



## **STANDARDS COMMITTEE**

**02 August 2011 at 7.00 pm**  
*Conference Room - Council Office*

### **AGENDA**

<b>Membership:</b>	
District Councillors:	Cllrs. Mrs. Bracken, Dibsdall, Dickins, Eyre, Mrs. Morris, Mrs. Purves and Underwood.
Independent Members:	Mr. J.Henderson, Mr. K.Newman, Mr. J. A. Reece, Mr. A. Riddell and Mr. A. Smith
Town/Parish representatives:	Mr. T. Austin, Mr. R. Parry, and Mr. D. Taylor (two vacancies)

**Please note: a DVD by Standards for England regarding the local assessments process will be shown for new Standards Committee Members and those who would like a refresher at 6 p.m. in the Conference Room.**

Apologies for absence

- 1. To elect a Chairman of the Committee for the ensuing municipal year.**
- 2. To elect a Vice-Chairman of the Committee for the ensuing municipal year.**
- 3. Declarations of interest.**
- 4. Minutes of the meeting of the Committee held on 11 January 2011, the Assessment Sub-Committees held on 15 February and 12 April 2011 and the Review Sub-Committee held on 15 February 2011 (attached).** (Pages 1 - 10)
- 5. Appointment of Sub-Committees** (Pages 11 - 16)  
*Christine Nuttall*
- 6. Forward Work Programme** (Pages 17 - 20)  
*Christine Nuttall*
- 7. Complaints and Training** (Pages 21 - 26)  
*Christine Nuttall*

8. **Localism Bill and Future Code of Conduct**

(Pages 27 - 32)

*Christine Nuttall*

**EXEMPT ITEMS**

(At the time of preparing this agenda there were no exempt items. During any such items which may arise the meeting is likely NOT to be open to the public.)

To assist in the speedy and efficient despatch of business, Members wishing to obtain factual information on items included on the Agenda are asked to enquire of the appropriate Director or Contact Officer named on a report prior to the day of the meeting.

Should you require a copy of this agenda or any of the reports listed on it in another format please do not hesitate to contact the Democratic Services Team as set out below.

For any other queries concerning this agenda or the meeting please contact:

**The Democratic Services Team (01732 227241)**

**STANDARDS COMMITTEE**

Minutes of a meeting of the Standards Committee held on  
11 January 2011 at 7pm

Present: Independent Member: Mr Smith (Vice-Chairman in the Chair)

Cllrs. Dibsdall, Harrod, Mrs Morris, Ryan and Waller.

Independent Members: Mr Henderson, Mr Newman and Mr Reece.

Town/Parish Representatives: Mr Austin, Mr Clarke, Mr London and Mrs Wallach.

Apologies for absence were received from Mr Riddell and Mr Taylor.

11. DECLARATIONS OF INTEREST

Cllr. Harrod declared a personal interest in Item 3 as an ex Member of Swanley Town Council and as such was acquainted with the Town Councillors involved in the matter discussed.

12. MINUTES OF THE LAST MEETING

Resolved: That the Minutes of the Committee held on 13 July 2010 and 9 November 2010, minutes of the Assessment Sub-Committee held on 17 August 2010, 13 October 2010, 18 October 2010 and 21 December 2010 and the Review Sub-Committee held on 17 August 2010 be approved and signed by the Chairman as correct records.

13. MONITORING OFFICER'S ANNUAL REPORT (Report No. 3)

The Monitoring Officer informed Members that this was the sixth Monitoring Officer's Annual Report. She hoped it would not be the last, but was uncertain due to the proposed abolition of the current Standards Regime.

The Monitoring Officer advised that the number of complaints of misconduct against Members had risen over the last year. However, nine of the complaints were from one Parish Council. The Vice-Chairman and the Monitoring Officer had undertaken conciliation at the Parish Council concerned and were pleased to announce that it had been successful and relations had improved, despite initial concerns.

The Monitoring Officer also highlighted that recommended conciliation in relation to a Swanley Town Council matter had been put on hold until a police investigation had been carried out. The Town Clerk had suggested that conciliation be postponed until after the May 2011 elections.

It was clarified that the Monitoring Officer's Annual Report would also be considered by the Performance and Governance Committee before it was presented to full Council in February 2011.

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**Standards Committee – 11 January 2011**

The Vice-Chairman thanked the Monitoring Officer for her work on the Report.

Resolved: a) That the Monitoring Officer's Annual Report be noted by the Committee; and

b) full Council be recommended to note the Monitoring Officer's Annual Report.

14. STANDARDS FOR ENGLAND CASE REVIEW 2010 (Report No. 4)

The Monitoring Officer explained that due to the size of the Review completed by Standards for England she had only highlighted in the report matters which had previously been discussed by the Council's Standards Assessment Sub-Committees. She recommended that Members view the Review in its entirety on the Standards for England website.

Following a query the Committee discussed in detail how an act of bullying could be considered to be of a "minor nature". It was clarified that any complaint of bullying would be taken seriously and considered on its own merits according to the severity of the incident.

In response to a query the Monitoring Officer reported that complaints of misconduct had been dealt with within the recommended time scale.

Resolved: That the report be noted.

15. SELF-REGULATION FOLLOWING THE ABOLITION OF THE STANDARDS REGIME (Report No. 5)

The new Localism Bill sought to abolish the current Standards Regime. However, it was expected that this would not take place until March 2012.

The Monitoring Officer explained that the Chairman had met with the Leader and Chief Executive of the Council who had expressed a desire to maintain a standards function. It was thought that this would be possible through the 1972 Local Government Act which provided councils with the ability to form committees of their choosing. However, the Monitoring Officer advised that any new standards function would not have the same powers as currently provided.

