



AGENDA

STANDARDS COMMITTEE

**Friday, 20th November, 2009, at 2.00 pm
Bewl Room, Sessions House, County Hall
Maidstone**

Ask for: **Peter Sass**
Telephone **01622 694002**

UNRESTRICTED ITEMS

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

1. Substitutes/Apologies
2. Declarations of Interest
3. Minutes of the meeting held on 20 July 2009 (Pages 1 - 4)
4. Review of Ethical Standards Training for Members (Pages 5 - 8)
5. Oral Report from the Members who attended the Annual Conference of Standards for England in Birmingham
6. Advice Notes for Members (Pages 9 - 46)
7. Monitoring of Complaints (Pages 47 - 50)
8. Review of the Members' Register of Interests and Gifts and Hospitality (Pages 51 - 52)
9. Proposed Changes to the Members' Annual Reports (Pages 53 - 60)
10. Committee Work Programme (Pages 61 - 62)
11. Any other Urgent Business
12. Date of Next Meeting

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

Thursday, 12 November 2009

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 in the Darent Room, Sessions House, County Hall, Maidstone on Monday, 20 July 2009.

PRESENT: Miss R MacCrone (Chairman), Mr L Christie, Mr D S Daley, Mr J F London and Mr P Gammon, MBE

ALSO PRESENT : Mr P B Carter and Mrs T Dean

IN ATTENDANCE: Mr P Sass (Head of Democratic Services and Local Leadership)

UNRESTRICTED ITEMS

1. Substitutes/apologies

(*Item 1*)

Apologies for absence were received from Mrs N Ahmed OBE DL and Mr G Wild, Director of Law and Governance.

2. Declarations of Interest

(*Item 2*)

No declarations of interest were made by Committee Members.

3. Minutes of the meeting held on 28 May 2009

(*Item 3*)

In response to a question from Mr Christie about the review being undertaken by the Independent Remuneration Panel on the format and content of Annual Reports, Mr Sass advised the Committee that the Chairman of the Independent Remuneration Panel intended to invite Group Leaders to contribute to the review. Members asked for the Panel's draft proposals to be reported to this Committee for comment prior to being finalised.

RESOLVED: that:

(1) the minutes of the meeting held on 28 May 2009 be approved and the Chairman be authorised to sign them as a correct record; and

(2) the Head of Democratic Services and Local Leadership be asked to ensure that the Independent Remuneration Panel's proposals on the review of Members' Annual reports be brought to this Committee at an appropriate stage for comment.

**4. Review of Ethical Standards Training for Members
(Item 4)**

(1) The Chairman welcomed the Group Leaders to the meeting for this and the next item.

(2) Mr Carter stated that new Members had been extremely complimentary about the Member Induction Programme and acknowledged the hard work that must have gone into pulling the programme together.

(3) With regard to the training on ethical standards and the Code of Conduct, there was some discussion as to whether it had been agreed the training should be compulsory, or whether the attendance of Members was merely "strongly encouraged". Mr Sass was asked to supply to Group Leaders a comprehensive list of those Members who had attended the training, so that those who had not could be chased up.

(4) Mrs Dean commented that the format and content of the training on ethical standards was effective and very helpful to Members in understanding their responsibilities under the Code.

RESOLVED: that

- (1) the contents of the report be noted; and
- (2) the Head of Democratic Services be thanked for his work as facilitator for the sessions on ethical standards and the Code of Conduct.

**5. Monitoring Officer Protocol in Relation to the Assessment of Complaints
(Item 5)**

(1) The Committee considered a report of the Head of Democratic Services and Local Leadership, which proposed the introduction of a protocol for dealing with complaints that a Member is alleged to have breached the Code of Conduct. Two key parts of the protocol related to authority being given to the Monitoring Officer to advise a subject Member that a complaint had been made about him/her and to provide a summary of that complaint; and the extent to which the Monitoring Officer could, in certain circumstances, seek to establish whether there was the potential for a local resolution and to report these facts to the Assessment Sub Committee. During a debate, the following comments were made:

- All present agreed that it was a positive step to provide the subject Member with a summary of the complaint being made against them
- There was some concern that the local resolution procedure could be perceived as KCC trying to persuade individuals to withdraw their complaints. Mr Sass assured the Committee that this would not be the case; merely to establish the capacity and potential to resolve a complaint and to report these facts to the Assessment Sub Committee in the usual way.
- Members of the Committee agreed that the Monitoring Officer should not seek to have extensive negotiations between the complainant and the subject Member, as this could give the wrong impression about the role of the Monitoring Officer as opposed to the role of the Assessment Sub Committee

RESOLVED:

- (1) the proposed Monitoring Officer Protocol be adopted by the Committee subject to the following alterations:
 - (a) the word “shall” in the second line of paragraph 3.2 to be replaced with the word “may”
 - (b) Paragraph 3.2 to be further amended to make it clear that the complainant should be approached first to establish what sort of resolution they were seeking; then approach the subject Member to establish their views on the resolution being sought
 - (c) Paragraph 5.2 be amended to read “...and this may include another appropriately experienced senior officer of the Authority, a senior officer of another Authority, or a consultant.”
- (2) The Head of Democratic Services and Local Leadership be requested to make these amendments and communicate the protocol to Members and members of the public

(Mr Christie asked for it to be recorded in the Minutes that he did not consider that the section of the Protocol dealing with Local Resolution was necessary).

6. The Standards Committee (Further Provisions) (England) Regulations 2009
(Item 6)

- (1) The Committee considered The Standards Committee (Further Provisions) (England) Regulations 2009, with specific reference to the new powers to create joint Standards Committees with other Authorities and the new regulatory role of Standards for England to intervene in cases of poor performance by an Authority's Standards Committee.
- (2) Members noted that neither the Kent and Medway Fire and Rescue Authority, the Kent Police Authority or Medway Council had formally asked KCC to form a joint Standards Committee. Members were of the view that the individual Standards Committees within each of these authorities were well-established and effective in promoting and raising ethical standards and that, to date, there was no case for introducing joint committees, other than to share independent Members on specific complaint cases when the need arose.

RESOLVED: that the new Regulations be noted and the Committee agrees not to pursue the formation of a Joint Standards Committee with any other Authority at the current time.

7. Work Programme and Future Meeting Dates
(Item 7)

- (1) The Committee considered its work programme and future meeting dates.
- (2) In relation to the Members' Register of Interests due to be considered at the November 2009 meeting, Members agreed that there should be a short covering

report detailing the process, the documentation sent to Members and how the returns are published. In addition, Members agreed that hard copies of all 84 Members' Register of Interests forms should be circulated in advance of the Committee Meeting, for perusal.

RESOLVED: that the report be noted.

By: Roberta MacCrone - Chairman of the Standards Committee
 Peter Sass - Head of Democratic Services and Local Leadership

To: Standards Committee – 20 November 2009

Subject: Standards Committee Induction Sessions: The Role of Members and the Ethical Framework - Evaluation

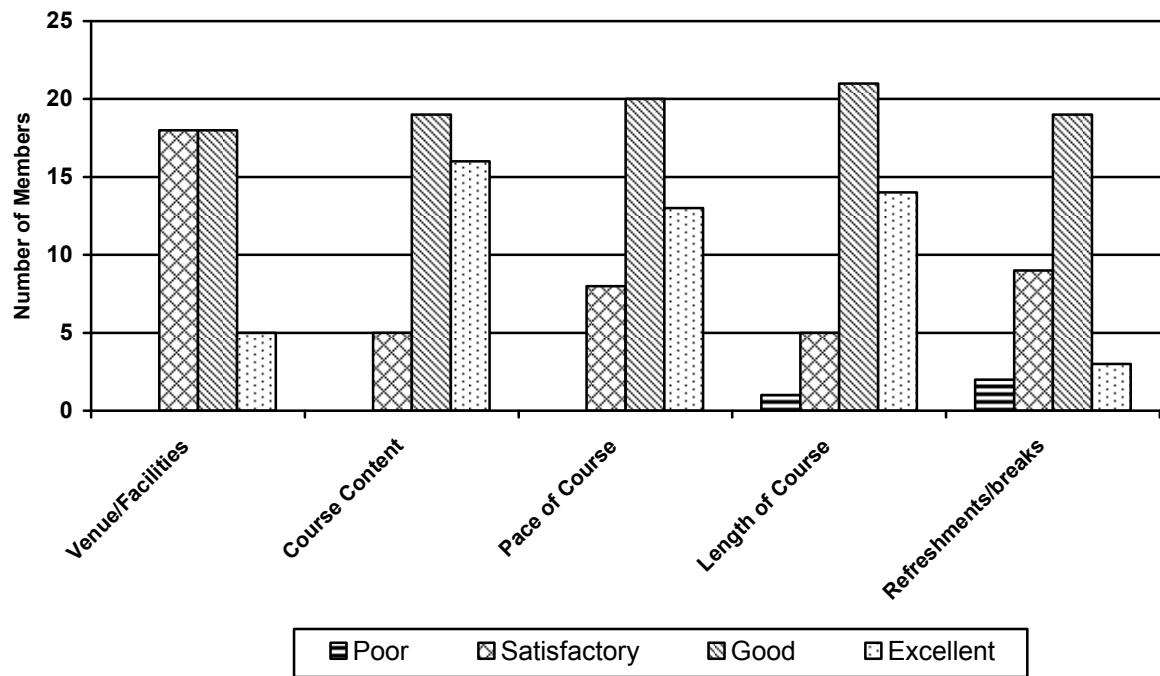
Classification: Unrestricted

Summary: This report contains an updated summary of the evaluation forms from the eight Member Induction sessions on The Role of Members and the Ethical Framework.

Introduction

- (1) 66 Members attended one of the Induction sessions on the Role of Members and the Ethical Framework; 8 sessions were held between June and October.
- (2) Members at the sessions were asked to fill in an evaluation form and the feedback from Members is summarised within this report.

Course



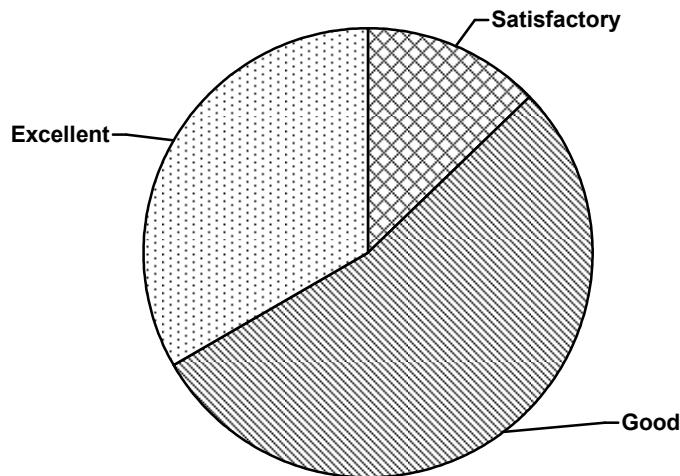
- (3) The above chart shows that the majority of Members found all aspects of the course to be good.

Your Trainer



- (4) 63% of Members attending the Standards training sessions found the level of knowledge of the trainer to be excellent, the majority of Members found the value of practical work/exercises and the overall presentation to be good or excellent.

