

AGENDA

STANDARDS COMMITTEE MEETING

Date: Tuesday, 14 November 2017

Time: 7.00 pm

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

Membership:

Councillors Tina Booth, Lloyd Bowen (Vice-Chairman), Derek Conway, Duncan Dewar-Whalley (Chairman), Paul Fleming, Sue Gent, Alan Horton, Ken Ingleton, Padmini Nissanga, Ben Stokes and Roger Truelove.

Quorum = 3

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

Kent Association of Local Councils representatives (non-voting): To be confirmed

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- Pages
1. Emergency Evacuation Procedure

The Chairman will advise the meeting of the evacuation procedures to follow in the event of an emergency. This is particularly important for visitors and members of the public who will be unfamiliar with the building and procedures.

The Chairman will inform the meeting whether there is a planned evacuation drill due to take place, what the alarm sounds like (i.e. ringing bells), where the closest emergency exit route is, and where the second closest emergency exit route is, in the event that the closest exit or route is blocked.

The Chairman will inform the meeting that:

 - (a) in the event of the alarm sounding, everybody must leave the building via the nearest safe available exit and gather at the Assembly points at the far side of the Car Park; and
 - (b) the lifts must not be used in the event of an evacuation.

Any officers present at the meeting will aid with the evacuation. It is important that the Chairman is informed of any person attending who is disabled or unable to use the stairs, so that suitable arrangements may be made in the event of an emergency.
 2. Apologies for Absence and Confirmation of Substitutes

3. Minutes

To approve the Minutes of the Meeting held on 1 November 2016 (Minute Nos. 984 - 989) as a correct record.

4. Declarations of Interest

Councillors should not act or take decisions in order to gain financial or other material benefits for themselves or their spouse, civil partner or person with whom they are living with as a spouse or civil partner. They must declare and resolve any interests and relationships.

The Chairman will ask Members if they have any interests to declare in respect of items on this agenda, under the following headings:

(a) Disclosable Pecuniary Interests (DPI) under the Localism Act 2011. The nature as well as the existence of any such interest must be declared. After declaring a DPI, the Member must leave the meeting and not take part in the discussion or vote. This applies even if there is provision for public speaking.

(b) Disclosable Non Pecuniary (DNPI) under the Code of Conduct adopted by the Council in May 2012. The nature as well as the existence of any such interest must be declared. After declaring a DNPI interest, the Member may stay, speak and vote on the matter.

(c) Where it is possible that a fair-minded and informed observer, having considered the facts would conclude that there was a real possibility that the Member might be predetermined or biased the Member should declare their predetermination or bias and then leave the room while that item is considered.

Advice to Members: If any Councillor has any doubt about the existence or nature of any DPI or DNPI which he/she may have in any item on this agenda, he/she should seek advice from the Monitoring Officer, the Head of Legal or from other Solicitors in Legal Services as early as possible, and in advance of the Meeting.

Part B Report for the Standards Committee to decide

5. Annual Monitoring Officer Report

6. Annual Report on Member Training and Development

Issued on Monday, 6 November 2017

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 on 01795 417330**. To find out more about the work of the Standards Committee, please visit www.swale.gov.uk

Standards Meeting	
Meeting Date	14 November 2017
Report Title	Annual Monitoring Officer Report
Cabinet Member	Not applicable for this report
SMT Lead	Donna Price, as Monitoring Officer
Head of Service	Not applicable
Lead Officer	Donna Price, Monitoring Officer
Key Decision	No
Classification	Open
Recommendations	<ol style="list-style-type: none">1. That the Standards Committee notes this report.2. That there be no further action to review the Code of Conduct at the present time.3. That the Hearing Sub Committee procedure be reviewed.

1 Purpose of Report and Executive Summary

- 1.1 This is my first annual report, as Monitoring Officer for Swale Borough Council having been appointed to the position on 1 February 2017. It provides:
- an overview of Monitoring Officer work in the past year
 - an opportunity to review and learn from experience
 - a wider context to the importance of good ethical behaviour.
- 1.2 Since becoming Monitoring Officer I have appointed Robin Harris as my deputy. In addition, it has been necessary to advertise and appoint to the role of Independent Person. To ensure resilience a decision was made to advertise for two individuals and following successful interviews the appointment of Patricia Richards and Christopher Webb was agreed by Council on 20 September 2017 for a period of four years to 30 September 2021.
- 1.3 This report therefore sets out the Monitoring Officer's statutory responsibilities and summaries how several of these duties have been discharged since I was appointed. It draws Members' attention to some of the more significant developments.

- 1.4 The report reflects upon a further year from November 2016 of the operation of the new standards provisions since the Localism Act 2011 became effective.
- 1.5 Overall, it shows that the year to end October 2017 has been one of our busiest in terms of hearings and complaints received, however, the position has remained relatively stable with any emerging issues being identified and dealt with appropriately.

