

MAIDSTONE BOROUGH COUNCIL

STANDARDS COMMITTEE

MINUTES OF THE MEETING HELD ON 6 APRIL 2011

Present: **Councillors:** Mrs Gibson, Mrs Hinder, Marchant,
Mrs Robertson and Vizzard

Independent Members: Mrs Phillips (Chairman),
Ms Hunt, Mr Powis and Mr Wright

Parish Council Representatives: Councillors Butcher
and Mrs Riden

Also Present: **Councillor Garland**

72. APOLOGIES FOR ABSENCE

It was noted that apologies for absence had been received from Councillors Parvin, Stead, Mrs Stockell and Younger.

73. NOTIFICATION OF SUBSTITUTE MEMBERS

It was noted that Councillor Mrs Gibson was substituting for Councillor Mrs Stockell.

74. NOTIFICATION OF VISITING MEMBERS

It was noted that Councillor Garland, the Leader of the Council, had been invited to address the meeting.

75. DISCLOSURES BY MEMBERS AND OFFICERS

There were no disclosures by Members or Officers.

76. DISCLOSURES OF LOBBYING

There were no disclosures of lobbying at this stage.

77. EXEMPT ITEMS

RESOLVED: That the items on the agenda be taken in public as proposed.

78. MINUTES OF THE MEETING HELD ON 10 FEBRUARY 2011

RESOLVED: That the Minutes of the meeting held on 10 February 2011 be approved as a correct record and signed.

79. ADDRESS BY COUNCILLOR CHRIS GARLAND - LEADER OF THE COUNCIL

At the invitation of the Committee, Councillor Garland, the Leader of the Council, attended the meeting to discuss his views on the proposals contained in the Localism Bill in relation to the ethical standards regime and how a local Standards Committee, if there was to be such a thing, would operate under the new arrangements for regulating the standards of conduct for Members and Co-opted Members. He commented that:-

- It was his understanding that Eric Pickles, the Communities Secretary, had moved to abolish the Standards Board regime being of the view that in future Councillors should expect to be judged by the electorate on their conduct/performance and not by a Standards Committee of a local authority.
- Clearly there was a view amongst Members that the Standards Committee had done a lot of good work since it was established, but there was a need for change. He subscribed to that view, but believed that caution was required in bringing about the changes.
- The public needed to be reassured that there was some degree of outside scrutiny of the behaviour and performance of Councillors. Maidstone had been fortunate in that there had been very few instances where Members had deviated from the standards of behaviour that the public expected from them. However, there was concern that sometimes there were complaints that could be dealt with in a less formal and less costly manner and sometimes the Standards Committee was obliged to investigate the conduct of a Councillor when, it could be argued, the matter might more appropriately be dealt with elsewhere; for example, by the electorate at the end of his/her term of office.
- It was anticipated that the Localism Bill would receive Royal Assent in late 2011 and the existing ethical standards arrangements would continue to function until a fixed date which was likely to be some two months later. In terms of what, if anything, would replace the current standards regime, his view was that there would need to be a Code of Conduct to guide Members and a small group of, say, three Independent Members should be established to meet as and when required to monitor compliance with the Code and deal with complaints of extreme misconduct. Complaints of a less serious nature could be dealt with by Group Leaders.
- In terms of the other functions currently undertaken by the Standards Committee, he felt that any replacement body should confine itself to Code of Conduct issues.

During the ensuing discussion, reference was made to:-

- The likely public reaction to the anticipated abolition of the requirement to have a Code of Conduct and the need to reassure the public that the Borough Council would have robust arrangements in place next year to promote and maintain high standards of conduct by Members and Co-opted Members.
- The need for some sort of locally agreed Code of Conduct to guide Members, but this should be less complex than the current Code.

