



AGENDA

STANDARDS COMMITTEE MEETING

Date: Tuesday, 14 June 2022

Time: 7.00 pm

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

Membership:

Councillors Lloyd Bowen, Roger Clark, Steve Davey (Vice-Chair), Nicholas Hampshire, Ken Ingleton, Elliott Jayes, Denise Knights, Hannah Perkin (Chair), Bill Tatton, Ghlin Whelan and Corrie Woodford.

Quorum = 3

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

Kent Association of Local Councils representatives (non-voting): Mr Graham Addicott OBE.

PAGES

Information for the Public

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Link to meeting: to be added.

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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 16 November 2021 (Minute Nos. 431 - 435) as a correct record, and to accept the [Minutes](#) of the Standards Hearing Sub-Committee held on 25 April 2022 (Minute Nos. 761 – 765).

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

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

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

Part B Reports for Decision by the Standards Committee

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| 8. | Membership of standards working group 2022/23 | |

No report for this item.

Issued on Monday, 6 June 2022

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

Standards Committee	
Meeting Date	14 June 2022
Report Title	Standards champions within political groups
EMT Lead	David Clifford
Head of Service	Head of Policy, Governance and Customer Services (Monitoring Officer)
Lead Officer	
Classification	Open
Recommendations	<p>The standards committee is asked to:</p> <ol style="list-style-type: none"> 1. Consider whether a scheme of standards champions would be acceptable to groups and would have a beneficial impact; and if so — 2. Agree to discuss the idea within groups and provide feedback to the monitoring officer with a view to agreeing a final version of the scheme at the next standards committee.

1 Purpose of Report and Executive Summary

- 1.1 This report introduces the idea of standards champions within political groups, which was first proposed by the standards working group in late March. The report seeks the views of standards committee members on whether the proposal would be acceptable to groups and whether it would be effective in helping to resolve standards issues between members.

2 Background

- 2.1 Members will recall that the standards committee has previously considered the issue of the existence of a broad ‘grey area’ between member conduct which is wholly unproblematic on the one hand and conduct which is a clear breach of the code of conduct on the other. It is right that only conduct which is contrary to the expectations of the code is dealt with as such, and there is rightly a threshold of seriousness which has to be met before public resources can appropriately be used to investigate or otherwise take action against member misconduct.
- 2.2 This situation does result in a problem in terms of how best to handle scenarios in which a member’s conduct towards another member, whether online or in a meeting, has not risen to the level of a clear or sufficiently serious breach of the code but has nonetheless caused the member to whom the conduct was directed to feel offended, intimidated or bullied.
- 2.3 Case law made with reference to Article 10 of the Human Rights Act, which covers the right to free expression, provides for enhanced protection for

politicians, including local politicians, in being able freely to speak their minds. An important case in this regard is *Heesom v Public Service Ombudsman for Wales* (High Court, 2014), in which the judge had this to say about this enhanced protection:

In the political context, a degree of the immoderate, offensive, shocking, disturbing, exaggerated, provocative, polemical, colourful, emotive, non-rational and aggressive, that would not be acceptable outside that context, is tolerated...Politicians have enhanced protection as to what they say in the political arena, but...because they are public servants engaged in politics, who voluntarily enter that arena and have the right and ability to respond to commentators... politicians are subject to wider limits of acceptable criticism. They are expected and required to have thicker skins and have more tolerance to comment than ordinary citizens... The protection goes to “political expression”; but that is a broad concept [which] is not limited to expressions of or critiques of political views, but rather extends to all matters of public administration and public concern including comments about the adequacy or inadequacy of performance of public duties by others.

