

STANDARDS COMMITTEE

Thursday, 14th July, 2011

10.00 am

**Bowl Room, Sessions House, County Hall
Maidstone**





AGENDA

STANDARDS COMMITTEE

Thursday, 14th July, 2011, at 10.00 am

Ask for: **Peter Sass**

**Bowl Room, Sessions House, County Hall
Maidstone**

Telephone **01622 694002**

Tea/Coffee will be available 15 minutes before the start of the meeting in the meeting room

Membership

Miss R MacCrone (Chairman), Mr L Christie, Mr D S Daley, Mr K A Ferrin, MBE,
Mrs N Ahmed Mr P Gammon, MBE

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 11 May 2011 (1 - 4)
- 4 The Standards Committee's Annual Report to the County Council (5 - 18)
- 5 The Localism Bill - proposed changes to the Standards regime (19 - 38)
- 6 Standards Committee Work Programme and future meeting dates (39 - 40)

7 Any other urgent business

8 Date of Next Meeting: 17 November 2011

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
(01622) 694002

Wednesday, 6 July 2011

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 Wantsum Room, Sessions House, County Hall, Maidstone on Wednesday, 11 May 2011.

PRESENT: Miss R MacCrone (Chairman), Mr L Christie, Mr D S Daley, Mr K A Ferrin, MBE Mr P Gammon, MBE

ALSO PRESENT: Mr A J King, MBE Mrs F Leathers

IN ATTENDANCE: Mr G Wild (Director of Governance and Law), Mr P Sass (Head of Democratic Services) Mrs M Cooper (Member Liaison Manager)

UNRESTRICTED ITEMS

8. Substitutes/apologies

(Item 1)

An apology for absence was received from Mrs Nadra Ahmed. It was also noted that Mr Ferrin had replaced Mr London on the Committee; the Chairman welcomed Mr Ferrin to his first meeting of the Committee.

9. Declarations of Interest

(Item 2)

There were no declarations of interest made by Members of the Committee.

10. Minutes of the meeting held on 8 February 2011

(Item 3)

In relation to item 3 on page 1 of the minutes of the previous meeting, Mr Sass circulated details of the web access statistics for the Members' Annual Reports, which would be produced every six months from now on.

Resolved: that the minutes of the meeting held on 8 February 2011 be approved as a correct record.

11. Members' Annual Reports

(Item 4)

Mrs Fiona Leathers, Chairman of the Independent Remuneration Panel, was present for this item.

Mrs Leathers introduced her report, stating that five Members didn't submit their annual report on time, which the Panel found disappointing and that there was no apparent reasons for the non-submissions.

There ensued a detailed discussion on the possible reasons for the five non-submissions; the impact of the local elections on the ability of some Members to

complete their reports on time, particularly the twin-hatted Members; the workloads of Members generally; the value of annual reports as a performance management tool and a public record of the activities of elected representatives; and the future Member role under both existing and emerging legislation.

The principle of continuing with Members' Annual Reports was supported by the Committee, but the Independent Remuneration Panel was asked to reconsider the format and content of annual reports, with a view to making them simpler to complete. The Committee also agreed not to name and shame those Members who had not completed their reports on time this year.

Resolved: that the report be noted.

12. The Localism Bill - proposed changes to the Standards regime *(Item 5)*

Mr Wild explained that maintaining a voluntary code of conduct was one way of complying with the expected new duty to promote high standards of ethical conduct at Member level, but warned that any voluntary Standards Committee would not have any real sanctions at its disposal to respond to breaches of the voluntary code. In addition, the inclusion of independent Members on a voluntary standards committee would result in any "decisions" of the Committee having to be advisory only.

The Chairman stated that, under the provisions contained in the Localism Bill, elected Members would still have a duty to declare interests and referred to the proposed new criminal offence of failing to declare prejudicial interests.

Following a detailed discussion, the following conclusions were made:

- The principle of there being a voluntary code of conduct for Members, together with a mechanism to investigate alleged breaches of the voluntary code was supported, but with more emphasis on local resolution and informal action, such as targeted training and advice to Members.
- Public confidence that the County Council took ethical conduct at Member level seriously was important
- The commencement date for the new arrangements was likely to be April 2012 and the Committee was supportive of a consultation exercise being undertaken on the various options in time for the County Council to determine a way forward at its December 2011 meeting.

Resolved: that (1) the contents of the report be noted; and (2) the Head of Democratic Services prepare a draft consultation document on the future of the ethical standards regime for the next meeting of the Committee in July 2011.