Relevant sections of the Localism Bill had been tabled for Members' attention. It was explained that the situation was not completely clear and gaps in the Bill were due to be filled by regulations announced by the Secretary of State.

Under the Bill Local Authorities would be able to choose whether to maintain the current Code of Conduct, revise it or remove it completely. Members were concerned that this would cause inconsistency and confusion. One Member felt that the Regime was bureaucratic and the abolition of it was favourable.

It was explained that once the expected regulations had been announced and the situation was more clear, the Council might ask the Standards Committee what type of self-regulation could work for the future.

The Committee discussed the arrangements that had been in place at the Council before the current Standards Regime.

It was noted that under the new Localism Bill a local authority could only take courses of action to protect itself. Punishments would be applied through the legal system with failure by a Member to declare an interest being a matter for the criminal court.

Resolved: That the report be noted.

THE MEETING WAS CONCLUDED AT 7.55 p.m.

Chairman



Minutes of a meeting of the  
Standards Committee Assessment Sub-Committee held on  
15 February 2011 commencing at 15:40 p.m.

Present: Independent Member: Mr J Reece (Chairman)  
Parish/Town Council Representative: Mr T Austin  
District Council Representative: Cllr G Ryan  
Monitoring Officer: Mrs C Nuttall  
Democratic Services Officer Mr D Williamson

1. DECLARATIONS OF INTEREST

There were no declarations of Interest.

2. EXCLUSION OF PRESS AND PUBLIC

Resolved: That the meeting of the panel to discuss the allegations of Member misconduct (reference FC41), be held in confidential session.

3. CONSIDERATION OF ANY ALLEGATIONS THAT A MEMBER HAS BREACHED THE CODE OF CONDUCT

FC41

This matter related to a Parish Councillor.

Resolved: That the subject member be provided with a summary of the details of the complaint, but that certain evidence must be kept confidential.

The potential breaches of the Code of Conduct identified were:

Paragraph 3 (2) (b) – You must not bully any person

Paragraph 4 (b) – You must not prevent another person from gaining access to information to which that person is entitled by law

Paragraph 5 – You must not conduct yourself in a manner which could reasonably be regarded as bringing your office into disrepute

Resolved: Other action:

That the Monitoring Officer liaises with the Clerk to the authority concerned to carry out mediation/conciliation for the whole of the Parish Council, but particularly between complainant and the subject member.

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**Reason**

The Assessment Sub-Committee thoroughly reviewed the complaint together with the relevant evidence provided, in conjunction with Standards for England guidance relating to paragraphs 3(2)(b), 4(b) and 5 of the Code of Conduct.

With regard to Paragraph 3(2)(b) it was noted that there was very little new evidence provided over that considered under complaint FC28 and FC28R, involving the same complainant and subject member, both of which resulted in “No further action”. Having considered guidance included in the Standards for England “Case Review 2007” it was clear that the subsequent complaint, FC31, made by the subject member against the complainant could not be considered bullying on the basis that the behaviour of both contributed to the breakdown in relations.

With regard to Paragraph 4(b) it was clear that the issues relating to the Parish Council’s accounts were a collective responsibility of all members of the Council. It was also noted that the letters from the Audit Commission were addressed to the Parish Clerk, and had been copied to one other member of the Parish Council, in addition to the subject member. Whilst there was evidence of a delay in bringing the issues to the attention of the wider Council, there was no evidence that the subject member actively prevented other members accessing the information. In view of the guidance included in the Standards for England “Case Review 2007” it was concluded that there was not sufficient evidence of a breach of paragraph 4(b).

With regard to Paragraph 5, there clearly was evidence that the Parish Council had been brought into disrepute, by being listed on the Audit Commission website, and in the articles in the local press. There was insufficient evidence however that this was as a result of specific actions, or inactions, of the subject member. It was noted that, given the issues that had built up over a number of years with the Parish Council’s Accounts, such adverse publicity was inevitable at some stage. Following a number of complaints in 2010 between members of the Parish Council, the Sub-Committee felt that there were still issues relating to breakdown of communication and acceptance of collective responsibility within the Council, and between the complainant and subject member particularly. On this basis the Sub-Committee felt that, rather than instigate an investigation into this one complaint, that further mediation/conciliation was required to address these issues.

THE MEETING WAS CONCLUDED AT 16:45 P.M.

Minutes of a meeting of the  
Standards Committee Assessment Sub-Committee held on  
12 April 2011 commencing at 14:40 p.m.

Present: Independent Member: Mr J Henderson (Chairman)  
Parish/Town Council Representative: Mr G Clarke  
District Council Representative: Cllr C Dibsall  
Monitoring Officer: Mrs C Nuttall  
Democratic Services Officer Mr D Williamson

1. DECLARATIONS OF INTEREST

There were no declarations of Interest.

2. EXCLUSION OF PRESS AND PUBLIC

Resolved: That the meeting of the panel to discuss the allegations of Member misconduct (reference FC42), be held in confidential session.

3. CONSIDERATION OF ANY ALLEGATIONS THAT A MEMBER HAS BREACHED THE CODE OF CONDUCT

FC42

This matter related to a Parish Councillor.

Resolved: That the subject member be provided with a summary of the details of the complaint.

The potential breaches of the Code of Conduct identified were:

Paragraph 3 (1) – You must treat others with respect

Paragraph 3 (2) (b) – You must not bully any person

Resolved: Other action:

That the Monitoring Officer be directed to offer a conciliation session to the complainant and the subject member, with help from a member of the Standards Committee or Deputy Monitoring Officer.

