AS17/43.
(6.1) **BDO AUDIT PLAN FOR THE YEAR ENDING 31 MARCH 2018**

The Chairman welcomed Leigh Lloyd-Thomas from BDO to the meeting who proceeded to summarise the External Auditors' Annual Audit Plan report for the year ending 31 March 2018. The purpose of the report was to highlight and explain the key issues which BDO believed to be relevant to the audit of the financial statements and use of resources of the Council for the 2017/18 financial year.

The report formed a key part of BDO's communications strategy with the Council which was designed to promote effective two-way

communications throughout the audit process. Leigh Lloyd-Thomas guided Members through the comprehensive plan which set out details of the BDO Team; Engagement Timetable; Audit Scope and Objectives; Materiality; Overall Audit Strategy; Key audit risks and other matters; Independence and Fees. The following points were highlighted for Members' attention:

- The Council's materiality threshold had been set at £1m and triviality threshold of £20,000.
- Key risks included management override, revenue recognition, valuation of land, buildings and investment properties, pension liability assumptions, allowances for non-collection of receivables, consideration of related party transactions, IT development costs for the replacement financial ledger and sustainable finances.
- The proposed audit fee was £58,128.

RESOLVED: That the report be noted.

AS17/44.
(7.1)

INTERNAL AUDIT REPORT TO 31 DECEMBER 2017

The Audit Manager led Members through the internal audit report to 31 December 2017 that gave details of audit matters and any emerging issues, not only in relation to audit but risk management and corporate governance. It was advised that Internal Audit were still on target to complete the majority of the work planned for 2017/18 by 31 March 2018.

The report gave details of the nine audits completed in the quarter (Leisure Centre Contracts, Emergency Planning, Joint Waste Contract, Garden Waste Income, Community Infrastructure Levy (CIL), Treasury Management, Homelessness Prevention Grants and Loans, Creditors and Debtors), all but one of which had given good or substantial assurance on the overall governance arrangements. The exception was the Homelessness Prevention Grants and Loans audit which had resulted in minimal assurance owing to major control weaknesses and a discovery of fraud as outlined to Members at the last meeting.

With regard to CIL, Members sought further information on whether town and parish councils were already in receipt of any CIL monies, whether they would be advised to which development payments related to and what the CIL funding could be used for. The Executive Director of Business Operations advised that the Council had agreed the Regulation 123 list that set out a list of those projects or types of infrastructure that it intended to fund, either wholly or partially through the CIL levy. Town and parish councils would receive 15% of the CIL funds for developments within their areas or 25% where they had an adopted Neighbourhood Plan. The further information requested would be provided to Members in due course. It was recommended that when CIL money was spent on infrastructure improvements, particularly in Bexhill, the Council should promote and communicate this widely to the public.

With regard to the Homelessness Prevention Grants and Loans audit, which had resulted in the discovery of fraud, it was confirmed that preventative measures / controls to eliminate possible fraud in the

future had now been put in place. The discovery of this fraud was shocking and disappointing to all concerned and its impact should not be underestimated. The matter was now in the hands of the Police who were preparing a case for the Crown Prosecution Service; should the case proceed to trial and a successful conviction granted, the Council had every intention of publicising the outcome.

Good progress continued to be made implementing audit recommendations in both the current and previous years. There remained some outstanding older recommendations that were still not resolved and these were kept under review by the Audit Manager and raised with the Executive Directors for further investigation. It was noted that the longstanding Asset Management recommendation regarding the implementation of a single source asset register had now been closed following assurances that data entry was now substantially complete and the new property management system (ePIMS) was due to go-live in mid-April 2018.

Under the Accounts and Audit Regulations 2015, ultimate responsibility for maintaining a sound system of internal control rested with the Council; this had been delegated to the Service Manager – Finance and Welfare (Section 151 officer). The assessment of the control environment was made by reviewing the recommendations made in Internal Audit reports and by the production of the Annual Governance Statement (AGS) (see Minute AS17/47 below). One area had been identified for inclusion in the AGS by the Audit Manager because the internal control environment had not been satisfactory, namely Homelessness Prevention Grants and Loans. Other issues that may impact on the Council included:

- **Joint Waste Contract** – the Council was currently managing the current out-going contractor and simultaneously carrying out a retendering exercise for the new contract from 29 June 2019.
- **General Data Protection Regulations** – replaced the Data Protection Act 1998 with effect from 25 May 2018, implementation being co-ordinated by a new dedicated Data Protection Officer shared with Wealden District Council.
- **New Computer Systems** – a number of projects were running concurrently, however, a lack of dedicated staff resources combined with challenging timescales could lead to overruns on time and costs.