- The need for a protocol for dealing with complaints of Member misconduct quickly and cost effectively, but with a “lighter touch”, and the arguments for and against involving elected Members in the process.
- The merits of establishing a small, non-statutory Committee of Independent Members to monitor compliance with the Code and to look into complaints of Member misconduct as and when required.
- The implications for Parish Councils, particularly in terms of whether to adopt a voluntary Code of Conduct and, if so, its contents; monitoring compliance with the Code; training; dealing with complaints of Member misconduct; and the need to indemnify Members against the costs of action about breaches of the Code.
- The training which would be required by Members on any locally agreed voluntary Code of Conduct given that it was likely to be simpler and that what constituted a criminal offence under the new arrangements (for example, failure to register or declare an interest) would be clearly defined.
- The process for implementing the provisions of the Localism Bill, including the transitional arrangements.
- How the functions of the Standards Committee otherwise than in relation to the Code of Conduct for Members would be dealt with.
- Whether or not the Borough Council should seek to impose any regulatory function over Parish Councils.

The Committee thanked the Leader for an interesting discussion.

80. LOCALISM BILL - UPDATE

The Committee gave further consideration to the implications of the provisions of the Localism Bill in so far as they related to the standards regime. It was noted that:-

- The Chairman and the Head of Legal Services had attended a meeting of the Maidstone Area Committee of the Kent Association of Local Councils which had expressed an interest in a joint Code of Conduct for Parishes and the Borough Council.
- The Independent Members who had attended the meeting of the Liaison Group of Kent and Medway Independent Standards Committee Members on 22 February 2011 had reported that their Councils were interested in/would consider supporting a new standards regime and there was a general consensus for Committees to be retained, the exact role of which to be defined once the legislation was in place. The Group had debated whether there should be a strategic plan for Kent and the Independent Members were asked to put a number of questions to their Councils: was there a need for a Code of Conduct; was there a need for Standards Committees and, if so, should Independent Members be involved; and how could the public be made more aware/re-assured of ethical standards in local government?
- In general, therefore, there appeared to be growing interest in maintaining a Code of Conduct with a non-statutory Committee to advise on the Code and sanctions and provide training.

- Thanet had suggested lobbying for the continuation of full voting rights for Independent Members on any voluntary Standards Committees which might be established.

On this latter point, the Committee was mindful that under the new arrangements, Co-opted Independent Members would only have voting rights if acting in an advisory capacity. However, the only decision likely to have to be made would be whether to investigate a complaint of Member misconduct and there would be no statutory sanctions available in any event to take against an offending Member.

RESOLVED: That the position be noted and that no action be taken on the suggestion that representations be made calling for the continuation of full voting rights for Co-opted Independent Members.

Note: Mr Wright stated that he had been lobbied regarding the continuation of full voting rights for Independent Members.

81. FORWARD PLAN 2010/2012

The Committee considered the position with regard to the activities set out in the Forward Plan 2010/12. It was noted, inter alia, that the Training Officer had provided a short report evaluating feedback about the training provided for Borough and Parish Councillors and Parish Clerks on the Code of Conduct. The report showed that the sessions had been well attended and well received.

RESOLVED: That the position with regard to the activities set out in the Standards Committee Forward Plan 2010/12 be noted.

82. ANNUAL REPORT TO COUNCIL 2010/11

The Committee considered its draft Annual Report to the Council. The Committee agreed the Report for submission to the Council subject to minor amendments.

A copy of the amended version of the Annual Report is attached as an Appendix to these Minutes.

RESOLVED to RECOMMEND to the COUNCIL: That the Standards Committee's Annual Report to Council 2010/11, a copy of which is attached as an Appendix to these Minutes, be noted.

83. REFERENCE FROM CABINET - FUTURE ROLE OF THE STRATEGIC HOUSING ADVISORY COMMITTEE

The Committee was asked to evaluate the amendment of the Constitution as a consequence of a proposal to disband the Strategic Housing Advisory Committee and create a new body to be called the "Housing Consultative Board" to advise the Cabinet and Cabinet Members on housing matters. It was noted that, in the light of major changes to housing statute and policy proposed by central government, it was considered that there was merit in having a body to advise the Cabinet and Cabinet Members on

matters relating to housing. However, it was also felt important to differentiate this body from the role of the Strategic Housing Advisory Committee, which was in effect to monitor the progress of the promises made prior to the housing stock transfer.

