

# AGENDA

## STANDARDS COMMITTEE MEETING



Date: Friday 8 June 2012  
Time: 10.00 a.m.  
Venue: Town Hall, High Street,  
Maidstone

### Membership:

Councillors Mrs Gooch, Mrs Hinder, Parvin,  
Mrs Robertson, Mrs Stockell and  
Vizzard

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

Parish Representatives: Councillors Butcher,  
Mrs Riden and Younger

---

Page No.

1. Apologies for Absence
2. Notification of Substitute Members
3. Notification of Visiting Members

**Continued Over/:**

---

**Issued on 29 May 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 Committee, please visit [www.maidstone.gov.uk](http://www.maidstone.gov.uk)

*Alison Broom*

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

4. Election of Chairman
5. Election of Vice-Chairman
6. Disclosures by Members and Officers
7. Disclosures of Lobbying
8. To consider whether any items should be taken in private because of the possible disclosure of exempt information.
9. Minutes of the meeting held on 4 April 2012 1 - 7
10. Appointment of Political Group Spokespersons
11. Report of the Head of Democratic Services - Leader's Report on Current Issues 8 - 12
12. Report of the Head of Legal Services and Monitoring Officer - Standards Regime 13 - 32
13. Report of the Head of Legal Services and Monitoring Officer - Code of Conduct Complaints - 1 September 2011 - 31 May 2012 33
14. Applications for Dispensations (if any)
15. Chairman's Announcements

## MAIDSTONE BOROUGH COUNCIL

### STANDARDS COMMITTEE

#### MINUTES OF THE MEETING HELD ON 4 APRIL 2012

<b><u>Present:</u></b>	<b>Councillors FitzGerald, Mrs Hinder, Mrs Robertson and Vizzard</b>
<b><u>Independent Members</u></b>	<b>Mrs Phillips (Chairman), Mr Powis and Mr Wright</b>
<b><u>Parish Council Representatives</u></b>	<b>Councillors Butcher, Mrs Riden, Stead and Younger</b>

51. APOLOGIES FOR ABSENCE

It was noted that apologies for absence had been received from Ms Hunt (Independent Member) and Councillor Parvin.

52. NOTIFICATION OF SUBSTITUTE MEMBERS

There were no Substitute Members.

53. NOTIFICATION OF VISITING MEMBERS

There were no Visiting Members.

54. DISCLOSURES BY MEMBERS AND OFFICERS

There were no disclosures by Members or Officers.

55. DISCLOSURES OF LOBBYING

There were no disclosures of lobbying.

56. EXEMPT ITEMS

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

57. MINUTES OF THE MEETING HELD ON 30 NOVEMBER 2011

RESOLVED: That the Minutes of the meeting held on 30 November 2011 be approved as a correct record and signed.

58. REFERENCE FROM THE AUDIT COMMITTEE - REQUEST FOR AUDIT COMMITTEE QUORUM TO BE REDUCED FROM FOUR TO THREE

The Committee was asked to evaluate the amendment of the Constitution as a consequence of a proposal to reduce the quorum for meetings of the

Audit Committee from four to three. It was noted that the Audit Committee comprised five Members of the Council with a quorum of four. Although this had not caused a problem for the operation of the Committee to date, it could cause problems in the future now that all new Members/Substitute Members of the Committee were required to undergo specific training before being able to serve/continue to serve on the Committee.

The Committee supported the proposed amendment of the Constitution, believing that its implementation would fulfil the obligation to facilitate efficient and effective decision making.

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 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.

59. REVIEW OF COMPLAINTS - OCTOBER-DECEMBER 2011

The Committee considered the report of the Policy and Performance Manager reviewing the Council's performance in dealing with complaints during the period October to December 2011.

RESOLVED: That the Council's performance in responding to complaints during the period October to December 2011 and the action being taken to improve complaints handling be noted.

60. WORK PROGRAMME 2010/12

The Committee considered the position with regard to the activities set out in the Work Programme 2010/12. It was noted that:-

- A letter had been sent by the Chairman and Vice-Chairman to the Secretary of State seeking relaxation of the rule that a person cannot be an Independent Person if he/she is, or has been within the past 5 years, a Member, Co-opted Member or Officer of the authority or of a Parish Council within the authority's area. A reply was awaited.
- The Monitoring Officer would submit his six month report on Code of Conduct complaints to the meeting of the Committee scheduled to be held on 30 May 2012.

RESOLVED: That the position with regard to the activities set out in the Committee's work programme 2010/12 be noted.

61. ANNUAL REPORT TO COUNCIL 1 APRIL 2011 - 31 MARCH 2012

The Committee considered its final Annual Report to the Council under the current ethical standards regime.

