



AGENDA

STANDARDS COMMITTEE

Tuesday, 6th March, 2007 at 10.00 am
Waterton Lee, Invicta House, County Hall,
Maidstone

Ask for: **Mary Cooper**
Telephone **01622 694354**

UNRESTRICTED ITEMS

(During these items the meeting is likely to be open to the public)

1. Minutes of the meeting held on 14 June 2006 (Pages 1 - 4)
2. Proposed New Code of Conduct for Members - Consultation (Pages 5 - 14)
3. Proposed Programme of Work (Pages 15 - 18)
4. Local Government and Public Involvement in Health Bill (Pages 19 - 20)
5. Independent Members of the Standards Committee (Pages 21 - 22)
6. Standards Board for England Roadshow 2007 (Pages 23 - 24)
7. Date of Next Meeting
8. Any other urgent business

EXEMPT ITEMS

(At the time of preparing the agenda there were no exempt items. During any such items which may arise the meeting is likely NOT to be open to the public)

Peter Sass
Head of Democratic Services and Local Leadership
(01622) 694002

Monday, 26 February 2007

Please note that any background documents referred to in the accompanying papers maybe inspected by arrangement with the officer responsible for preparing the relevant report.

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KENT COUNTY COUNCIL

STANDARDS COMMITTEE

MINUTES of a meeting of the Standards Committee held at Sessions House, County Hall, Maidstone on Wednesday, 14 June 2006.

PRESENT: Mr J A Ogden DL (Chairman), Mr L Christie, Mr D S Daley, Mrs F Leathers, Mr J F London and Miss R MacCrone.

IN ATTENDANCE: The Director of Law and Governance, Mr G Wild; the Head of Democratic Services, Mr S C Ballard; the Member Services Manager, Mrs J A Corbyn; and, for item 3 only, the Personnel Adviser, Ms L Clarke.

UNRESTRICTED ITEMS

5. Minutes
(Item 1)

RESOLVED that the Minutes of the meeting held on 26 April 2006 are correctly recorded and that they be signed by the Chairman.

6. Members' Annual Reports
(Item 2 - Report by Head of Democratic Services)

(1) The Chairman explained that Members' Annual Reports had been introduced at the request of the Member Remuneration Panel because the Panel had felt that there needed to be some publicly-available record of what Council activities Members had undertaken each year in return for the allowances they had been paid. Annual Reports were now also used by Group Leaders as a tool for appraising the performance of their Members, and this was welcomed provided that it did not delay submission of the forms.

(2) The Member Remuneration Panel had considered the Annual Reports submitted by Members for 2005/06 at its meeting on 1 June and the report set out the Panel's comments on them. Having considered the Panel's comments, the Standards Committee was being invited to make its own comments to Council on the Members' Annual Reports.

(3) Some concern was expressed about the requirement that all Members should complete their forms electronically, given that some Members still found it difficult to use computers for this sort of purpose. The Director of Law and Governance explained that training in the use of computers was offered to all Members and, in the last resort, secretarial assistance could be provided to Members for the electronic completion of their forms.

(4) RESOLVED that:-

- (a) the comments of the Member Remuneration Panel, as set out in the report, be endorsed;

14 June 2006

- (b) random sampling of forms to validate their accuracy be introduced with immediate effect;
- (c) the Committee's comments to Council:-
 - (i) include reference to the thanks expressed by a profoundly deaf Member for the special support arranged by officers to enable her to play a full part in meetings;
 - (ii) emphasise the Committee's concerns about Members' Annual Reports being submitted late and/or unsigned by both the Group Leader and the relevant Member.

7. Criminal Records Bureau Checks on Members

(Item 3 - Report by Chief Executive)

- (1) The Committee noted that the Council had no power to disqualify, or impose any other sanction on, any Member who refused to undergo a Criminal Records Bureau (CRB) check, although it was recognised that adverse publicity could result for the Member concerned. In addition, the Council could ensure that any Member who refused to undergo a CRB check was not appointed to a position where he or she would come into direct contact with children or vulnerable adults.
- (2) Ms Clarke explained how the CRB checking process for staff currently worked within the Council. The Director of Law and Governance said that it was intended to use a similar process for Members, with the results of all Member CRB checks being passed to him in his capacity as Monitoring Officer. If any CRB check disclosed that a Member had any relevant convictions, etc, he would inform, in confidence, the Chief Executive, the relevant Group Leader and/or the Standards Committee as appropriate, and agree what action should be taken.
- (3) Ms Clarke and the Director of Law and Governance emphasised that all results of CRB checks were treated in the strictest confidence and were retained for only six months before being shredded. Because they comprised sensitive personal data, they were not subject to disclosure to third parties under the Freedom of Information Act.
- (4) RESOLVED that Council on 22 June be recommended to agree that:-
 - (a) all current Members be requested to voluntarily agree to submit to an enhanced-CRB check;
 - (b) enhanced-CRB checks be made a Council requirement for Members elected at the next County Council election in 2009.

