

# Public Document Pack



Democratic Services  
White Cliffs Business Park  
Dover  
Kent CT16 3PJ

Telephone: (01304) 821199  
Fax: (01304) 872452  
DX: 6312  
Minicom: (01304) 820115  
Website: [www.dover.gov.uk](http://www.dover.gov.uk)  
e-mail: [democraticservices@dover.gov.uk](mailto:democraticservices@dover.gov.uk)

17 September 2013

Dear Councillor

NOTICE IS HEREBY GIVEN THAT a meeting of the **STANDARDS COMMITTEE** will be held in the HMS Brave Room at these Offices on Wednesday 25 September 2013 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) 872305 or by e-mail at [kate.batty-smith@dover.gov.uk](mailto:kate.batty-smith@dover.gov.uk).

Yours sincerely

A handwritten signature in black ink, appearing to read "Kate Batty-Smith", written over a white background.

Chief Executive

Standards Committee Membership:

Councillor B W Butcher (Chairman)  
Councillor M A Russell (Vice-Chairman)  
Councillor P J Hawkins  
Councillor L A Keen  
Councillor S C Manion  
Councillor K Mills  
Councillor C J Smith

AGENDA

1 **APOLOGIES**

To receive any apologies for absence.

2 **APPOINTMENT OF SUBSTITUTE MEMBERS**

To note appointments of Substitute Members.

3      **DECLARATIONS OF INTEREST**

To receive any declarations of interest from Members in respect of business to be transacted on the agenda.

Where a Member has a new or registered Disclosable Pecuniary Interest (DPI) in a matter under consideration they must disclose that they have an interest and, unless the Monitoring Officer has agreed in advance that the DPI is a 'Sensitive Interest', explain the nature of that interest at the meeting. The Member must withdraw from the meeting at the commencement of the consideration of any matter in which they have declared a DPI and must not participate in any discussion of, or vote taken on, the matter unless they have been granted a dispensation permitting them to do so. If during the consideration of any item a Member becomes aware that they have a DPI in the matter they should declare the interest immediately and, subject to any dispensations, withdraw from the meeting.

Where a Member is declaring an Other Significant Interest (OSI) they must also disclose the interest and explain the nature of the interest at the meeting. The Member must withdraw from the meeting at the commencement of the consideration of any matter in which they have declared a OSI and must not participate in any discussion of, or vote taken on, the matter unless they have been granted a dispensation to do so or the meeting is one at which members of the public are permitted to speak for the purpose of making representations, answering questions or giving evidence relating to the matter. In the latter case, the Member may only participate on the same basis as a member of the public and cannot participate in any discussion of, or vote taken on, the matter and must withdraw from the meeting in accordance with the Council's procedure rules.

4      **MINUTES** (Pages 4 - 5)

To confirm the attached Minutes of the meeting of the Committee held on 13 March 2013.

5      **COMPLAINTS REPORT** (Pages 6 - 14)

To consider the attached report of the Director of Governance.

6      **REVIEW OF KENT MODEL CODE OF CONDUCT**

To consider the report of the Deputy Monitoring Officer (to follow).

**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](http://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) 872305 or email: [kate.batty-smith@dover.gov.uk](mailto: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, 13 March 2013 at 10.03 am.

Present:

Chairman: Councillor B W Butcher

Councillors: J A Cronk  
P J Hawkins  
K Mills  
M A Russell  
C J Smith

Also Present: Mr B Dowley

Officers: Director of Governance and Monitoring Officer  
Corporate Complaints and Resilience Officer  
Democratic Support Officer  
Democratic Support Officer

553 APOLOGIES

It was noted that there were no apologies for absence.

554 APPOINTMENT OF SUBSTITUTE MEMBERS

It was noted that there were no substitute members appointed.

555 DECLARATIONS OF INTEREST

There were no declarations of interest.

556 MINUTES

The Minutes of the meeting of the Committee held on 23 January 2013 were approved as a correct record and signed by the Chairman.

557 COMPLAINTS REPORT

The Committee received the report of the Director of Governance on formal complaints received by the Council that had been processed through the Council's Corporate Support Section. Members were advised that the report now included complaints from East Kent Housing.

