
STANDARDS COMMITTEE

MINUTES of the Meeting held in the Council Chamber, Swale House, East Street, Sittingbourne, Kent, ME10 3HT on Tuesday, 20 November 2018 from 7.00pm - 7.45pm.

PRESENT: Councillors Tina Booth, Lloyd Bowen (Vice-Chairman), Derek Conway, Duncan Dewar-Whalley (Chairman), Paul Fleming and Alan Horton.

Independent Person (non-voting): Patricia Richards.

Kent Association of Local Councils (KALC) representatives (non-voting): Parish Councillors Graham Addicott and Jeff Tutt.

OFFICERS PRESENT: David Clifford, Philippa Davies and Robin Harris.

APOLOGIES: Councillors Ken Ingleton and Padmini Nissanga, Dave Austin (KALC representative) and Christopher Webb (Independent Person).

345 **EMERGENCY EVACUATION PROCEDURE**

The Chairman outlined the emergency evacuation procedure.

346 **INTRODUCTION AND WELCOME**

The Chairman welcomed all to the meeting, particularly the recently appointed Monitoring Officer, and invited everyone to introduce themselves.

347 **MINUTES**

The Minutes of the Meeting held on 14 November 2017 (Minute Nos. 321 – 326) were taken as read, approved and signed by the Chairman as a correct record.

348 **DECLARATIONS OF INTEREST**

No interests were declared.

349 **ANNUAL MONITORING OFFICER REPORT**

The Monitoring Officer introduced his report which provided an overview of the work of the Monitoring Officer during the period 1 November 2017 to 31 October 2018. He thanked his predecessor Donna Price, and Deputy Monitoring Officer Robin Harris, for their assistance in the early stages of his new role.

The Monitoring Officer briefly outlined each section of the report and welcomed questions and comments from Members on this, his first report as Monitoring Officer.

In respect of section 3 – Maintenance and review of the Constitution, the Monitoring Officer welcomed the unqualified audit and value-for-money opinion from the External Auditors, which reflected well on the finance team. He referred to the reviews of the Constitution, agreed by Full Council in March 2018, and October 2018.

In respect of paragraph 4.6 of the report, the Monitoring Officer reported that there had been no instances of the Monitoring Officer issuing a report concerning potentially unlawful decisions during the year up to 31 October 2018.

In respect of section 5 – Ethical standards and the Members' Code of Conduct, the Monitoring Officer referred to the review on local government ethical standards being undertaken by the Committee on Standards in Public Life. The results of the review should be known by the end of this calendar year. The Monitoring Officer referred to some examples of case law, notably that a grievance procedure could not be held alongside a standards regime procedure.

A Member referred to paragraphs 5.2 and 5.3 in the report, in relation to the limitations in terms of sanctions, if there had been a breach in the Code of Conduct. A common sanction was the requirement for further training. There were cases where parish councillors were able to continue in their role as often vacancies within parish councils were uncontested. In response, the Monitoring Officer explained that the Council had responded to the above review, about the concerns in the lack of ability to uphold the Code of Conduct. The Chairman explained that he had noted at Local Government Association meetings that other Councils had felt the same way about the limitations in the sanctions. He would welcome a sensible approach following completion of the review.

A Member suggested there be a mechanism to re-call a Councillor when there had been a breach, and the Member held to account in that way. He also referred to the General Data Protection Regulation (GDPR), and considered this had caused a few problems, and questioned how a breach in GDPR was dealt with in terms of standards and the code of conduct.

In response, the Monitoring Officer did not consider the process of a re-call would be actioned, and that Members were data controllers in relation to GDPR, and so sanctions were applicable to Members, like everyone else. Whether that also meant that the Code of Conduct had been breached, would be made on a case-by-case basis. The Deputy Monitoring Officer confirmed that where a breach of the GDPR was a criminal offence then this would be dealt with as a criminal matter and not a breach of the standards regime.

The Monitoring Officer referred to paragraph 5.11 and explained that where there had been evidence of behaviour which could test the boundary of appropriate conduct, the usual approach had been informal engagement, and this was carried out with varying degrees of ease and success. He added that after the election in May 2019, he would be holding comprehensive Code of Conduct training for new Councillors. He also encouraged re-elected Councillors to attend.

