

# AGENDA

## STANDARDS COMMITTEE MEETING

Date: Tuesday, 10 November 2015

Time: 7.00 pm

Venue: Council Chamber, Swale House, East Street, Sittingbourne, Kent, ME10 3HT

Membership:

Councillors Lloyd Bowen (Vice-Chairman), Derek Conway, Duncan Dewar-Whalley (Chairman), Mark Ellen, Paul Fleming, Sue Gent, Alan Horton, Ken Ingleton, Padmini Nissanga, Prescott and Ben Stokes

Quorum = 3

Independent Person (non-voting): Mrs Sally Pirie.

Kent Association of Local Councils representatives (non-voting): Mr Graham Addicott, Mr Dave Austin and Mr Peter Paige.

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	Pages
1. Apologies for Absence and Confirmation of Substitutes	
2. Minutes	
To approve the Minutes of the Meeting held on 11 November 2014 (Minute Nos. 336 - 339) as a correct record.	
3. 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.	

**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 Director of Corporate Services as 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 Report for recommendation to Council**

4. Annual Monitoring Officer's Report 1 - 16

To consider the report of the Corporate Services Director/Monitoring Officer.

**Part B Report for the Standards Committee to decide**

5. Annual Report on Member Training and Development 17 - 20

To consider the annual report on progress with Member Training and Development.

**Issued on Monday, 2 November 2015**

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

Director of Corporate Services, Swale Borough Council,  
Swale House, East Street, Sittingbourne, Kent, ME10 3HT

Standards Committee
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<b>Meeting Date</b>	10 November 2015
<b>Report Title</b>	Annual Monitoring Officer Report
<b>Cabinet Member</b>	Not applicable for this report
<b>SMT Lead</b>	Director of Corporate Services as Monitoring Officer
<b>Head of Service</b>	Not applicable
<b>Lead Officer</b>	Director of Corporate Services
<b>Key Decision</b>	No
<b>Classification</b>	Open
<b>Forward Plan</b>	Not applicable

<b>Recommendations</b>	1. That the Standards Committee notes this report.
	2. That there be no further action to review the regime at the present time.

## Purpose of Report and Executive Summary

1. This is my ninth annual report, as Monitoring Officer for Swale Borough Council. 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.

2. This report therefore sets out the Monitoring Officer's statutory responsibilities and summaries how several of these duties have been discharged since my last report. It draws Members' attention to some of the more significant developments.

3. The report reflects upon a further year from November 2014 of the operation of the new standards provisions since the Localism Act 2011 became effective.

4. Overall, it shows that the year to end October 2015 has been one of relative stability and limited activity, however, where appropriate, emerging issues are identified.

### THE ROLE OF THE MONITORING OFFICER

5. 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 vires 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

## CONSTITUTIONAL REVIEW AND REVISION

6. 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, is properly maintained and is adhered to.

7. A major review of the Constitution was concluded in May 2014: by far the most significant change was the updated overview and scrutiny procedure arrangements and the revised Council Procedure Rules.

8. 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

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

10. In September 2015, 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:

“As in previous years the financial statements have been produced to a very high standard”

and

“we are satisfied that in all significant respects the Council put in place proper arrangements to secure economy, efficiency and effectiveness in its use of resources for the year end 31 March 2015.”

11. In the overview of Audit Findings the external auditors use a red, amber, green categorisation, in every aspect of this analysis but one, relating to the residual risk of planning support services, it was scored green (although the presentation of this has subsequently been amended to reflect a consistent approach across the three MKIP authorities). This reflects extremely well on the organisation’s governance procedures.

## **LAWFULNESS AND MALADMINISTRATION**

12. 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](http://www.swale.gov.uk)

13. The Cabinet has met on 12 occasions since November 2014. 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.

14. 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.

15. 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.

16. 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.

## GOOD GOVERNANCE AND CODE OF CONDUCT

### National Context

17. I would remind members of the tragic cases in Rotherham which only served to illustrate what happens when governance is bad. The Jay report was a very sobering moment for local government governance. It referred to a macho and sexist culture with quotes such as “it was a grubby environment in which to work” and “you women are only fit for cooking, washing and darning”. It is little surprise that the report’s author says

*“the existence of such a culture is likely to have impeded the Council from providing an effective, corporate response to such a highly sensitive problem as child sexual exploitation”*

18. For the benefit of new members to the committee I have included the following cases which I have previously reported to give an overview of some of the potential issues with the current standards regime.