The Corporate Complaints and Resilience Officer (CCRO) advised that 3 complaints had been resolved since the last meeting, none of which had led to a finding of maladministration. In response to Councillor C J Smith, the CCRO advised that housing complaints were reported to the Board of East Kent Housing as part of its internal complaints process. Like those made against the Council, housing complaints could be referred to the Local Government Ombudsman. Moreover, although the Council's role was one of overview, it had powers to call in complaints of concern. Members agreed that there would be merit in reviewing East Kent Housing complaints on an annual basis.

- RESOLVED: (a) That the complaints report be noted and the actions taken endorsed.
- (b) That East Kent Housing complaints be reviewed on an annual basis by the Standards Committee.

558 APPLICATION OF THE CODE OF CONDUCT TO DUAL-HATTED MEMBERS

The Director of Governance referred Members to a letter from David Monk, a Shepway District Council member, to Brandon Lewis MP, Parliamentary Under-Secretary of State at the Department for Communities and Local Government, concerning dual-hatted councillors. As a result of the Minister's response, district Members would now be advised to declare membership of all county and parish councils on their notification of Disclosable Pecuniary Interests (DPI) form. Members would then need to consider on an individual basis whether the item of business under consideration triggered this DPI. For some Members it was unlikely that the DPI would be triggered unless the allowance received in respect of their county or parish position represented a significant proportion of their income. This issue had not been tested in the courts, and there remained considerable uncertainty as to how it would work in practice. It was likely that dispensations would need to be utilised more frequently. Members expressed concern that they could inadvertently breach the Kent Model Code of Conduct through no fault of their own due to the Code's lack of clarity.

- RESOLVED: (a) That the Minister's response be noted.
- (b) That the Committee's views be reported to the Monitoring Officers' Group.

(In accordance with the provisions of Section 100(B)(4)(b) of the Local Government Act 1972, the Chairman agreed that this item, which was not detailed on the agenda, should be considered as a matter of urgency.)

559 KENT MODEL CODE OF CONDUCT

The Director of Governance reported that some Kent County Council members were seeking to introduce a right of appeal for members at the conclusion of the investigation and hearing process. In the case of parish and district members found to be in breach of the Code of Conduct, present arrangements were that the Standards Committee made recommendations to the parish council and full Council respectively regarding the sanctions that should be applied. At local level, an Appeals Committee would need to be established. Councillor K Mills indicated that he had some sympathy with the idea of a right of appeal, subject to how it was controlled.

RESOLVED: That the proposal be noted.

(In accordance with the provisions of Section 100(B)(4)(b) of the Local Government Act 1972, the Chairman agreed that this item, which was not detailed on the agenda, should be considered as a matter of urgency.)

The meeting ended at 10.44 am.

DOVER DISTRICT COUNCIL

REPORT OF THE DIRECTOR OF GOVERNANCE

STANDARDS COMMITTEE – 25 SEPTEMBER 2013

## **COMPLAINTS REPORT**

### **Recommendation**

<i>That the report be noted and the actions taken be endorsed.</i>
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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 Corporate Services Team at stage two of the Council's complaints process since the last Standards Committee meeting of 13 March 2013. Ten complaints were investigated. In four of the ten cases apologies were made and "time and trouble" payments were made to two complainants. There may be issues raised through the complaints process where the Corporate Support Section provides a written explanation of Council policy and procedures but which do not require an investigation. These are not included within this report but are included within the figures in the tables at Appendices A and C.

### 1.1 **Complaint No. WST112 - Capel-le-Ferne (Closed)**

This complaint related to waste collections. The complainant claimed that their household waste and recycling had not been collected regularly since the new system was introduced in 2012 and that Waste Services had failed to rectify the problem. The matter was investigated by the Corporate Complaints & Resilience Officer (CC&RO) who found that the part of the road where the complainant lives was now covered by a different round from the properties on the opposite side of the street. The CC&RO apologised for the fact that this was not appreciated until a site visit was carried out by a waste services officer and a representative from Veolia. The records were amended and a "time and trouble" payment was made to the complainant.

### 1.2 **Complaint No. BDG026 – Maxton, Elms Vale & Priory (Closed)**

The complainant was unhappy that Building Control did not advise them that they required a completion certificate and now that they were trying to sell their property that had to obtain electric and gas certificates so that the completion certificate could be issued. The matter was investigated by the CC&RO who found no evidence of maladministration as the gas and electrical certificates should have been issued by the builder and therefore the outcome would have been the same if the certificates had been supplied previously. However it was accepted that this had caused additional stress at a time when the complainant was selling their property and a time and trouble payment was offered. Building Control now has procedures in place to check outstanding certificates which will prevent a recurrence of this type of occurrence.