Overall Course Appraisal



Poor Satisfactory Good Excellent

- (5) 87% of Members found the training session to be good or excellent overall.
 (6) Some of the general comments from the evaluation forms of the most recent sessions are contained below:

Which parts of the course were of most use to you? Why?

- a. Film and case studies
- b. DVD and examples
- c. DVD and subsequent explanations
- d. Discussion at end
- e. Personal interests/prejudicial interests
- f. I learnt more from seeing it the second time around
- g. All parts of the course considering my dual role and a district/county councillor
- h. Video – very clear and sensible

Which parts were of least use to you? Why?

- i. As we picked from the examples results were fine, slavish finishing would have been too much
- j. DVD – third time I had seen it!
- k. All parts were good although I have seen the DVD before, it re-enforced my understanding

Any other comments or suggestions

- l. Repeat this duty every two years

- (7) 18 Members are still to receive training on the Role of Members and the Ethical Framework and it is proposed to hold 1:1 training sessions for the remainder of Members at a mutually convenient time.

Recommendation

- (8) The Committee is:
- a. Asked to support the proposal to train the remaining 18 Members via a 1:1 session
 - b. Invited to comment on, and note the information contained within this report.

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By: Miss R MacCrone – Independent Chairman
Peter Sass - Head of Democratic Services and Local Leadership

To: Standards Committee – 20 November 2009

Subject: Advice Notes to Members

Summary: To approve updated versions of the four Advice Notes for Members on key aspects of the Code of Conduct and other aspects relating to high standards of ethical conduct.

Unrestricted

Background

1. In the past, the Standards Committee has approved a number of formal Advice Notes for Members on key aspects of the Code of Conduct and other matters affecting ethical standards. These Advice Notes are incorporated in the Members' Handbook, which is provided to all elected and co-opted Members
2. At its meeting on 27 April 2009, the Committee considered and approved revisions to Advice Note No.4 in relation to the application of the Code of Conduct to Development Control. The opportunity has now been taken to update the remaining Advice Notes (attached as Appendices), which are brought before this Committee for approval, as follows:

- (a) Advice Note No.1 – Registering and Declaring Interests, Gifts and Hospitality
- (b) Advice Note No.2 – Member/Officer Relations
- (c) Advice Note No.3 – Complaining about the conduct of another Member of the Council

3. For completeness, Advice Note No.4 – The Application of the Code of Conduct to Development Control, approved by this Committee in April 2009, is also appended to this report, for information.

Recommendation:

4. The Committee is invited to comment on and approve Advice Note No's 1, 2 and 3, as appended to this report.

Peter Sass – Head of Democratic Services and Local Leadership
November 2009

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**KENT COUNTY COUNCIL
STANDARDS COMMITTEE**

Advice Note 1

**ADVICE TO MEMBERS ON THE APPLICATION OF
THE CODE OF MEMBER CONDUCT**

November 2009

REGISTERING AND DECLARING INTERESTS, GIFTS AND HOSPITALITY

A INTRODUCTION

This guide provides advice on registering and declaring interests and registering gifts and hospitality under the rules of the code of conduct adopted by the County Council in June 2007. It applies to co-opted voting Members, as well as elected Members, but this guide uses the term 'Member' to refer to all types of Member. This guide also refers to the 'Monitoring Officer' because that is the officer referred to in the code, but you will find at the end of this guide details of the officers to contact if you require any advice about an interests matter.

The rules of the KCC code of conduct and the Local Government Act 2000 require you to register your interests with the Monitoring Officer (and please note that interests that you must register now include gifts and hospitality worth £25 or more that you receive in the course of your duties as a Member). You must also declare in meetings any interests you have which relate to the business of the meeting. If you are a Cabinet Member, you must declare any relevant interests when making and recording decisions.

Note that what you have to **REGISTER** is not the same as what you have to **DECLARE**. Each is discussed separately in this note.

Because their codes of conduct are based on the national Model Code and are therefore almost identical, KCC and the Kent and Medway Fire and Rescue Authority (KMFRA) have agreed that those Members of KCC who also serve on the KMFRA only need to submit one registration of interest form. This should be sent to the Head of Democratic Services and Local Leadership at KCC who will place a copy in the Registers of Interests of both authorities.

B REGISTERING INTERESTS

1 What interests do I need to register?

You need to register any of **your own** interests that fall within the categories set out in the code of conduct. These categories cover both financial and non-financial interests and include:-

- membership of or position of control or management in:-

- other bodies where you represent KCC (e.g. *if you have been appointed or nominated by KCC as its representative on an outside body*);
 - other public bodies (*e.g. District/Borough Council, Town/Parish Council, school governing bodies. If you have been appointed by KCC to serve on the KMFRA or the Kent Police Authority (where you serve as a member of that body, not as a representative of KCC) you would need to register this here*);
 - charities (*You have to register all charity memberships even if you are simply a subscribing member and the only activity is to receive a magazine (e.g. Kent Wildlife Trust, National Trust). You should seek advice from the officers listed at the end of this guide about how to register membership of or voting rights on charities to which you have been appointed by KCC, as opposed to the charity itself*);
 - bodies whose main purpose is to influence public opinion or policy (*this includes political parties even if you have listed your constituency party under the election expenses heading*);
 - your jobs and businesses;
 - the name of your employer and partnerships, companies, etc, in which you are involved;
 - the names of people who have helped you with election expenses or expenses associated with your office, (*this includes your constituency party; you do not have to register the amount of the contribution or your expenditure; neither do you need to register any allowances or expenses you receive as a Member of KCC or any other local authority (including Borough/District Councils, the KMFRA and Kent Police Authority)*);
 - the name of any company or other corporate body which has a place of business or other property in the KCC area, in which you have a shareholding of more than £25,000 face value (*i.e. the value recorded on the share certificate, not the value at which you could sell them*) or have a stake of more than 1% of the company's issued share capital;
 - contracts for goods, services or works between you, your firm, or any company in which you have a shareholding of more than £25,000, and KCC;
 - the name of any person or body from whom you have received any gifts or hospitality worth £25 or more because of your position as a Member of KCC. *You do not need to register gifts and hospitality offered but not accepted, neither do you need to register those received in a private capacity. You may have to estimate how much a gift or hospitality is worth but it is probably better to err on the side of caution.*
- There is no longer a separate Register of Gifts and Hospitality;*
- landholdings in the KCC area (*including your home*); and
 - land leased or licensed from KCC by you, your firm, or a company in which you have a shareholding of more than £25,000.

2 How do I register my interests?

All Members should complete a Registration of Interests form, with any interests you have that fall within the categories above. Send the signed and completed form to the Head of Democratic Services and Local Leadership. You may find it helpful to retain a photocopy of the form for your records. You should also complete a Register of Gifts and Hospitality Form whenever the need arises and send it to the Head of Democratic Services and Local Leadership.

3 When do I have to register my interests?

All Members have 28 days to register your interests from when you are first elected or appointed to office.

4 What should I do if my interests change or I have new interests?

You should ask at the Members' Desk for a Change of Registered Interests form and send it to the Head of Democratic Services and Local Leadership within 28 days of the change occurring.

You will also be asked to confirm or update your list of interests each year. At the same time you will be asked if there have been any contracts or other dealings with any of the authorities on which you serve relating to these interests during the last year ("related party transactions").

5 What will happen to my list of interests?

The Monitoring Officer is required by law to keep and update a register of the interests of all Members. Your Registration of Interests form will be kept in the register.

6 Will the register be made available to the public?

Yes, the register has to be open for inspection by the public at Sessions House at all reasonable hours. It is kept in The Information Point near the Members' Desk. All Register of Interests, Gifts and Hospitality and Related Party Transaction forms are also published on KCC's website.

7 Are there any exceptions?

Yes, if you believe that the registering of any interest could put you or your family at serious risk of violence or intimidation (e.g., a shareholding in a company involved in research using live animals) then you can ask the Monitoring Officer for an exemption on the grounds that it is "sensitive information".

C DECLARING INTERESTS AT MEETINGS

1 When do I need to declare my interests?

You need to declare your interests at all KCC meetings if matters to be discussed at the meeting affect those interests. The interests that need to be declared are **wider** than those you have to register, as explained in the following paragraphs. **In particular, they include the interests of your friends and family as well as your own.**

2 What interests do I need to declare in a meeting?

You need to declare any personal or prejudicial interests which you, a friend or relative has in a matter reported to or discussed at a meeting. Friend is defined as "a person with whom you have a close association". Relative is defined as "a member of your family".

3 How do I know if I have a personal interest?

This is a matter of judgment for each Member.

What you have to do is to ask yourself what effect a decision on the matter would have on you, your relatives and your friends. You also need to look at the effect the decision would have on:-

- your job, employer or business and those of your relatives and friends;
- any companies in which you, a relative or friend are a director, partner or employee or where you, a relative or friend have a shareholding of more than £25,000 (face value);
- the following organisations where you, your relatives or friends hold a position of general control or management:
 - other bodies where you represent KCC;
 - other public bodies;
 - charities; and
 - bodies whose main purpose is to influence public opinion or policy.

(See note B1 above for more advice on these types of organisation)

Awareness of relatives and friends interests – The code recognises that you can only declare a personal interest where you are aware or ought reasonably to be aware of it. There is no obligation to make positive inquiries about the interests of friends and relatives, but you must declare them if you are aware of them. The closer the relationship, though, the more a reasonable observer might think you ought to be aware or have taken steps to make yourself so, eg, in the case of a spouse or partner.

If the matter would affect your well-being or financial position or that of the people or bodies listed above more than other people (defined as other council taxpayers, ratepayers, or inhabitants) in the **electoral division** affected by the decision, then **you have a personal interest**.

This means that you need to compare your interests with those of other council taxpayers, ratepayers or inhabitants of the electoral division affected by the decision to see whether you think your interest (or the interest of a relative or friend) is generally greater than the norm.

In addition, if the matter being discussed relates to the business of somebody from whom you (in your capacity as a KCC Member) have received gifts or hospitality worth £25 or more within the last three years; or to any of the other interests you have entered in the register, then **that is also a personal interest**.

A personal interest can affect you **positively or negatively**. So, if you, a relative or friend would stand to lose by the decision, you should also declare it.

4 What do I need to do if I have a personal interest in a matter?

You must normally declare the interest and say what it is, either:

- at the start of the meeting or of the item concerned; or
- as soon as it becomes apparent in the course of debate on an item, and
- make sure the meeting Clerk has clear details of the nature of the interest you have declared so that he or she can record it in the minutes.

There are two exceptions to this:

- If your interest relates only to a body to which you were appointed by the County Council, or some other public body on which you serve, you only need

to declare it if you choose to speak on the item concerned (or if your interest is also prejudicial – see notes C6-9 below).

- If your interest relates to “sensitive information” (see note B7 above), you must declare that you have an interest (and leave the room if it is also a prejudicial interest), but you do not need to say what it is.

5 Can I stay in the meeting if I have a personal interest?

Yes. You can still take part in the meeting and vote on the matter unless your personal interest is also a **prejudicial** interest. However, you cannot **chair** the meeting while the matter is being discussed (*this is forbidden by the KCC Constitution*).

