

Agenda

Standards Committee Meeting

Date: Thursday, 11 July 2024

Time 7.00 pm

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

Membership:

Councillors Monique Bonney (Vice-Chair), James Hunt, Elliott Jayes, Mark Last, Rich Lehmann, Charlie Miller, Pete Neal, Richard Palmer, Hannah Perkin, Tony Winckless and Ashley Wise (Chair).

Quorum = 3

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

Kent Association of Local Councils (KALC) representative (non-voting): Parish Councillor Jeff Tutt.

Pages

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- (b) Exit routes from the chamber are located on each side of the room, one directly to a fire escape, the other to the stairs opposite the lifts.
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- (d) Anyone unable to use the stairs should make themselves known during this agenda item.

2. Apologies for Absence

3. Minutes

To approve the [Minutes](#) of the meeting held on 16 April 2024 (Minute Nos. 831 - 835) and 15 May 2024 ([Minute](#) Nos. 37 – 38) as correct records.

4. Declarations of Interest

Councillors should not act or take decisions in order to gain financial or other material benefits for themselves, their families or friends.

The Chair will ask Members if they have any disclosable pecuniary interests (DPIs) or disclosable non-pecuniary interests (DNPis) to declare in respect of items on the agenda. Members with a DPI in an item must leave the room for that item and may not participate in the debate or vote.

Aside from disclosable interests, where a fair-minded and informed observer would think there was a real possibility that a Member might be biased or predetermined on an item, the Member should declare this and leave the room while that item is considered.

Members who are in any doubt about interests, bias or predetermination should contact the monitoring officer for advice prior to the meeting.

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Issued on 3 July 2024

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 democraticservices@swale.gov.uk. To find out more about the work of this committee please visit www.swale.gov.uk

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

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Standards Committee	
Meeting Date	11 July 2024
Report Title	Code of Conduct Arrangements
EMT Lead	Robin Harris - Monitoring Officer
Head of Service	
Lead Officer	
Classification	Open
Recommendations	<p>The standards committee is recommended to:</p> <ol style="list-style-type: none"> 1. Consider the comments on the draft code of conduct arrangements. 2. Determine what further consultation or steps should be taken with the draft arrangements.

1 Purpose of Report and Executive Summary

- 1.1 This report asks the committee to consider the comments made by members of the Standards Committee on the draft code of conduct complaints arrangements (appendix I) and determine what further consultation or steps should be taken with the draft arrangements.

2 Background

- 2.1 The Council adopted a new code of conduct in February 2023, based largely on the LGA Model Code of Conduct. However, the arrangements for handling complaints, that sit behind the code of conduct were unchanged.
- 2.2 The LGA does not produce model arrangements, but does provide guidance on the handling of code of conduct complaints, from which consistent arrangements can be deduced.
- 2.3 The Standards Committee meeting on the 16th of April 2024 determined that: *Members explored the key differences between the two Code of Conduct arrangements, sourced views from Committee Members and determined a way collaborate and discuss and propose amendments.*
- 2.4 Following the meeting, the Monitoring Officer circulated the draft arrangements on a shared platform, to enable all comments to be provided collaboratively.

2.5 The comments provided by members of the committee are provided at appendix I.

3 Proposals

3.1 It is proposed that the committee **consider** the comments provided on the draft arrangements and recommend any changes to be made.

3.2 The committee is asked to **determine** what further consultation or steps should be taken with the draft arrangements.

4 Alternative Options Considered and Rejected

4.1 The Council is required to have arrangements for dealing with code of conduct complaints. The form of the arrangements is a matter for the Council. The Council could therefore retain its existing amendments.

5 Consultation Undertaken or Proposed

5.1 The Committee is asked to determine what further consultation should be undertaken.

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	No implications identified at this stage.
Legal, Statutory and Procurement	The Council is required to have arrangements in place for dealing with code of conduct complaints.
Crime and Disorder	No implications identified at this stage.
Environment and Climate/Ecological Emergency	No implications identified at this stage.
Health and Wellbeing	No implications identified at this stage.

Safeguarding of Children, Young People and Vulnerable Adults	No implications identified at this stage.
Risk Management and Health and Safety	No implications identified at this stage.
Equality and Diversity	No implications identified at this stage.
Privacy and Data Protection	No 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: Draft arrangements with member comments

8 Background Papers

- 8.1 [LGA Guidance on Code of Conduct Complaints Handling](#)

(Version with comments to be inserted)

ARRANGEMENTS FOR DEALING WITH CODE OF CONDUCT COMPLAINTS UNDER THE LOCALISM ACT 2011

1. Context

- 1.1 These Arrangements are made under section 28 of the Localism Act 2011. They set out the process that Swale Borough Council has adopted for dealing with complaints that an elected or co-opted member or Parish/Town councillor or co-opted member has failed to comply with the Code of Conduct.

