

Agenda

Standards Committee Meeting

Date: Monday, 18 December 2023

Time 7.00 pm

Venue: Committee Room, Swale House, East Street, Sittingbourne, Kent ME10 3HT*

Membership: Councillors Monique Bonney (Vice-Chair), James Hunt, Elliott Jayes, Mark Last, Rich Lehmann, Charlie Miller, Pete Neal, Richard Palmer, Hannah Perkin, Tony Winckless and Ashley Wise (Chair).

Quorum = 3

Independent persons (non-voting): Patricia Richards and Christopher Webb

Kent Association of Local Councils representative (non-voting): TBA

Pages

Information about this meeting

Members of the press and public can listen to this meeting live. Details of how to join the meeting will be added to the website by Friday 15 December 2023.

Recording and Privacy Notice

Swale Borough Council is committed to protecting the security of your personal information. As data controller we process data in accordance with the Data Protection Act 2018 and the UK General Data Protection Regulation.

This meeting may be recorded. The recording will be retained in accordance with the Council's data retention policy and may be published on the Council's website. By entering the chamber and by speaking at a meeting, whether in person or online, you are consenting to being recorded and to the recording being published.

When joining a meeting online, your username will be visible to others in attendance. In joining the meeting you are consenting to us processing your username. You may use a pseudonym as your username but the use of an inappropriate name may lead to removal from the meeting.

If you have any questions about how we look after your personal information or your rights under the legislation, please email dataprotectionofficer@swale.gov.uk.

1. Emergency Evacuation Procedure

Visitors and members of the public who are unfamiliar with the building and procedures are advised that:

- (a) The fire alarm is a continuous loud ringing. In the event that a fire

drill is planned during the meeting, the Chair will advise of this.

- (b) Exit routes from the chamber are located on each side of the room, one directly to a fire escape, the other to the stairs opposite the lifts.
- (c) In the event of the alarm sounding, leave the building via the nearest safe exit and gather at the assembly point on the far side of the car park. Do not leave the assembly point or re-enter the building until advised to do so. Do not use the lifts.
- (d) Anyone unable to use the stairs should make themselves known during this agenda item.

2. Apologies for Absence

3. Minutes

To approve the Minutes of the meeting held on 1 February 2023 ([Minute Nos. 624 - 628](#)) and 17 May 2023 ([Minute Nos. 33 - 34](#)) as correct records.

4. Declarations of Interest

Councillors should not act or take decisions in order to gain financial or other material benefits for themselves, their families or friends.

The Chair will ask Members if they have any disclosable pecuniary interests (DPIs) or disclosable non-pecuniary interests (DNPis) to declare in respect of items on the agenda. Members with a DPI in an item must leave the room for that item and may not participate in the debate or vote.

Aside from disclosable interests, where a fair-minded and informed observer would think there was a real possibility that a Member might be biased or predetermined on an item, the Member should declare this and leave the room while that item is considered.

Members who are in any doubt about interests, bias or predetermination should contact the monitoring officer for advice prior to the meeting.

- 5. Monitoring Officer Annual Report 5 - 14
- 6. Member Officer Protocol 15 - 34
- 7. Standards Arrangements - Verbal update

Issued on Friday, 8 December 2023

The reports included in Part I of this agenda can be made available in alternative formats. For further information about this service, or to arrange for special facilities to be provided at the meeting, please contact **DEMOCRATIC SERVICES** at democraticservices@swale.gov.uk. To find out more about the work of this committee please visit www.swale.gov.uk

**Chief Executive, Swale Borough Council,
Swale House, East Street, Sittingbourne, Kent, ME10 3HT**

This page is intentionally left blank

Standards Committee	
Meeting Date	18 December 2023
Report Title	Annual Monitoring Officer Report
EMT Lead	Robin Harris – Monitoring Officer
Head of Service	
Lead Officer	
Classification	Open
Recommendations	The report is for information only.

1 Introduction

- 1.1 This report provides an overview of the work of the monitoring officer during the period 3 January 2023 to 4 December 2023. It includes a summary of the main mechanisms in place at Swale to ensure sound governance and lawful decision-making, together with an indication of how well these have operated during the period. It provides a summary of cases dealt with under the code of conduct and offers a brief update to the standards committee on relevant developments in the wider legal and policy context over the course of the year.
- 1.2 This has been a year in which the council has continued to cope well with the post-pandemic normality. The ‘new ways of working’ programme continues and the Council has seen the introduction of a 34 hour working week for staff and the refurbishment of the second floor in Swale House, to provide a more modern working environment.
- 1.3 Members’ own ways of working also changed as a result of the pandemic. The Government has declined to allow local authorities to return to holding hybrid decision making meetings. However, many Council meetings are hybrid meaning that only members who are actually making decisions need to be present in the chamber. The technology in the Council Chamber, which has been a limiting factor, will now be updated.
- 1.4 The Council continues to operate in a challenging employment market, with roles previously done by two or more officers being picked up now by a single staff member. There is also difficulty in recruiting and retaining staff, particularly in professional fields such as planning.
- 1.5 It has been another busy year in terms of complaints against borough and parish councillors under the code of conduct, with 17 formal complaint cases and 20 individual complaints dealt with in the period from 1 January to 30 November 2023. These complaints are reviewed in Section 5 of this report.