**Reason**

The Assessment Sub-Committee thoroughly reviewed the complaint together with factual information obtained from the Clerk to the Parish Council concerned, in

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**Standards Committee – Assessment Sub-Committee – 15 February 2011**

conjunction with Standards for England guidance relating to paragraphs 3(1) and 3(2)(b) of the Code of Conduct.

The Sub-Committee considered that the meeting of the Parish Council Welfare Working Group on 18<sup>th</sup> February 2011 was “conducting the business of the authority” and so the members involved would be required to comply with the Code of Conduct.

With regard to Paragraph 3(2)(b) it was noted that the complaint related to what appeared to be an isolated incident. The behaviour described did not appear to be outrageous, nor did it seem to be based on an abuse of power by the subject member. Having considered guidance included in the Standards for England “Case Review 2007” it was considered, for the reasons set out above, that there was not sufficient initial evidence to suggest a breach of paragraph 3(2)(b).

With regard to Paragraph 3(1) it was noted that the behaviour described was not what would be considered appropriate in a normal Parish Council meeting, and there was concern that the complainant had felt it necessary to leave the Working Group meeting before a conclusion had been reached on the matters being discussed. It was observed that the Working Group was not held in public, and that the subject member had attempted to make an apology to the complainant. Having considered guidance included in the Standards for England “Case Review 2007” it was considered, for the reasons set out above, that there was some evidence that could suggest a breach of paragraph 3(1). However, the Sub-Committee did not consider that the circumstances were such that it would be proportionate to investigate. The Sub-Committee decided that other action would be more appropriate and directed the Monitoring Officer to offer a session of conciliation to the complainant and subject member with help from a member of the Standards Committee or Deputy Monitoring Officer.

THE MEETING WAS CONCLUDED AT 15:55 P.M.

Minutes of a meeting of the  
Standards Committee Review Sub-Committee held on  
15 February 2011 commencing at 15:00 p.m.

Present:	Independent Member:	Mr J Reece (Chairman)
	Parish/Town Council Representative:	Mr T Austin
	District Council Representative:	Cllr G Ryan
	Monitoring Officer:	Mrs C Nuttall
	Democratic Services Officer	Mr D Williamson

1. DECLARATIONS OF INTEREST

Cllr Ryan declared that he knew both of the subject members of complaints FC39R and FC40R as colleague District Councillors.

2. EXCLUSION OF PRESS AND PUBLIC

Resolved: That the meeting of the panel to review the allegations of Member misconduct (reference FC39R & 40R), be held in confidential session.

3. CONSIDERATION OF ANY REQUESTS FOR A REVIEW OF THE INITIAL ASSESSMENT OF A COMPLAINT THAT A MEMBER HAS BREACHED THE CODE OF CONDUCT

FC39R

This matter related to a District Councillor. The subject member had been provided with a summary of the details of the complaint following the original Assessment on 21 December 2010.

The potential breach of the Code of Conduct identified was paragraph 3 (1).

Treating others with respect

General Obligations

3. (1) You must treat others with respect.

Resolved: That no further action be taken in respect of the complaint

**Reason**

The Review Sub-Committee thoroughly reviewed the complaint together with the relevant correspondence provided, in conjunction with Standards for England guidance relating to paragraph 3 of the Code of Conduct. The Sub-Committee

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Standards Committee – Review Sub-Committee – 15 February 2011**

agreed with the original Assessment that the only part of paragraph 3 of the Code of Conduct which could be relevant was 3(1) – Treating others with respect. The Sub-Committee noted that the complainant had been asked if there was any further evidence or information which could be provided, but none had been received.

The Sub-Committee agreed with the original Assessment which had concluded that the correspondence did not fall within paragraph 3(1).

For this reason the Sub-Committee agreed that there was insufficient evidence of a potential breach of the Code of Conduct.

FC40R

This matter related to a District Councillor. The subject member had been provided with a summary of the details of the complaint following the original Assessment on 21 December 2010.

The potential breach of the Code of Conduct identified was paragraph 3 (1).

Treating others with respect

General Obligations

3. (1) You must treat others with respect.

Resolved: That no further action be taken in respect of the complaint.

**Reason**

The Review Sub-Committee thoroughly reviewed the complaint together with the relevant correspondence provided, in conjunction with Standards for England guidance relating to paragraph 3 of the Code of Conduct. The Sub-Committee agreed with the original Assessment that the only part of paragraph 3 of the Code of Conduct which could be relevant was 3(1) – Treating others with respect. The Sub-Committee noted that the complainant had been asked if there was any further evidence or information which could be provided, but none had been received.

The Sub-Committee agreed with the original Assessment which had concluded that the correspondence did not fall within paragraph 3(1).

For this reason the Sub-Committee agreed that there was insufficient evidence of a potential breach of the Code of Conduct.

THE MEETING WAS CONCLUDED AT 15:40 P.M.

**STANDARDS COMMITTEE – 2 AUGUST 2011**

**APPOINTMENT OF SUB-COMMITTEES**

Report of the: Monitoring Officer

Status: For Information

Portfolio Holder Cllr. Elaine Bracken

Head of Service Mrs. Christine Nuttall – Head of Legal and Democratic Services and Monitoring Officer

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**Recommendation:** That the Committee confirm the arrangements for sub-committees for the 2011/12 Municipal Year as set out in the Appendix.

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**Appointment of Sub-Committees**

1. Members are asked to approve the arrangements for Sub-Committees contained within the Appendix. No changes are being proposed to the arrangements in the previous year.