2. Interpretation

- 2.1 Borough Council' means Swale Borough Council.
- 2.2 'Code of Conduct' means the Code of Conduct, which the Borough [and Parish/Town Council] [has] [have] adopted under section 27(2) of the Localism Act 2011.
- 2.3 'Complainant' means a person who has submitted a complaint in accordance with these Arrangements alleging that a Subject Member has breached the Code of Conduct.
- 2.4 'Disclosable Pecuniary Interest' means those disclosable pecuniary interests that meet the definition prescribed by regulations (as amended from time to time) as set out in Annex 2 to the Code of Conduct.
- 2.5 'Hearing Panel' means the panel appointed by the Borough Council to determine the outcome of any complaint alleging a breach of the Code of Conduct by a Subject Member in accordance with these Arrangements.
- 2.6 'Independent Person' means a person or persons appointed by the Borough Council under section 28(7) of the Localism Act 2011:
- (a) whose views are to be sought and taken into account by the Borough Council before it makes its decision on an allegation that it has decided to investigate and whose views may be sought by the Borough Council at any other stage;
 - (b) who may be consulted by the Subject Member about the complaint.
- 2.7 'Investigating Officer' means the person appointed by the Monitoring Officer to undertake a formal investigation of a complaint alleging a breach of the Code of Conduct by a Subject Member. The Investigating Officer may be another

senior officer of the Borough Council, an officer of another authority or an external investigator.

- 2.8 'Monitoring Officer' is a senior officer of the Borough Council who has statutory responsibility for maintaining the Register of Members' Interests and who is responsible for administering the arrangements for dealing with any complaint alleging a breach of the Code of Conduct by a Subject Member. It includes any other officer of the Borough Council nominated by the Monitoring Officer to act on their behalf.
- 2.9 'Parish/Town Council' means the relevant Parish/Town council within the Borough of Swale.
- 2.10 'Parties' means the Complainant, Subject Member and the Investigating Officer, as appropriate.
- 2.11 'Subject Member' means an elected member or co-opted member of the Borough or Parish/Town Council against whom a complaint has been made alleging a breach the Code of Conduct.

3. Appointment of Independent Person

- 3.1 The Borough Council shall appoint the Independent Person (and any substitute) in accordance with the requirements of section 27 of the Localism Act 2011 upon such terms as to remuneration and expenses as may be determined by the Borough Council from time to time.
- 3.2 The Independent Person (and any substitute) shall be treated as if they were a member of the Borough Council for the purposes of the Borough Council's arrangements for indemnifying and insuring its Members.

4. Making a complaint

- 4.1 A complaint alleging a breach of the Code of Conduct by a Subject Member must be made either:-
- (a) in writing and addressed to the Monitoring Officer using the Complaint Form included within Annex 1 to these Arrangements or,
 - (b) via the Council's website using the on-line complaint form provided there.

Complainants who find difficulty in making their complaint in writing (e.g., because of a disability), should inform the Monitoring Officer of any such difficulty and the Monitoring Officer will arrange for assistance to be offered.

- 4.2 The Subject Member will normally be informed of the identity of the Complainant and details of the complaint made against them, but the Complainant's identity and/or details of their complaint may be withheld at the

Complainant's request if it appears to the Monitoring Officer that there are sound reasons for granting such a request (refer to paragraph 5 of Annex 1 to these Arrangements).

- 4.3 The Monitoring Officer will normally acknowledge receipt of a complaint within 15 working days of receiving it. At the same time (and subject to paragraph 4.2 above), the Monitoring Officer will send a copy of the complaint to the Subject Member in accordance with paragraph 1 of Annex 1 to these Arrangements.

5. Criminal conduct

- 5.1 In accordance with section 34 of the Localism Act 2011, it is a criminal offence if, without reasonable excuse, you:

- (a) fail to notify the Monitoring Officer of a Disclosable Pecuniary Interest before the end of 28 days beginning with the day you become, or are re-elected or re-appointed, a Member or Co-opted Member of the authority;
- (b) fail to notify the Monitoring Officer of a Disclosable Pecuniary Interest before the end of 28 days beginning with the day you become aware of it, where you are acting alone in the course of discharging a function of the authority (including making a decision in relation to the matter) and the interest is not already registered or is not the subject of a pending notification to the Monitoring Officer;
- (c) fail to disclose a Disclosable Pecuniary Interest at a meeting, where such interest has not already been registered or notified to the Monitoring Officer;
- (d) fail to notify the Monitoring Officer of a Disclosable Pecuniary Interest before the end of 28 days beginning with the day you disclose it at a meeting, where such interest has not already been registered or notified to the Monitoring Officer;
- (e) take part in discussions or votes at meetings that relate to the Disclosable Pecuniary Interest, unless a dispensation has been granted;
- (f) knowingly or recklessly provide false or misleading information in any of the above disclosures or notifications.

- 5.2 Where a complaint against a Subject Member relates to conduct of a criminal nature referred to above, the Monitoring Officer will deal with the complaint in accordance with paragraph 4(4) of Annex 1 to these Arrangements.

6. Anonymous complaints

6.1 Complainants must provide their full name and address. An anonymous complaint will only be accepted by the Monitoring Officer, providing it is accompanied by corroborating evidence that indicates to the Monitoring Officer that it is in the public interest to accept the complaint. The Monitoring Officer may consult the Independent Person.