6 What is a prejudicial interest?

Whether a personal interest is also a prejudicial interest is again a matter of judgement for each Member.

What you have to do is ask yourself whether a member of the public – if he or she knew all the facts – would reasonably think that your personal interest (and that includes an interest of your relatives or friends) was so significant that your decision on the matter would be affected by it. If he or she would think that your judgement would be affected, then it is likely that you have a prejudicial interest.

Members of the Policy Overview, Health Overview and Scrutiny and Cabinet Scrutiny Committees will have a prejudicial interest if any of these committees is looking at a decision taken by another committee (including the Cabinet) of which they were a Member at the time the decision was taken.

7 What is not a prejudicial interest?

The code of conduct says that the onus is on you as a Member to decide if you have a prejudicial interest in a matter. The code also sets out some general exemptions from prejudicial interests. It says that you *may* regard yourself as not having a prejudicial interest if the matter:

- does not affect your financial position (or the financial position of any of the people or bodies listed in note C3 above);
- does not relate to an application (e.g., for planning permission) made by or directly affecting you or any of the people or bodies listed in note C3 above;

or if it relates to:

- school meals, transport and travelling expenses if you are a parent of a child in full time education, or a parent governor of a school, unless it relates to the school that your child goes to;
- statutory sick pay where you are in receipt of, or are entitled to, such pay from KCC;
- Members’ allowances and expenses or any indemnity given to Members;
- any ceremonial honour given to Members;

- setting KCC's Council Tax (unless you are in arrears at the time the decision is made).

School Governing Bodies – If you serve as a school governor, whether appointed by KCC or not, you would have a prejudicial interest when issues relating to the financial position of your school, or an application by the school (eg, for planning permission) were under discussion. It is likely that you would only have a personal interest in respect of other issues relating to your school.

8 What do I need to do if I have a prejudicial interest?

If you have a prejudicial interest then you must declare what that interest is (unless it is "sensitive information" – see note B7 above) and withdraw from the meeting by leaving the room. You cannot take part in discussions on that matter with other members of KCC even outside formal meetings, and you must not try to improperly influence a decision on the matter.

9 Are there any exceptions?

Yes, there are two.

First, even if you have a prejudicial interest in a matter, you have the right to address a meeting on the matter on behalf of your constituents, provided that members of the public also have the right to address the meeting, and provided that you leave the room as soon as you have finished speaking or when the meeting decides you have finished speaking. This would allow you to, for example, address the Planning Applications Committee on a planning application affecting your electoral division, even if the application also affected you personally.

Second, if the Cabinet Scrutiny Committee is scrutinising a decision taken by another KCC committee (including Cabinet) of which you were a Member at the time the decision was taken, you may still attend the meeting to give evidence or answer questions on the matter. This exemption is intended to assist the scrutiny process by enabling the Cabinet Scrutiny Committee to ask questions of decision-takers.

10 Can I get a dispensation?

In certain very specific circumstances, the Standards Committee can grant you a dispensation to participate in a meeting even when you have a prejudicial interest. The circumstances are where:-

- the number of Members affected at the meeting would exceed 50%; or
- the political balance would be upset.

The dispensation must be sought in writing from the Standards Committee via the Monitoring Officer before the meeting at which the matter is to be discussed takes place.

11 What if I'm a Cabinet or Deputy Cabinet Member?

If you are a Cabinet Member and you have an interest in an individual decision that comes before you, you must inform the Leader (who may assign the matter to another Cabinet Member) and the Monitoring Officer. If you have an interest in a matter considered at full Cabinet you should declare your interest and take no part in the discussion on the matter, leaving the room if necessary.

As a Cabinet Member you are permitted to attend meetings of Cabinet Scrutiny Committee in order to give evidence or answer questions on any decision which you or the Cabinet have taken.

If you are a Deputy Cabinet Member and you have an interest in an individual decision which comes before you for advice or other action you should decline to be involved and refer the matter back to the Cabinet Member

12 Where do I go if I need advice on my interests?

The flowchart on the next page has been designed to help you decide what interests you need to declare and what you must do to declare them.

If you need any further advice on registering and declaring your interests, please contact either of the following two officers:-

Geoff Wild, Director of Law and Governance (Monitoring Officer)
01622 694302

Peter Sass, Head of Democratic Services and Local Leadership (Deputy Monitoring Officer)
01622 694002

November 2009

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**KENT COUNTY COUNCIL
STANDARDS COMMITTEE**

Advice Note 2

**ADVICE TO MEMBERS ON THE APPLICATION OF
THE CODE OF MEMBER CONDUCT**

November 2009

Member:Officer Relations

1. Introduction and Principles

1.1 The purpose of this note is to guide Members and Officers of the Council in their relations with one another in such a way as to ensure the smooth running of the Council.

1.2 Given the variety and complexity of such relations, this note does not seek to be either prescriptive or comprehensive. It simply offers guidance on some of the issues that most commonly arise. It is hoped, however, that the approach that it adopts to these issues will serve as a guide to dealing with other circumstances. If the advice is followed it should ensure that Members receive objective and impartial advice and that Officers are protected from accusations of bias and any undue influence from Members.

1.3 This note also seeks to reflect the principles underlying the respective Codes of Conduct that apply to Members and Officers. The shared object of these codes is to enhance and maintain the integrity (real and perceived) of local government and the Codes, therefore, demand very high standards of personal conduct.

1.4 This note does not form part of the Members' or Officers' Codes of Conduct. Consequently, action or behaviour that is not in accord with this advice will not of itself constitute a breach of those Codes but may be evidence of a breach.

1.5 This note should, however, be read in conjunction with the Members' and Officers' Codes of Conduct, the Council's Constitution and any other guidance issued by the Standards Committee and/or Monitoring Officer.

2. The Relationship: General Points

2.1 Both Members and Officers are servants of the public and they are indispensable to one another. But their responsibilities are distinct. Members are responsible to the electorate and serve only so long as their term of office lasts. Officers are responsible to all organs and Members of the Council. Their job is to give advice to Members and the Council, and to carry out the Council's work under the direction and control of the Council, the Cabinet and any committee or sub committee of either Cabinet or the Council.

Member Code 3(1): Members must...treat others with respect

2.2 At the heart of the Members' Code of Conduct, and this note, is the importance of mutual respect. Member/Officer relationships are to be conducted in a positive and constructive way. Therefore, it is important that any dealings between Members and Officers should observe standards of courtesy and that neither party should seek to

take unfair advantage of their position or seek to exert undue influence on the other party.

2.3 Inappropriate relationships can be inferred from language and style. To protect both Members and Officers, people should be given their appropriate formal title where circumstances clearly indicate that a level of formality is appropriate, e.g. in meetings that are open to the public.

2.4 A Member should not raise matters relating to the conduct or capability of an Officer except through the Council's agreed procedures for such matters. This is a long standing tradition in public service. An Officer has no means of responding to such criticisms in public. If a Member feels s/he has not been treated with proper respect, courtesy or has any concern about the conduct or capability of an Officer, and fails to resolve it through direct discussion with the Officer in private, s/he should raise the matter with the respective Head of Service. The Head of Service will then look into the facts and report back to the Member. If the Member continues to feel concern, then s/he should report the facts to the relevant Managing Director, or if, after doing so, is still dissatisfied, should raise the issue with the Chief Executive who will look into the matter afresh. Any action taken against an Officer in respect of a complaint will be in accordance with the provisions of the Council's Disciplinary Rules and Procedures.

2.5 An Officer below the rank of Managing Director should not raise with a Member matters relating to the conduct or capability of another Officer or to the internal management of a Unit/Directorate.

2.6 Where an Officer feels that s/he has not been properly treated with respect and courtesy by a Member, s/he should raise the matter with his/her Head of Service, Managing Director or the Chief Executive as appropriate, especially if they do not feel able to discuss it directly with the Member concerned. In these circumstances, the Head of Service, Managing Director or Chief Executive will take appropriate action either by approaching the individual Member and/or group leader or by referring the matter to the Monitoring Officer in the context of the Standards Committee considering the complaint.

2.7 Some examples of inappropriate conduct are set out in **Appendix A**.

Member Code 3 2(a): Members must promote equality by not discriminating unlawfully against any person;

2.8 There is a specific requirement in the Members' Code of Conduct not to discriminate against Officers or Members on grounds of gender, race or disability. Members and Officers must at all times comply with and seek to fulfil the Council's Equality and Diversity Policy.

3. The Relationship: Officer Support to Members - General Points

Member Code 3 2(c): Members must...not do anything which compromises or which is likely to compromise the impartiality of those who work for, or on behalf of, the Council.

3.1 Officers are responsible for day-to-day managerial and operational decisions within the authority and will provide support to the Cabinet, Overview and Scrutiny Committee Members and all Members in their respective roles.

3.2 Certain statutory Officers – the Chief Executive, the Monitoring Officer and the Director of Finance – have specific roles. These are addressed in the Constitution. Their roles need to be understood and respected by all Members.

3.3 The following key principles reflect the way in which the Officer corps generally relates to Members:

- All Officers are employed by, and accountable to, the authority as a whole;
- Support from Officers is needed for all the authority's functions including Full Council, Policy Overview and Cabinet Scrutiny, the Cabinet, individual Members representing their communities, etc;
- Day-to-day managerial and operational decisions should remain the responsibility of the Chief Executive and other Officers;

3.4 Members should seek to avoid potential conflicts of interest for Officers arising from the separation of the Cabinet and Policy Overview and Cabinet Scrutiny roles, e.g. they should not seek disclosure of advice or discussions that have taken place between Members and Officers in the preparation of reports, papers, advice or recommendations to either the Cabinet or Members undertaking overview and Scrutiny roles.

3.5 Officers enjoy extensive delegated powers from the Leader through Cabinet Members (as well as from the Council in respect of its directly exercisable functions). In some cases these powers are exercised after consultation with Cabinet or Deputy Cabinet Members. It must be recognised that in these circumstances, while ultimate accountability rests with the Cabinet Member, it is the Officer who takes the decision and who is accountable.

3.6 Finally, it must be remembered that Officers within a Unit or Directorate are accountable to their Head of Service and Managing Director and that whilst Officers should always seek to assist a Member, they must not, in so doing, go beyond the bounds of whatever authority they have been given by their Head of Service or Managing Director.

4. The Relationship: Officer Support: Members and Party Groups

4.1 It must be recognised by all Officers and Members that in discharging their duties and responsibilities, Officers serve the Council as a whole and not any political group, combination of groups or any individual Member of the Council.

4.2 There is statutory recognition for political groups and it is common practice for such groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant Council decision making body. Officers may properly be called upon to support and contribute to such deliberations by political groups but must at all times maintain political neutrality. All Officers must, in their dealings with political groups and individual Members, treat them in a fair and even-handed manner.

4.3 The support provided by Officers can take many forms. Whilst in practice such Officer support is likely to be in most demand from whichever political group is for the time being in control of the Council, such support is available to all political groups.

