

STANDARDS COMMITTEE

Thursday, 26th April, 2012

9.30 am

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



AGENDA



STANDARDS COMMITTEE

Thursday, 26th April, 2012, at 9.30 am

Bowl Room, Sessions House, County Hall Maidstone

Ask for:

Peter Sass

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, OBE, DL and 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 7 March 2012 (Pages 1 - 4)
- 4 Options for implementing a new standards regime (Pages 5 - 36)
- 5 Any other urgent business
- 6 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
(01622) 694002

Wednesday, 18 April 2012

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.

This page is intentionally left blank

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, 7 March 2012.

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

IN ATTENDANCE: Mr P Sass (Head of Democratic Services) and Mr G Wild (Director of Governance and Law)

UNRESTRICTED ITEMS

37. Minutes of the meeting held on 17 November 2011

(Item 3)

RESOLVED: that the minutes of the meeting held on 17 November 2011 are correctly recorded and that they be signed by the Chairman subject to the deletion of Mrs N Ahmed OBE, DL and Mr P Gammon MBE from the list of Members who were present as their names appeared twice.

38. Localism Act 2011 - Changes To Standards Regime

(Item 4)

(1) The Committee received a report from the Director of Governance and Law which advised the Committee of:

- (a) the provisions relating to the standards regime contained in the Localism Act 2011;
- (b) the changes which the Council will need to make to its Standards arrangements as a result; and
- (c) options for making these changes.

(2) The Committee was invited to make comment on these options for further consideration by both officers and Members, with a view to submitting a report containing final proposals in early May, so that they can be adopted by the County Council at its annual meeting on 17 May 2012.

(3) Members made the following comments on the report:

Member Annual Reports

(4) There were a number of different views expressed by members of the Committee, including:

- (a) disappointment that it had been decided not to go ahead with Annual reports this year;

- (b) concern about the inclusion of remuneration from other public bodies in an Annual Report which was about service as an elected Member of Kent County Council;
- (c) completion of the Annual Report should be voluntary; and
- (d) the template for the Annual Report should be modernised

Code of Conduct for Members

(5) The Committee noted that work was being conducted by the Local Government Association on the potential production of a single national code.

(6) Another option was to work with the Borough and District Councils, Medway Council and other public bodies such as the Kent and Fire Rescue Authority to achieve a single code across the county.

Standards Committee

(7) The Committee considered a number of options for the range of activities that would remain as a consequence of the Localism Act, following the abolition of the Standards Committee on 30 June 2012.

(8) There was unanimity that a new committee should be established with both elected and independent Members and the work of the Committee should not be absorbed into the work of one of the other Council Committees, e.g. the Governance and Audit Committee.

(9) The involvement of independent persons on the Committee was fundamental in terms of public perception and one which should be continued with the new arrangements.

(10) The consensus view was that a new Committee should be a minimum of 3 elected Members and 3 independent Members

Arrangements for Dealing with Misconduct Debates

(11) The Localism Act abolishes the current local determination regime. Instead, the Council will be required to have in place arrangements under which allegations that Members (and co-opted members with voting rights) have breached the Code of Conduct can be investigated and decisions on those allegations taken.

(12) Members of the committee had a range of views including:

- dealing with complaints by a Panel of three one of whom should be an independent person;
- having an equal number of elected members and independent persons;
- a committee with equal elected members and independent persons but the independent persons would not have a vote. Reasons would have to be given in disregarding any of the views expressed by an independent person as a Member of the Committee; and

- Consider including on the Committee any member who is a Justice of the Peace.

(13) The role of the Monitoring Officer to seek an informal resolution would continue as part of the new regime.

(14) In conclusion, the Committee agreed that the arrangement for dealing with misconduct complaints should be as simple as possible and have as much flexibility as possible to achieve a local resolution to a complaint

(15) Whilst recognising that there is no requirement to put in place any appeals mechanism against decisions on complaints, either for complainants or the Member who is the subject of the complaint the consensus of the Committee was there should be an appeals mechanism.

Independent Persons

(16) In response to a request from the Kent and Medway Fire Authority to jointly appoint and share Independent Persons between the two authorities the Committee agreed this would be sensible.

Interests

(17) It was important for the Committee to see as soon as they are available the regulations which define "Disclosable Pecuniary Interests (DPIs). Once received, Members would be asked to complete a new declaration on any DPIs.

(18) The Committee agreed that it would be helpful for the Committee to hold a further meeting in late April or early May so that it can advise the County Council on proposals for a new Code and for the new procedures assuming the regulations on "Disclosable Pecuniary Interests" had been published.

(19) RESOLVED that:

- (a) the comments on the options for a new standards regime form part of the ongoing discussion in preparing a report for the County Council on 17 May 2012; and
- (b) delegate to the Head of Democratic Services the authority to commence the recruitment process for the Independent Person(s), in consultation with the Deputy Leader and the Chairman of the Standards Committee, on the basis of it being a shared appointment between Kent County Council and the Kent and Medway Fire and Rescue authority.

39. Member Role Descriptions and New Governance Arrangements for Kent County Council (Item 5)

(1) The Committee was invited to consider a new role description for the Chairman of the proposed Cabinet Committees, the Chairman of the Scrutiny Committee, the locality Lead/Vice Chairman of the Locality Board and amended role descriptions for the Leader, Deputy Leader and Cabinet Members.

