

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.