RESOLVED:

1. To RECOMMEND to the COUNCIL: That the Standards Committee's Annual Report to Council 2011/12 be noted.
2. That the Chairman be thanked for her work in drafting the report.

62. FUTURE OF STANDARDS REGIME

The Committee 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.

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.

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.

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.

RESOLVED to RECOMMEND to the COUNCIL:

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 and that further reports will be submitted to the Committee as and when more information becomes available.
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.

63. PARISH REPRESENTATIVES

It was noted that since Councillor Stead would not be standing for re-election as a Parish Councillor in May, he would not be eligible to serve on the Standards Committee under the existing or proposed new arrangements.

RESOLVED: That rather than asking the Kent Association of Local Councils to nominate someone to replace Councillor Stead, the Standards Committee should operate with the remaining three Parish representatives until the new ethical standards regime comes into force.

64. CODE OF CONDUCT COMPLAINTS

See Minute 60 above.

65. BREDHURST PARISH COUNCIL - APPLICATION FOR DISPENSATION

The Head of Legal Services reported that an application had been received from Councillor Nichola Carr, a new Member of Bredhurst Parish Council, for a dispensation to enable her to speak and vote at meetings of the Parish Council when matters relating to the Bredhurst Woodland Action Group were being considered notwithstanding the fact that she had a prejudicial interest in the matter by virtue of being a member of the Group.

RESOLVED: That a dispensation be granted to Councillor Nichola Carr to enable her to speak and vote at meetings of the Bredhurst Parish Council



when matters relating to the Bredhurst Woodland Action Group are being discussed notwithstanding the fact that she has a prejudicial interest by virtue of being a member of the Group; such dispensation to expire on 30 June 2012.

66. ANY OTHER APPLICATIONS FOR DISPENSATIONS

There were no other applications for dispensations.

67. CHAIRMAN'S ANNOUNCEMENTS

The Chairman announced that since this was the last ordinary 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 Councillors FitzGerald and Stead who would not be standing for re-election.

68. DURATION OF MEETING

10.00 a.m. to 11.35 a.m.

# Agenda Item 11

## **MAIDSTONE BOROUGH COUNCIL**

### **STANDARDS COMMITTEE**

**8 JUNE 2012**

#### **REPORT OF THE HEAD OF DEMOCRATIC SERVICES**

Report prepared by Neil Harris

1. **LEADER'S REPORT ON CURRENT ISSUES**

1.1 I have attached to this report a copy of a report to the Leader of the Council setting out a number of changes to the Leader's report on current issues item on the Council agenda, the details of which are self explanatory. I will report the decision of the Leader to the meeting and if he has agreed the recommendation, I will ask the Committee to evaluate the proposed change to the Constitution.

1.2 **RECOMMENDED:**

1.2.1 **That the Committee evaluate the proposal to change the Constitution in respect of the Leader's report on current issues and submit their views to the Council.**

**MAIDSTONE BOROUGH COUNCIL**

**LEADER OF THE COUNCIL**

**REPORT OF HEAD OF DEMOCRATIC SERVICES**

**Report prepared by Neil Harris**

**Date Issued: 28 May 2012**

**1. Leaders Report on Current Issues**

1.1 Key Issue for Decision

- 1.1.1 To consider a change to the Constitution to open up the item on the "Leaders Report on Current Issues" to allow a period of questioning from Members of the Council on matters addressed by the Group Leaders in their speeches.

1.2 Recommendation of the Head of Democratic Services

- 1.2.1 That it be recommended to the Council that Procedural Rule 17 in the Council Procedure Rules in the Constitution be deleted and the following inserted:-

**"Leaders Report on Current Issues"**

17.1 At every Ordinary Meeting of the Council (except the Annual Meeting) after the Question and Answer session dealing with questions by Members, the Leader shall report to the Council on current issues.

17.2 The Leaders of every other Group shall then have the right to respond to the issues raised.

17.3 Each Group Leader may speak for up to five minutes.

17.4 After the Leader and the other Group Leaders have spoken the Mayor will open the item to questions from Council Members for a period of fifteen minutes.

17.5 Questions to be asked by Council Members as set out in 17.4 above will be limited to those issues raised by the Leader and the other Group Leaders in their speeches. Questions will be answered as directed by the questioner and will not require a response from all Group Leaders. The Mayor will be the sole determinant of whether the question relates to the issues raised in these speeches.

1.3 Reasons for Recommendation

1.3.1 Currently the constitution states the following

**“LEADERS REPORT ON CURRENT ISSUES**

17.1 At every Ordinary Meeting of the Council (except the annual meeting) after the Question and Answer session dealing with questions by Members, the Leader shall report to the Council on current issues

17.2 The Leaders of every other Group shall then have the right to respond to the issues raised.

17.3 Each Group Leader may speak for up to ten minutes.

17.4 After the other Group Leaders have spoken the Leader shall have the right to speak for a further three minutes in response to points raised by them.”