2 The role of the monitoring officer

2.1 The Local Government and Housing Act 1989 requires local authorities to appoint a monitoring officer, giving that officer a broad role in ensuring the lawfulness of council decision-making and promoting good governance and high ethical standards. A summary of the monitoring officer's functions is as follows:

Description	Source
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
Report on sufficiency of resources.	Local Government and Housing Act 1989
Maintain the constitution.	Council constitution
Provide advice to members on governance, probity, vires issues, and questions concerning the budget and policy frameworks.	Council constitution
Consult with, support and advise the chief executive and chief financial officer on issues of lawfulness and probity.	Council constitution
Advise on whether executive decisions fall within the budget and policy framework.	Council constitution
Establish, publish and maintain the register of members' interests.	Localism Act 2011
Issue dispensations to members regarding disclosable pecuniary interests.	Localism Act 2011
Promote and maintain high standards of conduct.	Localism Act 2011
Undertake the assessment of complaints that a member may have breached the code of conduct.	Localism Act 2011
Act as legal advisor to the standards committee when carrying out a local determination hearing.	Localism Act 2011

3 Maintenance and review of the constitution

- 3.1 The constitution sets out how the council operates, including most essentially how authority is gained, delegated and exercised, and how decisions are made. It describes the procedures which are followed to ensure that decision-making is lawful, reasonable and fair, and that those who make decisions are accountable to local people. It provides clarity on the respective roles of members and officers, as well as how policy areas are divided between committees.
- 3.2 Following the switch to the committee model of governance, the Constitution Working Group has been reviewing the Council's update Constitution, with a view to correcting errors, providing greater clarity and generally improving on the Constitution as a living document.
- 3.3 The first set of proposed amendments to the Constitution were approved by Council in November and there will be further submissions to the Policy and Resources Committee and then Council in the coming months.

4 Lawful decision-making and good governance

- 4.1 The monitoring officer is the council's lead adviser on questions of lawfulness and the scope of the council's powers. In consultation with the other members of the Executive Management Team, I advise on compliance with the budget and policy framework. Part of this role involves monitoring reports, agendas and decisions to ensure compliance with legislation and the constitution.
- 4.2 At the heart of this work under the committee governance model is the agenda of, and reports and recommendations to committees. Committee reports and decisions are made publicly available for councillors either electronically or by way of a paper version. Committee decisions can also be viewed by members of the public through the council's website.
- 4.3 All heads of service receive draft agendas, and senior finance, HR and legal officers have the opportunity to comment on reports in the 'Implications' section. Items on the committee agendas are provided to SMT, enabling SMT to seek advice from the legal, S151 Officer or head of human resources as necessary. This process enables a robust set of recommendations and alternative options to be presented to committees for consideration and decision, while ensuring that cross-cutting implications are adequately assessed by specialist officers.
- 4.4 In cases where I consider that any proposal, decision or omission by the council would result in a breach of any enactment or the rule of law, or if any decision or omission has been found by an ombudsman investigation to have given rise to

maladministration causing injustice, as monitoring officer I am under a personal statutory duty to make a report on the matter to members. Any proposal that is subject to such a report cannot be implemented until the report has been considered. The sound governance processes operated by the council ensure that the obligation to report potentially unlawful decision-making rarely, if ever, arises at Swale. I issued no such reports during the year to 4 December 2023.

5 Ethical standards and the members' code of conduct

- 5.1 While robust and well-understood constitutional processes and procedures are an essential component of good governance, the importance of high standards of ethical conduct on the part of the individuals involved in decision-making on behalf of their communities cannot be overstated.
- 5.2 The council adopted a new code of conduct in February 2023, based on the LGA Model Code of Conduct. The Council has also adopted a Social Media Policy. The Standards Committee is also looking at an Officer Member Protocol. However, this is the subject of a separate agenda item at the standards committee meeting, and there I do not intend to deal with this in depth in this report.
- 5.3 The legally mandated registers of interests are available on the council's website, and both borough councillors and parish clerks are very familiar with how these work. The system for registering members' gifts and hospitality is now also fully operational. The key requirement and the key point of the rules on interests is that councillors should not act or take decisions in order to gain financial or other material benefits for themselves, their families or their friends. The declaration and resolution of personal interests should always be guided by this principle.
- 5.4 Most members will be aware that the law provides for the possibility for the monitoring officer to classify an interest as 'sensitive' if both I and the member concerned reasonably believe that its disclosure could lead to the member being subject to violence or intimidation. The effect of an interest being 'sensitive' is that details of it are redacted from the published register, although the fact that an interest exists still needs to be declared in the usual way.
- 5.5 In recent years, in response to increasing levels of intimidation and threats of violence against elected representatives, and in common I believe with most monitoring officers, I have taken a fairly liberal approach to the question of whether an interest is 'sensitive', and have been sympathetic towards members who are fearful of the consequences of having their interests – particularly their home addresses – published. I am always willing to discuss this with members.

