



Democratic Services
White Cliffs Business Park
Dover
Kent CT16 3PJ

Telephone: (01304) 821199
Fax: (01304) 872300
DX: 6312
Minicom: (01304) 820115
Website: www.dover.gov.uk
e-mail: democraticservices@doover.gov.uk

28 February 2011

Dear Councillor

NOTICE IS HEREBY GIVEN THAT a meeting of the **STANDARDS** Committee will be held at these Offices on Wednesday 9 March 2011 at 10.00 am when the following business will be transacted.

Members of the public who require further information are asked to contact Kate Batty-Smith on (01304) 872303 or by e-mail at kate.batty-smith@doover.gov.uk.

Yours sincerely

Chief Executive

Standards Committee Membership:

Independent (Co-opted) Members:

Mr A M Hayes (Chairman)
Mr G J Fowler (Vice-Chairman)
Mr K C Atkinson
Mr B P S Dowley
Mr W G Ferrier

District Council Members:

Councillor B W Butcher
Councillor L A Keen
Councillor S M Le Chevalier
Councillor D R Lloyd-Jones
Councillor K Mills
Councillor I H Ward

Town and Parish Council
Representatives:

Mrs S Jones (Town Council Representative)
Mr W Elliott (Town Council Representative)
Mr B A C Curtis (Parish Council Representative)

Town and Parish Council Substitute
Representatives:

Dr T Clifford-Amos (Town Council Representative)
Mr I Martin (Parish Council Representative)

DECLARATIONS OF INTEREST

Members are required to disclose the existence and nature of a personal interest at the commencement of the item of business to which the interest relates or when the interest becomes apparent. An explanation in general terms of the interest should also be given to the meeting. If the interest is also a prejudicial interest, the Member should then withdraw from the room or chamber.

AGENDA

1. **APOLOGIES**

2. **APPOINTMENT OF SUBSTITUTE MEMBERS**

To note appointments of Substitute Members.

3. **MINUTES** (Pages 4-5)

To confirm the attached Minutes of the meeting of the Committee held on 8 December 2010.

4. **NOMINATIONS FOR CHAIRMAN AND VICE-CHAIRMAN FOR 2011/12**

To recommend to Council a Chairman and Vice-Chairman for the municipal year 2011/12, taking into consideration the requirement of Part 2, Article 9 (paragraph 9.02(e)) of the Constitution that they both be independent members of the Standards Committee.

5. **COMPLAINTS REPORT** (Pages 6-10)

To consider the attached report of the Director of Governance.

6. **MINUTES OF STANDARDS HEARING SUB-COMMITTEE** (Page 11)

To receive the attached Minutes of the meeting of the Standards Hearing Sub-Committee held in public on 27 January 2011.

7. **FUTURE OF THE STANDARDS REGIME** (Pages 12-15)

To consider the attached report of the Monitoring Officer.

8. **EXCLUSION OF THE PRESS AND PUBLIC** (Page 16)

The recommendation is attached.

MATTER WHICH THE MANAGEMENT TEAM SUGGESTS SHOULD BE CONSIDERED IN PRIVATE AS THE REPORT CONTAINS EXEMPT INFORMATION AS DEFINED WITHIN PART 1 OF SCHEDULE 12A OF THE LOCAL GOVERNMENT ACT 1972 AS INDICATED AND IN RESPECT OF WHICH THE PROPER OFFICER CONSIDERS THAT THE PUBLIC INTEREST IN MAINTAINING THE EXEMPTION OUTWEIGHS THE PUBLIC INTEREST IN DISCLOSING THE INFORMATION

9. **MINUTES OF STANDARDS REVIEW SUB-COMMITTEE** (Paragraph 7C – Information presented to a Standards Committee, or to a Sub-Committee of a Standards Committee, set up to consider any matter under Regulations 13 or 16-20 of the Standards Committee (England) Regulations 2008, or referred under Section 51(1)(c) of the Local Government Act 2000)) (Page 17)

To receive the attached Minutes of the meeting of the Standards Review Sub-Committee held in private on 27 October 2010.