**This means that the** item on the Council Agenda entitled “Leader’s Report on Current Issues” allows for the Leader to speak for ten minutes and for the other Group Leaders to respond speaking for ten minutes with the Leader summing up for a further three minutes. The Group Leaders have requested a review of the “Leaders Report on Current Issues” with a view to opening it up to all Members to give them an opportunity to participate in this item. The view is that each of the Leaders should still have five minutes to speak but after that there should be a period of fifteen minutes for Council members to ask questions of the Leader and other Group Leaders about matters they have raised in their speeches. It is proposed that there will be no summing up by the Leader. It is felt that this gives a greater opportunity for all Members to be involved in the proceedings of the Council meeting.

1.3.2 The recommendation sets out the changes necessary to the Constitution to implement the proposal made by the Group Leaders.

1.4 Alternative Action and why not Recommended

1.4.1 The Leader could agree to take no action and retain the existing system but that would fail to provide an opportunity for greater involvement in the Council meeting for all Members on the Council.

1.5 Impact on Corporate Objectives

1.5.1 The proposed change will support corporate and customer excellence by providing the opportunity for greater member involvement in this part of the council meeting.

1.6 Risk Management

1.6.1 There is no risk to the Council as this report relates to how the Council conducts business at the Council meeting.

1.7 Other Implications

1.7.1

- 1. Financial
- 2. Staffing
- 3. Legal
- 4. Equality Impact Needs Assessment
- 5. Environmental/Sustainable Development
- 6. Community Safety
- 7. Human Rights Act
- 8. Procurement
- 9. Asset Management


There are no implications arising from this report.

1.8 Relevant Documents

1.9 None

1.9.1 Background Documents

1.9.2 None

**IS THIS A KEY DECISION REPORT?**

Yes

No

If yes, when did it first appear in the Forward Plan?

.....

This is a Key Decision because: .....

.....

Wards/Parishes affected: .....

.....

**How to Comment**

Should you have any comments on the issue that is being considered please contact either the relevant Officer or the Member of the Executive who will be taking the decision.

Councillor Garland

Leader of the Council  
Telephone: 01622 721463  
E-mail: christophergarland@maidstone.gov.uk

Neil Harris

Head of Democratic Services  
Telephone: 01622 602 020  
E-mail: neilharris@maidstone.gov.uk

## **MAIDSTONE BOROUGH COUNCIL**

### **STANDARDS COMMITTEE**

#### **REPORT OF HEAD OF LEGAL SERVICES AND MONITORING OFFICER**

**8 JUNE 2012**

#### **STANDARDS REGIME**

##### **1. Code of Conduct**

1.1 At its meeting on the 4<sup>th</sup> April this Committee asked me to submit a report as and when the LGA published its Model Code of Conduct. The LGA has now done so, as has the Department of Communities and Local Government. The Kent Secretaries Group has considered both of these Models and has drafted a Code of Conduct based on the best elements of those and of the current Code of Conduct. It is desirable that all authorities in Kent should adopt the same Code. The draft Code which is attached at Appendix A to this report is currently still work in progress and will need to be reviewed as and when the government issues regulations specifying precisely what pecuniary interests must be disclosed. A view will then have to be taken as to whether any further pecuniary or non pecuniary interests should be disclosed and if so, what the repercussions of disclosure will be. A further report will be made when the regulations have been published so that the Council may be recommended to adopt a Code. It is hoped that all Councils in Kent will be recommended to adopt the same Code. In the meantime, the National Association of Local Councils has published a Model Code for its members to consider and I attach a copy of that at Appendix B. The Kent Association of Local Councils has been advised of the Kent Initiative and so Parish Councils will have a choice as to whether to adopt the Kent Code, the NALC Code, or a completely different Code.

##### **2. Complaints Process**

2.1 At its last meeting the Committee agreed a process for dealing with complaints of misconduct, and further reports will be made in due course to cover the details of those arrangements including, for example, criteria for filtering complaints. Further thought may be given in those details as to the desirability of the monitoring officer having a discretionary power to refer complaints to an assessment panel. It may be preferable for him/her to make all the decisions in consultation with the Independent Person, to avoid complaints that any particular allegation should/not have been referred to the panel. Further consideration will need to be given as to whether it is desirable to appoint a reserve Independent Person.

##### **Recommendation**

It is recommended that the current position be noted and that any comments on the draft Code be made to enable the monitoring officer to

report these to the next meeting of the Kent Secretaries Working Party on the 12 June.