- 2.4 This is effectively the legal framework within which the local standards regime is operating when dealing with complaints by one member about something said by another member, and neither the code of conduct nor the standards regime more broadly are able lawfully to impose narrower limits on what members are permitted to say about each other.
- 2.5 It is worth noting the judge’s specific comments about the rights of politicians to respond in kind to adverse commentary by other politicians. This arguably verges on the idea of a self-policing system for councillors publicly disagreeing with each other, as long as their disagreements remain at a (very broadly defined) political level and do not degenerate into ad hominem personal attacks. These latter do not benefit from any protection in law and in general would legitimately be a matter for the standards regime.
- 2.6 This legal framework, which for council standards committees is simply a given, can be interpreted as being somewhat at odds with Swale’s values and aspirations in terms of becoming a council in which the diversity of people and views on the council reflects the diversity of the borough’s communities, and in which all people and perspectives are accorded at least a minimum level of respect and tolerance.
- 2.7 It is important to appreciate however that there is potentially a point of overlap between these two positions, in which councillors on the one hand have the full freedom to express their views and critique one another as robustly as is necessary in a vibrant democracy, but in which, on the other hand, these critiques are delivered in ways which do not seek to intimidate or bully the person who is the subject of them and hence do not inhibit the democracy from being truly representative by discouraging potential councillors from standing for (re)election. This is perhaps the ‘holy grail’ to which Swale should be aspiring.

3 Proposals

- 3.1 This issue was discussed by the standards working group at its inaugural meeting in late March. The working group comprises Cllrs Perkin (chair), Bowen, Gibson, Hunt, Jayes and McCall. The working group's proposal is that each political group on the council should nominate one of its members to act as a 'standards champion' within the group.
- 3.2 While the standards champion role would not have any formal or legal powers, it could potentially create a mechanism whereby conduct falling within the 'grey area' between the wholly unproblematic on the one hand and a breach of the code of conduct on the other could be raised and discussed with the relevant member informally.
- 3.3 A full role description could be developed if members would find this helpful. This would probably include some or all of the following functions:
- To ensure that standards of member behaviour, and their potential for positive and negative impacts on the reputation of the council and the wellbeing of members and officers, are kept high on the agendas of political groups.
 - To work within political groups to educate members on the requirements of the new code of conduct (if and when adopted) and how they apply to those members.
 - To attempt to resolve matters brought to the attention of the standards champion either by other member(s) or by the monitoring officer, concerning a group member's conduct towards another member. This would not apply in cases where the monitoring officer took the view that the code of conduct had probably been breached, but would be restricted to the type of incident between two members in which one member had expressed themselves in a way that was compatible with the case law outlined in paragraph 2.3 above but not with the aspirations of the council outlined in paragraph 2.6 above.
- 3.4 The standards committee is now **recommended** to consider whether a scheme of standards champions would be acceptable to groups and would have a beneficial impact, and if so to agree to discuss the idea within their groups and provide feedback to the monitoring officer with a view to agreeing a final version of the scheme at the next standards committee.

4 Alternative Options

- 4.1 There is no obligation on the standards committee to instigate a system of standards champions, so the committee could choose to reject the proposal. Equally, there are almost certainly many options which could lawfully be pursued as a means of improving the situation described in the report, and members are encouraged to present and discuss these in the committee.

5 Consultation Undertaken or Proposed

- 5.1 Consultation to date has taken place with the standards working group only. As this is an initiative which is intended primarily to be ‘for members, by members’, standards committee members are asked to consult with their groups on whether it would be acceptable and beneficial.

6 Implications

Issue	Implications
Corporate Plan	The proposal of standards champions can be argued to support the council’s fourth priority of ‘Renewing local democracy and making the council fit for the future’, as well more specifically as supporting the corporate plan’s strategic objective 4.2 to ‘Ensure that all elected members are appropriately supported to lead and improve the council’s engagement with its disparate geographic and demographic communities, and encourage especially the participation of underrepresented groups in the democratic process’.
Financial, Resource and Property	None identified at this stage.
Legal, Statutory and Procurement	The legal constraints on the standards committee’s ability to police members’ public conduct towards one another are set out in the ‘Background’ section of the report.
Crime and Disorder	None identified at this stage.
Environment and Climate/Ecological Emergency	None identified at this stage.
Health and Wellbeing	None identified at this stage, other than the potential for the proposal to improve the health and wellbeing of any member to whom excessive political ‘rough and tumble’ causes detriment.
Safeguarding of Children, Young People and Vulnerable Adults	None identified at this stage.
Risk Management and Health and Safety	None identified at this stage.
Equality and Diversity	The potential of the proposal to improve the council’s ability to attract and retain candidates for election who reflect the diversity of the community it serves is outlined in the report.
Privacy and Data Protection	None identified at this stage.