Access to Meetings and Information

- Members of the public are welcome to attend meetings of the Council, its Committees and Sub-Committees. You may remain present throughout them except during the consideration of exempt or confidential information.
- All meetings are held at the Council Offices, Whitfield unless otherwise indicated on the front page of the agenda. There is disabled access via the Council Chamber entrance and a disabled toilet is available in the foyer. In addition, there is a PA system and hearing loop within the Council Chamber.
- Agenda papers are published five clear working days before the meeting. Alternatively, a limited supply of agendas will be available at the meeting, free of charge, and all agendas, reports and minutes can be viewed and downloaded from our website www.dover.gov.uk. Minutes are normally published within five working days of each meeting. All agenda papers and minutes are available for public inspection for a period of six years from the date of the meeting. Basic translations of specific reports and the Minutes are available on request in 12 different languages.
- If you require any further information about the contents of this agenda or your right to gain access to information held by the Council please contact Kate Batty-Smith, Democratic Support Officer, telephone: (01304) 872303 or email: kate.batty-smith@dover.gov.uk for details.

Large print copies of this agenda can be supplied on request.

Minutes of the meeting of the **STANDARDS** Committee held at the Council Offices, Whitfield on Wednesday 8 December 2010 at 10.00 am.

Present:

Chairman: Mr G J Fowler (Vice-Chairman in the chair)

Councillors: B W Butcher
L A Keen
D R Lloyd-Jones

Independent Members: Mr K C Atkinson
Mr B P S Dowley
Mr W G Ferrier

Town and Parish Council
Representatives: Mr B A C Curtis
Mr I Martin

Officers: Principal Solicitor
Professional Standards Officer
Democratic Support Officer

Apologies for absence were received from Mr A M Hayes and Councillors S M Le Chevalier and I H Ward.

319 MINUTES

The Minutes of the meeting of the Committee held on 8 September 2010 were approved as a correct record and signed by the Chairman.

320 COMPLAINTS REPORT

The Committee considered the report of the Director of Governance on complaints received by the Council that had been processed through the Professional Standards Unit. The Committee was advised that, of the twelve complaints outlined in the report, nine had been closed since the last meeting, including complaint numbers 1.8 and 1.11. It was agreed that, in relation to complaint number 1.8, the report should be corrected to read that no evidence of a problem with the kitchen had been found.

In respect of four complaints investigated by the Local Government Ombudsman since the Standards Committee last met on 8 September 2010, no or insufficient evidence of maladministration had been found in three cases. In respect of the fourth complaint, the Ombudsman had asked the District Council to apologise to the complainants in a decision classed as local settlement. Five further complaints were under investigation by the Ombudsman.

RESOLVED: That the report be noted and the actions taken endorsed.

321 MINUTES OF STANDARDS INITIAL ASSESSMENT AND CONSIDERATION SUB-COMMITTEE

The Committee received the Minutes of the Standards Initial Assessment and Consideration Sub-Committee meetings held in public on 27 October 2010 and in private on 22 September 2010.

RESOLVED: That the Minutes of the Standards Initial Assessment and Consideration Sub-Committee meetings held in public on 27 October 2010 and in private on 22 September 2010 be received.

322 FUTURE OF THE STANDARDS REGIME

The Committee noted the correspondence from the Department for Communities and Local Government and the Chairman of Standards for England which set out the Government's plans for the abolition of the standards framework. Abolition would be achieved through legislation which was likely to receive Royal Assent towards the end of 2011. The present regime would continue until approximately two months after Royal Assent was received, following which it would be for local authorities to decide whether to have a standards committee and operate a voluntary code of conduct.

Committee members expressed disappointment that the regime was to be abolished, and questioned the efficacy of the arrangements that would replace it. It was agreed that information about the Council's likely intentions should be sought sooner rather than later.

RESOLVED: That the Monitoring Officer be requested to present a report to the next meeting of the Committee, setting out the implications of abolition and outlining future options that will ensure that there continues to be a standards procedure which holds district and parish councillors to account.

The meeting ended at 10.33 am.

