

From: Roberta MacCrone – Independent Chairman of the Standards Committee

Peter Sass – Head of Democratic Services

To: County Council – 21 July 2011

Title: **ANNUAL REPORT TO COUNTY COUNCIL**

Classification: Unrestricted

Summary: The Standards Committee's Annual Report to the County Council

For Decision

(1) It is customary for the Chairman of the Standards Committee to submit an annual report to the County Council commenting upon the Committee's activities over the previous 12 months. It is also the convention that at least one independent Member of the Standards Committee is present at the County Council meeting and, with the permission of the Chairman of the County Council, to speak to the report and respond to any questions from Members.

(2) The production of an annual report is regarded by Standards for England as good practice and this is the ninth consecutive year that the Committee has produced such a report.

RECOMMENDATION

(3) The Council is invited to formally receive the Standards Committee's annual report (**Appendix A**)

Peter Sass
Head of Democratic Services
01622 694002

Background Documents: None

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Kent County Council's Standards Committee

Annual Report – 2010/11

Introduction

The composition of the Standards Committee complies with statutory guidance and is chaired by one of the three independent Members on the Committee. The membership of the Committee for 2010/11 was as follows:

- Ms Roberta MacCrone (Independent Chairman)
- Ms Nadra Ahmed (Independent Member)
- Mr Leslie Christie (Labour Member)
- Mr Dan Daley (Liberal Democrat Member)
- Mr Keith Ferrin (Conservative Member) (from May 2011)
- Mr Peter Gammon (Independent Member)
- Mr John London (Conservative Member) (until May 2011)



Ms Roberta MacCrone
Chair



Mrs Nadra Ahmed
OBE, DL



Mr Leslie Christie
Labour



Mr Dan Daley
Liberal Democrat



Mr Peter Gammon
MBE



Mr John London
Conservative



Mr Keith Ferrin MBE
Conservative

The Committee has met on three occasions during the last 12 months (15 July 2010, 8 February 2011 and 11 May 2011).

Foreword by the Independent Chairman – Ms Roberta MacCrone.

This is the ninth Annual Report of the Standards Committee, covering the period June 2010 to May 2011. The Committee's work programme for the past year has concentrated on exploring options for the future of the ethical standards regime, given the impending abolition of Standards for England and the formal complaints process that has operated since May 2008. Under the Localism Bill, there will be a new duty on local authorities to promote high standards of conduct amongst Members but there are a range of options and differing views about how this new duty should be performed. The Standards Committee has agreed to produce a discussion document for extensive consultation with elected Members and others, with a view to proposals being placed before the County Council in December 2011.

The Standards Committee has received invaluable help and advice from Mr Geoff Wild, Director of Governance and Law and Mr Peter Sass, Head of Democratic Services, and they have done much to ensure that KCC's Standards Committee is at the forefront of best practice in England.

The Standards Committee has a future work programme that can probably best be summed up as "more of the same". In a world of constant change, it is good to feel we have done the best possible job; however, we are allowing ourselves only one deep breath before getting on with the hard work for the coming year.

The role of the Standards Committee

The Committee's terms of reference are attached at **Appendix 1** and have not been altered by the County Council in the previous year.

The role and remit of the Committee continues to be proportionate and reflects the high standard of conduct within the County Council.

The Committee held its annual meeting with Group Leaders in July 2010 and there was a wide-ranging and interesting exchange of views about the provisions in the Localism Bill to abolish Standards for England and make sweeping changes to the complaints regime. Group Leaders also offered their views on the format and content of the Members' Annual Reports, which led to a number of changes being made.

Training and Development

The Committee was pleased to note that the cross-party Member Development Group has continued to meet and was delighted that Kent County Council had achieved the South East Employers' Member Development Charter and that it is working towards "Charter Plus". KCC should be rightly satisfied with its positive decision to devote resources to Member training and development. This has positive benefits to the Members themselves but also to the residents of Kent and also supports the work of the Standards Committee.

Members of the Standards Committee also take their own training and development seriously. During the last year, two of the Committee's independent Members, Mr Gammon and Mrs Ahmed, have spent time

shadowing elected Members in order to gain a greater understanding of their various roles. Both independent Members found the shadowing process immensely valuable and were grateful to the elected Members concerned for agreeing to devote their time.

The locally managed framework for complaints

Responsibility for dealing with alleged breaches of the Code of Conduct by elected and co-opted Members of the Council, which passed from Standards for England to the local authority on 8 May 2008, continues to be a key part of the Committee's work, although it should be noted that the number of formal complaints received in the previous 12 months about the conduct of Members has reduced to just one, compared with two in 2009/10.

