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Date: 22 June 2015
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STANDARDS COMMITTEE

1 JULY 2015

A meeting of the Standards Committee will be held at **7.00 pm on Wednesday, 1 July 2015** in the Council Chamber, Council Offices, Cecil Street, Margate, Kent.

Membership:

Dr Jonathan Sexton (Chairman); Mrs Janet Bacon (Vice-Chairman)

Councillors: Ashbee, Braidwood, Buckley, Dexter, J Fairbrass, Johnston, Tomlinson and Parish Councillor Way

A G E N D A

Item
No

Subject

1. **APOLOGIES FOR ABSENCE**
2. **MINUTES OF PREVIOUS MEETING** (Pages 1 - 2)
To approve the Minutes of the meeting of Standards Committee held on **9 April 2015**, copy attached.
3. **DECLARATIONS OF INTEREST**
4. **MEMBER SANCTIONS** (Pages 3 - 6)
5. **STANDARDS COMPLAINTS TABLE 2015** (Pages 7 - 8)

Declaration of Interest form - back of agenda

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Public Document Pack Agenda Item 2

STANDARDS COMMITTEE

Minutes of the meeting held on 9 April 2015 at 7.00 pm in Council Chamber, Council Offices, Cecil Street, Margate, Kent.

Present: Independent Members of the Standards Committee: Dr Jonathan Sexton (Chairman); Mrs Janet Bacon (Vice Chairman); Mr Dennis James (Independent Person); Mr Peter Tucker (substitute Independent Person);
Councillors: D Green, Grove, Nicholson, H Scobie, M Tomlinson, Lawson (Broadstairs Town Council) and Way (Monkton Parish Council)

In Attendance:

91. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Marson and Roberts.

92. MINUTES OF PREVIOUS MEETING

It was proposed by the Chairman and AGREED that the minutes of the meeting of 16 September 2014 be approved and signed by the Chairman subject to the following changes:

Mrs Bacon should be listed as Independent Member and not as Councillor and that Mr James (Independent Person) was present.

93. DECLARATIONS OF INTEREST

There were no declarations of interest.

94. CHAIRMAN'S REPORT

The Chairman thanked the Committee Members for their attendance at the meeting during election period.

The Chairman outlined the report.

The Chairman highlighted that a full range of sanctions could be considered in future Standards complaint cases.

He did not advocate the employment of sanctions and felt that building respectful relationships was reinforced by training. He advised that other (in some cases, larger) councils had more developed whipping systems within their political groups and that this could be effective.

The Monitoring Officer confirmed that sanctions did not need to be written into the Constitution and appropriate sanctions would be used on a case by case basis.

The Chairman invited Committee Members' questions.

Concerns were raised by the Committee that the figures show that complaints were not being investigated quickly enough. Concerns were also raised that the Standards Committee had not met many times in 2014-2015.

The Chairman asked the Monitoring Officer to respond to this concern. The Monitoring Officer advised that there were a number of reasons why the process for Standards complaints had taken time but in the future it is anticipated that a formal timescale will be set for investigations to be completed.

The Monitoring Officer advised the Committee that in relation to a couple of matters there had been delays in finding investigators for the outstanding investigations but that investigators had now been identified.

The Monitoring Officer addressed the recent lack of meetings. He updated the Committee regarding progress of work being done by the Centre for Public Scrutiny to the Member/Officer Protocol and the Constitution.

It was reported that the work on the Member/Officer Protocol would be presented to the Improvement Board on 10 April 2015 prior to being dealt with at this committee. It was anticipated that this work would be a precursor to a full review of the Constitution which has now been commissioned.

These matters will be before the Standards Committee early in the new Council year as well as the Constitution Review Working Party.

The Committee also made some small contextual changes to the report.

Committee Members thanked the Chairman for his work in the last year.

The Committee discussed and noted the report.

95. STANDARDS COMPLAINT STATISTICS

The Committee noted the Standards Complaint Statistics report.

Meeting concluded : 7.45 pm

MEMBER SANCTIONS

To: **Standards Committee – 1 July 2015**

By: **Head of Legal and Democratic Services**

Classification: **Unrestricted**

Ward: **All Wards**

Summary: **This report is intended to enable the Committee to consider the range of sanctions for breach of the Members Code of Conduct available to them and to recommend to Council any changes they may wish to see to those sanctions.**

For Decision

1.0 Introduction and Background

- 1.1 The Council is determined to maintain an effective regime to deal with breaches of the Members Code of Conduct and to identify appropriate sanctions when a breach has occurred. The Council's improvement plan includes an action for this committee to consider possible sanctions for recommendation to Council for inclusion in a revised constitution.
- 1.2 It is also useful to revisit these sanctions to remind ourselves that these sanctions exist for councillors who fall short of the standards of behaviour expected of them. These sanctions cannot and do not remove the fundamental right of the public to be represented by a councillor.
- 1.3 In preparing this report, a brief review has been undertaken of the current sanctions and a comparison has been made with the practice of other authorities. This report is intended to be a catalyst for discussion in order that the committee can debate this issue and consider what changes (if any) to the sanctions they might wish to recommend.