13. Standards Committee Work Programme and future meeting dates *(Item 6)*

Resolved: that the future work programme be noted, subject to the inclusion of the Committee's Annual report to the County Council being added to the agenda for the July meeting.

14. Date of Next Meeting: 14 July 2011
(Item 8)

The next scheduled Committee meeting date was noted.

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From: Roberta MacCrone – Independent Chairman of the Standards Committee
Peter Sass - Head of Democratic Services

To: Standards Committee – 14 July 2011

Subject: **ANNUAL REPORT TO COUNTY COUNCIL**

Classification: Unrestricted

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

For Decision

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

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

RECOMMENDATION

(3) The Committee is requested to approve the Committee’s annual report (**Appendix A**) and to put forward any other items for inclusion.

Peter Sass
Head of Democratic Services and Local Leadership
01622 694002

Background Documents: None

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Kent County Council's Standards Committee

Annual Report – 2010/11

Introduction

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

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



Ms Roberta MacCrone
Chair



Mrs Nadra Ahmed
OBE, DL



Mr Leslie Christie
Labour



Mr Dan Daley
Liberal Democrat



Mr Peter Gammon
MBE



Mr John London
Conservative



Mr Keith Ferrin MBE
Conservative

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

Foreword by the Independent Chairman – Ms Roberta MacCrone.

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

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

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

The role of the Standards Committee

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

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

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

Training and Development

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

Members of the Standards Committee also take their own training and development seriously. During the last year, two of the Committee's

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

The locally managed framework for complaints

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

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

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

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

Members' Annual Reports

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

assessment purposes, are published on the website for the public to see, and they can and often are used locally by Members to disseminate information about the hard work undertaken by them on behalf of their electorate.

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

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

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

The following issues were raised by the Panel:

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

Future work programme for the Committee

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

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

Conclusions

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

Roberta MacCrone
Independent Chairman
July 2011

Terms of Reference of the Standards Committee

6 Members:

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

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

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

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

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

Monitoring Officer Protocol

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

1 Receipt of Allegations

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

2 Notification of Receipt of Allegations

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

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

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

3 Local Resolution

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

4 Review of Decisions not to Investigate

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

5 Local Investigation

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

Assessment Criteria

Introduction

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

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

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

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

Initial questions

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

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

Assessment Criteria

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

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

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

Peter Sass
Head of Democratic Services and Local Leadership
November 2008

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By: Peter Sass - Head of Democratic Services

To: Standards Committee – 14 July 2011

Subject: The Localism Bill – proposed changes to the Standards regime

Summary: This report invites the Standards Committee to comment on the proposed consultation document on the future of the ethical standards regime within Kent County Council.

Unrestricted

1. At its meeting on 11 May 2011, the Standards Committee met with Group Leaders to discuss the proposed changes to the Standards regime included in the Localism Bill. The Committee requested the Head of Democratic Services to prepare a draft consultation document on the future of the ethical standards regime for this meeting of the Committee

2. For ease of reference, the two previous reports to this Committee on this matter, considered on 8 February and 11 May 2011, are attached to this report (**Appendices 1 and 2**).

Recommendation:

3. The Committee' views are requested on the content and format of the proposed consultation document (attached at **Appendix 3**) and to confirm the proposed methods of consultation and the suggested consultees detailed in the consultation document.

Peter Sass – Head of Democratic Services
6 July 2011

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By: Peter Sass - Head of Democratic Services and Local Leadership

To: Standards Committee – 8 February 2011

Subject: The Localism Bill – proposed changes to the Standards regime

Summary: To discuss the implications of the proposals in the Localism Bill to abolish the standards regime and to determine a way forward with regard to the detailed examination of the main options for the future.

Unrestricted

Background

1. The Localism Bill was published in December 2010. This report focuses on the implications the Bill will have for supporting and enforcing high standards of conduct amongst elected and voting co-opted Members of Kent County Council, subject to enactment and change through the legislative process. Much of the content of the Bill has been raised previously in speeches and press releases and there are very few surprises in the drafting. However, while some of the more fundamental issues are addressed in the primary legislation, much has been reserved for secondary legislation, which has yet to be published, even in draft. The reforms proposed to the existing standards regime are radical in nature and it is unclear how some will work in practice.

2. The implementation of the proposed changes appears likely to be with effect from early 2012. Any cases that have begun will proceed to their conclusion but all will have to be dealt with by the Standards Committee as Standards for England will no longer be available. The Standards Committee in its current statutory form will remain in place until all outstanding cases have been dealt with.

