

## AGENDA

### GENERAL PURPOSES COMMITTEE MEETING

Date: Wednesday, 30 October 2019

Time: 5.00pm

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

Membership:

Councillors Mike Baldock (Vice-Chairman), Mike Dendor, Angela Harrison, Alan Horton, Denise Knights, Richard Palmer, Roger Truelove (Chairman), Mike Whiting and Corrie Woodford.

Quorum = 3

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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. Nobody must leave the assembly point until everybody can be accounted for and nobody must return to the building until the Chairman has informed them that it is safe to do so; 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 12 June 2019 (Minute Nos. 41 - 44) 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 A - for recommendation to Council**

5.	Updated media guidance	5 - 14
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**Issued on Monday, 21 October 2019**

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 this Committee, please visit [www.swale.gov.uk](http://www.swale.gov.uk)

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

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<b>General Purposes Committee Meeting</b>	
<b>Meeting Date</b>	30 October 2019
<b>Report Title</b>	Updating media guidance for members
<b>Cabinet Member</b>	Cllr Roger Truelove, Leader of the Council
<b>SMT Lead</b>	David Clifford, Head of Policy
<b>Head of Service</b>	David Clifford, Head of Policy
<b>Lead Officer</b>	Philip Sutcliffe, Communications Manager
<b>Key Decision</b>	Yes/No
<b>Classification</b>	<b>Open</b>
<b>Recommendations</b>	1. That the media guidance in the constitution be replaced with the updated guidance in the latest members handbook

## **1 Purpose of Report and Executive Summary**

- 1.1 This report asks members to agree to replace the current constitutional advice on media for members with updated guidance that reflects the modern media landscape.

## **2 Background**

- 2.1 The current constitutional advice (appendix I) was last updated in June 2014 and has a focus on traditional print and broadcast media. Given the widespread adoption of social media, the guidance needs to be updated to better advise members on the use of these platforms.
- 2.2 Social media has become an every-day communications tool and the potential benefits for members and the people they represent is huge.
- 2.3 However, using social media platforms is not without risk, and members need to be mindful of the potential pitfalls of using them, including libel, data protection and potential members' code of conduct issues.
- 2.4 Updating the guidance will help members understand more about how these matters affect them when they are posting on social media, helping prevent issues arising.

## **3 Proposals**

- 3.1 Replace the existing media guidance note in the constitution with appendix II to better reflect the modern media landscape.

## 4 Alternative Options

- 4.1 Leaving the existing advice as it is, and assuming members will be aware of the issues surrounding social media.
- 4.2 This is not recommended due to the potential risks to the council's reputation from members not being mindful of the advice.

## 5 Consultation Undertaken or Proposed

- 5.1 The updated guidance was drawn up by the monitoring officer and communications manager looking at best practice in the sector, whilst taking into consideration local use/adoption of social media.

## 6 Implications

Issue	Implications
Corporate Plan	Effective communication underpins all the council's corporate priorities.
Financial, Resource and Property	None identified at this stage.
Legal, Statutory and Procurement	Updated guidance will help ensure compliance with the Code of Recommended Practice for Local Authority Publicity, and provide further clarity to keep member and group communications distinct from official council communications.
Crime and Disorder	None identified at this stage.
Environment and Sustainability	None identified at this stage.
Health and Wellbeing	None identified at this stage.
Risk Management and Health and Safety	Updated guidance will help mitigate the risk of damage to the council's reputation through inappropriate use of modern media tools.
Equality and Diversity	None identified at this stage.
Privacy and Data Protection	The updated guidance includes advice on how members manage personal information, helping reinforce their data protection obligations.

## 7 Appendices

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

- Appendix I: Guidance Note for Members Media Issues
- Appendix II: Updated guidance note for members media issues

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## **Member Briefing Note on media issues:**

At the start of the new civic year it seemed timely to issue a brief reminder on media issues. It is important to differentiate between council publicity and party publicity.

Under the Local Government Act 1986, local authorities cannot publish material which appears to be designed to affect public support for a political party. This will be decided on the content and style of the material, the time and circumstances of the publication and the likely effect on those to whom it is directed.

Publicity is “any communication, in whatever form addressed to the public at large or to a section of the public”

Local Authorities are required to have regard to the following underpinning principles of the codes of recommended practice:

- Be lawful
- Be cost effective
- Be objective
- Be even-handed
- Be appropriate
- Have regard to equality and diversity
- Be issued with care during periods of heightened sensitivity (pre-election period)

There are times when it is clear that the member is speaking on behalf of the authority and is authorised to do so and is commenting on approved Council policies and practices. On these occasions always involve the Corporate Strategy and Communications Team.

There will also be times when a member is speaking as an individual or on behalf of their political party. In these circumstances any publicity should only be issued by or on behalf of the political party. You should only use a personal or party email address or letterhead and not a swale.gov.uk one or council letterhead.

Outside of the pre-election period it is acceptable for the authority to publicise work done by individual members and to present their views on local issues.

It is difficult for a member to speak directly to the press without being perceived as speaking for the authority unless it is made clear that the member is speaking as an individual or through party publicity/documents etc.

Where a member wishes to make a party political statement any media release or interview must make it clear that they are issued by the individual/party. It must be stressed that members should ensure that, where such releases are made they come from their personal or group or party political e-mail address and/or be on individual or party political group letterhead.

Please bear the above in mind so as to ensure you do not breach the law and/or the Council's procedure rules where you prepare and issue press releases directly. The same applies where you speak to the media without central knowledge, coordination or communication.

That is not to say that members cannot speak to the press in their individual capacity or through their party group – just that any communication that is issued or giving the appearance that it is issued on behalf of the authority must go through the proper channels i.e. Corporate Strategy and Communications.