In July 2009, the Committee considered and agreed a formal protocol to guide the Monitoring Officer and his staff in relation to the receipt, processing and consideration of complaints (**Appendix 2**). This protocol, which now forms part of the Members' Handbook, contains important information about the notification procedure for complaints and the opportunity for local resolution. The Committee is satisfied that the introduction of the protocol has had a positive effect, in terms of the information to, and involvement of, the Member who is the subject of a complaint throughout the process, as well as offering a sensible and swift resolution of complaints. The Standards Committee has also developed the criteria it uses to assess complaints (**Appendix 3**) and these are reviewed on a regular basis by the Committee in the light of experience of dealing with complaints.

During the last 12 months, the Assessment Sub Committee and the Review and Consideration Sub Committee have dealt with one complaint about the conduct of Members, as follows:

Reference	Complainant	Assessment outcome	Review outcome (only applicable if "no action" taken by the Standards Committee at the first stage)	Comments
KCC/1/2010	Member of the public	Assessment Sub Committee decided to take no action	Complainant did not ask for the assessment outcome to be reviewed	Case closed

Members' Annual Reports

Members' Annual Reports have become embedded into Member activity - this is excellent and has so many merits to compensate for the time needed to complete the reports. They are not only used by the Standards Committee and Remuneration Panel; they are used by political group leaders for annual assessment purposes, are published on the website for the public to see, and

they can and often are used locally by Members to disseminate information about the hard work undertaken by them on behalf of their electorate.

The Standards Committee was formally consulted by the Independent Remuneration Panel about key changes to the Annual Report format, with particular emphasis on greater information about the utilisation of individual Member grant money, Highways grant money and remuneration (both from KCC and other public bodies). A key change this year was the partial completion of the reports by staff in Democratic Services (meeting attendance and grant information) and it is hoped that this was appreciated by Members.

The Independent Remuneration Panel met on 28 April 2011, to consider Members' Annual reports for 2010/11. The Panel was slightly disappointed with the overall response rate this year, with only 79 reports being received before the Panel met, compared to the previous year's excellent response, when 83 reports were received before the Panel meeting.

The Panel were pleased, however, with the high overall standard of most of the reports received in that Members had taken seriously the need to account for their time on County Council work; supply details of their remuneration; and to explain clearly how they make themselves available to their constituents. The Panel has written to Group Leaders individually, highlighting those reports submitted by Members of their groups that the Panel thought were of very high quality, and also those of poor quality, so that best practice examples can be shared within each group, with the expectation that the general quality will improve further next year.

The following issues were raised by the Panel:

- The overall standard of Members' Annual Reports was higher than previous years, although the Panel noted that staff in Democratic Services had supplied some information up front and most Members sought the assistance of staff in the Member Support Team to type their reports
- The detail provided about the receipt of Members' Allowances, both within KCC and other public authorities was much improved, compared to previous years, although the Panel were surprised that only one elected Member stated that he was a non-executive Director of a Health Trust and many Members did not give a correct total of allowances received
- The level of detail provided about the availability of training and development activity for Members was good, with only 14 Members having said that they did not undertake any training during the year, but the Panel was disappointed that the "benefits of training" information was sparse

Future work programme for the Committee

As indicated above, the primary aspect of the Committee's work programme for the year ahead relates to the future of the ethical standards regime, given the emerging legislation in the Localism Bill. The Committee looks forward to

discussing the results of the consultation exercise with leading Members in the coming months, before making a series of recommendations for the future.

Conclusions

Kent County Council's Standards Committee has enjoyed another successful and effective year. The Committee's approach is to offer appropriate support and challenge in relation to the promotion of high ethical standards amongst both elected and co-opted Members. The overall standard of Member conduct within the authority is high and the Committee looks forward to ensuring that KCC continues to be an exemplar for ethical standards and conduct.