(2) RESOLVED: that the role descriptions be endorsed for inclusion in the report on the new governance arrangements for Kent County Council to be considered by the Selection and Member Services Committee on 14 March and the County Council on 29 March 2012.

40. Date of Next Meeting

(Item 7)

RESOLVED: that a meeting of the Standards Committee be held on Thursday 26 April 2012 at 10am and the three Group Leaders be invited to attend this meeting.

By: Geoff Wild, Director of Governance and Law
To: Standards Committee – 26 April 2012
Subject: Options for implementing a new standards regime
Classification: Unrestricted

FOR DECISION

SUMMARY

The report to the Committee on 7 March 2012 detailed the requirements of the Localism Act for upholding standards of conduct by elected Members and the options for implementation.

On the basis of the decisions from the 7 March meeting, this report invites the Committee to formulate proposals for a new standards regime, so that they can be finalised and adopted by the Council at its annual meeting on 17 May.

Background

1. As a result of the Standards provisions in the Localism Act, all local authorities will be required to:
 - (a) adopt a Code of Conduct for Members (with considerable discretion about what it contains)
 - (b) establish a procedure for dealing with complaints that Members have breached the Code and
 - (c) appoint one or more 'Independent Persons' to assist with the consideration of complaints
2. The Government has indicated that the date for implementation of these changes will be 1 July 2012.

Introduction

3. The report to Standards Committee on 7 March (**Appendix 1**) sets out the changes that are required and options for making those changes.
4. Since the March meeting of the Standards Committee, both the Local Government Association (LGA) and the Department of Communities and Local Government (DCLG) have published example codes of conduct (**Appendix 2** and **Appendix 3** respectively; also attached at **Appendix 4** is KCC's current Code of Member Conduct)
5. The latest indications from DCLG are that the Statutory Instrument relating to Disclosable Pecuniary Interests (DPIs) is expected to be laid before Parliament

in draft form at the end of April/beginning of May 2012, although it will not be made until 40 days after that date.

6. The Committee is invited, based upon its previous recommendations and discussions with the three Group Leaders, to formulate proposals for a new standards regime, so that they can be finalised and adopted by the Council at its annual meeting on 17 May.

A new standards regime

7. In practical terms, the Council is required to:
 - (a) adopt and approve a new code of Member conduct;
 - (b) determine arrangements for dealing with allegations of a breach of the code;
 - (c) determine the committee structure and membership for administering the code;
 - (d) appoint at least one 'independent person';
 - (e) determine what interests should be entered in the register of interests; and
 - (f) provide the necessary training for committee members and officers.
8. At the previous meeting of Standards Committee, Members resolved as follows:

Annual reports

- (a) the template for Annual Reports should be modernised
- (b) only remuneration in respect of service as an elected Member of Kent County Council should be included
- (c) completion of the Annual Report should be voluntary

Member Code of Conduct

In addition to the work being carried out by DCLG and LGA on a single national code, the option of working with Borough and District Councils, Medway Council and the Kent and Medway Fire and Rescue Authority (KMFRA) on the adoption of a single code across the county should be explored.

Standards Committee

A new dedicated Committee should be established comprised of at least three elected and three independent Members.

Arrangements for dealing with misconduct complaints

A number of views were expressed about what arrangements should be put in place for dealing with alleged breaches of the Code of Conduct, with a consensus that the arrangement should be both simple and flexible. The options put forward were:

- (a) **Option 1:** A panel of three, one of whom is an independent person
- (b) **Option 2:** An equal number of elected Members and Independent Persons
- (c) **Option 3:** An equal number of elected Members and Independent Persons but with Independent Persons having no vote. Reasons would have to be given for disregarding the views expressed by an Independent Person on the Committee
- (d) **Option 4:** That a member who is a Justice of the Peace (JP) be included on the Committee

The Committee also felt that the role of the Monitoring Officer in seeking an informal resolution of complaints against Members should continue, and that there should be an appeals mechanism, even though the Act does not require it.

Independent Persons

In response to a request from the KMFRA, it was agreed that KCC should consider jointly appointing and sharing Independent Persons.

Next steps

- 9. The Committee is invited to give its views on:
 - (a) The form of Code of Conduct that should be adopted;
 - (b) The committee structure and membership for administering the code;
 - (c) The form of the appeals mechanism; and
 - (d) The arrangements for recruiting the Independent Persons.
- 10. At its meeting on 17 May 2012, it is proposed that the Council will be asked to:
 - (a) adopt a new Code of Conduct;
 - (b) agree the formal procedures for dealing with misconduct complaints;
 - (c) agree the formal procedures for granting dispensations; and
 - (d) appoint the Independent Person(s)

RECOMMENDATIONS

11. The Committee is requested to:

- (a) consider the contents of the report and appendices; and
- (b) having heard the views of the three Group Leaders, comment upon the most appropriate format of the new standards regime.

By: Geoff Wild, Director of Governance and Law
To: Standards Committee – 7 March 2012
Subject: Localism Act 2011 – Changes to Standards Regime
Classification: Unrestricted

FOR DECISION

SUMMARY

This report advises the Committee of:

1. the provisions relating to the Standards regime contained in the Localism Act 2011;
2. the changes which the Council will need to make to its Standards arrangements as a result; and
3. options for making these changes.

The Committee is invited to make comments on these options for further consideration by both officers and Members, with a view to submitting a report containing final proposals in early May, so that they can be adopted by the Council at its annual meeting on 17 May.