The Committee supported the proposed amendment of the Constitution as a process would be put in place which would enable decisions to be taken efficiently and effectively and which would create a powerful and effective means of holding decision makers to public account.

RESOLVED to RECOMMEND to the COUNCIL: That it be noted that, in accordance with Article 15.02 (a) of the Constitution, the Standards Committee has evaluated the amendment of the Constitution as a consequence of the proposal to disband the Strategic Housing Advisory Committee and create a new body to be called the "Housing Consultative Board", and believes that its implementation will help to ensure that the aims and principles of the Constitution are given full effect by putting in place a process which will enable decisions to be taken efficiently and effectively, and which creates a powerful and effective means of holding decision makers to public account.

84. REFERENCE FROM CABINET - EXECUTIVE PROCEDURE RULES - PETITIONS

The Committee was asked to evaluate suggested amendments to the Executive Procedure Rules relating to petitions to remove the age limit on who can sign a petition or present a petition to the Cabinet or a Cabinet Member. It was noted that at the Council meeting on 22 September 2010, it was agreed that the Council's Petition Scheme should be amended so that there is no age limit on who can sign a petition or present a petition to Council. The amendment made by the Council to the Council Procedure Rules did not change the rules for the presentation of petitions to the Cabinet which are dealt with separately in the Executive Procedure Rules. On being made aware of this anomaly the Cabinet determined that the changes should be made in order to have consistency across the Council.

The Committee supported the proposed amendments to the Executive Procedure Rules within the Constitution believing that their implementation would create an effective means of holding decision makers to public account.

RESOLVED to RECOMMEND to the COUNCIL: That it be noted that, in accordance with Article 15.02 (a) of the Constitution, the Standards Committee has evaluated the proposed amendments to the Executive Procedure Rules within the Constitution and believes that their implementation will help to ensure that the aims and principles of the Constitution are given full effect by creating an effective means of holding decision makers to public account.

85. REFERENCE FROM THE AUDIT COMMITTEE - ELECTRONIC TENDERING - AMENDMENT TO CONTRACT PROCEDURE RULES

The Committee was asked to evaluate suggested amendments to the Contract Procedure Rules within the Constitution arising from the purchase of an electronic tendering system. It was noted that the proposed amendments related to the deletion of the specific reference to an email address as the new system was web-based and that it was the intention to use the new system for the submission of tenders in respect of contracts in excess of £75,000.

The Committee supported the proposed amendments to the Contract Procedure Rules within the Constitution as any decision not to make the amendments would prevent tenders being submitted using the new system, and thus hinder the efficient and effective taking of decisions.

RESOLVED to RECOMMEND to the COUNCIL: That it be noted that, in accordance with Article 15.02 (a) of the Constitution, the Standards Committee has evaluated the proposed amendments to the Contract Procedure Rules within the Constitution and believes that their implementation will help to ensure that the aims and principles of the Constitution are given full effect, as any decision not to make the amendments would prevent tenders being submitted using the new electronic tendering system, and thus would hinder the efficient and effective taking of decisions.

86. APPLICATIONS FOR DISPENSATIONS

There were no applications for dispensations.

87. CHAIRMAN'S ANNOUNCEMENTS

The Chairman announced that since this was the last meeting of the Standards Committee before the elections in May, she would like to take the opportunity to thank all Members and Co-opted Members of the Committee for their hard work and support throughout the year, and to express her thanks in particular to Councillor Marchant, a long-standing Member of the Committee, who would not be standing for re-election.

88. DURATION OF MEETING

2.00 p.m. to 3.40 p.m.

MAIDSTONE BOROUGH COUNCIL

STANDARDS COMMITTEE

ANNUAL REPORT TO COUNCIL 2010-11

1 APRIL 2010 – 31 MARCH 2011

This is the Committee's fourth Annual Report to the Council.