Roberta MacCrone
Independent Chairman
July 2011

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Terms of Reference of the Standards Committee

6 Members:

Conservative: 1; Labour: 1; Liberal Democrat: 1; Independent: 3

The Chairman is appointed by the Council from among the independent Members. This Committee has responsibility for:

- (a) Promoting and maintaining high standards of conduct by Members (including any co-opted Members and church and parent governor education representatives)
- (b) Assisting Members through advice and training to observe the Members' Code of Conduct set out in Appendix 6 of the Constitution
- (c) Monitoring the operation of the Members' Code of Conduct and advising the Council on its operation and revision
- (d) Granting dispensations to Members from requirements relating to interests set out in the Members' Code of Conduct
- (e) Seeking to resolve any concerns about a Member's conduct by mutual agreement to reduce the need for a complaint to be referred to the Standards Committee
- (f) Receiving complaints that a Member is alleged to have breached the Code of Conduct and deciding whether the matter merits investigation; taking appropriate action as defined in the Standards Committee (England) Regulations 2008; and, reviewing decisions to take no action on a particular complaint if so requested by the complainant
- (g) Dealing with any reports from a case tribunal or interim case tribunal of the Standards Board, and any report on a matter which is referred by an Ethical Standards Officer to the Monitoring Officer
- (h) Censuring, suspending or partially suspending a Member or former Member in accordance with the provisions of the Local Government Act 2000

Independent Members of the Standards Committee are recommended to the Council for appointment by a panel of three people (not Members of the Council) appointed by the Selection and Member Services Committee.

The Procedure Rules applying to Committee meetings also apply to meetings of the Standards Committee.

Monitoring Officer Protocol

Procedure to be followed by the Monitoring Officer in relation to the initial assessment and review of allegations that a member of the Authority has failed to comply with the Code of Conduct

1 Receipt of Allegations

- 1.1 The Monitoring Officer shall set up arrangements within the Authority to ensure that any allegation made in writing that a Member of the Authority has, or may have, failed to comply with the Authority's Code of Conduct is referred to him immediately upon receipt by the Authority and dealt with in accordance with the relevant statutory timescales.
- 1.2 The Monitoring Officer shall maintain a register of such allegations to ensure that the Authority can comply with its obligations under the relevant legislation.
- 1.3 Complaints shall only be entertained where the identity of the complainant is known, but the Monitoring Officer is authorised to maintain the confidentiality of the identity of the complainant where and for so long as in his opinion that would be in the public interest.

2 Notification of Receipt of Allegations

- 2.1 All relevant allegations must be assessed by the Assessment Sub-Committee within an average of 20 working days of being received. The Monitoring Officer has no authority to deal with an allegation of failure by a relevant Member to observe the Code of Conduct other than by reporting it to the Assessment Sub-Committee. The Monitoring Officer shall therefore determine whether the allegation appears to be a substantive allegation of misconduct. Where it appears not to be, he shall ensure that the matter is dealt with under a more appropriate procedure, for example where it is really a request for service from the Authority, a statement of policy disagreement, a legal claim against the Authority or a complaint against an officer of the Authority.
- 2.2 Following receipt of the allegation, and where the allegation appears to be a complaint of misconduct against a relevant Member, the Monitoring Officer will promptly and in any case in advance of the relevant meeting:
 - 2.2.1 acknowledge to the complainant receipt of the allegation and confirm that the allegation will be assessed by the Assessment Sub-Committee at its next convenient meeting;
 - 2.2.2 notify the Member against whom the allegation is made of receipt of the complaint, together with a

written summary of the allegation, and state that the allegation will be assessed at the next convenient meeting of the Assessment Sub-Committee. However, where the Monitoring Officer is of the opinion that such notification would be contrary to the public interest or would prejudice any person's ability to investigate the allegation, he shall consult the Chairman of the Standards Committee, or in her absence another Member of the Standards Committee, and may then decide that no such advance notification shall be given;

- 2.2.3 collect such information as is readily available and would assist the Assessment Sub-Committee in its function of assessing the allegation;
- 2.2.4 seek local resolution of the matter where practicable, in accordance with Paragraph 3 below;
- 2.2.5 place a report, including a copy of the allegation, such readily available information and his recommendation as to whether the allegation discloses an apparent failure to observe the Code of Conduct, on the agenda for the next convenient meeting of the Assessment Sub-Committee.

3 Local Resolution

- 3.1 Local resolution is not an alternative to reporting the allegation to the Assessment Sub-Committee, but can avoid the necessity of a formal local investigation.
- 3.2 Where the Monitoring Officer is of the opinion that there is the potential for local resolution, he may approach the complainant and ask what action the complainant is seeking in terms of redress. This might include, for instance, an apology or a commitment to take some specified action in support of the complainant. The Monitoring Officer may then approach the Member against whom the allegation has been made and ask whether he/she is prepared to acknowledge that his/her conduct was inappropriate, and whether he/she would be prepared to offer an apology or undertake other appropriate remedial action, as suggested by the complainant. The Monitoring Officer shall in every case then report to the Assessment Sub-Committee as required, and at the same time report the comments of the complainant and the response of the Member concerned. This procedure should ensure that, where the Member has acknowledged that his/her conduct was inappropriate, and particularly where the complainant is likely to be satisfied with the proffered apology or remedial action, the Assessment Sub-Committee will be able to take this into account when considering whether the matter merits investigation – although the Sub Committee is not bound by any concessions.