Code of conduct cases 3 January 2023 and 30 November 2023

- 5.6 During the period covered by this report a total of 19 contacts were recorded as complaints (“complaints”), resulting from 15 separate incidents or alleged incidents (“complaint cases”). Last year these figures were 12 and 11 respectively. While this was a low number, by historical standards at Swale, it is nevertheless disappointing that this year’s figures represent a concerning, substantial increase in complaint cases over the previous year.
- 5.7 Of the 19 complaint cases, 15 related to borough councillors and the remaining 4 to parish councillors. Only 1 complaint was by a Borough Councillor against another Borough Councillor, which is an improvement on previous years. However, there were, as a result more complaints from members of the public and staff, which is not a positive trend.
- 5.8 In respect of borough councillors, 5 were the subject of a complaint during the year. Clearly this should in no way be interpreted to mean that this number of councillors had in fact breached the code of conduct. However, it is indicative of Councillors receiving multiple complaints.
- 5.9 Of the 19 complaint cases, only 1 resulted in a standards hearing, although there are 3 linked cases awaiting determination.
- 5.10 In the majority of cases, no further action was taken, due to a number of factors, including, the complainant ceasing to engage, absence of evidence, the subject member no longer being a Councillor or the matter not being in the public interest.
- 5.11 In 1 complaint case the subject councillor was determined not to have been acting in the capacity of a councillor at the time of the alleged conduct. Section 27 of the Localism Act 2011 makes it clear that the standards regime cannot be engaged by such conduct, although this provision has been the subject of some criticism in recent years, not least from the committee on standards in public life.
- 5.12 There are 5 complaint cases remaining open at the time of writing this report. Last year no cases were open at the end of the calendar year.
- 5.13 The two independent persons were appointed in 2017 under s28 of the 2011 Act to give their views on complaint cases, Patricia Richards and Christopher Webb. Both have remained in their roles, with an extension to their contracts to 2025. The ability to consult the independent persons on matters relating to complaints is a facility which I continue to find to be extremely valuable. I am very much indebted to Patricia and Christopher for their invariably wise and thoughtful counsel.

6 Officers' code of conduct

- 6.1 The constitution includes a code for employees, which contains a requirement to register interests. Officers are reminded of this requirement on regular basis. In response to an internal audit recommendation, a new IT system is now used, which improves the way that this process works and ensures that officers who should be able to consult the information are supported to do so.

7 Related party transactions

- 7.1 In accordance with the code of practice on local authority accounting in the United Kingdom, councillors and senior officers (those above a certain salary grade and those appointed by statute) are requested on an annual basis to complete and sign a declaration on related party transactions.
- 7.2 The declaration captures transactions between the council on the one hand and the individual, members of the individual's close family or household, or entities in which the individual or their close family or household has a controlling interest on the other. All declarations were satisfactorily completed and recorded for all current members by the end of May 2023 for the 2022/23 annual accounts.

8 Protected disclosures – the whistleblowing policy

- 8.1 The purpose of the council's whistleblowing policy is to enable employees to feel confident in making disclosures about potential wrongdoing by individual(s) in a position of authority within the organisation. It provides a mechanism for raising concerns without fear of victimisation, discrimination, disadvantage or dismissal.
- 8.2 Following agreement by the standards committee, a CSPL recommendation for local authorities to include the name and contact detail of the external auditor in their whistleblowing policies and on their websites was actioned in 2020.

9 Support to council and committee meetings

- 9.1 Ensuring that meetings are run efficiently, transparently and lawfully is central to good governance. In practice, this includes:
- Advertising public meetings at least five clear days before the meeting date, and ensuring that agendas are published and distributed in a timely manner;
 - Ensuring that agendas are compliant with regulations on access to

information, and that exempt information is properly marked up;

- Ensuring that papers are available to the public either through the website or from district offices and libraries;
- Ensuring that meetings are accessible to the public, whether attending in person or remotely; and
- Publishing minutes as soon as possible after the meeting.

9.2 From 3 January 2023 to 4 December 2023 the following meetings were serviced by the democratic services team:

Name of meeting	Count
Annual Council	1
Audit Committee	5
Community Committee	6
Council	7
Eastern Area Committee	4
Environment Committee	5
Extraordinary Council	1
Housing and Health Committee	5
Licensing Committee	3
Licensing Sub-Committee	10
Planning and Transportation Policy Working Group	3
Planning Committee	16
Planning Working Group	3
Policy and Resources Committee	8
Record of Officer Decision	1
Regeneration and Property Committee	6
South Thames Gateway Building Control	1
Sheppey Area Committee	4
Sittingbourne Area Committee	4
Standards Committee	2

Name of meeting	Count
Standards Hearing Sub-Committee	1
Swale Joint Transportation Board	4
Urgent Decisions	1
Western Area Committee	5
Total	106

- 9.3 These figures do not reflect the additional meetings administered by the democratic services team, including two external charities as well as pre-meetings and agenda-planning meetings.
- 9.4 The overall volume of meetings represents a substantial commitment of both members' and officers' time and resources, and it remains of great importance that meetings represent an effective and productive use of these.
- 9.5 It is worth emphasising that virtual or hybrid meetings may sometimes require the attendance of more democratic services officers, because of the risk of individuals' broadband connections failing and because of the assistance which is sometimes needed by members and the public in participating in the meeting. Democratic services are a small team of extremely dedicated officers who have worked tirelessly over the last 12 months to enable decision-making to keep going in a way that members and the public have been able to engage with. I am sure members share my sense of gratitude to them for their commitment, industriousness and consistently solutions-focused approach.

10 Member training and development

- 10.1 It is essential to good governance that members are supported in their roles to make robust, transparent and well-informed decisions for the good of the borough and its communities. The council has established a cross-party member development working group (MDWG) with support from democratic services to oversee and develop the provision of appropriate training for members.

11 Use of covert surveillance

- 11.1 Since April 2010, in accordance with the relevant codes of practice, the monitoring officer has been obliged to report the number of occasions on which the authority has used covert surveillance. No applications for such surveillance were made during the year to 4 December 2023.