Such an approach helps to ensure:

- That press and PR is consistent;
- Accords with Council policy and decisions;
- Is presented in a non-party political way;
- The Council's reputation is maintained in dealing with the press;
- Any press/PR statements are "sense tested" across all Council functions, not just the individual portfolio holder's perspective.

This protects you by ensuring you are supported:

- In a consistent and non-partisan way;
- To avoid any potential breach of the rules on party political publicity;
- To avoid speaking out and potentially binding the Council to a course of action where the Council has not considered its policy or approach;
- To understand the corporate position, as appropriate;
- To be aware of potential traps that may be around the corner in relation to particular issues;
- By receipt of professional advice in dealing with the media through press releases and other engagement.

Separate guidance will continue to be issued to all members about pre-election periods.

If you have any questions please contact the Corporate Strategy and Communications Team.

Mark Radford  
Monitoring Officer  
Issued :June 2014

## 4.4 Communications and Media Issues

### 4.4.1 Distinction between Council and Party/Group Communications

All the Council's communications are guided by the [code of recommended practice on local authority publicity](#), published by the Ministry of Housing, Communities and Local Government. Publicity is defined as 'any communication, in whatever form, addressed to the public at large or to a section of the public'.

Local authorities are required to have regard to the underpinning principles of the codes of recommended practice, which require that publicity must:

- Be lawful.
- Be cost effective.
- Be objective.
- Be even-handed.
- Be appropriate.
- Have regard to equality and diversity.
- Be issued with care during periods of heightened sensitivity (pre-election period).

It is important to differentiate between Council publicity and party publicity.

Under the Local Government Act 1986, local authorities may not publish material which appears to be designed to affect public support for a political party. This will be decided on the content and style of the materials, the timing and circumstances of the publication, and the likely effect on those to whom it is directed.

There are times when it is clear that as a Councillor you are speaking on behalf of the authority, are authorised to do so, and are commenting on approved Council policies and practices. On these occasions, always involve the communications team. Outside of the legally defined pre-election period, it is generally acceptable for the authority to publicise work done by individual Members and to present their views on local issues.

However, there will be times when you will be speaking as an individual or on behalf of your political party. In these circumstances any publicity should only be issued by or on behalf of the political party, and you should only use a personal or party email address or letterhead, not a swale.gov.uk email or council letterhead.

It is difficult for a Member to speak directly to the press without being perceived as speaking for the authority unless it is made clear that the Member is speaking as an individual or through party publicity/documents, etc. Where a Member wishes to

make a party political statement, any media release or interview must make it clear that they are issued by the individual/party.

**It is a legal requirement that Members ensure that where such releases are made they come from their personal/group/party e-mail address, and/or be on individual or party/group letterhead.**

Ensuring that the communications team is involved whenever you plan to talk to or issue documents to the press helps to ensure that council communication is consistent and in accordance with agreed policy decisions, and that information is presented in a non-party-political way.

This protects you by ensuring you are supported to:

- Avoid any breach of the rules on party political publicity.
- Avoid speaking out and potentially binding the council to a course of action which has not been properly agreed.
- Be aware of potential traps that may be around the corner in relation to particular issues.
- Take professional advice in dealing with the media through press releases and other engagement.

Separate guidance will continue to be issued to all Members about pre-election periods. If you have any questions please contact the communications team.

#### **4.4.2 Social media issues**

Social media is a great way for engaging with residents, with platforms like Facebook, Twitter and Instagram being used daily by thousands of people across the borough. However, using them is not without risk, and councillors need to be mindful of the potential pitfalls of using them.

**You are personally responsible for what you publish on social media, including when you share content produced by another user.**

It is important that you think before you publish, as even if you delete a hastily fired-off post, it will probably already have been read and will be indexed or duplicated in places beyond your reach.

The council's social media policy contains more information about what is expected of members and officers using social media. Some of the points of most relevance to councillors are summarised below. In the main, councillors have the same legal

duties online as anyone else, but failures to comply with the law may have more serious consequences.

### ***Libel***

If you publish an untrue statement about a person which is damaging to their reputation, they may take a libel action against you. This will also apply if you allow someone else to publish something libellous on your website if you know about it and don't take prompt action to remove it. A successful libel claim against you will usually result in an award of financial damages against you.

### ***Data Protection***

You must avoid publishing personal information about individuals unless you have their express written permission to publish each item of information.

### ***Bias and pre-determination***

Members of quasi-judicial committees should avoid publishing anything that might suggest you don't have an open mind about a matter you may be involved in determining. There are some options for dealing with situations where you have strong views about a matter and want to be able to publish those views, but it is best to discuss these with the monitoring officer before taking any action.

### ***The code of conduct***

Whether councillors are acting in that capacity or in a personal capacity is not always clear, but there are often tighter legal restrictions on what you can do as a councillor than as a private citizen. This can be problematic when councillors have social media accounts where they comment both as a councillor and as an individual, for example a Facebook account where you've posted about a great night out (personal) and another time explained the council position on pothole repair (councillor). It may be clear in your own mind whether you are posting in a private capacity or as a councillor, but it could be less clear to others, or indeed in law.

While this question is more about judgment than hard-and-fast rules, it is worth assuming that **any online activity can be linked to your official role**. Unless you've gone to significant effort to keep an online persona completely separate from your councillor identity, you are unlikely to be able to claim that you were acting in a completely private capacity.

This can be problematic, because people posting to the web in a capacity as a councillor can be held to higher standards than private citizens. With this in mind, you need to be aware that how you use your online identity will also determine how

online content will be treated in respect of the members' code of conduct. Councillors are expected to communicate politically, and it is accepted that this sometimes includes an element of 'trading blows' – but this only really applies when you are communicating politically with other councillors, not with constituents.