2 The Role of Monitoring Officer

- 2.1 The role of the Monitoring Officer derives from the Local Government and Housing Act 1989. The Act requires local authorities to appoint a Monitoring Officer. The Monitoring Officer has a broad role in ensuring the lawfulness and fairness of Council decision-making, ensuring compliance with Codes and Protocols, 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
Appoint a Deputy.	Local Government and Housing Act 1989
Report on sufficiency of resources	Local Government and Housing Act 1989
Maintain the Constitution	The Constitution
Consulting with, supporting and advising the Head of Paid Service and Chief Finance Officer on issues of lawfulness and probity.	The Constitution
Advice on whether executive decisions are within the budget and policy framework	The Constitution

Provide advice on vices issues, maladministration, financial impropriety, probity Budget and Policy Framework issues to all members.	The Constitution
Establish, publish and maintain the Register of Members' 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
Legal Advisor to the Standards Committee when carrying out a local Determination Hearing	Localism Act 2011
Issuing Dispensations to Members regarding disclosable pecuniary interests	Localism Act 2011

3 Constitutional Review and Revision

3.1 The Constitution sets out how the Council operates and how decisions are made. It contains the procedures which are followed to ensure that these decisions are efficient, transparent and that those who make the decisions are accountable to local people. The Monitoring Officer is the guardian of the Council's Constitution and is responsible for ensuring that the Constitution operates efficiently, proportionately, is properly maintained and is adhered to.

3.2 The last review of the Constitution took place in October 2016, however, due to changes in personnel and structure there is a need for the Constitution to be amended to reflect these changes. I am currently undertaking a review of the Constitution and will be meeting with relevant Officers and Members where necessary to discuss any proposed amendments before taking a report to the General Purposes Committee. Key areas of the review will include, but will not be limited to:

- Delegations to Officers and Proper Officer Functions
- Processes for dealing with exceptional matters involving confidential material
- Reviewing the hearing process including the procedure for election of Chairman with regards to the Standards Hearing Sub Committee.

3.3 In terms of good governance the following concepts remain valid in making sure

that the Constitution is designed to promote:

- taking informed, transparent decisions and managing risk
- engaging stakeholders and making accountability real
- members & officers working together to achieve a common purpose with clearly defined functions and roles
- effective leadership throughout the Council and being clear about the executive, non-executive and scrutiny functions and the respective roles and responsibilities
- positive relationships between members and the local community including the voluntary and community sector must be clear so each knows what to expect of each other and what to do when things go wrong
- the Council's culture is open and outward facing with a clear focus on the needs of local communities
- Good, fair, decision making on merit and not influenced by personal or private interests

3.4 Equally it is important for there to be some external validation of the governance arrangements. I would draw attention to the following report.

3.5 In September 2017, the Council's external auditors Grant Thornton provided its Audit Findings for Swale Borough Council. This was considered in detail by the Audit Committee. The Council again received an unqualified audit and value for money opinion. The external auditors commented:

“the Council's financial statements have again been produced to a very high standard.”

and

“we are satisfied that, in all significant respects, the Council had proper arrangements in place to secure economy, efficiency and effectiveness in its use of resources.”

3.6 This reflects extremely well on the organisation's governance procedures and the work of the finance team supported by all managers.

4 Lawfulness and Maladministration

4.1 The Monitoring Officer is the Council's lead adviser on issues of lawfulness and the Council's powers and, in consultation with the Head of Paid Service and Chief Financial Officer, advises 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. At the heart of this work is the agenda of and reports to the Cabinet. Cabinet reports and decisions are made

publicly available for councillors either electronically or by way of a paper version. Cabinet decisions can also be viewed by Members of the public through the Council's website: www.swale.gov.uk.

- 4.2 The Cabinet has met on 9 occasions since November 2016. In each case the Strategic Management Team has reviewed the agenda and associated draft reports. This clearance process is an important part of ensuring corporate working in an effective Council and provides a vital opportunity to discuss aspects of reports or decisions that require 'buy-in' from, or have implications across, services.
- 4.3 All Heads of Service receive draft agendas and Finance, HR and Legal officers have the opportunity to contribute to reports under 'Implications'. Strategic Management Team reviews the Forward Plan as a standing item on its agenda and seeks advice from the Head of Human Resources, Head of Finance and the Head of Legal as appropriate. This enables Strategic Management Team to review early in the process reports to be presented to the Cabinet. This has enhanced earlier input and through informal working with the Cabinet has ensured that a clear set of recommendations are presented to the Cabinet for consideration and decision.
- 4.4 Ultimately, if the Monitoring Officer considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration a report must be submitted to the Full Council or, where appropriate, the Cabinet after first consulting with the Head of Paid Service and Chief Financial Officer. Any proposal or decision that is subject to such a report cannot be implemented until the report has been considered.
- 4.5 The sound governance arrangements, processes and procedures operated by the Council ensure that the power to report potentially unlawful decision-making is rarely, if ever, used. The Monitoring Officer has not had to issue such a report.