Background

1. The Government's Localism Bill completed its passage through Parliament and received Royal Assent as the Localism Act 2011 on 15 November 2011. Following Government amendments made during the Bill's passage through the House of Lords, the Standards provisions in the Act are significantly different to those contained in the original Bill. Specifically, all local authorities will now be required to:
 - (a) adopt a Code of Conduct for Members (with considerable discretion about what it contains)
 - (b) establish a procedure for dealing with complaints that Members have breached the Code and
 - (c) appoint one or more 'Independent Persons' to assist with the consideration of complaints.
2. The Act will require the Council to make major changes to its Standards arrangements, and the Government has recently indicated that the date for implementation of these changes will be 1 July 2012. This report sets out the

changes that will be required and, where possible, options for making those changes. The Committee is invited to make comments on the options and the Committee's views will be developed by Officers and Members to draft final proposals for consideration by the Committee in late April/early May, prior to being reported to the Council on 17 May for determination. Once adopted, it is proposed that there would be a concentrated period of training and briefing for Members on the new arrangements and the revised code before they come into operation on 1 July 2012.

Requirements of the New Standards Regime under the Localism Act 2011

Duty to Promote and Maintain High Standards of Conduct

3. The Council will remain under a statutory duty to promote and maintain high standards of conduct by its Members. It is proposed that in order to comply with this duty, the Council will:
 - (a) Adopt a new Code of Member Conduct
 - (b) Set up and maintain arrangements for the receipt and investigation of complaints
 - (c) Continue with its Member Development Programme
 - (d) Continue to provide officer Support to Members and the decision-making process
 - (e) Continue with the existing system of Members' Annual Reports

Code of Conduct for Members

4. The current Model Code of Conduct and Ten General Principles will be repealed, and Members will no longer have to give an undertaking on appointment to the Council to comply with the Code of Conduct. Instead, the Council will be required to adopt a new Code (or revise its existing Code) to govern the conduct of its Members (but only when they are acting in their capacity as Members). The new Code must, when viewed as a whole, be consistent with the following seven principles:
 - (a) Selflessness
 - (b) Integrity
 - (c) Objectivity
 - (d) Accountability
 - (e) Openness
 - (f) Honesty
 - (g) Leadership
5. The Ten General Principles in the existing Code also included "personal judgement", "respect for others", "duty to uphold the law" and "stewardship (of the Council's resources)". Given that these will no longer automatically apply,

the Committee's views are sought as to whether they should be included in the new Code at the Council's discretion.

6. The new Code must also include provisions in respect of the registration and disclosure of "pecuniary interests" (which will be defined in Regulations to be made under the Act) and other interests (see paragraph 17, below).
7. The Council will have discretion as to what it includes within its new Code, provided that it is consistent with the seven principles and covers interests. The possibility exists, of course, for different authorities to adopt Codes containing widely different discretionary provisions, which will create problems for Members who serve on more than one local authority. This problem is particularly relevant for KCC because many of its Members are twin, triple or even quadruple hatted, being also members of district/borough councils, Town/Parish Councils and/or the Fire Authority. It is expected that, once the Regulations defining pecuniary interests are issued, a model Code will be issued by one of the national local government organisations and will be discussed and agreed amongst the Kent authorities, to ensure that, so far as possible, a consistent and uniform approach is adopted. At this stage, therefore, the Committee is invited to support the development of a Kent-wide Code of Conduct, for the reasons stated above, and note that further work will be done on this important aspect between now and the next meeting of the Committee.

Standards Committee

8. The Act repeals the requirement for English authorities to have a statutory Standards Committee. The Council will therefore need to abolish its existing Standards Committee with effect from 30 June 2012. The Committee's Terms of Reference are attached as **Annex 1**. While the Act transfers some of these (e.g. interest dispensations, politically-restricted post exemptions, etc) elsewhere, the Council will need to decide how to deal with the day-to-day functions relating to promoting and maintaining high standards of conduct (advice and training, Code of Conduct, procedure for dealing with complaints against Members) and the Committee's additional role of reviewing Members' Annual Reports each year. There are various options for doing this as set out below:
 - (a) Keep the existing Standards Committee, with its existing composition, as an advisory committee under section 102(4) of the Local Government Act 1972. However, the usefulness of an advisory committee would be limited as it would not be able to take decisions about the handling of any complaints that may arise. In addition, it is likely that the Council would expect in future to receive its independent advice on Standards issues from the one or more 'Independent Persons' that the Localism Act requires it to appoint.
 - (b) Re-establish the Standards Committee as an Ordinary Committee of the Council. This would mean that its Members would all be drawn exclusively from the Members of the Council on the basis of political proportionality, unless the Council decided to disapply proportionality. The Independent

Person(s) could be co-opted onto the Committee but would not have any voting powers.

- (c) Add these functions to the Terms of Reference of an existing Committee of the Council (the Governance and Audit Committee appears to offer the best fit), with the Independent Person(s) invited to attend meetings for discussion of any standards-related items
 - (d) Leave these functions to be dealt with by the full Council.
9. In considering which of the above options is most suitable, it is worth recalling that the workload of the Standards Committee over the last few years has been mixed and unpredictable. The Council received and dealt with a variety of formal complaints about the conduct of Members when the rules on local determination were introduced in May 2008, but since then, the Committee's workload has been relatively light, straightforward and manageable. The Committee has been clear in its recent Annual Reports to the Council that the general level of Member Conduct within the Council is very good and that KCC's Standards Committee is not as busy as at some other councils.