Aspects of the members' code of conduct will apply to your online activity in the same way it does to other written or verbal communication you undertake. Members should comply with the general principles of the code in what they publish and what they allow others to publish. You will need to be particularly aware of the provisions on treating others with respect, avoiding personal attacks, avoiding disrespectful, rude or offensive comments, and avoiding using discriminatory language or hate speech.

### ***Bringing the council into disrepute***

Councillors should be aware and recognise that there is a risk of damage being caused to the council by their personal use of social media when they can be identified as an elected councillor. You should:

- Expressly state (through a prominent disclaimer) on any profile or content that identifies you as a councillor (or otherwise refers to or implies a relationship with the council) that the stated views are your own personal views and are not those of the council.
- Ensure that readers are not misled into believing that any material published by you is on behalf of the council, authorised by the council, or official council policy if it is not in fact those things.
- Ensure all content that relates to the council or council business is accurate, fairly balanced, not misleading, and complies with any relevant council policy.

In addition you must not:

- Make any comment or post material that would give a reasonable person the impression that you have brought your office as councillor or the council into disrepute.
- Imply that you are authorised to speak as a representative of the council nor give the impression that the views you express are those of the council.
- Post or publish any material that is harassing or bullying. Harassment may include personal attacks on officers.
- Disclose confidential information, including matters considered under Part B of any council meeting. If you are in any doubt about this you should first speak to the monitoring officer.

<b>General Purposes Committee Meeting</b>	
<b>Meeting Date</b>	30 October 2019
<b>Report Title</b>	<b>Amendments to council procedure rules on motions</b>
<b>Cabinet Member</b>	Cllr Roger Truelove – Council Leader
<b>SMT Lead</b>	David Clifford – as Monitoring Officer
<b>Head of Service</b>	
<b>Lead Officer</b>	
<b>Key Decision</b>	No
<b>Classification</b>	<b>Open</b>
<b>Recommendations</b>	1. General purposes committee is asked to recommend the revised wording at Appendix II to council for incorporation into the constitution.

## **1 Purpose of Report and Executive Summary**

- 1.1 This report proposes improvements to the wording of the council procedure Rule 15 on motions. This has become necessary as a result of the more frequent moving of motions seeking to set a policy direction in recent months. The amendments seek to clarify the extent to which this is permissible, as well as to update and consolidate the wording of the whole rule.

## **2 Background**

- 2.1 Motions to full council are a long-standing means for members to be able to test the views of their fellow councillors and arrive at agreed positions on issues affecting the borough. With the election of a large number of new members in May, combined with the formation of a new administration, there has been a noticeable shift in the way in which motions are now being used, with members of the administration itself proposing motions intended to provide impetus to, or set the tone for, future policy development.
- 2.2 This is an entirely appropriate way to use motions, but care does need to be taken to ensure that their wording cannot be interpreted as circumventing, or seeking to circumvent, the council's constitutional decision-making processes. While the full council is of course the organisation's most 'senior' decision-making body, it cannot take decisions which in law are executive matters, and even in respect of the decisions which are its own to make, it should never do so without reference to a full report setting out the implications of the decision and any alternative options.

### 3 Proposals

- 3.1 Attached at Appendix I is the current wording of the relevant sections of the council procedure rules, marked up with 'track changes' to show proposed amendments. Appendix II provides a 'clean' version of the proposed new wording. General purposes committee is asked to recommend the revised wording at Appendix II to council for incorporation into the constitution.

### 4 Alternative Options

- 4.1 As can be seen from Appendix I, the procedure rules already includes some wording intended to deal with situations in which motions to council appear to raise issues about proper decision-making, and the wording could be retained in its present form. However, this option is not recommended, as the current wording fails to safeguard the council effectively from motions which would inadvertently or otherwise have the effect of circumventing constitutional decision-making processes.

### 5 Consultation Undertaken or Proposed

- 5.1 This issue has been raised in discussions with the leader, the deputy leader and the leader of the opposition. Colleagues from the legal team have reviewed the proposed wording.

### 6 Implications

Issue	Implications
Corporate Plan	Ensuring that the wording of the constitution is as robust as possible has the potential to contribute to all the priorities in the corporate plan.
Financial, Resource and Property	No specific implications identified at this stage.
Legal, Statutory and Procurement	There are significant legal risks for the council in being seen to make policy decisions by means of motions to full council. Inter alia these include blurring the lines between executive and non-executive functions, and failing to take decisions in an evidenced way with proper regard to the implications. The revised wording at Appendix II has been agreed with the corporate governance team.
Crime and Disorder	No specific implications identified at this stage.
Environment and Sustainability	No specific implications identified at this stage.
Health and Wellbeing	No specific implications identified at this stage.



Risk Management and Health and Safety	No specific implications identified at this stage.
Equality and Diversity	No specific implications identified at this stage.
Privacy and Data Protection	No specific 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: Current wording marked up with proposed amendments in ‘track changes’
- Appendix II: ‘Clean’ version of proposed new wording

## **8 Background Papers**

8.1 There are no relevant background papers.

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**Appendix I:  
Existing wording marked up with 'track changes'**

**15. Notices of Motion**

(i) Motions submitted by Members

With the exception of ~~Motions~~ motions which can be moved without notice, written notice of every motion, signed or forwarded by email by a proposer and seconder (or appropriate number of Members if the motion is submitted pursuant to Council Procedure Rule 210) must be given to the proper ~~Officer~~ officer not later than 4.30pm on the Friday before the agenda is despatched. These will be recorded and open to public inspection.