[Name of Authority]

## Kent Code of Conduct for Members

### Preamble

- (A) The Code of Conduct that follows is adopted under section 27(2) of the Localism Act 2011.
- (B) The Code applies to you as a Member or Co-opted Member of the [insert name of Authority] when acting in that capacity.
- (C) The Code is based on the Seven Principles of Public Life under section 28(1) of the Localism Act 2011, which are set out in Annex 1.
- (D) This Preamble and the Principles do not form part of the Code, but you should have regard to them as they will help you to comply with the Code.
- (E) If you need guidance on any matter under the Code, you should seek it from the Monitoring Officer or your own legal adviser – but it is entirely your responsibility to comply with the provisions of this Code.
- (F) In accordance with section 31 of the Localism Act 2011, it is a criminal offence to fail to notify the Monitoring Officer of a Disclosable Pecuniary Interest, to take part in discussions or votes at meetings, or to take a decision where you have a Disclosable Pecuniary Interest, without reasonable excuse or dispensation. It is also a criminal offence knowingly or recklessly to provide false or misleading information to the Monitoring Officer.
- (G) Any written allegation received by the Authority that you have failed to comply with the Code will be dealt with under the arrangements adopted by the Authority for such purposes. If it is found that you have failed to comply with the Code, the Authority may have regard to this failure in deciding whether to take action and, if so, what action to take in relation to you.

### THE CODE

1. In this Code:

“Authority” means [*name of Authority*].

“Code” means this Code of Conduct.

“Co-opted Member” means a person who is not a member of the Authority but who:

- (a) is a member of any committee or sub-committee of the Authority, or
- (b) is a member of, and represents the Authority on, any joint committee or joint sub-committee of the Authority,

and who is entitled to vote on any question that falls to be decided at any Meeting.

“Disclosable Pecuniary Interest” means those disclosable pecuniary interests that meet the definition prescribed by regulations (as amended from time to time) as set out in Annex 2 to this Code.

## APPENDIX A

"Interests" means Disclosable Pecuniary Interests and Other Disclosable Interests.

"Meeting" means any meeting of:

- (a) the Authority;
- (b) the executive of the Authority;
- (c) any of the Authority's or its executive's committees, sub-committees, joint committees and/or joint sub-committees.

"Member" means a person who is an elected member of the Authority and includes a Co-opted Member.

"Other Disclosable Interest" means those interests as prescribed by the Authority to be disclosable as set out in Annex 3 to this Code.

"Register of Members' Interests" means the Authority's register of Disclosable Pecuniary Interests and Other Disclosable Interests established and maintained by the Monitoring Officer under section 29 of the Localism Act 2011.

"Sensitive Information" means information, the details of which, if disclosed, could lead to you or a person connected with you being subject to violence or intimidation.

### Scope

2. You must comply with this Code whenever you act in your capacity as a Member or Co-opted Member of the Authority.

### General obligations

3. (1) You must

- (a) when using or authorising the use by others of the resources of the Authority:
  - (i) act in accordance with the Authority's reasonable requirements; and
  - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes).

- (2) You must not:

- (a) bully any person;
- (b) intimidate or attempt to intimidate any person who is or is likely to be a complainant, a witness, or involved in the administration of any investigation or proceedings, in relation to an allegation that a Member (including yourself) has failed to comply with this Code;
- (c) do anything that compromises, or is likely to compromise, the impartiality or integrity of those who work for, or on behalf of, the Authority;
- (d) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:
  - (i) you have the consent of a person authorised to give it; or

## APPENDIX A

- (ii) you are required by law to do so; or
- (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
- (iv) the disclosure is:
  - reasonable and in the public interest; and
  - made in good faith and in compliance with the reasonable requirements of the Authority;
- (e) prevent another person from gaining access to information to which that person is entitled by law;
- (f) conduct yourself in a manner which could reasonably be regarded as bringing your office or the Authority into disrepute;
- (g) use or attempt to use your position as a Member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage.

### Registering and declaring Interests

4. (1) You must declare and register any Interests, in accordance with procedures set out below.
- (2) You must, within 28 days of taking office as a Member or Co-opted Member, or within 28 days of this Code taking effect (whichever is the later), notify the Monitoring Officer of any Interest where the Interest is yours, and (in relation to Disclosable Pecuniary Interests) those of your spouse, civil partner, or somebody with whom you are living as a husband or wife, or as if you were civil partners.
- (3) In addition, you must, within 28 days of becoming aware of any new Interest or change to any Interest already registered, register details of that new Interest or change, by providing written notification to the Monitoring Officer (in accordance with paragraph 4(2), above).
- (4) Whether or not an Interest has been entered onto the Authority's Register of Members' Interests or is the subject of a pending notification, you must always disclose the Interest (and explain the nature of that Interest) where you are present at a Meeting and you have an Interest in any matter to be considered or being considered at that Meeting and where the matter is not a Sensitive Information (see section 5 below).
- (5) Where you are present at a Meeting and have a Disclosable Pecuniary Interest (and you are aware that you have such an Interest) in any matter to be considered, or being considered, at the Meeting, then unless a relevant dispensation has been granted:
- (a) you must not participate, or participate further, in any discussion of the matter at the Meeting; and
  - (b) you must not participate in any vote, or further vote, taken on the matter at the Meeting; and
  - (c) you must withdraw from the room where the Meeting considering the business is being held whenever it becomes apparent that the business is being considered at the Meeting; and
  - (d) you must not seek improperly to influence a decision about that business.