5 Good Governance and the Code of Conduct

National Context

- 5.1 In July this year I attended the Annual Standards Conference at which it became apparent that nationally the same frustrations are shared by all Monitoring Officers in that the Localism Act does not provide councils with sufficient tools to be able to effectively uphold the Code of Conduct. This is especially the case in relation to Parish Councils who can choose to ignore any recommendations made by the Monitoring Officer or the Standards Hearing Sub-Committee. The argument that the ballot box will decide is clearly flawed as for the majority of Parish Councils the election is uncontested, therefore, the same councillors continue in their role without challenge.

- 5.2 Having heard about the issues that led to the need for Government Intervention at the London Borough of Tower Hamlets from Graham White, the Acting Corporate Director for the period August 2016 – July 2017 followed by the reflections by Dave Shepperd, Monitoring Officer of Plymouth City Council on what happens when a breach of the Code of Conduct goes global it made me appreciate the overall high standards of conduct that that are demonstrated by most Borough and Parish Councillors in the Swale area.
- 5.3 There was a session providing an update on current law and emerging case law which is of particular interest to Monitoring Officers, a summary of which is set out below:

Taylor v Honiton Town Council and East Devon District Council (2016)

Facts: Cllr Taylor published comments about the Honiton's Town Clerk concerning a loan extension from the Public Loan Works Board accusing the clerk of illegality in connection with the loan and investment in a conspiracy to use the money for an improper purpose.

East Devon District Council, as the principal authority, determined that Cllr Taylor had failed to treat the Town Clerk with respect and imposed sanctions, namely, censuring Cllr Taylor, publishing it's findings and requiring Cllr Taylor to undergo training on the Code of Conduct.

Honiton Town Council imposed the sanctions recommended by East Devon, however, they also applied additional measures until the training requirement had been fulfilled.

Cllr Taylor challenged Honiton's decision for illegality and procedural unfairness.

Findings: It was held that the Localism Act gives decision making power to the principal authority and requires it to have arrangements for the exercise of that power in place to investigate and determine any breach of parish codes of conduct. It would therefore be a nonsense of that scheme if the parish council were able to take its own decisions without having those in place. The whole point of the scheme is to remove decision making powers and duties from very small authorities which do not have the resources to manage them effectively and who may be so small that any real independence is unattainable.

Decision: East Devon's decision both as to breach and sanction was lawful, however the Parish Council cannot impose sanctions over and above those recommended by the principal authority.

Dedman v ICO 2016

Facts: 'C', then chair of Hickling Parish Council, was quoted in a local newspaper as saying a local charity had shown no desire to negotiate a new

constitution and “they don’t want to make changes to the constitution to protect the village asset and it’s very sad”. A resident then complained to North Norfolk’s monitoring officer that C had made factually inaccurate comments and deliberately misled readers, amounting to a breach or breaches of the Councillors’ Code of Conduct.

North Norfolk’s monitoring officer appointed an external solicitor to investigate the complaint. She submitted a draft final report for North Norfolk’s standards committee after C had ceased to be a councillor, the chair having lost her seat in the election of May 2015. The monitoring officer decided that there was “no public benefit” in taking the matter further because C was no longer a serving councillor.

When another resident requested a copy of the draft report, North Norfolk refused – relying on s. 40(2) FOIA – on the grounds that the draft contained personal data about C who no longer held a public position. The dispute then reached the Information Commissioner’s Office, which accepted C would have had a legitimate expectation that the details of the investigation would remain confidential, North Norfolk’s policy was that draft standards investigation reports were not shared with persons who were not parties to the complaint, and the prejudice to C’s interests outweighed any legitimate public interest in disclosure. The complainant then appealed to the Information Rights Tribunal.

Findings: The Tribunal agreed that there was no doubt that the report contained the personal data of C and that there was no practical possibility of editing it so as to avoid the disclosure of such data. However, the tribunal added: “There is plainly a strong public interest in the disclosure of findings as to the conduct of the chair of a parish council when performing her public duties. That is especially the case where a complaint has been made that she misled a newspaper and its readers, including her local parishioners, as to important matters relating to a controversial local issue. There is a danger that the withholding of a report may encourage the suspicion that its findings are adverse to the subject, whether or not that is, in fact, the case.”

The Tribunal stated that such transparency is essential to the maintenance of proper standards in public life, whether or not the subject of the complaint remains in office and if this were this not so “a delinquent public officer, faced with a draft report containing serious criticism of his/her conduct, could simply prevent disclosure by timely resignation”. In addition, there was a realistic possibility that C would again seek election to the parish council or another public authority in the future.

Decision: The tribunal concluded that disclosure of the draft report was not unfair and North Norfolk was not entitled to rely on the s.40(2) exemption.

Hussain v Sandwell Metropolitan Borough Council 2017

Facts: The claimant was alleged to have procured the sale of Council assets to family friends at a substantial undervalue. He was also alleged to have used his power and influence as a senior politician within the Council to have parking

tickets issued to his family expunged.

The Council's Audit Committee conducted a 'pre-formal investigation' under the Local Government Act 1972 to determine whether the allegations had substance and if so to decide on next steps. Counsel was appointed and they advised that there was a serious case to be met and that the Localism Act processes for breach of the Code of Conduct be initiated.