No more than two motions submitted by members will be listed on the agenda for debate per meeting. Motions will be listed on the agenda in order of receipt. If notice of more than two motions is received by the proper officer for any meeting, those received after the first two will be added to the agenda for subsequent meetings in the order that they were received. Motions will remain on agendas unless the member giving notice states in writing the she wishes to withdraw the motion or move it to a later meeting.

The Mayor may agree to late motions, in addition to a~~the~~ maximum of two that have already been accepted for debate~~listed on the agenda for debate,~~ being added to the agenda where he/she is of the opinion they are urgent.

~~Each Motion will be set out on the agenda, in the order of receipt, and dealt with on a first come first served basis, unless the Member giving the notice states in writing that they wish to withdraw the motion or move it to a later meeting.~~

No Member can have more than two notices of motion on the agenda; any submitted in excess of two will be referred to the subsequent meeting where the same rule applies (i.e. no more than two motions).

~~Motions submitted by Members will be limited to a maximum of 30 minutes debate for each motion and no more than two motions will be accepted and debated per meeting. No motions ~~to~~ will be accepted, subject to the Mayor's discretion in respect of urgent ~~matters~~ motions, at key budget decision meetings. The latter are defined as the budget setting meeting and the meeting setting the Council's fees and charges.~~

Amendments to the budget are to be made in writing and delivered to the proper officer by 5pm on the Monday before the meeting. In proposing any changes to the budget any amendment must ensure that the proposal achieves a balanced budget.

~~The Mayor may agree to late motions, in addition to a maximum of two that have been accepted for debate, being added to the agenda where he/she is of the opinion they are urgent.~~

If a ~~Motion~~-motion set out on the agenda is not moved at the meeting, either by the Member that gave the notice or by another Member, it shall, unless postponed by the consent of the Council, be treated as withdrawn and shall not be moved without fresh notice.

~~If the subject falls within the terms of reference of another meeting it shall, upon being moved and seconded, be referred without discussion to the meeting as the Council determines, for consideration and report. Alternatively, the Mayor can decide that the Motion can be considered at the Council meeting.~~

Motions submitted by Members will be limited to a maximum of 30 minutes' debate for each motion.

Motions must be about matters for which the Council has responsibilities ~~for~~ or which affect the Borough.

It is acceptable for motions to set a tone or general direction for future more detailed policy development work by the appropriate council committees, or to provide an initial stimulus to that work, but the wording of a motion or an amendment to a motion must not be such that it could be interpreted as circumventing or seeking to circumvent the council's constitutional decision-making processes.

Motions about policy areas which are an executive matter should request cabinet or cabinet members to undertake the necessary work to enable an executive decision to be taken, while motions about non-executive matters should request the relevant committee to do the same or request cabinet to undertake the work necessary to bring an evidenced proposal to a future council meeting.

The monitoring officer will review the wording of all motions submitted, and where necessary will work with the member(s) who wish to propose the motion to bring the wording into compliance with this rule in a way which is acceptable to both the member and the monitoring officer.

In the event that no agreement on wording can be reached, the monitoring officer may, in consultation with the mayor, reject a motion on the basis that its wording is in breach of this rule or that it is otherwise out of order, illegal, irregular or improper. When such a rejection occurs, the monitoring officer will advise the member(s) who wished to propose the motion in writing of the reasons for the decision, and will submit a report of the decision to the council meeting at which the motion would have been debated. This report will be noted without discussion.

In the event that a motion seeking to set a tone or general direction for, or to provide initial stimulus to, future policy development work is moved and seconded but not carried when put to the vote, this will in no way prevent the executive or any relevant committee from working to develop policy along the lines proposed in the motion. In general the rejection of a motion at full council will have no bearing on the future work of the council, the executive or any committee (but refer to Rule 20.2 for the bearing it can have on future motions).

~~No Member can have more than two notices of motion on the agenda; any submitted in excess of two will be referred to the subsequent meeting where the same rule applies (i.e. no more than two motions).~~

~~If Notice is given of any Motion which the Proper Officer considers to be out of order, illegal, irregular or improper, he will advise the Mayor that the notice should not be accepted. The Mayor shall determine whether it can be considered taking this advice into consideration. If the motion is not accepted, the Proper Officer will let the Member concerned know the reasons for the rejection and a report of the action will be submitted to the next Council meeting.~~

[.....]

#### **17.4 Amendments to Motions**

An amendment shall be relevant to the ~~Motion~~motion and will either be:-

- (a) to refer the matter to an appropriate body or individual for consideration or reconsideration;
- (b) to leave out words;
- (c) to leave out words and insert or add others;
- (d) to insert or add words;

as long as the effect of (b) to (d) is not to negate the ~~Motion~~motion or to bring its wording into conflict with any of the provisions of Rule 15.

Only one amendment may be moved and discussed at a time and no further amendment shall be moved until the amendment under discussion has been disposed.

If an amendment is lost, other amendments may be moved on the original ~~Motion~~motion.

If an amendment is carried, the ~~Motion~~motion as amended shall take the place of the original ~~Motion~~motion. This becomes the substantive ~~Motion~~motion upon which any further amendments are moved, except such as would have the effect of reviving the original ~~Motion~~motion.

Amendments to recommendations contained in Cabinet or officer reports to be considered by Council will be debated in the same way as amendments to motions; however, there is no restriction on what the amendment to the recommendation may be.

## **Appendix II: Clean version of revised wording**

### **15. Notices of Motion**

#### **(i) Motions submitted by Members**

With the exception of motions which can be moved without notice, written notice of every motion, signed or forwarded by email by a proposer and seconder (or appropriate number of Members if the motion is submitted pursuant to Council Procedure Rule 20) must be given to the proper officer not later than 4.30pm on the Friday before the agenda is despatched. These will be recorded and open to public inspection.