1.3 **Complaint No. ENV024, PKG034 and WST115 – North Deal (Closed)**

The complainant stated that they did not believe they should pay council tax as they were experiencing problems with noise from a nearby public house, they lived in an area where there were residents parking but it was not always available and there had been occasions when their refuse had not been collected. The matter was investigated by the CC&RO who provided details of the Out-of-Hours noise team, a contact number was given for the parking services manager in case there were details of vehicles that could be passed to the civil enforcement officers and it was explained that there was an occasion when the waste was collected the following day due to the snow. The CC&RO found no evidence of maladministration.

1.4 **Complaint No. DEV139 - Ringwoud (Closed)**

The Council were notified that a development had not been built in accordance with planning permission. The Planning Officers took the decision to accept a retrospective application but the complainant was of the view that the applicant had provided the Council with mis-information. The CC&RO explained that planning enforcement is a discretionary function and, given that the development as built is not materially different in planning terms as to that previously granted the Council could not justify the time and cost involved in taking enforcement action. The CC&RO found no evidence of maladministration. The complainant referred the matter to the LGO and this is reported at 2.4.

1.5 **Complaint No. GOV012 – Eythorne & Shepherdswell(Closed)**

This matter related to a member complaint whereby the complainant was of the opinion that the Council were not impartial when dealing with complaints under a Mebers' Code of Conduct against members of parish councils. The matter was considered by the CC&RO what advised that whether a member complaint was investigated or not was a decision for the Monitoring Officer together with an Independent Person and the CC&RO could not question the merits of that decision. The CC&RO could find no evidence that the process had not been followed correctly.

1.6 **Complaint No. CTX079 – Outside District (Closed)**

The complainant was unhappy that they received a letter from the Chief Executive that was not on headed paper. The CC&RO found that a letter addressed to the Chief Executive was referred to EK Services for comment but a letter was sent direct from EK Services without referring the matter back to the Chief Executive. The CC&RO apologised for this administrative error and explained that a new process had been put in place which would prevent this type of mistake in the future.

1.7 **Complaint No. GOV013 –Outside District (Closed)**

This complaint related to the way in which Planning Committee Members dealt with an item on the Committee Agenda. The complaints included members' behaviour, declarations of interest and procedures at Committee. The CC&RO provided a written explanation regarding the process and procedures followed and advised that there was no evidence of maladministration.

1.8 **Complaint No. BEN079 –Middle Deal & Sholden (Closed)**

The complainant alleged that they had been overcharged by their landlord and the Council was refusing to help them resolve the dispute. The Head of Corporate

Services met with the complainant and explained that this was a matter between them and their landlord but reviewed the accounts and wrote to the complainant setting out various discrepancies between the tenant's and the landlord's account in order to assist them in resolving the matter.

1.9 **Complaint No. HSV074 –Castle (Closed)**

The complainant alleged that they were being harassed and victimised by staff of East Kent Housing. The matter was considered by the Head of Corporate Services who found no evidence of maladministration. The Head of Corporate Services wrote to the complainant explaining that the staff were investigating genuine complaints reported by other residents but that in future visits would not be carried out unannounced.

1.10 **Complaint No. WST117 – Walmer (Closed)**

The complainant was unhappy that their email address could be seen by other recipients of the email and referred their complaint to the Information Commissioner. On realising the mistake the Council had immediately apologised to all affected by the error and an ICT upgrade had been implemented to allow one-off global emails to be sent. The Information Commissioner stated that there had been a breach of the Data Protection Act but no regulatory action would be taken on this occasion in view of the steps taken by the Council. All staff have been informed of the Information Commissioner's decision and told not to send global emails using the "to" box. In such instances emails should be sent using the "bcc" box.

