

By: The Chairman of Standards Committee

To: Standards Committee - 19 March 2008

Subject: PREPARATION FOR NEW LOCAL STANDARDS REGIME

Classification: Unrestricted

Summary: This report deals with proposed changes to the regime and seeks Members' views on the way forward.

FOR DECISION

1. Publicity

- (1) Priority should be to ensure public aware of the changes to the regime.
- (2) There is nothing currently on the KCC website about 'How to complain about a Member'. It should be easy enough to add something to www.kent.gov.uk/council-and-democracy/about-the-council/contact-us/complaints.htm
- (3) Am I right in thinking the Register of Interests has gone on to the website? Could the whole thing not go on to the website?
 - (a) Code of Conduct
 - (b) Register of Interests
 - (c) Annual Reports
 - (d) Standards Committee
 - (e) Complaints procedure
- (4) How much should be on the website? Should it be very brief i.e. a copy of the full assessment and investigation process is available on request – or should it be an downloadable document in the website as on the website Complaints procedures: "There are separate procedures for" add 'Complaint against a Councillor'.
- (5) We also need to promulgate somehow through e.g. leafleting – doesn't KCC already do something annually that goes to every household in Kent (that no-one actually reads) but could it be incorporated in that?
- (6) Not happy at broadcasting it on the Kent TV or through local press – anyway which newspaper would be an issue.

2. Practicalities

- (1) Use Standards Board wording where possible both so as to avoid reinventing the wheel and because it is likely to have been thoroughly tested. Existing leaflets and advice can be adapted (q.v. below for some of it).

- (2) Preamble about Code of Conduct, and Standards in Public Life and Ethical standards.
- (3) Include KCC adoption of the Model Code of Conduct adopted KCC 21.6.2007.
- (4) Add local determination and a brief description of the change locally.
- (5) Introduce the Standards Committee:
 - (a) Independence
 - (b) Members
 - (c) Terms of reference
 - (d) A Standards Committee is a panel made up of 3 persons independent of the KCC and 3 elected members. They are all intended to be above party politics. They can decide if there was a breach of the Code and if so what penalty to impose.

3. Stage I:

- (1) Sub-C of the SC will make an initial assessment of the misconduct allegation from the papers before it.
- (2) Not in public
- (3) Aim to make a decision within 3 working weeks?
- (4) Notifies the complainant and member of its decision which can be:
 - (a) Take no action
 - (b) Refer the matter to the MO for investigation (s58) or other action
 - (c) Complainant has days in which to challenge a decision to 'take no action' and it will then be determined by a second (separate) sub-c of the SC. Again aims to give a decision within 3 working weeks?

4. Stage II:

- (1) The matter having been referred for further action.
- (2) The result of the MO investigation is provided to the full SC:
- (3) SC then determines whether:
 - (a) To hold a formal hearing with witnesses
 - (b) Take no further action
 - (c) Take informal action?
- (4) If no further action complainant has the right etc

5. Misc:

- (1) N.B. Advice Notes to members:
 - (a) Note 2 (30.5.2002)
 - (b) Note 3 (20.2.2003)
 - (c) Note 4 (20.2. 2003)
 - (d) Note 5 (June 2007) – with the new Code of Conduct that was adopted by the KCC on 21.6.2007.
 - (e) October 2007?
- (2) Compulsory training for members? What about the staff and what about the first point of contact.
- (3) CEOs and leaders to be 'champions of high standards'
- (4) Standing orders, flowcharts, time limits
- (5) Agenda items:
 - (a) debrief from KMISCMLG
 - (b) Insurance for SC members
 - (c) Delegation of powers to MO

6. From Standards Board website and leaflets:

- (1) The Standards Committee can only consider a complaint that falls within the powers set out by Parliament. For a complaint to be considered it has to be about an elected, co-opted or independent member of Kent County Council and it has to be about something covered by the Code of Conduct*
- (2) Behaviour covered by the Code of Conduct 2007
 - (a) unlawfully discriminating against someone
 - (b) failing to treat people with respect
 - (c) bullying any person
 - (d) intimidating any person involved in any investigation or proceedings about someone's misconduct
 - (e) doing something to prevent those who work for the authority from being unbiased
 - (f) revealing information that was given to them in confidence, or stopping someone getting information they are entitled to by law
 - (g) damaging the reputation of their office or authority, where the conduct is linked to their public role and not in their private capacity

- (h) using their position improperly, to their own or someone else's advantage or disadvantage
 - (i) misusing their authority's resources
 - (j) allowing their authority's resources to be misused for the activities of a registered political party
 - (k) failing to register financial or other interests
 - (l) failing to reveal a personal interest at a meeting
 - (m) taking part in the discussion or making a decision where they have an interest that is so significant that it is likely to affect their judgment (known as a 'prejudicial interest')
 - (n) improperly influencing a decision about a matter that they have a prejudicial interest in
 - (o) failing to register any gifts or hospitality (including its source), that they have received in their role as a member worth over £25
- (3) Which complaints will the Standards Committee refer for investigation?
- (a) The Standards Committee will decide a matter should be investigated only when it meets one of the following criteria:
 - (b) it is serious enough, if proven, to justify the range of sanctions available to the Standards Committee or the Adjudication Panel for England
 - (c) it is part of a continuing pattern of less serious misconduct that is unreasonably disrupting the business of the Kent County Council and there is no other avenue left to deal with it, short of investigation
 - (d) account will be taken of the time that has passed since the alleged conduct occurred
- (4) Which complaints are unlikely to be referred for investigation?
- (a) The Standards Committee is unlikely to decide that a complaint should be investigated if it falls into any of the following categories:
 - (b) it appears that the complaint is really about dissatisfaction with a council decision
 - (c) the complaint concerns acts carried out in the member's private life, when they are not carrying out the work of the authority or have not misused their position as a member
 - (d) the Standards Committee believe it to be malicious, relatively minor, or tit-for-tat
 - (e) the same, or substantially similar, complaint has already been the subject of an investigation or inquiry and there is nothing further to be gained by seeking the sanctions available to the Standards Committee or the Adjudication Panel
 - (f) there is not enough information currently available to justify a decision to refer the matter for investigation

- (g) except in the most serious of cases, conduct that would not be considered to be a breach of the revised Code of Conduct adopted by Kent County Council on 21.6.2007.
- (5) How can you complain?
- (a) The complaint must be in writing to (Name/details). You may download a form from the KCC website www.kent.gov.uk but if you don't want to use the form you can write a letter including all the points covered in the form. If this is difficult, ask someone to help you, for example your local Citizen's Advice Bureau. If you cannot write your complain in English the Standards Committee will arrange to have it translated for you.
 - (b) ***Please be aware that your identity is unlikely to be kept confidential and that the member complained of will usually be made aware of the matter complained of.***
- (6) What happens to your complaint?
- (a) When it is received it will be acknowledged. The Standards Committee will then review the complaint to determine whether it is suitable for investigation. One of the Standards Committee officers may contact you personally to go through the details of your complaint.
 - (b) If the Standards Committee cannot investigate, or decides not to, you have the right to ask for the decision to be reviewed.
 - (c) If the complaint is one that the Standards Committee decides to investigate, it will carry out an independent investigation, keeping you informed of progress. At the end of the investigation you will be notified of the Standards Committee outcome decision.

7. Recommendation

Members are request to:-

- (a) note the report; and
- (b) submit their views on the way forward.

Miss R MacCrone
Chairman

Background Documents: None