12 Comments and conclusions

- 12.1 This has been another year of significant change for the council, with the promise of more change to come. For officers, the return to the office after the months of no face-to-face contact with colleagues has been welcome, and the initial response to the 34-hour working week has been positive.
- 12.2 The move to a committee system has provided more members with meaningful opportunities to influence decisions as they are being taken, but this remains a work in progress and the number of committees, meetings and reports was noted in the council's peer review.
- 12.3 The number of complaints made against borough councillors last year remained high. Further, the council's peer review reported a poor relationship between officers and members. In my view, this needs to be the focus of the committee's work in the next year.

13 List of appendices

- 13.1 There are no appendices.

14 Background papers

- 14.1 There are no background papers

This page is intentionally left blank

Standards Committee	
Meeting Date	18 December 2023
Report Title	Member-officer protocol
EMT Lead	Robin Harris - Monitoring Officer
Head of Service	
Lead Officer	
Classification	Open
Recommendations	<p>The standards committee is recommended to:</p> <ol style="list-style-type: none"> 1. Consider whether the draft protocol at Appendix I is fit for purpose and if not, propose amendments to the form, substance and structure. 2. Delegate the authority to the Monitoring Officer to make any final amendments to the text. 3. Recommend the final Member/Officer Protocol to Council for adoption.

1 Purpose of Report and Executive Summary

- 1.1 This report introduces a final draft version of a member/officer protocol, the substance for which was agreed at the standards committee meeting in September 2022. The protocol has now been subject to consultation by the Trade Union and staff. The report seeks the final views of standards committee members on the protocol, permission for the Monitoring Officer to make any last text amendments and proposes recommendation to Council for adoption.

2 Background

- 2.1 Most councils' constitutions include a member/officer protocol setting out the respective roles of members and officers and providing some elementary regulation of the relations between members and officers. While there is no legal requirement for councils to adopt such a protocol, Swale is unusual in not having one. Indeed the LGA Model Code of Conduct that Swale utilises, refers to a member/officer protocol.
- 2.2 There remains a heightened interest in, and focus on, member standards in Swale, particularly in the light of the negative findings of the Council's peer review, in respect of the member/officer relationship. It is therefore timely to bring forward this document which, it is hoped will have a positive effect on member/officer relations.

3 Proposals

- 3.1 Following the Standards Committee decision in September 2022 officers have consulted with EMT, SMT, CLT, the Trade Union and all staff.
- 3.2 The protocol was presented to EMT and CLT and then shared via email with Trade Union representatives and all staff. There were generally only minor issues raised. It is likely that the true test of the document will arise in the event that the protocol is adopted by Council and put into practical daily use. To that end, it is suggested that the Standards Committee consider a review of the operation of the protocol after 12 months of use have elapsed.
- 3.3 The standards committee is now asked to: **Consider** whether the draft protocol at Appendix I is fit for purpose and if not, propose amendments to the form, substance and structure.
- 3.4 The committee is asked to: **Delegate** the authority to the Monitoring Officer to make any final amendments to the text.
- 3.5 Finally, the committee is asked to: **Recommend** the final Member/Officer Protocol to Council for adoption.

4 Alternative Options Considered and Rejected

- 4.1 There is no obligation on the council to adopt a member/officer protocol, so the committee could choose to reject the proposed document. However, most councils do include a protocol along these lines in their constitutions as a means of regulating the relations between members and officers. There is no legally mandated format for these protocols, so the specific content is for Swale's members and officers to agree.

5 Consultation Undertaken or Proposed

- 5.1 The protocol has been before the standards committee, all staff and the trade union.

6 Implications

Issue	Implications
Corporate Plan	The idea of a member/officer protocol supports the council's fourth priority of 'Renewing local democracy and making the council fit for the future'.
Financial, Resource and Property	No implications identified at this stage.

Legal, Statutory and Procurement	There is no legal obligation to adopt a member/officer protocol, but equally there are no specific legal constraints on what a protocol can cover.
Crime and Disorder	No implications identified at this stage.
Environment and Climate/Ecological Emergency	No implications identified at this stage.
Health and Wellbeing	No implications identified at this stage.
Safeguarding of Children, Young People and Vulnerable Adults	No implications identified at this stage.
Risk Management and Health and Safety	No implications identified at this stage.
Equality and Diversity	No implications identified at this stage.
Privacy and Data Protection	No implications identified at this stage.

7 Appendices

7.1 The following documents are to be published with this report and form part of the report:

- Appendix I: First Draft Member/Officer Protocol

8 Background Papers

8.1 There are no background papers.

APPENDIX I: DRAFT MEMBER-OFFICER PROTOCOL

Protocol for Member/Officer Relations

1.0 Introduction

- 1.1 Mutual trust and respect between members and officers is core to the Council's governance strategy and working culture. It is an essential partnership necessary for the effective and successful operation of the Council.
- 1.2 The Member Code of Conduct states " *The public have high expectations of us and entrust us to represent our local area, taking decisions fairly, openly, and transparently. We have both an individual and collective responsibility to meet these expectations by maintaining high standards and demonstrating good conduct, and by challenging behaviour which falls below expectations.*" Therefore, this Protocol supplements the Member Codes of Conduct.
- 1.3 The Council has adopted Codes of Conduct for both officers and members. The Protocol also seeks to reflect the principles underlying the respective Codes of Conduct which apply to members and officers. The shared objective of these Codes is to enhance and maintain the integrity (real and perceived) of local government.
- 1.4 This Protocol guides members and officers of the Council in their relations with one another. Members and officers have a responsibility to act fairly, honestly, in good faith.
- 1.5 Given the variety and complexity of such relations, this Protocol does not seek to be either prescriptive or comprehensive. It seeks simply to offer guidance on some of the issues, which most commonly arise. It is hoped however, that the approach, which it adopts to these issues, will serve as a guide to dealing with other issues.
- 1.6 Members and officers must always respect the roles and duties of each other. They must show respect in all their dealings by observing reasonable standards of courtesy, and by not seeking to take unfair advantage by virtue of their position.