7. Role of Independent Person

7.1 The Independent Person must be consulted and have their views taken into account before the Borough Council makes a finding as to whether a Member has failed to comply with the Code or decides on action to be taken in respect of that Member. At any other stage of the complaints process under these Arrangements, the Independent Person may be consulted by the Monitoring Officer and/or the Subject Member.

8. Preliminary tests

8.1 The Monitoring Officer will put the complaint through a number of preliminary tests, in accordance with paragraph 2 of Annex 1 to these Arrangements and may do so in consultation with the Independent Person.

8.2 In the event that the Independent Person is being consulted and is unavailable or unable to act, the time limits specified in paragraph 2 of Annex 1 may either be extended by the Monitoring Officer or the Monitoring Officer may act alone in taking the decision or action.

9. Informal resolution

9.1 The Monitoring Officer may consider that the complaint can be resolved informally at any stage in accordance with paragraph 6 of Annex1 to these Arrangements and may do so in consultation with the Independent Person.

10. Investigation

10.1 If the Monitoring Officer decides that the complaint merits formal investigation, they will, normally within 30 working days of receiving it, appoint an Investigating Officer to undertake the investigation, and inform the Parties of the appointment.

10.2 The Investigating Officer will investigate the complaint in accordance with Annex 2 to these Arrangements.

11. Hearing

11.1 If the Monitoring Officer, considers that informal resolution is not appropriate or is unlikely to be achieved, then they will convene a meeting of the Hearing Panel to determine the outcome of the complaint in accordance with Annex 3 to these Arrangements.

12. Sanctions

- 12.1 Where a Subject Member has been found by the Hearing Panel to have breached the Code of Conduct, the Hearing Panel may apply any one or more sanctions in accordance with paragraph 12 of Annex 3 to these Arrangements.

13. Appeal

- 13.1 There is no right of appeal for the Complainant or the Subject Member against decisions of either the Monitoring Officer or the Hearing Panel.

14. Discontinuance of Action

- 14.1 In the event that the Subject Member has died, is seriously ill or has ceased to be an elected member or co-opted member of the Borough or Parish/Town Council the Monitoring Officer may determine to end the complaints process.

15. Revision of these Arrangements

- 15.1 The Borough Council may by resolution agree to amend these Arrangements and has delegated to the Monitoring Officer [and the Hearing Panel] the right to depart from these Arrangements, where considered expedient to do so in order to secure the effective and fair consideration of any matter.

Annexes

Annex 1 - Procedure on Receipt of A Complaint

Annex 2 - Procedure For Investigating The Complaint

Annex 3 - Hearing Panel Procedure

PROCEDURE ON RECEIPT OF A COMPLAINT

1. Notification of Complaint to Subject Member

- 1.1 Subject to any representations from the Complainant on confidentiality (see paragraph 5 below), the Monitoring Officer will notify the Subject Member [and, if applicable, the Parish/Town Clerk] of the complaint.
- 1.2 The Monitoring Officer may invite the Subject Member [and, if applicable, the Parish/Town Clerk] to submit initial views on the complaint, which will be taken into account by the Monitoring Officer when they decide how to deal with the complaint (see paragraph 4 below).

2. Preliminary Tests

- 2.1 The complaint will be assessed by the Monitoring Officer against the legal jurisdiction test in paragraph 2.2 and, if applicable, the local assessment criteria test in paragraph 2.4 below. The Monitoring Officer may assess the complaint in consultation with the Independent Person.

2.2 Legal jurisdiction criteria test:

- (a) Did the alleged conduct occur before the adoption of the Code of Conduct? If the answer to this is 'Yes' the test is failed.
- (b) Was the person complained of a member of the Borough or Parish/Town Council at the time of the alleged conduct? If the answer to this is 'No' the test is failed.
- (c) Was the person complained of acting in an official capacity at the time of the alleged conduct? If the answer to this is 'No' the test is failed.
- (d) Did the alleged conduct occur when the person complained of was acting as a member of another authority? If the answer to this is 'Yes' the test is failed.
- (e) If the facts could be established as a matter of evidence, could the alleged conduct be capable of supporting a finding of a breach of the Code of Conduct? If the answer to this is 'No' the test is failed.
- (f) Is the complaint about dissatisfaction with the Borough or Parish/Town Council's decisions, policies, priorities, processes and governance etc? If

the answer to this is 'Yes' the test is failed and the matter should be raised by the complainant directly with the Borough or Parish/Town Council, via their general complaints process.

2.3 Local assessment criteria test:

If the complaint satisfies the legal jurisdiction test, the Monitoring Officer will then apply the following local assessment criteria test:

- (a) The complaint is substantially the same as a complaint which has previously been made.
- (b) The complaint is anonymous, unless the Monitoring Officer is of the view, on the basis of corroborating evidence that it is in the public interest to accept the complaint. The Monitoring Officer may consult the Independent Person.
- (c) No or insufficient information/evidence to substantiate the complaint has been submitted by the Complainant.
- (d) The complaint is malicious or relatively minor, and, in the view of the Monitoring Officer, the public interest would not be served by taking further action.
- (e) The Complainant is unreasonably persistent and/or vexatious.
- (f) The alleged misconduct happened more than 3 months prior to the submission of the complaint.
- (g) Dealing with the complaint would have a disproportionate effect on both public money and/or officers' and Members' time.
- (h) The circumstances have changed so much that there would be little benefit arising from an investigation or other action.
- (i) The complaint has been the subject of an investigation or other action and there is nothing more to be gained by further action being taken.
- (j) The complaint is such that it is unlikely that an investigation will be able to come to a firm conclusion on the matter, e.g., where there is no firm evidence on the matter.
- (k) The complaint is about a deceased person.
- (l) The complaint is about a person who is no longer a Borough or Parish/Town Councillor or Co-opted Member.