8. Standards Committee Draft Annual Report for County Council

(Item 4 – Report by Head of Democratic Services)

RESOLVED that, subject to amendments to reflect the Committee's decisions under Minutes 2 and 3 above, the draft Annual Report, as appended to the report to the Committee, be approved for submission to Council on 22 June.

9. Date of Next Meeting
(Item 5)

The Committee agreed that the date for its next meeting should be set, in consultation with all Members of the Committee, when there was business requiring consideration by the Committee.

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By: Head of Democratic Services

To: Standards Committee – 6 March 2007

Subject: **PROPOSED NEW CODE OF CONDUCT FOR MEMBERS - CONSULTATION**

Classification Unrestricted

Summary: The Department for Communities and Local Government (DCLG) has published a consultation paper seeking views by 9 March on a draft of a proposed new Model Code of Conduct for Local Authority Members.

This report includes the consultation paper and suggests a draft response to be submitted by the Council.

FOR DECISION+

1. On 22 January the Department for Communities and Local Government (DCLG) published a consultation paper seeking views by 9 March on a draft of a proposed new Model Code of Conduct for Local Authority Members. A copy of the consultation paper is attached at **Appendix 1**.
2. The Government's intention is that the new model code should replace the existing four separate model codes (for parish councils; national parks and broads authorities; police authorities; and all other local authorities). However, the new model code contains exceptions for particular types of authority so this consolidation makes little practical difference to the existing arrangements.
3. The Government also intends that the new model code will replace the existing model code. As a result, each authority will have to formally adopt a new code based on the new model code. In addition, clause 131 of the Local Government and Public Involvement in Health Bill suggests that every Member will then be required to sign a new undertaking to observe his or her authority's new code.
4. A suggested draft KCC response to the consultation is attached at **Appendix 2**.

RECOMMENDATION

5. Members are requested to consider the suggested draft response and approve it on behalf of the Council for submission to the DCLG.

Background documents: None

S C Ballard
Head of Democratic Services
Tel: 01622 694002

Kent County Council

Comments on DCLG Consultation Paper on Proposed New Model Code of Conduct for Local Authority Members

Unlawful Discrimination (paragraph 2(2)(a) of the draft Model Code)

The Council accepts the reason for deleting the reference to unlawful discrimination and supports the proposed new wording.

Bullying (paragraph 2(2)(b))

The Council has previously supported inclusion of a provision against bullying which covers both one-off instances of bullying behaviour as well as a pattern of such behaviour. The Council therefore supports the proposed wording of this section.

Disclosure of Confidential Information (paragraph 3(a)(iii))

The Council has previously argued that a provision allowing Members to disclose confidential information where such disclosure is in the public interest is unnecessary. However, that was before the Adjudication Panel decision referred to in the consultation paper. In these circumstances, the Council is prepared to support this addition but, in answer to question 1, it is concerned that the proposed text might encourage members to treat the disclosure of confidential information too lightly. The text of the code needs to be much more prescriptive about the **exceptional** circumstances in which it could be in the public interest for a member to disclose confidential information.

Behaviour Outside Official Duties (paragraphs 4 and 5)

The Council has previously stated that the provision about Members' behaviour should continue to apply to Members both when on official business and in their private lives. The Council's view was – and remains - that this should continue to be a broad provision which covers activities which bring into question the Member's fitness to carry out his or her official duties, or which undermined confidence in his or her ability to carry out their official duties, as well as cases of unlawful behaviour.

In answer to question 2, therefore, while the Council supports the proposed amendment to sections 49 to 52 of the Local Government Act 2000 and the proposed new wording of the code, it is concerned that Ministers' intention is to provide that only private behaviour for which the Member has been convicted by a court should be proscribed by the code of conduct, and not behaviour falling short of a criminal offence.

Commission of Criminal Offence before Taking Office (paragraph 4(2))

Subject to its comments above, the Council supports the inclusion of this paragraph.