REPORT OF THE DIRECTOR OF GOVERNANCE

STANDARDS COMMITTEE – 9 MARCH 2011

COMPLAINTS REPORT**Recommendation**

<i>That the report be noted and the actions taken be endorsed.</i>
--

Contact Officer: Sue Carr, extension 2322.

1. UPDATE OF COMPLAINTS RECEIVED BY THE DISTRICT COUNCIL

Reported below is an update of formal complaints investigated by the Council's Professional Standards Unit since the last Standards Committee meeting of 8 December 2010. There are a number of matters raised through the complaints process where the Professional Standards Unit provides a written explanation of Council policy and procedures but which do not require an investigation. These have not been included within this report but are included within the figures in the table at Appendix A.

1.1 Complaint No PSR037 – Mill Hill (Closed)

This complaint related to allegations of discrimination regarding the Council's Allocation Policy and that the Council refused to carry out works to the tenant's property. The matter was investigated by the Professional Standards Officer (PSO) who found no evidence of maladministration or discrimination. The Council had responded to requests for work and repairs had been carried out where appropriate. The complainant had been advised that a new bathroom would not be fitted as it was fit for purpose and the tiling was the tenant's responsibility. The complainant had been advised that the property was scheduled to have a new kitchen fitted in accordance with the Decent Homes Standard and this was currently programmed to be carried out in 2013. Regarding the allegation of discrimination, the complainant considered that it was inappropriate for two boys to share a bedroom. The PSO advised that, given the age of the boys, the Council had applied the Allocation Policy correctly and if two girls shared a bedroom the same policy would apply.

1.2 Complaint No GOV005 – Outside District (Closed)

This complaint related to an allegation that the Council had failed to comply with standing orders by awarding a contract to the same company without testing the market. The matter was investigated by the PSO who found that as each purchase was under £1,000 it was not necessary to go out to tender. However in view of the fact that in future this would be the subject of procurement on behalf of four authorities it may be necessary to go out to tender as the level of expenditure should increase.

1.3 Complaint No DEV069 – River (Closed)

The complainant requested that a planning application fee be refunded. The matter was considered by the PSO but in view of the amount of work carried out by the

Planning Officer and the fact that the consultation process had been carried out the request was denied.

1.4 **Complaint No ASB003 – Eastry (Closed)**

The complainant alleged that action should have been taken by the Community Safety Unit regarding harassment. Harassment is a crime and therefore a matter for the Police to investigate. The complaint was considered by the PSO who was of the opinion that the Community Safety Unit had correctly applied the "Typical Anti-Social Behaviour and Who Takes Primacy" protocol document. This document has been agreed between the Police and the District Council and sets out which organisation would take the lead in a given situation. In this case two separate reports were received by the Community Safety Unit and it would not be appropriate for the Council to apply to the Court for an ASBO for one-off acts. The PSO found that the Community Safety Unit had acted correctly by referring the matter to the Police and found no evidence of maladministration.

1.5 **Complaint No HSV060 – Aylesham (Closed)**

The complainant was of the opinion that the Council should erect boundary fencing to a tenanted property and claimed that the Council was discriminating against them. The PSO visited the complainant and explained that the Council would only erect fencing where there was a child under the age of five living at the property. The PSO assured the complainant that the boundary markers were in the correct position and the tenant had been advised that boundary markers must remain in situ. The PSO wrote to the complainant confirming the Council's position. The complainant has reserved the right to refer the matter to the Local Government Ombudsman (LGO) should they decide to do so.

1.6 **Complaint No PSR039 – Aylesham (Closed)**

The complainant, a council tenant, alleged that their property was subject to damp which was causing health problems for their family but that Property Services were failing to carry out the necessary structural work to remedy the problem. The matter was investigated by the PSO who found that works had been identified after the tenant moved into the property and an order had been raised. Unfortunately funds are not available in this current financial year. The Council is in the process of going out to tender for a new contractor and, funds permitting, the work will be carried out in the 2011/12 financial year. The complainant was advised that the matter could be referred to the LGO if they were dissatisfied with the way in which the Council had dealt with the matter.