2.4 If the complaint fails one or more of the jurisdiction tests, no further action will be taken by the Monitoring Officer and the complaint will be rejected. The Complainant will be notified accordingly with reasons, normally within 60 working days of receipt of the complaint by the Monitoring Officer. There is no right of appeal against the Monitoring Officer's decision.

3. Asking for Additional Information

3.1 The Monitoring Officer may ask the Complainant and the Subject Member [and, if applicable, the Parish/Town Clerk] for additional information before deciding how to deal with the complaint.

4. What Process to Apply - Informal Resolution or Investigation and/or No Action?

4.1 The Monitoring Officer may at any stage seek to resolve the complaint informally in accordance with paragraph 6 below. Where the Subject Member or the Monitoring Officer or the Borough or Parish/Town Council make a reasonable offer of informal resolution, but the Complainant is not willing to accept this offer, the Monitoring Officer will take account of this in deciding whether the complaint merits formal investigation.

4.2 The Monitoring Officer may refer the complaint for investigation when:

- (a) It is serious enough, if proven, to justify the range of sanctions available to the Standards Committee (see paragraph 12 of Annex 3 to these Arrangements); or
- (b) The Subject Member's behaviour is part of a continuing pattern of less serious misconduct that is unreasonably disrupting the business of the Borough or Parish/Town Council and there is no other avenue left to deal with it short of investigation. In considering this, the Monitoring Officer may take into account the time that has passed since the alleged conduct occurred.

4.3 Where the complaint is referred for investigation, the Monitoring Officer will appoint an Investigating Officer who will conduct the investigation in accordance with the procedure at Annex 2 to these Arrangements.

4.4 If the complaint identifies potential criminal conduct or potential breach of other regulations by the Subject Member or any other person, the Complainant may be advised by the Monitoring Officer to report the complaint to the police or other prosecuting or regulatory authority. Alternatively, the Monitoring Officer will consider the complaint against the legal jurisdiction criteria test and if the complaint passes that test the Monitoring Officer may pass the complaint to the police. Where a complainant has been advised to refer a matter to the police or the Monitoring Officer has referred the matter to the police the complaints process under these Arrangements will be suspended, pending a

decision/action by the police or other prosecuting or regulatory authority. Where the police or other prosecuting or regulatory authority decide to take no action on the complaint, the Monitoring Officer will lift the suspension and will apply the local assessment criteria test in paragraph 2.4 above.

4.5 The Monitoring Officer may decide to take no action or to defer further action on the complaint whilst one or more of the following apply:

- (a) On-going criminal proceedings or police investigation into the Subject Member's conduct.
- (b) Investigation cannot be proceeded with, without investigating similar alleged conduct or needing to come to conclusions of fact about events which are also the subject of some other investigation or court proceedings.
- (c) The investigation might prejudice another investigation or court proceedings.
- (d) Genuine long term (3 months or more) unavailability of a key party.
- (e) Serious illness of a key party.

4.6 Normally within 90 working days of receipt of the complaint, the Monitoring Officer will notify the Complainant, Subject Member [and, if applicable, the Parish/Town Clerk] of their decision and reasons for applying one of the following processes in the format of the Decision Notice template (appended to this Annex 1):

- (a) Not to refer the complaint for investigation.
- (b) Refer the complaint for investigation.
- (c) Apply the informal resolution process either before or after an investigation.
- (d) Refer the complaint to the relevant political group leader for action.

4.7 There is no right of appeal against the Monitoring Officer's decision.

5. Confidentiality

5.1 If the Complainant has asked for their identity to be withheld, this request will be considered by the Monitoring Officer when they initially assess the complaint (see paragraph 2 above). The Monitoring Officer may consult the Independent Person.

5.2 As a matter of fairness and natural justice, the Subject Member will usually be told who the Complainant is and will also receive details of the complaint. However, in exceptional circumstances, it may be appropriate to keep the Complainant's identity confidential or not disclose details of the complaint to the Subject Member during the early stages of an investigation. The Monitoring Officer may withhold the Complainant's identity and/or details of the complaint if they are satisfied that there are reasonable grounds for believing that the Complainant or any other person (e.g., a witness):

- (a) Is either vulnerable or at risk of threat, harm, or reprisal.
- (b) May suffer intimidation or be victimised or harassed.
- (c) Works closely with the Subject Member and are afraid of the consequences, e.g., fear of losing their job.
- (d) Suffers from a serious health condition and there are medical risks associated with their identity being disclosed (medical evidence will need to be provided to substantiate this).
- (e) May receive less favourable treatment because of the seniority of the person they are complaining about in terms of any existing Borough or Parish/Town Council service provision or any tender/contract they may have with or are about to submit to the Borough or Parish/Town Council.