Using or Seeking to Use Improper Influence (paragraph 5(a) and (b)(ii))

The Council supports both of the changes proposed in this section.

Publicity Code (paragraph 5)

The Code of Recommended Practice on Local Authority Publicity has proved to be a very good and useful tool to ensure that standards of impartiality, neutrality, balance and fairness are maintained across all publicity issued by councils. In answer to question 3, therefore, the Council would endorse its retention.

Reporting Breaches of the Code and Proscribing Intimidation (paragraph 2(2)(c))

The Council has previously argued, and firmly remains of the view, that the existing provision in the code of conduct that requires Members to report breaches of the code by fellow Members should be retained in full. The Council would certainly support the addition of the provision prohibiting a Member from intimidating a complainant or anybody else involved in a case against them.

Gifts and Hospitality (paragraphs 7(a)(vi) and 8(3))

The Council would have no objection to the Register of Gifts and Hospitality being made public (and believes that most authorities already do this anyway) but is strongly against the inclusion of gifts and hospitality in the Register of Interests, because this would require Members to declare at meetings any relevant gifts and hospitality worth more than £25 which they had received at any time during the previous five years. This does seem somewhat disproportionate, and asking a great deal of the memories of Members.

The Council has previously expressed the view that £25 is now far too low a limit. The threshold for the registration of gifts and hospitality should be raised to at least £50 and be subject to regular review.

Body Influencing Public Opinion or Policy (paragraph 7(b)(iv))

The Council supports the clarification that the definition of a body influencing public opinion or policy includes political parties.

Interests of Family, Friends and Those with a Close Personal Association (paragraph 7(c)(i) and elsewhere)

The Council has previously argued for a stricter definition of “family” and “friend” and, in answer to question 5, supports the proposed text relating to friends, family and those with a close personal association.

Definition of Personal Interests (paragraph 7(c))

The proposed amendment does not appear likely to achieve what the Government says in the consultation paper that it wishes to achieve, because Members can already speak on issues affecting their own electoral divisions provided they declare a personal interest first. In any case, there is a very fine distinction between a decision which affects a Member more than other inhabitants of the **whole Council's area** and one which affects a Member more than the other inhabitants of his or her **electoral division or ward**. In practise therefore the amendment will make very little if any difference to the current position and it would be helpful if it could be re-thought.

Disclosure of Personal Interests

The Council has previously argued that the code should make clear that Members should only be required to declare personal interests relating to a friend or relative where they can reasonably be expected to be aware of that interest. The Council therefore supports the proposal in this section.

Public Service Interests (paragraphs 8(2) and 8(7))

The Council supports this proposed amendment.

Prejudicial Interests – List of Exemptions (paragraph 9(2)(b))

In answer to question 6, the Council believes that it would be appropriate for new exceptions, as set out in this section, to be included in the text as additions to the list of items which are not to be regarded as prejudicial.

Overview and Scrutiny Committees (paragraph 10)

The Council supports the proposals in this section, which appear entirely sensible.

Participation in Relation to Prejudicial Interests (paragraphs 9 and 11)

The Council supports the principle of providing a clearer prejudicial interest test to apply for public service interests and where Members attend to make representations. However, in answer to question 7, the way in which the principle is reflected in the proposed new code is confusing. Paragraph 9(2) of the new code says that a Member does not have a prejudicial interest in a matter where it is a public service interest, as defined in paragraph 9(4), so the Council questions why it is necessary to repeat the definition of public service interests in paragraph 11, when paragraph 11 deals entirely with the participation of Members who do have a prejudicial interest.

Sensitive Information (paragraphs 8(5) and 13)

The Council has previously expressed its support for the principle that sensitive information in respect of private interests should not be included in the public register of interests where doing so may lead to the Member being subject to violence or intimidation. However, the Council is concerned that the proposed text suggests that sensitive information in respect of private interests does not need to be recorded anywhere. The Council agrees that a Member should be able to apply to his or her Council's monitoring officer for an interest not to be subject to public disclosure, but suggests that the Code should then provide that, if the monitoring officer agrees that the interest is sensitive, it should be recorded on a separate confidential register of sensitive interests to be held by the Council's monitoring officer.