No more than two motions submitted by members will be listed on the agenda for debate per meeting. Motions will be listed on the agenda in order of receipt. If notice of more than two motions is received by the proper officer for any meeting, those received after the first two will be added to the agenda for subsequent meetings in the order that they were received. Motions will remain on agendas unless the member giving notice states in writing that she wishes to withdraw the motion or move it to a later meeting.

The Mayor may agree to late motions, in addition to the maximum of two that have already been listed on the agenda for debate, being added to the agenda where she is of the opinion they are urgent.

No motions will be accepted, subject to the Mayor's discretion in respect of urgent motions, at key budget decision meetings. The latter are defined as the budget setting meeting and the meeting setting the Council's fees and charges. Amendments to the budget are to be made in writing and delivered to the proper officer by 5pm on the Monday before the meeting. In proposing any changes to the budget any amendment must ensure that the proposal achieves a balanced budget.

If a motion set out on the agenda is not moved at the meeting, either by the Member that gave the notice or by another Member, it shall, unless postponed by the consent of the Council, be treated as withdrawn and shall not be moved without fresh notice.

Motions submitted by Members will be limited to a maximum of 30 minutes' debate for each motion.

Motions must be about matters for which the Council has responsibilities or which affect the Borough.

It is acceptable for motions to set a tone or general direction for future more detailed policy development work by the appropriate council committees, or to provide an initial stimulus to that work, but the wording of a motion or an amendment to a motion must not be such that it could be interpreted as circumventing or seeking to circumvent the council's constitutional decision-making processes.

Motions about policy areas which are an executive matter should request cabinet or cabinet members to undertake the necessary work to enable an executive decision to be

taken, while motions about non-executive matters should request the relevant committee to do the same or request cabinet to undertake the work necessary to bring an evidenced proposal to a future council meeting.

The monitoring officer will review the wording of all motions submitted, and where necessary will work with the member(s) who wish to propose the motion to bring the wording into compliance with this rule in a way which is acceptable to both the member and the monitoring officer.

In the event that no agreement on wording can be reached, the monitoring officer may, in consultation with the mayor, reject a motion on the basis that its wording is in breach of this rule or that it is otherwise out of order, illegal, irregular or improper. When such a rejection occurs, the monitoring officer will advise the member(s) who wished to propose the motion in writing of the reasons for the decision, and will submit a report of the decision to the council meeting at which the motion would have been debated. This report will be noted without discussion.

In the event that a motion seeking to set a tone or general direction for, or to provide initial stimulus to, future policy development work is moved and seconded but not carried when put to the vote, this will in no way prevent the executive or any relevant committee from working to develop policy along the lines proposed in the motion. In general the rejection of a motion at full council will have no bearing on the future work of the council, the executive or any committee (but refer to Rule 20.2 for the bearing it can have on future motions).

[.....]

#### **17.4 Amendments to Motions**

An amendment shall be relevant to the motion and will either be:-

- (a) to refer the matter to an appropriate body or individual for consideration or reconsideration;
- (b) to leave out words;
- (c) to leave out words and insert or add others;
- (d) to insert or add words;

as long as the effect of (b) to (d) is not to negate the motion or to bring its wording into conflict with any of the provisions of Rule 15.

Only one amendment may be moved and discussed at a time and no further amendment shall be moved until the amendment under discussion has been disposed.

If an amendment is lost, other amendments may be moved on the original motion.

If an amendment is carried, the motion as amended shall take the place of the original motion. This becomes the substantive motion upon which any further amendments are moved, except such as would have the effect of reviving the original motion.

Amendments to recommendations contained in Cabinet or officer reports to be considered by Council will be debated in the same way as amendments to motions; however, there is no restriction on what the amendment to the recommendation may be.



<b>General Purposes Committee</b>		<b>Agenda Item:</b>
<b>Meeting Date</b>	30 October 2019	
<b>Report Title</b>	Review of Polling Districts and Places – Teynham and Lynsted ward	
<b>Portfolio Holder</b>	Leader	
<b>SMT Lead</b>	David Clifford	
<b>Head of Service</b>	David Clifford	
<b>Lead Officer</b>	Katherine Bescoby	
<b>Key Decision</b>	<b>No</b>	
<b>Classification</b>	<b>Open</b>	
<b>Forward Plan</b>	<b>N/A</b>	
<b>Recommendations</b>	1. That the proposed addition of a polling district and place in the Teynham and Lynsted ward be approved.	

## 1. Purpose of Report and Executive Summary

- 1.1 The Council is asked consider a proposal to create a new polling district and place in the Teynham and Lynsted Ward, for the convenience of voters who live in the Great Easthall estate. This will enable the Returning Officer to select a polling station for electors that is near to their home for certain elections.

## 2. Background

- 2.1 The Electoral Administration Act 2006 introduced a requirement for Councils to undertake a review of polling districts and places in 2007, and every four years thereafter.
- 2.2 In practice, however, we monitor this more regularly and have, when necessary, made arrangements for alternative polling places/ stations with the agreement of the Council/(Acting) Returning Officer.
- 2.3 The last full review was carried out in 2017, prior to the all-out Borough and Parish elections held in May 2019.
- 2.4 It may be useful to clarify that the Council is responsible for setting the polling district (a geographical area of a ward) and polling places (a geographical area within a polling district that the polling station must be located within). The Returning Officer is responsible for locating the polling station, which must be within the polling place.

## 3. Proposal

- 3.1 It is proposed that a new polling district is created for voters who live in the part of the Great Easthall estate that falls within the Teynham and Lynsted ward. The polling place for this polling district would include the polling place

for the MUC polling district (which is Lakeview Village Hall) and TLT (Tonge Parish).