7 Appendices

7.1 There are no appendices.

8 Background Papers

8.1 There are no background papers.

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Standards Committee	
Meeting Date	14 June 2022
Report Title	Member-officer protocol
EMT Lead	David Clifford
Head of Service	Head of Policy, Governance and Customer Services (Monitoring Officer)
Lead Officer	
Classification	Open
Recommendations	<p>The standards committee is asked to:</p> <ol style="list-style-type: none"> 1. Consider whether a member-officer protocol is something it would be minded to support, and if so whether the skeleton structure at Appendix I is a helpful starting point; and if so — 2. Consider how members and officers should be consulted on the content of the protocol as the drafting progresses.

1 Purpose of Report and Executive Summary

- 1.1 This report introduces a skeleton version of a member-officer protocol, the need for which was first discussed at a meeting of the standards working group in late March. The report seeks the views of standards committee members on the specific points the protocol would cover and how members and officers should be involved in the process of agreeing a final protocol.

2 Background

- 2.1 Most councils' constitutions include a member-officer protocol setting out the respective roles of members and officers and providing some elementary regulation of the relations between members and officers. While there is no legal requirement for councils to adopt such a protocol, Swale is unusual in not having one.
- 2.2 This was discussed by the standards working group at its inaugural meeting in March. The group comprises Cllrs Perkin (chair), Bowen, Gibson, Hunt, Jayes and McCall. It was provisionally agreed at that meeting that a protocol could be a useful addition to Swale's constitution, and that a paper should come to the standards committee to give this further consideration.

3 Proposals

- 3.1 There are no legal constraints on what a member-officer protocol can cover, but most include sections on roles, responsibilities and what members and officers

can expect of each other in terms of conduct and service levels, as well as sections covering more specific circumstances and functions.

- 3.2 There is clearly scope here for the protocol to become simply a restatement of rules which are already covered elsewhere in the constitution, for example in the member or officer codes of conduct or in sections dealing with procedural rules or access to information. The new constitution has been deliberately designed to minimise this type of duplication, in order primarily that all the rules relating to a given scenario are to be found as far as possible in one place, but also so that the piecemeal updates which will inevitably take place over time do not result in one section saying something which is in conflict with another section.
- 3.3 A protocol which simply restated rules to be found elsewhere would therefore not be desirable, but one which provided some elucidation of how rules in (primarily) the member and officer codes of conduct played out in the specific circumstances of the member-officer relationship could be very helpful. As an example, the member code of conduct will include a prohibition on bullying, but what constitutes bullying might be different when it is directed towards an officer to when it is directed towards another member or a member of the public.
- 3.4 The standards working group was clear that the process of adopting a protocol would need to be as inclusive as possible, and that it should not be about either members telling officers what it should say or the other way around. Rather, a meaningful level of consultation with both members and officers should take place so that both groups of people feel that the final protocol accurately covers what they believe the member-officer relationship should be.
- 3.5 With this in mind, the standards committee is now **recommended** to consider whether a member-officer protocol is something it would be minded to support, and if so whether the skeleton structure at Appendix I is a helpful starting point. Finally, the committee is recommended to consider how members and officers should be consulted on the content of any protocol as the drafting progresses.

