

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.