The claimant challenged the power of the Council to conduct both formal and informal investigations of alleged wrongdoing by members; that the investigation was ultra vires since there was no power to investigate alleged misconduct before the Localism Act took effect and that the Investigating Officer had predetermined the outcome and usurped the adjudicatory functions of the Standards Committee.

The Court of Appeal granted leave for Judicial Review to stay the investigation.

Findings: The Court's view was that there was ample power under both the LGA 1972 and the Localism Act 2011 to carry out pre-formal investigations and a council is entitled to investigate in order to find out whether a prima facie case exists and for them to receive advice as to the appropriate next steps. In addition, it was found that the current standards framework could be used to investigate historic allegations and that the report of the Independent Person could not predetermine findings as the author of the report was not a decision maker.

Decisions: Court concluded that there is a powerful public interest in the allegations being fully and fairly investigated, therefore, the stay in proceedings was lifted.

- 5.4 The lack of any real sanction or appetite to prosecuting under the Localism Act 2011 is supported by the fact that since its implementation there has been only one prosecution in relation to an elected member participating in a discussion and vote without reasonable excuse despite having a Disclosable Pecuniary Interest (DPI), details of which are set out below:

R v Flower

Facts: Cllr Flower listed as a pecuniary interest a non-executive directorship of a housing charity, for which he received remuneration payments. He was present at a meeting about the proposed East Dorset Core Strategy and voted at the meeting. The housing charity had responded to a consultation about the Core Strategy and owned land which was being considered for development through the Core Strategy. Cllr Flower had previously attended a meeting of the charity at which the long-term future of the land had been considered. He was charged with an offence under the Localism Act 2011 for participating in a discussion and vote without reasonable excuse despite having a DPI in a matter being considered.

Findings: Cllr Flower was guilty of the offence. His defence was that the matters discussed at the meeting were of a broad nature and did not concern detailed issues of planning and ownership did not amount to 'reasonable excuse'. It was not right that the Core Strategy had no relevance to pecuniary matters, and it was not a defence that he did not obtain any direct benefit from the vote. The judge held that it would have been reasonable for him to have consulted the Monitoring Officer and could have gained a dispensation. He was under a duty not to participate and vote. The judge noted that Cllr Flower was of good character and the court received a number of character references speaking highly of his abilities, his conscientiousness and his years of public service.

Decision: Conditional discharge for six months and an order to pay £930 in costs.

5.5 The increased use of social media has continued to raise issues throughout the country and there is continuing debate on whether matters on social media fall outside the Code of Conduct. Guidance on this has previously been given to councillors and my view is that each case would need to be considered on its merits particularly the capacity in which the social media was being used.

5.6 The following two cases have previously been provided as part of the Monitoring Officer's annual report, however, I have reproduced them here as a reminder and for the benefit of new members as they illustrate the importance of considering very carefully what is said in electronic communications when balancing the importance of freedom of political expression:

Cllr John Copeland v West Lindsey District Council Standards Committee

Facts: Cllr Copeland was a Parish Councillor. He was found by the Standards Committee to have breached the Parish Council's Code of Conduct by referring, in a number of emails, to a member of the public as a grumbler and a geriatric, which had failed to show respect to that person and had brought his office or authority into disrepute. Cllr Copeland's appeal was successful.

Findings: it was not 'necessary' within the meaning of Article 10(2) of the European Convention on Human Rights to interfere with Councillor Copeland's freedom of expression by sanctioning him for his comments. The unidentified individual had a remedy in defamation, if there was damage to his reputation, which was doubted.

Proceedings before the Standards Committee were a 'wholly disproportionate response'.

Decision: The Standards Committee's decision to censure was set aside.

R (Benjamin Dennehy) v London Borough of Ealing

Facts: Cllr Dennehy posted on a blog which he maintained comments about residents of Southall in which he stated:

‘it is a largely Indian community who say they deplore this behaviour but yet it is that very same community that harbours and exploits their own people in squalid third world living conditions... the exploding population of illegal immigrants is a constant on the public purse. Illegal immigrants don’t pay tax. The legitimate immigrants exploiting them in the squalid bed sheds don’t pay tax on their rental income. If these are the sorts of people who exploit the desperate what other scams are they perpetrating I ask? Criminality is endemic in Southall’.

He declined to issue an apology when a number of Southall residents complained because they were offended by the statements.

Findings: The Cllr failed to treat others with respect and brought the Council into disrepute because the tone and much of the content was inappropriately and unnecessarily provocative, and the comments about Southall residents were in a different part of the blog from that which raised legitimate topics of political debate. The comments were not the expression of a political view, but a personal and generic attack on a section of the public. The subjects of the speech were not politicians but ordinary members of the public, so the comments did not attract the higher level of protection applicable to political expressions. Accordingly, sanctioning the Cllr was justified and proportionate under Article 10 (2) of the Convention.

Decision: The Standards Committee’s decision that the Cllr breached the code and should issue an appropriate apology was upheld.