4 Alternative Options

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

5 Consultation Undertaken or Proposed

- 5.1 Consultation to date has taken place with the standards working group only. The group was clear that a meaningful level of consultation with members and officers would need to take place to ensure that both groups were comfortable with the way the protocol would regulate relations between them.

- 5.2 For reasons members will readily appreciate, it is generally not advisable to begin a consultation of this nature with a blank sheet of paper, so the intention is to produce a draft of a protocol, perhaps including some specific consultation questions, on which a consultation with both members and officers can then take place. The committee is invited to provide comments on this proposed approach.

6 Implications

Issue	Implications
Corporate Plan	The idea of a member-officer protocol supports the council's fourth priority of 'Renewing local democracy and making the council fit for the future'.
Financial, Resource and Property	None identified at this stage.
Legal, Statutory and Procurement	There is no legal obligation to adopt a member-officer protocol, but equally there are no specific legal constraints on what a protocol can cover.
Crime and Disorder	None identified at this stage.
Environment and Climate/Ecological Emergency	None identified at this stage.
Health and Wellbeing	None identified at this stage.
Safeguarding of Children, Young People and Vulnerable Adults	None identified at this stage.
Risk Management and Health and Safety	None identified at this stage.
Equality and Diversity	None identified at this stage.
Privacy and Data Protection	None identified at this stage.

7 Appendices

- Appendix I: First draft of skeleton protocol, including introductory sections and table of possible contents.

8 Background Papers

There are no background papers.

Protocol for Member/ Officer Relations

1. Introduction

- 1.1 Mutual trust and respect between Members and Officers is core to the Council's governance strategy and working culture. It is an essential partnership necessary for the effective and successful operation of the Council.

- 1.2 The [Member] Code of Conduct states " *The public have high expectations of us and entrust us to represent our local area, taking decisions fairly, openly, and transparently. We have both an individual and collective responsibility to meet these expectations by maintaining high standards and demonstrating good conduct, and by challenging behaviour which falls below expectations.*" Therefore, this Protocol supplements respectively the [Member] Codes of Conduct.

- 1.3 The Council has adopted Codes of Conduct for both officers and Members. The Protocol also seeks to reflect the principles underlying the respective Codes of Conduct which apply to Members and officers. The shared objective of these Codes is to enhance and maintain the integrity (real and perceived) of local government.

- 1.4 This Protocol guides Members and Officers of the Council in their relations with one another. Members and Officers have a responsibility

to act fairly, honestly, in good faith and in an impartial way to meet the specified objectives of the Council. Given the variety and complexity of such relations, this Protocol does not seek to be either prescriptive or comprehensive. It seeks simply to offer guidance on some of the issues, which most commonly arise. It is hoped however, that the approach, which it adopts to these issues, will serve as a guide to dealing with other issues.

2. General Principles

- 2.1. Members and Officers must always respect the roles and duties of each other. They must show respect in all their dealings by observing reasonable standards of courtesy, and by not seeking to take unfair advantage by virtue of their position.

- 2.2. Whilst Members and Officers are indispensable to one another, their responsibilities are distinct. Members are accountable to the electorate and serve only for as long as their term of office lasts. Legally, employees are employed by the Council and are accountable to it. Ultimately, they serve the Council as a whole and not any political group, combination of groups or any individual Member. Nonetheless, employees may properly be called upon to assist the deliberations of political groups and also to help individual Members in their different

roles. The Directors and Senior Officers have ultimate responsibility to ensure that the Council's responsibilities are implemented.

2.3. The Member Code of Conduct is based upon the [Seven Principles of Public Life](#) which also underpins this Protocol.

