

**MAIDSTONE BOROUGH COUNCIL
STANDARDS COMMITTEE
1 December 2010**

Report on Independent Members Network Meeting

By Dorothy Phillips and Michael Powis

1. We attended the meeting of the Liaison Group of Kent and Medway Independent Standards Committee Members on 26 October.
2. As in previous meetings, a number of other Kent Councils seem to have both numerically more complaints and more serious issues under consideration by their Standards Committees than others including Maidstone.
3. The main item was a very interesting discussion on the implications of the abolition of the Standards regime informed by correspondence between one Committee chairmen with both Ministers and the Local Government Association (LGA).

National Position

4. The current position seems to be that the government will shortly publish its Localism Bill the effect of which will be to repeal all the legislation relating to standards of conduct (including the national model Code of Conduct), Standards for England and Standards Committees and replace them simply with a new offence of breaching a narrowly defined conflict of interests – no details of which are available.
5. The following information was obtained from the LGA (remembering this does not represent parish councils).
6. Local Government Improvement & Development (formerly the IDeA and one of the sister organisations of the LGA) have discussed with the Department for Communities and Local Government and others the possibility of the LG Group running a voluntary standards framework on behalf of the local government sector. However at their meeting on 13 October the LGA Leadership Board discussed the issue and resolved not to pursue this option. They agreed the following:-
 - 1 - the importance of maintaining high ethical standards and accountability within the sector;
 - 2 - that the sector should not seek to establish a replacement framework within which councillors should operate, following the abolition of the Standards Board;
 - 3 - to communicate to the wider membership the legal and other provisions

already in place for dealing with serious failures of conduct and behaviour within local government.;

4 - that the Local Government Group (of the LGA) should continue actively to support member authorities who are experiencing difficulties with their corporate governance.

7. The provisions referred to are:-

Auditors will be responsible for investigating financial impropriety in local government.

- The police, Crown Prosecution Service and courts will investigate and prosecute any breach of criminal law.
- Civil law will cover issues such as libel and slander by councillors.
- The Local Government Ombudsman will continue to investigate complaints and accusations of maladministration by councils and all formal rulings will be made legally binding (subject to an appeal to the Secretary of State).
- Section 80 Local Government Act 1972 provides for councillors to be disbarred from office if they are convicted of certain criminal offences. Reflecting long-term changes to modern sentencing guidelines, the government should review whether the provisions of this Act should be updated and tightened, so more criminal convictions are covered by these provisions. Individuals on the Sex Offenders Register should also be included in the disbarring provisions, given the role that councillors play in the funding of local community groups and services for children.

Kent Position

8. One Committee Chairman reported his Council's political groups had already agreed to retain the Standards Committee. In two others a discussion had taken place with the Council Leader who, in both cases, saw the value of continuing with some form of Committee with non-councillor members included. Most councils, however, appear to be waiting on the legislation and any national lead before considering what to do. The meeting was agreed, however, on the need for standards for parish councillors as part of the overall good governance for local government.

Issues

9. Waiting for the legislation before making decisions is sensible but enough is now clear about the general picture that there was a consensus at the meeting that consideration of what might take the place of the present arrangements could begin. This note draws on the discussion to enable Maidstone Standards Committee to consider that suggestion.

Code of Conduct

10. Councils may need to ask themselves if they wish to continue with a Code of Conduct for their Councillors. Not to do so would, in the modern world, be most unusual (see the LGA view above), but it would have a different status from the present Code that needs considering – it seems likely Councillors could not be compelled to sign it and there would be no legal sanction available if they breached it.

11. The legislation will not in fact remove the current Codes which have been adopted by each Council and are included in their constitutions. At the same time the current Codes may have to be amended because their provisions about interests are based on the current legal framework.

12. If a Council decides to keep a Code, current Standards Committees could undertake drafting of a revised Code but, in the future, there will be a need to keep it under review periodically and, if necessary, recommend updating to the Council. A mechanism will be needed for this. There might also be issues equivalent to the current dispensation system where some body is needed to operate provisions of the Code.

Complaints about Councillors

13. Councils will need to retain some process for responding to complaints about Councillors, especially if they retain a Code of Conduct. Will Councils wish to retain a role for non-councillors in consideration of serious complaints that do not fall within the new offence?

14. The abolition of the national regime will mean any complaints process will lack any significant enforcement powers and probably therefore needs to be differently structured. The opportunity could be taken to move to a simpler and more informal process with an emphasis on:

- Flexibility to suit the nature and severity of the complaint
- A bias towards mediation and resolution rather than adjudication and blame wherever possible
- A greater role for “panel members” in direct discussion with the parties and less reliance on the Monitoring Officer and third party investigators

15. The process that was decided on could well influence decisions on the structure and membership of whatever succeeds the current Standards Committees.

Parish Councils

16. The same questions will need to be considered by parish councils with the added complication that if Parish Councils in a district collectively wished

to continue with some form of Standards Committee, the cost of running this would need to be faced.

Training in the Code

17. This is clearly consequential on other decisions but is both a real need and a real cost, especially for parish councils.

Other functions

18. Some (but not all) Kent Councils, have chosen like Maidstone to add other functions to its Standards Committee, (in our case primarily overall consideration of all complaints processes and changes to the constitution.) These will need to be re-assessed.

Organisational options

19. It is important to start with the issues above rather than jump straight into structures but it needs bearing in mind that Councils may be free to set up structures they want and not just follow a national prescription. Some options could include:

- Continuing with the Standards Committee as now
- Continuing with the Standards Committee but varying the membership and/or Chairing arrangements
- Merging the Standards and Audit Committees into an Audit and Governance Committee with or without non-councillor membership
- Simply having a panel of non-councillors available for consideration of individual complaints but who do not regularly meet among themselves or with Councillors as a Committee

20. Because they make up so much of the workload, the inclusion or not of parish council codes and complaints is likely to be a major factor in deciding on future organisation

FOR DISCUSSION