19. There have been a number of high profile cases; in particular one in Wigan, where a member used council provided equipment amongst other things to call sex lines, which hit the national papers where the shortcomings of the sanction regime have been highlighted. The Chair of their Standards Committee is quoted:

*“I don’t think it’s wrong to say that we are limited in what we can do because the sanctions have already been exhausted previously”.*

20. Interestingly this particular member was well known to Standards for England having been previously suspended and disqualified. The latter did not prevent him from being elected once his period of disqualification (under the old sanctions regime) was served and it would appear that he had no regard to the reputational damage done to the Council. Irrespective of which regime is in place, it serves to illustrate that it is very difficult to deal effectively with that tiny group of members who behave in this way. Part of the debate after the matter had been considered was whether legislation might be introduced for “recall for councillors” in the same way that such provision is being considered for MPs.

21. Another case reported nationally that a shamed councillor refused to quit despite a benefit fiddle on his own council. The Councillor and his wife who swindled £25,000 of taxpayers’ money in a two year benefit fraud avoided jail and therefore were not automatically disqualified from office.

22. April 2015 saw the first case decided in the Magistrates Court on the issue of participating in a discussion and vote without reasonable excuse despite having a Disclosable Pecuniary Interest (DPI) **R v Flower**

<p><b>Facts:</b> 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</p>
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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.

23. The advent of social media has probably moved at a faster pace than the legislation and has given rise to much debate on whether matters on social media fall outside the Code of Conduct and this is a matter which will need to be kept under review. There are those who suggest that such matters are outside the Code but I would suggest that each case would need to be considered on its merits particularly the capacity in which the social media was being used.

24 The following two cases 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.

25. Other cases of note have considered human rights legislation particularly the right to freedom of expression. The standards regime in Wales remains the old one and so there have been a number of cases which have sought to clarify the position. It is clear that political comments benefit from a high degree of protection, mere personal abuse does not. In one case a sarcastic and mocking blog ridiculing fellow councillors over a long period was disrepute but there was no breach, it was not seen to be personal abuse and politicians should have thick skins. In another case comments made on a blog about a particular community were found to be an unjustified and a personal attack on a section of the public and there was no protection under human rights. One final case involving the Leader of Clwyd County Council highlighted again that politicians have to have thick skins but there must be a mutual bond of trust and confidence between officers and members.

### **Local Context**

26. The Monitoring Officer has continued his pro-active role in ensuring good practice, good procedures and good governance. 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. This dialogue will continue and I remain grateful for the support of Group Leaders in discussions on these issues. I am also pleased to record once again that the occasions where I have sought to do this have been very few.

27. There have again been a number of issues relating to planning which is not surprising given the quasi-judicial nature of the work. Matters raised by Members tend to relate to declaration of interests.

28. The Head of Planning has reviewed planning committee procedures and provided updated training for planning members and further improvements continue to be considered. I have also given individual advice to members on predisposition, predetermination or bias and the Code and the implications of the Localism Act, the nature of interests to be declared and representation on outside bodies. The impact of the 2014 Openness of Local Government Bodies 2014 which enables members of the public to record meetings has also been monitored and audio recording of Cabinet, Council and JTB has been introduced. Further development of the use of the system will be considered.

29. 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. I have also explained further the remit of the Monitoring Officer in relation to parish councils. Often matters are raised which relate to how the parish council conducts its business as opposed to individual behaviour and conduct of members. I have seen an increase in enquiries of this type since the parish elections in May and have sought to remind those councils affected of the need to provide support and training on internal processes to their members to avoid matters escalating into ill-founded tit for tat allegations

30. 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. The purpose of these briefing notes is to provide readily accessible reference materials for members. I have issued general advice to members on media issues and defamation.

31. The Council adopted its new 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 is working well but there is still concern over the lack of sanctions and a debate over when a member is acting in an official or private capacity, (see national context above).