OR where early disclosure of the complaint:

- (a) May lead to evidence being compromised or destroyed; or
- (b) May impede or prejudice the investigation; or
- (c) Would not be in the public interest.

5.3 Relevant public interest factors favouring disclosure (not an exhaustive list) include:

- (a) To facilitate transparency and ethical governance accountability: recognising that decision-making may be improved by constructive contributions from others.
- (b) To raise public awareness: disclosing the complaint or part of it may inform the community about matters of general concern.
- (c) Justice to an individual: the balance of the public interest may favour disclosure of the complaint to the Subject Member when it may not be in the public interest to disclose it to the world at large.

- (d) Bringing out in the open serious concerns about the behaviour/conduct of an individual.

5.4 If the Monitoring Officer decides to refuse the Complainant's request for confidentiality, they will offer the Complainant the option to withdraw their complaint. The Complainant will be notified of the Monitoring Officer's decision, with reasons by the Monitoring Officer. There is no right of appeal against the Monitoring Officer's decision to refuse the Complainant's request for confidentiality.

6. Informal Resolution

6.1 The Monitoring Officer may seek to resolve a complaint informally at any stage in the process, whether without the need for an investigation, or before or after an investigation has been commenced or concluded. In so doing, the Monitoring Officer will consult with the Complainant and the Subject Member to seek to agree what they consider to be a fair resolution, which will help to ensure higher standards of conduct for the future.

6.2 Informal resolution may be the simplest and most cost-effective way of resolving the complaint and may be appropriate where:

- (a) The Subject Member appears to have a poor understanding of the Code of Conduct and/or related Borough or Parish/Town Council procedures; or
- (b) There appears to be a breakdown in the relationship between the Complainant and the Subject Member; or
- (c) The conduct complained of appears to be a symptom of wider underlying conflicts which, if unresolved, are likely to lead to further misconduct or allegations of misconduct; or
- (d) The conduct complained of appears common to a number of members of the Borough or Parish/Town Council, demonstrating a lack of awareness, experience or recognition of the particular provisions of the Code of Conduct and/or other Borough or Parish/Town Council procedures, etc; or
- (e) The conduct complained of appears to the Monitoring Officer not to require a formal sanction; or
- (f) The complaint appears to reveal a lack of guidance, protocols and procedures within the Borough or Parish/Town Council; or
- (g) The Complainant and the Subject Member are amenable to engaging in an informal resolution; or
- (h) The complaint consists of allegations and retaliatory allegations between councillors; or

- (i) The complaint consists of allegations about how formal meetings are conducted; or
 - (j) The conduct complained of may be due to misleading, unclear, or misunderstood advice from officers.
- 6.3 Informal resolution may consist of one or more of the following actions, which do not have to be limited to the Subject Member, but may extend to other councillors including the whole Borough or Parish/Town Council where it may be useful to address systemic behaviour:
- (a) Training.
 - (b) Conciliation/mediation.
 - (c) Mentoring.
 - (d) Apology.
 - (e) Instituting changes to the Borough or Parish/Town Council's procedures.
 - (f) Conflict management.
 - (g) Development of the Borough or Parish/Town Council's protocols.
 - (h) Other remedial action by the Borough or Parish/Town Council.
 - (i) Other steps (other than investigation) if it appears appropriate to the Monitoring Officer.
- 6.4 If the Subject Member is agreeable to and complies with the informal resolution process, the Monitoring Officer may report the matter to the Standards Committee [and, if applicable, the Parish/Town Council] for information, but will take no further action against the Subject Member.
- 6.5 Where the Subject Member will not participate in the informal resolution process or if, having agreed to one or more actions under the informal resolution process, the Subject Member refuses or fails to carry out any agreed action, the Monitoring Officer may report the matter to the Standards Committee.

Complaint Form

Your Details

1. Please provide us with your name and contact details.

Title:	
First name:	
Last name:	
Address:	
Daytime telephone:	
Evening telephone:	
Mobile telephone:	
Email address:	

2. Please tell us which complainant type best describes you:

- Member of the public
- An elected or co-opted member of an authority
- An appointed Independent Person for the purposes of the Localism Act 2011
- Member of Parliament
- Local authority Monitoring Officer
- Other council officer or authority employee
- Other (please give details) _____

3. Please provide us with the name of the councillor(s) you believe has breached the Code of Conduct and the name of their authority:

Title	First name	Last name	Council or authority name

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4. **Please explain in this section what the councillor has done that you believe breaches the Code of Conduct.** If you are complaining about more than one councillor, you should clearly explain what each individual person has done that you believe breaches the Code of Conduct.

It is important that you provide all the information you wish to have taken into account by the Monitoring Officer when he decides whether to take any action on your complaint. For example:

- You should be specific, wherever possible, about exactly what you are alleging the councillor said or did. For instance, instead of writing that the councillor has conducted himself in a manner which could reasonably be regarded as bringing his office or the Authority into disrepute you, you should state what it was they said or did.
- You should provide the dates of the alleged incidents wherever possible. If you cannot provide exact dates, it is important to give a general timeframe.
- You should confirm whether there are any witnesses to the alleged conduct and provide their names and contact details if possible.
- You should provide any relevant background information.