Arrangements for Dealing with Misconduct Complaints

10. The Act abolishes the current local determination regime. Instead, the Council will be required to have in place arrangements under which allegations that Members (and co-opted Members with voting rights) have breached the Code of Conduct can be investigated and decisions on those allegations taken. This means that the arrangements must set out in some detail the process for dealing with complaints of misconduct and the actions that may be taken against a Member who is found to have failed to comply with the Code.
11. Because there will no longer be any statutory powers under which the Standards Committee or Monitoring Officer can deal with complaints, the Council will need to delegate appropriate powers to the relevant Committee and/or the Monitoring Officer, including decisions on whether to investigate a complaint, how to manage and investigate them, how to deal with "breach" and "no breach" decisions, and actions/sanctions available where a breach is found.
12. The Act abolishes existing sanctions under the local determination regime and does not give the Council any new powers to impose sanctions, such as suspension or imposing a requirement on Members to undergo training or make an apology. Thus, where a failure to comply with the new Code of Conduct is found, the range of actions which the Council can take is limited to what was available before the Standards regime introduced by the Local Government Act 2000 took effect. In practice, this might include the following:
- (a) Formally reporting the findings to full Council (naming and shaming);
 - (b) Recommending to the Leader of the Member's Group (or in the case of ungrouped Members, recommending to the Council or the Committees concerned) that they be removed from any or all of the Committees on which they serve;

- (c) Removing the Member from any or all of their appointments to outside bodies;
 - (d) Instructing the Monitoring Officer to arrange training for the Member;
 - (e) Restricting the Member's access to Council resources (e.g. internet) or excluding the Member from the Council's premises, except as necessary to attend formal Council or Committee meetings.
13. There is no requirement to put in place any appeals mechanism against decisions on complaints, either for complainants or the Member who is the subject of the complaint.

Independent Person(s)

14. The "arrangements" must include provision for the appointment by the Council of at least one Independent Person (IP), whose views:
- (a) Must be sought, and taken into account, before the Council makes a decision on an allegation that it has decided to investigate;
 - (b) May be sought by the Council in other circumstances;
 - (c) May be sought by a Member of the Council who is the subject of an allegation.
15. The IP cannot be, or have been within the previous five years, a Member, co-opted Member or officer of the Council, nor can they be a relative or close friend of any existing Member, co-opted Member or officer. The definition of 'co-opted Member' in the Act appears to preclude the existing independent members of the Council's Standards Committee from appointment as one of its IPs. It would therefore be sensible for the Council to treat the existing independent members of its Standards Committee as ineligible for appointment as an IP. Fortunately, the Act does not prevent existing independent members of an authority's Standards Committee from being appointed as an IP by another authority, and it is to be hoped that this will ensure that the expertise in standards issues built up over the last decade or so by independent members of Standards Committees is not completely lost to local government.
16. The Act gives discretion to local authorities to appoint more than one IP, and to pay them allowances and expenses, but provides that each IP must be consulted before any decision is taken on a complaint which has been investigated. There would, therefore, appear to be little advantage for the Council to appoint more than one IP, although it may be sensible to retain one or more candidates as reserve IPs who can be appointed at short notice, without the need for re-advertisement, in case the IP stands down or is unavailable for any reason. As it is clear that this particular aspect of the Act will not alter and is not subject to further regulations, it is proposed that officers be instructed to commence the recruitment process for the IPs and delegate authority to the Head of Democratic Services to place the necessary advertisements, in consultation with the Deputy Leader and the Chairman of the

Standards Committee. Before doing so, however, the Committee is invited to advise on a request from the Kent and Medway Fire and Rescue Authority (KMFRA) to jointly-appoint and share IPs between the two authorities.

Interests

17. The Act abolishes personal and prejudicial interests. Instead, Regulations will define “Disclosable Pecuniary Interests” (DPIs). The Monitoring Officer is required to maintain a Register of Interests (both DPIs and ‘discretionary interests’ – other interests, registration and disclosure of which the authority chooses to include in its Code of Conduct), which must be available for public inspection and available on the authority’s website (as is the Council’s existing Register). At present, it is not known how DPIs will be defined, but they are expected to be broadly similar to the current prejudicial interests. The Act extends the requirement for registration to cover not just the Member’s own interests, but also (if the Member is aware of the interest) those of their spouse or civil partner, or someone living with the Member in a similar capacity.
18. Members must register all DPIs within 28 days of their election or appointment. Failure to register DPIs is made a criminal offence, but would not prevent the Member from acting as a Member. Failure to register discretionary interests would not be a criminal offence, although it would, of course, be a failure to comply with the Code.
19. There is no longer a continuing requirement for a Member to keep their DPI registration up to date, except on re-election or re-appointment. Thus, Council Members will only be legally obliged to update their DPI registration once every four years. However, the Committee’s views are sought on whether it would be sensible for the Council’s Code of Conduct to require Members to update their DPI registrations as and when changes occurred. In addition, all KCC Members are currently invited to review and update their existing register of interests every 12 months and, again, the Committee’s views are sought as to whether this should continue under the new arrangements. In any case, Members will be required to register a previously-unregistered DPI if they have to disclose it at a meeting they attend because it relates to a matter discussed there. Whenever Members give notification of additional DPIs, the Monitoring Officer has to ensure that they are entered onto the Register of Interests.
20. If a Member has a DPI in any matter considered at a meeting at which that Member is present, and the Member is aware of that interest, they must disclose the interest to the meeting. It is not clear whether the Member needs to explain the nature of the interest, and the Committee’s views are sought as to whether this should be covered by the new Code. This requirement applies to Council and committee meetings, but not explicitly to other informal meetings, although again, the Committee’s views are sought as to whether this should be covered by the new Code.
21. The Act states that Members do not need to disclose a DPI at a meeting if they have already registered it, or even just sent off a request to the Monitoring Officer to register it (a “pending notification”). This would mean that other Members, officers, and members of the public attending the meeting would not

know about the interest unless they had checked the Register of Interests prior to the meeting. This might be considered as a potential loophole in the legislation and the Committee's views are sought as to whether the new Code should require Members to disclose any DPI (whether previously registered or not) at a meeting.