The main provisions

3. The main provisions are contained in chapter 5 of the Localism Bill. Further provisions are set out in Schedules 4 and 24.

- (a) The Bill abolishes the standards regime overseen by Standards for England, including the model Code of Conduct for Members of relevant authorities in England and their standards committees. The abolition arrangements also affect the First Tier Tribunal (Local Government Standards in England) under the jurisdiction of the Ministry of Justice because the Tribunal will receive no further cases after those that it is already dealing with on the abolition date have been determined. The appointed day is likely to be two months after the coming into force of the provisions.
- (b) Local Authorities will be under a duty to promote high standards of conduct. The new arrangements for standards to help them comply with this duty will

be part voluntary and part mandatory, with criminal sanctions where certain interests are concerned.

- (c) Standards for England will no longer exist and none of its functions transfer to any other body. There will no longer be a requirement for relevant authorities to adopt a code of conduct for their Members or to appoint Standards Committees and there will be no mandatory enforceable code of conduct for Members that they have to undertake to follow when they take up office
- (d) Matters relating to standards will be the function, i.e. the responsibility of the authority (not the Executive) and the adoption of a voluntary code must be done by the authority as a whole.
- (e) The duty and any voluntary arrangements adopted by an authority still only apply to Members who can vote; therefore non-voting co-opted Members will not be covered by any new arrangements.
- (f) Relevant authorities can create a voluntary code either by revising an existing code or adopting a new one. Because the code is voluntary, an authority can also withdraw its existing code without replacement. The authority can publicise what it has done about the code as it sees fit.
- (g) Where an authority has adopted a code, it can put in place any procedure it wishes to deal with complaints and take any action it sees fit, but this may exclude suspension or disqualification as these sanctions are expressly forbidden by provisions relating to how the council deals with failure to register or declare interests. If an authority chose to have a standards committee, it would be regarded as an “ordinary committee” of the authority and, therefore, not need to have independent representation.
- (h) The arrangements regarding interests and criminal sanctions will be dealt with by way of Regulations issued by the Secretary of State and the main requirement to maintain a register will remain with the Monitoring Officer. Regulations will be able to specify the interests to be registered; the requirements for disclosure; participation in decision-making; dispensations; sanctions and access and publicity arrangements for the register. Prosecutions in relation to interests can only be brought with the consent of the Director of Public Prosecutions (DPP) and will be dealt with in a Magistrates’ Court. Offences will relate to a failure to register; a failure to disclose; and, taking part in relevant local authority business.

Changes to the common law pre-determination rules

4. Although not a conduct matter as such, it is also worth noting the changes proposed in the Bill to the rules about “predetermination”, which have developed in case law. Currently, if a member participates in decision-making, particularly quasi-judicial decision-making, with a closed mind, this may be a ground upon which a decision can be judicially reviewed. Case law has established that it is acceptable for a member to have a predisposition towards making a particular decision about a matter before hearing the arguments, but must not have decided which way to vote in advance. Recent court decisions have recognised more clearly than in the past the

role that local politics and campaigning can play in the decision-making process and have recognised that elected members would be entitled, and indeed expected, to have, and to have expressed, their views on local issues, including, for example, planning issues.

5. Under the provisions in the Bill, a decision maker is not to be taken to have had, or have appeared to have had, a closed mind when making the decision just because the decision maker had previously done anything that directly or indirectly indicated what view the decision maker took, or would or might take, in relation to a matter, relevant to the decision. This doesn't entirely do away with the pre-determination issue. In a recent letter to all Council Leaders, the Minister for Housing and Local Government mentioned this provision but said in addition:

“of course councillors will still need to be open minded at the point of decision in the sense of listening to all the arguments and weighing them against their preferred outcome, before actually voting.”

Decisions to be made by the County Council

6. The County Council will need to make a number of decisions in due course in respect of its future approach to Members' conduct, including the following:

- (a) whether to have a code of conduct at all
- (b) If it has a code, what form that will take and whether it will seek to adopt provisions that are either the same or similar to those being adopted elsewhere in Kent
- (c) What procedures to have in place for the investigation of complaints about the conduct of members, whether or not a voluntary code is adopted
- (d) How it intends to undertake the duty to promote and maintain high standards of conduct and what future role it sees, if any, for a standards committee.

Conclusion

7. The proposals in the Localism Bill for changes to the conduct regime for local authority members will make sweeping changes to the current arrangements. A number of decisions will need to be made by the County Council in due course to implement the changes and the Committee is asked to consider and comment upon the information in this report as an early contribution to the debate that must be had. The Committee may also wish to meet formally or informally with the Group Leaders to discuss the various decisions that need to be made.