Local Context

5.7 I have been pro-active in the role in ensuring good practice, good procedures and good governance within the resource available. Where I have seen evidence which tests the boundary of good governance I have sought to engage both the individual Member and Group Leaders to ensure that there is some discussion and shared ownership of where the correct threshold of acceptable or appropriate conduct or good governance lies, however, this has not always proved to be an easy task with levels of engagement differing amongst members. This dialogue will continue where necessary. I am also pleased to record that the occasions where I have sought to do this have been very few.

5.8 I have also given individual advice to members on:

- predisposition, predetermination or bias and the Code,
- the use of social media,

- the implications of the Localism Act, the nature of interests to be declared and representation on outside bodies
- 5.9 I have provided informal advice to parish councillors on potential conflicts of interests and the nature and extent of disclosable and non-disclosable pecuniary interests, bias and predetermination. I, along with the Deputy Monitoring Officer, have also intended an informal meeting of a Parish Council in an attempt to understand and resolve a number of issues that are arising with a view to improving the overall standards of conduct and to fully explain my remit as Monitoring Officer and their own roles and responsibilities.
- 5.10 Good governance involves providing procedure notes, guidance, developing and implementing protocols and providing briefings and enabling effective support to Councillors in their different roles including Member training. I provided training to Members on the Code of Conduct, including predetermination and bias, in February of this year and whilst those that attended fully engaged and provided positive feedback it was disappointing that less than half of Members attended the session. I will continue to offer the training as it is essential part of member development and hope that engagement increases.
- 5.11 The Council adopted its current Code of Conduct in May 2012, effective from 1 July 2012 and this included revised arrangements for the Standards Committee, registration and disclosure of interests and dispensations. It is fair to say that the framework, given the statutory limitations, is working well but there is still concern over the lack of sanctions. (see national context above).
- 5.12 The Registers of Interests required have been established and continue to be maintained and are now available to view on the Council's website as a result of Modern.gov. This includes all parish or town councils within the authority's area.
- 5.13 The Department for Communities and Local Government issued guidance on openness and transparency on personal interests in March 2013. Key points still worth noting are:
- Councillors should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.
 - The registration of personal interests by a councillor should be guided by this principle.
 - Confirmation that spouse's or civil partner's name does not need to appear on the register of Interests – for the purposes of the register, an interest of a spouse or civil partner is the councillor's disclosable and non-disclosable pecuniary interest.
- 5.14 During the period end October 2014 to October 2017, there have been a number of matters that have been considered that could potentially have come within the standards framework.

5.15 The analysis of matters follows and includes anonymous details in the Table below.

Historic Cases November 2014 – October 2016

(NB: all relate to one Parish Council)

Nature of Complaint	Action	Commentary
<p>Conduct of member in dealing with Parish Clerk (two separate complaints)</p>	<p>Discussed with Independent Person – referred for investigation</p>	<p>Two separate hearings held. No breach of paragraph 8. Breach of paragraphs 5, 7, 9, 10 and 11. Recommendations made to parish council that the subject member attend training on the role of the parish clerk and refresher training on role of chairman and that the entire parish council undertake training on the role of the clerk, meeting procedure – specifically closed sessions and employment matters, policies and procedures. That any new parish clerk attends appropriate training as part of their induction and that a review of Standing Orders should be carried out to ensure that the outcomes of any training are incorporated therein.</p> <p>NB: following receipt of the recommendations the parish council wrote to say that whilst they would comply with the recommendations where possible they did not accept the report.</p>
<p>Councillor alleged to have not dealt with representations fairly, appropriately and impartially, not treating people with respect including allegedly</p>	<p>Discussed with Independent Person – referred for investigation</p>	<p>Hearing held. Breach of paragraphs 2, 8, 10 and 11. Recommendations made to the parish council that the subject member attends equalities training and is removed from all outside</p>

making racist remarks.		<p>appointments until such training is undertake and that the entire parish council attend equalities training and reviews their policies and procedures in place that govern equalities and the conduct of meetings.</p> <p>NB: the subject member resigned form the parish council prior to the hearing and did not attend.</p>
Councillor alleged to have not dealt with representations fairly, appropriately and impartially, not treating people with respect	Discussed with Independent Person – referred for investigation	Hearing held. Breach of paragraphs 2, 10 and 11. The findings were reported to the parish council with a recommendation that the entire council undertake training on the code of conduct and that they adopt a more formal approach to meetings.