Areas of emerging risk included: property investment to stimulate economic activity and generate rental income and the establishment of a new catering operation at the Colonnade. Members agreed that the operation of a catering outlet at the Colonnade was a risk and were keen to ensure that appropriate controls were in place from an audit perspective.

Taking all of the factors highlighted in the report and the quarterly reports into account, the draft Internal Audit assessment of the

Council's framework of governance, risk management and control it was adequate and effective.

RESOLVED: That the Internal Audit report to 31 December 2017 (including the Audit Manager's draft overall assessment of the Council's internal control systems and draft opinion on the control environment) be noted.

AS17/45.
(7.2)

INTERNAL AUDIT PLAN 2018/19

Consideration was given to the report of the Executive Director of Resources on the Internal Audit Plan for 2018/19, attached as Appendix A to the report. The Internal Audit Plan set out the work programme for Internal Audit activity over the third year of the three-year period 2016/17 to 2018/19. It was noted that the third year plan had been updated to reflect the results of a recent risk assessment exercise carried out the by Audit Manager, which included new and merging risks identified by Service Managers.

The Plan had been compiled by the Audit Manager in accordance with the Internal Audit Charter, approved by Members in June 2017. The Executive Directors, Service Managers and External Audit had all been consulted and the final Audit Plan detailed in the report was reviewed and supported by the Strategic Management Team in February 2018.

The Plan allowed for 564 days of audit work on 27 separate audit reviews / consultancy activities plus provisions for counter fraud work. It was confirmed that it would be possible to meet the total resources requirement using existing recourses as predicted in the Strategic Audit Plan.

It was noted that whilst the Committee were concerned at the outcome of the Local Government Ombudsman's findings reported elsewhere at this meeting (see Minute AS17/41 above) it was not considered necessary to amend the proposed Audit Plan; this had been an unfortunate but isolated incident and there was no evidence of a systemic failure. The Council had already undertaken steps to address the issues identified by the LGO and would be reporting back on progress at the next meeting; if at that time Members remained concerned, the Audit Plan could be reviewed.

It was important that the Plan included a broad range of activities that enabled the Audit Manager to obtain sufficient assurance from the audit work to enable him to present an annual Internal Audit opinion on the adequacy of the control environment. As in previous years, a significant portion of the Plan would be spent on the annual Governance Audits.

Progress against the Plan would be monitored by the Audit Manager and reported to the Audit and Standards Committee once a quarter. The content of the Plan would also be kept under review by the Audit Manager in liaison with the Strategic Management Team and Service Managers, and adjusted if required, to ensure that it continued to reflect the Council's needs and priorities.

RESOLVED: That the Internal Audit Plan 2018/19 be approved.

AS17/46.
(7.3)

REVIEW OF INTERNAL AUDIT 2017/18

The Public Sector Internal Audit Standards required the Council to conduct periodic self-assessments of the effectiveness of Internal Audit. The Council's Audit Manager considered it beneficial for this review to be carried out annually, and for Members to review the findings, prior to 31 March of the financial year to which it related, as approval ahead of the preparation of the Annual Governance Statement allowed documentation to place reliance on the effectiveness of Internal Audit.

The Public Sector Internal Audit Standards (the Standards) aimed to achieve consistent industry standards for Internal Audit and included a Quality Assurance and Improvement Programme which stipulated the need for both internal and external assessments.

The Audit Manager carried out an annual self-assessment review of the Internal Audit function using a comprehensive checklist; the results of the review for 2017/18 had been summarised and were appended to the report for Members' consideration; Members were able to see a full copy of the compliance report on request. It was noted that no areas of material non-compliance with the Standards had been found; where an item on the checklist was either non or partially compliant, an explanatory comment and corresponding item had been included in the 2017/18 Action Plan.