Recommendation:

3. The Committee is invited consider this report and determine a way forward with regard to a detailed examination of the main options for the future.

Peter Sass – Head of Democratic Services and Local Leadership
January 2011

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Appendix 2

By: Peter Sass - Head of Democratic Services

To: Standards Committee – 11 May 2011

Subject: The Localism Bill – proposed changes to the Standards regime

Summary: To discuss with Group Leaders the implications of the proposals in the Localism Bill to abolish the standards regime and to determine a way forward with regard to the detailed examination of the main options for the future.

Unrestricted

Background

1. At its meeting on 8 February 2011, the Standards Committee considered a report (attached as **Appendix 1**), which outlined the relevant provisions of the Localism Bill in relation to the future of the ethical standards regime, and noted that the proposed changes would be implemented in early 2012. The Committee agreed to invite Group Leaders to this meeting to enable more detailed discussion of the various options open to the Council, following which a more detailed options paper will be prepared for the next meeting of the Committee.

2. Since the Committee's previous meeting, the Local Government Group (part of the Local Government Association (LGA)) and the Association of Council Secretaries and Solicitors (ACSeS) have jointly published a useful briefing document on maintaining high ethical standards in local government (attached as **Appendix 2**).

Key Questions

3. The Committee's consideration of the previous report, together with further discussions that have taken place between officers within the local government community in Kent, have highlighted a number of key questions for further discussion:

- (a) How should KCC respond to the proposed new duty to promote high standards of conduct amongst Members?
- (b) Should KCC have a voluntary code of conduct and a voluntary Standards Committee (or other Member-level body) with responsibility for monitoring compliance with a voluntary code?
- (c) If KCC decided to have a voluntary code and a voluntary Standards Committee, what role would independent Members have? Section 102(3) and (4) of the Local Government Act 1972 enables an authority to appoint co-opted members to a new Standards Committee, but Section 13 of the Local Government and Housing Act 1989 would mean that any such co-opted Members were non-voting, unless the Standards Committee was

merely advisory, i.e. that it made recommendations only to the County Council.

- (d) How would KCC deal with complaints that a Member had breached a voluntary code?
- (e) What role could the Monitoring Officer and his staff have in policing a voluntary code and in dealing with training for Members and low-level complaints?
- (f) What role could group and party discipline have in ensuring good conduct amongst elected Members?
- (g) Could a regional solution be explored, perhaps hosted by the County Council, as a chargeable service for District, Borough and Parish Councils, particularly in relation to training and complaint handling?

Recommendation:

4. The Committee is invited consider this report and determine a way forward with regard to a detailed examination of the main options for the future.

Peter Sass – Head of Democratic Services
3 May 2011



MAINTAINING HIGH ETHICAL STANDARDS IN LOCAL GOVERNMENT

The Localism Bill published on 13th December contains proposals to abolish the Standards for England regime. Whilst subject to Parliament approving the necessary legislation, the changes can be summarised as Standards for England (formally the Standards Board for England) ceasing to operate, councils no longer being required to have a local standards committee, the national code of conduct for elected members being dispensed with and council's being allowed to adopt voluntary codes of conduct.

Following the abolition of the standards regime, councils will no longer have a single body of law to refer to for dealing with elected member conduct but will, instead, be able to call upon a range of remedies, including existing criminal and civil law provisions and those provisions contained in the Localism Bill. This paper seeks to summarise the proposals contained within the Bill and outline those provisions available to authorities to call upon. The paper covers the following:

- Summary of changes proposed in the Bill
- The position of the Nolan Principles
- Registering interests
- Fiduciary duty of councillors
- Criminal and civil law including discrimination and electoral offences
- Local Government Ombudsman
- Audit Commission powers
- The common law position of bias, predisposition and predetermination

The Local Government Group acknowledges the valuable contributions of the senior members of the Association of Council Secretaries and Solicitors (ACSeS) in helping to produce this paper.