- 3.2 The reason for this proposal is that the Great Easthall estate falls partly within Murston (which is an unparished area) and partly within the Teynham and Lynsted ward (which falls within the boundary of Tonge Parish Council). This means that electors who live in the Murston ward vote at Lakeview Village Hall, whilst others will vote at Bapchild Village Hall. The proposal would mean that voters who are currently asked to travel to Bapchild Village Hall will be able to vote at their nearest polling station for elections such as Police and Crime Commissioner and Parliamentary elections (i.e. where the ballot paper is the same). For local elections, the voting arrangements are more complex due to ward and parish boundaries but it would be possible to continue with this arrangement by having a joint station at Lakeview, if considered appropriate.
- 3.3 In the longer term, the Council could decide to undertake a Community Governance Review with a view to realigning the parish boundary for Tonge Parish Council. Following such a review, if the Council agreed to amend the parish boundary, then the Local Government Boundary Commission could be asked to undertake alter the ward boundary for Teynham and Lynsted/Murston so that the parish and ward boundary is coterminous.

#### **4. Alternative Options**

- 4.1 The polling districts could be kept as they are, however, for the convenience of voters, it is recommended that a new polling district is created.

#### **5. Consultation Undertaken or Proposed**

- 5.3 Ward Members have been consulted and are supportive of the proposal. Tonge Parish Council are also aware of this anomaly.

#### **6. Implications**

<b>Issue</b>	<b>Implications</b>
Corporate Plan	Running elections effectively meets the Council's priority of being "a Council to be proud of".
Financial, Resource and Property	We are seeking to retain the current number of polling stations (which must be located within the polling place) and remain within existing budgets.
Legal and Statutory	The Council is required to undertake a full review in accordance with the Electoral Administration Act 2006 (which was undertaken in 2017). However, the Electoral Services Team keeps all polling stations under regular review.
Crime and Disorder	None identified at this time.
Sustainability	None identified at this stage.
Health &	None identified at this stage.

Wellbeing	
Risk Management and Health and Safety	<p>The purpose of the review is to ensure that all voters have reasonable facilities for voting. It is important that venues meet health and safety requirements so as not to put voters at risk.</p> <p>Each polling station is visited by a Polling Station Inspector on election day, and all polling station staff are encouraged to give feedback on venues following elections.</p>
Equality and Diversity	<p>The purpose of the review is to ensure that all electors in the Borough have reasonable facilities for voting, and that, in so far as is reasonable and practicable, facilities for voting are accessible for disabled people.</p>

## **7. Appendices**

7.1 None.

## **8. Background Papers**

8.1 None.

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<b>General Purposes Committee</b>	<b>Agenda Item:</b>
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<b>Meeting Date</b>	30 October 2019
<b>Report Title</b>	Disclosure of gifts and hospitality for Members
<b>Cabinet Member</b>	Cllr Roger Truelove, Leader and Cabinet Member for Finance
<b>SMT Lead</b>	David Clifford, Monitoring Officer
<b>Lead Officer</b>	Gary Rowland, Lawyer - Corporate Governance
<b>Recommendations</b>	1. To discuss the issues raised in the report and recommend proposals to Standards Committee.

## 1 Purpose of Report and Executive Summary

1.1 The purpose of this report is to seek proposals from the Committee as to an appropriate addition to the Members Code of Conduct regarding the receipt of gifts and hospitality by Members. These proposals will be put to the Standards Committee prior to a decision being made by Full Council. The Committee are also asked to consider bringing the disclosable gift value for Members in line with the disclosable gift value for Officers as well as a potential increase to the value.

## 2 Background

1.2 The requirement for gifts and hospitality to be disclosed by Members was removed by the previous administration in 2012 following the introduction of the Localism Act 2011. Informal Cabinet have expressed a desire to reintroduce the requirement. In order to implement this, an addition to the Constitution is required specifically to the Member's Code of Conduct.

1.3 One option for the Committee to consider is that the Council adopts the wording currently set out in Kent County Council's and Tunbridge Wells Borough Council's Constitutions under the Member's Code of Conduct. The wording is as follows:

- You must, before the end of 28 days beginning with the day of receipt/acceptance, notify the Monitoring Officer of any gift, benefit or hospitality with an estimated value of £100 or more, or a series of gifts, benefits and hospitality from the same or an associated source, with an estimated cumulative value of £100 or more, which are received and accepted by you (in any one calendar year) in the conduct of the business of the Authority, the business of the office to which you have been elected or appointed or when you are acting as representative of the Authority. You must also register the source of the gift, benefit or hospitality.
- Where any gift, benefit or hospitality you have received or accepted relates to any matter to be considered, or being considered at a meeting, you must disclose at the commencement of the meeting or when the interest becomes apparent, the existence and nature of the gift, benefit or

hospitality, the person or body who gave it to you and how the business under consideration relates to that person or body. You may participate in the discussion of the matter and in any vote taken on the matter, unless you have an Other Significant Interest, in which case the procedure in paragraph 5 above will apply.

- You must continue to disclose the existence and nature of the gift, benefit or hospitality at a relevant meeting, for 3 years from the date you first registered the gift, benefit or hospitality.
- The duty to notify the Monitoring Officer does not apply where the gift, benefit or hospitality comes within any description approved by the Authority for this purpose.

2.3 The disclosable gift value currently set out in the Officer's Code of Conduct is £25 or more. In order to bring the Officer's Code in line with the Member's Code, an increase of the disclosable value to £100 should be considered. The £25 value has been in force when the requirement to disclose was previously removed in 2012.

2.4 It is worth noting that a change to the Code of Conduct will have an effect on some Parish Councils within the Borough. Any Parish Council currently adopting the Council's current Code of Conduct for Members will need to ensure that they adopt the amended version once approved by Full Council. A system will need to be implemented to ensure those Parish Council's affected adopt the amended Code of Conduct to ensure multiple versions of the Code are not in circulation.