22. If a Member attending a meeting has a DPI in any matter to be discussed at that meeting, they must not participate in any discussion of, or vote on, the matter. To do so would be a criminal offence. The Act does not require the Member to leave the room while the matter is being considered, but the Committee's views are sought as to whether the new Code and Standing Orders should provide for this.

Sensitive Interests

23. The Act effectively re-enacts the existing provisions on Sensitive Interests. Thus, where a Member is concerned that disclosure of the details of an interest (whether a DPI or a discretionary interest) at a meeting or in the Register of Interests would lead the Member, or a person connected with them, being subject to violence or intimidation, that Member may request the Monitoring Officer to agree that the interest is a 'Sensitive Interest'. If the Monitoring Officer agrees, then the detail of the interest can be excluded from the published Register of Interests, and the Member merely has to disclose the existence of the interest, rather than the detail of it, at meetings where the matter to which the interest relates is being discussed.

Dispensations

24. The Act significantly changes the provisions on dispensations from the legal requirements relating to interests. First, the power to grant dispensations will be transferred from the Standards Committee to the Council itself, which can then delegate dispensation decisions to a committee or to the Monitoring Officer. Second, the grounds for the granting of dispensations will be changed to the following:
 - (a) Where so many Members of the decision-making body have DPIs in a matter that it would "impede the transaction of the business" (i.e. the meeting would be inquorate)
 - (b) Where, without a dispensation, the representation of different political bodies on the body transacting the business would be so upset as to alter the likely outcome of any vote on the matter
 - (c) Where it is considered that granting the dispensation is in the interests of persons living in the authority's area
 - (d) Where it is considered otherwise appropriate to grant a dispensation
25. Any grant of a dispensation must specify how long it is to remain in effect, up to a maximum of four years.

Next Steps

26. The Committee is invited to give its views on:
 - (a) the principle of adopting a new Code of Conduct
 - (b) the future of the Standards Committee
 - (c) arrangements for considering Standards issues after 30 June 2012
 - (d) the arrangements for recruiting the Independent Person(s), as detailed in the recommendations (see paragraph 29)
27. At its meeting on 17 May 2012, it is proposed that the Council will be asked to:
 - (a) appoint the Independent Person(s)
 - (b) adopt a new Code of Conduct
 - (c) agree the formal procedures for dealing with misconduct complaints
 - (d) agree the formal procedures for granting dispensations

It would be helpful if the Standards Committee could hold a further meeting in late April or early May so that it can advise the Council on proposals for a new Code and for the new procedures, by which time the Regulations on DPIs are expected to be published.

RECOMMENDATIONS:

28. The Committee is requested to:
 - (a) consider the contents of the report and comment as appropriate on the proposed changes to its Standards arrangements as follows:
 - (i) the proposals in paragraph 3 of the report in relation to the ongoing compliance with the statutory duty to promote and maintain high standards of conduct by Members;
 - (ii) Whether the general principles of conduct in public life that will no longer automatically apply to Members under the new arrangements, as described in paragraph 5 of the report, should be included in the new Code of Conduct;
 - (iii) Whether to support proposals for the development of a Kent-wide Code of Conduct, for the reasons outlined in paragraph 7 of the report;
 - (iv) Comment upon the most appropriate option for the future of the Standards Committee's functions, as described in paragraphs 8 and 9 of the report;

- (v) Comment upon the number of Independent Persons KCC should appoint, as described in paragraph 16 of the report;
 - (vi) Whether Members should be required under the new Code of Conduct to advise the Monitoring Officer of any changes to their Register of Interests within 28 days of being aware of the change and whether all Members should be requested to update their Register of Interests every 12 months, as described in paragraph 19 of the report;
 - (vii) Whether, under the new Code of Conduct Members should be required to disclose any pecuniary interests (whether previously registered or not) at formal and informal meetings; and
 - (viii) Whether, under the new Code of Conduct Members should be required to explain the nature of any pecuniary interest when it is disclosed at formal and informal meetings, as described in paragraph 20 of the report;
 - (ix) Whether, under the new Code of Conduct Members should be required to leave the meeting room while a matter is being considered in which they have declared a pecuniary interest
- (b) Subject to the Committee's views on recommendation (a)(v) above, delegate authority to the Head of Democratic Services to commence the recruitment process for the Independent Person(s), in consultation with the Deputy Leader and the Chairman of the Standards Committee, on the basis of it being a shared appointment between KCC and the Kent and Medway Fire and Rescue Authority (KMFRA)

This page is intentionally left blank

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 to 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 & Member Services Committee.