It was reported that Rother's Internal Audit Service currently achieved a high level of compliance with the Standards and none of the areas of partial or non-compliance were significant in nature. An external peer review carried out in 2017 had concluded that "the Internal Audit Service of Rother District Council generally conforms with the Public Sector Internal Audit Standards (PSIAS) and general good practice for the profession"; this had been reported to Members in June 2017 (Minute AS17/14 refers).

Progress against the Action Plan from last year's review (plus recommendations made at the external peer review) was provided at Appendix C to the report. It was confirmed that most of the points raised had either been completed or were on target for completion by 31 March 2018. Those remaining were all low priority issues, two of which had been carried forward into the Action Plan for 2018/19, but there are currently no plans to pursue the third item.

The 2017/18 review of internal audit concluded that there was a high level of overall effectiveness which had been supported by the Council's Section 151 and Monitoring Officers.

RESOLVED: That the Review of Internal Audit 2017/18 be approved.

ANNUAL GOVERNANCE STATEMENT 2017-18

The Accounts and Audit Regulations required the Council to review, at least annually, its governance arrangements and, following this review, to agree an Annual Governance Statement (AGS). It was also a requirement for the Council to demonstrate awareness of where weaknesses existed within the governance arrangements and to develop and implement appropriate improvement plans.

The AGS comprised an assessment of governance arrangements and internal controls across the whole organisation against the Council's Code of Corporate Governance and whether these were supported by robust assurance processes. The review included:

- the robustness of the Council's risk management, performance management, financial management, legal and regulatory, IT and human resources processes and having the evidence to support that these were in place;
- the governance arrangements in place for the management of partnerships;
- the work and effectiveness of the internal audit function; and
- assurances from those managing the business (i.e. Service Managers) that the processes within their areas were robust and complied with.

The outcome of the review was set out within the Statement and the significant governance issues were summarised within the report. Progress against the areas for review in the 2016/17 statement was confirmed as follows:

- Counter Fraud Strategy – draft in abeyance pending decision on scope of fixed term investigator post
- Requirements under the new General Data Protection Regulations (GDPR) – working group established to address the issues, cross authority approach with Wealden District Council
- Provision of ethical training – Members' Code of Conduct training was delivered in February 2017
- Revised Communication Strategy – being considered in light of the new senior staffing structure and increased focus on delivery of Rother 2020 projects in 2018
- Revised Procurement Strategy – working with East Sussex Procurement Hub to update the procurement strategies for all Councils
- Update to the Council Workforce Plan – being revisited in light of LGA Peer Review recommendations

Internal Audit Reviews Showing Unacceptable Internal Control Environment:

- (i) Housing Needs Grants and Loans

Other Issues that may impact on the Council:

Joint Waste Contract
New Computer Systems

Further reductions in Government funding
Business Rate Retention Scheme
Capital Programme
Joint Working
Local government recruitment

Emerging Areas of Risk:

Property Investment
Colonnade Café / restaurant

The report showed the robust approach the Council took to ensuring good governance. The issues highlighted through inspection, both internal and external, provided assurance that the controls and procedures in place provided Members with a high degree of assurance. The report highlighted the areas where improvement was required and highlights the risks to the Council and its partners resulting from the poor economic climate and the associated impact on funding in the public sector.

RESOLVED: That:

- 1) the Annual Governance Statement be approved; and
- 2) the Statement be signed by the Leader of the Council and the Heads of Paid Service.

AS17/48.
(7.5)

TREASURY MANAGEMENT REPORT – QUARTER 3 AND TO THE END OF FEBRUARY 2018

Cabinet had approved the Council's 2017/18 Investment Strategy in February 2017; this required regular reports to be presented to the Audit and Standards Committee on the Council's treasury management activities. Investment activity was also reported to Members through the monthly Members' Bulletin. The report had been prepared in compliance with CIPFA's Code of Practice on Treasury Management.