**Key Implications**

Financial

2. None arising directly from this report.

Community Impact and Outcomes

3. None arising directly from this report.

Legal, Human Rights etc.

4. The Committee is required to appoint these sub-committees under the Standards Committee (England) Regulations 2008.

**Risk Assessment Statement**

5. None arising from this report.

**Sources of Information:** None.

**Contact Officer(s):** Christine Nuttall  
Head of Legal and Democratic Services &  
Monitoring Officer - Ext 7245

**Christine Nuttall**  
**Monitoring Officer**

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## **APPENDIX T - Sub-Committees of the Standards Committee**

### **Composition of the Assessment Sub-Committee and the Review Sub-Committee Relating to Allegation(s) of Member Misconduct, including Composition of the Determination Hearing Sub-Committee:**

- One Independent Member (Chair)
- One District Councillor
- One other Member who could be an Independent Member, Parish/Town Member or District Councillor. The Parish/Town Member must not be a District Councillor.
- At least one Parish/Town Council Member who is not a District Councillor must be present when matters relating to Parish and Town Councils are being discussed.
- There is no requirement for fixed membership or a fixed Chairman of the above mentioned Sub-Committees. Preferably such members will be chosen on a rotational basis from the pool of members on the Standards Committee.
- The Chairman of the above mentioned Sub-Committees is given authority to make a substitute or to vary the hearing panel where difficult circumstances are envisaged to minimise the risk of conflicts of interest and ensure fairness for all parties.
- The quorum for a meeting of the above mentioned Sub-Committees will, for the duration of the meeting, be three members.
- Decisions of the above mentioned Sub-Committees will be taken by majority vote.
- Members who are involved in the decision making on the initial assessment of a complaint must not take part in the review of that decision.
- Members who have taken part in the initial assessment of a complaint even on review may take part in any subsequent determination hearing as the initial or review stages make no findings of fact.

### **Terms of Reference of the Assessment Sub-Committee and Review Sub-Committee Relating to Allegation(s) of Member Misconduct including Terms of Reference of the Determination Hearing Sub-Committee**

- The Assessment Sub-Committee is established to receive allegations that a member of the Authority has failed, or may have failed to comply with the Authority's Code of Conduct.

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- The public's right is to complain to the local Standards Committee and not to the Standards Board for England. A complaint can be made to the Monitoring Officer, Sevenoaks District Council, Argyle Road, Sevenoaks, Kent TN13 1HG. Further details can be found on the Council's website along with a Complaint Form.
- Upon receipt of each allegation the Assessment Sub-Committee shall make an initial assessment of the allegation and shall then do one of the following:
  - a) refer the allegation to the Monitoring Officer for investigation
  - b) refer the allegation to the Standards Committee of another relevant authority
  - c) refer the allegation to the Standards Board for England
  - d) take no action in respect of the complaint
  - e) refer the allegation to the Monitoring Officer for action short of formal investigation such as training or conciliation or such other steps (not including an investigation), as appear appropriate
- The Complainant has a right of review over the Assessment Sub-Committee's decision to take no action.
- The Review Sub-Committee has the same decisions available to it as the Assessment Sub-Committee. In addition, the Review Sub-Committee may decide that the review will not be granted in the circumstances.
- Where the Complainant makes further or new information of any significance available in support of their complaint that changes the nature of or gives rise to a potential 'new' complaint and the information submitted is not merely a repeat complaint, the Review Sub-Committee will consider if it is more appropriate to refer the matter back to the Assessment Sub-Committee as a 'new complaint'. In the circumstances, the decision arrived at by the Review Sub-Committee will be 'that the review request not be granted'.
- The purpose of the initial assessment decision or review is simply to decide whether any action should be taken on the complaint either through investigation or some other action. The Assessment Sub-Committee and Review Sub-Committee make no findings of fact. If the Assessment Sub-Committee refers the complaint to the Monitoring Officer for investigation or other action, it does not mean that the Sub-Committee has made up its mind about the complaint. It simply means that the Sub-Committee believes the alleged conduct, if proven, may amount to a failure by the

**Item No. 5 Appendix**

Subject Member, to comply with the Code of Conduct and that some action needs to be taken in response to the complaint.

- The Assessment Sub-Committee and Review Sub-Committee also have the power to receive a Monitoring Officer's Report within 3 months of receipt of the Assessment Sub-Committee's or Review Sub-Committee's Direction to take other action. If the Assessment Sub-Committee or Review Sub-Committee is not satisfied with the action specified or proposed in the Monitoring Officer's Report, it will direct the Monitoring Officer accordingly.
- Where an allegation or complaint is investigated and there is a "Finding of failure to comply with the Code of Conduct" the Determination Hearing Sub-Committee will hear and determine the allegation/complaint that a District Councillor, Parish or Town Councillor or Co-opted Member has failed or may have failed to comply with the Code of Conduct.
- Where an allegation or complaint is investigated and the Investigator's report makes a "Finding of no Failure to Comply with the Code of Conduct", a meeting of the Determination Hearing Sub-Committee will be convened to consider the "Finding of no Failure to Comply with the Code of Conduct" and decide whether to agree. If the Determination Hearing Sub-Committee accepts the finding of no failure, this will be a 'finding of acceptance'. Where the Determination Hearing Sub-Committee decides that on the balance of probability there is a case to answer the Determination Hearing Sub-Committee will arrange for a formal hearing to be convened and will hear and determine the case.
- The Assessment Sub-Committee shall agree a programme of meetings including one meeting per calendar month, but shall only meet where one or more allegation has been received which require to be assessed at that meeting or when the Monitoring Officer wishes to submit a Report following a Direction given by the Assessment Sub-Committee or Review Sub-Committee to take other action.
- The Review Sub-Committee shall meet as and when required to enable it to undertake the review of any decision of the Assessment Sub-Committee within 3 months of the receipt of the request for such a review from the person who made the allegation.
- The Determination Hearing Sub-Committee shall meet as and when required to enable it to determine whether a District Councillor, Parish or Town Councillor or Co-opted Member has failed to comply with the Code of Conduct



**STANDARDS COMMITTEE – 2 AUGUST 2011**

**FORWARD WORK PROGRAMME**

Report of the: Monitoring Officer

Status: For Consideration and Decision

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**Executive Summary:** This report presents to the Committee a draft Forward Work Programme for approval as at 20 July 2011.

