

You are hereby summoned to attend a meeting of the

MAIDSTONE BOROUGH COUNCIL



Date: Wednesday 25 April 2012

Time: 6.30 p.m.

Venue: Town Hall, High Street,
Maidstone

Membership:

Councillors B Mortimer (The Mayor), Ash, Barned, Beerling, Black, Mrs Blackmore, Brindle, Burton, Butler, Chittenden, Collins, Cox, Cuming, Daley, English, Field, FitzGerald, Garland, Mrs Gibson, Mrs Gooch, Greer, Ms Griffin, Mrs Grigg, Harwood, Hinder, Mrs Hinder, Hogg, Hotson, Mrs Joy, Lusty, D Mortimer, Naghi, Nelson-Gracie, Newton, Paine, Parvin, Mrs Parvin, Paterson, Pickett, Mrs Ring, Robertson, Mrs Robertson, Ross, Sams, Springett, Mrs Stockell, Thick, Verrall, Vizzard, Warner, de Wiggondene, J A Wilson, Mrs Wilson and Yates

Continued Over/:

Issued on 17 April 2012

The reports included in Part I of this agenda can be made available in **alternative formats**. For further information about this service, or to arrange for special facilities to be provided at the meeting, **please contact DEBBIE SNOOK on 01622 602030**. To find out more about the work of the Council, please visit www.maidstone.gov.uk

Alison Broom

**Alison Broom, Chief Executive, Maidstone Borough Council,
Maidstone House, King Street, Maidstone, Kent ME15 6JQ**

AGENDA

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1. Prayers
2. Apologies for Absence
3. Disclosures by Members and Officers
4. Disclosures of Lobbying
5. To consider whether any items should be taken in private because of the possible disclosure of exempt information.
6. Minutes of the meeting of the Borough Council held on 29 February 2012 1 - 12
7. Mayor's Announcements
8. Petitions
9. Question and Answer Session for Members of the Public
10. Questions from Members of the Council to the
 - (a) Leader of the Council
 - (b) Cabinet Members
 - (c) Chairmen of Overview and Scrutiny Committees
 - (d) Chairmen of other Committees
11. Current Issues - Report of the Leader of the Council and Response of the Group Leaders
12. Report of the Audit Committee held on 19 March 2012 - Request for Audit Committee Quorum to be Reduced from Four to Three 13
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15. Report of the Head of ICT Services - Street Naming and Numbering 36 - 38
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MAIDSTONE BOROUGH COUNCIL

MINUTES OF THE MEETING OF MAIDSTONE BOROUGH COUNCIL HELD AT THE TOWN HALL, HIGH STREET, MAIDSTONE ON 29 FEBRUARY 2012

Present: Councillor B Mortimer (The Mayer) and
Councillors Ash, Barned, Black, Mrs Blackmore,
Brindle, Burton, Butler, Chittenden, Collins, Cox,
Cuming, Daley, English, Field, FitzGerald, Garland,
Mrs Gibson, Mrs Gooch, Greer, Mrs Grigg, Harwood,
Hinder, Mrs Hinder, Hogg, Hotson, Mrs Joy, Lusty,
D Mortimer, Naghi, Nelson-Gracie, Newton, Paine,
Parvin, Mrs Parvin, Paterson, Pickett, Mrs Ring,
Robertson, Mrs Robertson, Ross, Springett,
Mrs Stockell, Thick, Verrall, Vizzard, Warner,
de Wiggondene, J A Wilson, Mrs Wilson and Yates

76. MR CLIFFORD PLAYFORD

The Council stood in silence for one minute in memory of Mr Clifford Playford, a former Councillor and Mayor of the Borough, who died on 8 February 2012.

77. PRAYERS

Prayers were said by the Reverend David Jones, Chaplain of Coxheath.

78. APOLOGIES FOR ABSENCE

It was noted that apologies for absence had been received from Councillors Ms Griffin, Sams and Sharp.

79. DISCLOSURES BY MEMBERS AND OFFICERS

The Chief Executive, on behalf of herself and all other members of staff present, disclosed an interest in the report of the Member and Employment and Development Panel relating to the Pay Policy Statement.

80. DISCLOSURES OF LOBBYING

Councillor Daley stated that he had been lobbied on behalf of the Maidstone Area Arts Council.

81. EXEMPT ITEMS

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

82. MINUTES OF THE MEETING OF THE BOROUGH COUNCIL HELD ON 14 DECEMBER 2011

RESOLVED: That the Minutes of the meeting of the Borough Council held on 14 December 2011 be approved as a correct record and signed.

83. MAYOR'S ANNOUNCEMENTS

The Mayor announced that he wished to thank those Members who had attended the events arranged to date to raise funds for the charities he had chosen to support during his year in office.

The Deputy Mayor advised the Council that arrangements were being made for an event to celebrate the Queen's Diamond Jubilee in the Square outside the Town Hall on Friday 1 June 2012. As there was only a limited budget available, Members' assistance with the provision/installation of bunting would be appreciated.

84. PETITIONS

There were no petitions.

85. QUESTION AND ANSWER SESSION FOR MEMBERS OF THE PUBLIC

Questions to the Leader of the Council

Mr Richard Wadey asked a question of the Leader of the Council. Mr Wadey explained that his question related to the area between St Michael's Road and Clare Park in Upper Fant and was being asked on behalf of a group of nineteen Upper Fant residents who were concerned that the Council was unwittingly opening the way to a large housing estate in local back gardens.

Question

In a Government statement of 9 June 2010 (<http://www.communities.gov.uk/newsstories/newsroom/1610351>), the Decentralisation Minister and the Housing Minister stated that "Councils and communities are being given new powers to prevent the destructive practice of 'garden grabbing". They said that the Government's action to take gardens out of the Brownfield category was "a simple step that will dramatically transform Councils' ability to prevent unwanted development on local gardens where local people object and to protect the character of their neighbourhoods". They went on to say that changing the classification of gardens in this way would mean that "Councils and communities no longer have their decisions constantly overruled".

Will the Borough Council:-

- *accept that the statement by Government ministers accurately describes the powers of local Councils in respect of applications to develop back-gardens for housing;*

- *recognise that Fant is one of the more densely populated wards in the Borough with the second-fastest rate of population growth*;
and*
- *therefore use its new powers in the Tonbridge Road area between St. Michael's and Clare Park to prevent further development and to meet the Government's objective of preserving 'green breathing space' and havens for urban wildlife?*

** Source: Kent County Council Research & Evaluation Report, Sept 2011 ("2010 Ward Level Population Estimates")*

The Leader of the Council responded to the question.

Councillor Mrs Wilson, the Leader of the Opposition, and Councillor FitzGerald, the Leader of the Independent Group, then responded to the question.

Mr Wadey asked the following supplementary question of the Leader of the Council:-

The Leader of the Council said that it is not correct to say that new powers were given as a result of that changed classification, but the Ministers said that Councils and communities are being given new powers. Is the Leader of the Council saying that they were not giving an accurate statement?

The Leader of the Council responded to the question.

Councillor Mrs Wilson, the Leader of the Opposition, and Councillor FitzGerald, the Leader of the Independent Group, then responded to the question.

To listen to the responses to these questions, please follow this link:-

http://clients.westminster-digital.co.uk/maidstone/mg_proxy.aspx?mg_a_id=9730

86. QUESTIONS FROM MEMBERS OF THE COUNCIL

Questions to the Leader of the Council

Councillor Chittenden asked the following question of the Leader of the Council:-

On Wednesday 14 March 2012, the Locality Board for Maidstone is due to meet to hear the report from Officers on the consultation relating to the proposed closure of Youth Centres in Maidstone and to make decisions on the future of youth facilities in our town.

Will the Leader of the Council confirm that, in the interest of open government, this meeting will be open to the public, promoted and

advertised in advance, and webcast so individuals who are unable to attend can see or review the debate?

The Leader of the Council responded to the question.

Councillor Chittenden asked the following supplementary question of the Leader of the Council:-

When I raised the same issue with County Councillor Mike Hill, the Cabinet Member for Customer and Communities, his response was that at present the Locality Boards are not open to the public and there are no arrangements in place for their work to be webcast. In the light of this response, and bearing in mind that we have already been told that the future of our libraries will be the next main issue to be passed down to the Locality Boards after youth services, can the Leader of the Council give an assurance that all future meetings of the Locality Board will also be open to the public, including those held at County Hall?

The Leader of the Council responded to the question.

Councillor Newton asked the following question of the Leader of the Council:-

Can the Leader of the Council confirm what percentage of employees of Maidstone Borough Council has been made redundant since May 2010?

The Leader of the Council responded to the question.

Councillor Newton asked the following supplementary question of the Leader of the Council:-

Are further redundancies planned this year?

The Leader of the Council responded to the question.

Questions to Cabinet Members

Councillor Paine asked the following question of the Cabinet Member for Community and Leisure Services:-

What is the current status of Maidstone's draft Leisure and Culture Strategy?

The Cabinet Member responded to the question.

Councillor Paine asked the following supplementary question of the Cabinet Member for Community and Leisure Services:-

Could the Cabinet Member speak to the relevant Officers to see if Maidstone Borough Council could benefit from a Member workshop or group, perhaps later in the year, to see how the fifty five Members of the

Council could contribute some of their time towards developing and supporting cultural activities in Maidstone?

The Cabinet Member for Community and Leisure Services responded to the question.

Councillor Daley asked the following question of the Cabinet Member for Corporate Services:-

A rumour has been circulating that the Council is about to dispose of or sell the Victorian bandstand in Brenchley Gardens – Can you please either confirm or deny this?