The report provided an update on a number of areas as follows:

- the Council's treasury advisors, Link Asset Services (LAS), had provided their view on the current economic climate and their outlook for the remainder of 2017/18, which was appended to the report. LAS' forecast for the base rate indicated that interest rates were not expected to rise until June 2018 when a rise of 0.25% to 0.75% may occur;
- the in-house managed funds totalled £29.7m as at 28 February 2018 and the return for the year to date was £311,277, set against an annual budget of £235,000, the increase being attributable to the favourable returns on the Churches, Charities, Local Authorities Property Investment Fund (CCLA property fund); it was anticipated that the year-end would be £335,000 which represented a surplus of £100,000 on the original budget;
- the Capital Programme, how it was funded and the impact this had on taxpayers;

- the Council's Capital Financing Requirement (CFR) denoted the Council's underlying need to borrow for capital purposes; the Council's CFR projections ranged from £1.091m in 2017/18 to £35,816m in accordance with the Council's property investment plans; and
- limits to borrowing activity; the Council had an approved policy for borrowing in advance of need which would be adhered to if this proved prudent.

It was confirmed that when the Council made the initial investment into the CCLA there was an entry fee to cover stamp and legal fees of about 6%, which equated to around £300,000. The £5 million investment valued at the Net Asset Value (NAV) in February 2018 was £4,932,507; an overall loss of £67,493. Under the new accounting standard IFRS 9, this loss could potentially be charged against the general fund in 2018/19, as would any fall in the asset values. The Ministry of Housing, Communities & Local Government was undertaking a consultation in autumn 2018 and the local authority sector was lobbying for a statutory override to be put in place for collective investment vehicles like the CCLA, so that the loss could be reversed and not show in the general fund account.

The estimated interest earned on the £5 million for the year 2017/18 was £220,000 with an average return of 4.56% on the NAV, in terms of income. However, this figure increased to 9% return if capital growth was included. CCLA had moved out of the retail market with less than 5% of the investments in retail. This was slightly lower than the benchmark for the industry and was a reaction to the difficulty in the retail market that was currently in the press. CCLA had moved out of the London City Office sector of property investments due to the uncertainties around Brexit. CCLA had advised that in their view, the Council's future focus should be on income generation rather than capital growth. Members were pleased to note that the Council's less risk averse approach had resulted in generous returns and congratulations were extended to the Financial Services Manager.

With regard to the Property Investment Panel that would make decisions on acquisitions, it was noted that these meetings would not be open to the public due to commercial sensitivity, however non-panel Members would be able to attend and observe proceedings.

It was concluded that the Council's current treasury management and investment strategies remained robust in managing the Council's cash funds. The economic outlook remained difficult for a net investor such as the Council and supported the Council's financial strategy to continue to reduce reliance on investment returns.

RESOLVED: That the report be noted.

AS17/49.
(7.6)

THE ROLE OF MEMBERS AND OFFICERS IN POLICY DEVELOPMENT AND OPERATIONAL IMPLEMENTATION

At its meeting on 27 September 2017, the Committee had requested a report on the respective roles of Members and officers in the

development of policy and the operational implementation of those policies (Minute AS17/21 refers). The report summarised the respective roles of Members and officers and outlined the various elements of the decision making structure.

The role of council officers was generally to advise Members on policy, overall management of the organisation and implementation of Council policies through the delivery of services. A key principle was that officers had a duty to give unbiased professional advice. Officers regularly reviewed operational policies (including at the weekly Strategic Management Team (SMT) meetings) and where necessary, reference would be made to Cabinet Portfolio Holders to check that the current policy is one they wish to maintain. There were many informal meetings / contact between service officers and Cabinet Portfolio Holders in progressing their various roles / portfolios and these were undocumented. There were also informal meetings between the SMT and Cabinet.

Operational and corporate risks were also regularly reviewed (including by this Committee) and this gave the opportunity to review operational matters from a different perspective.

Members had a vital role to play in representing their area, approving policy and acting as the voice of users, citizens and taxpayers in assessing whether services were delivering what was intended. There would always be occasions that required an instant officer response within Council policy, without recourse to Members. It was a two-way process and Members were also encouraged to contact officers about known issues on the ground.

The Council's senior officers had an open door policy, which hopefully all Members were aware of – any Member could arrange to meet with them at any time.

At the inaugural Member Learning Day held in January, SMT had held an informal session with Members which had been well received. At the request of the Member Development Task Group this would be a regular feature at all future Learning Days. It was agreed to ask all non-executive Members at the Overview and Scrutiny Committee's (OSC) Annual Work Programming meeting what subjects they would like to receive information on at future Learning Days.