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**This report supports the Key Aim of effective management of Council resources.**

**Portfolio Holder** Cllr. Elaine Bracken

**Head of Service** Head of Legal and Democratic Services – Christine Nuttall

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**Recommendation:** It be RESOLVED that:

the Committee approves the draft Forward Work Programme as at 20 July 2011 subject to any amendments the Committee wishes to make.

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**Introduction**

1. In order to promote Good Practice the Standards Committee annually adopts a Forward Work Programme. The Forward Work Programme records issues for consideration by the Committee. In order for the Committee to consider this matter further a draft Forward Work Programme as at 20 July 2011 has been annexed as an Appendix for the Committee to comment on.
2. The Forward Work Programme identifies items and suggests a target date for completion.

**Options (and Reasons for the Recommendation)**

3. The report is for consideration and decision.

**Key Implications**

Financial

4. There are no specific financial implications associated with this report. However, there may be financial implications inherent in specific elements of the Forward Work Programme and these will be assessed as the work progresses.

Community Impact and Outcomes

## Agenda Item 6

Standards Committee – 2 August 2011

5. Successful delivery of the Forward Work Programme is one of the indicators to enable objective judgement to be made on how effective the Committee has been in promoting high ethical standards amongst District, Parish and Town Councillors and in providing matters such as training, dealing with local assessment of Member Complaints, determining the outcome of local investigations and monitoring compliance with protocols and procedures.

### Legal, Human Rights etc.

6. There are no direct legal or human rights implications associated with this report. However, as individual items are progressed through the Forward Work Programme any individual legal implications will then be assessed.

### Resource (non-financial)

7. The resource implications of any issues arising from the Forward Work Programme will be advised as and when they occur.

### Equality

8. The Forward Work Programme is to be organised and developed having regard to the Equality and Diversity Strategy of the Council.

### Sustainability Checklist

9. The Forward Work Programme should inform the public of the type of work to be carried out by the Committee during the year which should promote public confidence by demonstrating that systems are in place to promote high ethical standards.

### Conclusions

10. The purpose of the Forward Work Programme is to ensure that the Committee has a planned programme of work for the year. The Monitoring Officer can identify issues which are due for review and Members can also introduce matters that they feel are appropriate for the Committee to consider.

### **Risk Assessment Statement**

11. The purpose of implementing the Forward Work Programme is to minimise the prospect of findings of poor ethical governance. The risk of this happening are identified as low.

**Sources of Information:** Guidance produced by the Standards for England

**Contact Officer(s):** Christine Nuttall – ext. 7245

**Christine Nuttall**  
**Monitoring Officer**

**DRAFT STANDARDS COMMITTEE FORWARD WORK PROGRAMME  
AS AT 20<sup>th</sup> JULY 2011**

<b>Activity</b>	<b>Action/Progress</b>	<b>Timescale</b>
Regular training for Councillors on the Ethical Framework	Ongoing training workshops for District, Parish and Town Council Members and Clerks as well as targeted officers of the authority	Future training workshops to be organised throughout the municipal year
Annual Monitoring Officer's Report	Presented to the Standards Committee and Full Council annually by the Independent Chair or Vice Chair.	Presented to the Standards Committee on 26 January 2012 Presented to Full Council on 21 February 2012
Updating the Member's Register of Interests and Gifts and Hospitality on Council's web site	On-going. Reminders sent to Members and Audits made.	Members to notify the Monitoring Officer within 28 days of any changes to the register
Training for Members of the Committee on the work of the Sub-Committees	Training for new Members and refresher training for existing Members	Training workshops to take place as soon as possible within the next two months
Consideration of Complaints and the work of the Sub-Committees	Determination Notices	Notices can be viewed by the public along with official minutes of meetings
Chairman of Standards Committee to meet with Leader of the Council and Chief Executive	To promote and enhance the ethical agenda	Meet on a six monthly basis – last meeting took place on 23 September 2010. Another meeting is to be organised after 2 August 2011.
Receiving inquiries from District Councillors and Parish/Town Councillors as well as Parish/Town Clerks	As and when Councillors and Parish/Town Clerks get in touch with the Monitoring Officer or Deputy	Inquiries dealt with expeditiously with an open door policy

Visit Parish/Town Councils for Training and Conciliation	To promote knowledge on the Code of Conduct and improve working relationships. Undertaken by Standards Committee Members accompanied by the Monitoring Officer and or Deputy Monitoring Officer.	Ongoing
Appointment of Independent Chairman and Vice Chairman	Following Annual Council there is a need to appoint an Independent Chairman and Vice Chairman	To take place at this Committee
Consider and adjudicate on dispensation requests from Parish/Town Councils	To be determined within statutory requirements	To be determined as and when requests for dispensations received
To consider government proposals on the proposals set out in the Localism Bill in relation to the Code of Conduct	To consider commenting and thereby influencing future government legislation and guidance	To be considered by this Committee
Review and Monitor Training on the Code of Conduct	Identify further training and feedback	Report to this Committee
Review and monitor complaints received	Identify the type of complaints received to allocate resources accordingly	Report to this Committee
Promoting awareness of role and work of Standards Committee	Press releases. Increased information on website. Training.	Ongoing
Preparation for the changes envisaged by the Localism Bill	Discussions to take place at this Committee	Preparations to begin in September for finalisation the beginning half of 2012