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

This page is intentionally left blank

Template Code of Conduct

As a member or co-opted member of *[X authority]* I have a responsibility to represent the community and work constructively with our staff and partner organisations to secure better social, economic and environmental outcomes for all.

In accordance with the Localism Act provisions, when acting in this capacity I am committed to behaving in a manner that is consistent with the following principles to achieve best value for our residents and maintain public confidence in this authority.

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 material 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 that 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.

The Act further provides for registration and disclosure of interests and in *[X authority]* this will be done as follows: *[to be completed by individual authorities]*

As a Member of *[X authority]*, my conduct will in particular address the statutory principles of the code of conduct by:

- Championing the needs of residents – the whole community and in a special way my constituents, including those who did not vote for me - and putting their interests first.

- Dealing with representations or enquiries from residents, members of our communities and visitors fairly, appropriately and impartially.
- Not allowing other pressures, including the financial interests of myself or others connected to me, to deter me from pursuing constituents' casework, the interests of the [county][borough][Authority's area] or the good governance of the authority in a proper manner.
- Exercising independent judgement and not compromising my position by placing myself under obligations to outside individuals or organisations who might seek to influence the way I perform my duties as a member/co-opted member of this authority.
- Listening to the interests of all parties, including relevant advice from statutory and other professional officers, taking all relevant information into consideration, remaining objective and making decisions on merit.
- Being accountable for my decisions and co-operating when scrutinised internally and externally, including by local residents.
- Contributing to making this authority's decision-making processes as open and transparent as possible to enable residents to understand the reasoning behind those decisions and to be informed when holding me and other members to account but restricting access to information when the wider public interest or the law requires it.
- Behaving in accordance with all our legal obligations, alongside any requirements contained within this authority's policies, protocols and procedures, including on the use of the Authority's resources.
- Valuing my colleagues and staff and engaging with them in an appropriate manner and one that underpins the mutual respect between us that is essential to good local government.
- Always treating people with respect, including the organisations and public I engage with and those I work alongside.
- Providing leadership through behaving in accordance with these principles when championing the interests of the community with other organisations as well as within this authority.



Bob Neill MP
Parliamentary Under Secretary of State

Department for Communities and Local Government
Eland House
Bressenden Place
London SW1E 5DU

Tel: 0303 444 3430
Fax: 0303 444 3986
E-Mail: bob.neill@communities.gsi.gov.uk

www.communities.gov.uk

To all Local Authority Leaders

11 April 2012

Dear Colleague,

I am writing to let you know that my Department is today making available an illustrative text for a code of conduct for members and co-opted members of local authorities. This text provides local authorities with an example of what a local authority's code of conduct for the new standards arrangements might look like.

We have made provision in the Localism Act 2011 for the abolition of the Standards Board regime, and the Standards Board itself was abolished on 31 March. The Act also makes provision for new standards arrangements including the involvement of an independent person in allegations of misconduct, a new criminal offence for failing to declare or register interests, and the requirement for local authorities to adopt a code of conduct that is consistent with the seven 'Nolan' principles of standards in public life; selflessness, integrity, objectivity, accountability, openness, honesty and leadership, as well as making provision for the registration and disclosure of pecuniary and non-pecuniary interests.

The model code of conduct was a key part of the Standards Board regime, a top-down, centrally imposed regime that became a vehicle for vexatious complaints. Moving to new arrangements means that local authorities will be free to discard the model code and adopt their own, Nolan compliant, code. In order to give local authorities an idea of what a Nolan compliant model code featuring provisions about pecuniary and not pecuniary interests might look like, I am attaching an example. As you will see, it is very different to the model code that formed part of the Standards Board regime, while clearly requiring that members act in a manner that promotes and maintains high standards of conduct.

Together, these measures will ensure high standards in public life, prevent corruption, and put a stop to petty, vexatious complaints that consume local authority resources and damage the reputation of local government.

We have produced this example of a local code to provide certainty to local authorities who wish to adopt a lighter touch code compared to the centralist, top-down model code, and to help local authorities (especially parish councils) who might otherwise consider they need to commit valuable resource to creating a code to ensure compliance with the Localism Act. I hope you find the example code of conduct helpful.

A handwritten signature in black ink, appearing to read "Bob Neill", written in a cursive style.

BOB NEILL MP

Illustrative text for code dealing with the conduct expected of members and co-opted members of the authority when acting in that capacity

You are a member or co-opted member of the [name] council and hence you shall have regard to the following principles – selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

Accordingly, when acting in your capacity as a member or co-opted member -

You must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, a friend or close associate.

You must not place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.

When carrying out your public duties you must make all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits, on merit.

You are accountable for your decisions to the public and you must co-operate fully with whatever scrutiny is appropriate to your office.

You must be as open as possible about your decisions and actions and the decisions and actions of your authority and should be prepared to give reasons for those decisions and actions.

You must declare any private interests, both pecuniary and non-pecuniary, that relate to your public duties and must take steps to resolve any conflicts arising in a way that protects the public interest, including registering and declaring interests in a manner conforming with the procedures set out in the box below.

You must, when using or authorising the use by others of the resources of your authority, ensure that such resources are not used improperly for political purposes (including party political purposes) and you must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

You must promote and support high standards of conduct when serving in your public post, in particular as characterised by the above requirements, by leadership and example.

Registering and declaring pecuniary and non-pecuniary interests

You must, within 28 days of taking office as a member or co-opted member, notify your authority's monitoring officer of any disclosable pecuniary interest as defined by regulations made by the Secretary of State, where the pecuniary interest is yours, your spouse's or civil partner's, or is the pecuniary interest of somebody with whom you are living with as a husband or wife, or as if you were civil partners.