4.4 Certain points must, however, be clearly understood by all those participating in this type of process, Members and Officers alike. In particular:

- Officer support must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of political group or political party business. The observance of this distinction will

be assisted if Officers are not present at meetings or parts of meetings, when such matters are to be discussed;

- Political group meetings, whilst they form part of the preliminaries to Council decision making, are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings do not therefore rank as Council decisions and it is essential that they are not interpreted or acted upon as such; and
- Similarly, where Officers (other than political group staff officers) provide information and advice to a political group meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the relevant Cabinet, Cabinet Member, Committee or Sub-Committee when the matter in question is considered.

4.5 Special care needs to be exercised whenever Officers are involved in providing information and advice to a political group meeting which includes persons who are not Members of the Council. Such persons are not bound by the Council's Codes of Member and Officer Conduct (in particular, the provisions concerning the declaration of interests and confidentiality) and for this and other reasons, Officers should not normally attend and/or give advice to such meetings.

4.6 Officers must respect the confidentiality of any political group discussions at which they are present in the sense that they should not relay the content of any such discussion to another political group.

4.7 In relation to budget proposals:

- The Leader and Cabinet are entitled to confidential discussions with Officers regarding options and proposals. These will remain confidential until determined by the Executive or until published in advance of Cabinet/Committee/Council meetings, whichever is the earlier; and
- Political groups other than the majority group are also entitled to confidential discussions with Officers to enable them to formulate alternative budget proposals. These will remain confidential until determined by the respective political groups or until published in advance of Cabinet/Committee/ Council meetings, whichever is the earlier. Officers giving such advice must not be named in public.

4.8 It must not be assumed by any political group or Member that any Officer is supportive of any policy or strategy developed because of that Officer's assistance in the formulation of that policy or strategy.

4.9 Any particular cases of difficulty or uncertainty in this area of Officer advice to party groups should be raised with the Chief Executive who will discuss them with the relevant Group Leader(s).

5. The Relationship: Officer Support: The Executive

5.1 It is clearly important that there should be a close working relationship between the Leader, Cabinet and Deputy Cabinet Members and the Officers who support and/or interact with them. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the Officer's ability to deal impartially with Cabinet Scrutiny, Policy Overview and other Members and other political groups.

5.2 Advice from officers on matters that are the responsibility of the Executive is given to both Cabinet and non-Cabinet Members in a variety of ways:

- Reports to Cabinet are normally submitted jointly by Cabinet Members and Managing Directors.
- Reports recommending decisions to individual Cabinet Members or seeking views from Advisory Boards are normally in the name of the officer only, although Cabinet Members will routinely be consulted as part of the process of drawing up such reports.
- Officers must give written and oral information and advice to the Cabinet Scrutiny, Policy Overview and Audit Committees when necessary or requested.
- In some situations an Officer will be under a professional duty to submit a report.

5.3 Managing Directors and other senior Officers are responsible for the contents of any report submitted in their name or jointly with a Cabinet Member, except where it is clear that the advice or opinion stated is that of the Cabinet Member. Any issues arising between a Cabinet or Deputy Cabinet Member and a Head of Service in this area should be referred to the Chief Executive for resolution in conjunction with the Leader of the Council.

5.4 Where functions that are the responsibility of the Leader are delegated through Cabinet Members to Officers or other structures outside the Cabinet, the Cabinet will nevertheless remain accountable to the Council, both directly and through the Policy Overview and Cabinet Scrutiny Committees, for the discharge of those functions. That is to say, the Executive will be held to account for both its decision to delegate a function and the way that the function is being carried out although the specific decision is the responsibility of the Officer or other delegated body.

5.5 Cabinet Members must satisfy themselves that they are clear what exactly they can and cannot do when taking decisions as individual Members of the Cabinet. They must seek advice from relevant Officers before taking a decision within their delegated authority. This includes taking legal advice, financial advice and professional Officer advice (particularly about contractual matters) as well as consulting the Monitoring Officer where there is doubt about vires.

5.6 Decisions taken by individual Members of the Cabinet give rise to legal and financial obligations in the same way as decisions taken collectively. Therefore, Cabinet Members should always be aware of legal and financial liabilities (consulting the Monitoring Officer and Director of Finance as appropriate) which will arise from their decisions.

5.7 Officers will continue to work for and serve the Council as a whole. Nevertheless, as the majority of functions will be the responsibility of the Executive, it is likely that in practice many Officers will be working to the Cabinet for most of their time. Cabinet Members must nevertheless respect the political neutrality of the Officers. Equally officers must ensure, even when they are predominantly supporting the Cabinet, that their political neutrality is not compromised.

5.8 In organising support for the Cabinet, there is a potential for tension between Chief Officers and Cabinet Members with portfolios. All Members and Officers need to be constantly aware of the possibility of such tensions arising and both Officers and Members need to work together to avoid such tensions and conflicts existing or being perceived.

6. The Relationship: Officer Support: Policy Overview and Cabinet Scrutiny

6.1 Members of the Cabinet Scrutiny and Policy Overview Committees, when questioning Members and Officers should:

- Direct their question to the merits of the decision under review
- Ascertain the factual and other information on which the decision was based
- Confirm the compliance of the decision making process with the Council's principles of decision making
- Test what alternatives have been considered and the reasons for their rejection

6.2 They should not:

- Question the conduct of individual Members or Officers
- Seek for Officers to disclose the contents of confidential discussions, papers or advice
- Criticise an Officer by name
- Seek to instigate or become in any way involved in disciplinary or grievance procedures in relation to the actions of Members or Officers.
- Act as a "court of appeal" against specific decisions relating to individuals or pursue complaints by individuals (Members, Officers or members of the public) where other procedures exist for this.

7. Support to Council Committees

7.1 The Council discharges a range of functions through directly appointed Committees. While the political groups operate within these Committees, they should wherever possible conduct their business on a non-political basis. Officers need to work closely with the Chairmen of such Committees to plan their agendas and meeting arrangements but all advice and information must be offered impartially to all Members of the Committee and any other Member who has a right to know or attend the Committee meeting.

8. Support services to Members and Party Groups

Member Code 6 (2)(b): Members must, when using or authorising the use by others of the resources of the Council -
(i) act in accordance with the Council's reasonable requirements; and
(ii) ensure that such resources are not used improperly for political purposes (including party political purposes).

8.1 Members must not use Council premises or facilities (including support staff, photocopiers, fax machines, cars, stationery and other office supplies and catering) for purposes not connected with their duties as a councillor. Such facilities may be used for communication with constituents on matters affecting the Council's functions and services or matters of general interest to local government and for the work of the political groups in relation to the transaction of business within the Council. These facilities must not be used for electoral or other party political purposes not directly connected to the Council's business, except where agreed arrangements exist for such facilities to be made available at a charge.

8.2 Members may not use the Council's IT systems unless they have signed the standard agreement accepting the conditions under which the systems are made available to Officers. Members must at all times comply with the terms of that agreement.

9. Members' Access to Information and to Council Documents

9.1 Members have a right to see (and be given a copy of) such documents and other information as is reasonably necessary to enable them to carry out their duties as

councillors on a “need to know” basis, so long as they have no improper nor extraneous purpose in view. This includes all documents available to the public as “background documents” and all documents setting out information that is disclosable to the public under the Freedom of Information Act.

9.2 It is ultimately for the Council to determine what is reasonably necessary for a Member to know but normally Managing Directors will make the judgement, in consultation if necessary with the Monitoring Officer.

Need to Know

9.3 This will be generously interpreted as applying to all documents and information to which there is no “confidential” connotation, subject only to Managing Directors retaining a discretion to decline to make available voluminous documentation or diffuse information, or copies of documents, where the cost of doing so is reasonably high.

9.4 Documents or information which is regarded as “confidential” will normally be made available, on a confidential basis, only to:

- Cabinet Members
- Members of the Cabinet Scrutiny Committee in connection with a matter that is to be scrutinised
- The Chairman and political group spokesmen on the Cabinet Scrutiny Committee in considering whether a matter should be scrutinised
- Members of a Committee or Sub-Committee whose terms of reference include matters to which the information relates

Advice on requests from other Members should be referred to the Monitoring Officer.

9.5 There is no generic definition of “confidential” and Managing Directors will exercise their judgement. It would include, for example, most information relating to named individuals, including information which is held for a specified purpose under the Data Protection Act not relevant to the exercise of the Member’s duties. It will also include most information relating to the terms of contracts yet to be concluded. It is a narrower category than documents that are exempt from disclosure to the public under the Access to Information and Freedom of Information legislation (and different from the “confidential” classification under that legislation).

Confidentiality

Member Code 4: Members must not disclose information given to them in confidence by anyone, or information acquired which they believe is of a confidential nature, without the consent of a person authorised to give it, or unless they are required by law to do so.

9.6 Members shall not disclose any documents or information made available to them on a confidential basis or any information of a personal nature that is protected under the Data Protection Act. Nor should they disclose any information contained in Cabinet, Committee or other reports or documents classified as exempt or confidential under the Access to Information legislation or decisions taken in Council, Cabinet or Committee while the public is excluded from the meeting under that legislation, unless they have ascertained from the relevant Officer that confidentiality no longer applies.

Documents Affected

9.7 Members' rights of access apply to documents sent to the Council or prepared for it by Officers or consultants. They do not apply to:

- Draft documents of a factual or research nature where the Managing Director is not satisfied as to their accuracy or completeness.
- Documents prepared for discussion between Cabinet or Deputy Cabinet Members and Officers prior to the initiation of formal decision making processes under the Procedure Rules in Appendix 4 Parts 6-8 of the Council's Constitution
- Working documents discussing policy or budget options or the internal management of a department (or departments) where the Managing Director has not reached a view as to the advice to be offered to Members.
- Draft reports prior to their despatch to Council, Cabinet or a Committee by the Monitoring Officer.

9.8 Managing Directors may consult Chairmen, Vice-Chairmen and group spokesmen on draft committee reports as part of the agenda planning process and may also consult them on working documents if they wish.

9.9 Documents prepared at the request of any particular party group will not be made available to other party groups without the first group's consent. Nor will such documents be used in the preparation of committee reports without the group's consent.

9.10 More detailed advice can be obtained from the Monitoring Officer.

10. Correspondence and Advice

10.1 Members seeking advice from Officers should say clearly if they wish the advice to be confidential and not disclosed to other Members. If such a request is made, the Officer is entitled to refuse to provide the advice if to do would breach her or his duty to other Members.

10.2 Correspondence between an individual Member and an Officer should not normally be copied (by the Officer) to any other Member without the Member being aware. In other words, a system of "blind copies" should not be employed.

10.3 Official external communications on behalf of the Council may be sent in the name of the Leader or Cabinet Member where they have been directly involved in the issues or circumstances make this appropriate (e.g. representations to a Government Minister or personal correspondence). All other official external communications must be sent in the name of an officer including those which create legal obligations or give instructions to act or commit expenditure on behalf of the Council.

10.4 Paragraph 10.3 does not in any way seek to discourage Members from signing correspondence with constituents or other persons on a personal basis but they should be careful to distinguish between their own views and the official policy or decision of the Council.

11. Publicity and Press Releases

11.1 Official press statements relating to the functions and business of the Council may be issued by the Head of Communications and Media Centre on the authority of

the Chairman of the Council on matters pertaining to his or her office and on all other matters on the authority of the Leader, relevant Cabinet Member or the Chairman of the relevant Committee or Cabinet Advisory Boards.