32. Within the spirit of the lighter touch approach, the Council has sought to have as consistent and proportionate approach across the Borough's parish and town councils as possible. The lateness of the publication of the regulations covering the declaration of disclosable pecuniary interests meant some parish councils choose to adopt a Code prepared by the National Association of Local Councils (NALC). From an administrative point of view this is manageable within the resources available to me; however, I do appreciate that each authority can agree its own code and what other interests to be included in the register as well as Disclosable Pecuniary Interests.

33. The Registers of Interests required have been established and maintained. This includes all parish or town councils within the authority's area. The lack of a standard definition of 'interests other than pecuniary interests' and the degree of local discretion, if not confusing, created scope for considerable local variation. In introducing the new arrangements, I sought to minimise variation but this did not always prove possible.

One of the key issues raised has been the requirements for publication of the registers on the Councils website; there have been issues with the capacity of our modern.gov system to accommodate the requirements to publish the registers. Discussions are ongoing and it is hoped that this will be resolved shortly.

34 The Department for Communities and Local Government issued guidance on openness and transparency on personal interests in March 2013. Key points for noting were:

- 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.

35. Further guidance was issued in September 2013. The guidance was revised to make it clear that councillors should treat Trade Union membership as a disclosable non-pecuniary interest. For Swale Borough Council and those parish councils which adopted the Swale Code or the NALC Code, this merely reflected the existing position. For one parish council, which adopted a 'passive' approach to the registration of such interests, I drew the new guidance to their attention and asked that they consider amending their code to reflect the new guidance.

36. During the period end October 2013- October 2015, there have been a number of matters that have been considered that could potentially have come within the standards framework; I have included all cases for the benefit of new Committee members

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

**Historic cases –October 2013 –October 2014**

<b>Nature of Complaint</b>	<b>Action</b>	<b>Commentary</b>
Conduct of member in dealing with Parish Clerk	Discussed with Independent Person – referred for investigation	Hearing held. No breach Para 9 of the Code. Breach of Para 10 of Code, recommendations made to PC for training of all parish members and Clerk. Followed up with meeting with Chairman and Clerk.
Conduct of parish council meeting in relation to representations made on a	Discussed with Independent Person, Monitoring Officer filter	Potential breach of Code of Conduct. Monitoring Officer and his Deputy attended a

<p>planning application by partner of one of the parish councillors who was alleged to influence the response given.</p>	<p>applied to seek informal resolution</p>	<p>meeting of the Parish Council to provide training on the need to ensure that the processes adopted in future were open and transparent and improvements were suggested on how to record the meeting. The Parish Council agreed to write to the complainant advising that they had reviewed and improved procedures to ensure matters of this type would not be subject to future complaints.</p>
<p>Multiple complaints received in relation to issues surrounding members who had moved from the Swale Area</p>	<p>Discussed with Independent Person</p>	<p>Private decision not covered by Code of Conduct. No breach.</p>
<p>Complaint regarding alleged abusive behaviour of member at Planning meeting</p>	<p>Discussed with Independent Person, Monitoring Officer filter applied to seek informal resolution</p>	<p>Public apology given.</p>
<p>Questioning decision relating to co-option of parish councillor</p>	<p>Monitoring Officer filter applied</p>	<p>Complaint not within remit of Standards regime: related to parish council as a whole and how it dealt with its administrative functions.</p> <p>This matter has been very time consuming as on numerous occasions the complainant refused to respond to Monitoring Officer's reasonable request for clarification of the nature of the alleged complaint and potential breach of the Code of Conduct. Instead he chose to circulate statements to members, MP and the press that Monitoring Officer was "doing nothing".</p> <p>He also complained to the</p>

		Local Government Ombudsman that the Monitoring Officer had refused to investigate his complaint against a member of a parish council. The Ombudsman confirmed that she will not be investigating the complaint as she saw no evidence of fault in the way the Monitoring Officer made his decision.
Councillor alleged to have not dealt with representations fairly, appropriately and impartially, not treating people with respect.	Discussed with Independent Person – referred for investigation	Investigating Officer report received and informal resolution agreed by way of a private apology
Multiple complaints following a Planning meeting to discuss SBC response as a consultee on a KCC planning application.	Complaint initially dealt with through Council's complaint system as alleged breach of Code was a minor part of the complaints raised.  Those complainants who referred the matter on through the formal Code of Conduct process were asked whether informal resolution possible.	Public apology issued.  (This was another resource intensive case)

