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## **MEMBER SANCTIONS**

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

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

Classification: **Unrestricted**

Ward: **All Wards**

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**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**

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#### **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**

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

#### **Corporate Consultation Undertaken**

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