**Comment [WG-CL1]:** This section will require additional text once regulations regarding disclosable pecuniary and other Interests are published.

## APPENDIX A

- (6) Where you have an Interest in any matter to be dealt with, or being dealt with, by you acting alone in the course of discharging a function of the Authority, then:
- (a) if the Interest is not registered in the Register of Members' Interests and is not the subject of a pending notification, you must notify the Monitoring Officer of the Interest within 28 days of becoming aware of the existence of the Interest; and
  - (b) you must not take any steps, or any further steps, in relation to the matter except for the purpose of enabling the matter to be dealt with otherwise than by you; and
  - (c) you must not seek improperly to influence a decision about the matter.
- (7) *[Need to include provisions in due course about what the declaration obligations are in relation to Annex 3 interests]*
- (a) You will have an Other Disclosable Interest if:
    - (i) xxxx
    - (ii) xxxx
    - (iii) xxxxx
  - (b) You do not have an Other Disclosable Interest because you are a member of another local authority, or public body, or because you have been appointed as the Authority's representative on an outside body, unless a member of the public knowing the circumstances might reasonably think the membership of the body concerned might prejudice your judgment of what is in the public interest.
  - (c) Where you have an Other Disclosable Interest in any business of the Authority, you may attend a Meeting but only for the purpose of making representations, [answering questions or giving evidence] relating to the business, provided that the public are also allowed to attend the Meeting for the same purpose, whether under a statutory right or otherwise. You may not take part in the discussion or observe the vote. You must leave immediately after you have made your representations, [given evidence or answered questions], and before any debate starts. These rights are governed by the Authority's [xxxx procedure], and are subject to conditions, including time limits.

**Comment [m2]:** Include only if spouse, civil partner etc not to apply - then review para.4(2)

**Comment [m3]:** Consider whether should be included

### Sensitive information

5. (1) Where you consider that the information relating to any of your Interests is Sensitive Information, and the Monitoring Officer agrees, the Monitoring Officer shall not include details of the Sensitive Information on any copies of the Register of Members' Interests which are made available for inspection or any published version of the Register, but may include a statement that you have an Interest, the details of which are withheld under this paragraph.
- (2) You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph 5(1) is no longer Sensitive Information, notify the Monitoring Officer asking that the information be included in the Register of Members' Interests.
- (3) The rules relating to disclosure of Interests in paragraph 4(4)-(7) will apply save that you will not be required to disclose the nature of the Sensitive Information, but merely the fact that you hold an Interest in the matter under discussion.

**Dispensations relating to Disclosable Pecuniary Interests**

- 6.(1) The Standards Committee, or any sub-committee of the Standards Committee, or the Monitoring Officer may, on a written request made to the Monitoring Officer by a Member with a Disclosable Pecuniary Interest, grant a dispensation relieving the Member from either or both of the restrictions on participating in discussions and in voting (referred to in paragraph 4(5)), in cases described in the dispensation.
- (2) A dispensation may be granted only if, after having had regard to all relevant circumstances, the Standards Committee, its sub-committee, or the Monitoring Officer:
  - (a) considers that without the dispensation the number of persons prohibited by paragraph 4(5) from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business; or
  - (b) considers that without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business; or
  - (c) considers that granting the dispensation is in the interests of persons living in the Authority's area; or
  - (d) considers that without the dispensation each member of the Authority's executive would be prohibited by paragraph 4(5) from participating in any particular business to be transacted by the Authority's executive; or
  - (e) considers that it is otherwise appropriate to grant a dispensation.
- (3) A dispensation must specify the period for which it has effect, and the period specified may not exceed four years.
- (4) Paragraph 4(5) does not apply in relation to anything done for the purpose of deciding whether to grant a dispensation under this paragraph.

## APPENDIX A

### ANNEX 1

#### THE SEVEN PRINCIPLES OF PUBLIC LIFE

In accordance with the Localism Act 2011, and in order to help maintain public confidence in this Authority, you are committed to behaving in a manner that is consistent with the following principles. However, it should be noted that these Principles do not create statutory obligations for Members and do not form part of the Code. It follows from this that the Authority cannot accept allegations that they have been breached.