## **2 Proposals**

2.1 The Committee are asked to review and discuss the information in the report and make recommendations to the Standards Committee.

## **4 Alternative Options**

2.2 The Committee could decide to recommend that the existing arrangement be kept in place.

4.2 The Committee could decide to propose alternative wording to that set out in section 2.2.

## **5 Consultation Undertaken or Proposed**

2.3 Consultation on the process has taken place between the Monitoring Officer and Mid Kent Legal Services.

## **6 Implications**

6.1 Due to the nature of the recommendation, there are unlikely to be any wider implications.

## **7 Appendices**

None

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## EQUALITY AND DIVERSITY TRAINING : DISCUSSION PAPER

### 1. Background

- 1.1 Following a Notice of Motion to Council on 11, September 2019, proposed by Councillor Hannah Perkin, seconded by Councillor Ben J Martin and agreed unanimously, part of the resolution approved for referral to this Committee as a guide for consideration in detail was:

“To implement compulsory training for all Members on diversity and equality including unconscious bias and to request officers to consider how the allocation of seats on some committees could be restricted to those who have completed training.”

- 1.2 Following its consideration the Committee could request that Officers return a report to this Committee with recommendations based on development of the direction of Member’s views given at this meeting. Members could also request further consideration of their views by the Member Development Working Group and that their recommendations be included in the report back to this Committee. Any decision requiring constitutional amendment will need to be recommended on to Full Council for approval.

### 2. Duty relating to Equalities

- 2.1 As Members will be aware the Equality Act 2010 introduced the Public Sector Equality Duty. The Duty places a legal requirement on the Council in carrying out its functions to have regard for the need to:

- eliminate discrimination, harassment, victimisation;
- advance equality of opportunity between different groups; and
- foster good relations between different groups.

- 2.2 The Duty covers people with the following protected characteristics:

- age;
- race;
- disability;
- sexual orientation;
- religion or belief;
- sex;
- gender reassignment; and
- pregnancy and maternity.

The duty in respect of having regard to discrimination also applies to discrimination because of marriage or civil partnership status.

2.3 The Council currently demonstrates compliance by publishing equality objectives; ensuring officers and councillors are aware of the Duty and that the principles are enshrined in the way functions are discharged and services designed and delivered.

2.4 The Council's Corporate Equality Scheme 2016 – 2020 contains four equality objectives as follows, together with a list of actions designed to meet them:

- Objective 1: Supporting integration and cohesion in our local communities;
- Objective 2: Supporting our vulnerable residents;
- Objective 3: Ensuring easy, clear and convenient access to our services; and
- Objective 4: Promoting equality as a local employer.

2.5 One of the actions that underpins Objective 4 is to “continue to provide our staff and councillors with relevant on-going training and development on equality and diversity issues”.

### **3. Current Position**

3.1 For many years the Council has arranged for equality and diversity training to be provided by training consultants, generally on a three-yearly cycle. This has tended to be compulsory for officers and non-compulsory for Members. In addition, the Council's online training system incorporates several equality-related modules and staff are required to complete these periodically.

3.2 The most recent training arranged two sessions, daytime and evening in September and the same in October and I understand that 19 Members attended the September sessions and around a further 10 had notified attendance at the October sessions by the first week of October.

3.3 All Members of the Council agree to follow the Council's Code of Conduct when they sign following their election to office. Among several principles of good behaviour and probity, the Code emphasises:

“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”

3.4 All reports to meetings have an implications section within the standard template covering equality and diversity and this has to be completed indicating that no implications are identified at that stage or append an Equalities Impact Assessment or summarise its key findings. There is a detailed template for such an assessment and further advice is available from the Policy Team, who also review assessments. All reports to members, therefore, set out equalities considerations to which due regard must be had.

### **4. Possible advantages/disadvantages of training**

- 4.1 The Local Government Association has an Equality Framework which sets out criteria for analysis of whether best practice on equalities is taking place in respect of training it sets out what it considers to be the position for a developing, an achieving and an excellent authority as follows:
- Developing - The organisation carries out regular assessments of the training and learning and development needs required to ensure its councillors and officers are equipped to understand their equality duties and take action to deliver equality outcomes
  - Achieving – The organisation provides a range of accessible learning and development opportunities to support councillors and officers in achieving equality objectives and outcomes.
  - Excellent -Decision makers understand the importance of equality when making decisions and in how they use resources. Services are provided by knowledgeable and well-trained staff who are equipped to meet the diverse needs of local communities
- 4.2 Although councillors have a public sector equality duty, and it is therefore good practice for them to attend training, there is limited risk involved if they sit on a committee and they have not attended formal training. Often, they are not making decisions which impact on issues related to the Equality Act. In any event, they will be guided by officers in respect of any equality and diversity implications in their reports. In addition, although there could be challenge, by way of judicial review, a complaint to the Council, (ultimately the Local Government and Social Care Ombudsman) and assistance obtained from the Equalities and Human Rights Commission in the event of decisions which contradict the Equality Duty, such challenges are rare.
- 4.3 It is acknowledged that the understanding of equality and diversity is not simply a matter of compliance with legislation but also an aspiration to achieve greater awareness of equality and diversity issues, provide inclusive services, improve equality of opportunity for all and meet the aims of not only the legislation but the Council's objectives.
- 4.4 Training is an obvious route in working towards this position and consideration will need to be given to the practicalities of cost of the various types of training and whether there is sufficient current Member training budget allocation or whether further provision would need to be sought.
- 4.5 There would also be a time commitment required from Members in attending any training if personal attendance were needed and of Officers in keeping records of training taken and required. This could be reasonably simple in the same type of way as current records within the Constitution for Planning and Licensing but could become complex depending on number of changes to various Committees and the structure and levels of training required.