1.7 **Complaint No CTX051 – River (Closed)**

This complaint related to a council tax debt. Recovery had been referred to a bailiff company and the complainant was unhappy that the Council would not take the debt back. The complaint was investigated by the PSO who found that the debt was in respect of the 2004, 2008, 2009 and 2010 financial years. Payment arrangements had previously been agreed with the complainant but they had not been maintained therefore recovery had correctly been referred to the bailiffs. The PSO advised the complainant that their recent offer had been accepted by the bailiffs and no further action would be taken provided payments were maintained. The complainant was advised that the matter could be referred to the LGO if they were dissatisfied with the way in which the Council had dealt with the matter.

1.8 **Complaint No DEV074 – St Margaret's-at-Cliffe (Pending)**

This complainant relates to matters involving a planning application and the Local Development Framework. The matter is currently being investigated by the Governance Investigator.

2. **COMPLAINT DECISIONS ISSUED BY THE LOCAL GOVERNMENT OMBUDSMAN SINCE THE STANDARDS COMMITTEE MEETING OF 8 DECEMBER 2010**

2.1 **PSR032** – The complainant claimed that the Council failed to carry out effective repairs in response to reports of leaks caused by their shower. The Ombudsman found that the Council had responded promptly to the complainant's reports and had made attempts to identify the source and during one visit it had been noted that there was no shower curtain. The Ombudsman stated that the fact that the contractors had not been able to identify the source was not a fault. The decision was classed as "no or insufficient evidence of maladministration".

2.2 **CTX044** – This complaint related to a council tax debt from 2007/8 and the complainant was of the view that payments had not been allocated correctly. During the course of the investigation the Ombudsman found that payments had been allocated correctly but that the Council had failed to explain why council tax benefit had not been awarded before 27 November 2007. Notification for housing benefit had been sent to the complainant for this period but not a council tax benefit notification. The Ombudsman was of the view that because of the time and trouble taken by the complainant that the Council should apologise for this error and pay compensation of £100.00. The decision was classed as "local settlement".

2.3 **HSV049** – This case related to the way in which the Council dealt with complaints concerning council tenants, that those tenants had breached a suspended possession order and the complainant claimed to continue to suffer from problems caused by the tenants. The Ombudsman stated that the matter had been considered by a Court Judge and that it is not for the Ombudsman to reinvestigate matters which have been before the Court. The decision was classed as "Ombudsman's discretion".

2.4 **PSR033** – The complainant claimed that the Council was unreasonable in requesting that they pay for replacement UPVC window sills in their former home. The Ombudsman stated he could not substitute their judgement for that of the Council's officers but could only consider the process by which the Council reached the decision to re-charge for the work. The Ombudsman was satisfied that the Council was not at fault on this point. Although the Ombudsman had sympathy with the complainant's allegation that the damage had been sustained before the commencement of their tenancy the Ombudsman felt that cigarette burns and gouge marks would not normally be classed as wear and tear and the photographs submitted by the complainant showed evidence of gouge marks. The evidence of the 2003 void report prior to the complainant moving into the property did not identify any damage to the sills. The Ombudsman could find no fault for passing on to the complainant the cost of replacing the sills. The decision was classed as "No or insufficient evidence of maladministration".

3. **COMPLAINTS CURRENTLY BEING INVESTIGATED BY THE LOCAL GOVERNMENT OMBUDSMAN**

Date information requested by LGO	Ward	Complaint
5/5/10	Mill Hill	Processing of homeless application

Background Papers

File C23/5 – Complaints.

Resource Implications

None.

Impact on Corporate Objectives

An effective complaints system supports the delivery of the Council's corporate objectives set out within the Corporate Plan 2008-2020.

Attachments

Appendix A – Ward Statistics

DAVID RANDALL

Director of Governance

The officer to whom reference should be made concerning inspection of the background papers is the Professional Standards Officer, Dover District Council, White Cliffs Business Park, Dover, Kent CT16 3PJ. Telephone: (01304) 872322.