The Cabinet Member for Corporate Services responded to the question.

Councillor Daley asked the following supplementary question of the Cabinet Member for Corporate Services:-

If the Council is not going to sell or dispose of the bandstand, then what exactly is it proposing to do with it? By completely removing the supporting grant which makes it possible for bands to perform and not otherwise proactively supporting the band concert season, the bandstand will remain an empty shell to the annoyance of all those people who have enjoyed the concerts over many years. Is this the kind of community engagement the Council has in mind?

The Cabinet Member for Corporate Services responded to the question.

Councillor Daley asked the following question of the Cabinet Member for Economic Development and Transport:-

In the Cabinet Improvement Plan paper of 8 February to which you presumably subscribed and agreed, there are many separate sections designed to show how the Council may improve service delivery and also save money. In the section dedicated to the Hazlitt Arts Centre there appears what looks to me like a conundrum.

It says the Council's aim is to make the Hazlitt a 'Vibrant Theatre that people will want to go to all of the time' and in the next line says that it will 'cut its subsidy by 50%'. It then goes on to say that it will 'increase community participation and involvement'.

Would the Cabinet Member care to tell us how making a vibrant business is really going to be achieved by cutting the subsidy – and what is meant by 'community involvement and participation' in this context?

The Cabinet Member for Economic Development and Transport responded to the question.

Councillor FitzGerald asked the following question of the Cabinet Member for Economic Development and Transport:-

Can the Cabinet Member for Economic Development and Transport inform Members of the total number of new homes granted planning permission to date this year but not including those knocked down to rebuild or updates or changes to previous permissions granted?

The Cabinet Member for Economic Development and Transport responded to the question.

Councillor FitzGerald asked the following supplementary question of the Cabinet Member for Economic Development and Transport:-

Given the low number of planning applications again this year and the three year period for implementing permissions, there is an added need for some incentive to support regeneration. What plans are being put in place by the Council to address the plight of those on the housing waiting list?

The Cabinet Member for Economic Development and Transport responded to the question.

To listen to the responses to these questions, please follow this link:-

http://clients.westminster-digital.co.uk/maidstone/mg_proxy.aspx?mg_a_id=9731

87. CURRENT ISSUES - REPORT OF THE LEADER OF THE COUNCIL AND RESPONSE OF THE GROUP LEADERS

There was no report from the Leader of the Council on this occasion.

88. REPORT OF THE CABINET HELD ON 8 FEBRUARY 2012 - REFRESH OF THE STRATEGIC PLAN 2012-13

It was moved by Councillor Garland, seconded by Councillor Hotson, that the recommendations of the Cabinet relating to the refreshed Strategic Plan 2012-13 be approved.

RESOLVED:

1. That the refreshed Strategic Plan 2012-13, attached as an Appendix to the report of the Cabinet, be adopted.
2. That the Chief Executive be given delegated authority in consultation with the Leader of the Council to make minor amendments to the document as required.

89. REPORT OF THE CABINET HELD ON 8 FEBRUARY 2012 - BUDGET STRATEGY - CORPORATE REVENUE AND CAPITAL BUDGETS 2012/13 ONWARDS

Before calling upon Councillor Garland to move the recommendations of the Cabinet relating to the Budget Strategy - Corporate Revenue and

Capital Budgets 2012/13 onwards, the Mayor reminded Members that, in accordance with Council Procedure Rule 16.4, each Group Leader could speak for up to ten minutes when moving his/her Group's budget proposals.

It was moved by Councillor Garland, seconded by Councillor Hotson, that the recommendations of the Cabinet relating to the Budget Strategy - Corporate Revenue and Capital Budgets 2012/13 onwards be approved.

Amendment moved by Councillor FitzGerald, seconded by Councillor Mrs Gooch, that the recommendations of the Cabinet to the Council relating to the Budget Strategy – Corporate Revenue and Capital Budgets 2012/13 onwards be approved subject to the following amendment:-

That £15,000 of the £23,380 shown as Mayoral and Civic Services savings be reinstated to support the work of the Mayor and that an equivalent saving be made from Members' Facilities and Members' Allowances etc.

AMENDMENT LOST

The original motion was put to the vote and carried.

RESOLVED:

1. That the revised revenue estimates for 2011/12, as set out in Appendix A to the report of the Cabinet (circulated separately), be agreed.
2. That the minimum level of General Fund Balances be set at £2m for 2012/13.
3. That the proposed Council Tax of £222.39 at Band D for 2012/13 (a second year freeze at 2010/11 values) be agreed.
4. That the revenue estimates for 2012/13 incorporating the growth and savings items, as set out in Appendix A to the report of the Cabinet, be agreed.
5. That the Statement of Reserves and Balances, as set out in Appendix A to the report of the Cabinet, be agreed.
6. That the Capital Programme, as set out in Appendix A to the report of the Cabinet, be agreed.
7. That the funding of the Capital Programme, as set out in Appendix A to the report of the Cabinet, be agreed.
8. That the Medium Term Financial Strategy, as set out in Appendix A to the report of the Cabinet, be agreed.

9. That the Medium Term Financial Projection, as set out in Appendix A to the report of the Cabinet, be endorsed as the basis for future financial planning.
10. That it be noted that, at the meeting of the General Purposes Group on 14 December 2011, the Group calculated the Council's Council Tax base for the year 2012/13 in accordance with Regulations made under Section 33(5) of the Local Government Finance Act 1992, as 60,985.3 being the amount calculated in accordance with Regulation 3 of the Local Authorities (Calculation of Council Tax Base) regulations 1992.
11. That it be noted that, as detailed in Appendix B, the Council Tax Base for each of the Parish Areas, calculated in accordance with Regulation 6 of the Regulations, are the amounts of its Council Tax Base for the year for dwellings in those parts of its area to which a special item relates (Parish precepts).
12. That the Council Tax requirement for the Council's own purposes for 2012/13 (excluding Parish precepts) be calculated as £13,901,596.
13. That the following amounts now be calculated by the Council for the year 2012/13 in accordance with Sections 31A, 31B and 34-36 of the Local Government Finance Act 1992 as amended by the Localism Act 2011:-
 - (a) £94,194,616 being the aggregate of the amounts which the Council estimates for the items set out in Section 31A(2) of the Act taking into account all precepts issued to it by Parish Councils.
 - (b) £79,516,251 being the aggregate of the amounts which the Council estimates for the items set out in Section 31A(3) of the Act.
 - (c) £14,678,365 being the amount by which the aggregate at 13(a) above exceeds the aggregate at 13(b) above, calculated by the Council in accordance with Section 31A(4) of the Act as its Council Tax requirement for the year (Item R in the formula in Section 31A(4) of the Act).
 - (d) £240.69 being the amount at 13(c) above (Item R), all divided by the figure stated at 10 above (Item T in the formula in Section 31A(4) of the Act), calculated by the Council, in accordance with Section 31B(1) of the Act, as the basic amount of its Council Tax for the year (including Parish precepts).

- (e) £1,115,812 being the aggregate amount of all special items (Parish precepts) referred to in Section 34(1) of the Act (as per the attached Appendix B).
- (f) £222.39 being the amount at 13(d) above less the result given by dividing the amount at 13(e) above by the tax base given in 10 above, calculated by the Council, in accordance with Section 34(2) of the Act, as the basic amount of its Council Tax for the year for dwellings in those parts of its area to which no Parish precept relates.

14. That it be noted that for the year 2012/13 Kent County Council, the Kent Police Authority and the Kent and Medway Towns Fire Authority have stated the following amounts in precepts issued to the Council, in accordance with Section 40 of the Local Government Finance Act 1992, for each of the categories of dwellings shown below:-

<u>Valuation Bands</u>	<u>KCC</u> £	<u>KPA</u> £	<u>KMTFA</u> £
A	698.52	92.45	45.30
B	814.94	107.86	52.85
C	931.36	123.27	60.40
D	1,047.78	138.68	67.95
E	1,280.62	169.50	83.05
F	1,513.46	200.32	98.15
G	1,746.30	231.13	113.25
H	2,095.56	277.36	135.90

15. That, having calculated the aggregate in each case of the amounts at 13 (d) and 14 above, the Council, in accordance with Section 30(2) of the Local Government Finance Act 1992, hereby sets out in Appendix C, the amounts of Council Tax for the year 2012/13 for each of the categories of dwellings shown.

90. REPORT OF THE CABINET HELD ON 8 FEBRUARY 2012 - TREASURY MANAGEMENT STRATEGY 2012-13

It was moved by Councillor Garland, seconded by Councillor J. A. Wilson, that the recommendation of the Cabinet relating to the Treasury Management Strategy 2012/13 be approved.

RESOLVED: That the Treasury Management Strategy for 2012/13, as set out in the report of the Cabinet, be approved, including the Counterparty List attached at Appendix A, the Prudential Indicators attached at Appendix B and the Specified and Non-Specified Investments attached at Appendix C.

91. REPORT OF THE MEMBER AND EMPLOYMENT AND DEVELOPMENT PANEL HELD ON 23 JANUARY 2012 - PAY POLICY STATEMENT

It was moved by Councillor Lusty, seconded by Councillor Mrs Wilson, that the recommendations of the Member and Employment and Development Panel relating to the Pay Policy Statement be approved.

