

From: Peter Sass – Head of Democratic Services

To: Standards Committee – 5 October 2011

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

Summary: This report invites the Standards Committee to:

- (a) note the new process for public consultations and the informal advice received; and
- (b) comment on the proposed consultation document on the future of the ethical standards regime within Kent

Unrestricted

Introduction

1. At the meeting of the Committee on 14 July 2011, the Head of Democratic Services was asked to strengthen the proposed consultation document to reflect the views of the Committee that:

- the County Council should retain a Code of Conduct for Members once the statutory requirement to have a code disappears; and
- there needed to be a scheme put in place for investigating complaints from the public and others that a Member had breached the Code of Conduct.
- the scheme would need to be robust and include a mechanism for independent challenge

Proposed consultation

2. (1) The County Council is currently being restructured and is developing new ways of working to meet the developing ethos of 'One Council'. A new Communications, Consultation and Engagement division has been established and came into operation on 1 September 2011. It will be through this division that any formal public consultation process will take place (if it is considered appropriate) and the results analysed and evaluated.

(2) Before any decisions are taken on whether a formal public consultation, should go ahead and resources identified to support it, a Project Request Form (see **Appendix 1**) needs to be completed.

(3) The opportunity has been taken to seek informal advice from Mr N Warren, Consumer Monitoring Manager, on what the consultation document should look like, bearing in mind the conclusion and views expressed by the Committee at its last meeting. The advice was clear that in order to make a consultation meaningful, the public would need to know what is likely to be included and addressed in a local code

of conduct to help them understand how they can complain about a Member's conduct and how their complaint might be taken into account and addressed.

(4) The Consumer Monitoring Manager added that even if the County Council decided to retain a Standards Committee and introduce a voluntary code of conduct, the Standards Committee would not have the power that it currently has to impose sanctions. As a consequence, it was likely that the public would become frustrated. His view was clear that he would not recommend a public consultation being undertaken because it would not add any value to the proposed new arrangements, which were voluntary and not statutory.

(5) Attached as **Appendix 2** to this report are some consultation questions which have been amended to reflect the conclusions of the Committee at the last meeting.

3. RECOMMENDATION

The Standards Committee are asked to comment on the content and format of the proposed consultation document (attached at Appendix 2) and to confirm the proposed methods of consultation and the suggested consultees detailed in the consultation document.

Communication/consultation project request

Name of the project *

You must enter a value for this field

Business unit/team

Name of main contact *

You must enter a value for this field

Telephone number

Email address

What has prompted the need for the project? ?

Please provide a brief outline of the overall project

CCCE services required

☐ Communications ☐ Consultation/involvement ☐ Other

You must enter a value for this field

When does the work need to be completed by?

DD Month MM Year

Is the project connected to work taking place elsewhere in the council or planned future work?

☒ Yes ☐ No

What are the key deadlines? Please give dates for SMT, CMT, Cabinet member decision, Cabinet, POC, Council, implementation of proposal?

What do you want to achieve with this project?

How will the project help you deliver your business objectives?

How does it relate to Bold Steps for Kent?

- ☐ Economic growth
- ☐ Citizens in control
- ☐ Tackling disadvantage
- ☐ No direct relationship

Please provide more details of how your project relates to Bold Steps for Kent

Who will benefit from the project?

- ☐ The target audience/participants
- ☐ Kent County Council
- ☐ KCC employees
- ☐ Partners/providers
- ☐ Other

What are the benefits of this project?

- ☐ Improve public perception/KCC reputation
- ☐ Generate income
- ☐ Increase use of a public service
- ☐ Reduce use of a public service
- ☐ Save time
- ☐ Save money
- ☐ Other

Who, When and How?

Who do you need to communicate with, consult or involve?

- ☐ Residents
- ☐ Current customers
- ☐ Potential customers
- ☐ Businesses
- ☐ Voluntary and community groups

-
- ☐ Politicians
 - ☐ KCC staff
 - ☐ Suppliers
 - ☐ KCC partners
 - ☐ Other
-

Please give any further details about your target audience/participants, making reference to who will be affected by the policy change and the extent of the impacts as identified in the project's Equality Impact Assessment

How do you want the project to be communicated?