2 The Role of Members and Officers and Effective Relations

- 2.1 Members and officers are indispensable to one another and mutual respect between both is essential. It is important to recognise and take account of their different roles. This is necessary for the day-to-day

interaction between members and officers and for the public perception of the council by ensuring transparency between the political role of members and the professional, impartial, role of officers

- 2.0 Members provide a democratic mandate to the council, whereas officers contribute to the professional expertise needed to deliver the policy framework agreed by members.
- 2.1 Members are accountable to the electorate and serve only for as long as their term of office lasts whereas officers are employees of the council and accountable to it.
- 2.2 An officer's role essentially is to put policies into effect and organise the provision of services. Officers may also be delegated by members to make policy decisions. Officers may have to advise members from time to time that certain courses of action cannot be carried out. Officers, therefore, have a duty to give unbiased professional advice.
- 2.3 Ultimately, officers serve the Council as a whole and not any political group, combination of groups or any individual member. Nonetheless, officers may properly be called upon to assist the deliberations of political groups and to help individual members in their different roles.
- 2.6 Mutual respect and good communication are the key to establishing good member and officer relations.
- 2.7 Where a personal relationship has been disclosed, those concerned should avoid a situation where conflict could be perceived. Specifically, a member should not sit on a body or participate in any decision which directly affects the Officer on a personal basis.
- 2.8 In order to be effective, both members and officers should discuss and agree the values and behaviours they expect from each other in a relationship of mutual trust.
- 2.9 Members and officers should communicate clearly and openly avoiding ambiguity and the risk of misunderstanding.
- 2.10 Members and officers should work in a spirit of partnership, to turn the council's core values and priorities into practical policies for implementation.

2.11 Officers can expect from members:

- political leadership and direction.
- respect, dignity and courtesy.
- Not to be treated or considered as subordinate or subservient but a partner within their respective roles
- an understanding of and support for respective roles, workload and pressures.
- not to be subjected to bullying.
- not to be harassed or placed undue pressure.
- not to use their position or relationship with officers to advance their personal interests or those of others or to influence decisions improperly.
- to comply with the Member Code of Conduct.

2.12 Members can expect officers to:

- behave in a professional manner and courteous manner.
- To respect, have dignity and courtesy.
- maintain confidentiality.
- perform their duties effectively, efficiently and with political neutrality.
- avoid personal close familiarity with members and not use their relationship with members to advance their personal interests or to influence decisions improperly.
- report to their director any time that a member asks or pressurises the officer to deal with a matter outside of Council procedure or policy.
- demonstrate an understanding of and support for respective roles, workload and pressures.
- comply with the Officer Code of Conduct

Communication and Consultation		
Political (Members)	Collaboration (Together)	Operational (Officers)
<p>Being clear about the Council's priorities</p> <p>Understanding people's concerns</p> <p>Signalling political change</p>	<p>Prioritisation taking account of aims and constraints.</p> <p>Understanding and responding to community concerns</p> <p>Focus on the positive</p> <p>Promoting community interaction and leveraging community action</p>	<p>Options and platforms for consultation and communication</p> <p>Managing and facilitating the change (meetings in the community etc)</p>
Political (Members)	Partnership Working Collaboration (Together)	Operational (Officers)
<p>Understanding that councillors have a community leadership role that goes beyond the Council's services</p> <p>Be clear about what we can and cannot do (and what we are responsible for)</p> <p>Provide the political willingness to work in partnership and understand this may involve some loss of control/sovereignty</p>	<p>Agree services to be delivered in partnership</p> <p>Sign up to the aims and ambitions of the partnership</p> <p>Facilitate 'connectivity' – e.g. with parish and town councils, VCS</p> <p>Leveraging capacity from partnerships and communities</p>	<p>Being clear about the resource required to lobby or undertake work on behalf of a partner</p> <p>Resource and service partnerships as required</p>

Political (Members)	Governance Collaboration (Together)	Operational (Officers)
Provide a political steer on political architecture and decision-making	Understand, oversee and approve key control mechanisms	Advise on what is required to meet statutory obligations and ensure they are met
Providing a political steer on appetite for risk	Set the approach to risk and be clear on the appetite for it	Set and manage departmental budgets and operational risks
	Work together on a realistic and deliverable budget	

3 **Officer Impartiality and Undue Pressure**

- 3.1 Members must not do anything which compromises or is likely to compromise officers' impartiality.
- 3.2 The Council operates through a system of groups of councillors, based on political affiliation. All Officers must, in their dealings with political groups and individual Members, treat them in a fair and even-handed manner. Officers must at all times, maintain political neutrality (see para' 17 [Officer Code of Conduct](#))
- 3.3 The support provided by officers can take many forms, ranging from the meeting with a Chairman and Vice-Chairman before a committee meeting to a presentation to a full political group meeting. Officers will provide support and advice to the executive, scrutiny and regulatory functions of the Council. Officers will also provide advice and assistance to individual members in respect of Council business, including issues raised by constituents.
- 3.4 Officers, therefore, must ensure that there is no conflict of interest in their advice or conduct.
- 3.5 Whilst in practice such support is likely to be in most demand from whichever political group is for the time being in control of the Council, it should be available to all political groups. The advice given by officers to different political groups should be consistent.
- 3.6 Members must respect officers' impartiality.

