

STANDARDS COMMITTEE

Wednesday, 13th November, 2019

2.00 pm

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





AGENDA

STANDARDS COMMITTEE

Wednesday, 13th November, 2019, at 2.00 pm
Wantsum Room, Sessions House, County Hall,
Maidstone

Ask for: **Denise Fitch**
Telephone: **03000 416090**

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

Membership

Mr J A Kite, MBE (Chairman), Mr R H Bird (Vice-Chairman), Mrs A D Allen, MBE,
Mr R C Love, OBE, Mr G Lymer, Mr J P McInroy and Mr C Simkins

Please note: that the unrestricted part of this meeting may be filmed by any member of the public or press present.

By entering into this room you are consenting to being filmed. If you do not wish to have your image captured please let the Clerk know immediately.

UNRESTRICTED ITEMS

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

1. Substitutes
2. Declarations of Interest
3. Minutes of the meeting held on 31 July 2019 (Pages 5 - 8)
4. Monitoring Officer's Update (Pages 9 - 12)
5. Exclusion of Press and Public

RESOLVED that under Section 100A of the Local Government Act 1972 the press and public be excluded from the meeting for the following business on the grounds that it involves the likely disclosure of exempt information as defined in paragraphs 1 and 2 of part 1 of Schedule 12A of the Act.

EXEMPT ITEM

6. Monitoring Officers verbal update on Member Standards

Benjamin Watts
General Counsel
03000 416814

Tuesday, 5 November 2019

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, 31 July 2019.

PRESENT: Mr J A Kite, MBE (Chairman), Mr R H Bird (Vice-Chairman), Mrs A D Allen, MBE, Mr R C Love, OBE, Mr J P McInroy and Mr C Simkins

ALSO PRESENT: Mr D Farrell

IN ATTENDANCE: Ms D Fitch (Democratic Services Manager), Mr T Godfrey (Scrutiny Research Officer), Ms L McCann (Head of Legal) and Mr B Watts (General Counsel)

UNRESTRICTED ITEMS

6. Declarations of Interest

(Item 2)

Mr Love stated that he had been a contributor to the “Local Government Ethical Standards Review” carried out by the Committee on Standards in Public Life.

7. Minutes of the meeting held on 30 October 2018

(Item 3)

RESOLVED that the minutes of the meeting held on 30 October 2018 were taken as a correct record and signed by the Chairman.

8. Monitoring Officer's Update

(Item 4)

(1) Mr Watts introduced his update on the Kent Code of Conduct and recent national developments including the Cox report into “The bullying and Harassment of House of Commons Staff”, “Local Authority Governance” by the National Audit Office, and “Local Government Ethical Standards” by the Committee on Standards in Public Life (CSPL).

(2) The Committee considered each of the recommendations from the CSPL, “Local Government Ethical Standards” as set out in Appendix B to the report, and made a number of comments which included the following:

i – CSPL recommendations

- In relation to removing the requirement for candidates standing for or accepting public office to publicly disclose their home address (recommendation 2), Members, whilst acknowledging the safety issues, also commented that it was helpful for the electorate to know whether the candidate lived within the electoral area, and that this could be by means of a tick box.

- Concern was expressed regarding the presumption that Councillors were acting in their official capacity in their public conduct (recommendation 3). Councillors had rights as individuals to a private life. In addition, there was a balance to be struck in relation to the involvement of the Council/Monitoring Officer/Standards Committee and the degree to which this should be left to the electorate to decide.
- The suggested amendment to the regulation relating to Disclosable Pecuniary Interests so as to include unpaid directorships etc. (recommendation 5) showed a lack of understanding of “pecuniary”. In this situation a Member’s interest may be relevant and therefore should be declared but it would not be a pecuniary interest.
- In relation to the suggested repeal of Section 31 of the Localism Act 2011 (LA 2011) and its replacement with a requirement prohibiting a Councillor participating in a meeting if the public could reasonably regard the interest as significant, this would require careful drafting to ensure clarity and avoid it being too broad (recommendation 7).
- Regarding the amendment of the LA 2011 to restrict the term of office of the Independent Person (IP) to 2 years renewable once, it was considered that this was too prescriptive. It may make it more challenging to recruit an IP and it took time for the IP to become familiar with the role (recommendation 8).
- Recommendations 10, 16 and 17 referred to Local Authority sanctions for breaching the Code. In this regard, Members discussed the desirability of a local authority being able to suspend a Councillor as opposed to a political group using the sanction of suspending a Councillor from a political group. It was acknowledged that it was very difficult for a local authority to impose sanctions upon a Councillor. Also, the suspension of a Councillor by a Local Authority may leave the electorate in that division unrepresented. The issue of independent Councillors who were not subject to any political group sanctions was recognised. There was a general view that it would be for the electorate to remove a Councillor if they did not approve of their behaviour rather than the Local Authority.
- It was confirmed that KCC already provided legal indemnity for the IP if their view or advice was disclosed (recommendation 11).
- KCC had already established a Standards Committee (recommendation 12)
- The right for appeal to the Local Government Ombudsman by Councillors who were suspended for breaching the Code was acknowledged as a positive step should the power of suspension be introduced (recommendation 13 and 14)
- In relation to Parish Councils (recommendations 19 -21), it was confirmed that there was a generic code that was adopted by most Parish Councils in Kent, The proposed requirement for Parish Clerks to have a qualification needed to recognise the different sizes of Parish Councils and acknowledge that some Parish Councils were very small with limited resources.
- The extension of the protection for Statutory Officers in disciplinary matters was welcomed (recommendation 22).
- It was confirmed that the information on whistleblowing on KCC’s website was being refreshed (recommendation 23). It was also suggested that employment protection for whistleblowers should be extended to allow them to go to a Councillor in situations where it would not be appropriate for them to approach the Monitoring Officer or Head of Paid Service.
- The relevance of the proposed requirement in recommendation 25 for Councillors to attend formal induction training by their political groups was

challenged. It was pointed out that there was an increasing number of independent Councillors who would not be covered by this requirement

- The Committee supported recommendation 26 relating to peer reviews.

ii – CSPL – Best practise recommendations (where no comments are made below the Committee were in agreement with the recommendation and/or it was already incorporated in the current Code.).