New Complaints – November 2016 to October 2017

Councillor retained a copy of a confidential paper contrary to advice provided and having borrowed an officers unnumbered copy returned a numbered copy at the end of the meeting but failed to return the unnumbered copy.	Discussed with Independent Person – referred for investigation	Hearing held. No breach of paragraph 5. Breach of paragraph 8 and the principle of leadership. Reported to Full Council with a recommendation to remove the subject member from Scrutiny Committee as a member of substitute member for a period of three months. This was subsequently agreed by Council.
Complaint regarding alleged abuse of position by an elected borough member to forward their own interest.	Discussed with Independent Person – referred for investigation	Investigating Officer report received concluding no breach.
Complaint about parish councillors behaviour on four separate occasions	Monitoring Officer filter applied	<p>Complaint not within remit of the Standards regime for the following reasons:</p> <ul style="list-style-type: none"> • one incident was a police matter, subject member was not acting in an official capacity

		<ul style="list-style-type: none"> • incident was historic • apology had already been provided
Alleged that parish councillor made unfounded accusations about a member of the public	Monitoring Officer filter applied	Complaint not within remit of the Standards regime as subject member was not acting in official capacity. In any event the parish council had already issued an apology.
Complaint regarding borough councillor conduct when chairing meeting	Monitoring Officer filter applied	Having listened to the audio recording there was no evidence of breach of the code, however, subject member issued an apology if any offence taken.
Complaint relating to comments made about complainant by subject member at a meeting of Council	Monitoring Officer filter applied	Complaint not within the remit of the standards regime as it amounted to political tit-for-tat.
Borough Councillor refused planning permission in some villages however allowed in to be granted in others	Monitoring Officer filter applied	Complaint not within the remit of the standards regime as the subject member did not have the power to grant or refuse planning permission.
Complaint regarding borough councillor's conduct when chairing meeting	Monitoring Officer filter applied	Having listened to the audio recording there was no evidence of breach of the code.
Complaint regarding subject members conduct at a meeting of council	Monitoring Officer filter applied	Having listened to the audio recording there was no evidence of breach of the code as members are allowed to voice opinions.

6 Code of Conduct for Employees

- 6.1 The Constitution includes a Code for Employees, which aligns closely with the register of interest requirements under the old members Code of Conduct. I do not propose to take any further action on this subject at the present time.

7 Overseeing Registration of Officer Interests

- 7.1 The Monitoring Officer writes to Councillors, Officers of the Management Team or officers on certain salary grades, or appointed by statute, each year and asks them to complete and sign an annual declaration on related party transactions. This captures transactions between the individual; members of the individual's

close family or the individual's household; or partnerships, companies, trusts or any entities (e.g. charities) in which the individual or their close family of same household has a controlling interest. This declaration is asked for in accordance with FRS9 (Related Party Transactions), as contained within the Code of Practice on Local Authority Accounting in Great Britain 1998.

8 Whistle Blowing (Protected Disclosure Policy)

- 8.1 The whistle blowing policy of the Council is publicised throughout the organisation on the internal Intranet. As a first step, concerns should be raised with the employee's immediate manager or their superior. This depends however, on the seriousness and sensitivity of the issues involved and who is suspected of the malpractice. If this is not practical or appropriate then they can be raised with the Monitoring Officer or the Head of Audit. Where appropriate, the matters raised maybe investigated internally, be referred to the external auditor or form the subject of an independent inquiry. The Monitoring Officer has overall responsibility for the maintenance and operation of this policy. Internal Audit have confirmed that the review of the policy and procedures will be undertaken in the new year to bring it up to date and to align it with our partners within Mid Kent Services.

9 Corporate Compliance with Legislation

- 9.1 Legal updates, including details of new legislation, are circulated to relevant officers within the organisation. Those officers then circulate legal updates including new legislation to Members when they consider this to be appropriate. All reports have a compulsory heading in which the author has to consider legal implications and if there are likely to be legal implications the author has to seek comments from the Head of Legal. The same procedure follows for any financial implications (the Head of Finance) and human resources (The Head of Organisational Development).
- 9.2 As the Council responds to the changed funding regime for local government there will be an increased need for robust due diligence of legal and financial implications of more innovative projects as they come forward.

10 Protocol on Councillor/Officer Relations

- 10.1 The Protocol on Councillor/Officer Relations is contained within the Constitution. This sets out what is expected of Officers and what is expected of Members. When the relationship between Members and Officers breaks down, or becomes strained, attempts should be made to resolve matters informally through conciliation by an appropriate senior manager or Members. Officers will have recourse to the Council's Grievance Procedure or to the Council's Monitoring Officer, as appropriate to the circumstances (as set out in the Constitution).
- 10.2 In the last period there have been no complaints of this type to the Monitoring Officer.

11 Support to Council, Cabinet, Scrutiny and Committee Meetings

- 11.1 The distribution and publication of committee reports, agendas and decisions is central to good governance. This includes:
- Distributing and publishing all agendas within five clear working days of the meeting taking place and ensuring that all agendas are compliant with the access to information rules and exempt information is marked up accordingly.
 - Advertising public meetings at least five clear days before the meeting date.
 - Ensuring that papers are available to the public either through the website or from district offices and libraries.
 - Publishing minutes as soon as possible after the meeting, in particular Cabinet Minutes are published within 3 clear days of the meeting.
 - Ensuring that petitions are handled in accordance with the Council's constitution,
 - Ensuring that meetings are accessible to the public.
- 11.2 One of the explicit aims of the Local Government Act 2000 was to streamline the decision making process to allow Council's to focus on service delivery.