There was some discussion on giving Parish Councillors the opportunity to attend training sessions at the Council. Although this was welcomed, especially

attendance at planning training sessions, there were some comments that often the parish councillors who 'needed' the training did not attend. The Monitoring Officer agreed that the Code of Conduct training would also be made available to parish councillors. A KALC representative advised that parish councillors found it beneficial when planning officers came out to discuss planning issues with them.

The Monitoring Officer reported that there had been eight formal complaints up to 31 October 2018, five against Borough Councillors and three against Parish Councillors. He highlighted the cases within the report which had been dealt with by discussions between the Monitoring Officer and one of the Independent Persons.

In respect of section 8 – Protected disclosures – the Whistleblowing Policy, the Monitoring Officer confirmed that the Policy was due to be reviewed over the next year to ensure it was up-to-date and inline with the Council's Mid-Kent partners. There was some discussion, and the following points were raised: include the views of the staff union in the review; ask the staff, perhaps by way of a survey, if they were confident in making disclosures, and in the Policy itself; an in-depth review was needed; and it was important that new members of staff were aware of the Policy.

In respect of section 9 – Corporate compliance with legislation, the Monitoring Officer reported that the Council's standard report template was subject to fairly frequent review, including a recent expansion of the implications section.

In respect of section 11 – Support to Council, Cabinet, Scrutiny and Committee Meetings, the Monitoring Officer drew attention to the table on page 20 of the report which indicated that 92 meetings had been administered by the Democratic Services Team, so around two meetings per week. The Chairman commented that the true number was in excess of 92, as other meetings were also administered, as outlined in paragraph 11.4 of the report.

In response to a question, the Monitoring Officer explained that previously a senior officer could authorise covert surveillance, but this now had to be validated by judicial approval, due to concerns over privacy issues.

The Monitoring Officer summarised and explained that as he was new to the role, a review of the Code of Conduct was not timely. He stated that he wanted his tenure of the Monitoring Officer role to add value to the Council, and that he would look to draw on his skillset and knowledge of the organisation to achieve this. A Member suggested that the Monitoring Officer considered a review of the Code of Conduct following the results of the consultation carried out by the Committee on Standards in Public Life, and Members were happy with this approach.

Resolved:

- (1) That the report be noted.**
- (2) That the Code of Conduct be reviewed, subject to the results of the consultation carried out by the Committee on Standards in Public Life.**

350 ANNUAL REPORT ON MEMBER TRAINING AND DEVELOPMENT

The Chairman introduced the report which provided an update on progress with Member Training and Development since 2017, outlining actions taken by the Member Development Working Group (MDWG), to-date and their future work programme. He added that there were continuous endeavours to organise the relevant training, and to encourage Members to attend. The MDWG was planning a good programme of induction training for May 2019, and he hoped re-elected Members would also attend, as a refresher.

A Member welcomed the Elms e-learning training, which he had considered to be straightforward, but was disappointed that the training session had not been well-attended, as Members had requested it. Another Member suggested that this training session be re-run in the near future, or after the election in May 2019, or instead to have more informal sessions in smaller groups. The Member also suggested that GDPR training should be mandatory, and that 13 was not a good attendance, meaning that a lot were not trained, especially as this matter affected both Borough Councillors and Town/Parish Councillors. The Chairman suggested that in respect of e-learning, Members came into Swale House, and used the IT Training Room. He asked that this be advertised in the weekly despatch to Members.

In response, a Member advised that some Parish Councils had held training sessions on GDPR, so many Members might have already attended with their Parish Council, rather than go to the Borough Council training. A KALC representative suggested that training sessions at Swale be dove-tailed with training sessions that KALC (Kent) held, for completeness.

The Monitoring Officer suggested that Members be asked if they had attended any GDPR training, and he acknowledged the need to 'sell' the benefits of training to Members.

Resolved:

(1) That the Annual Report on Member Training and Development be noted.

Chairman

Copies of this document are available on the Council website <http://www.swale.gov.uk/dso/>. If you would like hard copies or alternative versions (i.e. large print, audio, different language) we will do our best to accommodate your request please contact Swale Borough Council at Swale House, East Street, Sittingbourne, Kent, ME10 3HT or telephone the Customer Service Centre 01795 417850.

All Minutes are draft until agreed at the next meeting of the Committee/Panel