### **New complaints November 2014 – October 2015**

**(n.b. all these relate to one Parish Council)**

<b>Nature of Complaint</b>	<b>Action</b>	<b>Commentary</b>
Conduct of member in dealing with Parish Clerk (two separate complaints)	Discussed with Independent Person – referred for investigation	Investigating Officer report awaited
Councillor alleged to have not dealt with representations fairly, appropriately and impartially, not treating people with respect including allegedly making racist remarks.	Discussed with Independent Person – referred for investigation	Investigating Officer report awaited

Councillor alleged to have not dealt with representations fairly, appropriately and impartially, not treating people with respect	Discussed with Independent Person – referred for investigation	Investigating Officer report awaited
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## **CODE OF CONDUCT FOR EMPLOYEES**

38. The Constitution includes a Code for Employees, which has been recently updated and aligns closely with the register of interest requirements under the old members Code of Conduct. Our arrangements were subject to an internal audit which received a substantial level of assurance and I do not propose to take any further action on this subject at the present time.

## **OVERSEEING REGISTRATION OF OFFICER INTERESTS**

39. 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.

## **WHISTLE BLOWING (Protected Disclosure Policy)**

40. 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.

## **CORPORATE COMPLIANCE WITH LEGISLATION**

41. 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).

## **PROTOCOL ON COUNCILLOR/OFFICER RELATIONS**

42. 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).

43. In the last period there have been no complaints of this type to the Monitoring Officer, however, one has been made recently to the Chief Executive and at the time of writing the matter remains under investigation.

## **SUPPORT TO COUNCIL, CABINET, SCRUTINY AND COMMITTEE MEETINGS**

44. 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.

45. 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.

46. From **1 November 2014 to 30 October 2015** the following meetings were serviced:

<b>Name of Meeting</b>	<b>No. of meetings</b>
Annual Council	2

Audit	4
Cabinet	12
Cabinet Delegated Decisions	7
Council	7
General Licensing Committee	2
General Purposes Committee	0
Licensing Act 2003 Committee	1
Licensing Sub-Committee	5
Local Development Framework Panel	3
Member Development Working Group	5
Planning	21
Planning Working Group	15
Policy Overview Committee	0
Policy Development and Review Committee	7
Rural Forum	4
Scrutiny Committee	11
Standards Committee	1
Standards Hearings Sub-Committee	0
Swale Joint Transportation Board	4
<b>Total</b>	<b>111</b>

47. This represents 111 meetings in total. This compares with 107 in the previous year and 110 the year before. The most notable difference for this period, compared to the same period last year is the increase in the number of Planning Committee meetings following a move to a three-weekly Committee cycle and an increase from 8 to 15 of the Planning Working Group. The meeting numbers do not reflect the additional meetings administered by the Democratic Services Team including four external charities and the Youth Forum as well as pre meetings and agenda planning meetings. From June 2015 the administration of the South Thames Gateway Building Control Joint Committee passed back to Swale to administer for the 2015/16 civic year. The volume of meetings 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.

## **MEMBER TRAINING AND DEVELOPMENT**

48. 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 Standards Committee. Particular emphasis was placed



on the initial induction of new members and the MDWG has put in place a detailed briefing programme based on a survey of members requirements.

## **USE OF COVERT SURVEILLANCE**

49. 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. The Office of the Surveillance Commissioner (OSC) advised that it was appropriate to include such information within my Annual Monitoring Officer report to members. The Regulation and Investigatory Powers Act (RIPA) policy and guidance note has been updated to reflect recommendations of the OSC and the amendments occasioned by the Protection of Freedom Act 2012, in particular, the need to obtain judicial approval to carry out covert surveillance together with the restriction on the type of offence for which directed surveillance authorisations can be made; namely criminal conduct which would attract on conviction a maximum term of at least six months. The Policy is currently under review.

50. The Council were inspected by the OSC in June 2013 at which it was recognised that all previous recommendations had been discharged and that no further recommendations were needed. Since my last report no applications for directed surveillance have been authorised.