Members of the Standards Committee

During the year, the following served as Members of the Standards Committee:

Borough Members:

Cllr Julia Batt (to May 2010)
Cllr Wendy Hinder (Vice-Chairman to May 2010)
Cllr David Marchant
Cllr David Naghi (from May to September 2010)
Cllr Peter Parvin (Vice-Chairman from June 2010)
Cllr Cynthia Robertson (from September 2010)
Cllr Paulina Stockell
Cllr John Verrall (to May 2010)
Cllr Bryan Vizzard

Parish Members:

Cllr Paul Butcher (from September 2010)
Cllr Eileen Riden (from September 2010)
Cllr Bill Stead
Cllr Ian Younger

Independent Members:

Hilary Hunt (from May 2010)
Dorothy Phillips (Chairman from June 2010)
Mike Powis
Don Wright (Chairman to May 2010)

Chairman's Remarks

Councillors may wish to note the changes in the membership of the Committee. Two additional members – 1 Independent and 1 Parish representative – have been appointed in order to ensure that the local Code of Conduct complaints system continues to operate efficiently and effectively.

It has been an interesting and challenging year in which the Committee has built on the achievements of previous years whilst considering the proposals for a future standards regime set out in the Localism Bill.

Our prime responsibility has been to meet our statutory duties to administer the local complaints system, to manage the Code of Conduct and to carry out a training programme for Members. We have also liaised with other Committees on good practice issues and promoted standards issues within Maidstone

Borough Council and to our Parish authorities. We have made a particular point of improving the user friendliness of the website, and of designing relevant and clear training courses for Borough and Parish Members and Parish Clerks.

We looked at our Committee's working practices and agreed to a Forward Work Plan for 2010-2011, centred on the statutory duties and functions of the Committee and providing a way of measuring the Committee's performance. We also decided to invite guest speakers to Committee meetings to prompt discussion on ethical standards and provide an insight into the work of the Council. We are grateful to the Leading Members and the Chief Executive for their contributions.

Details of the Localism Bill and the progress the Committee, Chairman and the Monitoring Officer have made towards considering the future can be found towards the end of this Report.

Forward Work Plan 2010-2011

The Committee agreed a Forward Work Plan for 2010/11 in September 2010. It was drafted and proposed by the four Independent Members of the Committee in consultation with the Vice-Chairman and the Monitoring Officer. The Plan lists objectives, sets targets and monitors the Committee's performance. It deals with the statutory duties of the Committee and the ways by which the Committee can support and work with Maidstone Borough Council and other local bodies. It identifies how the Committee can best keep up-to-date with new developments and how to raise awareness of standards issues both in Maidstone Borough Council and amongst the public. It has become an important part of the agenda for each meeting.

Promotion of Ethical Standards

The Chairman and the Monitoring Officer have held regular quarterly meetings with the Group Leaders and the Chief Executive to discuss ethical standards and good governance and, more recently, the implications of the Localism Bill. Other meetings have been held with the Chairmen of the Audit and the Overview and Scrutiny Committees. The Chairman and the other Independent Members attend liaison meetings with Independent Members of Standards Committees in Kent, and these have proved useful in gaining an insight into how other Councils' Standards Committees encourage and develop best practices and in keeping up-to-date with the views of their Councils on a future standards regime.

Notwithstanding the accessibility of Ward and Parish Members, we are acutely aware that members of the public may feel daunted when approaching the Council on a sensitive matter such as a complaint about conduct. We have sought to ensure that the Council website gives members of the public a clearer picture of the work of the Committee and a straightforward explanation of how to make a complaint about a Councillor.

Training

The training programme on the Code of Conduct for Borough and Parish Councillors and Parish Clerks started in the autumn 2009. It has continued on a

regular basis this year. Attendance has been good and one group of Parish Councils requested an "in-house" session which was well attended. To date, a total of 81 Councillors (Borough and Parish) and Parish Clerks from 22 Parishes have attended the sessions. The Training Officer's evaluation report shows that the content and format of the sessions were well-received and in some cases those attending recommended that all Members of their Councils make the effort to attend.