4 Review of Decisions not to Investigate

- 4.1 Where the Assessment Sub-Committee has decided that no action be taken on a particular matter, the Monitoring Officer shall advise the complainant of the decision within 5 working days of the assessment decision, and the complainant may then within 30 working days of receipt of such notification request that the Review Sub-Committee review that decision.
- 4.2 Whilst the review shall normally be a review of the reasonableness of the original decision rather than a reconsideration, the Monitoring Officer shall report to the Review Sub-Committee the information that was provided to the Assessment Sub-Committee in respect of the matter, the summary of the Assessment Sub-Committee and any additional relevant information which has become available prior to the meeting of the Review Sub-Committee.

5 Local Investigation

- 5.1 It is recognised that the Monitoring Officer will not personally conduct a formal local investigation.
- 5.2 It will be for the Monitoring Officer, where appropriate after consultation with the Chairman of the Assessment Sub-Committee, to determine who to instruct to conduct a formal local investigation, and this may include another appropriately experienced senior officer of the Authority, a senior officer of another authority or a consultant.

Assessment Criteria

Introduction

The Standards Committee or Assessment Sub Committee needs to develop criteria against which it assesses new complaints and decides what action, if any, to take. The Standards Board advises that these criteria should reflect local circumstances and priorities and be simple, clear and open. They should ensure fairness for the complainant and the subject Member.

In drawing up assessment criteria, Standards Committees should bear in mind the importance of ensuring that complainants are confident that complaints about Member conduct are taken seriously and dealt with appropriately. They should also consider that deciding to investigate a complaint or to take other action will cost public money and the officers' time and members' time. This is an important consideration where the matter is relatively minor.

Authorities need to take into account the public benefit in investigating complaints which are less serious, politically motivated, malicious or vexatious. Assessment criteria should be adopted which take this into account so that authorities can be seen to be treating all complaints in a fair and balanced way.

Accordingly, the Assessment Sub Committee agreed to use the following initial questions and assessment criteria at its previous meeting in June and it suggested that the Sub Committee uses this as a benchmark. The assessment criteria can be amended as appropriate in the light of experience.

Initial questions

1. Is the complaint about one or more Members of the Authority covered by the Standards Committee?
2. Was the named Member in office at the time of the alleged Conduct?
3. Had the named Member signed the Declaration of Acceptance of Office, agreeing to abide by the Code of Conduct?
4. Was the Code of Conduct in force at the time of the alleged conduct?
5. Would the complaint, if proven, be a breach of the Code of Conduct?

If the complaint fails one or more of these initial tests, it cannot be investigated as a breach of the Code and the complainant should be informed that no further action will be taken in respect of the complaint.

Assessment Criteria

1. Does the complaint relate to dissatisfaction with a Council decision, rather than the conduct of a particular Member?

2. Does the complaint concern acts carried out in a Member's private life, when they are not carrying out the work of the authority or have not misused their position as a Member?
3. Has the complaint already been the subject of an investigation or other action relating to the Code of Conduct?
4. Similarly, has the complaint been the subject of an investigation by other regulatory authorities?
5. Is the complaint about something that happened such a long time ago that there would be little benefit in taking action now?
6. Is the complaint too trivial to warrant further action?
7. Does the complaint appear to be simply malicious, politically motivated or tit-for-tat?
8. Is the complaint, part of a continuing pattern of less serious conduct by a Member that is unreasonably disrupting the business of Kent County Council and there is no other avenue left to deal with it, short of an investigation?
9. Has the complainant submitted enough information to satisfy the Assessment Sub Committee that the complaint should be referred for investigation or other action?

Note: If a matter is referred for investigation or other action, it does not mean that the Sub Committee assessing the complaint has made up its mind about the allegation. It simply means that the Sub Committee believes that the alleged misconduct, if proven, may amount to a failure to comply with the Code and that some action should be taken in response to the complaint.

Peter Sass
Head of Democratic Services and Local Leadership
November 2008