- ☐ Online (Kent.gov.uk)
 - ☐ Direct mail (email)
 - ☐ Direct mail (post)
 - ☐ Social media (e.g. Twitter, Facebook)
 - ☐ Other online
 - ☐ Via the media (press, broadcast, online)
 - ☐ Face to face (service delivery point)
 - ☐ Face to face (events)
 - ☐ Other
-

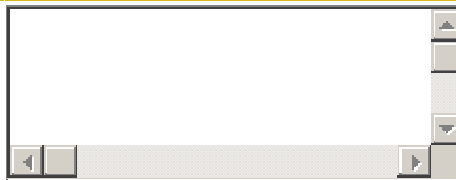
What methods of consultation or involvement do you intend to use?

- ☐ Survey/questionnaire
 - ☐ Focus group
 - ☐ Deliberate event(s)
 - ☐ Informative event(s)
 - ☐ Consultation documents
 - ☐ Panels (e.g. expert panel, user panel)
 - ☐ Public meetings
 - ☐ Other
-

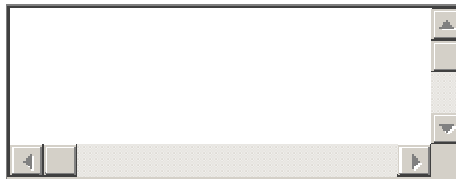
Success criteria and risks?

How will the success of the project be measured?

What are the risks of undertaking the project?

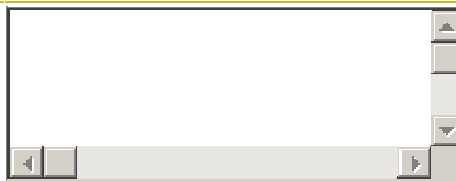


How can you avoid or reduce the impact of these risks?



Project administration

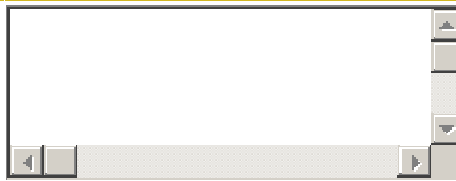
Who is the financial sponsor and who approves the project (i.e. who gives permission to spend?)



What total budget has been set aside?

What is the budget code for the project?

Who will be on the project team?



Who is the relevant Cabinet Member?

Further information

Please upload any supporting background documents

PROPOSED CONSULTATION DOCUMENT AND QUESTIONS

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 had 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 via the ballot box.

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 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

It is the Government’s intention to abolish the Standards Board arrangements

What are these arrangements?

All Councils are currently required by law to establish a Standards Committee which includes some independent representatives. Kent County Council currently has a Standards Committee which will be abolished. Its role is to ensure that a national code of conduct which sets out standards of behaviour for councillors is appropriately applied and any complaints from the public are investigated. If necessary, an appropriate sanction is applied which could be a power to suspend or disqualify the Councillor.

What are the proposed new arrangements

Councils will be free, should they choose, to establish voluntary standards committees to consider complaints about the conduct of councillors. 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.

The existing Standards Committee believes the County Council should establish a voluntary Standards Committee 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.

Consultation Questions

Code of Conduct

1. How important is it to you as a member of the public that you have the right to complain about a councillor's conduct?

Very Important Important Fairly important Not important

2. Would you wish to see the County Councillors adopt a voluntary code of conduct?

Yes No

If you answered No please give the reasons why:-

3. What behaviour should it be possible to complain about and what sanctions would you like to see in a voluntary code?

Standards Committee

All Councils are currently required by law to have a Standards Committee, which includes independent members, to promote and maintain high standards of conduct by councillors, monitoring compliance with the Code, directing appropriate training for councillors and dealing with complaints about the conduct of councillors. 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.

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

The Role of Independent Members

Under the existing law 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.

5. 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? Who would be the most appropriate people to take on such a role?

Dealing with complaints

Currently, the Council's Standards Committee has a duty to examine and investigate complaints that a councillor has breached the code of conduct. If, following a formal investigation and hearing, the Standards Committee decides that the councillor 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.

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

Registering and declaring interests

Under existing legislation, all elected councillors must register their interests (e.g. nature of employment, land and property holdings) within 28 days of being elected. Councillors 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 councillors 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, councillors 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.

7. 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?

8. 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