RESOLVED:

1. That the Pay Policy Statement, attached as an Appendix to the report of the Member and Employment and Development Panel, be approved.
2. That the Chief Executive be given delegated authority in consultation with the Chairman and Political Group Spokespersons of the Member and Employment and Development Panel to make minor amendments to the Pay Policy Statement, if required, prior to publication, including any amendments required following the negotiations with the trade unions on the annual pay review.

92. NOTICE OF MOTION RELATING TO THE QUEEN'S DIAMOND JUBILEE

It was moved by Councillor Parvin, seconded by Councillor Mrs Parvin, and:-

RESOLVED: That the Mayor, on behalf of Councillors and citizens of the Borough of Maidstone, the County Town of Kent, send a message of loyal greetings and congratulations to Her Majesty Queen Elizabeth II on the occasion of the Diamond Jubilee of her reign.

93. APPOINTMENT OF MAYOR SELECT 2012/13

It was moved by Councillor Lusty, seconded by Councillor Warner, supported by Councillor Mrs Gooch and:-

RESOLVED: That Councillor Rodd Nelson-Gracie be appointed as Mayor Select for the Municipal Year 2012/13.

94. APPOINTMENT OF DEPUTY MAYOR SELECT 2012/13

It was moved by Councillor Robertson, seconded by Councillor Paine, supported by Councillor FitzGerald and:-

RESOLVED: That Councillor Clive English be appointed as Deputy Mayor Select for the Municipal Year 2012/13.

95. DURATION OF MEETING

6.30 p.m. to 8.00 p.m.

MAIDSTONE BOROUGH COUNCILCOUNCIL TAX 2012/2013Schedule of Council Tax Base and Additional Basic Amounts ofCouncil Tax in parts of the area with Parish Precepts

PARISH	TAX BASE	PRECEPT £	BAND 'D' TAX £
Barming	749.50	16,500	22.01
Bearsted	3,681.50	95,000	25.80
Boughton Malherbe	228.90	2,100	9.17
Boughton Monchelsea	1,312.00	40,672	31.00
Boxley	3,902.10	81,916	20.99
Bredhurst	179.40	8,500	47.38
Broomfield & Kingswood	730.70	33,000	45.16
Chart Sutton	427.10	17,000	39.80
Collier Street	359.20	9,814	27.32
Coxheath	1,629.40	54,550	33.48
Detling	382.00	19,074	49.93
Downswood	861.80	23,500	27.27
East Sutton	144.50	5,000	34.60
Farleigh East	694.90	26,574	38.24
Farleigh West	222.20	12,000	54.01
Harrietsham	924.10	25,750	27.86
Headcorn	1,546.00	81,070	52.44
Hollingbourne	466.20	16,000	34.32
Hunton	321.90	15,000	46.60
Langley	524.70	18,406	35.08
Leeds	362.50	21,800	60.14
Lenham	1,436.90	58,762	40.89
Linton	260.60	8,775	33.67
Loose	1,105.20	51,390	46.50
Marden	1,638.60	69,500	42.41
Nettlestead	357.60	8,602	24.05
Otham	224.70	7,400	32.93
Staplehurst	2,378.80	96,100	40.40
Stockbury	330.90	11,000	33.24
Sutton Valence	665.40	28,000	42.08
Teston	324.60	18,000	55.45
Thurnham	544.70	13,918	25.55
Tovil	1,346.00	62,940	46.76
Ulcombe	398.00	12,199	30.65
Yalding	1,030.30	46,000	44.65

MAIDSTONE BOROUGH COUNCIL

COUNCIL TAX 2012/2013

Schedule of Council Tax Levels for all Bands

and all Parts of the Area including District Spending and all Precepts.

	Band A Total Rate £	Band B Total Rate £	Band C Total Rate £	Band D Total Rate £	Band E Total Rate £	Band F Total Rate £	Band G Total Rate £	Band H Total Rate £
Barming	999.20	1,165.74	1,332.27	1,498.81	1,831.88	2,164.95	2,498.01	2,997.62
Bearsted	1,001.73	1,168.69	1,335.64	1,502.60	1,836.51	2,170.43	2,504.33	3,005.20
Boughton Malherbe	990.64	1,155.75	1,320.86	1,485.97	1,816.19	2,146.41	2,476.61	2,971.94
Boughton Monchelsea	1,005.20	1,172.73	1,340.27	1,507.80	1,842.87	2,177.94	2,513.00	3,015.60
Boxley	998.52	1,164.95	1,331.37	1,497.79	1,830.63	2,163.48	2,496.31	2,995.58
Bredhurst	1,016.12	1,185.47	1,354.83	1,524.18	1,862.89	2,201.60	2,540.30	3,048.36
Broomfield & Kingswood	1,014.64	1,183.74	1,352.85	1,521.96	1,860.18	2,198.39	2,536.60	3,043.92
Chart Sutton	1,011.06	1,179.58	1,348.09	1,516.60	1,853.62	2,190.65	2,527.66	3,033.20
Collier Street	1,002.74	1,169.87	1,336.99	1,504.12	1,838.37	2,172.62	2,506.86	3,008.24
Coxheath	1,006.85	1,174.66	1,342.47	1,510.28	1,845.90	2,181.52	2,517.13	3,020.56
Detling	1,017.82	1,187.45	1,357.09	1,526.73	1,866.01	2,205.28	2,544.55	3,053.46
Downswood	1,002.71	1,169.83	1,336.95	1,504.07	1,838.31	2,172.55	2,506.78	3,008.14
East Sutton	1,007.60	1,175.53	1,343.47	1,511.40	1,847.27	2,183.14	2,519.00	3,022.80
Farleigh East	1,010.02	1,178.36	1,346.70	1,515.04	1,851.72	2,188.40	2,525.06	3,030.08
Farleigh West	1,020.54	1,190.63	1,360.72	1,530.81	1,870.99	2,211.17	2,551.35	3,061.62
Harrietsham	1,003.10	1,170.29	1,337.47	1,504.66	1,839.03	2,173.40	2,507.76	3,009.32
Headcorn	1,019.49	1,189.41	1,359.32	1,529.24	1,869.07	2,208.91	2,548.73	3,058.48
Hollingbourne	1,007.41	1,175.31	1,343.22	1,511.12	1,846.93	2,182.73	2,518.53	3,022.24
Hunton	1,015.60	1,184.86	1,354.13	1,523.40	1,861.94	2,200.47	2,539.00	3,046.80
Langley	1,007.92	1,175.90	1,343.89	1,511.88	1,847.86	2,183.83	2,519.80	3,023.76
Leeds	1,024.62	1,195.40	1,366.17	1,536.94	1,878.48	2,220.03	2,561.56	3,073.88
Lenham	1,011.79	1,180.42	1,349.06	1,517.69	1,854.96	2,192.22	2,529.48	3,035.38
Linton	1,006.98	1,174.81	1,342.64	1,510.47	1,846.13	2,181.79	2,517.45	3,020.94
Loose	1,015.53	1,184.79	1,354.04	1,523.30	1,861.81	2,200.33	2,538.83	3,046.60
Marden	1,012.80	1,181.61	1,350.41	1,519.21	1,856.81	2,194.42	2,532.01	3,038.42
Nettlestead	1,000.56	1,167.33	1,334.09	1,500.85	1,834.37	2,167.90	2,501.41	3,001.70
Otham	1,006.48	1,174.23	1,341.98	1,509.73	1,845.23	2,180.73	2,516.21	3,019.46
Staplehurst	1,011.46	1,180.04	1,348.62	1,517.20	1,854.36	2,191.52	2,528.66	3,034.40
Stockbury	1,006.69	1,174.47	1,342.26	1,510.04	1,845.61	2,181.17	2,516.73	3,020.08
Sutton Valence	1,012.58	1,181.35	1,350.11	1,518.88	1,856.41	2,193.94	2,531.46	3,037.76
Teston	1,021.50	1,191.75	1,362.00	1,532.25	1,872.75	2,213.25	2,553.75	3,064.50
Thurnham	1,001.56	1,168.49	1,335.42	1,502.35	1,836.21	2,170.07	2,503.91	3,004.70
Tovil	1,015.70	1,184.99	1,354.27	1,523.56	1,862.13	2,200.70	2,539.26	3,047.12
Ulcombe	1,004.96	1,172.46	1,339.95	1,507.45	1,842.44	2,177.43	2,512.41	3,014.90
Yalding	1,014.30	1,183.35	1,352.40	1,521.45	1,859.55	2,197.65	2,535.75	3,042.90
Basic Level of Tax	984.53	1,148.62	1,312.71	1,476.80	1,804.98	2,133.16	2,461.33	2,953.60

MAIDSTONE BOROUGH COUNCIL

COUNCIL

25 APRIL 2012

REFERENCE FROM AUDIT COMMITTEE

1. REQUEST FOR AUDIT COMMITTEE QUORUM TO BE REDUCED FROM FOUR TO THREE

1.1 The Audit Committee, at its meeting held on 19 March 2012, considered an oral report of the Head of Democratic Services regarding a request to reduce the quorum of the Audit Committee from four to three.

1.2 Members were informed that Cabinet had recently reduced their quorum from 4 to 3 as there are now 5 Members of Cabinet and, although, having a quorum of 4 had not caused a problem for the Audit Committee to date, when new members join they do need to undertake training before being able to serve on the Committee and this could cause a problem in the future.

1.3 Having considered the recommendation, the Committee:-

RECOMMENDED: That Council, following an evaluation by the Standards Committee, be recommended to reduce the quorum of the Audit Committee from four to three and that the Constitution be amended accordingly.