It was also considered that Members were not necessarily aware of all the Council policies and procedures that existed and so it was difficult to consider whether they needed review. It was therefore agreed that a review of all policies would also be considered at the Annual Work Programming meeting. It was also suggested that the Corporate Plan be considered alongside this so that areas for investigation / scrutiny complemented the Council's aims and aspirations. Members were reminded that an annual update on the delivery of the Corporate Plan was provided to the OSC.

In conclusion, it was agreed that overall Member and officer relationships worked very well at the Council and there was a genuine trust and desire to work together for the common good of the district.

RESOLVED: That:

- 1) the report be noted;
- 2) OSC Members be invited to consider subjects for the bi-annual Member Learning Days at the Annual Scrutiny Work Programming meeting; and
- 3) a review of all the main policies and procedures be undertaken at the Annual Scrutiny Work Programming meeting.

AS17/50.
(7.7)

WORK PROGRAMME

Consideration was given to the Work Programme which contained details of the reports to be considered by the Audit and Standards Committee meetings until July 2018.

As a separate matter, Councillor Dixon raised concern at the non-attendance of a number of Committee Members, some of whom had not attended a meeting of the Committee since May 2017. It was a small Committee and it was vital that the membership was committed and regularly attended meetings. It was agreed that the Executive Directors would raise this matter with the Leader of the Council.

RESOLVED: That the Work Programme at Appendix A be approved.

CHAIRMAN

The meeting closed at 8:45pm

as180326/ljc

AUDIT AND STANDARDS COMMITTEE

WORK PROGRAMME 2017 – 2018	
DATE OF COMMITTEE	SUBJECT
Monday 25 June 2018	<p>Part A – Standards Reports</p> <ul style="list-style-type: none"> • Code of Conduct Complaints Monitoring • Ombudsman Complaints Monitoring • Update on progress against recommendations in respect of LGO Case 16 011 157 <p>Part B – Audit Reports</p> <ul style="list-style-type: none"> • Internal Audit Report to 31 March 2017 • Treasury Management Report – 2017/18 Outturn
Wednesday 25 July 2018	<p>Part A – Standards Reports (none scheduled)</p> <p>Part B – Audit Reports</p> <ul style="list-style-type: none"> • BDO – Annual Governance Report 2017/18 • Statement of Accounts 2017/18

**Committee on Standards in Public Life
Local Government Ethical Standards: Stakeholder Consultation**

Response from Rother District Council

Consultation Questions

- a. Are the existing structures, processes and practices in place working to ensure high standards of conduct by local councillors? If not, please say why.**

Yes. Although the high profile that the Standards Committee previously enjoyed at Rother District Council under the former regime which required a stand-alone Standards Committee, chaired by an independent co-opted (non-councillor Member) is no longer present.

Whilst the concept of localism is welcome, allowing all councils (including town and parishes) to adopt their own codes (incorporating the minimum requirements) has led to different approaches and a weakening of common standards, particularly in parish and town councils. It is considered by the Councillors, Independent Persons and town and parish representatives serving on the Council's Audit and Standards Committee that a nationally set standard Code of Conduct should be re-introduced for all levels of local government.

Historically, the majority of complaints that were handled by Rother District Council related to parish councillors' conduct, commonly around declarations of interest. It is thought that this could be due, in part, to a lack of visibility, training and awareness of standards matters for both Parish Clerks and Parish Councillors.

- b. What, if any, are the most significant gaps in the current ethical standards regime for local government?**

Whilst not an issue for Rother District Council to date, there is a lack of adequate sanctions for more serious breaches of the Code of Conduct; there is no effective deterrent for poor conduct. The Council is no longer able to suspend a Councillor, as under the previous regime, nor is there any mechanism to disqualify a Councillor during a sitting term or from standing for re-election in the future for poor conduct.

It is recognised that Councils can choose to operate their assessment of complaints as they see fit, and generally the streamlining of the bureaucracy around the previous process is welcome. However, it is possible that by allowing Monitoring Officers to undertake the initial assessment of all complaints, without any consultation with Standards Committee Members, removes the ownership and self-policing aspect from the Members themselves – they are no longer part of the process and feel detached from it.

Although principle authorities have responsibility for the assessment and determination of complaints arising from the town and parish councils, they are not legally bound to take notice of any findings and recommendations made.