SUMMARY OF CHANGES PROPOSED IN THE BILL

The proposals outlined in the Bill are as follows:

- The Relevant Authorities (General Principles) Order 2001, which sets out the principles which govern the conduct of members and co-opted members of relevant authorities in England and police authorities in Wales, will be revoked
- The Local Authorities (Model Code of Conduct) Order 2007 (S.I 2007/1159) which prescribes the model code of conduct to apply to members of relevant authorities will be revoked
- The requirement for local authorities to have standards committees will be abolished
- Standards for England will be abolished. Established by the Local Government Act 2000 and the regulator for local authority standards committees, the Standards Board requires primary legislation to abolish it and its legislative functions. None of the Standards Boards functions will be transferred to other bodies.
- The First-tier Tribunal (Local Government Standards in England), the independent judicial tribunal established as a disciplinary body to hear and determine references and appeals concerning the conduct of local authority councillors, will lose its jurisdiction over the conduct of local authority members
- Elected members will be required to continue to register and declare personal interests and will not be allowed to use their position improperly for personal gain. The government intends that wilful failure to comply with these requirements will constitute a criminal offence.
- The requirement for local authorities to adopt a model code of conduct and for local authority members to abide by that code will be abolished. However, local authorities will be free to adopt their own, voluntary code of conduct should they so wish.
- The requirement for councils to maintain a standards committee will be abolished. However, local authorities will be free, should they choose, to establish voluntary standards committees to consider complaints about the conduct of elected and co-opted members. Such committees will, according to councils' local constitutions, be able to censure but will not be able to suspend or disqualify members from council membership.

It is anticipated that the Bill will receive Royal Assent in late 2011. The present conduct regime (a model code governing local authority members' conduct and enforced through local authority standards committees, regulated in turn by the Standards for England), will continue to function in a normal manner, considering, investigating and determining allegations of misconduct, until a fixed date ("the appointed day"), probably two months after the Bill receives Royal Assent.

This means that until the appointed day, an allegation of misconduct can be made but that after the appointed day no further allegations of misconduct can be made under the Standards for England regime. It also means that at the appointed day, allegations will be in the process of investigation and, further, that appeals against sanctions will be pending. Transitional measures are to be put in place to address this and the way in which they will operate is detailed in the following paragraphs:

- Any cases in the system at the appointed day will make their way through a transitional regime. This would meet the expectation of those who had made allegations that these would be properly dealt with. It also provides an elected member who has had an allegation made against them with the opportunity to clear their name.
- The government proposes that any investigations being undertaken by Standards for England transfer, on the appointed day, to the local authority that referred the investigation. It will be for that local authority to arrange for the conclusion of the investigation. The local authority's standards committee will remain established until the last complaint it is considering, referred either internally or from Standards for England, has been dealt with.
- Any cases with which the First-tier Tribunal (Local Government Standards in England) is dealing on the appointed day will be concluded by that tribunal. It will not receive any appeals against standards committee rulings after that date. The right of appeal will not exist for those cases standards committees deal with as they work their way through the transitional system. The government considers that the risk of protracted proceedings justifies this approach. The sanctions available to standards committees are significantly less severe than the sanctions available to the First-tier Tribunal (Local Government Standards in England).
- The government proposes that the suspension sanction is removed from standards committees for the transitional period. Hence the most a standards committee could do, for instance, is to issue a councillor with a censure or a request that they undergo training.

THE NOLAN PRINCIPLES

The **Committee on Standards in Public Life** is an advisory non-departmental public body established in 1994. The Committee's landmark First Report published in 1995 established ***The Seven Principles of Public Life*** often described as the Nolan Principles.

The Seven Principles of Public Life are:-

- **Selflessness** – Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other benefits for themselves, their family or their friends.
- **Integrity** – Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

- **Objectivity** – In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.
- **Accountability** – Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.
- **Openness** – Holders of public office should be as open as possible about all the decisions and actions they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.
- **Honesty** – Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.
- **Leadership** - Holders of public office should promote and support these principles by leadership and example.

Whilst it is anticipated that the statutory principles will be repealed, they have the potential to continue to be utilised more informally by people looking to develop their understanding of the standards expected of those in public office.

FIDUCIARY DUTY OF COUNCILLORS

A councillor is treated as a trustee of council assets, with a fiduciary duty to apply those assets in the public interest. Where a councillor abuses that trust, for example by disposing of those assets for personal gain, he/she can be held liable for the resulting loss - as with the House of Lords landmark ruling against Dame Shirley Porter in her capacity as Leader of Westminster City Council.

REGISTERING INTERESTS

The Local Government Act 2000 requires each councillor to make a declaration of his or her interests and to ensure that any addition or amendment to that declaration is made within 28 days of any change occurring in relation to his or her interests. The Bill intends to strengthen this by making it a criminal offence for a councillor to fail to register a relevant interest or withdraw for a personal interest, although the scope of this offence awaits Regulations.

CIVIL LAW

As councillors do not enjoy legal privilege they are subject to the same laws of **libel and slander** as the rest of the population. However, a council cannot itself be libelled so this remedy would only be available for the individual claiming they have been libelled or defamed rather than the authority itself.