EVALUATION BY THE STANDARDS COMMITTEE – 4 APRIL 2012:

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 proposed reduction in the quorum for meetings of the Audit Committee, 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 arrangements to enable business to be transacted in the event of two Members of the Committee being unable/ineligible to attend a meeting of the Committee, thus enabling decisions to be taken efficiently and effectively.

Agenda Item 13

MAIDSTONE BOROUGH COUNCIL

COUNCIL

25 APRIL 2012

REPORT OF THE STANDARDS COMMITTEE HELD ON 4 APRIL 2012

- 1. ANNUAL REPORT TO COUNCIL 2011/12**
- 1.2** The Standards Committee has considered its final Annual Report to the Council under the current ethical standards regime.
 - 1.2.1** A copy of the Report is attached as an Appendix.
- 1.3. RECOMMENDED: That the Standards Committee's Annual Report to Council 2011/12, a copy of which is attached as an Appendix to this report, be noted.**

MAIDSTONE BOROUGH COUNCIL
STANDARDS COMMITTEE
ANNUAL REPORT TO COUNCIL
1 APRIL 2011 – 31 MARCH 2012

This is the Committee's fifth and final Annual Report to the Council under the current arrangements.

Members of the Standards Committee

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

Borough Members:

Cllr Mike Fitzgerald (from May 2011)
Cllr Wendy Hinder
Cllr David Marchant (to May 2011)
Cllr Peter Parvin (Vice Chairman)
Cllr Cynthia Robertson
Cllr Paulina Stockell
Cllr Bryan Vizzard

Parish Members:

Cllr Paul Butcher
Cllr Eileen Riden
Cllr Bill Stead
Cllr Ian Younger

Independent Co-opted Members:

Hilary Hunt
Dorothy Phillips (Chairman)
Mike Powis
Don Wright

Chairman's Remarks

The Standards Committee has been pre-occupied this year in monitoring and commenting on the passage of the Localism Bill through both Houses in Parliament. The emphasis has been and continues to be on examining how to achieve an effective, open and impartial system which will inspire public confidence. A brief summary of the provisions of the Localism Act 2011 can be found towards the end of this Report.

Notwithstanding the legislative changes, our prime responsibility as in previous years 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. The progress we have made throughout the year has been recorded in the Forward Work Plan 2011-2012, considered at each Committee meeting as part of the Committee's agenda.

During the year the Committee has also commented on amendments to the Constitution and considered quarterly complaints reports.

Training

13 Borough and Parish Councillors attended the last training session on the Code of Conduct in June 2011. Since the programme started in August 2009, 94 councillors from the Borough Council and from 24 Parishes have attended the sessions. Early in the year, the Committee decided to cancel future sessions because of the uncertain future of the Code of Conduct, the role of the Committee and the nature of the complaints system. The training issues which most frequently concerned participants included how to deal with declarations of interest; bullying and intimidation; confidential information; and dispensations. These will no doubt continue to be of concern in the future.

In addition, all new Members of the Standards Committee received training in local assessment procedures and determination.

Complaints Received

This year there were 10 complaints involving 18 councillors – 7 complaints about 15 Parish Councillors and 3 complaints about Borough councillors. All except three complaints related to one Parish council.

4 complaints led to no further action; 3 were referred to the Monitoring officer for other action; and 3 were referred for investigation. A request for a review of no further action was made in 1 case and the review panel referred the complaint to the Monitoring Officer for other action in this case, training.

Of the 3 cases referred for investigation, in 2 cases the consideration sub committee agreed the investigating officer's finding of no breach. In the third case the consideration subcommittee found that there was a breach and the case is to be heard at a Public Hearing.

The Monitoring Officer continued to report half-yearly to the Committee on the number of complaints.

Dispensations

The Committee granted 1 dispensation during the year.

The Localism Act 2011

The Bill was laid before Parliament on 13 December 2010 and received Royal Assent on 15 November 2011. It is expected that the new regime will come into force on 1 July 2012.

Following substantial amendment during its passage through Parliament, the legislation now requires all authorities, including parishes, to adopt a Code of Conduct consistent with the 7 Nolan principles. A duty is placed on all authorities to promote and maintain high standards of conduct.

Authorities other than parish councils will need to have in place a mechanism for dealing with complaints. Although the details are left up to the authority to decide, the Borough Council will be responsible for dealing with parish complaints. Whatever system is adopted, it will be managed by the Monitoring Officer in consultation with an Independent Person whose views must be sought and taken into account at certain stages of the investigation; and who may be able to approach the subject of the complaint. The Independent person cannot be a member or officer of the authority or a relative or close friend nor have held office for at least 5 years.

The Act provides for a criminal offence if Members fail to register and/or declare financial interests although details of what constitutes these interests are yet to be determined by legislation.

The Act places no requirement on an authority to set up a standards committee nor does it provide for any statutory sanctions.

The Local Government Association (LGA) and the Kent District Secretaries Group (KDSG) have been considering the provisions. It is expected that a model Code of Conduct will be drawn up by LGA. Locally, the Monitoring Officer has been meeting his opposite numbers in KDSG to consider a common regime. The main issues under discussion have been the Code, the role and function of a Standards Committee, the management of a complaints system and the new role of the Independent Person. The Monitoring Officer's paper setting out options for consideration will be presented to this Committee on 4 April 2012 and to Council on 25 April 2012 .

The Chairman and Monitoring Officer, on behalf of the Standards Committee, have continued to report back to Council with any further views gleaned from other councils through meetings of the Kent and Medway Independent Liaison Group and from meetings with the Chairman and Vice Chairman of Kent Association of Local Councils (KALC), and advice from LGA and the Association of Council Secretaries and Solicitors.

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

Agenda Item 14

MAIDSTONE BOROUGH COUNCIL

COUNCIL

25 APRIL 2012

REPORT OF THE STANDARDS COMMITTEE HELD ON 4 APRIL 2012

1. FUTURE OF STANDARDS REGIME

- 1.1** The Standards Committee has considered the report of the Monitoring Officer setting out proposed arrangements for implementing the provisions of the Localism Act in so far as they relate to the ethical standards regime. The report addressed the following issues:-
- The requirement for all local authorities to adopt a Code of Conduct (although there will no longer be a national mandatory Code).
 - The requirement for all local authorities to have a system in place to deal with allegations of Member misconduct and to appoint at least one Independent Person whose views must be sought, and taken into account, by the authority before making its decision on an allegation that it has decided to investigate.
 - The role and composition of the non-statutory Standards Committee which will be set up to replace the existing Committee when the new standards regime comes into force (currently expected to be in July this year).
 - The composition of the Assessment and Hearing Sub-Committees to be appointed from the membership of the Standards Committee as and when required.
 - The arrangements for dealing with applications for dispensations from Borough and Parish Councillors who wish to participate in meetings notwithstanding the fact that they have a prejudicial interest in a matter to be discussed.
 - The arrangements for discharging the other functions currently carried out by the Standards Committee.
- 1.2** In response to questions, the Monitoring Officer explained that:-
- The Local Government Association had undertaken to publish a draft model Code of Conduct for Councils to consider adopting. The Code and Register of Interests would have to deal with those pecuniary interests that must be registered and disclosed pursuant to regulations yet to be made (failure

to comply with which would be a criminal offence) and those other interests, pecuniary and non-pecuniary, which the Council decides must be declared. The Council's Register of Interests and the Register of Interests of all Parish Councils within the Borough must be published on the Council's website. The Borough Council already had a facility for publishing interests on-line and had begun preparations to put Parish Registers on its website.

- The main thrust of the suggested new arrangements for dealing with complaints of misconduct by Borough and Parish Councillors was to enable complaints to be dealt with simply, efficiently and proportionately by the Monitoring Officer in consultation with the Independent Person, with an opportunity to deal with complaints informally if appropriate.
- It was anticipated that the new non-statutory Standards Committee would only meet once a year and that its main purpose would be to provide a pool from which Sub-Committees could be drawn to deal with complaints, although it could meet more often should the need arise. Since Co-opted Members could only vote on Advisory Committees or Sub-Committees, if they were to be Members of Sub-Committees which made decisions, they could only do so as non-voting Members and could not chair the Sub-Committee. As the advisory role would now be covered by the Independent Person, there did not appear to be very much to be gained by Independent Members being co-opted onto the Committee/Sub-Committees. However, there might be some advantage to be gained from having a Parish representative on the Sub-Committees when they held hearings into alleged breaches of the Code by Parish Councillors. If it was considered that there should continue to be Parish representatives on the Committee and Hearing Sub-Committees, they would be appointed as non-voting Co-opted Members.

1.3 During the ensuing discussion, the Committee reluctantly accepted the position regarding the co-option of Independent Members onto the Committee/Sub-Committees, but felt that there should continue to be two Parish Councillor representatives on the main Committee and one on the Hearing Sub-Committees. It was also felt that there might be some merit in appointing a "reserve" or "substitute" Independent Person to act in cases where the Independent Person was unable to act due to absence, sickness etc.

1.4 The Committee then gave detailed consideration to the proposed arrangements for dealing with complaints of misconduct by Borough and Parish Councillors, as set out in Appendix A to the report of the Monitoring Officer, and suggested amendments to section 9 to clarify the involvement of the Monitoring Officer in any deliberations of the Hearing Sub-Committee held in private.

1.5 A copy of the report of the Monitoring Officer is attached as an Appendix to this report together with an amended version of Appendix A reflecting the views of the Standards Committee.