The removal of the requirement in legislation for parish and town council representatives to be voting members of a stand-alone Standards Committee has disenfranchised these Members from the process and the work of the Committee.

Codes of Conduct

- c. Are local authority adopted codes of conduct for councillors clear and easily understood? Do the codes cover an appropriate range of behaviours? What examples of good practice, including induction processes, exist?**

No. Rother District Council adopted the old national code, amended to include the provision for Disclosable Pecuniary Interests and also kept personal and prejudicial interests. Much of the terminology is difficult to understand and is written in the context of “you do not have” and giving examples rather than “you do have” which may be clearer to understand. Whilst it is in the gift of the Council to amend its Code of Conduct so that it is more easily understood, this has not been undertaken to date.

The Council’s current Code of Conduct does not address specifically the increased use of social media, although poor behaviour of this nature would tend to fall under the general obligations within the Code. The Council has however adopted a Staff Social Media Policy in 2015 which also applies to Councillors.

All Councillors receive training on the Code of Conduct as part of the Induction Process and again during the term of office of the Council; some Councillors proactively seek advice on Code matters prior to committee meetings and advice is also provided to Councillors prior to meetings when officers are aware of potential conflicts, for example at Planning Committee.

- d. A local authority has a statutory duty to ensure that its adopted code of conduct for councillors is consistent with the Seven Principles of Public Life and that it includes appropriate provision (as decided by the local authority) for registering and declaring councillors’ interests. Are these requirements appropriate as they stand? If not, please say why.**

It is considered that these are appropriate; the seven principles are an appendix to the Council’s Code of Conduct.

Councillors are reminded annually following the Annual Council Meeting to review their register of interests and advised on any additions / deletions not already picked up throughout the year. Members also receive regular training on the Code of Conduct and the registration of interests.

Investigations and decisions on allegations

- e. Are allegations of councillor misconduct investigated and decided fairly and with due process?**

Yes. However, it appears the process is often used to try and change or overturn decisions (primarily planning issues) and the Monitoring Officer has to be aware of motives of those who bring complaints.

- i. What processes do local authorities have in place for investigating and deciding upon allegations? Do these processes meet requirements for due process? Should any additional safeguards be put in place to ensure due process?**

Rother District Council appoints an investigating officer to undertake any potential breaches of the Code of Conduct that warrants an investigation.

- ii. **Is the current requirement that the views of an Independent Person must be sought and taken into account before deciding on an allegation sufficient to ensure the objectivity and fairness of the decision process? Should this requirement be strengthened? If so, how?**

At Rother District Council the Independent Persons are consulted on every case to ensure that the MO's initial assessment and proposed action is objective and fair. The IPs feel that since the Localism Act their role has less relevance and is very limited and the worth of the role is questioned at times.

- iii. **Monitoring Officers are often involved in the process of investigating and deciding upon code breaches. Could Monitoring Officers be subject to conflicts of interest or undue pressure when doing so? How could Monitoring Officers be protected from this risk?**

As confirmed above, the MO at Rother District Council does not undertake investigations into potential code breaches. Whilst initial investigations will be made to enable the MO to make an initial assessment of each case, these initial investigations have not given rise to conflicts of interest or undue pressure to date.

Sanctions

- f. **Are existing sanctions for councillor misconduct sufficient?**

No. See b. above.

- i. **What sanctions do local authorities use when councillors are found to have breached the code of conduct? Are these sanctions sufficient to deter breaches and, where relevant, to enforce compliance?**

No breaches have been found since the introduction of the new regime.

Given the limit of sanctions available, is a hearing going to achieve an outcome that could be elicited at the end of an investigation? Given the stringent cutbacks local authorities are having to make, the hearing process seems questionable in terms of cost / benefit. There is a lot of work for little benefit / satisfactory outcome.

- ii. **Should local authorities be given the ability to use additional sanctions? If so, what should these be?**

See b. above. In serious cases it is considered that the sanction of suspension or disqualification should be an option. There could also be an argument for financial sanctions such as withholding allowances, including basic and any Special Responsibility Allowance and/or reclaiming allowances paid. However this would only be applicable to those Members serving on District / Borough / County levels; the majority of town and parish councillors do not receive allowances.