In addition, you must, within 28 days of taking office as a member or co-opted member, notify your authority's monitoring officer of any disclosable pecuniary or non-pecuniary interest which your authority has decided should be included in the register.

If an interest has not been entered onto the authority's register, then the member must disclose the interest to any meeting of the authority at which they are present, where they have a disclosable interest in any matter being considered and where the matter is not a 'sensitive interest'.¹

Following any disclosure of an interest not on the authority's register or the subject of pending notification, you must notify the monitoring officer of the interest within 28 days beginning with the date of disclosure.

Unless dispensation has been granted, you may not participate in any discussion of, vote on, or discharge any function related to any matter in which you have a pecuniary interest as defined by regulations made by the Secretary of State. Additionally, you must observe the restrictions your authority places on your involvement in matters where you have a pecuniary or non pecuniary interest as defined by your authority.

¹ A 'sensitive interest' is described in the Localism Act 2011 as a member or co-opted member of an authority having an interest, and the nature of the interest being such that the member or co-opted member, and the authority's monitoring officer, consider that disclosure of the details of the interest could lead to the member or co-opted member, or a person connected with the member or co-opted member, being subject to violence or intimidation.

This page is intentionally left blank

**Appendix 6:
Ethical Behaviour Codes and Protocols**

**Appendix 6 Part 1:
Code of Member Conduct**

(Adopted by the Council on 21 June 2007)

Part 1

General provisions

1. Introduction and interpretation

- (1) This Code applies to **you** as a member of the County Council.
- (2) You should read this Code together with the general principles prescribed by the Secretary of State (attached as an Appendix).
- (3) It is your responsibility to comply with the provisions of this Code.
- (4) In this Code:

"meeting" means any meeting of:

- (a) the County Council;
- (b) the executive (Cabinet) of the County Council;
- (c) any of the County Council's or its executive's committees, sub-committees, joint committees, joint sub-committees, or area committees;

"member" includes a co-opted member and an appointed member.

2. Scope

- (1) Subject to sub-paragraphs (2) to (5), you must comply with this Code whenever you:
 - (a) conduct the business of the County Council (which, in this Code, includes the business of the office to which you are elected or appointed); or
 - (b) act, claim to act or give the impression you are acting as a representative of the County Council,

and references to your official capacity are construed accordingly.

- (2) Subject to sub-paragraphs (3) and (4), this Code does not have effect in relation to your conduct other than where it is in your official capacity.

(3) In addition to having effect in relation to conduct in your official capacity, paragraphs 3(2)(c), 5 and 6(a) also have effect, at any other time, where that conduct constitutes a criminal offence for which you have been convicted.

(4) Conduct to which this Code applies (whether that is conduct in your official capacity or conduct mentioned in sub-paragraph (3)) includes a criminal offence for which you are convicted (including an offence you committed before the date you took office, but for which you are convicted after that date).

(5) Where you act as a representative of the County Council:

(a) on another relevant authority, you must, when acting for that other authority, comply with that other authority's code of conduct; or

(b) on any other body, you must, when acting for that other body, comply with the County Council's code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

3. General obligations

(1) You must treat others with respect.

(2) You must not:

(a) do anything which may cause the County Council to breach any of the equality enactments (as defined in section 33 of the Equality Act 2006);

(b) bully any person;

(c) intimidate or attempt to intimidate any person who is or is likely to be:

(i) a complainant,

(ii) a witness, or

(iii) involved in the administration of any investigation or proceedings,

in relation to an allegation that a member (including yourself) has failed to comply with his or her authority's code of conduct; or

(d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the County Council.

4. You must not:

(1) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:

(a) you have the consent of a person authorised to give it;

(b) you are required by law to do so;

- (c) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
- (d) the disclosure is:
 - (i) reasonable and in the public interest; and
 - (ii) made in good faith and in compliance with the reasonable requirements of the County Council; or

(2) prevent another person from gaining access to information to which that person is entitled by law.

5. You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or the County Council into disrepute.

6. You:

(1) must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and

(2) must, when using or authorising the use by others of the resources of the County Council:

(a) act in accordance with the County Council's reasonable requirements;

(b) ensure that such resources are not used improperly for political purposes (including party political purposes); and

(3) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

(4) must comply with the Council's Bribery Act Policy, which applies to you, officers and any other person or organisation with whom you are dealing.

7. (1) When reaching decisions on any matter you must have regard to any relevant advice provided to you by:

(a) the County Council's chief finance officer; or

(b) the County Council's monitoring officer,

where that officer is acting pursuant to his or her statutory duties.

(2) You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by the County Council.