1.6 RECOMMENDED

- 1.** That agreement be given to the appointment of one Independent Person and that the Monitoring Officer be given delegated authority to agree the Job Description with the Chairman of the Standards Committee and the Political Group Spokesmen and to commence the recruitment process, culminating in a recommendation being made to Council as to who should be appointed (following consideration by a group of Members).
- 2.** That the possibility of recruiting an Independent Person from another authority or elsewhere to act as a reserve be investigated.
- 3.** That as from the commencement date of the new ethical standards regime, the non-statutory Standards Committee should comprise a maximum of 3 Members from each political group of the Council (i.e. it should not be politically balanced); that 2 Parish Councillor representatives be appointed as non-voting Members of the Committee on the nomination of the Kent Association of Local Councils; and that the existing arrangements be maintained until the commencement date.
- 4.** That Assessment Sub-Committees (not politically balanced) comprising 3 Councillors be appointed from the membership of the Standards Committee as and when the Monitoring Officer requires.
- 5.** That Hearing Sub-Committees of 3 Councillors (not politically balanced) be appointed to hear complaints where in the opinion of the Monitoring Officer there has been a breach of the Code of Conduct and that a Parish Councillor representative should be appointed to the Sub-Committee as a non-voting Member when Parish Councillors are the subject of the complaint.
- 6.** That the procedures for dealing with complaints of misconduct by Borough and Parish Councillors, as set out in Appendices A and B to the report of the Monitoring Officer and as amended to reflect the views of the Standards Committee, be adopted.
- 7.** That further reports be submitted as and when the LGA publishes its model Code of Conduct.
- 8.** That the Standards Committee be given delegated authority to deal with applications by Borough Councillors for dispensations and that the Monitoring Officer also be given authority to deal with these in consultation with the Independent Person.
- 9.** That the Standards Committee continue to be responsible for promoting and maintaining high standards of conduct by Members

including making recommendations to Council as to the Code of Conduct and maintaining an oversight of the training process.

- 10.** That all changes to the Constitution continue to be approved by the full Council, and that any proposed changes be accompanied by an evaluation from the Monitoring Officer.
- 11.** That the Audit Committee become responsible for the oversight of the Whistle Blowing Policy.
- 12.** That the appropriate Overview and Scrutiny Committee become responsible for the overview of complaints handling and Local Government Ombudsman investigations.
- 13.** That the Chief Executive be given delegated authority to make payments in cases of maladministration up to £1,000 and that the appropriate Cabinet Member be responsible for authorising payments in excess of this figure.
- 14.** That it be noted that these proposed arrangements remain subject to review.
- 15.** That the consequential amendments to the Constitution arising from the implementation of the provisions of the Localism Act in so far as they relate to the ethical standards regime be approved.

MAIDSTONE BOROUGH COUNCIL

STANDARDS COMMITTEE

REPORT OF THE MONITORING OFFICER

4 APRIL 2012

FUTURE OF STANDARDS REGIME

1. Introduction

1.1 As Members will be aware, the Localism Act received the Royal Assent on November 15 2011, and it is currently expected that the new Standards Regime will come into force in July this year, although there is some suggestion that this may be delayed. Since the Council's decision relating to the new regime there have been amendments to the Bill before it was enacted. The Kent District Secretaries Group has been working on formulating model arrangements for dealing with Standards Issues and this report is based on this work to date. However, this is still work in progress, and there may be further refinements in the future which will be the subject of further reports. In particular, the Government still has yet to make regulations about discloseable pecuniary interests, and the Local Government Association is formulating a proposed model Code of Conduct for Councils to consider.

2. Independent Persons

2.1 The Bill introduced the concept of the Independent Person whose views must be sought, and taken into account, by the Council before it makes its decision on an allegation of misconduct that it has decided to investigate. The Independent Person's views may be sought by the Council at other times as well, and may be sought by Borough and Parish Councillors if they are the subject of allegations of misconduct. It is understood that as currently written, the Localism Act does not permit our existing Co-opted Independent Members of the Standards Committee to be eligible to be appointed as an Independent Person, although representations have been made to the Secretary of State to legislate to remove this prohibition

The Council must appoint at least one Independent Person, vacancies must be advertised, and the appointment must be made by the full Council. The current view is that one Independent Person should be appointed, (with the possibility of a reserve also being appointed) and I would suggest that I should be given delegated authority to prepare job descriptions for this position and commence the recruitment procedure in consultation with the Chairman and Political Group Spokesmen of the Standards Committee so that progress can be made.

3. Composition of the Standards Committee

- 3.1 The introduction of the Independent Person does mean that consideration should be given as to whether there is now any need for Independent Co-opted Members to be appointed to sit on the Standards Committee. It is anticipated that the Standards Committee will only meet once a year and that its main purpose will be to provide a pool from which panels could be drawn to deal with complaints, although it could meet more often should the need arise. Since Co-opted Members can only vote on advisory committees or sub-committees, if they are to be Members of sub-committees which make decisions, they could only do so as non-voting members and could not Chair the sub-committee. As the advisory role will now be covered by the Independent Person there does not appear to be very much to be gained by Independent Members being co-opted onto the Committee/Sub-Committee. I would therefore suggest that the main Committee comprise 3 Members from each political group of the Council (a political group being more than 1 member who have requested to be treated as a political group) to be nominated, as usual, by the Group Leaders and to be appointed by the full Council. This would mean that the Council would have to agree, with no member voting against, to appoint a Committee which is not politically balanced. The Sub-Committees could then comprise 3 Councillors selected from the Committee (again not political balanced). If Members still wished to have Independent Co-opted Members on the main committee and the sub-committees, this could be done on a non-voting basis. The position relating to Independent Co-opted Members voting on advisory committees is set out in the note to paragraph 8 at Appendix A. As the proposed complaints system would lead to findings of breaches of the Code of Conduct in relation to Parish Councillors (and the Localism Act places a duty on the Borough Council to deal with such complaints) being reported to the Parish Council to take action (as the sanctions currently open to the sub-committee will no longer be available), then maybe there is no longer a need for there to be Parish representatives on the Committee.

However, there may be some advantage to be gained from having a Parish representative on the Sub-Committees when they hold hearings into alleged breaches of the Code by Parish Councillors. If Members still want to have Parish representatives on the Committee and Hearing Sub-Committee, then this would be done as non-voting co-opted members.

4. Code of Conduct

- 4.1 The Council will have to adopt a New Code of Conduct and the Local Government Association has undertaken to produce a draft for Councils to consider adopting. Parish Councils will have to adopt a Code and they may adopt the same Code as that adopted by the District Council. The Code and Register of Interests will have to deal with those pecuniary interests which must be registered and disclosed pursuant to regulations yet to be made (failure to comply with which will be a criminal offence) and those other interests, pecuniary and non-pecuniary, which the Council decides must be declared. The Council's Register of Interests and the

Register of Interests of all Parish Councils within the Borough must be published on the Council's website. If the Parish Council has a website, their Code must also be published on it. Maidstone Borough Council already has a facility for publishing Interests on-line and has begun preparations to put Parish Registers on its website. It is suggested that the Code of Conduct should also be available on the website.

5. Dispensations

- 5.1 Currently the Standards Committee deals with applications for dispensations from Borough and Parish Councillors who wish to participate in meetings notwithstanding the fact they have a prejudicial interest in a matter to be discussed. The Sub-Committee has power to do so in case of urgency. The dispensations will continue to be available under the new regime to permit members with discloseable pecuniary interests to participate in meetings. It is recommended that this function be delegated to the Monitoring Officer in consultation with the Independent Person, but that he will be able to report applications to Standards Committee for decision where he does not feel able to make a decision, as some of the new criteria for granting dispensations are quite subjective. Parish Councils will deal with their own dispensations.

6. Dealing with Complaints

- 6.1 I attach at Appendix A a suggested method of dealing with complaints of misconduct by Borough and Parish Councillors. These arrangements will need to be published. This is further explained by the flow chart at Appendix B. As mentioned above, these are still works in progress and may need to be refined. The main thrust of the suggested new process is to enable complaints to be dealt with simply, efficiently and proportionately by the Monitoring Officer in consultation with the Independent Person, with an opportunity to deal with complaints informally if appropriate. It is proposed that the Monitoring Officer in consultation with the Independent Person should decide at the outset if a complaint should be investigated, whether other action should be taken, or if no action should be taken. If the Monitoring Officer is not sure whether a case should be investigated, it is proposed that he should refer the case to a Standards Sub-Committee comprising 3 Councillors to decide. If it is investigated (this would usually be undertaken by the Council's own Deputy Monitoring Officer), the Monitoring Officer will use his discretion as to the nature of the investigation. If the Monitoring Officer is then satisfied having consulted the Independent Person that there has been no breach of the Code, then that will be the end of the matter. The Monitoring Officer could also decide the issue could be dealt with by other action. However, if the Monitoring Officer believes that there has been a breach which cannot be resolved by other action, then the issue will be heard by the Standards Sub-Committee. If the Sub-Committee finds there has been a breach, Appendix A describes the sanctions which are open to it, the majority of which will involve recommendations elsewhere. Members will see that in the case of Parish Councils, recommendations will be made to them to undertake suggested courses of action. The main sanction will be publicizing the fact that the

Member has been found to have breached the Code of Conduct. This could be published on the Council's website accompanied by a press release.

7. Other issues currently carried out by the Standards Committee

- 7.1 The Council will continue to have a duty to promote and maintain high standards of conduct by Members and it is anticipated that at its annual meeting the Committee will receive a report of the past year's activities for its Chairman and it could set up a work programme for the Monitoring Officer. It would seek to ensure that Members and Parish Members did receive sufficient training in conduct issues. It would also consider any Codes of Conduct before making recommendations to the Council to adopt or amend a Code.