- 3.7 [The LGA Members Code of Conduct states](#), paragraph 3, *“Officers work for the local authority as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. Members can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, members must not try and force officers to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity”*.
- 3.8 Therefore, a member should not apply undue pressure on an officer to do anything which he/she is not empowered or authorised to do, or which is against the officer’s professional judgement, or to undertake work outside normal duties or normal hours (other than within accepted working patterns, e.g. evening meetings). Members should be aware that to exert pressure improperly on an officer in this way may be a breach of the Council's Code of Conduct for Members.
- 3.9 Similarly, an officer must neither seek to use undue influence on an individual member to decide in her/his favour nor raise personal matters to do with her/his job nor make claims or allegations about other employees. The Council has formal procedures for consultation, grievance and discipline set out in [Part 4.1 Members' Code of Conduct](#).

4 Service Standards

- 4.1 Officers and members will do their best to give timely responses to enquiries from one another. This will be in accordance with the minimum service standards. Enquiries should be responded to in no later than 10 working days unless a holding response, setting out the reasons for delay is given. However, neither officers should not have unreasonable requests placed on them.

5.0 Confidentiality and access to information

- 5.1 [The Officers Code of Conduct](#) emphasises importance of maintaining confidential information. For example, officers will provide advice and information to members on declarations of interests. However, members will know the nature and extent of any interest they may have. It is the member’s responsibility, therefore, to decide whether any interest should be declared. Officers must, when requested to do so, respect members’ confidentiality when providing advice on declarations of interest but may otherwise draw to a members’ attention the need to declare a known interest.

- 5.2 Officers are reminded that the misuse of confidential information is a breach of the Officers Code of Conduct; thus, regarded as a disciplinary offence.
- 5.3 Any Council information provided to a member must only be used by the member for the purpose for which it was provided i.e. in connection with the proper performance of the member's duties as a member of the Council.
- 5.4 Officers should make it clear to members if they are giving them confidential information. If a member is not sure whether information is confidential, he or she should ask the relevant officer, but treat the information as confidential in the meantime.
- 5.5 Each member has the right to inspect and have copies of the reports, minutes and background papers relating to the public part of any Council, Panel or Committee agenda. This is set out in [Part 3.2 Access to Information Procedure Rules](#)
- 5.6 [The Members Code of Conduct](#), states "*[members] Behaving in accordance with all our legal obligations, alongside any requirements contained within this authority's policies, protocols and procedures, including on the use of the Authority's resources.*" Accordingly, members are expected to comply with Paragraph 10, [Part 3.2 Access to Information Procedure Rules](#) members do not have an automatic right of access to all documents relating to confidential or "Exempt" items on the agenda. These might include, for instance, information relating to employees, occupiers of council property, applications for grants, contracts, industrial relations negotiations, legal advice and criminal investigations.
- 5.7 In respect of such confidential information, members will normally receive, or have access to all papers unless they are of particular sensitivity. A member may have access to such sensitive documentation insofar as it is reasonably necessary to enable them to properly perform their duties as a member of the Council. The relevant question to be asked is whether they need to know the information to perform such duties.
- 5.8 Any Council information provided to a member must only be used by the member in connection with the proper performance of the member's duties as a member of the Council. Confidential information should not be disclosed, discussed with or released to any other persons. Such disclosure would be a betrayal of trust.

- 5.9 Members should never disclose or use confidential information for the personal advantage of themselves or of anyone known to them, or to the disadvantage or the discredit of the Council or anyone else.
- 5.10 Any confidential information provided to members should be clearly marked as such prior to its provision.
- 5.11 Further advice regarding members' rights to inspect Council documents may be obtained from the Monitoring Officer.

6.0 Officer relations with specific members

- 6.1 The working relationship between senior officers and the Leader/Committee Chairman will be particularly close. Committee Chairman will have broad-ranging responsibilities. Officers may provide briefing notes, advice and information to the Committee Chairman in respect of reports or questions at Panel, Committee and Council Meetings. This relationship, however, must not:
- compromise officers' duties to all members of the Council;
 - be so close as to give the appearance of partiality on the part of the officer;
 - undermine the confidentiality of any discussions that officers are privy to;
 - compromise officers' professional responsibility to advise members that a particular course of action should not be pursued;
 - abrogate officer responsibility for action taken under delegated powers.
- 6.2 Committee Chairmen are recognised as the legitimate elected spokesperson on their committees' areas of responsibility. Where authority is delegated to officers (under the Scheme of Delegations to Officers), they will often wish to consult the relevant Chairman about the action which they propose to take, but the responsibility for the final decision remains with the officer who is accountable for it.