Misfeasance in public office is a cause of action in the civil courts. It is an action against the holder of a public office, alleging in essence that the office-holder has misused or abused his power. There are two types of misfeasance in public office. One, known as 'targeted malice', occurs when a public office holder intentionally abuses his or her position with the motive of inflicting damage upon the claimant. The second is termed 'untargeted malice' and is committed by a public office holder who acts knowing that he/she has no power to undertake the act complained of.

EQUALITIES AND DISCRIMINATION LAW

Other civil law remedies would be available to individuals, but not councils, in the area of **equalities and discrimination law** for unlawful discrimination.

Discrimination law governs the right of individuals not be treated less favourably than others on grounds that include sex, race, religion, sexual orientation, age and disability. It also deals with the duty of public bodies to promote equality although the coalition government have announced that they are to repeal the social-economic duty on council's enacted in the Equalities Act 2010.

Councillors may, of course, be specifically named as a party to proceedings by claimants in discrimination proceedings.

CRIMINAL LAW

A councillor sentenced to a term of imprisonment of not less than 3 months is disqualified from office by virtue of **Section 80 of the Local Government Act 1972**.

A councillor using their position to support or influence a planning application for a project or venture that they have a financial interest in or otherwise using their position for self financial gain would be committing an offence under the **Fraud Act 2006**. Conviction under this Act carries a maximum penalty of 10 years imprisonment or an unlimited fine or both

The **Bribery Act 2010** provides a legal framework to combat bribery in the public (or private) sectors. It replaces the fragmented and complex offences at common law and those previously contained in the Prevention of Corruption Acts 1889-1916

The new Act creates two general offences covering the offering, promising or giving of an advantage, and requesting, agreeing to receive or accepting of an advantage in a public office. Again, the maximum penalty for individuals is 10 years' imprisonment or a fine, or both

The Crown Prosecution Service, rather than councils, would decide whether there was sufficient evidence to prosecute for criminal offences.

ELECTORAL OFFENCES

The relevant legislation relating to electoral offences can be found in the:

- The Representation of the People Act 1983 (the Act)
- The Representation of the People Act 1985
- The Political Parties, Elections and Referendums Act 2000
- The Electoral Administration Act 2006 ("EAA")

There are a number of electoral offences specified in the Representation of the People Act 1983 and 1985, with the key ones being:

Undue influence: Where an individual, directly or indirectly, makes use of or threatens to make use of force, violence or restraint; or inflicts or threatens to inflict injury, damage or harm in order to induce or compel any voter to vote or refrain from voting. This offence has been modified by the Electoral Administration Act to extend the effect of it to include intention and not just where an act has taken place. A

person may be guilty of undue influence if they impede or prevent, or intend to impede or prevent, the free exercise of the franchise of an elector.

Bribery: Where any individual, directly or indirectly, gives any money to any voter, in order to induce any voter to vote or not to vote for a particular candidate, or to vote or refrain from voting.

Treating: Where either before, during or after an election, any person, directly or indirectly, gives or provides (or pays wholly or in part the expense of giving or providing) any food, drink, entertainment or provision in order to influence corruptly any voter to vote or refrain from voting.

Personation: Where any individual votes as someone else (whether that other person is living or dead or is a fictitious person), either by post or in person at a polling station as an elector or proxy. Further, the individual voting can be deemed guilty of personation if they vote on behalf of a person they have reasonable grounds for supposing is dead or fictitious, or where they have reasonable grounds for supposing the proxy appointment is no longer in force.

Postal and proxy voting: Where an individual applies for a postal or proxy vote as some other person, otherwise makes a false statement in connection with an application for a postal or proxy vote, requests an Electoral Registration Officer or a Returning Officer to send a postal vote or associated communication to an address which has not been agreed by the person entitled to vote, or causes a postal or proxy voting communication not to be delivered to the intended recipient.

False information in nomination papers: Where a person gives false information in a nomination paper or in their consent to nomination, they are guilty of a corrupt practice.

False information in relation to registration: Where an individual, for any purpose in connection with the registration of electors, provides false information to the Electoral Registration Officer in connection with the registration of electors, that person is guilty of offence.

The Electoral Administration Act 2006 created two new offences which are:

Supplying false information to the Electoral Registration Officer, and

Making fraudulent application for a postal vote

The majority of electoral offences carry a maximum penalty of 1 or 2 years imprisonment or an unlimited fine.