Please provide us with the details of your complaint. Continue on a separate sheet if there is not enough space on this form.

Return Address: The Monitoring Officer

Complaints Form – Monitoring Information

In order to ensure we target our services in the most effective way for our community, we would appreciate if it you would give answers to the following questions. Please note that the information on this page **will not** be provided to the subject member of the complaint.

Q1. Ethnic Group

- White:**
- British
- Irish
- Any other white background

- Black or Black British:**
- Caribbean
- African
- Any other black background

- Asian or Asian British:**
- Indian
- Pakistani
- Bangladeshi
- Any other Asian background

Q2. Sex

- Male
- Female

Q3. Partnership Status

- Single
- Married/Civil Partner
- Separated
- Divorced
- Widow/Widower

Q4. Age Group

- Under 16
- 16-19
- 20-24
- 25-59
- 60-64
- 65 and above

Q5. Do you have a disability?

- Yes
- No

Q6. What is the nature of your disability?

- Difficulty getting around
- Mental health problems
- Learning difficulty
- Difficulty seeing
- Hearing difficulty
- Other

Q7. To help us monitor issues for different sections of our community, we would appreciate it if you would tell us which faith group, if any, you belong to. If lack of faith is an issue in itself we would also like to know.

EXAMPLE TEMPLATE - DECISION NOTICE (of the Monitoring Officer): e.g., REFERRAL FOR INVESTIGATION

Parties should take care when passing on information that is in the notice or about the notice. For example, some details such as names and addresses may be confidential or private in nature or may be personal information.

Complaint No:

Complaint

On [insert date], the Monitoring Officer considered a complaint from [insert name of complainant] concerning the alleged conduct of [insert name of councillor], a member of [insert authority name]. A general summary of the complaint is set out below.

Complaint summary

[Summarise complaint in numbered paragraphs]

Consultation with Independent Person

[Summarise the Independent Person's views in numbered paragraphs]

Decision

[Having consulted and taken into account the views of the Independent Person], the Monitoring Officer decided to refer the complaint for investigation.

Potential breaches of the Code of Conduct identified

At this stage, the Monitoring Officer is not required or able to decide if the Code of Conduct has been breached. They are only considering if there is enough information which shows a potential breach of the Code of Conduct that warrants referral for investigation.

The Monitoring Officer considers that the alleged conduct, if proven, may amount to a breach of the following paragraphs of the Code of Conduct. The Monitoring Officer has appointed [insert name] as the Investigating Officer.

Please note that it will be for the Investigating Officer to determine which paragraphs are relevant, during the course of the investigation.

[detail relevant Code of Conduct paragraphs]

Notification of decision

This decision notice is sent to the:

- Complainant.
- Member against whom the complaint was made.
- [Clerk to the relevant Parish/Town or Town Council].
- Kent County Council's Monitoring Officer (*applicable only where the Subject Member is serving at both Borough and County level*).

What happens now

The complaint will now be investigated under the Borough Council's Arrangements for Dealing with Code of Conduct Complaints under the Localism Act 2011.

Appeal

There is no right of appeal against the Monitoring Officer's decision.

Additional Help

If you need additional support in relation to this decision notice or future contact with the Borough Council, please let us know as soon as possible. If you have difficulty reading this notice, we can make reasonable adjustments to assist you, in line with the requirements of the Equality Act 2010. We can also help if English is not your first language. Please refer to the attached Community Interpreting Service leaflet or contact our Customer Services on [insert telephone number] or email [insert email address].

Signed:

Date

Print name:

Monitoring Officer of Swale Borough Council

PROCEDURE FOR INVESTIGATING THE COMPLAINT

1. Preliminaries

- 1.1 The Investigating Officer will be appointed by the Monitoring Officer and will be aware of their obligations under UK GDPR and the Data Protection Act 2018, Equalities Act 2010, the Human Rights Act 1998, and other relevant legislation.
- 1.2 The Investigating Officer is responsible for gathering all the facts, documents and, where applicable, for interviewing witnesses with knowledge of the facts, and they should remain objective, impartial, and unbiased at all times.
- 1.3 The Subject Member and the Complainant will be advised that the investigation is for the purposes of establishing facts and making recommendations as to whether the facts disclose a breach of the relevant code of conduct.
- 1.4 Witnesses will be identified at the investigation stage and wherever possible their evidence supported by signed and dated witness statements and/or notes of interviews with the Investigating Officer. The Investigating Officer cannot compel the attendance of witnesses or their co-operation.
- 1.5 The Investigating Officer will not make recommendations on sanctions.
- 1.6 The Investigating Officer will notify the Subject Member and the Complainant of their appointment, normally within 20 working days of being appointed, and:
 - (a) Provide details of the complaint to the Subject Member.
 - (b) Detail the procedure to be followed in respect of the investigation and the relevant timescales for responses and concluding the investigation.
 - (c) Detail the sections of the Code of Conduct that appear to be relevant to the complaint.
 - (d) Request contact details of any potential witnesses.
 - (e) Require that confidentiality is maintained throughout the duration of the investigation and the procedures contemplated by this Annex and that details of the complaint are not disclosed to any third party, unless disclosure is to a representative, witness, immediate family members or otherwise as may be required by law or regulation. However, the fact that an investigation is being conducted does not need to remain confidential.
- 1.7 It may be necessary for the Investigating Officer to agree with the Subject Member which documents will be submitted in evidence. This will generally include

documents that will be relied on, or in support of, the Subject Member's case and which are relevant to the complaint.