- 11.3 From **1 November 2016 to 30 October 2017** the following meetings were serviced:

Name of Meeting	No. of meetings
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Annual Council	2
Audit	4
Cabinet (inc 1 Co-Located Meeting)	9
Cabinet Delegated Decisions	0
Council	9
General Licensing Committee	1
General Purposes Committee	0
Licensing Act 2003 Committee	0
Licensing Sub-Committee	10
Local Development Framework Panel	1
Member Development Working Group	3
Planning	13
Planning Working Group	7
Policy Development and Review Committee	3
Scrutiny Committee	9
Standards Committee	1
Standards Hearings Sub-Committee	5
Swale Joint Transportation Board	4
Total	81

11.4 This represents 81 meetings in total. This compares with 101 in the previous year and 111 the year before. There has been a notable decline in the number of meetings serviced compared to the same time last year, however, given that there were two elections during the period this is to be expected as this resulted in a number of meetings being cancelled. The meeting numbers do not reflect the additional meetings administered by the Democratic Services Team including two external charities and the WW1 meetings as well as pre meetings and agenda planning meetings. The volume of meetings still represents a substantial commitment of both Councillors' and officers' time and resources. It is of great importance that meetings constitute an effective use of time and resources; that they add value to corporate effectiveness and help in meeting the aims and objectives of the Council.

12 Member Training and Development

12.1 It is essential to good governance that Members are supported in their roles to make good decisions which underpin our corporate governance and reputation. The Council has established a cross-party Member Development Working Group (MDWG) with support from Democratic Services to develop the Member Training provision. Further information is provided in the annual

report on Member Training and Development submitted to this Committee.

13 Use of Covert Surveillance

13.1 Since April 2010, in accordance with revised Codes of Practice I am obliged to report the number of occasions the authority has used covert surveillance. Since the last annual report no applications for directed surveillance have been authorised.

14 Conclusions and Comments

14.1 The Monitoring Officer's role encompasses both proactive and reactive elements. The proactive role centres on raising standards, encouraging ethical behaviour, increasing awareness and utilisation of the elements of good governance and ensuring that robust procedures are in place across the whole of the Council.

14.2 The reactive role focuses on taking appropriate action to deal with issues and potential problems as they arise. The Monitoring Officer's effectiveness in this role is in turn dependent on effective systems and procedures being in place to identify problems and ensure that Members, Officers and public are aware of appropriate channels to raise concerns.

14.3 Given that I am relatively new to the role I would not yet recommend a review of the Code of Conduct itself, however, from experience I think it is necessary to look at the Hearings Procedure to see if improvements could be made to streamline the process. This will be undertaken as part of the Constitution review.

15 Recommendations

15.1 That:

- The Standards Committee notes this report.
- There be no further action to review the Code of Conduct at the present time.
- That the Hearings Procedure be reviewed

16 Implications

Issue	Implications
Corporate Plan	The role of the Monitoring Officer is pivotal to good governance and providing assurance.
Financial, Resource and	Resources must be provided to the Monitoring Officer to enable performance of statutory duties. The issue of costs of any

Property	investigation under the local arrangements remains a concern.
Legal and Statutory	These are set out in the body of the report.
Crime and Disorder	Not directly relevant to this annual report.
Environmental Sustainability	None directly arising from this annual report.
Health and Wellbeing	None directly arising from this annual report.
Risk Management and Health and Safety	None directly arising from this annual report.
Equality and Diversity	None directly arising from this annual report.
Privacy and Data Protection	None directly arising from this annual report.

17 Appendices

None

18 Background Papers

None

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Standards Committee Meeting

Meeting Date	14 November 2017
Report Title	Annual Report on Member Training and Development
Portfolio Holder	Cabinet Member for Finance and Performance
SMT Lead	Mark Radford, Chief Executive
Lead Officer	Jo Millard, Senior Democratic Services Officer
Key Decision	No
Classification	Open

Recommendation	1. To note the Annual Report on Member Training and Development.
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1 Purpose of Report and Executive Summary

- 1.1 The annual report is submitted to the Standards Committee in accordance with the Member Training and Development Strategy. The report provides an update on progress with Member Training and Development since November 2016, outlining actions taken by the Member Development Working Group to-date and their future work programme.

2 Background

2.1 Member Training and Development

2.1.1 The Council's cross-party Member Development Working Group (MDWG) monitors the Council's Member Training and Development Programme. The Working Group is supported by the Senior Democratic Services Officer and the Chief Executive. All Members are encouraged to feedback through their Councillor representative on the Working Group.