**SELFLESSNESS:** You should act solely in terms of the public interest and never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, a friend or close associate.

**INTEGRITY:** You should exercise independent judgment and not compromise your position by placing yourself under obligations to outside individuals or organisations who might seek to influence you in the performance of your official duties. You should behave in accordance with all legal obligations, alongside any requirements contained within this Authority's policies, protocols and procedures, including on the use of the Authority's resources. You should value your colleagues and staff and engage with them in an appropriate manner and one that underpins the mutual respect that is essential to good local government. You should treat people with respect, including the organisations and public you engage with and those you work alongside.

**OBJECTIVITY:** In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, you should make choices on merit. You should deal with representations or enquiries from residents, members of the communities and visitors fairly, appropriately and impartially. You should champion the needs of the whole community and especially your constituents, including those who did not vote for you.

**ACCOUNTABILITY:** You are accountable to the public for your decisions and actions and should fully co-operate with whatever scrutiny is appropriate to your office.

**OPENNESS:** You should be as open and as transparent as possible about all the decisions and actions that you take to enable residents to understand the reasoning behind those decisions and to be informed when holding you and other Members to account. You should give reasons for your decisions and restrict information only when the wider public interest or the law clearly demands it. You should listen to the interests of all parties, including relevant advice from statutory and other professional officers, taking all relevant information into consideration, remaining objective and making decisions on merit.

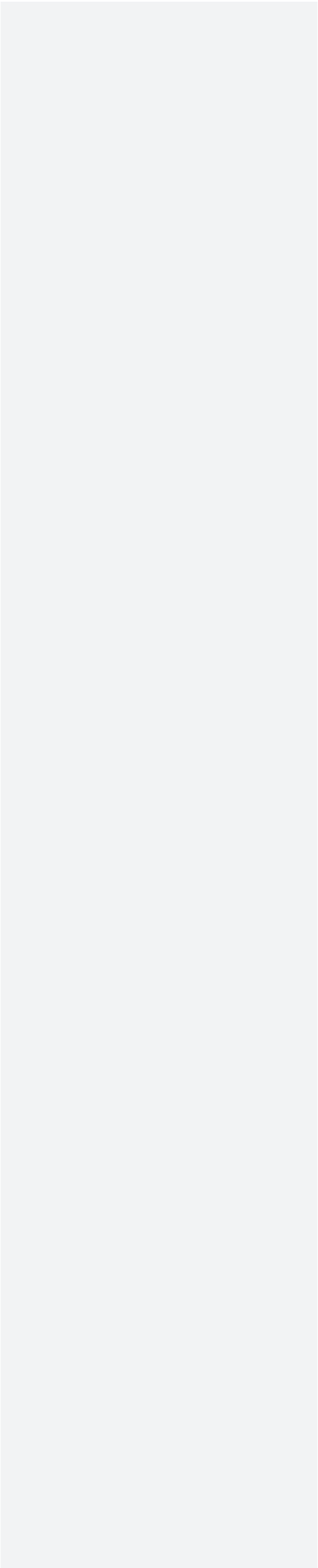
**HONESTY:** You have a duty to declare interests relating to your public duties and to take steps to resolve any conflicts arising in a way that protects the public interest. You should not allow other pressures, including the financial interests of yourself or others connected to you, to deter you from pursuing constituents' casework, the interests of the Authority's area or the good governance of the Authority in a proper manner.

**LEADERSHIP:** Through leadership and example you should promote and support high standards of conduct when serving in your public post. You should provide leadership through behaving in accordance with these principles when championing the interests of the community with other organisations as well as within this Authority.

**APPENDIX A**

**ANNEX 2**

**Disclosable Pecuniary Interests, as prescribed by regulations, are as follows:**



## APPENDIX A

### ANNEX 3

#### Other Disclosable Interests, as prescribed by the Authority, are as follows:

Any interest which relates to or is likely to affect:

- (i) any body of which the Member is in a position of general control or management and to which they are appointed or nominated by the Authority;
- (ii) any body:
  - (a) exercising functions of a public nature; or
  - (b) directed to charitable purposes; or
  - (c) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union) of which the Member is a member or in a position of general control or management;
- (iii) any employment or business carried on by the Member;
- (iv) any person or body who employs or has appointed the Member;
- (v) any person or body, other than the Authority, who has made a payment to the Member in respect of their election or any expenses incurred by them in carrying out their duties;
- (vi) any person or body who has a place of business or land in the Authority's area, and in whom the Member has a beneficial interest in a class of securities of that person or body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital (whichever is the lower);
- (vii) any contract for goods, services or works made between the Authority and the Member or a firm in which they are a partner, a company of which they are a remunerated director, or a person or body of the description specified in paragraph (vi);
- (viii) any gifts or hospitality worth more than an estimated value of £50 which the Member has received by virtue of their office;
- (ix) any land in the Authority's area in which the Member has a beneficial interest;
- (x) any land where the landlord is the Authority and the Member is, or a firm in which the Member is a partner, a company of which the Member is a remunerated director, or a person or body of the description specified in paragraph (vi), is the tenant;
- (xi) any land in the Authority's area for which the Member has a licence (alone or jointly with others) to occupy for 28 days or longer.