The content of the sessions is under continual review by the trainers – the Independent Members, Councillor Marchant, Councillor Stead and the Monitoring Officer – so that we can take account promptly of feedback from participants. The issues which most frequently have concerned participants include how to deal with declarations of interest, bullying, intimidation, confidential information, and dispensations. We very much appreciated the help that we received from the Chairman of the Planning Committee (Councillor Lusty), who attended some of the later sessions to offer advice on planning issues raised by the participants.

In addition to these general courses, all new Members of the Standards Committee received training in local assessment procedures and determination and new Borough Councillors are offered training in the Code of Conduct as part of their induction course.

Complaints Received

In the current year there were 3 complaints, all involving Parish Councillors. Of these, one hearing led to the censure of the Councillor involved; one case was referred to the Assessment Sub-Committee resulting in a decision to take no further action; and there was one review of a decision to take no action which confirmed the agreed decision. In this case, the Monitoring Officer was asked to recommend training for Members of the Parish Council in question. The Monitoring Officer continued to report half-yearly to the Committee on the number of complaints.

Given the number and range of decisions made by Borough and Parish Councillors, we have been pleased to note the low number of complaints. It may be that the level of training given to Members has been one of the factors contributing to the reduction in the number of complaints.

Dispensations

The Committee granted 2 dispensations during the year.

The Localism Bill

The Bill was laid before Parliament on 13 December 2010. It provides for the abolition of the national body (Standards for England), of each Council's Standards Committee and of the national Code of Conduct. It makes provision for a criminal offence if Members fail to register and/or declare financial and other interests. All Councils, Borough and Parish, will be able to decide whether they wish to adopt a non-statutory voluntary Code, and to appoint a Committee to deal with complaints and monitor compliance. There will be no statutory sanctions against Members. The Bill makes it clear that all Councils "must

promote and maintain high standards of conduct by Members and Co-opted Members of the authority."

The current Code of Conduct and the statutory duties of each Standards Committee will remain in place until the Bill receives Royal Assent, possibly in early 2012. There is much which has yet to be determined and the Bill may be amended during its progress through Parliament. At the time of writing, the Bill is at the Report Stage.

The Standards Committee has been active in trying to clarify the terms of the Bill starting with writing to the Secretary of State (and local Members of Parliament) urging effective consultation albeit to little effect. The Chairman and the Monitoring Officer, on behalf of the Standards Committee, have met Group Leaders, the Chief Executive, the Chairmen of Audit Committee and the Overview and Scrutiny Committees, the Chairman of Kent Association of Local Councils (KALC) and some Parish Councillors to sound out their first thoughts on future arrangements.

The meetings with Members have been positive. There was interest in pursuing the idea of a small, non-statutory, stand-alone Committee with non-Councillor input; a locally agreed voluntary ethical Code with a "light touch" and with emphasis on mediation to look into complaints of Councillor misconduct and inappropriate behaviour: a system designed to ensure high standards of behaviour, in which the public can have confidence. It was generally considered that while the Council should not seek to impose a regulatory function over Parishes, if Parishes wanted help the Council would be willing to provide advice subject to an agreed financial arrangement. An informal view from KALC indicates that Parishes may wish to maintain the status quo within Maidstone Borough Council - a standards regime with a Code and an independent non-Councillor Standards Committee to advise on a Code, deal with complaints, sanctions and training for Parishes.

The Chairman and Monitoring Officer, on behalf of the Standards Committee, agreed to continue to report back to both groups of Councillors with any further views gleaned from other Councils through meetings of the Kent and Medway Independent Liaison Group and from KALC.

The Chairman and Monitoring Officer present a report on the Localism Bill at each Committee meeting for discussion by Members and it is proposed to present a consolidated report to Council in September 2011, a timetable tailored to allow for any changes to the Bill or in the views of Members.

Conclusion

I should like to thank all Members of the Committee for their hard work and good humour throughout this eventful year.

Mrs D Phillips
Chairman
Maidstone Standards Committee