7.0 Officer attendance at political group meetings

- 7.1 Officer advice and support will be provided to: -
- Council Meetings;
 - Meetings of any Committees established by the Council;
 - Meetings of Committees/Sub-Committees and Panels;
 - Working Parties/Forums, etc.;
 - Chairmen/Vice-Chairmen of Committees and Panels;
 - All Members of Council on Council business

- 7.2 Senior officers may be invited to attend political group meetings. The Chief Executive will decide whether such attendance may take place. If it is agreed that an officer can attend a political group meeting, the Chief Executive will inform the other group leaders and offer a similar facility.
- 7.3 Officer attendance at group meetings must be approved in advance, by the relevant Director.
- 7.4 Officer support will not extend beyond providing factual information or professional advice in relation to matters of Council business.
- 7.5 Officers will not be involved in advising on matters of party business, and therefore should not be expected to be present at meetings or parts of meetings when such matters are to be discussed.
- 7.6 Political group meetings are not empowered to make decisions on behalf of the Council, and conclusions reached at such meetings do not rank as formal Council decisions. The presence of an officer confers no formal status on such meetings in terms of Council business and must not be interpreted as doing so. Where officers provide factual information and advice to a political group in relation to a matter of Council business, this is not a substitute for providing all the necessary information and advice when the matter in question is formally considered by the relevant committee of the Council.
- 7.7 It must not be assumed that an officer is supportive of a particular policy or view considered at a political group meeting simply because they have attended or provided information to the meeting.
- 7.8 Officers will respect the confidentiality of any political group discussions at which they are present and, unless requested to do so by that political group, will not relay the content of such discussions to another political group or to other Members. This will not prevent an officer providing feedback to other officers on a need-to-know basis. Factual information upon which advice is based will, if requested, be available to all political groups.
- 7.9 The duration of an officer's attendance at a political group meeting will be at the discretion of the group, but an officer may leave at any time if they feel it is no longer appropriate to be there.
- 7.10 An officer accepting an invitation to any one political group meeting will not decline an invitation to advise another group about the same matter.

- 7.11 Officers should be given the opportunity of verifying comments and advice attributed to them in any written record of a political group meeting.
- 7.12 No member will refer in public or at meetings of the Council, to advice or information given by officers to a political group meeting.
- 7.13 At political group meetings, where some of those present are not members of the Council, care must be taken not to divulge confidential information relating to Council business.
- 7.14 Special care needs to be exercised whenever officers are involved in providing information and advice to a meeting of a political group which includes persons who are not members of the Council. Such persons will not be bound by the codes of conduct [for members and employees] (in particular, the provisions concerning the declarations of interest and confidentiality) and for this and other reasons, officers may not be able to provide the same level of information and advice as they would to a members only meeting.
- 7.15 Should any difficulty or uncertainty arise in the area of officer advice to political groups, this will be raised with the relevant Director, who should discuss the matter with the group leader.

8.0 Friendships/relationships between members and officers

- 8.1 Informal and collaborative two-way contact between members and officers is encouraged, but personal familiarity can damage the relationship, as might a family or business connection.
- 8.2 Members and officers should always be open about their relationships to avoid any reason for suspicion and any appearance of improper conduct. Close personal familiarity should be avoided; i.e. 'be friendly, but don't be friends'.
- 8.3 Members and officers should inform the Monitoring Officer of any relationship which might be seen as unduly influencing their work in their respective roles.

9.0 Use of council resources and facilities

- 9.1 The only basis on which the Council can lawfully provide support services to members (e.g. stationery, typing, printing, photocopying,

transport, computers etc), is to assist them in discharging their role as members of the Council.

9.2 Members should not approach or pressure staff to carry out duties or provide resources or support in a biased or partisan way. Examples are:

- business which is solely to do with a political party;
- work in connection with a ward or constituency party political meeting;
- electioneering;
- work associated with an event attended by a member in a capacity other than as a member of the Council;
- private personal correspondence;
- work in connection with another body or organisation where a member's involvement is other than as a member of the Council; and
- support to a member in his/her capacity as a councillor of another local authority.

10. Criticism and complaints

10.1 Members and officers must conduct themselves in a way that is acceptable within a professional environment. They must afford dignity, trust and respect to everyone and themselves. They must have awareness of the effect of their behaviour on others and only make reasonable and manageable demands.

10.2 Members and officers must not conduct themselves in an unacceptable manner. [The Members Code of Conduct](#) states:

" Valuing my colleagues and staff and engaging with them in an appropriate manner and one that underpins the mutual respect between us that is essential to good local government.

Always treating people with respect, including the organisations and public I engage with and those I work alongside".

10.3 In line with the above, [LGA model of Code of Conduct](#) , at paragraph 2, explicitly states members must not bully, harass or discriminate.

10.4 Bullying is characterised as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face on social

media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others. Examples of bullying include but are not limited to:

- verbal abuse, such as shouting, swearing, threats, insults, sarcasm, ridiculing or demeaning others, inappropriate nicknames, or humiliating language
- physical or psychological threats or actions towards an individual or their personal property
- practical jokes
- overbearing or intimidating levels of supervision, including preventing someone from undertaking their role or following agreed policies and procedures
- inappropriate comments about someone's performance
- abuse of authority or power, such as placing unreasonable expectations on someone in relation to their job, responsibilities, or hours of work, or coercing someone to meet such expectations
- ostracising or excluding someone from meetings, communications, work events or socials
- sending, distributing, or posting detrimental material about other people, including images, in any medium
- smear campaigns.