11.2 The day to day handling of media enquiries is the responsibility of the Head of Communications and Media Centre.

11.3 The Head of Communications and Media Centre may authorise the issue of a press release relating to matters of routine and which are not controversial.

11.4 Cabinet Members or Chairmen of relevant Committees or Cabinet Advisory Boards will be consulted on relevant draft press statements before they are published. After publication copies will be made available to all Members of the Council.

11.5 In issuing any press release, the Head of Communications and Media Centre will have regard to the Code of Practice on Local Authority Publicity (Appendix B).

11.6 The Leader, Cabinet Members and Chairmen of Committees or Cabinet Advisory Boards may represent the Council in press, radio and television interviews on matters relevant to their office; otherwise they or any other Members of the Council may respond to requests for press, radio and television interviews, but these will be given in a personal capacity and on the personal responsibility of the Member concerned.

11.7 The media will be directed to the Leader or relevant Cabinet Member for any request relating to policy matters.

11.8 Officers may deal with any request for information or questions asked by the press, television or radio and may accept invitations to broadcast or appear on television in order to give the facts of the situation or provide background information on the Council's policies.

12. Official openings and ceremonies

12.1 All proposals for opening ceremonies and similar ceremonial events will be agreed by Officers with the relevant Cabinet Member in consultation with the Head of Communications and Media Centre.

12.2 The Chairman of the Council will be consulted in all cases about whether the event is one which either the Chairman or Vice-Chairman of the County Council should officiate or represent the Council and issue invitations.

12.3 The relevant Cabinet Member, in consultation (if agreed as appropriate) with the Council Chairman or Vice-Chairman, will agree the invitation list taking account of the type and nature of the event. The relevant local County Councillor(s), Member of Parliament, MEP, Borough/District and Town/Parish Councillors will be invited to attend.

12.4 If neither the Chairman nor Vice-Chairman of the Council is to issue invitations and officiate, then the Cabinet Member or a Deputy Cabinet Member nominated by him will do so.

13. Involvement of Local Members

13.1 Officers should ensure that all Members of the Council are kept informed of issues, events, decisions and prospective decisions which will affect the Council, their

own divisions and relevant information about non-KCC issues related to their service areas.

- Whenever a public meeting is organised by the Council to consider a local issue, all the Members representing the division(s) affected should, as a matter of course, be invited to attend the meeting
- Whenever the Council undertakes any form of consultative exercise on a local issue, the local Members should be notified at the outset of the exercise and informed of the outcome
- Inquiries from local Members will be followed up and responded to quickly and positively
- Background briefings for Members on local issues will be prepared, if requested
- Officer support will where appropriate be provided in arranging and attending appropriate local meetings where a Member intends to discuss KCC business
- Local Member views should normally be sought and included in all reports to Cabinet, Cabinet Members and Council Committees, particularly about decisions affecting their division
- Members of the public appealing against, or dissatisfied with, an Officer decision must always be informed of their ability to seek the help and advice of their local Member

Petitions

13.2 Members who are asked to present or receive a petition to, or on behalf of, the Council, whether as a Cabinet Member, Committee Chairman or Local Member, should consult the Head of Democratic Services and Local Leadership on the appropriate method of so doing.

Placing Items on Council agendas

13.3 Any Member may place an item on the Council agenda for limited debate. Notice must be given to the Head of Democratic Services and Local Leadership at least fourteen days before the meeting, including the written consent of another Member as seconder. The Member placing the item and either the relevant Cabinet Member or Committee Chairman will be allowed to speak for no more than three minutes each.

Local Issues at Committee Meetings

13.4 Members not serving on a Committee do not have the right to place an item of local concern on the agenda for a meeting; instead, they should seek the consent of the Chairman of the Committee if they wish a particular item to be discussed at a Committee meeting.

13.5 Any Member of the Council may attend any meeting of a Committee, including those parts of the meeting from which the public and press are excluded. They do not have a right to vote or move a motion or amendment, but may speak with the consent of the Chairman (that consent should be sought before the meeting and should not normally be withheld).

14. Access to Council Premises

14.1 Members are welcome to visit any premises owned and used for delivery of services by KCC. Except when visiting as a member of the public or as a governor or trustee, they should agree arrangements for the visit with the local manager. If Members wish to visit premises outside their division as a part of their KCC duties, they should also inform the Member for that division and the relevant Cabinet Member. Members may not visit premises for purposes unrelated to their duties as a Member of the Council. They must comply with any health and safety or other workplace rules and regulations and not interfere with the provision of services to the public. Members have no rights to enter premises owned by KCC but let to or legally occupied by other persons nor any premises not owned by KCC.

Examples of Inappropriate Behaviour
(Taken from ACAS Web-Site)

What are bullying and harassment?

1. These terms are used interchangeably by most people, and many definitions include bullying as a form of harassment.

2. Harassment, in general terms is:

“Unwanted conduct affecting the dignity of men and women in the workplace. It may be related to age, sex, race, disability, religion, nationality or any personal characteristic of the individual, and may be persistent or an isolated incident. The key is that the actions or comments are viewed as demeaning and unacceptable to the recipient.”

3. Harassment can also have a specific meaning under certain laws (for instance if harassment is related to sex, race or disability, it may be unlawful discrimination).

4. Bullying may be characterised as:

“Offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means intended to undermine, humiliate, denigrate or injure the recipient.”

5. Bullying or harassment may be by an individual against an individual (perhaps by someone in a position of authority such as a member, manager or supervisor) or involve groups of people. It may be obvious or it may be insidious. Whatever form it takes, it is unwarranted and unwelcome to the individual.

6. Examples of bullying/harassing behaviour include:

- spreading malicious rumours, or insulting someone by word or behaviour (particularly on racial, sexual or disability grounds)
- copying memos that are critical about someone to others who do not need to know
- ridiculing or demeaning someone — picking on them or setting them up to fail
- exclusion or victimisation
- unfair treatment
- overbearing supervision or other misuse of power or position
- unwelcome sexual advances — touching, standing too close, the display of offensive materials
- making threats or comments about job security without foundation
- deliberately undermining a competent worker by overloading and constant criticism
- preventing individuals progressing by intentionally blocking promotion or training opportunities.

7. Bullying and harassment are not necessarily face to face. They may also occur in written communications, electronic e-mail, phone, and automatic supervision methods such as computer recording of downtime from work or the number of calls handled if these are not applied to all workers.

8. Bullying and harassment make someone feel anxious and humiliated. Feelings of anger and frustration at being unable to cope may be triggered. Some people may try to retaliate in some way. Others may become frightened and demotivated. Stress, loss of self-confidence and self-esteem caused by harassment or bullying can lead to job insecurity, illness, absence from work, and even resignation. Almost always job performance is affected and relations in the workplace suffer.

Appendix B

DoE Circular 20/88 as amended by DETR Circular 06/01

Code of Recommended Practice on Local Authority Publicity

1. We are directed by the Secretary of State for the Environment, the Secretary of State for Scotland and the Secretary of State for Wales to draw the attention of your authority to the annexed code of recommended practice on local authority publicity, which they have issued under their powers under section 4 of the Local Government Act 1986, as amended by section 27 of the Local Government Act 1988.

2. Section 4 provides for the Secretary of State to issue codes of recommended practice as regards the content, style, distribution and cost of local authority publicity, and such other matters as he thinks appropriate. That section, as amended, also requires that local authorities shall have regard to the provisions of any such code in coming to any decision on publicity.

3. The code has been prepared following consultations with the associations of local authorities, the local authorities with whom the Secretaries of State thought consultation desirable, and other bodies concerned. A draft of the code has been laid before, and approved by a resolution of, each House of Parliament.

4. The code has no significant implications for either local authority expenditure or manpower.

INTRODUCTION

Status of the Code

1. This Code is issued by the Secretaries of State for the Environment, Scotland and Wales in pursuance of their powers under section 4(1) of the Local Government Act 1986. The Code was drawn up following the consultations with interested parties in local government required by section 4(4) of the Act. It has been approved by a resolution of each House of Parliament. Local authorities are required by section 4(1) of the Act as amended by section 27 of the Local Government Act 1988 to have regard to the Code in coming to any decision on publicity.

Why have a Code?

2. Local authorities are accountable to their electorate. Local accountability requires local understanding. This will be promoted by local authorities explaining their objectives and policies to their electors and ratepayers. In recent years authorities have increasingly used publicity to keep the public informed, and to encourage greater participation. Local authorities also need to tell the public about the services which they provide. Increasingly, local authorities see the task of making the public aware of the services available as an essential part of providing all kinds of services. Good, effective publicity, aimed at improved public awareness of a Council's activities, is to be welcomed. This Code is not intended to discourage such publicity.

3. Publicity is, however, a sensitive matter in any political environment, because of the impact which it can have. Expenditure on publicity by some local authorities has been significant. It is essential, therefore, to ensure that local authority decisions on publicity are properly made, in accordance with clear principles of good practice. The purpose of the Code is to set out such principles. It reflects the conventions which should apply to all publicity at public expense, and which traditionally have applied in both central and local government.

4. The principles set out below recognise the political nature of local government. They take account of the fact that some local authority publicity will deal with issues that are controversial because of particular local circumstances, or because of a difference of view between political parties locally or nationally. The principles do not prohibit the publication of information on politically sensitive or controversial issues, nor stifle public debate. They set out the matters a local authority should consider, to safeguard both the proper use of public funds and those members of the public at whom publicity is directed. They apply to all publicity, but some aspects will be especially relevant to publicity which deals with controversial or sensitive issues. The underlying objective of the Code is to ensure the proper use of public funds for publicity.

Scope of the Code

5. The Code is not concerned with the interpretation of section 2 of the Local Government Act 1986. [That section provides that a local authority shall not publish (or assist others to publish) material which, in whole or in part, appears to be designed to affect public support for a political party]. The Code is concerned with all the other publicity which a local authority may publish. In particular, it highlights factors which should be borne in mind in decisions on publicity which deals with matters or issues which are, politically or otherwise, controversial, but which are not prohibited by section 2.

6. Section 6 of the 1986 Act defines publicity as "any communication, in whatever form, addressed to the public at large or to a section of the public". The Code will therefore be relevant across the whole range of local authorities' work. It covers all decisions by a local authority on publicity and most public relations activities, such as paid advertising and leaflet campaigns, and local authority sponsorship of exhibitions and conferences, as well as assistance to others to issue publicity.

7. The Code has no relevance to the methods which a local authority may use to make its views known where these do not involve publicity in the sense of the 1986 Act.

8. The Code does not affect the ability of local authorities to assist charities and voluntary organisations which need to issue publicity as part of their work, but it requires local authorities, in giving such assistance, to consider the principles on which the Code is based, and to apply them accordingly.

9. By virtue of section 6(6) of the 1986 Act, nothing in the Code is to be construed as applying to any decision by a local authority in the discharge of their duties under the Local Government (Access to Information) Act 1985.

CODE OF RECOMMENDED PRACTICE

Subject Matter

1. Local authorities have a variety of statutory powers which enable them to produce publicity and circulate it widely, or to assist others to do so. Those commonly used include the powers in sections 111, 142, 144 and 145 of the Local Government Act 1972, sections 69, 88 and 90 of the Local Government (Scotland) Act 1973 and sections 15 and 16 of the Local Government and Planning (Scotland) Act 1982; but there are several others.