Number of Complaints Received Per Ward and processed through the Complaints System

Ward	No of Complaints		
	1.4.2008 to 31.3.09	1.4.09 to 31.3.10	1.4.10 to 24.2.11
Aylesham	3	4	4
Buckland	11	4	3
Capel-le-Ferne		1	1
Castle	8	8	3
Eastry	5	5	2
Eythorne & Shepherdswell	10	7	2
Little Stour & Ashstone	2	2	6
Lydden & Temple Ewell	4		2
Maxton, Elms Vale & Priory	2	6	7
Middle Deal & Sholden	5	6	3
Mill Hill	7	9	5
North Deal	5	8	9
Outside District or N/A	2	9	9
Ringwould	4	2	2
River	2	5	3
Sandwich	6	7	4
St Margaret's-at-Cliffe	3	6	3
St Radigunds	8	7	5
Tower Hamlets	11	7	4
Town & Pier	4	2	3
Walmer	4	7	5
Whitfield	4	4	2
Total	110	116	87

Minutes of the meeting of the **STANDARDS (HEARING) SUB-COMMITTEE** held at the Council Offices, Whitfield on Thursday 27 January 2011 at 6.00 pm.

Present:

Chairman: Mr A M Hayes

Members: Councillor B W Butcher
Councillor D R Lloyd-Jones
Mr B A C Curtis (Wingham Parish Council)

Also Present: Mr B P S Dowley

Officers: Deputy Monitoring Officer
Democratic Support Officer

7 EXCLUSION OF THE PRESS AND PUBLIC

RESOLVED: That, under Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting for the current item of business on the grounds that the item to be considered involves the likely disclosure of exempt information as defined in paragraph 7C of Part I of Schedule 12A of the Act.

8 CASE NO SC050 - CONSIDERATION OF REQUEST TO POSTPONE HEARING

The Sub-Committee received the report of the Monitoring Officer regarding the request made by the member who was the subject of the complaint that the hearing to consider the complaint made against him be deferred on medical grounds.

The Deputy Monitoring Officer summarised the facts of the case to date, explaining that the Initial Assessment and Consideration Sub-Committee had resolved at its meeting held on 27 October 2010 that the complaint made against the subject member be considered at a hearing of the Standards Committee, conducted under Regulation 18 of the Standards Committee (England) Regulations 2008. Following receipt of a reminder regarding the paperwork for completion of the Pre-Hearing Process Summary, the subject member had contacted the Council on 10 December 2010 to request that the hearing be postponed for at least two months on medical grounds.

On the basis that today's meeting of the Standards Committee (Hearing) Sub-Committee fell within the subject member's anticipated duration of illness/convalescence, he had not been given notice of the meeting.

RESOLVED: That consideration of the request be deferred to a further meeting of the Standards (Hearing) Sub-Committee, to be held on 28 February at 6.00 pm, and the subject member invited to attend the meeting in order to make representations and provide medical evidence in support of his request for deferment.

The meeting ended at 6.30 pm.

REPORT OF THE MONITORING OFFICER

STANDARDS COMMITTEE – 9 MARCH 2011

FUTURE OF THE STANDARDS REGIME

Recommendation

- (a) *That the Standards Committee acknowledges the ongoing developments via the Localism Bill.*
- (b) *That the Standards Committee considers its recommendation to Council, once there is clarity over the new regime, probably in Autumn 2011.*

Contact Officer: David Randall, extension 2141.

Background and Proposal

1. The Coalition Government recently announced the changes it proposes to put in place to abolish the Standards Board regime.
2. The Government considers that the Standards Board regime, consisting of a centrally prescribed model code of conduct, standards committees with the power to suspend a local authority member and regulated by a central quango was inconsistent with the principles of localism. In addition there is a concern that the regime is a vehicle for vexatious or politically motivated complaints.
3. Subject to Parliament approving the necessary legislation, the changes 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 (SI 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 (formally known as the Standards Board 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.