**STANDARDS COMMITTEE – 2 AUGUST 2011**

**COMPLAINTS AND TRAINING**

Report of the: The Head of Legal and Democratic Services

Status: For Consideration

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**Executive Summary:** The Committee is advised of complaints received from 1<sup>st</sup> December 2010 to the 20<sup>th</sup> July 2011. In addition the Committee is advised of the conciliation and training that has taken place since the 1<sup>st</sup> December 2010.

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**This report supports the Key Aim of** effective management of Council resources

**Portfolio Holder** Cllr. Elaine Bracken

**Head of Service** Head of Legal and Democratic Services and Monitoring Officer  
– Christine Nuttall

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**Recommendation:** It be RESOLVED that Members consider the report.

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**Introduction**

1. The Monitoring Officer is responsible for receiving all allegations that a Member may have breached the Members' Code of Conduct, which are then processed by the Assessment Sub-Committee of the Standards Committee. The Standards Committee is also responsible for Member training and development in relation to the ethical framework.

**Complaints**

2. The Monitoring Officer Report presented to this Committee on 11<sup>th</sup> January 2011 sets out complaints processed for the period between 1<sup>st</sup> December 2009 to 30<sup>th</sup> November 2010. Since then there have been a number of complaints processed from the 1<sup>st</sup> December 2010 to the 20<sup>th</sup> July 2011. These are as follows:
  - A complaint made by a member of the public against a District Council Member which was summarised as "Lack of communication, including explanation and justification of this, when trying to meet with a local member, leading to perception of being ignored" The Assessment Sub-Committee concluded that there was insufficient evidence of a potential breach of the Code of Conduct and decided on no further action. The case was reviewed and the Review Sub-Committee agreed with the

original Assessment that the correspondence did not fall within paragraph 3(1) of the Code – Failing to treat others with respect.

- A complaint made by the same member of the public against another District Council Member which was summarised as “Lack of communication, including updating, when referring a complaint about a member ..... leading to a perception of being ignored”. The Assessment Sub-Committee concluded that there was insufficient evidence of a potential breach of the Code of Conduct and decided on no further action. The case was reviewed and the Review Sub-Committee agreed with the original Assessment that the correspondence did not fall within paragraph 3(1) of the Code – Failing to treat others with respect.
- A Parish Council Member brought a complaint against another Member of the Council which was summarised as “Bullying by the subject member ..... to stop a member of the Parish Council asking questions and obtaining information in relation to year-end account requirements and concerns of the Audit Commission. The subject member, ..... allowing the Council’s name to be shamed in the local press and on the Audit Commission website, bringing the Council into disrepute”. The decision of the Assessment Sub-Committee was “That the Monitoring Officer liaises with the Clerk to the authority concerned to carry out mediation/conciliation for the whole of the Parish Council, but particularly between complainant and the subject member”.
- A Parish Council Member brought a complaint against another Member of the Council which was summarised as “The allegation relates to the behaviour of the subject member towards the complainant during a meeting of the Parish Council Welfare Working Group on the 18<sup>th</sup> February 2011, and subsequently during a telephone call between the two parties. It is alleged that the subject member made disrespectful remarks, did so in a loud and angry way and made unacceptable gestures towards the complainant”. The decision of the Assessment Sub-Committee was “That the Monitoring Officer be directed to offer a conciliation session to the complainant and the subject member, with help from a member of the Standards Committee or Deputy Monitoring Officer”.

### **Conciliation**

3. Conciliation took place at Brasted Parish Council on 14<sup>th</sup> March 2011. The Monitoring Officer along with Doug Williamson attended. It was an extremely difficult meeting as there was a lot of anger directed against the complainant. However, since the conciliation took place the Monitoring Officer has been informed that matters have improved and no further complaints have been received.
4. A conciliation meeting was offered between two members of Horton Kirby & South Darenth Parish Council but the Subject Member declined on the basis

that the Parish Council had moved on and did not see the need for the session that was offered. As a result the Monitoring Officer could not pursue the offer but asked the two Members concerned to contact her if at any time in the future they feel any similar issues are building up to a level which could damage the operation of the Parish Council.

### Training

5. The Standards Committee oversees the provision of training on the Code of Conduct to Members within the District and the 30 Parish/Town Councils. Since the Monitoring Officer's Report presented to this Committee on the 11<sup>th</sup> January 2011 the following training has taken place:
  - Training on the Code of Conduct for two new Independent Members of the Standards Committee. The Monitoring Officer was accompanied by Andrew Smith in delivering the training which took place on the 8<sup>th</sup> March 2011.
  - Assessment Sub-Committee training took place for the two new Independent Members of the Standards Committee. Cllr Waller (no longer a Councillor) helped with the training which took place on the 15<sup>th</sup> March 2011.
6. On the 5<sup>th</sup> May 2011 local elections within the district took place. Nineteen new District Councillors were elected and various training events took place for elected Members covering the Code of Conduct as follows:
  - On the 9<sup>th</sup> April 2011 there was a prospective Members' Induction morning which covered aspects of the Code of Conduct.
  - An Induction process for Members took place on the morning of the 9<sup>th</sup> May together with an additional session in the evening for Members who were not able to attend the morning session.
  - Dedicated Code of Conduct training took place in partnership with Dartford Borough Council on the afternoon of the 16<sup>th</sup> May 2011. Claire Lefort from Weightman's Solicitors delivered the training at Dartford Borough Council with a similar session taking place at Sevenoaks in the evening. Members of both the District and Borough Council were invited to attend together with the Clerks of the Parish and Town Council of Sevenoaks District Council.
  - On the evening of the 23<sup>rd</sup> May another Code of Conduct training session took place at Dartford Borough Council again delivered by Claire Lefort.
  - On the 18<sup>th</sup> July 2011 three new Members of the Standards Committee received training on the Code of Conduct. The Monitoring Officer was accompanied by Alan Riddell in delivering the training. Further training on

the work of the Assessment Sub-Committees is to take place on the 25<sup>th</sup> July 2011 with Andrew Smith helping to deliver such training.

7. Claire Lefort was an excellent choice for the specialist training, which took place following the elections, as she had held a senior role at the Standards Board for England (now Standards for England) as Principal Legal Adviser. She now specialises in providing advice and assistance to local authorities concerning ethical standards. Many of the working examples given at the training session were actual examples of cases with which she had first hand experience.

### **Key Implications**

#### Financial

8. Training initiatives as well as the assessment of Member complaints processes continue to be accommodated within the Council's existing budgets.

#### Community Impact and Outcomes

9. This report sets out the allegations of member misconduct received by the Monitoring officer from the 1<sup>st</sup> December 2010 to the 20<sup>th</sup> July 2011. Conciliation has taken place where appropriate. The systems that are in place appear to be working well for the community of Sevenoaks District.

#### Legal, Human Rights etc.

10. There are no legal or human rights implications associated with this report.

#### Equality Impacts

11. The processes and procedures that are employed in assessing allegations of Member misconduct are statutory in nature and as such comply with the Council's Comprehensive Equalities Scheme with no one being disadvantaged either in their ability to pursue an allegation or in defending themselves in the event of an investigation taking place.

#### Sustainability Checklist

12. Robust systems are in place and this committee is continuing to uphold the statutory duties.

### **Conclusions**

13. The number of allegations of member misconduct will continue to be monitored and reported so that lessons can be learnt so that resources can be directed towards areas where the greatest need prevails.

### **Risk Assessment Statement**

14. There is a need for a proper framework of local accountability in which the public can have confidence. Once the Localism Bill takes effect Local Authorities will still be under a duty to promote high standards of conduct. Without some sort of system in place public confidence could be eroded and politics brought into disrepute.

**Background Papers:**

Decision Notes

Training material produced by Claire Lefort from Weightman's. These to be placed on the Members' Electronic Portal.

Training monitoring responses

**Contact Officer(s):**

Christine Nuttall – Ext 7245

**Christine Nuttall**

**Monitoring Officer**



**STANDARDS COMMITTEE – 2 AUGUST 2011**

**LOCALISM BILL AND FUTURE CODE OF CONDUCT**

Report of the: Monitoring Officer

Status: For Consideration and Decision

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**Executive Summary:** To discuss the implications of the proposals in the Localism Bill to abolish the standards regime and to examine the options that may be available for the future.

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**This report supports the Key Aim of** effective management of Council resources.

**Portfolio Holder** Cllr. Elaine Bracken

**Head of Service** Head of Legal and Democratic Services & Monitoring Officer – Christine Nuttall

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**Recommendation:** It be RESOLVED that: Members consider the report and determine a way forward in relation to the options for the future.

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**Introduction**

- 1 The Localism Bill published on 13<sup>th</sup> December 2010 contains proposals to abolish the Standards for England regime. Whilst subject to Parliamentary approval the changes will be far reaching and are likely to take effect from early 2012.
- 2 Following the abolition of the standards regime, councils will no longer have a single body of law to refer to for dealing with elected member conduct although councils will instead be able to call upon a range of remedies, including existing criminal and civil law provisions and those contained in the Localism Bill. This Committee was provided with a report entitled “Self-Regulation Following the Abolition of the Standards Regime” at the last meeting on the 11<sup>th</sup> January 2011.
- 3 This report seeks to summarise the proposals contained within the Bill and outline those provisions available to authorities in the future.

**The Main Provisions**

- 4 The proposals outlined in the Bill are as follows:
  - The Relevant Authorities (General Principles) Order 2001, which sets out the principles which govern the conduct of members and co-opted members of relevant authorities in England and police authorities in Wales, will be revoked.

- The Local Authorities (Model Code of Conduct) Order 2007 (S.I 2007/1159) which prescribes the model code of conduct to apply to members of relevant authorities will be revoked
- The requirement for local authorities to have standards committees will be abolished
- Standards for England will be abolished. Established by the Local Government Act 2000 and the regulator for local authority standards committees, the Standards Board requires primary legislation to abolish it and its legislative functions. None of the Standards Boards functions will be transferred to other bodies.
- The First-tier Tribunal (Local Government Standards in England), the independent judicial tribunal established as a disciplinary body to hear and determine references and appeals concerning the conduct of local authority councillors, will lose its jurisdiction over the conduct of local authority members.
- Elected members will be required to continue to register and declare personal interests and will not be allowed to use their position improperly for personal gain. The government intends that wilful failure to comply with these requirements will constitute a criminal offence.
- The requirement for local authorities to adopt a model code of conduct and for local authority members to abide by that code will be abolished. However, local authorities will be free to adopt their own, voluntary code of conduct should they so wish.
- The requirement for councils to maintain a standards committee will be abolished. However, local authorities will be free, should they choose, to establish voluntary standards committees to consider complaints about the conduct of elected and co-opted members. Such committees will, according to councils' local constitutions, be able to censure but will not be able to suspend or disqualify members from council membership.
- Local Authorities will be under a duty to promote high standards of conduct .

### **Changes to the Common Law Rule of Bias and Predetermination**

- 5 Predetermination is an area of the common law (judge made law) that has implications for Members individually and Councils. It is wrong to associate predetermination with the Standards regime or as a direct result of the introduction of the standards regime under the Local Government Act 2000.
- 6 The long established legal position is that a Member may not be party to decisions in relation to which the Member either is actually biased in the sense that the Member has a closed mind and has pre-determined the outcome of

the matter to be decided irrespective of the merits of any representations or arguments which may be put to the Member or gives an appearance of being biased, as judged by a reasonable observer.

- 7 A finding of bias and or predetermination can make a decision unlawful with costs and reputational implications for Councils and the First-tier Tribunal (Local Government Standards, England (formerly the Adjudication Panel for England) has held that such a finding could be a breach of Paragraph 5 of the current Code of Conduct – “You must not bring your office or authority into disrepute while acting in your official capacity”.
- 8 The Localism Bill aims to clarify the rules on predetermination and bias. The Bill provides that an indication by a Councillor that he takes a particular view on a matter is not to be taken as evidence of a closed mind. The intention is that the normal activities of a Councillor, such as campaigning, talking with constituents, expressing views on local matters and seeking to gain support for those views, should not lead to an unjust accusation of having a closed mind on an issue that can lead to a legal challenge. The government claims that this will give Councillors the assurance that they can campaign, discuss and vote on issues with confidence and so encourage more people to stand in local elections. In practice, the Court of Appeal has already asserted that such activities will not preclude participation in decision making, unless the Councillor is so committed that they are not even prepared to listen to the evidence.
- 9 The government previously announced that a power of electoral recall of Councillors is also being proposed to allow for the removal of Councillors mid term for cases of ‘serious misconduct’, although this does not appear to be included within the Bill.

### **Decisions to be made by Sevenoaks District Council**

- 10 A number of key questions will need to be considered by this authority in order to make a number of decisions, in due course, in respect of the future approach this Council wants to adopt in relation to Members’ conduct. Key questions that have already been highlighted within the local government community in Kent are as follows:
  - How should Sevenoaks District Council respond to the proposed new duty to promote high standards of conduct amongst Members?
  - Should Sevenoaks District Council have a voluntary code of conduct and a voluntary Standards Committee with responsibility for monitoring compliance with a voluntary Code?
  - If Sevenoaks District Council decides to have a voluntary Code and a voluntary Standards Committee, what role would Independent Members have? Section 102(3) and (4) of the Local Government Act 1972 enables an authority to appoint co-opted Members to a new Standards Committee, but Section 13 of the Local Government and Housing Act 1989 would mean that any such co-opted Members were non-voting,

unless the Standards Committee was merely advisory whereby they made recommendations only to Full Council.

- How would Sevenoaks District Council deal with complaints that a Member had breached a voluntary Code? The Association of Council Secretaries and Solicitors will be producing a model Code of Conduct for the future, when the Localism Bill takes effect. This will eliminate the need for local authorities to spend time doing the same thing. Kent County Council may also produce a voluntary code.
- What role could the Monitoring Officer and Deputy Monitoring Officer have in administering a voluntary Code and in dealing with training for Members and low-level complaints?
- What role could group and party discipline have in ensuring good conduct amongst elected Members?
- Could we still provide a service to the 30 Parish and Town Councils in our district as a chargeable service particularly in relation to training and complaint handling?

### **Key Implications**

#### Financial

- 11 It is anticipated that changes can be accommodated within existing budgets and if a service is to be provided to Town and Parish Councils in relation to Member misconduct, this could be charged for under anticipated the new Power of General Competence.

#### Community Impact and Outcomes

- 12 The public will expect some sort of systems to be in place especially as there will be a statutory duty placed upon local authorities to promote high standards of conduct.

#### Legal, Human Rights etc.

- 13 There are no legal or human rights implications directly associated with this report.

#### Equality Impacts

- 14 The changes that are anticipated by the Localism Bill will be statutory in nature and as such should comply with the Council's Comprehensive Equalities Scheme. Equality Impact Assessments will take place where necessary.

#### Sustainability Checklist

- 15 The Sevenoaks District Council will continue to promote and uphold its statutory duties and responsibilities.

**Conclusions**

- 16 The proposals in the Localism Bill for changes to the conduct regime for local authority Members will make sweeping changes to the current arrangements. A number of decisions will need to be made by Sevenoaks District Council in due course to implement the changes and the Committee is asked to consider and comment upon the information in this report as an early contribution to the debate.

**Risk Assessment Statement**

- 17 Local Authorities will be under a duty to promote high standards of conduct. The new arrangements for standards will be part voluntary and part mandatory, with criminal sanctions where certain interests are concerned. There is a need for a proper framework of local accountability in which the public can have confidence. Without this the reputation of Members and the authority as a whole could be seriously eroded.

**Sources of Information:**

ACSeS submission to the Bills Committee on the Localism Bill March 2011

Standards for England – Understanding predetermination and bias

ACSeS – Maintaining High Ethical Standards in Local Government

Bevan Brittan – A Local Authority’s Power of Self-Regulation by Peter Keith-Lucas

Bevan Brittan – What Follows Standards? A Post-Code Lottery? By Peter Keith-Lucas

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