2. Some of these powers relate directly to the publishing authority's functions. Others give a more general discretion to publicise matters which go beyond an authority's primary responsibilities. For example, sections 142(1A) of the 1972 Act and 88(1) of the 1973 Act authorise local authorities to arrange for the publication within their area of information as to the services available in the area provided by them or by other local authorities; and Section 54 of the Public Health (Control of Disease) Act 1984 empowers local authorities to arrange for the publication within their area of information on questions relating to health or disease.

3. This discretion provides an important degree of flexibility, but also heightens the need for a responsible approach to expenditure decisions.

4. In considering the subject areas in which publicity is to be issued, the following matters will be important:

- (i) the publicity should be relevant to the functions of the authority.
- (ii) it should not duplicate unnecessarily publicity produced by central government, another local authority or another public authority.

Costs

5. Local authorities are accountable to the public for the efficiency and effectiveness of their expenditure, in the first instance through the audit arrangements.

6. For publicity, as for all other expenditure, the aim should therefore be to achieve the greatest possible cost-effectiveness.

7. To achieve this, there may well be cases where the benefit of higher expenditure to gain better presentation or improve other aspects of publicity will justify the extra cost.

8. Local authorities should therefore always have in mind the extent to which expert advice is needed for publicity.

9. In some cases publicity may justify its cost by virtue of savings which it achieves. More commonly it will be necessary to take a view of the importance of the unquantifiable benefits as compared with other uses to which the resources could be put.

10. In deciding whether the nature and scale of proposed publicity, and consequently its cost, are justified, the following matters will be relevant:

- (i) whether the publicity is statutorily required or is discretionary.
- (ii) where it is statutorily required, the purpose to be served by the publicity.
- (iii) whether the expenditure envisaged is in keeping with the purpose and expected effect of the publicity.

Content and Style

11. Local authorities produce a variety of publicity material. It ranges from factual information about the services provided by the authority, designed to inform clients or attract new ones, to material necessary to the administration of the authority, such as staff recruitment advertising. There will also be publicity to explain or justify the Council's policies either in general, as in the annual report, or on specific topics, for example as background to consultation on the line chosen for a new road.
12. Any publicity describing the Council's policies and aims should be as objective as possible, concentrating on facts or explanation or both.
13. Where publicity is used to comment on, or respond to, the policies and proposals of central government, other local authorities or other public authorities, the comment or response should be objective, balanced, informative, and accurate. It should aim to set out the reasons for the Council's views, and should not be a prejudiced, unreasoning or political attack on the policies or proposals in question or on those putting them forward. Slogans alone will not be an adequate means of justifying or explaining the authority's views or their policy decisions.
14. Publicity relating to the provisions of a service should concentrate on providing factual information about the service.
15. In some cases promotional publicity may be appropriate - for example about the local authority's sports and leisure facilities or about tourist attractions.
16. Publicity touching on issues that are controversial, or on which there are arguments for and against the views or policies of the Council is unavoidable, particularly given the importance of wide consultation whenever material issues arise. Such publicity should be handled with particular care. Issues must be presented clearly, fairly and as simply as possible, although councils should not over-simplify facts, issues or arguments. Again, it is unlikely that slogans alone will achieve the necessary degree of balance, or capture the complexities of opposing political arguments.
17. Publicity should not attack, nor appear to undermine, generally accepted moral standards.
18. Publicity campaigns by local authorities are appropriate in some circumstances: for example, as part of consultation processes where local views are being sought, or to promote the effective and efficient use of local services and facilities, or to attract tourist or investment. Publicity campaigns may also be an appropriate means of influencing public behaviour or attitudes on such matters as health, safety, crime prevention or equal opportunities.
19. Legitimate concern is, however, caused by the use of public resources for some forms of campaigns which are designed to have a persuasive effect. Publicity campaigns can provide an appropriate means of ensuring that the local community is properly informed about a matter relating to a function of the local authority and about the authority's policies in relation to that function and the reasons for them. But local authorities, like other public authorities, should not use public funds to mount publicity campaigns whose primary purpose is to persuade the public to hold a particular view on a question of policy.

Dissemination

20. The main purposes of local authority publicity are to increase public awareness of the services provided by the authority and the functions it performs; to allow local people to have a real and informed say about issues that affect them; to explain to electors and ratepayers the reasons for particular policies and priorities; and in general to improve local accountability.

21. Information and publicity produced by the Council should be made available to all those who want or need it. Local authorities should not discriminate in favour of, or against, persons or groups in the compilation and distribution of material for reasons not connected with the efficiency and effectiveness of issuing the publicity.

22. Where material is distributed on matters closely affecting vulnerable sections of the community - for example, the elderly - particular care should be taken to ensure that it is unambiguous, readily intelligible, and unlikely to cause needless concern to those reading, seeing or listening to it.

23. Local authority newspapers, leaflets, other publicity distributed unsolicited from house to house and information on web-sites are able to reach wider audiences than publicity available on application to the Council. Councils should give particular consideration to the use of electronic and other new media communications systems. However, councils should ensure that they do not rely solely on such mechanisms and that they do not exclude those without access or easy access to such systems.

24. Such publicity should be targeted as appropriate for its purposes, taking particular care with material touching on politically controversial issues.

25. Local authority newspapers or information bulletins are a special case. They are often a cost-effective means of disseminating information or facilitating consultation and can provide a means for local people to participate in debate on decisions the Council is to take. The advantage of using websites and other information technology for consultations should also be considered. Inevitably such publications will touch on controversial issues and where they do, they should treat such issues in an objective and informative way, bearing in mind the principles set out in paragraphs 11-19 of the Code.

26. [...]

27. Where it is important for information to reach a particular target audience, consideration should be given to using the communications networks of other bodies, for example those of voluntary organisations, and making use of electronic communication systems.

Advertising

28. Advertising, especially on billboards or on television and radio, is a highly intrusive medium. It can also be expensive. It may however provide a cost-effective, efficient means of conveying public information to the widest possible audience. Advertising on local radio networks has, for example, been used as a relatively inexpensive means of telling potential clients about local authority services. Advertising can also be the most cost-effective means of publicising a local authority's activities on promoting the social, economic and environmental well-being of the area.

29. The primary criterion for decisions on whether to use advertising should be cost-effectiveness.

30. Advertisements are not normally likely to be appropriate as a means of explaining policy or commenting on proposals, since an advertisement by its nature summarises information, compresses issues and arguments, and markets views and opinions.
31. Advertising in media which cover an area significantly wider than that of the authority is not likely to be an appropriate means of conveying information about a local authority's policies as opposed to attracting people to the authority's area or to use its facilities.
32. The attribution of advertising material leaflets and other forms of publicity that reach the public unsolicited should be clearly set out.
33. It is not acceptable, in terms of public accountability, to use the purchase of advertising space as a disguised means of subsidy to a voluntary, industrial or commercial organisation. Such support should be given openly through the normal grant arrangements. However, the conditions attached to a grant may require the provision of publicity, including publicity for the work of the authority.
34. Any decision to take advertising space in a publication produced by a voluntary, industrial or commercial organisation should be made only on the grounds that it provides an effective and efficient means of securing the desired publicity.
35. Local authorities should never use advertising as a means of giving financial support to any publication associated with a political party.

Recruitment advertising

36. Local authorities have respected in their staff employment policies the tradition of a politically impartial public service. Their recruitment publicity should reflect this tradition, and the fact that local authority staff are expected to serve the authority as a whole, whatever its composition from time to time.
37. The content of recruitment publicity and the media chosen for advertising job vacancies should be in keeping with the objective of maintaining the politically independent status of local authority staff.
38. Advertisements for staff should not be placed in party political publications.
39. Publicity about individual councillors may include the contact details, the positions they hold in the Council (for example, member of the Executive or Chair of Policy Overview and Cabinet Scrutiny Committee), and their responsibilities. Publicity may also include information about individual councillors' proposals, decisions and recommendations only where this is relevant to their position and responsibilities within the Council. All such publicity should be objective and explanatory, and whilst it may acknowledge the part played by individual councillors as holders of particular positions in the Council, personalisation of issues or personal image making should be avoided.
40. Publicity should not be, or liable to misrepresentation as being, party political. Whilst it may be appropriate to describe policies put forward by an individual councillor which are relevant to her/his position and responsibilities within the Council, and to put forward her/his justification in defence of them, this should not be done in party political terms, using political slogans, expressly advocating policies of those of a particular party or directly attacking policies and opinions of other parties, groups or individuals.

Elections, referendums and petitions

41. The period between the notice of an election and the election itself should preclude proactive publicity in all its form of candidates and other politicians involved directly in the election. Publicity should not deal with controversial issues or report views, proposals or recommendations in such a way that identifies them with individual Members or groups of Members. However, it is acceptable for the authority to respond in appropriate circumstances to events and legitimate service enquiries provided that their answers are factual and not party political. Members holding key political or civic positions should be able to comment in an emergency or where there is a genuine need for a Member level response to an important event outside the authority's control. Proactive events arranged in this period should not involve Members likely to be standing for election.

42. The Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000 (which apply under the Local Government Act 2000 to county councils, district councils and London borough councils) prohibit an authority from incurring any expenditure to

- Publish material which appears designed to influence local people in deciding whether or not to sign a petition requesting a referendum on proposals for an elected mayor;
- Assist anyone else in publishing such material; or
- Influence or assist others to influence local people in deciding whether or not to sign a petition.

Publicity in these circumstances should, therefore, be restricted to the publication of factual details which are presented fairly about the petition proposition and to explaining the Council's existing arrangements. Local authorities should not mount publicity campaigns whose primary purpose is to persuade the public to hold a particular view in relation to petitions generally or on a specific proposal.

43. County councils, district councils and London borough councils should ensure that any publicity about a referendum under Part II of the Local Government Act 2000 (the 2000 Act) either prior to or during the referendum period is factually accurate and objective. The referendum period means the period beginning with the date on which proposals under Part II of the 2000 Act are sent to the Secretary of State and ending with the date of the referendum. The publicity should not be capable of being perceived as seeking to influence public support for, or opposition to, the referendum proposals and should not associate support for, or opposition to, the proposals with any individual or group. Local authorities must conform with any specific restrictions on publicity activities which are required by Regulations under section 45 of the 2000 Act.

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**KENT COUNTY COUNCIL
STANDARDS COMMITTEE
Advice Note 3**

**ADVICE TO MEMBERS ON THE APPLICATION OF
THE CODE OF MEMBER CONDUCT**

November 2009

Complaining about another Member of the Council

1. In undertaking to observe the Council's Code of Member Conduct, you have agreed to make a written allegation to the Council's Standards Committee as soon as it is practicable for you to do so after you become aware of any conduct by another Member which you reasonably believe involves a failure to comply with the Code. Failure to make that allegation could place you yourself in breach of the Code.