4. It is intended to effect the abolition of the Standards Board regime through the Localism Bill. The bill is currently being considered at its committee stage. It is anticipated that the Bill will be laid before Parliament in December and will receive Royal Assent late-2011.
5. The present conduct regime (a model code governing local authority members' conduct and enforced through local authority standards committees, regulated in turn by the Standards Board for England), will continue to function in a normal manner, considering, investigating and determining allegations of misconduct, until a fixed date ("the appointed day"), probably two months after the Bill receives Royal Assent,.
6. This means that until the appointed day, an allegation of misconduct can be made; after the appointed day, no further allegations of misconduct can be made under the standards board regime. It also means that at the appointed day, allegations will be in the process of investigation and, further, that appeals against sanctions will be pending. Transitional measures will be put in place to address this.

Transition Procedures

7. Any cases in the system at the appointed day will make their way through a transitional regime. This would meet the expectation of those who had made allegations that their allegations would be properly dealt with. It also enables that if a member has an allegation made against them, they should have the opportunity to clear their name.
8. The Government propose that any investigations being undertaken by Standards for England transfer, on the appointed day, to the local authority that referred the investigation. It will be for that local authority to arrange for the conclusion of the investigation. The local authority's standards committee will remain established until the last complaint it is considering, referred either internally or from Standards for England, has been dealt with.
9. Any cases with which the First-tier Tribunal (Local Government Standards in England) is dealing on the appointed day will be concluded by that tribunal. It will not receive any appeals against standards committee rulings after that date.
10. The right of appeal will not exist for those cases standards committees deal with as they work their way through the transitional system. The Government considers that the risk of protracted proceedings justifies this approach. The sanctions available to standards committees are significantly less severe than the sanctions available to the First-tier Tribunal (Local Government Standards in England).
11. Further, the Government propose that the suspension sanction is removed from standards committees for the transitional period. Hence the most a standards committee could do is, for instance, to issue a councillor with a censure or a request that they undergo training.

Issues to be considered under a new regime

12.
 - How do the Nolan Principles apply in a post-Standards regime?
 - Will the new regulations provide a basis for continual high standards?

- How does the Council operate arrangements to maintain our high standards of conduct?
- Does the current standard of ethical behaviour and culture at Dover District Council warrant the need for a local arrangement?
- Should a local code be adopted and introduced at Dover District Council?
- If yes, how would this have the necessary teeth to enforce high standards?
- What would be the scope of such a code if it was introduced?
- If no, how does the Council deal with issues such as bullying, disrepute and disrespect?
- How does the Council deal with registering and declaring gifts, hospitality and interests?
- How clear will the regulations be?
- How do members receive clear guidance?
- What is the role of the Governance Committee going forward?
 - Constitution matters.
 - Internal Control/audit.
 - Standards?
- How will criminal provisions about interests work in practice?
- Is there scope for both external prosecution and internal processes to work together?
- What training and development will be required for Members?
- Will Dover District Council or a Committee of the Council or the Monitoring Officer have any responsibility towards Town and Parish Councils?

Conclusion

13. As the Localism Bill continues its passage through Parliament, this Council and the Standards Committee in particular needs to continue to monitor developments. Once the final standards and ethical regime and direction is clear the Standards Committee should consider its recommendation to Council probably in the autumn of 2011.

Background Papers

Consultation from DCLG.

Resource Implications

None.

Consultation Statement

DCLG have laid out their proposals.

Impact on Corporate Objectives and Corporate Risks

Strong ethical behaviour of Councillors is core to effective democracy.

Attachments

None.

DAVID RANDALL

Monitoring Officer

The officer to whom reference should be made concerning inspection of the background papers is the Monitoring Officer, Dover District Council, White Cliffs Business Park, Dover, Kent CT16 3PJ. Telephone: (01304) 821199, Extension 2141.

EXCLUSION OF THE PRESS AND PUBLIC**Recommendation**

That, under Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting for the remainder of the business on the grounds that the item to be considered involves the likely disclosure of exempt information as defined in the paragraph of Part I of Schedule 12A of the Act set out below:

<u>Item Report</u>	<u>Paragraph Exempt</u>	<u>Reason</u>
Minutes of Standards Review Sub-Committee	7C	Information presented to a Standards Committee, or to a Sub-Committee of a Standards Committee, set up to consider any matter under Regulations 13 or 16-20 of the Standards Committee (England) Regulations 2008, or referred under Section 51(1)(c) of the Local Government Act 2000)