2.0 The current position at Thanet

- 2.1 It is worth setting out initially, the current sanctions available to the Standards Committee, which are:
- (a) Recommending to the District/Parish Council that the Subject Member be issued with a formal censure (i.e. the issue of an unfavourable opinion or judgement or reprimand) by motion;
 - (b) Recommending to Council that the Subject Member be removed from the office of Leader of the Council
 - (c) Recommending to the Subject Member's Group Leader or in the case of an ungrouped Member to the District Council or in the case of a Parish Council to the Parish Council that the Subject Member be removed from one or more Committees or Sub-Committees of the District/Parish Council;
 - (d) Recommending to the Leader of the District Council that the Subject Member be removed from the Cabinet or removed from particular Portfolio responsibilities;

- (e) Instructing the Monitoring Officer to or a recommendation to the Parish Council to arrange training for the Subject Member;
- (f) Recommending to the District/Parish Council that the Subject Member be removed from one or more outside appointments to which they have been appointed or nominated by the Council;
- (g) Recommending to the District/Parish Council that it withdraws facilities provided to the Subject Member by the Council, such as a computer, website and/or email and internet access;
- (h) Recommending to the District/ Parish Council the exclusion of the Subject Member from the District/ Parish Council's offices or other premises, with the exception of meeting rooms as necessary for attending District/Parish Council Committee and Sub- Committee meetings;
- (i) Reporting the findings of the Sub Committee to the District/Parish Council for information;
- (j) Instructing the Monitoring Officer to apply the Informal Disputes Resolution Procedure
- (k) Sending a formal letter to the Subject Member;
- (l) Recommending to the District/Parish Council to issue a press release or other form of publicity;
- (m) Publishing its findings in respect of the Subject Member's conduct in such manner as the Sub Committee considers appropriate.

3.0 How do these sanctions compare to those of other local authorities?

3.1 Given the absence of statutory guidance on sanctions and the freedom for individual councils to set up their own code of conduct there is no definitive list of sanctions against which we can compare the Council's sanctions. However such a list has grown organically as a result of work by professional governance bodies and the sharing of practice between authorities. Using that body of information, it is possible to compare Thanet District Council's sanctions against a 'composite' list gleaned from a number of local authorities.

3.2 The comparison shows that our sanctions are broadly similar to the sanctions imposed by those authorities except to say that the following Thanet sanctions are in addition to the 'composite' list:

- sanction (b) recommending the removal of the Leader
- sanction (h) excluding a member from premises
- sanction (j) dispute resolution procedure
- sanction (k) sending a formal letter

3.3 Further it is noted that there is a gap in our sanctions in relation to the protection of staff who may have been the subject of misconduct by Members. To address this particular issue, other authorities have included the following sanction:

- Placing such restrictions on Member's access to staff which may be reasonable in the circumstances and in accordance with the Member/Officer Protocol provided that such restrictions do not impede the member from carrying out their duties as a Councillor.

It would be sensible to include this additional sanction to our list too.

3.4 A further useful amendment to our list of sanctions would be a 'catch all' clause to enable sanctions to be tailored to the individual circumstances of the case. The clause to read:

- This list of actions is not intended to be prescriptive, or exhaustive.

4.0 Other legal sanctions for a breach of the code

- 4.1 It is I think worth reminding ourselves that there are other legal sanctions in place outside of the remit of the Standards Committee which address unlawful actions by members which might also be a breach of the code of conduct. This includes for example legal proceedings for fraud, bribery, corruption, defamation, discrimination, misfeasance in public office. There are also additional legal remedies in relation to breach of confidentiality, including civil proceedings for injunctions.
- 4.2 Whilst these other legal processes do not come within the ambit of the Standards Committee, there is no reason why, during or following an investigation, the Committee should not recommend such legal proceedings to Council the appropriate enforcing body.

5.0 Options

- 5.1 Take no action and leave the sanctions as drafted
- 5.2 Include a sanction restricting a member's access to defined staff
- 5.3 Include a catch all clause to tailor sanctions to particular circumstances as required
- 5.4 Include any other new or amended sanctions as recommended by the Committee

6.0 Corporate Implications

6.1 Financial and VAT

- 6.1.1 There are no cost implications arising from this report.

6.2 Legal

- 6.2.1 The Localism Act 2011 which set up the present standards regime, makes no provisions as to what sanctions might be imposed for a breach of the code of conduct, however, in the absence of express authority, we cannot grant ourselves power to suspend democratically elected members.

6.3 Corporate

- 6.3.1 This report is a response to an action point in the council's improvement plan.