2. **COMPLAINT DECISIONS ISSUED BY THE LOCAL GOVERNMENT OMBUDSMAN SINCE STANDARDS COMMITTEE MEETING OF 13 MARCH 2013**

- 2.1 **PKG031** - The complainant was unhappy that, having received a parking penalty charge notice, they could not make payment over the internet and demanded compensation for time wasted. The matter was investigated by the CC& RO who found that on the day the complainant attempted to make payment there was a technical problem with the payment system and it was rectified on the same day. As only parking payments were affected the issue took longer to come to light. The CC&RO found no evidence of maladministration as, as soon as the Council was aware of the problem, it was rectified. The Council apologised for the inconvenience but explained that there were alternative methods of payment. The complainant referred the matter to the LGO who took the decision not to investigate as the complainant had not suffered a significant personal injustice warranting the public expense of an investigation by the Ombudsman.
- 2.2 **CTX073** – The complainant complained to the LGO that the Council decided an overpayment of council tax benefit was not recoverable but they were only informed of this decision the day prior to the appeal hearing. The LGO was of the view that the decision could have been taken sooner but did not consider that the Council was at fault and the matter did not warrant the expense of an investigation.
- 2.3 **DEV137** – The complainant was unhappy with the way in which the Council dealt with their reports of unauthorised development. The LGO found no evidence of fault causing the complainants an injustice requiring a remedy and discontinued the investigation.
- 2.4 **DEV139** – a complaint was made to the LGO regarding the way in which the Council was considering a planning application. The LGO stated that as the application had



not been decided no fault could be found which would cause the complainant any significant personal injustice and the investigation was discontinued.

- 2.5 **ASB008** – this complaint related to the way in which the Council had dealt with reports of anti-social behaviour caused by unauthorised off roading activity on private land. The Ombudsman was satisfied with the Council's actions and was of the view that it was unlikely that matters would have turned out differently if officers had made different decisions.
- 2.6 **BEN081** - the complainant alleged that the Council had failed to implement an Upper Tribunal decision regarding their housing and council tax benefit claim for 2007. The Ombudsman stated that he could not investigate the complaint as the complainant had the right of appeal to a Tribunal.

### 3. **COMPLAINT STATISTICS**

Appendix A shows the number of complaints received per Ward for the current financial year compared to 2012/13. Appendix B details the compliments received per Ward and Section from 26 February to 15 August 2013. Appendix C details the complaints received by the District Council and EK Services per Ward and Section from 26 February to 15 August 2013. Appendix D lists the Lessons Learnt from complaints from 26 February to 15 August 2013.

#### **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.

#### **Comment from the Solicitor to the Council:**

The Solicitor to the Council has been consulted in the preparation of this report and has no further comments to make.

#### **Attachments**

Appendix A – Ward Statistics  
Appendix B – Breakdown of compliments by Section  
Appendix C – Breakdown of complaints by Ward and Section  
Appendix D – Actions Taken/Procedural Changes as a result of complaints received

DAVID RANDALL  
Director of Governance

The officer to whom reference should be made concerning inspection of the background papers is the Corporate Complaints & Resilience Officer, 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	
	1.4.12 to 31.3.13	1.4.13 to 15.8.13
	DDC	DDC
Aylesham	11	1
Buckland	7	4
Capel-le-Ferne	2	2
Castle	11	3
Eastry	8	2
Eythorne & Shepherdswell	6	2
Little Stour & Ashstone	3	2
Lydden & Temple Ewell	1	3
Maxton, Elms Vale & Priory	9	3
Middle Deal & Sholden	2	6
Mill Hill	4	2
North Deal	11	-
Outside District or N/A	14	4
Ringwould	2	4
River	5	-
Sandwich	6	4
St Margaret's-at-Cliffe	2	-
St Radigunds	5	1
Tower Hamlets	10	-
Town & Pier	1	1
Unknown	6	3
Walmer	13	1
Whitfield	2	-
<b>Total</b>	<b>141</b>	<b>48</b>

**Details of Compliments Received Per Section  
From 26 February – 15 August 2013**

Section	Compliment
Building Control	Thank you for the excellent service.
Building Control	Officer acted with professionalism and courtesy and most appreciated at a very stressful time.
Building Control	Thank you for the officer's experience in dealing with the project.
Community Team	Two letters of thanks for assistance in obtaining grant funding
Community Team	Thank you to staff for their work with the "FAST" Project
Community Team	Thank you for including the launch of "Sustrans" with the Dover Regatta
Customer Services	Appreciation for assistance from two members of staff "totally fabulous"
Housing Benefit	Two letters of thanks from elderly residents grateful for the new benefit grant scheme
Waste	Letter of appreciation for the cleanliness of Deal seafront and the work carried out by Veolia – "a credit to Deal".