The Council is opposed to the suggested amendment to paragraph 8(5). The Council is concerned that requiring members with an accepted sensitive interest to disclose publicly the existence, but not the detail, of that interest at a meeting would defeat the whole object of the exercise. The fact that the member's interest was a sensitive one would be publicly revealed and, in many cases, the reason for the sensitivity would be clear, or could easily be guessed at, from the item under discussion. On the other hand, the Council is opposed to allowing members to participate in discussion of an item in which they have an accepted sensitive interest, without any requirement on them to disclose their interest. The Council therefore suggests that any member with an accepted sensitive interest in an item under discussion at a meeting at which they are present should be required to treat that interest as a prejudicial interest and leave the room until discussion of that item has concluded.

National Parks and Broads Authorities – Prejudicial Interest

Not applicable to the Council.

Register of Members' Interests (paragraphs 12 and 13)

The Council welcomes the simplification of the paragraphs on the registration of personal interests.

Gender Neutrality of Language

The Council supports both the principle of the use of gender-neutral language and the way in which this principle has been reflected in the proposed draft code.

Kent County Council

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Behaviour Outside Official Duties (paragraphs 4 and 5)

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The suggested amendment to paragraph 8(5) is entirely acceptable to the Council.

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By: Head of Democratic Services
To: Standards Committee – 6 March 2007
Subject: **PROPOSED PROGRAMME OF WORK**
Classification Unrestricted
Summary: Suggests items for inclusion in a proposed work programme for the Committee for 2007/08

FOR DECISION

1. Introduction

- 1.1 The Standards Committee currently meets infrequently and is generally reactive rather than proactive. There has been nothing wrong with this approach so far but it is clear that CIPFA and CPA guidance envisages standards committees becoming much more involved in actively promoting high ethical standards and constituting the main means of raising awareness within their Council of standards issues.
- 1.2 There is no doubt that the changes proposed in the Local Government and Public Involvement with Health Bill will inevitably give Standards Committees generally a much higher profile but the Committee may wish at this stage to consider adopting a work programme which would:-
- (a) prepare it for its new role when the provisions in the Bill take effect (expected late 2007/early 2008);
 - (b) enable it to raise awareness of standards issues within the Council.
- 1.3 Suggestions for the work programme for the next year include the following:-
- regular diarised meetings – say four a year, including regular opportunities for three group leaders to attend and discuss standards issues;
 - introduction of right for Chairman of Standards Committee to present the Committee's Annual Report to full Council and, when necessary, to address Council on other standards issues;

- co-option of the Chairman of the Committee on to the Governance and Audit Committee because of the links between standards and governance issues;
- more detailed consideration of Members' Annual Reports. This could perhaps become the sole preserve of the Standards Committee, rather than being shared with the Member Remuneration Panel, particularly in view of the separation of the membership of the Committee and Panel from 1 July;
- consideration of all Standards Board for England (SBE) findings on allegations of misconduct against KCC Members to identify and publicise within KCC the lessons that can be learned from those findings;
- consideration of other significant issues relating to Members' conduct (reports from Committee on Standards in Public Life and SBE, Ministerial announcements, SBE Assembly discussions; SBE findings elsewhere, relevant Court judgements, etc);
- monitoring of SBE statistics on allegations/findings to compare KCC with national position;
- regular reviews of Register of Members' Interests, Register of Members' Gifts and Hospitality, Declaration of Interests at meetings, and the way in which the registers are made available for public inspection;
- overseeing the ethical governance audit using the Audit Commission toolkit;
- regular updating of guidance to KCC Members on aspects of the Code of Conduct;
- publication of regular bulletins for KCC Members on standards issues;
- training sessions for Committee Members on investigation and determination of complaints against Members;
- organisation of regular training sessions for KCC Members on various aspects of the Code of Conduct;
- raising wider public awareness of the Members' Code of Conduct through, for example, a separate web page, presentations by Committee Members at appropriate public events, etc.

2. Recommendation

2.1 Members are:-

- (a) invited to add to this list of suggestions;
- (b) decide which suggestions the Committee should adopt for inclusion in its 2007/08 work programme.

Background documents: None

S C Ballard
Head of Democratic Services
Tel: 01622 694002

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By: Head of Democratic Services

To: Standards Committee – 6 March 2007

Subject: **LOCAL GOVERNMENT AND PUBLIC INVOLVEMENT IN HEALTH BILL**

Classification Unrestricted

Summary: This report advises Members of the changes to the responsibilities of local authority standards committees proposed in the recently-published Local Government and Public Involvement in Health Bill.