2. Making an allegation about a fellow Member to the Standards Committee is a serious step that should not be taken lightly or without due consideration and advice. You are required to "reasonably believe" there has been a failure to comply with the Code. That means you need to have taken reasonable steps to satisfy yourself as to the likely truth of the alleged or apparent facts of the matter and whether, if true, the action or behaviour would constitute a failure to comply with the Code.

3. As a first step, you should approach the Member about whom you have a concern to discuss their action or behaviour, seek their account of the facts and their view of their compliance with the Code. The only circumstances when such an approach should not be made is if you have grounds for believing that to do so would either:

- of itself risk harm to the Council, for example by risking loss of money through fraud or the destruction of essential evidence, or
- create a risk to the health, safety or reputation of another individual (including yourself), for example, if the complaint was of bullying or sexual harassment.

4. If, following discussion with the other Member, you are of the view that there has been a failure to comply with the Code, you should seek advice from the Council's officers: the Chief Executive, the Director of Finance - if the concern relates to finance - or the Director of Law and Governance as Monitoring Officer. You should exercise care in discussing the matter with fellow Members or people outside the Council and respect the right of the other Member to preserve their reputation until and unless any allegation is found to be proven.

5. A Member who receives such an approach from a fellow Member may also seek advice from the same officers if they have any concern about their compliance with the Code and are encouraged to do so unless the fellow Member states clearly that he/she is satisfied there has been no failure to comply.

6. If, at the conclusion of any informal attempt to resolve your concerns about the conduct of a Member, or if such an informal attempt at resolution is inappropriate, as described in paragraph 3 above, you must make a written allegation to the Director of Law and Governance, as Monitoring Officer, who will deal with the allegation in accordance with the Protocol for such matters agreed by the Standards Committee, as set out in the Appendix to this Advice Note.

November 2009

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 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 to be referred to the Monitoring Officer immediately upon receipt by the Authority.
- 1.2 A register of such allegations is maintained by the Monitoring Officer to ensure that the Authority can comply with its obligations under the relevant legislation.
- 1.3 Allegations 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 of the Standards Committee. 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 an 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 Assessment Sub-Committee meeting:
 - 2.2.1 acknowledge to the complainant receipt of the allegation and confirm that the allegation will be assessed at the next convenient meeting of the Assessment Sub-Committee;
 - 2.2.2 notify the Member against whom the allegation is made of receipt of the allegation, 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

- his/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 any 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 redress the complainant is seeking. 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 s/he is prepared to acknowledge that his/her conduct was inappropriate, and whether s/he 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 promptly advise the complainant of the decision, and the complainant may then within 30 working days of receipt of such notification request that the Review Sub-Committee of the Standards 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 an external consultant.

November 2009

**KENT COUNTY COUNCIL
STANDARDS COMMITTEE**

Advice Note 4

**ADVICE TO MEMBERS ON THE APPLICATION OF
THE CODE OF MEMBER CONDUCT TO DEVELOPMENT CONTROL**

(Approved by the Standards Committee on 27 April 2009)

1. This note gives advice to Members who:
 - are members of the Planning Applications Committee
 - sit in on a meeting of the Planning Applications Committee as a substitute Member
2. The provisions of the Code of Member Conduct regarding conduct, the registration and declaration of interests, and the acceptance and registration of gifts and hospitality, apply to the proceedings of the Planning Applications Committee and other discussions in which Members may become involved on planning applications and other development control proposals.
3. The Local Government Association, supported by the Standards Board for England, has issued a short but useful guidance note *Positive engagement - a guide for planning councilors (updated version)*. Separately the Standards Board for England has also issued a more detailed and helpful occasional note *Predisposition, Predetermination or Bias, and the Code*. Copies of these documents are obtainable from Democratic Services.
4. Where this note refers to an application, it applies also to any other decision coming before the Council as a local planning authority that is not the responsibility of the Leader and Cabinet.

Interests

5. If you have a personal interest in an application make sure you declare this at any meeting. It would be prudent also to notify the Monitoring Officer in writing so that the interest can be publicly recorded in the Register of Members' Interests.
6. If the interest is a prejudicial one you should take no part in any discussion on the application, either inside or outside committee meetings. If you are the Local Member, you should arrange for a colleague representing a nearby division to represent your constituents.

Executive and Lead Members

7. If you are a Cabinet Member or a Deputy Cabinet Member (including Chairman of the Schools or Highways Advisory Boards), you should not take part as a voting Member in a debate by the Planning Applications Committee on an application by the Council, e.g. for a highway or school scheme. You may, with the Chairman's consent, speak to other Members outside the Committee meeting or at the meeting itself, but you should always remind the Member(s) of your responsibilities and position so that they and the public are aware of these when considering what you have to say. Take care you are not seen to be attempting to exercise undue influence on the other Member(s) through your position in the Council or party group.

Planning Applications Committee Members

Training

8. Before taking up a position as a voting member of the Planning Applications Committee, you should receive basic training in your duties. This will normally take the form of a discussion of this advice note with an officer nominated by the Monitoring Officer, as well as a discussion with a senior planning officer.

9. Once appointed, you should take part in all training sessions on planning law, policy and practice organised for members of the Committee. If you cannot attend, you should request a personal briefing from the Planning Officer.

Information

10. You should approach all decisions on applications with an open mind and ensure you are as well informed as possible by:

- attending site visits or inspections on applications agreed by the Committee wherever possible
- ensuring you always read the Planning Officer's report thoroughly and come to the meeting prepared to be persuaded to take a different point of view
- not voting if you have not been present to hear the entire debate, including public comments and the Planning Officers' introduction.

Dual Membership

11. You may take part as a voting member in the consideration of an application by the Planning Applications Committee if you also serve on an advisory board, district or a parish council which has been consulted on or is otherwise involved with the application. Dual membership does not of itself create a prejudicial interest that requires you to leave the room. It is, however, necessary for you to be able to demonstrate, if challenged, that you came to the debate with an open mind, without having previously formed a fixed or predetermined view on the issue and that you have considered all the relevant facts and arguments.

12. You should consider carefully what you say at meetings of other boards or councils whether you attend as a member of that board or council or as a KCC Member. You should declare at those meetings that if you come to consider the matter as a voting member of the Planning Applications Committee, you will consider the matter afresh, taking into account all the information and views you will then have before you, including those expressed at these boards or councils' meetings.

13. At the Planning Applications Committee meeting you should declare a personal (but not necessarily prejudicial) interest as a member of the board or parish/district council. You should say if you attended or participated in the board or parish/district council meeting but make it clear that you have not reached a final conclusion, but instead are considering the matter at Planning Applications Committee meeting afresh and not bound by board or parish/district council's views.

14. If you do not feel able to make such a declaration you should regard yourself as having a prejudicial interest. You should declare that interest and leave the meeting before consideration of that item. Alternatively, you may wish to arrange to be substituted at that meeting and speak instead as a Local Member (assuming the matter affects your division). In that case, you must make clear when you speak that you have done this and why.

15. If you are associated with an external body that is the applicant (or a major beneficiary of the proposals, e.g. a school governing body for new school buildings) you should not participate as a voting member but declare that interest. With the Chairman's consent you may still speak on the same basis as a Local Member. If you have voting rights, you should ensure that your abstention is recorded in the minutes.

Lobbying by local residents, consultees and objectors

16. In any discussions with local residents, objectors or consultees you should be careful not to say how you might vote or express any opinion on the merits prior to your formal consideration of the matter at the Committee meeting. Explain to those lobbying or attempting to lobby you that, whilst you can listen to what is said, it prejudices your impartiality to express a firm point of view or an intention to vote one way or another.

17. If you decide to argue vigorously for a particular point of view in relation to an application on behalf of some or all of your constituents, or to become a member of a lobbying group for or against a specific proposal, you should not exercise your rights at the meeting of the Planning Applications Committee to vote or move or second any motion or amendment. You should inform the Chairman of this before the meeting begins and declare that intention at the beginning of the debate on the item.

18. If you are a member of a lobby, campaign or other group or association that is actively expressing a view on the application or other matter before the Committee, you are likely to have a prejudicial interest and should follow the advice in paragraph 14 above. More detailed advice is available on dual-hatting and membership of lobby groups from the Head of Democratic Services and Local Leadership.

Lobbying by Applicants or Developers

19. You should inform the Monitoring Officer in writing if you feel you have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality).

20. You should refer applicants/developers who approach you for planning or procedural advice to officers wherever practicable and report any significant contact to the Planning Officer.

21. You should not take part in any meeting, presentation or site visit organised by applicants or developers unless a Planning Officer is present and can make a written file record of the discussion.

22. At any such presentation or discussion:

- ask relevant questions for the purposes of clarifying your understanding of the proposals
- remember that the presentation is not part of the formal process of debate and decision by the Planning Applications Committee
- be careful not to express any strong view or state how you or other Members might vote.

23. If you decide to inspect the site of an application by yourself make sure you stay on the public highway or public land. If you are spoken to by an employee or representative of the landowner or a local resident, explain who you are and why you are looking at the site but follow the preceding advice about not expressing an opinion.

Local Members

24. In discussion with your constituents or others be careful not to give the impression that the Planning Applications Committee will approve or refuse the application or that it will do anything other than reach a decision in accordance with planning law, policy and good practice.
25. If you are a member of the Committee and also the Local Member, remember that your overriding duty is to the whole community not just to the people in your ward and take account of the need to make decisions impartially. If you do not feel able to do this but want to argue the case for your constituents, do not take part in the debate as a voting member but make it clear that you are abstaining on that issue and why. You may vote on other issues raised in the meeting, or alternatively, you may wish to ask your political group to arrange for a substitute for the entire meeting so you can attend and speak on the specific item as the Local Member.
26. At a meeting where an application will be considered in which you will participate as a Local Member, you should not normally agree to serve as a substitute member.
27. If you sit on the applicant/benefiting body (e.g. a school governing body) but are not a member of the Planning Applications Committee, make sure if you speak to any member of the Committee about the application that they know of your membership and interest. Remember that if you speak at the Committee meeting, you have to declare your interest before speaking.

By: Miss R MacCrone – Independent Chairman
Peter Sass - Head of Democratic Services and Local Leadership

To: Standards Committee – 20 November 2009

Subject: Monitoring report on complaints

Summary: To formally note the current position with regard to the receipt and consideration of complaints about KCC Members and the action taken by the Assessment and Review Sub Committees.

Unrestricted

Background

1. At the meeting of the Standards Committee on 25 November 2008, it was agreed that a report would be submitted to the Committee every six months, giving the relevant details of the current stage of any complaints that had been considered by the Assessment or Review Sub Committee. Accordingly, attached at **Appendix 1** is a schedule detailing this information.

Operation of the Assessment and Review Sub Committees

2. The Terms of Reference of the Assessment and Review Sub Committees are as follows:

Assessment Sub Committee

“To consider initial complaints that a Member or co-opted Member is alleged to have breached the Code of Conduct and decide whether, (a) the complaint appears to show a breach of the Code and (b) whether the complaint merits investigation.”