**APPENDIX C****Complaints by Ward and Section from 26February to 15 August 2013**

Title	Description	Ward
Council Tax	Recovery Action	Aylesham
Council Tax	Recovery Action	Aylesham
Housing & Council Tax Benefits	Overpayment recovery	Aylesham
Customer Services	Advice from Staff	Buckland
Waste services	Wheelie bins	Buckland
Waste services	Wheelie bins	Buckland
Environmental Health	Noise nuisance	Capel-le-Ferne
Housing Needs	Alleged disclosure of personal data	Capel-le-Ferne
Council Tax	Recovery Action	Castle
Parking Services	Enforcement	Castle
Council Tax	Recovery Action	Eastry
Housing & Council Tax Benefits	Overpayment recovery	Eastry
Governance	Member investigation	Eythorne & Shepherdswell
Licensing	Response to correspondence	Eythorne & Shepherdswell
Council Tax	Recovery Action	Little Stour & Ashstone
Waste services	Wheelie bins	Little Stour & Ashstone
Community Safety	Issue referred to DDC by the Police	Lydden & Temple Ewell
Environmental Health	Noise nuisance	Lydden & Temple Ewell
Waste services	Missed collections	Lydden & Temple Ewell
Customer Services	Advice from staff	Maxton, Elms Vale & Priory
Housing & Council Tax Benefits	Information requested	Maxton, Elms Vale & Priory
Housing Needs	Rehousing	Middle Deal & Sholden
Housing Needs	Allocation of points	Middle Deal & Sholden
Housing & Council Tax Benefits	Appeal decision	Middle Deal & Sholden
Parking Services	Staff action	Middle Deal & Sholden
Parking Services	Enforcement	Middle Deal & Sholden
Council Tax	Recovery Action	Mill Hill
Housing Needs	Allocation of points	Mill Hill
Waste services	Graffiti	Mill Hill
Environmental Health	Noise nuisance	North Deal
Parking Services	Permits and enforcement officers	North Deal
Waste services	Missed collections	North Deal
Council Tax	Recovery Action	Outside District
Development Control	Response time	Outside District
Governance	Planning Committee meeting	Outside District
Council Tax	Recovery Action	Ringwould
Council Tax	Payment	Ringwould
Development Control	Enforcement	Ringwould
Housing & Council Tax Benefits	Benefits - communication	Ringwould

Council Tax	Payment	Sandwich
Development Control	Service provision	Sandwich
Housing & Council Tax Benefits	Overpayment recovery	Sandwich
ICT	Emails sent to spam	Sandwich
Housing & Council Tax Benefits	Communication	St Radigunds
Waste services	Missed collections	St Radigunds
Parking Services	Enforcement	Tower Hamlets
Waste services	Recycling	Tower Hamlets
Waste services	Non-collection	Tower Hamlets
Waste services	Non-collection	Tower Hamlets
Council Tax	Exemption	Town & Pier
Council Tax	Recovery Action	Unknown
Planning	Service provision	Unknown
Parking Services	Enforcement	Unknown
Council Tax	Recovery Action	Walmer
Waste services	Waste - release of personal data	Walmer

**Actions Taken and/or Procedural Changes as a result of  
Complaints received between  
26 February and 15 August 2013**

Section	Complaint	Actions Taken/Procedural Changes
Council Tax	The wording "final demand notice" appeared in the envelope window	EKS to alter letter layout to avoid information being seen through the window of the envelope.
Council Tax	Letter sent by EKS on behalf of Chief Executive but not on headed paper	EKS have amended their procedure to respond directly to Complainant and advise the DDC Complaints Officer or Chief Exec's secretary
Housing Benefits	Letter sent to a deceased person	This has been recognised as an urgent training need for the Customer Service staff to ensure that information about customers is passed to the relevant department
Housing Benefits	Monthly repayments of a housing benefit overpayment had been agreed with the Council and a direct debit set up but complainant received a letter from the Bailiffs requesting the money.	Information had not been passed to the relevant department therefore Customer Service staff to maintain diary notes on system and keep a record of telephone conversations
Waste Services	Recycling not collected even though it had been reported as being missed and the complainant advised that it would be collected.	New system in place to address the failure in communication at Veolia between the supervisor and the crew.
Waste Services	Request for wheeled bins or different size bins	Each request to be considered on its merits. In one instance larger bins had been provided to a sheltered housing scheme and residents could not manage them therefore they were replaced by normal sized bins. In another instance second hand bins were provided as the initial survey had not identified the property as being capable of accommodating the bins