3. The Role of Members

4. The Role of Officers

5. Relationship between Members and Officers

6. The Council as an Employer

7. Political Groups and Officers

8. Members and wards

9. Officer / Committee Chairman Relationships

10. The Mayoralty

11. Protocol Conduct and Members Code of Conduct

11.1 Confidentiality

11.2 Media Relations

11.3 Use of Council's Facilities and Resources

11.4 Communications/ Correspondence

11.5 Administrative Support to Members

11.6 Members Access Information and Council's Documents

11.7 Constructive criticisms/ Complaints

11.8 Undue Pressures

11.9 Standards of Conduct

11.10 Disrepute

11.11 Impartiality of Officers

11.12 Protecting the Council's reputation

11.13 Disrepute

12. Complaints and Allegations of Breaches of this Protocol

13. Overseeing Compliance with this Protocol

14. Further Guidance

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Standards Committee	
Meeting Date	14 June 2022
Report Title	Standards committee work programme 2022/23
EMT Lead	David Clifford
Head of Service	Head of Policy, Governance and Customer Services (Monitoring Officer)
Lead Officer	
Classification	Open
Recommendations	The standards committee is asked to: 1. Note the proposed committee work programme for 2022/23 and provide feedback to officers.

1 Purpose of Report and Executive Summary

- 1.1 This report outlines the likely work programme of the standards committee over the coming municipal year, and seeks members' views on the appropriateness of this programme.

2 Background

- 2.1 For many years the standards committee has only met once per year in order to consider the monitoring officer's annual report. With the higher profile that standards matters have had over the last couple of years, it was agreed with the committee chair that from the municipal year 2022/23 the frequency of meetings would change to quarterly. This move is particularly to be welcomed this year, as there are a number of potentially large pieces of work on the committee's work programme, in addition to the regular task of monitoring complaint cases by means of the annual report.
- 2.2 These pieces of work are likely to include most significantly the adoption and roll-out of a new code of conduct, probably based on the LGA model code, the development and adoption of a member-officer protocol, the roll-out of a scheme for standards champions within political groups, and the development of a programme of training, including most significantly induction for new members following the election in May 2023.
- 2.3 The proposals section below provides a suggested timetable for the committee in undertaking this work programme.

3 Proposals

- 3.1 There are a further three standards committee meetings during this municipal year. The December meeting will be the one which considers the monitoring officer's annual report. The table below suggests how the remaining pieces of

work could fit around this. It is also suggested that the standards working group continues to meet between standards committee dates as necessary to oversee and/or provide an informal steer on the work.

Committee meeting	Possible agenda items
14 June 2022	<ul style="list-style-type: none"> • Standards champions – decision for members to discuss with groups. • Member-officer protocol – decision in principle to draft, agreement on skeleton contents, discussion on most appropriate consultation method.
27 September 2022	<ul style="list-style-type: none"> • LGA model code of conduct – decision on whether to recommend adoption to full council, and discussion/decision on implementation, including necessary member training. • Wider discussion on member development and training, including induction of new members after May 2023. • Standards champions – feedback from members and decision to progress. • Member-officer protocol – update on draft, decision to proceed to consultation.
20 December 2022	<ul style="list-style-type: none"> • MO annual report and complaint statistics. • LGA model code of conduct – update on council decision and implementation programme. • Training and induction of new members post-election – update and further discussion. • Standards champions – feedback from MO and members. • Member-officer protocol – update on consultation responses and decision on whether to recommend adoption to full council.
23 March 2023	<ul style="list-style-type: none"> • LGA model code of conduct – update on implementation programme. • Training and induction of new members post-election – update and further discussion. • Standards champions – feedback from MO and members. • Member-officer protocol – update on council decision and implementation programme.

3.2 The standards committee is **recommended** to note this proposed work programme for the municipal year 2022/23 and provide feedback to officers.

4 Alternative Options

- 4.1 As the report is essentially only for noting, there are no meaningful alternative options.

5 Consultation Undertaken or Proposed

- 5.1 As the report is essentially only for noting, no consultation has been undertaken or is proposed beyond ongoing discussions with the standards working group.

6 Implications

- 6.1 As the report is essentially only for noting, there are no cross-cutting implications for members to be aware of.

7 Appendices

- 7.1 There are no appendices.

8 Background Papers

- 8.1 There are no background papers.

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