10.5 Bullying behaviour should be contrasted with the legitimate challenges which a member can make in challenging policy or scrutinising performance. An example of this would be debates in the chamber about policy or asking officers to explain the rationale for the professional opinions they have put forward. Members are entitled to challenge fellow councillors and officers as to why they hold their views. However, if the criticism is a personal attack, threat, unsubstantiated allegation, abusive or offensive in nature, members are likely to cross the line of what is acceptable behaviour.

10.6 Harassment is conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person. Examples of harassment include but are not limited to:

- sending unwelcome emails
- unnecessarily repetitive, intrusive questioning

- unwelcome physical contact such as touching or invading 'personal space'
- haranguing
- intimidation
- inappropriate remarks or questioning such as comments about someone's appearance, lewd comments, and offensive jokes
- overbearing or intimidating levels of supervision, including preventing someone from undertaking their role or following agreed policies and procedures
- inappropriate comments about someone's performance
- placing unreasonable expectations on someone in relation to their job, responsibilities, or hours of work, or coercing someone to meet such expectations
- sexual harassment

There is not an exhaustive list of acts of harassment that may constitute a criminal offence. Examples may include, but are not limited to physical assault:

- making violent or death threats
- stalking
- hate crimes
- sexual harassment

10.7 Unlawful discrimination is where someone is treated unfairly because of a protected characteristic e.g. age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. Examples of discriminatory behaviour include but are not limited to:

- exclusion or victimisation based on the Protected Characteristics
- treating someone less favourably or limiting their opportunities based on any of the Protected Characteristics
- comments, slurs, jokes, statements, questions, or gestures that are derogatory or offensive to an individual's or group's characteristics
- promoting negative stereotypes relating to individual's or group's characteristics
- racial or ethnic slurs, insults, or jokes
- intolerance toward religious customs
- mimicking, mocking, or belittling a person's disability
- homophobic, biphobic or transphobic comments or slurs

- discriminating against pregnant people or mothers
 - declaring ('outing') someone's religion or sexuality or threatening to do so against their will
 - deliberate, unwarranted application of an authority's practice, policy or rule in a way that may constitute indirect discrimination
 - instructing, causing, inducing, or knowingly helping someone to commit an act of unlawful discrimination under the Equality Act 2010.
- 10.8 Members and officers personality and life experiences will naturally incline them to think and act in certain ways. They may form views about others based on those experiences, such as having an affinity with someone because they have a similar approach to life or thinking less of someone because they are from a different generation. This is known as "unconscious bias" and it can lead people to make decisions based on biases or false assumptions. Members need to be alert to the potential of unconscious bias and ensure they make decisions based on evidence, and not on assumptions they have made based on biases.
- 10.9 Members must not intimidate or attempt to intimidate any officer who is likely to be a complainant, a witness, or involved in the administration of any investigation or proceedings relating to a failure to comply with the Member Code of Conduct.
- 10.10 A Member who is unhappy about the actions taken by, or conduct of, an officer should:
- avoid personal attacks on, or abuse of, the Officer at all times;
 - ensure that any criticism is well founded and constructive;
 - never make a criticism in public;
 - take up the concern with the officer privately. If direct discussion with the officer is inappropriate (e.g. because of the seriousness of the concern) or fails to resolve the matter, the member should raise the issue with the officer's manager or the relevant Director.
- 10.11 Members and officers should not criticise or undermine respect for the other at meetings of the Full Council, Committee or Sub-Committees, or in any public forum.
- 10.12 Members should not raise matters relating to the conduct or capability of an individual officer or officers collectively at meetings held in public. officers should observe the same rule in respect of Members.
- 10.13 If a member believes that they have not been treated with proper courtesy or has a concern about the conduct or capability of an officer, then they should raise the matter confidentially with the Chief Executive

or relevant Director who may utilise the Council's formal disciplinary procedures if this is considered appropriate. If the member is still not satisfied with the action that has been taken, then they may raise the matter confidentially with the Chief Executive, or a Director if the Chief Executive considered the original concern, who will look into the matter afresh. If they believe that there is a case to answer, then they may utilise the Council's formal disciplinary procedures. If the Chief Executive/Director suggests no action they will inform the member and relevant Group Leader of this.

- 10.14 If an officer feels that they have not been treated with respect or is concerned about any action or statement relating to themselves or a colleague by a member, or the conduct of a member, they should raise the matter with their line manager. If they are not satisfied with any action that has been taken as a result, they should raise the matter with the Chief Executive or their Director. If the Chief Executive or Director is of the opinion that the member has acted in breach of the Members' Code of Conduct, they should make a complaint to the Monitoring Officer.

11. Oversight, breaches and further advice

- 11.1 The Executive Management Team and Standards Committee oversees compliance of this Protocol.
- 11.2 If a member believes an officer may have acted other than in accordance with this Protocol, he/she should raise their concern with the relevant Director who will consider how the complaint or allegation should be dealt with. A breach of this Protocol by an Officer may lead to an investigation under the Council's Disciplinary Policy and Procedure.
- 11.3 If an officer believes a member may have acted other than in accordance with this Protocol, he/she should raise their concern with the Monitoring Officer who will consider how the complaint or allegation should be dealt with. At a minor level, this may be no more than informally referring the matter to the Leader of the relevant party group. More serious complaints may result in an investigation and a hearing before the Hearing Panel.
- 11.4 Further advice or clarification can be sought from the Monitoring Officer or the Head of Legal Partnership.