- Regarding the suggested requirement for Councillors to comply with any formal standards investigation, concern was expressed that this removed the right of an individual to choose not to respond (recommendation 2).
- The Committee considered that Member input via this Committee and holding these meetings in public was an adequate way of seeking views on the Code of Conduct (recommendation 3).

(3) The Committee considered Appendix A (overview of complaints against Members received since November 2018). Mr Watts explained that he had conversations with Members in certain circumstances in order to clarify the way in which their behaviour could be interpreted by others, even where that interpretation was not their intent. He confirmed that he put training in place as appropriate with the aim of raising standards. He referred to the Member Personal Development Plan process that was currently being undertaken which would be another opportunity to identify training for Members.

(4) The Committee discussed the challenges brought about by the increased use of social media and the importance of the public being aware of the right of Members to use social media in a personal capacity in addition to using it in their role as a Councillor. Mr Watts explained that the key for him in his Monitoring Officer role was to look at the context of the social media use and consider each case on its merits. It was pointed out that this extended beyond social media and that the public often found it difficult to identify when a Councillor was acting in an official or a personal capacity.

(5) Mr Watts referred to the structural update of the Constitution which was due to be considered at County Council in October 2019. It was intended that following this meeting there would be a report to this Committee on revisions to the Member Code of Conduct. It was important to have a realistic and proportionate way of operating the standards process until legislative changes were enacted.

(6) RESOLVED that:

- (a) the actions, as set out in Appendix A, taken by the Monitoring Officer in dealing with complaints be noted;
- (b) the comments made by the Committee on the recommendations from the report by the Committee on Standards in Public Life (Appendix B) be noted;
- (c) the next meeting of the Committee be held in late autumn 2019.

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By: Benjamin Watts - Monitoring Officer
To: Standards Committee –13 November 2019
Subject: Monitoring Officer's Update
Classification: Unrestricted

Summary: This report sets out an update from the Monitoring Officer to the Standards Committee.

1 Introduction

- (1) The County Council on 19 July 2012 adopted a new standards regime as required by the Localism Act 2011 and established a Standards Committee with the Terms of Reference set out in the Constitution.

2 Kent Code of Conduct for Members

- (1) The Kent Code of Conduct was adopted by the County Council on 12 December 2013 following consideration and recommendation by the Standards Committee.
- (2) I can confirm that all Members elected to the County Council, signed Disclosable Pecuniary Interest (DPI) forms within 28 days of becoming a Member of KCC. These forms should be updated by Members within 28 days of a change to their DPI. All DPI forms are uploaded onto each Member's KCC webpage and are available for public inspection.
- (3) Other Significant Interests (OSI) declared by Members at meetings are recorded in the minutes for that meeting.

Operation of Code of Conduct

- (4) A function of this Committee is to receive, monitor and assess the operation and effectiveness of the arrangements for dealing with Member Code of Conduct Complaints.
- (5) An overview of the Complaints received since the last meeting of the Committee and the outcome or progress to date will be circulated at the meeting.

Registration of Gifts and Hospitality

- (6) As part of the Code of Conduct Training Elected Members are made aware of the requirement under the Code to notify the Monitoring Officer of any gift, benefit or hospitality with an estimated value, or annual cumulative

value of £100 or more received and accepted in their role as an Elected Member. This notification must be made within 28 days of receipt of the gift or hospitality.

- (7) The notification is made on a standard form which is then published on each individual Member's KCC webpage and available for public inspection. Currently 16 Members have submitted such a notification. I have no reason to believe that there are any other notifications required which have not been submitted, but of course the onus is on Elected Members to comply with this requirement.

Committee on Standards in Public Life

- (8) Members have previously discussed the review into Local Government Ethical Standards conducted by the Committee on Standards in Public Life (CSPL). According to a recent Written Answer, "The government is currently carefully considering the Committee's recommendations and will issue a response in due course."¹
- (9) Recommendation 1 of the CSPL review was: "The Local Government Association should create an updated model code of conduct, in consultation with representative bodies of councillors and officers of all tiers of local government."
- (10) In line with this recommendation, the Local Government Association (LGA) is currently reviewing and updating the member model code of conduct. The LGA intends to hold an 8-week consultation on the draft model code next year. The outcome of the consultation and a draft final model will then be presented to the LGA Leadership Board. It was also be put forward to the LGA General Assembly (as part of their annual conference) in July 2020 for adoption.

Member Standards

- (11) I will update the Committee verbally on any Members Standards matters that can be considered in open session.

6 Recommendation:

To note and comment on the update and the actions taken by the Monitoring Officer in dealing with complaints.

Background Documents

"Local Government Ethical Standards" by the Committee on Standards in Public Life, January 2019. <https://www.gov.uk/government/publications/local-government-ethical-standards-report>

¹ PQ 1052, 25 October 2019, <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-questions-answers/?page=1&max=20&questiontype=AllQuestions&house=commons%2Clords&uin=1052>

“Civility in public life and the review of the model code of conduct” by the Local Government Association,

<https://www.local.gov.uk/sites/default/files/documents/191003%20public%20document%20on%20civility%20in%20public%20life%20%28Autosaved%29.pdf>

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