## **CONCLUSIONS AND COMMENTS**

51. 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.

52. 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.

53. Given the changed role of the Committee there is no need to set out a formal work programme. Clearly, there will be a need to review the experience of the standards framework. I would not recommend a review at this point as the table at Para.36 still does not provide sufficient or compelling experience of the new regime to warrant a review.

## **54. IMPLICATIONS**

<b>Issue</b>	<b>Implications</b>
Corporate Plan	The role of the Monitoring Officer is pivotal to good governance and providing assurance.
Financial, Resource and	The role is part of the Corporate Services Director's duties; he has access to resources within the organisation to enable him to

Property	perform his statutory duties. The issue of costs of any investigation under the local arrangements remains a concern although reciprocal arrangements exist between the MKIP partners.
Legal and Statutory	These are set out in Para 2 of the report
Crime and Disorder	Not directly relevant to this annual report
Risk Management and Health and Safety	None directly arising from this annual report.
Hell and well being	None directly arising from this annual report.
Equality and Diversity	The authority's governance framework is underpinned by the Corporate Equality and Diversity Policy and procedures

## RECOMMENDATIONS

55 That:

- The Standards Committee notes this report.
- There be no further action to review the regime at the present time.

**Mark Radford**  
**Corporate Services Director & Monitoring Officer**

Date: November 2015

<b>Standards Committee Meeting</b>
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<b>Meeting Date</b>	10 November 2015
<b>Report Title</b>	Annual Report on Member Training and Development
<b>Portfolio Holder</b>	Cabinet Member for Performance
<b>SMT Lead</b>	Mark Radford, Corporate Services Director
<b>Lead Officer</b>	Jo Millard, Senior Democratic Services Officer
<b>Key Decision</b>	No
<b>Classification</b>	Open

<b>Recommendation</b>	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 2014, 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 Corporate Services Director. 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:

- Developing (and receiving feedback from) the prospective candidates event
- Developing (and receiving feedback on) the induction arrangements post 7 May 2015, including the induction pack and the event.
- Commencing the review of Role Profiles.
- Evaluating the training provided in 2014/15.

## 2.2 Member Training Sessions and Attendance

2.2.1 A Member training programme is developed at the start of each civic year. Following the induction, each Member has been asked to complete a questionnaire, feedback from which has been considered by the MDWG, together with suggestions for training from Officers and via the MDWG. 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 2014 – October 2015**. Parish Councillors are invited to planning briefings.

<b>Title of Training/Briefing session</b>	<b>Date</b>	<b>Number of Councillors in attendance</b>
Respecting Difference	6 November 2014	6
Kent Police and Crime Commissioner Briefing	12 November 2014	11
Planning Training – shared service and public access systems update	18 December 2014	14 plus 11 parish councillors
Planning Training (Section 106)	15 January 2015	10 plus 13 parish councillors
Planning Training (overview of appeal decisions)	5 March 2015	9 plus 5 parish councillors
MKIP briefing	23 March 2015	Estimate 7
Planning – housing supply	9 April 2015	18
Members' Induction	16 May 2015	19
Planning training	14 May 2015	10 plus 13 parish councillors
Audit Committee	28 May 2015	8
Licensing Training	4 June 2015	15
South East Employers Induction	10 June 2015	5
Safeguarding Training	16 July 2015	25
Planning Training – community infrastructure levy	27 July 2015	20

## 2.3 Future Work

2.3.1 Following the all-out Borough Elections in May 2015, and now a replacement Senior Democratic Services Officer is in post, the MDWG's main focus over the coming months will be implementing the post-election induction/development programme.

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. Two of our Members have attended training at Maidstone. As mentioned previously, it would also encourage Members to take up shadowing opportunities available.

2.3.3 The MDWG will continue to explore ways of accessing training on-line, at times more convenient to Members. This is a project which we hope to start when the intranet is available for Members to access outside of Swale House.

### **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. 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**

<b>Issue</b>	<b>Implications</b>
Corporate Plan	The Council's Corporate Plan has three priorities: Embracing Localism, Open for Business and Healthy Environment. 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 2015/16.
Legal and Statutory	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

	<p>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 knowledge on these matters to properly exercise their responsibilities in-line with legislation.</p>
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