6.4 Equity and Equalities

- 6.4.1 The code of conduct and the arrangements for enforcing the code of conduct apply equally to all members.

7.0 Recommendation(s)

- 7.1 The Committee review the sanctions for breach of the Members Code of Conduct available to them generally and to recommend to Council any changes they may wish to see to those sanctions.
- 7.2 That a sanction to restrict a member's access to defined staff is added to the sanctions

7.3 That a clause be added to the effect that this list of actions is not intended to be prescriptive or exhaustive.

Contact Officer:	Tim Howes, Head of Legal and Democratic Services
Reporting to:	Madeline Homer, Chief Executive

Annex List

None	
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Background Papers

Title	Details of where to access copy
<i>None</i>	

Corporate Consultation Undertaken

Finance	<i>N/A</i>
Legal	<i>Tim Howes, Legal and Democratic Services Manager</i>

RECORD OF COMPLAINTS

	COMPLAINT NO:	DATE	INVESTIGATE	COMPLAINANT	AGAINST	ALLEGATION / FINDING
	2015					
120	TDCSC120/15	08/01/2015	Investigation completed but councillor not re-elected. Closed.	TDC Councillors 11 Members of Public	TDC Councillor	Allegations regarding reported comments made by a councillor.
121	TDCSC121/15	24/04/2015	Councillor not re-elected. Closed.	Member of the Public	TDC Councillor	Allegation of non-response to enquiries made by a member of the public.
122	TDCSC122/15	19/05/2015	Open.	TDC Officer	TDC Councillor	Allegation regarding reported comments made by a councillor to a member of staff.
123	TDCSC123/15	03/06/2015	Open.	TDC Councillor	TDC Councillor	Allegation regarding comments posted on social media.

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THANET DISTRICT COUNCIL DECLARATION OF INTEREST FORM

Do I have a personal interest?

You have a **personal interest** in any business of your authority where it relates to or is likely to affect:

- a) An interest you must **register**.
- b) An interest that is not on your register, but where the well-being or financial position or you, members of your family (spouse; partner; parents; in laws; step/children; nieces and nephews), or people with whom you have a close association (friends; colleagues; business associates and social contacts that can be friendly and unfriendly) is likely to be affected by the business of your authority more than it would affect the majority of:
 - Inhabitants of the ward or electoral division affected by the decision (in the case of the authorities with electoral divisions or wards.)
 - Inhabitants of the authority's area (in all other cases)

These two categories of personal interests are explained in this section. If you declare a personal interest you can remain in the meeting, speak and vote on the matter, unless your personal interest is also a prejudicial interest.

Effect of having a personal interest in a matter

You must declare that you have a personal interest, **and the nature of that interest**, before the matter is discussed or as soon as it becomes apparent to you except in limited circumstances. Even if your interest is on the register of interests, you must declare it in the meetings where matters relating to that interest are discussed, unless an exemption applies.

When an exemption may be applied

An exemption applies where your interest arises solely from your Membership of, or position of control or management on:

1. Any other body to which you were appointed or nominated by the authority.
2. Any other body exercising functions of a public nature (e.g. another local authority)

Is my personal interest also a prejudicial interest?

Your personal interest will also be a **prejudicial interest** in a matter if all of the following conditions are met:

- a) The matter does not fall within one of the **exempt categories** of decisions
- b) The matter affects **your financial interests** or relates to a **licensing or regulatory matter**.
- c) A member of public, who knows the relevant facts, would **reasonably think your personal interest is so significant** that it is likely to prejudice your judgement of the public interest.

What action do I take if I have a prejudicial interest?

- a) If you have a **prejudicial interest** in a matter being discussed at a meeting, you must declare that you have a prejudicial interest as the nature of that interest becomes apparent to you.
- b) You should then leave the room, **unless members of the public are allowed to make representations, give evidence or answer questions about the matter**, by statutory right or otherwise. If that is case, you can also attend the meeting for that purpose.
- c) However, you must immediately leave the room once you have finished or when the meeting decides that you have finished (if that is earlier). You cannot remain in the public gallery to observe the vote on the matter.

d) In addition you must not seek to **improperly influence** a decision in which you have a prejudicial interest.

This rule is similar to your general obligation not to use your position as a Member improperly to your or someone else's advantage or disadvantage.

What if I am unsure?

If you are in any doubt, Members are strongly advised to seek advice from the Monitoring Officer or the Democratic Services Manager well in advance of the meeting.

DECLARATION OF PERSONAL AND, PERSONAL AND PREJUDICIAL INTERESTS

MEETING

DATE..... **AGENDA ITEM**

IS YOUR INTEREST:

PERSONAL

PERSONAL AND PREJUDICIAL

NATURE OF INTEREST:

.....
.....
.....

NAME (PRINT):

SIGNATURE:

Please detach and hand this form to the Committee Clerk when you are asked to declare any interests.