FOR INFORMATION

1. The Local Government and Public Involvement in Health Bill was published just before Christmas and is currently going through its Committee Stage in the House of Commons.
2. The Bill implements a number of the proposals in the Local Government White Paper. As far as the Standards Committee is concerned, the main interest will be in Part 9 of the Bill. This has the effect of implementing the long-awaited reversal of the existing standards regime so that individual Standards Committees, instead of the Standards Board for England (SBE), will become responsible for dealing with allegations of misconduct by Members in the first instance, in each case deciding whether to:-
 - (a) refer the allegation to the Monitoring Officer; or
 - (b) refer the allegation to the Standards Board for England; or
 - (c) take no further action.
3. The Standards Board for England will still have a role in considering some allegations (as set out above) but will mainly be responsible for issuing guidance to, and monitoring the performance of, local authorities standards committees.
4. Standards Committees will also become responsible for determining applications that a particular officer post should or should not be included in their authorities' list of politically restricted posts.
5. Part 9 of the Bill also extends the scope of the Members' Code of Conduct to Members' private lives (as described in the separate item on the Proposed New Code of Conduct elsewhere on the Committee's agenda).
6. Further reports will be made to the Committee as and when additional information and guidance about standards committees' new responsibilities are issued.

7. Members are requested to note the contents of the report.

Background documents: None

S C Ballard
Head of Democratic Services
Tel: 01622 694002

By: Head of Democratic Services

To: Standards Committee – 6 March 2007

Subject: **INDEPENDENT MEMBERS OF THE STANDARDS COMMITTEE**

Classification Unrestricted

Summary: The terms of office of the three independent Members of the Standards Committee expire on 30 June 2007. This report advises the Committee of the arrangements for recruiting new independent Members.

FOR INFORMATION

- 1 The terms of office of the three independent Members of the Standards Committee – Mrs Fiona Leathers, Miss Roberta MacCrone and Mr John Ogden – expire on 30 June 2007.
- 2 Selection Committee on 18 January agreed the process for recruiting new independent Members for both the Standards Committee and the Member Remuneration Panel for the period from 1 July 2007. Up to now, the same independent Members have served on both bodies but recent Regulations mean that it is now necessary to appoint different independent Members to each.
- 3 The normal rule is that independent Members of the Standards Committee may serve a maximum of two terms but, on this occasion, because of the need to appoint a total of six independent people (three for the Standards Committee and three for the Member Remuneration Panel), Selection Committee agreed to waive that rule and all three existing independent Members will be invited to apply for re-appointment to either the Standards Committee or the Member Remuneration Panel. In addition the posts will be advertised in local newspapers and through relevant local networks.
- 4 As on previous occasions, a separate independent Selection Panel, made up of three people (one nominated by each political group) will be convened to shortlist and interview applicants and make recommendations to Council for appointment.

- 5 The Selection Committee decided that the new independent member appointments to both the Standards Committee and the Member Remuneration Panel should be for a maximum period of four years, until 30 June 2011, subject to some of the independent Members being appointed, on this occasion only, for a shorter period, in order to allow terms of office to be staggered to ensure some element of continuity of membership in future.
- 6 Members are requested to note the contents of this report.

Background documents: None

S C Ballard
Head of Democratic Services
Tel: 01622 694002

By: Head of Democratic Services
To: Standards Committee – 6 March 2007
Subject: **STANDARDS BOARD FOR ENGLAND ROADSHOW
2007**
Classification: Unrestricted
Summary: The Standards Board for England has invited each authority to send up to four delegates to the roadshows which it is holding throughout England during June 2007.

FOR DECISION

- 1 The Standards Board for England (SBE) has invited all authorities to send up to four delegates to the roadshows which it will be holding throughout England in June. The closest roadshow event to Kent will be in London on 28 June in the afternoon.
- 2 The purpose of the roadshow events is to:-
 - share advice and experience on implementing the changes to the Code of Conduct, and how they affect authorities and their standards committees;
 - allow the SBE to listen first-hand to feedback, concerns and queries;
 - provide an update on the forthcoming local filter for complaints, and how it will work in practice;
 - inform delegates of news from the SBE;
 - offer support from the SBE's legal and policy teams.
- 3 There is no charge for attending the roadshow events.
- 4 The Committee may wish to nominate up to four of its Members and/or appropriate officers to attend the roadshow in London on 28 June.

S C Ballard
Head of Democratic Services
Tel: 01622 694002

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