2.1.2 Since the last annual report the Member Development Working Group's work programme has included:

- Continued investigation and development of Members' access to information and on-line training including the Elms learning programme accessed by staff to carry out statutory training such as Health and Safety and Safeguarding
- Setting the 2017/18 Member Training Programme
- Finalising the review of Role Profiles, which were agreed by Council on 25 January 2017
- Finalising the updated Member Training and Development Strategy, which was agreed by Council on 25 January 2017

- Evaluating the training provided in 2016/17
- Discussions with external trainers to provide bespoke training according to Members' requirements

2.2 **Member Training Sessions and Attendance**

- 2.2.1 A Member training programme is developed at the start of each civic year. Ideas of future training sessions are sought from Members and Members of the Member Development Working Group agree relevant topics. Additional training and presentations are also put forward by Officers. The MDWG regularly review the training programme to ensure it is deliverable and within budget. It also strongly recommends that Members take up shadowing opportunities as a way to learn more about the services that the Council provides.
- 2.2.4 The table below sets out Councillor attendance at training and briefing sessions which have been arranged through the Democratic Services Team from **November 2016 – October 2017**. Parish Councillors are invited to planning briefings. Members will note that there have been 21 briefings covering a variety of topics, an increase of 6 sessions on the same period last year.

Title of Training/Briefing session	Date	Number of Councillors in attendance
Customer Services	3 November 2016	18
LLP Presentation by Public PLC Transformation Project	15 November 2016	18
Risk Management	17 November 2016	16
KCC Protocol – Planning Applications & Local Plan	24 November 2016	16
NHS Briefing	8 December 2016	14
Data Protection & Code of Conduct	15 December 2016	20
Wheelabrator Kemsley	7 February 2017	17
Counter Fraud & Corruption	14 February 2017	9
Swale Youth Services Update	16 February 2017	13
MKS Update & Skype for Business Demonstration	28 February 2017	18
Police Update	16 March 2017	10
Compulsory Planning Training	13 April 2017	11
Planning Enforcement/Legal	18 May 2017	20
Transformation Project	23 May 2017	18 (plus 25 Parish Councillors)
Local Plan Inspectors Final Report	15 June 2017	12
Air Pollution	13 July 2017	18
Smart Towns	4 September 2017	18
Revenue & Benefits & Homelessness Update	14 September 2017	10 (plus 6 Parish Councillors)
Compulsory Licensing Refresher	26 September 2017	13
Manston Briefing	12 October 2017	2
	24 October 2017	16

2.3 Future Work

- 2.3.1 The main focus over the coming months will be developing Members' access to information and on-line training using the Elms Learning programme and setting up Learning and Development workshops using an external provider.
- 2.3.2 The MDWG are keen to increase the number and variety of learning opportunities available to Members, and will be sharing training dates in the future with Maidstone and Tunbridge Wells Borough Councils. As mentioned previously, it would also encourage Members to take up shadowing opportunities available.

3 Proposal

- 3.1 The Standards Committee is asked to review and comment on the annual report.
- 3.2 The Member Development Working Group is keen to reinforce the need for Members to understand their statutory responsibilities; such as Health and Safety, Equality and Diversity and Safeguarding. These sessions will be covered within the

training programme and information will also be available on the Elms Learning programme. Two Members were recently trained in the use of the Evac chair in order to assist in case of an emergency evacuation outside of normal office hours. It is recognised that some Members may receive relevant training through their paid or voluntary work, or their involvement in other organisations. However past sessions have often shown that attendance figures at sessions related to statutory duties are often lower than average and the report therefore welcomes the Standards Committee's support and the support of Group Leaders in promoting the importance of these sessions to Councillors.

4 Alternative Options

4.1 N/A

5 Consultation Undertaken or Proposed

5.1 The report is submitted by officers on behalf of the Member Development Working Group, who have approved the content and recommendations.

6 Implications

Issue	Implications
Corporate Plan	The Council's Corporate Plan has three priorities: A Borough To Be Proud Of, A Community To Be Proud Of and A Council To Be Proud Of. Members need to be equipped with the skills and knowledge to help deliver these priorities and to effectively represent their ward constituents.
Financial, Resource and Property	Provision of £8,000 is made within the budget for Member Training and Development for 2017/18.
Legal and Statutory	<p>Local authorities are complicated organisations that are heavily regulated and must act lawfully when discharging their functions. They can only act where there is a legal power or duty and decisions taken by them must comply with administrative law principles. Members are often required to take complex decisions or to follow prescribed procedures and they can be challenged by individuals or organisations who disagree with decisions taken.</p> <p>Knowledge of the relevant legal frameworks is vital to support them in their roles as community leaders, advocates and policy makers. It also protects the Council from the costs and bad publicity that is likely to result from legal challenges.</p> <p>Members of the Planning and Licensing Committees sit in a quasi-judicial capacity and training is therefore a mandatory requirement. All Members should be fully aware of their statutory duties and the requirement to have sufficient</p>

	knowledge on these matters to properly exercise their responsibilities in-line with legislation.
Crime and Disorder	None specific to this report.
Sustainability	None specific to this report.
Health and Wellbeing	None specific to this report.
Risk Management & Health and Safety	None specific to this report.
Equality & Diversity	Each individual Member will have differing backgrounds, and a differing range of knowledge and experience that they bring to the role of Councillor. Members as Community Leaders have a role to help identify equality and diversity barriers that prevent the Council from building more cohesive communities.

7 Appendices

7.1 None

8 Background Papers

8.1 None

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