Part 2

Interests

8. Personal interests

(1) You have a personal interest in any business of the County Council where either:

- (a) it relates to or is likely to affect:
 - (i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by the County Council;
 - (ii) any body:
 - (aa) exercising functions of a public nature;
 - (bb) directed to charitable purposes; or
 - (cc) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union),
of which you are a member or in a position of general control or management;
 - (iii) any employment or business carried on by you;
 - (iv) any person or body who employs or has appointed you;
 - (v) any person or body, other than a relevant authority, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties;
 - (vi) any person or body who has a place of business or land in the County Council's area, and in whom you have a beneficial interest in a class of securities of that person or body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital (whichever is the lower);
 - (vii) any contract for goods, services or works made between the County Council and you or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi);
 - (viii) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25;
 - (ix) any land in the County Council's area in which you have a beneficial interest;

- (x) any land where the landlord is the County Council and you are, or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi) is, the tenant;
 - (xi) any land in the County Council's area for which you have a licence (alone or jointly with others) to occupy for 28 days or longer; or
- (b) a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the electoral division affected by the decision.
- (2) In sub-paragraph (1)(b), a relevant person is:
- (a) a member of your family or any person with whom you have a close association; or
 - (b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
 - (c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
 - (d) any body of a type described in sub-paragraph (1)(a)(i) or (ii).

9. Disclosure of personal interests

(1) Subject to sub-paragraphs (2) to (7), where you have a personal interest in any business of the County Council and you attend a meeting of the County Council at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.

(2) Where you have a personal interest in any business of the County Council which relates to or is likely to affect a person described in paragraph 8(1)(a)(i) or 8(1)(a)(ii)(aa), you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.

(3) Where you have a personal interest in any business of the County Council of the type mentioned in paragraph 8(1)(a)(viii), you need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.

(4) Sub-paragraph (1) only applies where you are aware or ought reasonably to be aware of the existence of the personal interest.

(5) Where you have a personal interest but, by virtue of paragraph 14, sensitive information relating to it is not registered in the County Council's register of members' interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.

(6) Subject to paragraph 12(1)(b), where you have a personal interest in any business of the County Council and you have made an executive decision (i.e. as a Cabinet Member) in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.

(7) In this paragraph, "executive decision" is to be construed in accordance with any regulations made by the Secretary of State under section 22 of the Local Government Act 2000.

10. Prejudicial interest generally

(1) Subject to sub-paragraph (2), where you have a personal interest in any business of the County Council you also have a prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.

(2) You do not have a prejudicial interest in any business of the County Council where that business:

- (a) does not affect your financial position or the financial position of a person or body described in paragraph 8;
- (b) does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 8; or
- (c) relates to the functions of the County Council in respect of:
 - (i) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
 - (ii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
 - (iii) an allowance, payment or indemnity given to members;
 - (iv) any ceremonial honour given to members; and
 - (v) setting council tax or a precept under the Local Government Finance Act 1992.

11. Prejudicial interests arising in relation to overview and scrutiny committees

You also have a prejudicial interest in any business before an overview and scrutiny committee of the County Council (or of a sub-committee of such a committee) where:

- (1) that business relates to a decision made (whether implemented or not) or action taken by the County Council's executive or another of the County Council's committees, sub-committees, joint committees or joint sub-committees; and
- (2) at the time the decision was made or action was taken, you were a member of the executive, committee, sub-committee, joint committee or joint sub-committee mentioned in paragraph (a) and you were present when that decision was made or action was taken.

12. Effect of prejudicial interests on participation

(1) Subject to sub-paragraph (2), where you have a prejudicial interest in any business of the County Council:

- (a) you must withdraw from the room or chamber where a meeting considering the business is being held:
 - (i) in a case where sub-paragraph (2) applies, immediately after making representations, answering questions or giving evidence;
 - (ii) in any other case, whenever it becomes apparent that the business is being considered at that meeting;

unless you have obtained a dispensation from the County Council's standards committee;

- (b) you must not exercise executive functions in relation to that business; and
- (c) you must not seek improperly to influence a decision about that business.

(2) Where you have a prejudicial interest in any business of the County Council, you may attend a meeting (including a meeting of an overview and scrutiny committee of the Council or of a sub-committee of such a committee) but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

Part 3

Registration of Members' Interests

13. Registration of members' interests

- (1) Subject to paragraph 14, you must, within 28 days of:
 - (a) this Code being adopted by or applied to the County Council; or
 - (b) your election or appointment to office (where that is later),

register in the County Council's register of members' interests (maintained under section 81(1) of the Local Government Act 2000) details of your personal interests where they fall within a category mentioned in paragraph 8(1)(a), by providing written notification to the County Council's monitoring officer.

- (2) Subject to paragraph 14, you must, within 28 days of becoming aware of any new personal interest or change to any personal interest registered under paragraph (1), register details of that new personal interest or change by providing written notification to the County Council's monitoring officer.

14. Sensitive information

(1) Where you consider that the information relating to any of your personal interests is sensitive information, and the County Council's monitoring officer agrees, you need not include that information when registering that interest, or, as the case may be, a change to that interest under paragraph 13.

(2) You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph (1) is no longer sensitive information, notify the County Council's monitoring officer asking that the information be included in the County Council's register of members' interests.

(3) In this Code, "sensitive information" means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subjected to violence or intimidation.

The General Principles Governing the Conduct of Members

(The Relevant Authorities (General Principles) Order 2001)

Selflessness

1. Members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.

Honesty and Integrity

2. Members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.

Objectivity

3. Members should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

Accountability

4. Members should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to their particular office.

Openness

5. Members should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.

Personal Judgement

6. Members may take account of the views of others, including their political groups, but should reach their own conclusions on the issues before them and act in accordance with those conclusions.

Respect for Others

7. Members should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the authority's statutory officers, and its other employees.

Duty to Uphold the Law

8. Members should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them.

Stewardship

9. Members should do whatever they are able to do to ensure that their authorities use their resources prudently and in accordance with the law.

Leadership

10. Members should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence.

This page is intentionally left blank