- 1.8 The Investigating Officer may conclude their investigation at any point, where they are satisfied that they have sufficient information to enable them to report to the Monitoring Officer.

2. Evidence of New Breaches

- 2.1 The Investigating Officer may find evidence of conduct by councillors that breaches the Code of Conduct but extends beyond the scope of the investigation referred to them. Their powers as an Investigating Officer relate only to the allegation that they been given. While that means that the Investigating Officer may consider other parts of the Code than those initially considered if they are relevant to the matter in hand, they may also find evidence of a possible breach that does not directly relate to the allegation being investigated. If this happens, the Investigating Officer should tell the person they obtained the information from that they cannot investigate the possible breach as part of their existing investigation. The Investigating Officer should advise them that they are able to make a separate complaint to the Monitoring Officer.

3. Referring Cases Back to the Monitoring Officer

- 3.1 During the course of an investigation, it may be necessary for the Monitoring Officer to consider whether the investigation should continue, for example, if:
 - (a) Evidence suggests a case is less serious than may have seemed apparent originally and that a different decision might therefore have been made about whether to investigate it or not.
 - (b) It emerges during the investigation that the conduct under investigation was not conduct by the Subject Member in their role as a councillor but rather in a private capacity.
 - (c) Evidence indicates something which is potentially more serious which should be referred to the police.
 - (d) The Subject Member has died, is seriously ill, has resigned from the authority, or is otherwise reasonably unable to take part in the process for the foreseeable future and it is considered that it is no longer appropriate to continue with the investigation.

- (e) The Subject Member has indicated that they wish to make a formal apology or take other action which should resolve the matter.
- 3.2 In this context 'seriously ill' means that the councillor has a medical condition which would prevent them from engaging with the process of an investigation or a hearing for the foreseeable future. This might be a terminal illness or a degenerative condition. The Investigating Officer would be expected to establish this from a reliable independent and authoritative source other than the Subject Member. This would include where a councillor claims they are suffering from stress brought on by the investigation.
- 3.3 Ultimately it will be for the Monitoring Officer to conclude whether the investigation should continue. In reaching that decision, the Monitoring Officer may consult with the Independent Person before deciding to defer or end the investigation.
- 3.4 If the investigation has been deferred or ended the Subject Member and the complainant should be notified of the decision and where possible provided with timescales within which the matter will be dealt with if it has been deferred. This would not always be possible, however, particularly if the matter has been referred to the police.

4. Deferring an Investigation

- 4.1 An investigation should be deferred when any of the following conditions are met:
 - (a) There are ongoing criminal proceedings or a police investigation into the Subject Member's conduct.
 - (b) The investigation might prejudice another investigation or court proceeding.
- 4.2 An investigation may also need to be deferred for any of the reasons set out in paragraph 4.5 of Annex 1:
- 4.3 When it is clear that there is an ongoing police or other investigation, or related court proceedings, the Investigating Officer should make enquiries about the nature of the police, or other investigation, or the nature of any court proceedings.
- 4.4 If at any time during the investigation the Investigating Officer becomes aware of any circumstances that might require the investigation to be deferred, the Investigating Officer should notify the Monitoring Officer who should determine

whether there should be a deferral. The Monitoring Officer may also wish to consult with the Independent Person.

- 4.5 In some cases, it will be possible to investigate some of the alleged conduct, where there is no overlap with another investigation or court proceedings. The Investigating Officer should highlight those areas where investigation may be possible in the investigation plan.
- 4.6 The Monitoring Officer or the Investigating Officer should ask the police, other relevant organisation or individual, in writing to keep them informed of the outcome of any police or other investigation, court proceedings or other relevant matter. Any important dates, for example of committal hearings should be noted in the investigation plan review.
- 4.7 A deferred investigation should be kept under regular review, in the interests of natural justice.
- 4.8 Once a decision is taken to begin the investigation again the Investigating Officer should notify in writing: the Subject Member; the complainant; the relevant Independent Person; and the relevant Parish/Town council if the Subject Member is a Parish/Town councillor.
- 4.9 The investigation plan should be reviewed in the light of the outcome of any police investigation or court proceedings.

5. The Draft Report

- 5.1 On the conclusion of their investigation the Investigating Officer will issue a draft report (clearly labelled 'DRAFT and CONFIDENTIAL') to the Monitoring Officer for review.
- 5.2 Following review by the Monitoring Officer, the draft report will be sent in confidence to the Subject Member and the Complainant (not witnesses) for comment. The draft report will be clearly labelled 'DRAFT and CONFIDENTIAL' and will detail:
 - (a) The relevant provisions of the law and the relevant paragraphs of the Code of Conduct.
 - (b) A summary of the complaint.
 - (c) The Subject Member's response to the complaint.