## **5. Compulsory Training**

- 5.1 Allocation of seats – The allocation of seats is governed by legislation (ss15 – 17 Local Government and Housing Act 1989), which requires allocation of seats to

proportionately reflect the political composition of the Council. Should there be any attempt not to allocate seats to certain parties on any basis this could be prevented and the legislation would not be complied with as necessary. Any decision to prevent Councillors from sitting on Council if they have not attended specified training could prevent a number of councillors from carrying out their democratic duty which they were elected for. This would be difficult to be justified as proportionate to the purpose of complying with the public sector equalities duty or other equalities and diversity aspirations as measures can already be demonstrated to be taking place to ensure compliance and awareness. This could also lead to meetings being inquorate or a problem with political balance generally if insufficient members have attended the training.

- 5.2 However, it could be possible to consider embodying within the constitution requirements on some Committees for training to be completed, specifying nature and time prior to inability to sit until completed, (see options below). Once a party has a proportionate allocation of seats it is a matter for the leaders to allocate seats to individual Members and ensure that they are available to sit or use a substitute.
- 5.3 However, this too could cause issues if some Members failed to meet the requirements for a Committee on which they had been allocated a seat and are unable to sit until training is completed. If this amounts to enough Members/ substitutes to significantly reduce available Members for the Committee from that party then voting may be affected. The effect of this is magnified for small party groups. It could lead to meetings being inquorate and unable to sit until training could be met. Whether any Member can complete the training and become available quickly would depend on the level of training required for that Committee and its availability. There would need to be careful consideration of proportionality and reasonableness in terms of the level of need for training, relevance to Committee and that there was no attempt to skew voting for a party.
- 5.4 It would be important to fully consider the functions of each Committee, the need for training related to any risk of failure to comply with the equality duty upon the Council and its policies. Inclusion of issues in reports and/or encouragement for basic awareness training may be sufficient in some cases and more detailed training required in other situations.
- 5.5 Currently the Constitution requires training in the relevant subjects, (not more general principles), for General Licensing Committee, Licensing Act 2003 Committee, Licensing Sub Committees, Planning Committee and Planning Working Group and Members who do not have the training every 3 years are not permitted to sit. Clearly those Committees have the most direct contact with decisions upon applications made and enforcement taken against individuals or companies.

## **6. OPTIONS:**

### **6.1 Types of Training**

- 6.1.1 No formal training but clear indication on induction that the issue is included within reports and why the issue is important for Council's to have due regard to.

- 6.1.2 Provision of materials available to Members for self study in their own time and self certification that they have read and understood the materials. Having regard to the agreement to comply with the Code of Conduct, including carrying out all functions in accordance with their legal duties.
- 6.1.3 ELMs; used for online training modules which record completion and date after all parts are viewed and questions answered correctly. There are currently two programmes available on ELMs, which Members can access; Equality Act 2010 and Equality in the Workplace. The latter one as it is more about people's behaviours, the former an overview of the legislation. I also understand that modules can be designed specifically to requirements but cost has not yet been explored
- 6.1.4. External training commissioned as required. This has previously been done 3 yearly and training is ongoing. Cost and availability of specific training would need to be further explored.
- 6.1.5 Internal training as an introductory model or an element of wider subject specific training. It may be that this could be put together between Policy, Legal and HR, for small elements but would be time consuming to prepare and specialist input with a trainer with experience of applying the legislation may be preferable.
- 6.1.6 Acceptance of previously carried out training with other bodies. It is understood that for various reasons some Members will already have completed training in this subject and for them this would be a time commitment to repeat training. It may be practical to permit the Monitoring Officer to accept evidence of a given level of training within a set time period as having met training needs.

## **7. Which Committees**

- 7.1 Regulatory Committees will deal with the most sensitive issues when dealing with individual applications e.g. Planning and Licensing and these Committees are already used to requirements to complete training prior to sitting, see above.
- 7.2 Full Council consists of all Councillors elected to the Council and having been duly elected it could be problematic to prevent sitting by any Member. If a Member were to clearly breach the equalities duty and be subject of a Code of Conduct complaint it could ultimately lead to a sanction which could include instructing the Monitoring Officer to arrange training or recommending to the Group Leader that they be removed from any or all Committees or Sub Committees of the Council or if a Cabinet Member they be removed from the Cabinet or a particular Portfolio etc. Decisions by Council are also generally giving effect to detailed work carried out by other Committees where the policies and procedures have been subject to equalities impact consideration if required.
- 7.3 Other Committees - (Appendix A) may have different levels of relevant decisions and consideration of their functions and level of risk is necessary.

## **8. Timing/reasonable opportunities**

- 8.1 Any training required of Members needs to be accessible for them in both availability of sessions at different times, location and sufficient sessions to allow reasonable opportunity to attend. Alternative methods of delivery to formal attendance at sessions should be a consideration e.g. online, webcast, hard copy materials etc.
- 8.2 Also, how many sessions need to be attended for the purpose of awareness of equality and diversity issues to be promoted to a reasonable extent?

## 9. Conclusion

- 9.1 Members are therefore asked to consider and discuss these issues and provide views on direction for Officers to report further, including consideration by the Member Development Working Group as necessary.

Jayne Bolas  
Principal Solicitor  
October 2019

# Appendix: Committee structure

## Council

- Appointments Sub-Committee
- Audit Committee
- Council
- Emergency Committee
- General Purposes Committee
- Policy Development and Review Committee
- Standards Committee

## Cabinet

- Cabinet

## Regulatory Committees

- General Licensing Committee
- Licensing Act 2003 Committee
- Licensing Sub-Committee
- Planning Committee