The Committee currently has an oversight of the Constitution. All changes to the Constitution are dealt with by the full Council and these must be accompanied by an evaluation from the Standards Committee. I would recommend that the full Council continue to deal with amendments to the Constitution but these should be accompanied by an evaluation from the Monitoring officer.

I recommend that the overview of the Whistle Blowing Policy should be carried out by the Audit Committee.

The overview of complaints handling and Ombudsman investigations could be undertaken by the Scrutiny function.

Currently the Chief Executive has delegated authority to make payments in case of maladministration up to £500. All other payments are authorised by the Council on the recommendation of the Standards Committee. I recommend that the Chief Executive's authority be raised to £1,000 and that for payments above this figure these should be authorised by the Cabinet Member.

The Committee deals with certain appeals made by officers against being designated as being in a politically restricted post. This function has been transferred to the Head of the Paid Service (Chief Executive) by legislation.

In conclusion I would recommend that the Council be recommended to make the following decisions, and that this Committee receive further reports as and when more information becomes available.

1. That Council appoint one Independent Person and that the Monitoring Officer be given delegated authority to agree the Job Description with the Chairman of the Standards Committee and the Political Group Spokesmen and to commence the recruitment process, culminating in a recommendation being made to Council as to who should be nominated (following consideration by a group of members).

2. That as from the commencement date the new Non Statutory Standards Committee should comprise three Members from each political group of the Council (i.e. that it should not be politically balanced) and that Members consider whether 2 Parish representatives be appointed as non voting Members of the Committee on the nomination of KALC (and that members consider whether there should be independent co-opted non-voting members), and that the existing arrangement be maintained until the commencement date.
3. That Assessment Sub-Committees (not politically balanced) comprising 3 Councillors be appointed from the Membership of Standards Committee as and when the Monitoring Officer requires.
4. That Hearing Sub-Committees of 3 Councillors (not politically balanced) be appointed to hear complaints where in the opinion of the Monitoring Officer there has been a breach of the Code of Conduct. Members may wish to consider whether Parish representatives should be appointed to the Sub-Committees as non voting Members when Parish Councillors are the subject of the complaint.
5. That the procedures set out at Appendices A and B for dealing with complaints be adopted.
6. That further reports be submitted as and when the LGA publishes its model code of conduct.
7. That the Standards Committee be given delegated authority to deal with applications for dispensations and that the Monitoring Officer also be given authority to deal with these in consultation with the Independent Person.
8. Standards Committee continues to be responsible for promoting and maintaining high standards of conduct by Members including making recommendations to Council as to the Code of Conduct and by maintaining an oversight of the training process.
9. That all changes to the Constitution continue to be approved by full Council, and that any proposed changes be accompanied by an evaluation from the Monitoring Officer.
10. That the Audit Committee become responsible for the oversight of the Whistle Blowing Policy.
11. That the Overview and Scrutiny Committee become responsible for the overview of complaints handling and Local Government Ombudsman investigations.
12. That the Chief Executive be given delegated authority to make payments in cases of maladministration up to £1,000 and that the appropriate Cabinet Member be responsible for authorising payment in excess of this figure.
13. That the arrangements set out at Appendix A be agreed.

Arrangements for dealing with code of conduct complaints under the Localism Act 2011

1 Context

These Arrangements set out how you may make a complaint that an elected or co-opted member of Maidstone Borough Council *or of a parish council within its area* has failed to comply with the authority's Code of Conduct, and sets out how Maidstone Borough Council will deal with allegations of a failure to comply with the authority's Code of Conduct.

Under Section 28(6) and (7) of the Localism Act 2011, the Council must have in place "arrangements" under which allegations that a member or co-opted member of the authority *or of a parish council within the authority's area*, or of a Committee or Sub-Committee of the authority, has failed to comply with that authority's Code of Conduct can be investigated and decisions made on such allegations.

Such arrangements must provide for the authority to appoint at least one Independent Person, whose views must be sought by the authority before it takes a decision on an allegation which it has decided shall be investigated, and whose views can be sought by the authority at any other stage, or by a member *or a member or co-opted member of a parish council* against whom an allegation as been made.

[NOTE – The Group consider that appointment of more than one IP should be avoided. Whilst there is an uncomfortable potential conflict in the role of an IP to advise "both sides", this should be capable of handling by ensuring local understandings between MO and IP that the IP would speak to the MO first if and when approached by a subject councillor. Ultimately, the IP's was a consultative role so if he/she had already expressed a view to the subject councillor, the problem wasn't insurmountable as the final decision still rested with the Council. There may, however, be some merit in appointing a "reserve" or "substitute" IP to act in cases where the IP to act in cases where the IP is unable to act due to absence, sickness, etc.]

2 The Code of Conduct

The Council has adopted a Code of Conduct for members, which is attached as Appendix One to these arrangements and available for inspection on the authority's website and on request from Reception at the Civic Offices. [Yet to be drafted]

[Each parish council is also required to adopt a Code of Conduct. If you wish to inspect a Parish Council's Code of Conduct, you should inspect any website operated by the parish council or request the parish clerk to allow you to inspect the parish council's Code of Conduct. Alternatively the Borough Council's website contains a copy of each parish council's adopted Code of Conduct (or a link to it).

3 Making a complaint

If you wish to make a complaint, please write or email to –

"The Monitoring Officer
Maidstone Borough Council

Maidstone House
King Street
Maidstone
Kent
ME15 6JQ”

Or –

paulfisher@maidstone.gov.uk

The Monitoring Officer is a senior officer of the authority who has statutory responsibility for maintaining the register of members’ interests and who is responsible for administering the system in respect of complaints of member misconduct.

In order to ensure that we have all the information which we need to be able to process your complaint, please complete and send us the model complaint form, which can be downloaded from the authority’s website, next to the Code of Conduct, and is available on request from Reception at the Civic Offices.

Please do provide us with your name and a contact address or email address, so that we can acknowledge receipt of your complaint. The authority does not normally investigate anonymous complaints, unless there is a clear public interest in doing so.

The Monitoring Officer will normally acknowledge receipt of your complaint within 10 working days of receiving it, and will subsequently notify you of any decision taken upon it

If the complaint appears to the Monitoring Officer not to be a substantive allegation of misconduct under the Code of Conduct, s/he will so inform the complainant but may ensure where appropriate that the matter is dealt with under a more relevant procedure eg: if it is a complaint about a service or an officer or a statement of policy disagreement.

Where the complaint does appear to be an allegation of misconduct under the code, the Monitoring Officer (as well as acknowledging the complaint) will normally notify the member against whom the allegation is made of receipt of the complaint together with a summary of the allegation. S/he will explain that s/he will consult the Council’s appointed Independent Person about the allegation before deciding on the appropriate way to proceed.

Where the Monitoring Officer is of the opinion that such notification to the subject member would be contrary to the public interest or could prejudice any person’s ability to investigate the allegation s/he will consult the Independent Person and may then decide that such notification shall not be given at that stage.

4 Will your complaint be investigated?

The Monitoring Officer will review every complaint received and, after consultation with the Independent Person, take a decision as to whether it merits formal investigation. This decision will normally be taken within **20 working** days of receipt of full information in relation to your complaint. Where the Monitoring Officer has taken a decision, he/she will inform you of his/her decision and the reasons for that decision.

{NOTE: – The Group’s view is that MOs need to grasp the opportunity to raise the profile of local resolution options and remove bureaucracy and inflexibility. It would be sensible to informally consult IP on all cases prior to making delegated decisions at this stage, even though not legally required, in order to protect MO from allegations and also to keep the IP fully engaged. In addition, it is considered that

MOs should continue to be able to refer sensitive or borderline cases to a member 'Assessment Panel' at their sole discretion.

Where he/she requires additional information in order to come to a decision, he/she may come back to you for such information, and may request information from the member against whom your complaint is directed. *Where your complaint relates to a Parish Councillor, the Monitoring Officer may also inform the Parish Clerks and seek information from them.*

In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally, without the need for a formal investigation. Such informal resolution may involve the member accepting that his/her conduct was unacceptable and offering an apology, or other remedial action. Where the member makes a reasonable offer of local resolution, the Monitoring Officer will take account of this in deciding whether the complaint merits formal investigation.

5 How is the investigation conducted?

The Council has adopted a procedure for the investigation of misconduct complaints, which is attached as Appendix Two to these arrangements.

{NOTE: – The Group consider that the investigation procedure adopted must be flexible and allow the MO to adopt a process proportionate to the nature and seriousness of the case. This may involve little more than an exchange of letters or written representations in some cases. The existing adopted investigation procedures do not allow such flexibility. Not yet finalised.

If the Monitoring Officer decides that a complaint merits formal investigation, he/she will appoint an Investigating Officer, who may be another senior officer of the authority, an officer of another authority or an external investigator but who will usually be the Council's Deputy Monitoring Officer. The Investigating Officer will decide whether he/she needs to meet or speak to you to understand the nature of your complaint and so that you can explain your understanding of events and suggest what documents the Investigating Officer needs to see, and who the Investigating Officer needs to interview.

The Investigating Officer would normally write to the member against whom you have complained and provide him/her with a copy of your complaint, and ask the member to provide his/her explanation of events, and to identify what documents he needs to see and who he needs to interview. In exceptional cases, where it is appropriate to keep your identity confidential or disclosure of details of the complaint to the member might prejudice the investigation, the Monitoring Officer can delete your name and address from the papers given to the member, or delay notifying the member until the investigation has progressed sufficiently.