AUDIT COMMISSION FOR LOCAL AUTHORITIES

Whilst powers of surcharge were abolished under the **Local Government Act 2000** an auditor appointed by the Audit Commission under the **Audit Commission Act 1998** will continue to play their role in investigating financial impropriety in local government and can recover financial losses from individuals councillors on the basis that he or she is responsible for the authority incurring unlawful expenditure. It is yet to be seen whether this power will be transferred to another body given the government's announced abolition of the Audit Commission.

LOCAL GOVERNMENT OMBUDSMAN

The Local Government Ombudsman was set up to investigate maladministration causing injustice. The law does not define maladministration but the Local Government Ombudsman currently defines its' mandate as follows:

“We can consider complaints about things that have gone wrong in the way a service has been given or the way a decision has been made, if this has caused problems for you”

Individual or collective actions or failings of councillors may amount to maladministration.

The government has announced that it intends to give the Local Government Ombudsman, the established body for investigating public complaints over the way they have been treated by their council, greater influence. For the first time local authorities will be legally compelled to implement the Ombudsman's findings.

BIAS, PREDISPOSITION AND PREDETERMINATION

This is a complex area of common law (i.e. judge-made law) that has implications for councillors individually and councils. It is wrong, therefore, to associate such matters exclusively as having been caused by Standards for England or as a direct result of the introduction of the standards regime under the Local Government Act 2000.

The long established legal position is that a councillor may not be party to decisions in relation to which he/she either is actually biased (in the sense that he/she has a closed mind and has pre-determined the outcome of the matter to be decided irrespective of the merits of any representations or arguments which may be put to him/her) or gives an appearance of being biased, as judged by a reasonable observer.

A finding of bias and/or predetermination can make a decision unlawful with costs and reputational implications for councils and the First-tier Tribunal (Local Government Standards, England (formerly the Adjudication Panel for England) has held that such a finding could be a breach of Paragraph 5 of the current code of conduct which could lead to the disqualification of a councillor.

The Localism Bill aims to clarify the rules on pre-determination and bias: the Bill provides that an indication by a councillor that he takes a particular view on a matter is not to be taken as evidence of a closed mind. The intention is that the normal activities of a councillor, such as campaigning, talking with constituents, expressing views on local matters and seeking to gain support for those views, should not lead to an unjust accusation of having a closed mind on an issue that can lead to a legal challenge. The government claims that that this will give councillors the assurance that they can campaign, discuss and vote on issues with confidence and so encourage more people to stand in local elections. In practice, the Court of Appeal has already asserted that such activities will not preclude participation in decision-making, unless the councillor is so committed that they are not even prepared to listen to the evidence, but courts may fret that, where a councillor says that he has a closed mind on a matter, the court cannot take this assertion into evidence;

The government previously announced that a power of electoral recall of councillors is also being proposed to allow for the removal of councillors mid term for cases of 'serious misconduct'; although this has also not been included in the Localism Bill.

MISCELLANEOUS

It will remain open to councils to agree local arrangements whereby councillors could be censured for breaching local codes of conduct and other local protocols; including other activity regarded as inappropriate and to remove councillors from committees, outside bodies and other appointments, when appropriate. Whilst there will be a need for local authorities to reflect constitutional changes as a result of abolition of the current standards regime, other local protocols covering, for example, member/officer relations and guidelines regarding use of council resources, will continue to have effect and be subject to any local sanctions adopted by individual councils, though there will be no statutory sanctions against an offending member and therefore no powers to suspend or disqualify councillors.

FURTHER CONTACT

Chris Bowron, Local Government Group e-mail – chris.bowron@local.gov.uk

Appendix 3

The future of the standards regime for elected Members

Consultation Document

Overview:

The Government set out its intention to abolish the “Standards Board regime” in the coalition agreement published in May 2010. It is the Government’s intention to effect the abolition through the Localism Bill, which was introduced to Parliament on 3 December 2010. If the Bill is enacted, it is likely that Standards for England (which oversees the standards regimes in local authorities) will cease to investigate complaints in late 2011 and be formally abolished in early 2012.

The Government considers that the Standards regime, consisting of a centrally prescribed model code of conduct, standards committees with the power to suspend or disqualify a local authority member and regulated by a central quango was inconsistent with the principles of localism. In addition, there was a concern that the regime has been used as a vehicle for vexatious or politically motivated complaints. The Government considers that it is the right and responsibility of the electorate to determine who represents them and that the abolition of the standards regime will restore power to local people.

Local authorities will be free, should they choose, to establish voluntary standards committees to consider complaints about the conduct of elected Members. Such committees will, subject to councils’ local constitutions, be able to censure but will not be able to suspend or disqualify members from council membership.