## **NALC's template code of conduct for parish councils**

As explained in paragraph 13 of LTN 80 – 'Members' conduct and the registration and disclosure of their interests (England)', NALC has produced a template code of conduct for parish councils because:

- it does not recommend that parish councils adopt the LGA's template code of conduct and
- parish councils may not want to draft their own or adopt their principal authority's code of conduct.

Unlike the LGA's template code of conduct, the attached NALC template code of conduct has the following features:

1. It uses concise and clear language to define members' obligations in respect of their conduct.
2. It incorporates members' mandatory obligations in respect of disclosable pecuniary interests. These are yet to be defined by regulations which are expected to be made before 1 July 2012 and will be inserted in Appendix A of the NALC template.
3. It sets out other pecuniary interests and non pecuniary interests in Appendix B of the NALC template about which members have obligations with regard to registration, disclosure, and speaking at meetings.
4. It describes the circumstances in which a parish council may grant a dispensation for members to participate and vote on a matter at a meeting.
5. It accommodates variations to be made to it except in relation to members' mandatory obligations about disclosable pecuniary interests in Appendix A. Substantive amendments to the NALC template code of conduct are not recommended because it establishes (i) the minimum standards for members' conduct which are consistent with the Nolan principles of conduct in public life and (ii) a proportionate range of pecuniary and non pecuniary interests which members are subject to.

It is likely that some of the interests presently included in Appendix B of the NALC template will constitute disclosable pecuniary interests, prescribed by regulation, and that any such interests will need to be included in Appendix A. NALC will publish the final version of its template code of conduct after regulations which define disclosable pecuniary interests have been made.

**This briefing was issued by Meera Tharmarajah, Solicitor and Head of Legal Services**



***Appendix B***  
***Legal Briefing***

**L08-12**

**17 May 2012**

© NALC 2012

## DRAFT

### **NALC template code of conduct for parish councils**

#### **Introduction**

Pursuant to section 27 of the Localism Act 2011, X [Parish/Town/Village/Community/Neighbourhood] Council ('the Council') has adopted this Code of Conduct to promote and maintain high standards of behaviour by its members and co-opted members whenever they conduct the business of the Council including the business of the office to which they were elected or appointed or when they claim to act or give the impression of acting as a representative of the Council.

This Code of Conduct is based on the principles of selflessness, integrity, objectivity, accountability, openness, honesty, and leadership.

#### **Definitions**

For the purposes of this Code, a 'co-opted member' is a person who is not a member of the Council but who is either a member of any committee or sub-committee of the Council, or a member of, and represents the Council on any joint committee or joint sub-committee of the Council, and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee.

For the purposes of this Code, a 'meeting' is a meeting of the Council, any of its committees, sub-committees, joint committees or joint sub-committees.

For the purposes of this Code, and unless otherwise expressed, a reference to a member of the Council includes a co-opted member of the Council.



***Appendix B***  
***Legal Briefing***

**L08-12**

**17 May 2012**

**Member obligations**

When a member of the Council acts, claims to act or gives the impression of acting as a representative of the Council, he/she has the following obligations.

1. He/she shall behave in such a way that a reasonable person would regard as respectful.
2. He/she shall not act in a way which a reasonable person would regard as bullying or intimidatory.
3. He/she shall not seek to improperly confer an advantage or disadvantage on any person.
4. He/she shall use the resources of the Council in accordance with its requirements.
5. He/she shall not disclose information which is confidential or where disclosure is prohibited by law.

***Registration of interests***

6. Within 28 days of this Code being adopted by the Council, or the member's election or the co-opted member's appointment (where that is later), he/she shall register all interests which fall within the categories set out in Appendices A and B.
7. Upon the re-election of a member or the re-appointment of a co-opted member, he/she shall within 28 days re-register any interests in Appendices A and B.

8. A member shall register any change to interests or new interests in Appendices A and B within 28 days of becoming aware of it.
9. A member need only declare on the public register of interests the existence but not the details of any interest which the Monitoring Officer agrees is a 'sensitive interest'. A sensitive interest is one which, if disclosed on a public register, could lead the member or a person connected with the member to be subject to violence or intimidation.