At the end of his/her investigation, the Investigating Officer will produce a draft report and will send copies of that draft report, in confidence, to you and to the member concerned, to give you both an opportunity to identify any matter in that draft report which you disagree with or which you consider requires more consideration.

Having received and taken account of any comments which you may make on the draft report, the Investigating Officer will send his/her final report to the Monitoring Officer.

6 What happens if the Investigating Officer concludes that there is no evidence of a failure to comply with the Code of Conduct?

The Monitoring Officer will review the Investigating Officer's report and, if (having consulted the Independent Person) he is satisfied that the Investigating Officer's report is sufficient, the Monitoring Officer will write to you and to the member concerned *and to the Parish Council, where your complaint relates to a Parish Councillor*, notifying you that he is satisfied that no further action is required, and give you both a copy of the Investigating Officer's final report. If the Monitoring Officer is not satisfied that the investigation has been conducted properly, he may ask the Investigating Officer to reconsider his/her report.

7 What happens if the Investigating Officer concludes that there is evidence of a failure to comply with the Code of Conduct?

The Monitoring Officer will review the Investigating Officer's report and after consulting the Independent Person will then either send the matter for local hearing before the Hearings Panel or seek local resolution.

7.1 Local Resolution

The Monitoring Officer may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, he/she will consult with the Independent Person and seek to agree a fair resolution which also helps to ensure higher standards of conduct for the future. Such resolution may include the member accepting that his/her conduct was unacceptable and offering an apology, and/or other remedial action by the authority. If the member complies with the suggested resolution, the Monitoring Officer will report the matter to the Standards Committee *[and the Parish Council]* for information, but will take no further action.

7.2 Local Hearing

If the Monitoring Officer having consulted the Independent Person considers that local resolution is not appropriate, then the Monitoring Officer will report the Investigating Officer's report to the Hearings Panel which will conduct a local hearing before deciding whether the member has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the member.

The Council has agreed a procedure for local hearings, which is attached as Appendix Three to these arrangements. [Still to be drafted].

Note: In the same way as the existing Investigation Procedure is too unwieldy and inflexible, so too is the existing Hearing Procedure.

Essentially, the Monitoring Officer will conduct a "pre-hearing process", requiring the member to give his/her response to the Investigating Officer's report, in order to identify what is likely to be agreed and what is likely to be in contention at the hearing, and the Chair of the Hearings Panel may issue directions as to the manner in which the hearing will be conducted. At the hearing, the Investigating Officer will present his/her report, call such witnesses as he/she considers necessary and make representations to substantiate his/her conclusion that the member has failed to comply with the Code of Conduct. For this purpose, the Investigating Officer may ask you as the complainant to attend and give evidence to the Hearings Panel. The member will then have an opportunity to give his/her evidence, to call witnesses and to make representations to the Hearings Panel as to why he/she considers that he/she did not fail to comply with the Code of Conduct.

If the Hearings Panel, with the benefit of any advice from the Independent Person, may conclude that the member did not fail to comply with the Code of Conduct, it will dismiss the complaint. If the Hearings Panel concludes that the member did fail to comply with the Code of Conduct, the Chair will inform the member of this finding and the Hearings Panel will then consider what action, if any, the Hearings Panel should take as a result of the member's failure to comply with the Code of Conduct. In doing this, the Hearings Panel will give the member an opportunity to make representations to the Panel and will consult the Independent Person, but will then decide what action, if any, to take in respect of the matter..

8 What action can the Hearings Panel take where a member has failed to comply with the Code of Conduct?

NOTE: It appears to be the case that even through districts must adopt "arrangements" to cover parish councils, any decision of a district on sanctions can only in effect be a recommendation to the parish council, who must then itself decide whether to accept the recommendation. In the absence of express powers, a district could not, for example, remove a parish councillor from a committee, remove facilities from a parish councillor etc. The district could only make a finding of breach/no breach and then recommend a course of action to the parish. This being so, the sub-group thought that there seemed little purpose in complicating the new regime by introducing parish co-optees onto panels. However, opinion within individual districts may well lead to a different views on this issue.

The Council has delegated to the Hearings Panel such of its powers to take action in respect of individual members as may be necessary to promote and maintain high standards of conduct. Accordingly the Hearings Panel may –

- 8.1 Publish its findings in respect of the member's conduct **eg: by providing a link to the relevant Decision Notice on a Standards/Complaints webpage.**
- 8.2 Report its findings to Council *or to the Parish Council* for information **eg: by way of inclusion in an annual report;**
- 8.3 Recommend to the member's Group Leader (or in the case of un-grouped members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
- 8.4 Recommend to the Leader of the Council that the member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
- 8.5 Instruct the Monitoring Officer to *or recommend that the Parish Council* arrange training for the member;
- 8.6 **Recommend to Council removal** *or recommend to the Parish Council that the member be removed* from all outside appointments to which he/she has been appointed or nominated by the authority *or by the Parish Council;*
- 8.7 Recommend to the Council that it withdraw *or recommend to the Parish Council that it withdraws* facilities provided to the member by the Council, such as a computer, website and/or email and Internet access **provided such action is directed to the efficient management of the authority's business and does not prevent the councillor fulfilling his/her duties as an elected member;** or

- 8.8 Recommend to the Council that it exclude *or recommend that the Parish Council exclude* the member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.

The Hearings Panel has no power to suspend or disqualify the member or to withdraw members' or special responsibility allowances.

NOTE: Although these draft arrangements suggest that the Hearings Panel would have delegated powers to make decisions on sanctions, it should be acknowledged that there are alternative options. For example, if one wanted to involve voting independent members and/or parish representatives on Panels, then the Panel could only be advisory, in relation to both its finding of breach/no breach and recommended sanction. The Panel's recommendations would then need to be reported elsewhere for final decision eg: full Council to agree that there has been a breach and to agree a censure (naming and shaming); the Group Leader to decide whether to remove from a committee etc.

9 What happens at the end of the hearing?

At the end of the hearing, the Chair will state the decision of the Hearings Panel as to whether the member failed to comply with the Code of Conduct and as to any actions which the Hearings Panel resolves to take. **Prior to reaching and announcing its decision in public, the Panel may retire to a separate room to deliberate in private. The MO may be called by the Panel if they require technical or legal guidance.**

As soon as reasonably practicable thereafter, the Monitoring Officer shall prepare a formal decision notice in consultation with the Chair of the Hearings Panel, and send a copy to you, to the member *[and to the Parish Council]*, and make that decision notice available for public inspection.

10 Who are the Hearings Panel?

The Hearings Panel is a Sub-Committee of the Council's Standards Committee **and will consist of 3 members drawn from the membership of the Standards Committee.** If the complaint is about a parish councillor the Sub-Committee will also include a non-voting representative of parish councils. The Independent Person is invited to attend all meetings of the Hearings Panel and his views are sought and taken into consideration before the Hearings Panel takes any decision on whether the member's conduct constitutes a failure to comply with the Code of conduct and as to any action to be taken following a finding of failure to comply with the Code of Conduct. **The Independent Person otherwise takes no part in the discussions or deliberations of the Panel.**

[NOTE: The Group's view was that it was unnecessary to graft onto the imperfect statutory model any role for non-voting independent members. However it was recognised that some authorities may nonetheless seek to keep such people involved, albeit in a non-voting capacity.]

11 Who is the Independent Person?

The Independent Person is a person who has applied for the post following advertisement of a vacancy for the post, and is appointed by a positive vote from a majority of all the members of Council.

A person cannot be "independent" if he/she –

- 11.1 Is, or has been within the past 5 years, a member, co-opted member or officer of the authority;
- 11.2 *Is or has been within the past 5 years, a member, co-opted member or officer of a parish council within the authority's area, or*
- 11.3 Is a relative, or close friend, of a person within paragraph 11.1 or 11.2 above. For this purpose, "relative" means –
- 11.3.1 Spouse or civil partner;
 - 11.3.2 Living with the other person as husband and wife or as if they were civil partners;
 - 11.3.3 Grandparent of the other person;
 - 11.3.4 A lineal descendent of a grandparent of the other person;
 - 11.3.5 A parent, sibling or child of a person within paragraphs 11.3.1 or 11.3.2;
 - 11.3.6 A spouse or civil partner of a person within paragraphs 11.3.3, 11.3.4 or 11.3.5; or
 - 11.3.7 Living with a person within paragraphs 11.3.3, 11.3.4 or 11.3.5 as husband and wife or as if they were civil partners.

12 Revision of these arrangements

The Council may by resolution agree to amend these arrangements, and the Chair of the Hearings Panel may depart from these arrangements where he/she considers that it is expedient to do so in order to secure the effective and fair consideration of any matter.