In summary, the Government’s proposals are:

- To abolish Standards for England
- To remove the First Tier Tribunal’s (Local Government Standards in England) jurisdiction over Member conduct
- To remove the national code of conduct for elected members (councillors) and the requirement to have a standards committee
- To allow Councils to choose whether or not they wish to have a local code or a standards committee
- To create a criminal offence relating to the failure to register or declare interests

Consideration of the draft proposals by Kent County Council’s Standards Committee:

The Standards Committee has considered the Government’s proposals and made the following conclusions:

- The principle of there being a voluntary code of conduct for Members, together with a mechanism to investigate alleged breaches of the voluntary code was supported, but with more emphasis on local resolution and informal action, such as targeted training and advice to Members.
- Public confidence that the County Council took ethical conduct at Member level seriously was important
- There should be a role for people who are independent of the County Council in relation to the operation of the local arrangements
- A consultation exercise should be undertaken with elected members, staff, District and Borough Councils in Kent and the public, in order to inform the County Council's decisions in this area

Consultation Questions

Code of Conduct

Under existing legislation, all local authorities are required to adopt a model code of conduct (attached), which all Members are required to abide by. Under the government's proposals, the need for a statutory, model code will be removed, but local authorities will be free to adopt their own voluntary code.

1. *Should Kent County Council adopt its own voluntary code of conduct for its elected Members and, if so, what should the code contain?*

Standards Committee

Under existing legislation, all local authorities are required to establish a Standards Committee, which includes independent members, to promote and maintain high standard of conduct by Members, monitoring compliance with the Code, directing appropriate training for Members and dealing with complaints about the conduct of Members. Under the Government's proposals, the need to have a Standards Committee will be removed, but local authorities may decide to have such a Committee.

2. *Should Kent County Council retain a Standards Committee and, if so, what should its role be?*

The role of independent Members

Under existing legislation, the County Council is required to appoint one or more independent people to serve on the Standards Committee and one of these independent people must be the Chairman of the Committee. Under the Government's proposals, there will no longer be a need to have independent representation on any voluntary Standards Committee.

3. *Should independent people be involved in advising the County Council and its members on maintaining high standards of ethical conduct and, if so, how should independent people be involved?*

Dealing with complaints

Currently, the Council's Standards Committee has a duty to examine and investigate complaints that a member has breached the code of conduct. If, following a formal investigation and hearing, the Standards Committee decides that the Member is in breach of the code, the Committee must decide whether any formal action is appropriate. Such action can include suspension and disqualification from duty in the most serious cases. Under the Government's proposals, any voluntary Standards Committee will be able to censure but not be able to suspend or disqualify members.

4. *Should Kent County Council have an internal system for dealing with complaints about the conduct of its Members and, if so, what form should this take?*

Registering and declaring interests

Under existing legislation, all elected Members must register their interests (e.g. nature of employment, land and property holdings) within 28 days of being elected. Members can participate at meetings if they have an interest in a particular matter, but may not be able to vote if there is a potential conflict between their interest and the item under discussion. The Government is committed to ensuring that elected Members do not abuse their office for personal gain by putting their personal interests before those of the community or local area they represent. Under the Government's proposals, Members will be required to continue to register and declare their interests and will not be allowed to use their position improperly for personal gain. The Government intend that wilful failure to comply with these requirements will constitute a criminal offence.

5. *What are your views about the Government's proposals to make it a criminal offence to wilfully fail to comply with the need to register and declare their interests?*

6. *Do you have any other views about the Government's proposals in relation to the ethical standards regime?*

Proposed consultees:

- The Corporate Management Team
- All Members of Kent County Council via the Members' Information Bulletin
- All Kent MPs
- All District/Borough Council Leaders and Chief Executives via The Kent Forum
- Members of the public via kent.gov.uk
- Representatives of the local media in Kent

- The Standards Committees of all Kent District/Borough Councils and the Kent Police Authority and the Kent and Medway Fire and Rescue Authority

By: Peter Sass - Head of Democratic Services
To: Standards Committee – 14 July 2011
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 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)

Peter Sass – Head of Democratic Services

6 July 2011

Standards Committee Work Programme – 2010/11

Meeting	Item	Source (*Standard item unless stated)
14 July 2011	The Localism Bill – proposed changes to the Standards regime	
	The Standards Committee’s Annual report to the County Council	
	Work Programme and Future meeting dates	
17 November 2011	The Localism Bill – proposed changes to the Standards regime	
	Work Programme and Future Meeting dates	