- (d) Relevant information, explanations, etc, which the Investigation Officer has obtained in the course of the investigation.
- (e) A list of any documents relevant to the matter.
- (f) A list of those persons/organisations who have been interviewed.
- (g) A statement of the Investigating Officer's draft findings of fact and reasons.
- (h) The Investigating Officer's conclusion as to whether the Subject Member has or has not failed to comply with the Authority's Code of Conduct.
- (i) That the Investigating Officer will present a final report once they have considered any comments received on the draft.

5.3 Once the Investigating Officer has received any responses from the Subject Member and/or the Complainant, they will finalise the draft report and make their final conclusions and recommendations to the Monitoring Officer. The report will be clearly labelled 'FINAL and CONFIDENTIAL'.

6. Consideration of Investigating Officer's Final Report

6.1 The Monitoring Officer will review the Investigating Officer's final report and any comments submitted by the Parties, in consultation with the Independent Person.

6.2 Where, on the basis of the Investigating Officer's report, the Monitoring Officer, having consulted with the Independent Person, concludes that there is no evidence of a failure to comply with the Code of Conduct; they will inform the Parties in writing that no further action is considered necessary. There is no right of appeal against the Monitoring Officer's decision.

6.3 Where, on the basis of the Investigating Officer's report, the Monitoring Officer, having consulted with the Independent Person, concludes that there is evidence of a failure to comply with the Code of Conduct, they will either:

- (a) Take no action; or
- (b) Seek informal resolution; or
- (c) Refer the matter for consideration by the Hearing Panel in accordance with the relevant procedure detailed in Annex 3 to these Arrangements.

7. Confidentiality

7.1 The procedures detailed in this Annex are all treated as confidential to those involved in the process. Some details (which would include names and addresses)

may be personal data, subject to data protection laws, some content of statements or reports may be otherwise private or confidential or, may be potentially defamatory if published.

- 7.2 Whilst non-members are not covered by the Code of Conduct (e.g., members of the public, witnesses and non-councillor complainants) if, they do decide to publish details of the complaint they may expose themselves to liability in defamation (if information turns out to be untrue) or to other liabilities e.g., for breach of confidence, or for breach of data protection laws which could arise even where the information is true. Non-members may wish to seek their own legal advice.

Hearing Panel Procedure

1. Pre-Hearing Procedure

- 1.1 In order to allow the hearing to proceed fairly and efficiently, the Monitoring Officer may in appropriate cases use a pre-hearing procedure to identify:
- (a) Which facts in the investigation report are agreed and which are in dispute.
 - (b) Whether there is fresh evidence not mentioned in the investigation report which will be put before the hearing.
 - (c) Whether there is documentary evidence which a party intends to put before the hearing.
 - (d) Whether the parties intend to attend, whether the parties intend to be represented in accordance with paragraph 3 and, if so, by whom, the number and identity of witnesses to be called.
 - (e) Whether the Subject Member requests the whole or any part of the hearing to be held in private.
 - (f) Whether the Subject Member requests the whole or any part of the investigation report or other relevant documents to be withheld from the public.
- 1.2 The Monitoring Officer will notify the parties of the date, time, and place for the hearing.

2. Rules of Procedure

- 2.1 The Hearing Panel consists of three voting elected Members drawn from the [Standards Committee], one of whom shall be elected as Chairman.
- 2.2 The quorum for a meeting of the Hearing Panel is three elected Members.
- 2.3 The Independent Person's views must be sought and taken into consideration before the Hearing Panel takes any decision on whether the Subject Member's conduct constitutes a failure to comply with the Code of Conduct and as to any sanction to be taken following a finding of failure to comply with the Code of Conduct. The Independent Person should normally be present throughout the hearing (but not during the deliberations of the Hearing Panel in private) but in the

event that this is not possible, may instead submit their views on the complaint to the Hearing Panel in writing.

- 2.4 The legal requirements for publishing agendas, minutes, and calling meetings, will apply to the Hearing Panel. The presumption is that the hearing will be held in public no earlier than 14 working days after the Monitoring Officer has copied the Investigating Officer's final report to the complainant and the Subject Member. Schedule 12A Local Government Act 1972 (as amended) may be applied to exclude the public and press from meetings of the Hearing Panel.
- 2.5 Once a hearing has started, the Borough Council's Rules of Substitution do not apply to the Hearing Panel's proceedings.
- 2.6 All matters/issues before the Hearing Panel will be decided by a simple majority of votes cast, with the Chairman having a second or casting vote.
- 2.7 Where the Subject Member fails to attend the Hearing Panel and where the Hearing Panel is not satisfied with their explanation for their absence from the hearing, the Hearing Panel may in the first instance have regard to any written representations submitted by the Subject Member and may resolve to proceed with the hearing in the Subject Member's absence and make a determination or, if satisfied with the Subject Member's reasons for not attending the hearing, adjourn the hearing to another date. The Hearing Panel may resolve in exceptional circumstances, that it will proceed with the hearing on the basis that it is in the public interest to hear the allegations expeditiously.¹

3. