



Sevenoaks

DISTRICT COUNCIL

Despatched: 16.01.13

STANDARDS COMMITTEE

24 January 2013 at 7.00 pm

Conference Room, Argyle Road, Sevenoaks

AGENDA

Membership:

Cllrs. Mrs. Bracken, Dickins, Mrs. Purves, Ball, Mrs. Dibsall, Firth and Gaywood

1. **Appointment of Chairman and Vice-Chairman**
2. **Minutes** (Pages 1 - 4)
Minutes of the meeting of the Committee held on 26 January 2012.
3. **Declarations of interest**
Any interests not already registered
4. **Monitoring Officer's Annual Report** (Pages 5 - 24)
5. **Review of the New Standards Regime** (Pages 25 - 46)
6. **Dispensation in Relation to Setting the Council Tax or a Precept**
Verbal Update

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)

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STANDARDS COMMITTEE

Minutes of a meeting of the Standards Committee held on
26 January 2012 at 7pm

Present: Mr A. Riddell (Chairman), Mr A. Smith (Vice-Chairman)

Cllrs. Mrs. Bracken, Dickins, Eyre, Mrs. Morris, Mrs Purves and Underwood.

Independent Members: Mr. Henderson

Town/Parish Representatives: Cllrs. Austin, Mrs Dickinson, Parry and Taylor.

Apologies for absence were received from: Mr R. House and Mr K. Newman

Councillor Mrs. Sargeant was also present.

The Chairman noted that this could be the last meeting of the Committee before a new standards regime was introduced and thanked all past and present Members for their contribution. The Chairman also paid tribute to Councillor Colin Dibsdall and the contribution he had made to the Standards process in Sevenoaks.

13. DECLARATIONS OF INTEREST

No declarations of interest were recorded.

14. MINUTES OF THE LAST MEETING

Referring to page 5 of the minutes, Councillor Bracken questioned who in the SDC leadership had made it clear to the Chairman that they wanted to keep Independent Members involved in the standards process. The Chairman responded that he had been reporting on an informal conversation with the Leader of the Council, and agreed that this would be reflected in the minutes.

Resolved: That:

- (1) the Minutes of the meetings of the Committee held on 2 August 2011 be agreed subject to the amendments outlined above;
- (2) the Assessment Sub-Committees held on 3 August 2011 and 3 November 2011 be agreed;
- (3) and the Review Sub-Committee held on 3 October 2011 be approved and signed by the Chairman as a correct record.

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

The Chairman explained that for the past two years the Monitoring Officer's Annual

Report had also been considered by the Performance and Governance Committee. This year the report would be considered by the Standards Committee and would then be presented to Full Council on 21 February 2012 for endorsement.

The Monitoring Officer highlighted that the number of complaints had reduced from 20 in 2010 to 7 in 2011 and the Ombudsman had found no cases of maladministration against the Council.

The report also outlined information surrounding the new standards regime which is likely to come into effect in the latter half of 2012.

Resolved: That the Monitoring Officer's Annual Report be noted and that Full Council be recommended to note the Monitoring Officer's Annual Report on 21 February 2012.

16. THE NEW CODE OF CONDUCT (Report No. 4)

The Monitoring Officer explained that the new standards provisions were set out in the Localism Act 2011. The provisions applied amongst others to all District Council and Parish and Town Councils and the District Council had a statutory obligation to investigate possible breaches of the code of conduct for the Towns and Parishes within the District. Every authority would be under a duty to promote and maintain high standards of conduct by elected and co-opted members of the authority. Each authority was required to adopt a Code of Conduct. The powers of the Secretary of State to specify general principles and issue a model code were revoked, along with the current 10 General Principles of Conduct and the Model Code. The Act required an authority's Code to be consistent with the seven Nolan principles of conduct in public life. The Monitoring Officer was awaiting regulations to be announced by the Secretary of State giving a definition for disclosable pecuniary interests and other interests which would be disclosable under the new regime in the Members' Register of Interests. It was also clear that the District Council would be required to maintain a register of interests for Town and Parish Councils and the Monitoring Officer suggested that this could be done simply by providing a link to the Town and Parish websites.

A Parish Representative requested that all the available model codes of conduct be circulated to the Committee to allow Members to make an informed decision.

The Committee noted that Kent County Council had suggested drafting a code which it hoped would be adopted by the Parishes within Kent. As there was no prescribed Code of Conduct to be adopted there was a possibility that the District would have to work with 31 different codes of conduct. However, officers were hoping this scenario could be avoided.

Resolved: That the report be noted and that model codes of conduct be circulated to Members of the Committee.

17. WORKING TOWARDS ESTABLISHING THE NEW STANDARDS REGIME UNDER THE LOCALISM ACT (Report No. 5)

The Chairman noted that at its last meeting, the Standards Committee had resolved

to establish a Task and Finish Group to help develop the new Standards Regime. However, it was appreciated that it would be for the local authority to determine its internal processes. The Monitoring Officer explained that any recommendations developed by the Task Group would then go to the Modern Local Government Group to review and then to Full Council for a decision

Members agreed that it would be helpful to have a discussion surrounding the processes that could be put in place to deal with matters relating to conduct. Town and Parish Councils were the main customer base for SDC's Standards Regime and the Committee acknowledged that it was essential that Town and Parish Council's bought into any processes that were developed. However, the Committee also recognised that there were finite resources and any processes that were developed needed to be consistent with current SDC budget constraints.

Following discussions it was agreed that a Task Group with the following membership would be established:

2 District Representatives

2 Parish/Town Council Representatives

1 Independent Member

A nominee from each political group within SDC (nominated by the political leaders).

The Committee agreed that consultation with all the Town and Parish Council's would need to be undertaken as part of the process. It was important to review initial processes before the end of the municipal year before developing the detailed content of the code of conduct.

Resolved: That the report be noted and that a Task Group be established with the following Membership:

2 District Representatives

2 Parish/Town Council Representatives

1 Independent Member

A nominee from each political group within SDC (nominated by the political leaders).

As this could be the last meeting of the Standards Committee, Members of the Committee recorded a vote of thanks to the Chairman and the Monitoring Officer for the support they had provided to the Committee.

THE MEETING WAS CONCLUDED AT 7.57 p.m.

Chairman

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STANDARDS COMMITTEE – 24 JANUARY 2013

MONITORING OFFICER'S ANNUAL REPORT

Report of the: Monitoring Officer

Also considered by: Council – 19 February 2013

Status: For consideration

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

Head of Service Mrs. Christine Nuttall - Head of Legal and Democratic Services

Recommendation: That

- a) the Monitoring Officer's Annual Report be noted; and
 - b) the Full Council be recommended to note the Monitoring Officer's Annual Report.
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Background

- 1 This is the eighth Annual Report of the Monitoring Officer as attached as an appendix to this report.

Introduction

- 2 The purpose of the Monitoring Officer's Report is to provide an overview of the work of the Monitoring Officer, the work of the Standards Committee and the general governance arrangements within the Council in the past year and to provide an opportunity to review and learn from experience.
- 3 The information contained within this Report will also provide Members of the Standards Committee, with an overview of the workings of the Council thus providing them with valuable information to facilitate the carrying out of their functions.

Substance of Report

- 4 The Monitoring Officer's Report sets out the Monitoring Officer's statutory responsibilities, summarises how these duties have been discharged during 2012 in accordance with the Council's Constitution and legislative requirements.

Key Implications

Financial

- 5 The Monitoring Officer's Report has not identified any financial implications for this Council over and above normal requirements.

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Impact on and Outcomes for the Community

- 6 The report sets out the work of the Monitoring Officer, Standards Committee and other governance arrangements monitored by other committees within the Council thus providing Members and the public with valuable information which should promote Member and Public confidence in the high ethical standards set by the Council.

Legal and Human Rights Implications

- 7 The Monitoring Officer's Report has not uncovered any illegality.

Resource (non financial)

- 8 No additional non financial resource implications are identified.

Value For Money and Asset Management

- 9 There are no identifiable value for money and asset management implications associated with the contents of this report.

Equality

- 10 This report has not identified any equality issues.

Sustainability Checklist

- 11 The contents of the Monitoring Officer's report should provide the public with confidence that robust systems exist to enable high ethical standards to be applied across all levels of the authority.

Conclusions

- 12 The Monitoring Officer's report sets out the elements of good governance and demonstrates that robust procedures are in place to raise ethical standards, identify problems and ensure that Members, Officers and the Public are aware of appropriate channels to raise concerns.

Risk Assessment Statement

- 13 The Monitoring Officer's Report increases awareness of the ethical framework and sets out the good governance arrangements that have been set in place. The Monitoring Officer's Report has not identified any illegalities and has not identified any potential illegalities for the next calendar year. The risk of impropriety remains low.

Sources of Information:

Information supplied by various officers and sections of the Council

Ombudsman's Annual letter

Contact Officer(s):

Christine Nuttall – ext. 7245

Christine Nuttall
Monitoring Officer

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**REPORT OF THE
MONITORING OFFICER
2012**

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INTRODUCTION

This is the eighth Annual Report of the Monitoring Officer for the period January 2012 to December 2012. The purpose of the report is not only to provide an overview of the work of the Monitoring Officer in the past year, but also to provide an opportunity to review and learn from experience. This report therefore sets out the Monitoring Officer's statutory responsibilities and summarises how these duties have been discharged from the last Monitoring Officer's Report for the period January 2011 to December 2011. The Report also highlights the work of the Standards Committee.

1. RECOMMENDATIONS

That the Standards Committee comments on and notes the Monitoring Officer's Annual Report.

That the Full Council notes the Monitoring Officer's Annual Report.

2. THE ROLE OF THE MONITORING OFFICER

The role of the Monitoring Officer derives from the Local Government and Housing Act 1989. The Act requires local authorities to appoint a Monitoring Officer.

The Monitoring Officer has a broad role in ensuring the lawfulness and fairness of Council decision making, ensuring compliance with Codes and Protocols and promoting good governance and high ethical standards.

A Summary of the Monitoring Officer's Functions is as follows:

<u>Description</u>	<u>Source</u>
Report on contraventions or likely contraventions of any enactment or rule of law	Local Government and Housing Act 1989
Report on any maladministration or injustice where the Ombudsman has carried out an investigation	Local Government and Housing Act 1989
Appoint a Deputy	Local Government and Housing Act 1989
Establish and maintain the Register of Members' interests.	The Localism Act 2011 (Commencement No. 6 and Transitional, Savings and Transitory Provisions) Order 2012 The Localism Act 2011 The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012
Report on sufficiency of resources.	Local Government and Housing Act 1989

<u>Description</u>	<u>Source</u>
Maintain the Constitution	The Constitution
Promote and maintain high standards of conduct.	The Localism Act 2011
Grant Dispensations	The Localism Act 2011 and delegation from Council
Consulting with, supporting and advising the Head of Paid Service and Chief Finance Officer on issues of lawfulness and probity.	The Constitution
Appointing an Investigating Officer in relation to Member Complaints	The Localism Act 2011 and the Constitution
Advising the Standards Hearings Sub Committee in relation to allegations of breaches of the Code of Conduct and advising when matters are determined following an investigation	The Localism Act 2011 and the Constitution
Advise on whether executive decisions are within the Budget & Policy Framework.	The Constitution
Provide advice on vires issues, maladministration, financial impropriety, probity, Budget and Policy Framework issues to all members.	The Constitution and the Local Government and Housing Act 1989
Legal Advice and Support to the authority	The Constitution
Considering whether certain Information is exempt from disclosure under the Freedom of Information Act.	Freedom of Information Act 2000

3. THE CONSTITUTION

The Constitution sets out how the Council operates and how decisions are made. It sets out the procedures which are followed to ensure that these decisions are efficient, transparent and that those who make the decisions are accountable to local people. The Monitoring Officer is responsible for ensuring that the Constitution operates efficiently, is properly maintained and is adhered to.

3.1 Constitutional Review and Revision

Since the modular constitution was produced by the Secretary of State in 2000 there has never been any revision of that model. However, this Council has continued to update its Constitution as necessary with a re-write having taken place in 2007.

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The Association of Council Secretaries and Solicitors (Acses) is currently working to produce a new model Constitution in conjunction with Dickinson Dees who run a software platform produced by a software provider *Exari*. By this means a new model constitution will be produced, with the numerous variables that must be within it as Councils have the ability to move to differing systems of decision making under the Localism Act 2011. The design of the software will allow for production of a draft constitution, tailored to a relevant extent to differing councils' models of governance, quickly and easily. The Model and decision system will be assessed from a link on the Acses website. Acses members (the Monitoring Officer being one) may then use the package to produce a draft constitution from the model bank of precedents. As legislation requires further changes, the Acses editorial board will determine and publish "best practice" in the use of variants within the Model. With all the changes being implemented by the Localism Act 2011 this model will no doubt prove a valuable asset that this Council may utilise.

3.2 Fitness for Purpose

The Constitution sets out in clear terms how the Council operates and how decisions are made. Some of these processes are required by law, while others are a matter for the Council to choose. The purpose of the Constitution is to:

- ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions;
- support the active involvement of local people in local authority decision making;
- help Members represent local people more effectively;
- enable decisions to be taken efficiently and effectively; and
- hold decision makers to public account.

3.3 Managing the Constitution

Any significant changes to the Council's decision making arrangements and Committee structure need to be approved by full Council. The Council will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.

4. LAWFULNESS AND MALADMINISTRATION

The Monitoring Officer is the Council's lead adviser on issues of lawfulness and the Council's powers and in consultation with the Head of Paid Service and the Chief Financial Officer advises on compliance with the Budget and Policy Framework. Part of this role involves monitoring Committee reports, agendas and decisions to ensure compliance with legislation and the Constitution. The Monitoring Officer ensures that agendas, reports and minutes of all Council meetings are made publicly available unless there is a reason for exemption under the Local Government Act 1972. In addition Portfolio Holder decisions are also made publicly available subject to the same caveat as are all planning and licensing decisions made by Officers. All such decisions can be viewed by members of the public through the Council's website: www.sevenoaks.gov.uk.

If the Monitoring Officer considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration she must report to the full Council or where appropriate the Cabinet after first consulting with the Head of Paid Service and Chief Financial Officer. Any proposal or decision that is subject to such a report cannot be implemented until the report has been considered.

The sound governance arrangements operated by the Council ensure that the power to report potentially unlawful decision making is rarely used and the Monitoring Officer has not had to issue such a report throughout 2012.

4.1 Reports from the Local Government Ombudsman

The annual letter for 2011/12 from the Local Government Ombudsman sets out a summary of statistics on the complaints made to the Ombudsman about the Council for the year.

In 2011 the Ombudsman changed the way they communicate their findings. They no longer give tailored feedback unless there are concerns with an Authority. Instead they provide statistics on the number of enquiries and complaints that they receive and they show the time taken by an authority to respond to written enquiries.

The Ombudsman was pleased to comment that there were no concerns about Sevenoaks District Council's response times and there were no issues arising from the complaints that had been brought to the Ombudsman's attention.

The Ombudsman has indicated that they are planning to launch an open publication scheme during the next year where they will be publishing on their website the final decision statements on all complaints. Making more information publicly available will increase their openness and transparency, and enhance their accountability. Their aim is to provide a comprehensive picture of complaint decisions and reasons for councils and the public. This is to help inform citizens about local services and create a new source of information on maladministration, service failure and injustice.

The statistics show that there were 18 enquiries and complaints in total, 2 of which were deemed to be premature. The Ombudsman provided advice to 5 enquirers and 11 were forwarded to the investigative team.

When an investigation is complete the Ombudsman generally issues a report. However, this year the Ombudsman did not issue any reports against the Authority and only two of the complaints resulted in a local settlement being reached.

The average time taken by the Authority to reply to the Ombudsman's written enquiries was 31.6 days, which is within the target time of 29 to 35 days.

5. GOOD GOVERNANCE

The Monitoring Officer has a pro-active role in promoting good practice, good procedures and good governance. This involves networking, collaboration and joined-up working practices and decision making as well as ensuring standing orders, codes of practice, procedures are kept under review and up to date. Collaborative working entails regular monthly liaison meetings with the three Statutory Officers, Heads of Service/Management Team as well as working in partnership with other departments to develop and

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disseminate policies and procedures. There is also the work undertaken in partnership with other authorities.

Successes this year included the Council retaining its prestigious Gold status from “Investors in People” on 6 December following a rigorous inspection. “Investors in People” is the nationally recognised people management standard, which is awarded to organisations that are committed to supporting and developing their staff to achieve their business goals.

The assessors inspect private and public organizations, over a third of the UK workforce, and evaluate the culture, staff and company values against the established “Investor in People” standards. Less than 1% of the organisations inspected go on to achieve the Gold standard.

This is the second time the Council has secured the sought after Gold accolade. It has also held “Investor in People” status since 1997.

On 20 July 2012, Sevenoaks District hosted the London 2012 Torch Relay. Sevenoaks District Council was handed responsibility for organising crowd safety en route and some 25,000 people watched the Olympic Flame in person as it passed through the District.

The London Organising Committee of the Olympic Games (LOCOG) presented Sevenoaks District Council with a certificate thanking its Members and staff for organising a successful event.

During September, Sevenoaks District hosted the London 2012 Paralympic Games road cycling at Brands Hatch in West Kingsdown. Half of the circuit was within the former F1 race course with the remainder on public roads. Sevenoaks District Council took responsibility for managing crowd safety on the public highway part of the course, and community engagement as a number of local roads were closed for six days for training and racing.

As the a global audience tuned in and thousands of people watched the races unfold from inside and outside Brands Hatch, the event passed off as planned and was, according to the Department for Culture Media and Support, a resounding success. The Council’s efforts were recognised with a certificate from Seb Coe, representing LOCOG, and the International Paralympic Committee.

6. THE ETHICAL FRAMEWORK AND WORK OF THE STANDARDS COMMITTEE

The New Standards Committee which was introduced on the 24th July 2012 comprises 7 Members in accordance with the political balance rules. Prior to this the committee comprised sixteen Members. The new terms of reference for the committee makes provision for the appointment of up to two co-opted Members of a parish or town council although such Members would not have voting rights. Such Members have not been appointed.

An Independent Person who has a statutory role under the Localism Act 2011, was appointed by the Council on 16th October 2012. The Independent Person is not a Member of the Standards Committee although they are given details of the Committee's meeting date in order that they may attend. The Independent Person assists the Monitoring Officer in considering complaints and will also be consulted by the Monitoring Officer following investigations to help decide what action to take. The Independent Person may also be contacted by Councillors who are the subject of any complaint.

The Standards Committee has a key role in facilitating and promoting the Ethical Framework and in promoting and maintaining high standards of conduct within the Authority. The terms of reference of the new committee are set out within Part 3 of the Constitution entitled "Standards Committee".

Examples of the Standards Committee's work during 2012 is as follows:

- Receive the Annual Monitoring Officer's Report
- Work to Establish the New Standards Regime under the Localism Act 2011
- Establishing a Task Group to consider the following proposals:
 - A New Code of Conduct
 - A New Standards Committee with Terms of Reference and Delegations to the Standards Committee
 - Revised procedures for dealing with Misconduct Complaints including arrangements for the investigation of complaints alleging a breach of the Member's Code of Conduct.
 - A Complaint Form
 - A Register of Interests form
 - A system for Granting Dispensations
 - Suggested Non Pecuniary Interests
 - A procedure for making a recommendation for the Appointment of an Independent Person
 - Job Description for an Independent Person and Person Specification

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6.1 Maintaining a Register of Member Interests

The codes of conduct of relevant authorities must include provision for the registration and disclosure of “disclosable pecuniary interests”, as defined in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012. Members with disclosable pecuniary interests in the business of their authorities are prohibited from participating in such business unless they have a dispensation. The Localism Act 2011 has introduced criminal offences relating to failure to register disclosable pecuniary interests. Members convicted of such offences are liable to a scale 5 fine and may also be disqualified from being a councillor for up to five years.

Disclosable pecuniary interests are defined in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 and are not the same as personal and prejudicial interests.

Members at this Council through training have been made aware that even if a Member’s interest does not amount to a disclosable pecuniary interest, if their interest in a matter would lead them to predetermine a decision, it would not be appropriate for that member to participate in the decision, If they did so the decision could be vulnerable to challenge.

6.2 Code of Conduct for Employees

The Code is based on an original draft published by the IDeA and has been updated since being implemented in 2006. The Code forms part of the employers’ terms and conditions of employment. The Code is well publicised on the Council’s internal intranet and is introduced to employees through the induction process.

Under the Code employees must declare any non-financial or financial interests that they or members of their family have which they consider could conflict with the Council’s interests. Directors and the Chief Executive declarations of non-financial or financial interests are declared to the Monitoring Officer.

All relationships of a business or private nature with external contractors, or potential contractors should be made known to the employees’ Head of Service and Director.

All hospitality received and given should be appropriate, necessary and must, wherever possible, have the prior sanction of the Head of Service or Director and must be recorded in the Hospitality book kept within Corporate Resources. There is a Protocol on Corruption, Gifts and Hospitality contained within the Staff Code of Conduct.

6.3 Whistle Blowing

The Council’s Whistle Blowing Policy was amended in March 2012 to reflect the requirements of the Bribery Act 2010. The Policy sets out how to raise concerns within the organisation with employees encouraged in the first instance to raise concerns with their immediate manager or superior.

Concerns may be raised verbally or in writing and there is a dedicated telephone number which allows communication in confidence to the Audit and Fraud Team.

A record of concerns raised and the outcomes (but in a form which does not endanger confidentiality) is maintained and reported (in such a way as to preserve confidentiality), to the relevant committee of the Council.

The Policy is intended to provide an avenue within the Council to raise concerns. However, if it is felt that it is right to take the matter outside the Council contact points are given as follows:

- Public Concern at Work
- The Audit Commission
- Citizens Advice Bureau
- Relevant professional bodies or regulatory organisations
- Relevant voluntary organisation
- The police
- Trade Union representative
- Local Government Ombudsman

In the last calendar year no concerns have been raised under the Whistle Blowing Policy.

6.4 Human Resources Strategy and Workforce Plan

A Human Resources Strategy and Workforce Plan is available on the Council's internal intranet which incorporates many policies, strategies and procedures. These are regularly reviewed in line with legislative changes.

6.5 New Standards

The Localism Act 2011 and subordinate legislation made extensive changes to the Standards regime which had previously applied under the Local Government Act 2000 and subordinate legislation. The changes are to achieve high standards of conduct and to put in place an appropriate regime.

Under the new regime Councils have been obliged to adopt a Code of Conduct for their Members and Co-opted Members as part of their duty to promote and maintain high standards of conduct. These include provisions relating to the registration and disclosure of interests although, unlike the arrangements under the previous legislation, authorities were no longer required to adopt codes based on a national model. However, most authorities have chosen to adopt codes which reflect models suggested by various recognised organisations. Sevenoaks District Council chose the text published by the Department for Communities and Local Government (DCLG).

Town and Parish Councils will have adopted their own Codes although they must be based on the seven Nolan principles laid down in the Localism Act 2011. The District Council encouraged Town and Parishes to adopt the Sevenoaks District Council Code,

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although it is known that some have adopted the National Association of Local Council's model.

Councils in England are no longer required to have the statutory Standards committee which was established under the provisions of the Local Government Act 2000 and the Standards Committee (England) Regulations 2008. However, the majority of Councils did choose to retain such a committee including Sevenoaks District Council. The new standards committee is an ordinary committee of the council which means that it is politically balanced and subject to the usual requirements relating to access to information. They are not required to include independent members and if they did such members would be non-voting. This Council chose not to appoint independent members

The Localism Act 2011 obliged Councils to put in place arrangements for investigating and making decisions in respect of allegations of breach of their code of conduct. This Council was also obliged to put in place such arrangements for Parish/Town Councils, although it is for the Parish/Town Council to decide what, if anything to do as a result of a finding of breach of their code of conduct.

The arrangements that an authority has had to put in place for dealing with allegations of breach of their code of conduct must include provision for the appointment of at least one independent person. The independent person must be consulted by authorities on allegations they have decided to investigate and may also be consulted by members who are the subject of an allegation of breach of the relevant authority's code of conduct.

Authorities were given discretion as to the exact arrangements that they put in place in relation to the new regime. The Member Task Group that undertook this challenging exercise for the Council struck a balance between ensuring that the arrangements that they proposed were fair to members and complainants and any other interested parties whilst avoiding arrangements which were over-bureaucratic, complicated and lengthy. The importance that the Task Group placed on the principles of natural justice meant that the Task Group proposals set out provisions for investigations and hearings. However, the Group ensured that the new system would give greater scope to seek to resolve allegations without investigating them. This means that only allegations of serious breaches would go forward for investigation.

Under the Localism Act 2011 authorities are not obliged to include provisions in their arrangements for members to be able to appeal against findings that they have breached the codes of conduct of their authorities. This Council decided not to include appeal provisions in their arrangements although for procedural irregularity a complaint can always be made to the Ombudsman.

The Localism Act 2011 makes no provision for sanctions against Members who are found to have breached the codes of conduct of their authorities. However, authorities are able to censure members, to publicise breaches of their codes of conduct, to report to their Councils and to recommend that members are removed from positions on committees and outside bodies. This Council decided to include provisions for the Monitoring Officer to be instructed to arrange training for the Member and/or conciliation if appropriate which is a useful practical measure for improving member conduct.

6.6 Complaints against Members

Allegations of Member Misconduct dealt with by the Assessment Sub-Committee of the Standards Committee between 1st January 2011 and 23th July 2012 under the old system

Total allegations made:	17
District Councillors	1
Parish/Town Councillors	16
Complaints in which no action was taken	5
Complaints where other action was recommended	9
Referred cases sent for local investigation and determination	2
Complaints withdrawn	1

Allegations of Member Misconduct between 24th July 2012 to 31st December 2012 under New Standards

Total allegations made:	
District Councillors	0
Parish/Town Councillors	15

The number of Member misconduct allegations increased this year from 7 last year to 32 this year. Under the old system, before New Standards was implemented on the 24th July 2012, 15 of the complaints out of a total of 17 involved only one Town Council. No action was taken in relation to 5 cases and other action was recommended in 9 cases. One case was withdrawn and two cases were referred for investigation.

In relation to the cases referred for investigation The Localism Act 2011 (Commencement No.6 and Transitional, Savings and Transitory Provisions) Order 2012/1463) was made on the 6th June 2012 which brought to an end the old standards regime. The new Order meant that the 2 complaints to be investigated could not go forward and the matters came to an end. One of the complaints involved the following allegations:

- Bullying and intimidation
- Using your position improperly
- Disrepute

The other complaint involved an allegation surrounding treating others with respect.

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Five of the cases involving a recommendation of other action involved the Monitoring Officer liaising with the Clerk to the authority concerned to engage an external, independent, mediator/conciliator at the expense of the Town Council between the complainant and the subject member, but also to the wider membership of that authority. The Town Clerk indicated that the suggestion had been noted but no further action was taken.

Under New Standards there has been 15 complaints involving Parish/Town Councils. Eleven of these cases involved one Parish Council. Two of the 15 cases were withdrawn, and two cases failed the initial intake test as they were outside the 90 day deadline for receipt from the date when the alleged incident took place. One case was held up as the matter had been referred to the Kent Police. We subsequently received confirmation that the Police deem that there are no criminal offences and are taking no further action. We are now awaiting the subject member's Right of Reply.

Nine cases were delayed as a result of the local Police Commissioner's Elections which took place on the 15th November 2012 as the Initial Intake Test creates a 6 week embargo on processing matters prior to an election.

Rights of reply have been received in all cases other than one (the one delayed due to the police involvement) before going forward to Assessment. Subject Members are given 30 days to respond with their Right of Reply.

All rights of reply are forwarded to the independent person who will have received all complaints that pass initial intake.

It is hoped that all cases currently awaiting assessment will be processed in January 2013.

7. EQUALITIES AND THE PUBLIC SECTOR EQUALITY DUTY UNDER THE EQUALITY ACT 2010

As a community leader, service provider and employer Sevenoaks District Council recognises that everyone has a contribution to make to our society and a right to access services without being discriminated against or disadvantaged because of their:

- Race, colour, nationality, ethnicity.
- Gender, marital status or caring responsibility.
- Sexual orientation.
- Age.
- Physical or mental disability or mental health.
- Religion or belief.
- Health status.
- Employment status.

During 2012, the Council received no complaints suggesting it had not complied with its equality duty under the Equalities Act 2010.

8. SUPPORT TO COUNCIL, CABINET, SCRUTINY AND COMMITTEE MEETINGS

The distribution and publication of committee reports, agendas and decisions is central to meeting the requirements of a key deliverable. It is the Monitoring Officer's responsibility to oversee the process and ensure that these documents comply with statutory and constitutional requirements.

This includes:

- Distributing and publishing all agendas within five clear working days of the meeting taking place and ensuring that all agendas are compliant with the access to information rules and exempt information is marked up accordingly.
- Advertising public meetings five clear days before the meeting date.
- Ensuring that papers are made available to the public.
- Drafting minutes for publication within nine working days.
- Publishing a record of all decisions including key decisions taken by Cabinet within 48 hours (2 working days) of the meeting.
- Ensuring that petitions are handled in accordance with the Council's Constitution including e-petitioning.
- Ensuring that meetings are accessible.
- Complying with the new requirements of The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

9. STATUTORY MEETINGS ANALYSIS

One of the explicit aims of the Council has been to try and streamline the decision making process to allow Council to focus on service delivery.

Between the 1st January 2012 and 31st December 2012 the following were serviced:

Full Council Meetings (including 1 annual meeting)	7
Cabinet	12
Performance and Governance Committee	5
Electoral Arrangement Committee	3
Environment Select Committee	5
Services Select Committee	5
Social Affairs Select Committee	5
Modern Local Government Group	3

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Development Control Committee	15
Standards Committee	1
Sevenoaks Joint Transportation Board	4
Licensing Committee	5

Other meetings serviced include 8 Licensing Committee hearings and 4 Assessment Sub-Committee meetings of the Standards Committee up to the 31st May 2012.

The volume of meetings represents a substantial commitment of both Councillors' and Officers' time and resources. It is of great importance that meetings constitute an effective use of time and resources; that they add value to corporate effectiveness and help in meeting the aims and objectives of the Constitution and the Community Plan.

10. Notice of Key Decisions which replaces the Forward Plan

The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 replaced the 2000 Executive Access to Information Regulations. The new regulations only apply to executive decisions. Previously there was a requirement to publish a rolling forward plan at least 14 days before the start of each month that set out details of all the key decisions which the authority anticipated making within the next four months. This has now been replaced by a requirement to publish a 28 clear day's notice of any intended key decision. This notice is available for inspection and is also published on the authority's website. If an urgent decision is required and it is impracticable to give the full notice, the key decision can still be taken if the authority gives at least five days' clear notice to all of the relevant Overview and Scrutiny Committee of the authority which can then call in the decision to check that it was genuinely urgent. Where a key decision is so urgent there is not even time to give five clear days' notice, the authority can still take the decision if the Chairman of the relevant Overview and Scrutiny Committee has agreed that the key decision is urgent and cannot reasonably be deferred.

This new requirement is being observed by the authority and by publishing the Notice of Key Decisions the public will be able to find out the expected timing of key decisions.

10.2 Call-In requests

There were no call-in requests within 2012.

10.3 Overview and Scrutiny

The Council is required by Law to discharge certain overview and scrutiny functions. These functions are an essential component of local democracy. Overview and Scrutiny Committees are powerful committees that contribute to the development of Council policies and also hold the Executive to account for its decisions. Another key part of the overview and scrutiny role is to review existing policies, consider proposals for new policies and suggest new policies. The Council has three Scrutiny Committees, Services Select, Social Affairs and Environment Select that look at a wide range of issues within their terms of reference.

10.4 MEMBER TRAINING AND DEVELOPMENT

The New Standards and Conduct Arrangements for Members was adopted by the Full Council on the 24th July 2012 and briefing reports on the new system were circulated prior to adoption.

Specialist training on the Code of Conduct and Standards was given on the 27th September 2012 by Claire Lefort an Associate at Weightmans Solicitors and a recognised expert in the field of governance. Areas covered by the training included:

- Localism Act 2011
- Disclosable Pecuniary Interests
- Non Pecuniary Interests
- DCLG guidance
- Standards Committees
- Independent Persons
- Receiving Complaints
- Sanctions
- Bias and Predetermination
- Examination of Case Studies

The training session was well attended with 20 Parish/Town Councils attending and 30 District Councillors attending.

Training for the Independent Person took place on the 4th December 2012.

The Monitoring Officer employs an open door policy allowing District Council Members to call in at any time to receive advice.

The New Standards Committee will work as a cohesive group to promote high standards across the whole district.

11 CONCLUSION

The Monitoring Officer's role in conjunction with the Standards Committee encompasses both proactive and reactive elements. The proactive role centres on raising standards, encouraging ethical behaviour, increasing awareness and utilisation of the elements of good governance and ensuring that robust procedures are in place.

The reactive role focuses on taking appropriate action to deal with issues and potential problems as they arise. The Monitoring Officer together with the Standards Committee's effectiveness in this role is in turn dependent on effective systems and procedures being in place to identify problems and ensure that Members, Officers and Public are aware of appropriate channels to raise concerns.

Christine Nuttall
Monitoring Officer

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STANDARDS COMMITTEE – 24TH JANUARY 2013

REVIEW OF THE NEW STANDARDS REGIME

Report of the: Monitoring Officer

Status: For consideration and decision

Executive Summary: The New Standards Arrangements were approved by Council on the 24th July 2012 following the implementation of the Localism Act 2011 and supporting legislation. Council on the 24th July 2012 agreed that the Standards Committee and or the Modern Local Government Group keeps the Code and Arrangements under review and reports further to the Council as is considered necessary. This reports sets out how the new regime is working and considers minor amendments by way of a desk top review from experience to date. A more detailed review may be considered necessary at a later date.

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

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

Recommendation: . **That the following minor consequential changes be made to the Council’s new processes and procedures in relation to the new standards regime as follows:**

- a) **The criteria in relation to the Initial Intake Test be strengthened by the following amendments being made:**
- **The behaviour took place within the last 30 days**
 - **The complaint is not being made within 6 weeks prior to a District-wide election or an election involving the Parish that the complaint is related to (no action will be taken in relation to any complaint within this period)**
 - **Is there any doubt that the member was acting in their private capacity**
 - **The complaint is a substantive allegation under the Code rather than a service, officer or a statement of policy disagreement or a disagreement within another organisation, such as a political group**
- b) **The relevant Clerk be informed of a complaint relating to a Town or Parish Councillor when a complaint passes the Initial Intake Test.**
- c) **The Monitoring Officer advertises for an additional Independent Person, who would meet the legal criteria for appointment beyond 1st July 2013.**

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Reason for recommendation: When the new arrangements were approved by Council on the 24th July 2012 it was agreed that the Standards Committee and or the Modern Local Government Group would keep the Code and Arrangements under review and report further to the Council as considered necessary. As it is too early to undertake a full review, minor amendments are suggested by way of a desk top review based on experience to date, which if considered appropriate by this Committee can be implemented by the Monitoring Officer by way of the delegated powers granted by Full Council on the 24th July 2012.

Introduction

- 1 On the 24th July 2012 Council approved the new standards regime arrangements regulating the conduct of District Council Members together with arrangements to process complaints about District and Parish/Town Members that had been developed by a Task Group appointed by the previous Standards Committee. The changes were necessary following the introduction of the Localism Act 2011 and subordinate legislation.
- 2 The main provisions of the legislation surrounded the following measures:
 - The abolition of Standards for England (previously Standards Board for England)
 - A requirement to adopt a Code of Conduct based on the seven principles of public life
 - A requirement to promote and maintain high standards of conduct
 - A requirement to register disclosable pecuniary and other interests
 - The creation of a new criminal offence of failing to register relevant interests
 - The requirement for local authorities to have in place mechanisms to investigate member complaints
 - The appointment of an Independent Person to advise the council before it makes a decision on an allegation
- 3 When Council approved the new provisions it agreed that the Standards Committee and or the Modern Local Government Group would keep the Code and arrangements under review and would report further to the Council as considered necessary. It was suggested that this may necessitate the setting up of a sub-committee for this purpose.

The Current Position

- 4 The Council has now had some 6 months to become familiar with the operation of the new arrangements regarding the conduct of Members. The system appears to be working well, although the number of complaints has increased in 2012 with no apparent decrease since the introduction of the new regime in July of that year. In the complaints received to date, subject members have been very keen to set out their side of the story through the new "Rights of Reply" arrangements. The current position is set out below.
- 5 Statistics were compiled for the Standards Task Group relating to the old system. These figures covered the period March 2008 (when all complaints had to be

made locally) until July 2012 (the end of the old system). In this period there were 62 complaints made. 28 (45%) of these were from members of the public, 34 (55%) from other members.

Following assessment, 34 (55%) had No Action, 16 (26%) had Other Action, 6 (10%) were referred to Standards for England, 3 (5%) were referred for investigation, 1 was withdrawn and 2 were outstanding when the old system ceased on 30 June 2012.

- 6 Of the 62 complaints, 8 (13%) related to Sevenoaks District Council members, 25 (40%) to one particular Town Council, 13 (21%) to one particular Parish Council and a further 5 each to two other Parish Councils. The remaining 6 were spread across other Parish Councils.
- 7 At the time of writing this report (8th January 2013) 17 complaints have been received under the new arrangements, the first of these being received on 24 September 2012. 7 of these are from members of the public, the other 10 from other members. 11 of these complaints all relate to one particular Parish Council. A further 5 relate to one particular Town Council.
- 8 Of these 17, 2 have been withdrawn, 2 have failed the Initial Intake Test, one was essentially the same as a previous complaint and the other 12 are due for Assessment. The first Assessments are to be carried out in mid – January 2013.
- 9 One of the complaints received had also been referred to the Kent Police, and so initially this complaint was held until the police process was concluded. Both the subject Member and the complainant were informed of this. In this case the police subsequently confirmed that they were taking no action, and so the “Standards” process was continued.

Review of Arrangements

Use of the Complaint Form

- 10 Of the 17 complainants received, only 8 used the SDC form. A copy of the form is set out at Appendix 1 to this report. The complaint form is there for the complainant’s guidance and was not always used under the old regime. Often a complainant may wish to merely send in a letter of complaint. As a result there is no recommendation that the form should be changed at this stage.

Initial Intake Test - 90 day deadline to receive complaints

- 11 A copy of the “Criteria for Assessment of Complaints against Members relating to the Code of Conduct” is set out at Appendix 2 to this report. The first page of this sets out the Initial Intake Test. The two complaints rejected under the Initial Intake Test failed because the complaint documentation was received more than 90 days after the alleged incident. This is a very clear “black or white” test. The 90 day intake test does mean that some complaints can be received nearly three months after an incident. Bearing in mind that matters will be delayed still further by allowing a 30 day Right of Reply to a complaint it is recommended that the 90 days be reduced to 60 days or even 30 days. This should still give complainants sufficient time to raise a complaint.

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Elections

- 12 Upon Initial Intake Test, 9 of the complaints were delayed due to the Police Commissioner's election which took place on 15th November 2012. Acknowledgements were sent to the complainants informing them of the deferral. The subject members were not informed about the complaints until 20 November, and were at that point given their "Right of Reply".
- 13 These complaints could have been delayed further at that time, due to a number of vacancies that had occurred on a Parish Council. In one of these cases there happened to be no "Request to fill a vacancy by election" and in another only one candidate stood by the relevant deadline. The complaints were thus able to progress as we were no longer "within 6 weeks of an election". With 30 Parish Councils within the District these type of vacancies can occur at any time, and members may wish to review whether the Intake Test remains as the blanket "within 6 weeks of an election". One option may be to only defer to District-wide elections, or those involving the Parish that the complaint is related to.

Acting in your capacity as a member

- 14 The Standards Task Group, in its deliberations, considered including this test as part of the Initial Intake, but decided that it sat best in the Assessment as it could be difficult to judge. Whilst this will be the case in some incidents, there are a small number of the new complaints where it is very clear that the member was not acting in an official capacity (e.g. a social occasion as part of the individuals day-to-day life, emails and information posted on websites in the individuals private capacity). In these cases the process had to continue, with the subject member being asked for their "Right of Reply" before going forward to Assessment Stage.
- 15 Members may wish to consider the option of adding to the Initial Intake Test criteria to include "Is there any doubt that the member was acting in their private capacity". So, if it is clear that they were acting in that capacity, the complaint would fail this initial test and go no further.

Other Initial Intake Criteria

- 16 There is one other Intake criteria that it is suggested could be strengthened to save further work on a complaint issue that clearly relates to another organisation. Three of the new complaints clearly related to issues that had arisen within a political group, and it is suggested that in cases such as this the complaint should not progress to Assessment.
- 17 The issue is that under the current criteria "The complaint is a substantive allegation under the Code rather than a service, officer or a statement of policy disagreement" the complaint could not be rejected as it does not fit into any of the three qualifications to such criteria. It is suggested that a further qualification could be included along the lines of "or a disagreement within another organisation, such as a political group".
- 18 The current notes to the Intake Criteria allow for the Monitoring Officer to advise the complainant that the complaint needs to be referred elsewhere, if appropriate.

The addition to the criteria suggested above would tie in with this, ensuring such complaints are referred at Intake Stage, and not carrying on to Assessment.

The Town/Parish Clerk Role

- 19 For complaints relating to Town/Parish Councils there is no provision under the current arrangements for the relevant Town/Parish Clerk to be informed unless a complaint is referred for investigation, and then only at the end of that process.
- 20 It has been the case with the new complaints received that, in some cases, subject members and complainants are involving or informing their Clerk, who will have had no notification about the complaint from the Monitoring Officer. Members may wish to consider whether the relevant Clerk should be informed, say where complaints pass the Initial Intake Test and are then subject to the 30 day "Right of Response" prior to Assessment. This notification would seem necessary as at the Assessment Stage the Clerk will need to be asked what Code of Conduct applied at the time of the alleged incident. In addition, it would seem appropriate to always inform the Clerk of the outcome of the complaint that is assessed.

The Independent Person

- 21 The Localism Act 2011 requires local authorities to appoint an Independent Person to advise the council before it makes a decision on an allegation. There are restrictions on who can be appointed as the Independent Person and in general the Independent Person cannot be a councillor, officer or their relative or close friend and, if previously an Independent Member of our Standards Committee under the old regime, such person can only be an Independent Person at our Council until 30th June 2013. As a result we have no choice but to lose our present Independent Person on such date. The experience our Independent Person has brought to the new regime has been invaluable and the Monitoring Officer would like to thank him for all the hard work he has undertaken.
- 22 As can be seen from the statistical information set out in this report the work load for the Independent Person is large given the fact that such person receives details of all complaints that pass initial intake and also receives copies of all the Rights of Reply. In addition, the Independent Person can be contacted by the Member who is the subject of the complaint and the Monitoring Officer consults with the Independent Person on all complaints before deciding whether any merit formal investigation.
- 23 The procedure that this Council has adopted in relation to the appointment of an Independent Person is set out within Appendix 3 to this report. The procedures state that Council can appoint at least one person to fulfil the role of the Independent Person. The process of appointment will take some time to implement and so it is recommended that we go out to advertisement now in order that a new person is appointed as soon as possible before the 1st July 2013 in order that they may shadow our present Independent Person and learn from their experience. The advertisement will make clear the criteria they must meet to be legally eligible for the role.

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Financial

- 26 It is still too early to assess the overall financial implications of the new standards regime although time recording is taking place which should greatly help to quantify the cost of the new regime especially the cost in relation to individual Parish/Town Councils that may be resource intensive. Under the Localism Act 2011 it is not possible for this Council to charge Parish/Town Councils for anything that is our statutory responsibility but anything outside of this can be charged for.

Community Impact and Outcomes

- 27 As the legislation sets out clearly that an authority must promote and maintain high standards of conduct by Members and Co-opted Members of the authority, the community should not be aware of any impact or outcomes as the work undertaken by the Task Group in developing the new procedures achieved a seamless transfer to the new system.

Legal, Human Rights etc.

- 28 The new processes and procedures for the new standards regime comply with the provisions of the Localism Act 2011 and supporting legislation. The changes proposed in this report are relatively minor and the Monitoring Officer has been given delegated authority to make any necessary consequential changes to the procedures set out within the Appendices to the Constitution. As a result, it is not considered necessary, at this early stage, to carry out a full review in order to report to the Modern Local Government Group and Full Council although it is appreciated that this may be considered necessary at a later date with the Standards Committee considering setting up a sub-committee for this purpose.

Resource (non-financial)

- 29 Strengthening the Initial Intake Criteria will mean that the system is less resource intensive. It will also mean that a reduced number of complaints will have to be dealt with at the Assessment Stage and fewer Rights of Reply considered and fewer subject members having to make Rights of Reply to complaints that are clearly going nowhere.

Value For Money and Asset Management

- 30 The new streamlined procedures should produce value for money. Some authorities have made their procedures labour intensive i.e. by having formal reports produced for the Assessment of a complaint. Although, proper consideration of complaints will be made with an auditable paper trail of the decision plus valid reasons given for decisions, it is not considered necessary for the system to be made bureaucratically over burdensome.

Equality Impacts

- 31 There are no specific equality implications arising from a desk top review of the current procedures for new standards. The suggested amendments to our present procedures do not have any particular implications regarding one "protected group" over another. A full impact assessment has not been produced

in relation to this report as no impact on the private or voluntary sectors is foreseen.

Sustainability Checklist

32 These proposals are considered to have a neutral impact on sustainability.

Conclusions

33 Under the provisions of the Localism Act 2011 the existing Standards regime ceased to operate from the 30th June 2012 and new procedures were implemented on the 24th July 2012. New standards is still in its infancy with the first complaints going forward shortly for Assessment. As a result it is not considered necessary for there to be a full review at this stage and so only minor amendments are suggested which if approved by this Committee can be implemented by the Monitoring Officer under delegated authority.

The suggested amendments for consideration are as follows:

- a) The criteria in relation to the Initial Intake Test is strengthened by the following amendments being made:
 - The behaviour took place within the last 30 days
 - The complaint is not being made within 6 weeks prior to a District-wide election or an election involving the Parish that the complaint is related to (no action will be taken in relation to any complaint within this period)
 - Is there any doubt that the member was acting in their private capacity
 - The complaint is a substantive allegation under the Code rather than a service, officer or a statement of policy disagreement or a disagreement within another organisation, such as a political group.
- b) The relevant Clerk to be informed of a complaint relating to a Town or Parish Councillor when a complaint passes the Initial Intake Test.
- c) The Monitoring Officer advertises for an additional Independent Person, who would meet the legal criteria for appointment beyond 1st July 2013

Risk Assessment Statement

34 The Council needs to ensure that appropriate arrangements are in place that are not overly bureaucratic but comply with the provisions of the Localism Act 2011. Failure to ensure this could result in wasted resources and a challenge to the Council's Governance Arrangements.

Background Papers: The Council's Constitution

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

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ANNEXE 4 to Appendix S COMPLAINT FORM

1. Your Details - Please provide us with your name and contact details

Title:	
First name:	
Last name:	
Address:	
Daytime telephone:	
Evening telephone:	
Mobile telephone:	
Email address:	

Your address and contact details will not usually be released unless necessary or to deal with your complaint.

However, we will tell the following people that you have made this complaint:

- The member(s) you are complaining about (Subject Member)
- The parish or town clerk (if applicable)

and the Monitoring Officer will be aware of your complaint.

We will tell them your name and give them a summary of your complaint. We will give them full details of your complaint and the Subject Member(s) concerned will be given the right of reply to your complaint, before Initial Assessment.

2. Please tell us which complainant type best describes you:

- Member of the public
- An elected or co-opted member of an authority
- An independent member of the Standards Committee
- Member of Parliament
- Other Council Officer or authority employee
- Other ()

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3. Please provide us with the name of the member(s) you believe have breached the Code of Conduct and the name of their authority:

Title	First name	Last name	Council or authority name

4. Making your complaint

Please explain in this section (or on separate sheets) what the Subject Member has done that you believe breaches the relevant Code of Conduct of the District Council or the particular Town/Parish Council. If you are complaining about more than one member you should clearly explain what each individual person has done that you believe breaches the Code of Conduct.

Please provide us with the details of your complaint setting out the specific Code provisions you believe have been breached and how the conduct breaches the Code. You must submit with the complaint supporting witness statements and evidence. If these are not provided the Council may not investigate on your behalf. Continue on a separate sheet if there is not enough space on this form.

It is important that you provide all the information you wish to have taken into account when it is decided whether to take any action on your complaint.

For example:

Have you been specific, wherever possible, about exactly what you are alleging the member said or did.	YES/NO
Have you provided the dates of the alleged incidents wherever possible. If you cannot provide exact dates it is important to give a general timeframe	YES/NO
Have you confirmed whether there are any witnesses to the alleged conduct and provided their names and contact details if possible.	YES/NO
Have you provided all relevant background information and	YES/NO

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evidence	
Did the behaviour take place within the last 90 days.	YES/NO
Have you sent the complaint to the police, ombudsman or another complaint process	YES/NO PLEASE PROVIDE DETAILS IF YES

Name of Witness(es)	Address of Witness(es)

5. Initial Tests

Before assessment of a complaint begins, the complaint has to meet the tests set out in Annexe 1 entitled “Criteria for Assessment of Complaints against Members in respect of the Code of Conduct”

If the complaint fails one or more of the Initial Intake tests set out in Annexe 1 entitled “Criteria for Assessment of Complaints against Members in respect of the Code of Conduct” it cannot be considered for Assessment and the complainant will be informed that no further action will be taken in respect of the complaint. The member(s) concerned will also be told of the complaint and that it had failed Initial Intake.

Furthermore, if you identify witnesses yet fail to provide witness statements or claim that there is supporting evidence but fail to supply it the complaint may not meet the Initial Intake tests for acceptance or satisfy Assessment tests when the merits are considered.

If you have any queries please direct these to the Monitoring Officer, on 01732 227180

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6. Additional Help

Complaints must be submitted in writing. This includes fax and electronic submissions. However, in line with the requirements of the Disability Discrimination Act 2000, we can make reasonable adjustments to assist you if you have a disability that prevents you from making your complaint in writing.

We can also help if English is not your first language.

If you need any support in completing this form, please let us know as soon as possible.

Help will be given in assisting a complainant who has a disability that prevents them from making a complaint in writing. Please contact the Monitoring Officer on 01732 227245 if you need such assistance.

This publication is available in large print. For a copy telephone 01732 227162. If you need help understanding the publication we can arrange for an interpreter to help you. Please call on 01732 227180 stating your language and telephone number.

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To return the completed form:

e-mail to: members.conduct@sevenoaks.gov.uk (please save a copy for your records)

Fax: 01732 740693

Paper copy to: The Monitoring Officer
C/o The Standards Committee, Sevenoaks District Council
Argyle Road, Sevenoaks, Kent TN13 1HG

ANNEXE 1 to Appendix S
Criteria for Assessment of Complaints against Members relating to the Code of Conduct

All the criteria used for the assessment of complaints against Members in respect of the Code of Conduct apply to all relevant codes not just those of Sevenoaks District Council.

Initial Intake test

Before assessment of a complaint begins, the complaint has to meet the following tests:

It is a complaint against one or more named Members of Sevenoaks District Council or one or more named Members of one of the Parish/Town Councils within the Sevenoaks District Council area.

The Subject Member was a Member at the time of the alleged conduct.

The behaviour took place within the last 90 days.

The complainant has given their name and address.

The complaint is a substantive allegation under the Code rather than a service, officer or a statement of policy disagreement,

The complaint is not an allegation that could constitute a criminal offence (Section 34 of the Localism Act 2011)

The complaint is not being dealt with by the police, ombudsman or another complaint process (in this case the complaint will not be processed until after the other process has been completed).

The complaint is not being made within 6 weeks prior to an election (no action will be taken in relation to any complaint within this period).

The complaint is not the same or substantially similar to a complaint that has already been assessed even if this was prior to 1st July 2012.

Table with 10 rows and 1 column labeled 'Tick box'.

If the complaint fails one or more of these tests it cannot be considered for Assessment and the complainant will be informed that no further action will be taken in respect of the complaint. The Subject Member concerned will also be told of the complaint and that it had failed the Initial

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Intake test. The Monitoring Officer may advise the complainant that the complaint needs to be referred elsewhere, if appropriate.

Assessment test

The Subject Member concerned will be informed of the complaint by being sent a copy of the complaint together with all supporting documentation and given the opportunity to respond.

The allegations will then be considered by the Monitoring Officer, together with the appointed Independent Person. A complaint will be considered in relation to the following criteria:-

Sufficiency of Complaint

- Does the complaint state sufficient and detailed information as regards the allegation and alleged misconduct to sustain a breach of the Code of Conduct
- Does the complaint and related documents include sufficient independent evidence supporting the claim and establishing the facts on which it is based such as witness statements and documentary evidence to show a reasonable prospect of establishing a breach of the Code of Conduct
- Can it be shown that the Subject Member was acting in a public capacity
- Can it be shown that the behaviour falls within the relevant Code of Conduct

Evidence

- Is the evidence sufficiently reliable i.e. is it first hand evidence or hearsay evidence
- What weight can be given to the evidence
- Is the evidence relevant to the alleged breach
- Could any further evidence be revealed by an investigation

Suitability for Investigation

- Is it sufficiently serious
- Would an investigation serve any useful purpose
- Have the circumstances changed
- Is it serious enough to warrant a sanction
- Is the conduct seriously and unreasonably disrupting the business of the authority
- How long ago did the alleged conduct occur
- Is an investigation likely to prove on the balance of probability that a breach took place
- Is it likely that an investigation will prove only a technical or inadvertent breach
- Has the same or a substantially similar complaint already been the subject of an investigation
- Is the complaint really about dissatisfaction with a Council decision
- Is the complaint about the administrative practices of the Council rather than a Member's behaviour

Extenuating Circumstances

- Has the issue been publicised in the local press
- Is the complaint malicious
- Is the complaint minor
- Is the complaint tit for tat

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- Is the case politically motivated

Possible Defences

- Was the breach made in all innocence i.e. without knowledge
- Are there strong mitigating circumstances
- Was there provocation

In order to facilitate the making of a decision the following definitions are given:-

- Lack of respect means derogatory comments that are aimed at a person or their personal qualities. However Members should be able to express disagreement publically with each other and have the freedom to disagree with the views and opinions of others.
- Bullying or intimidation means offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate, or injure the recipient (Advisory, Conciliation and Arbitration Service (Acas)). Such conduct is unlikely to be considered as bullying when it is an isolated incident of a minor nature or when the behaviour by both the complainant and the Subject Member contributed equally to the breakdown in relations.

The Monitoring Officer will evaluate and weigh up the above criteria in reaching a decision. The Monitoring Officer will make one of the following decisions:-

- No further action
- Attempt informal resolution
- Recommend formal investigation

The complainant, the Subject Member concerned and the relevant Town/Parish Clerk (if applicable) will be informed of the outcome.

There may be certain complaints where the Monitoring Officer feels the need to make a referral to the Standards Assessment Working Party. Such referrals will take place according to the criteria set out below.

Criteria for referral to the Standards Assessment Working Party

- It is of an extremely sensitive nature or other similarly exceptional circumstances exist which justify departure from the arrangements and the Monitoring Officer and Independent Person must set those reasons out so they can be scrutinised.
- It involves the Leadership of the Council or the Opposition
- It involves the Chairman of the Council
- Complaints are from the Chief Executive, Chief Financial Officer or the Monitoring Officer

- There is a significant conflict of interest on the basis that the Monitoring Officer has previously advised the Member on the matter.

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Appendix V

Procedure for making a recommendation for the Appointment of an Independent Person

The Council will appoint at least one person to fulfil the role of the Independent Person under Section 28 of the Localism Act 2011.

A panel consisting of the leaders of the political groups of the Council shall set the remuneration and expenses for the Independent Person and any reserve and shall interview candidates and make a recommendation to Council for appointment.

The Monitoring Officer shall publicly advertise for candidates for the Independent Person and a possible reserve, using the attached Job Description and Person Specification.

The panel will meet to interview candidates.

After the interviews have taken place, and the interviewees have left, the panel will then make a decision on who is the preferred applicant(s) to be recommended to Council.

Appointment at Council shall be by a majority of all members of the Council (at least 28 members in favour), not just of those attending or voting.

The Standards Committee shall review the remuneration and expenses for the Independent Person and any reserve on an annual basis.

After the initial appointment, the appointment of an Independent Person will take place at Annual Council in May each year.

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JOB DESCRIPTION FORM

Post Details

Post Title:	Independent Person for the Sevenoaks District Council
Post Holder:	Vacant (new position)
Reports To:	Monitoring Officer and Members

<u>Job Purpose</u>	The postholder will be the Council's Independent Person for the purposes of s28 of the Localism Act 2011 and will assist the Council and its Members to deal with any allegation that a Member has breached the Code of Conduct of the Council, or of the relevant Town/Parish Council.
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<u>Principal Accountabilities</u>	<ol style="list-style-type: none">1. To give views to the Council before it takes its decision on any allegation that it has investigated that a Member has breached the Code of Conduct of the Council, or of the relevant Town/Parish Council.2. To give views to the Council on any allegation that a Member has breached the Code of Conduct, in other circumstances at its request.3. To give views to any Member of the Council, or of any Town/Parish Council within the Council's area who is the subject of an allegation that he or she has breached the Code of Conduct, at the request of that Member.
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<u>Job Context:</u>	<p>The postholder's duties are likely to be very occasional. He or she will be working essentially on a voluntary basis, but will be paid an annual retainer and reimbursed for travel expenses whenever required to carry out any duties.</p> <p>After the initial appointment, any subsequent appointment will take place at Annual Council in May each year.</p>
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	<p>To apply for the post applicants must live or work within the vicinity of the area served by the Council. The applicant must not be as follows:-</p> <ol style="list-style-type: none"> 1. a member, co-opted member or officer of the authority; 2. A member, co-opted member or officer of a parish council of which the authority is the principal authority, or 3. A relative or close friend, of a person within (1) and (2) above. <p>The persons set out in (1), (2), (3) above may not be appointed if at any time during the five years ending with the appointment the person was:-</p> <ol style="list-style-type: none"> 1. a member, co-opted member or officer of the authority; 2. A member, co-opted member or officer of a parish council of which the authority is the principal authority. <p>Notwithstanding these legislative requirements as set out in The Localism Act 2011, the transitional arrangements under The Localism Act 2011 (Commencement No. 6 and Transitional, Savings and Transitory Provisions) Order 2012 do allow that a person may be appointed if that person is:-</p> <ol style="list-style-type: none"> 1. not a member or co-opted member of the Standards Committee of the relevant authority on 1st July 2012: but 2. has held such a post at any time during the five years ending on 30th June 2012. <p>This only applies in relation to appointments made before 1st July 2013.</p>
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Prepared by:		Date:	
Approved by:		Date:	
Post Holder:		Date:	

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PERSON SPECIFICATION FORM

Post Title:	Independent Person for the Sevenoaks District Council
Post Holder:	Vacant (new position)
Reports To:	Monitoring Officer and Members

Knowledge	<i>Include specific knowledge that is important for the post holder to have in order to perform the role e.g. financial processes, systems, environmental issues.</i>	
	Essential	Desirable
	1. Good understanding of the ethical standards required of people holding public office and the impact of ethical issues within a local authority context.	1. An understanding of the workings of the Sevenoaks District Council, its aims and objectives and the operations of the Town/Parish Councils within its area..

Skills	<i>The post holder will require a certain level of these skills in order for the purpose of this role to be achieved e.g. communication skills, specific systems skills, negotiation skills etc.</i>	
	Essential	Desirable
	1. A calm, rational approach to problem solving which considers detailed evidence to reach a balanced judgement. 2. Good interpersonal skills, demonstrated through a considered, measured and consultative approach when dealing with potentially difficult or complex issues.	

Qualifications	<i>Academic or professional qualifications that would be important to the performance of this role.</i>	
	Essential	Desirable
	1. High degree of personal integrity.	
Experience	<i>Include any past experience the post holder could have that would help them perform this role e.g. working within the community, organisation of events, voluntary work etc.</i>	
	Essential	Desirable
	<p>1. Experience in dealing with difficult issues which need constructive and sensitive solutions.</p> <p>2. Experience of dealing with issues of ethical conduct in employment or public service.</p>	<p>1. Experience of working in or with local authority bodies.</p> <p>2. Experience of partnership working, where politically or ethically sensitive issues have to be considered.</p>

Prepared by:		Date:	
Approved by:		Date:	
Post Holder:		Date:	

Agenda Item 5