Declaring interests and conflicts of interest

- g. **Are existing arrangements to declare councillors' interests and manage conflicts of interest satisfactory? If not please say why.**

- i. **A local councillor is under a legal duty to register any pecuniary interests (or those of their spouse or partner), and cannot participate in discussion or votes that engage a disclosable pecuniary interest, nor take any further steps in relation to that matter, although local authorities can grant dispensations under certain circumstances. Are these statutory duties appropriate as they stand?**

Yes.

- ii. **What arrangements do local authorities have in place to declare councillors' interests, and manage conflicts of interest that go beyond the statutory requirements? Are these satisfactory? If not, please say why.**

At Rother District Council, there is a specific agenda item on each formal meeting agenda where Councillors are required to declare any interests that they have at the meeting and to which Agenda Item it relates. Councillors also have to re-declare at the commencement of that item and leave the room, if necessary. Members are required to complete a Declaration of Interest form and this is filed and comprises the register of Members' Interests. All declaration of interests made at meetings are minuted. Having retained the "old" Code of Conduct, modified to incorporate DPs, the conflicts that go beyond the statutory requirements are captured under the "old" personal and prejudicial interests, for example a planning application that relates to a relative, as prescribed under the old Code.

Whistleblowing

- h. **What arrangements are in place for whistleblowing, by the public, councillors, and officials? Are these satisfactory?**

The Council has a Whistleblowing Policy (last updated December 2015) designed for use by all employees of the Council (including agency staff, trainees and volunteers), independent consultants, contractors, suppliers, Councillors and members of the public.

Links to this policy are provided on the Council website along with information on how to raise a concern. Options include contacting a designated officer, phoning a confidential fraud hotline, emailing audit@rother.gov.uk or completing an online Whistleblowing Form. All calls (and voicemail messages) received on the Fraud Hotline, fraud emails and whistleblowing forms are monitored by the Audit Manager and handled in the strictest confidence.

The [East Sussex Counter Fraud Hub](#) also includes links to the whistleblowing information on the Council's Report a Fraud [webpage](#).

The Audit Manager periodically emails all staff and Members to raise awareness of the whistleblowing arrangements but more could probably be done to inform the general public.

Improving standards

- i. **What steps could local authorities take to improve local government ethical standards?**

Continued training for Members and officers on the Code of Conduct (clearly defined national examples of the types of breaches would assist with this). The same goes for Declarations of Interest – examples so that Members can understand the reasons for declaring. Principle councils should invest more in delivering training and guidance to Parish Clerks / Councillors which could result in less complaints work.

Monitoring Officer attendance at parish and town council meetings to disseminate training and advice on standards matters and/or provision of an annual training session for Clerks/Parish Councillors at the local authority.

j. What steps could central government take to improve local government ethical standards?

The re-introduction of a national code so that every elected Councillor is following the same rule book; the abolition of the Standards Board for England has left a void and no central point of contact for advice / guidance / sample case studies etc. to see what sanctions are appropriate for what breaches.

Intimidation of local councillors

k. What is the nature, scale, and extent of intimidation towards local councillors?

Whilst it is not considered a significant problem in Rother District Council, Councillors have complained about feeling intimidated at Council meetings and when attending external public meetings, particularly when controversial items are being discussed. Members that are now active on social media have also reported witnessing an increase of intimidating behaviour towards Councillors on social media in recent months.

Members who serve on the Council's Planning Committee have also experienced lobbying which has bordered on intimidation from residents in respect of the determination of planning applications.

l. What measures could be put in place to prevent and address this intimidation?

Locally, at Rother District Council a review of the seating arrangements was undertaken to ensure that the public were not sitting directly behind the Councillors and where possible so no councillors are sitting with their back to the public gallery. The local police are alerted if there is to be a large public presence, which potentially may be hostile.

Further issues could include keeping all councillor contact information / home addresses confidential and only providing the Town Hall address for correspondence; making sure that procedures are in place to support Councillors who are intimidated; and ensuring that measures are taken against members of the public who continue to intimidate Councillors, for example barring them from Council meetings or contacting the local Councillor (this may have to involve the local police).

It is acknowledged that there is already provision within the Code of Conduct to keep sensitive information private, and this could in some instances, include contact information / home address.