13 Appeals

There is no right of appeal for you as complainant or for the member against a decision of the Monitoring Officer or of the Hearings Panel

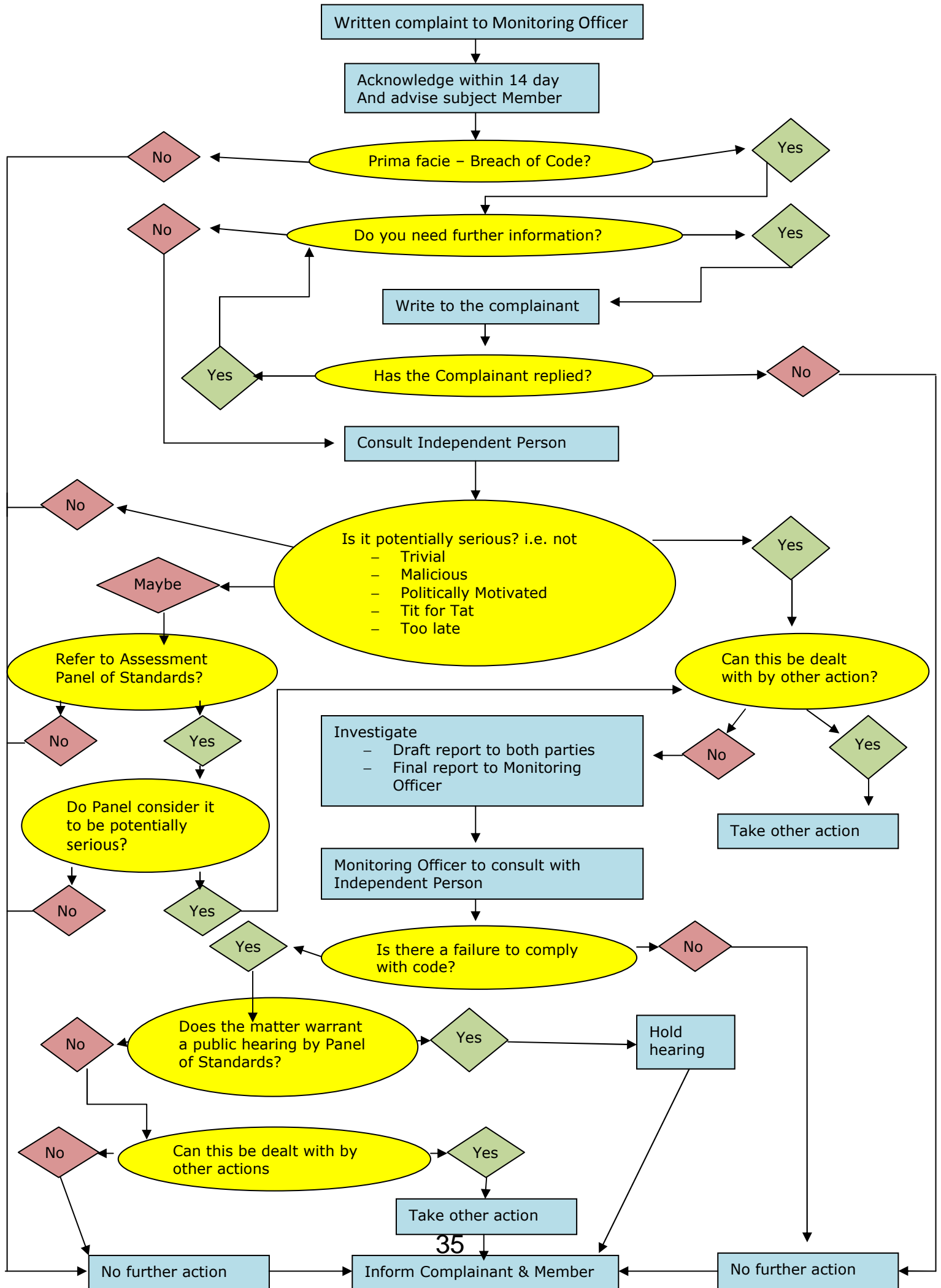
If you feel that the authority has failed to deal with your complaint properly, you may make a complaint to the Local Government Ombudsman.

General Notes

1. **The Group discussed in some detail the various theoretical options for minimising the resource impact of parish council complaints/dysfunction (eg: delegation, charging etc) but concluded that in reality the best option was to adopt the same "arrangements" for parish complaints but just ensure the flexibility and proportionality built into the new process was fully deployed in appropriate trivial or tit for tat parish complaints.**
2. **The 2008 Regulations enabled statutory Assessment Panels to operate outside the Access to Information regime. This would no longer be possible for assessment decisions (by Panels or under delegated powers). Assessment Panel reports, when used, may still be capable of exemption**

under Legal Privilege or Personal Information exemptions but otherwise maintaining confidentiality in the face of data protection or Fol requests appears to be fraught with uncertainty. Maybe our “arrangements” should expressly flag up for complainants and members that everything may be disclosable?

- 3. When draft Code(s) of Conduct emerge from the LGA, it may be worth this Kent Secretaries sub-group meeting once more to develop a collective view on a possible Kent-wide approach, if time permits.**
- 4. It would also be helpful if, through Kent Secretaries, a common approach could be agreed to appointment of Independent Persons eg: a common Job Description, policy on payments, appointment process etc. – Any volunteers?**



Agenda Item 15

MAIDSTONE BOROUGH COUNCIL

COUNCIL

25TH APRIL 2012

REPORT OF THE HEAD OF ICT SERVICES

Report prepared by: Dave Lindsay

1. Street naming and numbering (SNN)

1.1 Issue for Decision

1.1.1 Whether to resolve to adopt the provisions of sections 17 and 18 of the Public Health Act 1925 relating to street naming and alteration of street names to apply throughout the Borough of Maidstone.

1.1.2 **It is recommended that the Council:**

1.1.2.1 Resolves to adopt the provisions of sections 17 and 18 of the Public Health Act 1925 relating to street naming and alteration of street names to apply throughout the Borough of Maidstone with effect from 1st June 2012.

1.1.3 Background

1.1.3.1 On 22nd August 2011 the Cabinet Member for Corporate Services agreed in principle that the Council should charge for the street naming and numbering service.

1.1.3.2 The commencement of charging was dependent upon identifying the relevant legislation under which the power to charge arose, formal adoption of relevant legislation, and introduction of a schedule of rates which is comparable with other neighbouring local authorities.

1.1.3.3 Following a period of research and consultation with the Council's Legal Service, it was concluded that the most appropriate legislation to adopt was the 1925 Public Health Act.

1.1.3.4 In accordance with the provisions of set out under schedule 14 paragraph 25 (5) of the Local Government Act 1972 the Council has advertised its intention to adopt by:

- Placing a notice in the Kent Messenger for two consecutive weeks;
- Sending a notice to every Parish Council in the Borough.

1.1.3.5 It is proposed that, subject to adoption becoming effective, charges will be implemented with effect from 1st June 2012.

1.2 Representations

1.2.1 No representations have been received in response to these Notices.

1.3 Reasons for Recommendation

1.3.1 To add value for money for the general tax payer, as the street naming and numbering function is currently effectively funded by the tax-payer, this initiative merely facilitates a direct charge to users of the service.

1.3.2 To standardise practice for street naming and numbering with other Councils where charges are made.

1.4 Alternative Action and why not Recommended

1.4.1 The SNN service can be left unchanged and remain free of charge. This is not recommended because there appears to be a general expectation from both residents and commercial property developers that a charge will be levied. Feedback from some commercial property developers in particular suggests that they are often surprised that the service is free.

1.4.2 Maidstone Borough Council will also lose the opportunity to realise income that could help to cover the cost of the service.

1.4.3 In the current economic climate, the Council must explore every potential source of revenue and seek to secure it if it is deemed appropriate to do so.

1.5 Impact on Corporate Objectives

1.5.1 This proposal will support the achievement of value for money services.

1.6 Risk Management

1.6.1 The Council has followed the provisions of set out under schedule 14 paragraph 25 (5) of the Local Government Act 1972.

1.6.2 There have been no representations from the public or Parish Councils in response to the notices relating to the adoption of the legislation.

1.7 Other Implications

1.7.1

- 1. Financial
- 1. Staffing
- 2. Legal
- 3. Equality Impact Needs Assessment

X
x

4. Environmental/Sustainable Development
5. Community Safety
6. Human Rights Act
7. Procurement
8. Asset Management

1.7.2 Financial

It is the intention that the charges levied for the street naming and numbering function will cover the cost of the service.

1.7.3 Legal

Covered in the body of the report.

1.8 Relevant Documents

1.8.1 NONE

MAIDSTONE BOROUGH COUNCIL

COUNCIL

25 APRIL 2012

REPORT OF THE HEAD OF DEMOCRATIC SERVICES

Report prepared by Janet Barnes

URGENT DECISIONS TAKEN BY THE EXECUTIVE

CABINET

The Cabinet agreed on 14 March 2012 that the decision set out below was urgent and needed to be actioned within the call-in period. In accordance with the Overview and Scrutiny Procedure Rules of the Constitution, the Mayor, in consultation with the Head of Paid Service and the Chairman of the Regeneration and Economic Development Overview and Scrutiny Committee, agreed that the decision was reasonable in all the circumstances and should be treated as a matter of urgency and not be subject to call-in.

Phase II of the High Street Improvement Project

The Cabinet considered whether to accept a grant from the Homes and Communities Agency, if offered, and agree to their grant conditions, to enable the construction of Phase II of the High Street Improvement Project.

Decision Made

1. That delegated authority be given to the Director of Regeneration and Communities, in consultation with the Leader of the Council, to negotiate and agree the terms of the grant offer and grant conditions with the Homes and Communities Agency (HCA).
2. That delegated authority be given to the Head of Legal Services to enter into the grant agreement with the HCA.
3. That the Council's expenditure on Phase II must not exceed the grant awarded by the HCA.

Reason for Urgency

The Cabinet determined that the decision was urgent because, if the grant funding is awarded, the Council will need to be in a position to have a signed legal agreement with the HCA in place before 31st March 2012 and be in a position to receive the grant payment within the same time frame.

RECOMMENDED:

This report is for information only.

Background Documents:

Record of Decision of the Cabinet dated 14 March 2012