Review Sub Committee

“If so requested by the original complainant, to review any decision of the Assessment Sub Committee to take no action in respect of allegations

3. The guidance issued by Standards for England to reflect the Standards Committee (England) Regulations 2008 says that the Assessment and Review Sub Committees should consist of at least three Members of the Standards Committee including at least one independent Member and that the Sub Committee must be chaired by one of the independent Member. In practice, this means that, on occasions, either Sub Committee might have two elected and one independent Member. The Standards Committee is invited to consider whether it wishes to formally amend its previous decision on membership of these two Sub Committees, so that there are always two independent Members at every Sub Committee meeting. This exceeds the minimum requirements of the Regulations, but is deemed to represent best practice, as there would always be a majority of independent Members making assessment and review decisions.

Consideration and Hearing Sub Committee

4. The Standards Committee also needs to appoint a Sub Committee to consider reports from the Monitoring Officer or other appointed Investigating Officer, where the

Standards (Assessment) Sub Committee or the Standards (Review) Sub Committee has referred a complaint to the Monitoring Officer for local investigation. This Sub Committee will have the following Terms of Reference:

"To consider the Monitoring Officer's Investigation Report and decide whether, (a) it accepts the Monitoring Officer's finding of no failure (a finding of acceptance); or (b) the matter should be considered at a hearing of the Standards Committee, or (c) the matter should be referred to the Adjudication Panel for England for determination."

5. As in paragraph 3 above, the Committee is invited to express its views on whether the membership of the Consideration and Hearing Sub Committee should be the same as what is now proposed for the Assessment and Review Sub Committees, i.e. 3 Members each, of whom 2 should be independent Members. The Committee is also invited to note that, in those cases where the Consideration and Hearing Sub Committee agrees to hold a hearing, that this will involve different Members to those who considered the investigation report.

DVD from Standards for England – “Assessment made clear”

6. Standards for England have recently released a new training DVD called "Assessment made clear" and the Chairman has agreed that the DVD will be shown as part of the Committee meeting. The running time for the DVD is 44 minutes.

Recommendation:

7. The Committee is invited to:

- (a) Formally note the current position with regard to the receipt and consideration of complaints (Appendix 1);
- (b) Agree to formally amend the membership of the Assessment and Review Sub Committees, so that the independent Members are always in a majority on the Sub Committees;
- (c) Appoint the Consideration and Hearings Sub Committee, as described in paragraph 4 and 5 above; and
- (d) Comment accordingly on any learning points arising from the DVD.

Miss R MacCrone – Independent Chairman of the Standards Committee

Peter Sass – Head of Democratic Services and Local Leadership

November 2009

Complaints received by the Standards Committee – May 2008 to November 2009

Reference	Complainant	Assessment outcome	Review outcome	Comments
KCC/01/2008	Member of the public	No action	Not requested	None
KCC/02/2008	Member of the public	No action	Not requested	None
KCC/03/2008	A local head teacher	No action	Not requested	None
KCC/04/2008	A Borough Councillor	No action	Refer to Monitoring Officer: Member to issue apology to complainant	Letter of apology not accepted
KCC/01/2009	A Borough Councillor	Refer to Monitoring Officer for conciliation	N/A	Complainant refused to take part in conciliation
KCC/02/2009	Member of the public	No action	Not requested	N/A
KCC/03/2009	Member of the public	Refer for investigation	N/A	Investigation report awaited
KCC/04/2009	Member of the public	No action	Not requested	None
KCC/05/2009	Member of the public	Referred to Monitoring Officer for other action (letter of apology)	N/A	Letter of apology accepted by complainant
KCC/06/2009	Member of the public	Referred to the Monitoring Officer for a formal investigation	N/A	Investigation underway

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By: Roberta MacCrone – Independent Chairman
Peter Sass - Head of Democratic Services and Local Leadership

To: Standards Committee – 20 November 2009

Subject: Members' Register of Interests, Gifts and Hospitality

Summary: To agree the most appropriate method of reviewing the Members' Register of Interests and Gifts and Hospitality submissions.

Unrestricted

Background

1. At its meeting in November 2008, the Standards Committee agreed that there should be a standing item each year to review the Register of Members' Interests, Gifts and Hospitality, starting in the new Council term.

2. Following the County Council elections in June, all Members completed their Register of Interests, which are published on KCC's website. Written guidance to Members on the nature of their interests is provided by the Monitoring Officer and additional advice is provided on request. In addition, the training provided by the Deputy Monitoring Officer on the Code of Conduct and ethical standards reinforces to Members the importance of (a) keeping their registered interests up to date (i.e. within 28 days of any change) and (b) always declaring the existence of personal and prejudicial interests at meetings where there is a relevant item on the agenda. It is considered that the overall process works well, although a recent request under the Freedom of Information Act in respect of one Member's register of interests resulted in the Member altering her register entry. Members are also encouraged to properly register any gifts or hospitality they may receive in accordance with the Code of Conduct. All such declarations are also published on KCC's website.

3. Following consultation with the Chairman, it is suggested that one or more of the independent Members on the Committee is given the task of reviewing all Members' registered interests and reporting back any key issues to the Committee.

Recommendation:

4. The Committee is invited to appoint one or more of the independent Members to carry out the review of Members' Registers of Interests, in consultation with the Head of Democratic Services and Local Leadership and to report any significant issues to the Committee.

Peter Sass – Head of Democratic Services and Local Leadership

November 2009

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By: Roberta MacCrone – Independent Chairman
Peter Sass - Head of Democratic Services and Local Leadership

To: Standards Committee – 20 November 2009

Subject: Members' Annual Reports

Summary: To seek the views of the Standards Committee on proposed changes to the format and content of the Members' Annual Reports for 2010.

Unrestricted

Background

1. The Independent Remuneration Panel agreed earlier in the year to review the format and content of the Members' Annual Reports, in consultation with Group Leaders. It was also agreed between the Chairmen of this Committee and the Panel that any proposed changes would be submitted to the Standards Committee for comment.
2. The Independent Remuneration Panel has now met with Group Leaders and propose the following key changes:
 - (a) Add a new section at the beginning of the Annual Report, asking Members to confirm whether they are Members of any other local authority or public body and, if so, to detail any remuneration received from those authorities/bodies.
 - (b) Clearer formatting in relation to the information being sought about how Members have utilised their individual Members' grants (Section 3).
 - (c) Additional information sought about the benefits of attending training courses and, in particular, confirmation that a Member has attended training on the Code of Conduct and Ethical Standards (Section 6).
 - (d) Clearer wording about the information being sought about Political Activity (Section 7).

3. Attached at **Appendix 1** is the proposed Members' Annual report for 2010, incorporating these key changes. Group Leaders have had the opportunity to comment on the changes and their views have been reflected in the proposed report.

Recommendation:

4. The Committee is invited to comment upon the proposed Members' Annual report for 2010 and advise the Independent Remuneration Panel accordingly.

Peter Sass – Head of Democratic Services and Local Leadership
November 2009

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Elected Member Annual Report and Review – 2009/10



PLEASE READ THE ACCOMPANYING GUIDANCE NOTES *BEFORE* COMPLETING THIS FORM

Member Name:

Electoral Division:

Year first elected:

Telephone Number:

e-Mail:

Are you in paid employment in any capacity in addition to your role as a County Councillor (excluding membership of other authorities)?

YES	NO
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If yes, please give details in the box below

Are you a Member of another local authority or do you serve on any other public authority for which remuneration is received?

YES	NO
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If yes, please give details in the box below, including details of any remuneration received

Section 1: Attending County Council Meetings Please list all meetings including how many meetings you attended of your Local Board

Name of Board or Committee	Number of Meetings attended	Number of Meetings each year	Position on Board or Committee and nature of responsibility
County Council		7	

Section 2: Liaising with your Electoral Division

Please list here any organisations within the community with which you have contact. What are you doing in your division? (Please specify if you are acting as a member of the body or as a KCC representative)

Section 3: Assisting Constituents

Please set out here how you contact your constituents and how you make it easy for them to contact you. If you have made a contribution in advising and assisting constituents, and/or resolving problems in the delivery of KCC services, please explain this:

Please give exact details of where and how you recommended your £10,000 allocation be spent?

Organisation	Purpose	Amount

Section 4: Representing the County Council on outside bodies

Please set out here any bodies to which you have been appointed by the Council or which you attend in your role as a County Member, in order to promote joint working and improved service delivery to the public.

(List any involvement with Parish Councils and membership of schools governing bodies)

Name of Organisation	Number of Meetings Attended	Number of Meetings held each year	Nature of responsibility

Section 5: Special Responsibilities

Please itemise here any Special Responsibility for which you receive SRA

Responsibility	Nature of your duties	Amount received £

Section 6: Learning & Development

Please set out in this box specific training courses which you have attended to further develop your role in the previous year. Please describe the benefits of attending these training courses.

Please set out in this box any attendance at conferences, seminars etc

Please confirm that you have attended training on Ethical Standards and the Code of Conduct following the County Council Elections in June 2009

YES	NO
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Section 7: Political Activity

Please use this space to give a full picture of your Political activities, including attendance at Group meetings and any offices held, and/or responsibilities held within your Group or within the your electoral division or Parliamentary constituency.

Section 8: Supplementary Information

Please feel free to add any information you feel may assist in defining your role as an Elected Member, or indeed any additional information you wish to add:

Ensure that the section below is signed and dated both by you and your Group Leader.
Signature of Member: **Date:**

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Signature of Leader: **Date:**

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THIS FORM MUST BE COMPLETED BY XXX 2010

By: Miss R MacCrone – Independent Chairman
Peter Sass - Head of Democratic Services and Local Leadership

To: Standards Committee – 20 November 2009

Subject: Standards Committee Work Programme and future meeting dates

Summary: To consider the Committee's forward work programme.

Unrestricted

Background

1. At the Committee's meeting on 25 November, 2008, it was agreed that the Head of Democratic Services and Local Leadership would formulate a work programme for the Committee's consideration and also, in consultation with the Chairman, agree a series of future meeting dates, so that all Members can ensure they are available to attend Committee meetings.
2. Accordingly, attached at **Appendix 1** is a suggested work programme based on relevant aspects of the Committee's work in previous years, together with the conclusions reached at a previous meeting about the Committee's future role.

Recommendation:

3. The Committee is invited to consider and agree the Committee's future work programme and proposed meeting dates (Appendix 1)

Miss R MacCrone – Independent Chairman of the Standards Committee
Peter Sass – Head of Democratic Services and Local Leadership
November 2009

Appendix 1

Standards Committee Work Programme - 2009

Meeting	Item	Source (*Standard item unless stated)
20 November 2009	Standards for England Annual Conference – oral report from attendees	
	Review of Register of Interests, Gifts and Hospitality	
	Advice Notes for Elected Members	To update the existing Advice Notes
	Monitoring of Complaints	
	Update on Ethical Standards Training for Members	
	Proposed Changes to the Members' Annual Reports	
	Work Programme and future meeting dates	
18 March 2010	Work Programme and future meeting dates	
	Update on Ethical Standards Training for Members	
12 May 2010	Members' Annual Reports	
	Monitoring of Complaints	
	Annual Return to the Standards Board	
	Committee's Annual report	
	Work Programme and future meeting dates	
15 July 2010	Annual meeting with Group Leaders	
	Work Programme and future meeting dates	
18 November 2010	Monitoring of Complaints	
	Review of Register of Interests, Gifts and Hospitality	
	Work Programme and future meeting dates	