***Declaration of interests***

9. Where a matter arises at a meeting which relates to an interest in Appendix A the member shall not participate in a discussion or vote on the matter. He/she only has to declare what his/her interest is if it is not already entered in the member's register of interests or if he/she has not notified the Monitoring Officer of it.
10. Where a matter arises at a meeting which relates to an interest in Appendix A which is a sensitive interest, the member shall not participate in a discussion or vote on the matter. If it is a sensitive interest which has not already been disclosed to the Monitoring Officer, the member shall disclose he/she has an interest but not the nature of it.
11. Where a matter arises at a meeting which relates to an interest in Appendix B, the member shall withdraw from the meeting. He/she may speak on the matter before withdrawing only if members of the public are also allowed to speak at the meeting.
12. A member only has to declare his/her interest in Appendix B if it is not already entered in his/her register of interests or he/she has not notified the Monitoring Officer of it or if he/she speaks on the matter before withdrawing. If he/she holds an

interest in Appendix B which is a sensitive interest not already disclosed to the Monitoring Officer, he/she shall declare the interest but not the nature of the interest.

13. Where a matter arises at a meeting which relates to a financial interest of a friend, relative or close associate, the member shall disclose the nature of the interest and withdraw from the meeting. He/she may speak on the matter before withdrawing only if members of the public are also allowed to speak at the meeting. If it is a 'sensitive interest' the member shall declare the interest but not the nature of the interest.

#### **Dispensations**

14. On a written request made to the Council's proper officer, the Council may grant a member a dispensation to participate in a discussion and vote on a matter at a meeting even if he/she has an interest in Appendices A and B if the Council believes that the number of members otherwise prohibited from taking part in the meeting would impede the transaction of the business; or it is in the interests of the inhabitants in the Council's area to allow the member to take part or it is otherwise appropriate to grant a dispensation.



***Appendix B***  
***Legal Briefing***

**L08-12**

**17 May 2012**

**Appendix A**

Such interests, as prescribed by regulations, are.....



**Appendix B**

[Unless they are interests prescribed by regulation for inclusion in Appendix A] any interest which relates to or is likely to affect:

- (i) any body of which the member is in a position of general control or management and to which he/she is appointed or nominated by the Council;
- (ii) any body—
  - (a) exercising functions of a public nature;
  - (b) directed to charitable purposes; or
  - (c) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)of which the member of the Council is a member or in a position of general control or management;
- (iii) any employment or business carried on by the member;
- (iv) any person or body who employs or has appointed the member;
- (v) any person or body, other than the Council, who has made a payment to the member in respect of his/her election or any expenses incurred by him/her in carrying out his/her duties;
- (vi) any person or body who has a place of business or land in the Council's area, and in whom the member has a beneficial interest in a class of securities of that person or body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital (whichever is the lower);

- (vii) any contract for goods, services or works made between the member's Council and the member or a firm in which he/she is a partner, a company of which he /she is a remunerated director, or a person or body of the description specified in paragraph (vi);
  
- (viii) any gifts or hospitality worth more than an estimated value of £50 which the member has received by virtue of his or her office.
  
- (ix) any land in the Council's area in which the member has a beneficial interest;
  
- (x) any land where the landlord is the Council and the member is, or a firm in which the member is a partner, a company of which the member is a remunerated director, or a person or body of the description specified in paragraph (vi), is the tenant;
  
- (xi) any land in the Council's area for which the member has a licence (alone or jointly with others) to occupy for 28 days or longer.

## **MAIDSTONE BOROUGH COUNCIL**

### **STANDARDS COMMITTEE**

#### **REPORT OF HEAD OF LEGAL SERVICES AND MONITORING OFFICER**

**8 JUNE 2012**

#### **CODE OF CONDUCT COMPLAINTS – 1 SEPTEMBER 2011 – 31 MAY 2012**

1. The Standards Committee has received ten complaints of misconduct, during this time, eight relating to Parish Councils and two relating to the Borough Council (involving 19 Councillors - 16 Parish Councillors and 3 Borough Councillors). Two of these were referred for investigation, five were referred to the Monitoring Officer for further action and no further action was taken in three of the cases. There has been only one review of a no further action decision and this resulted in a reference to me to advise the Parish Council that its Clerk should receive training in minute taking. During this time scale there has been one hearing into two complaints about five Parish Councillors, four were found not to have breached the Code, and one was found to have been in breach, for which he was censured.

There has been no discernible trend relating to the complaints of misconduct which has led to the need to train Councillors in any particular aspect of the Code. However, there have been certain areas in which administration of Parish Councils could be improved, and in those circumstances, the Clerks have been advised accordingly that action is recommended to be taken.

#### **Recommended**

It is recommended that the Committee notes this report.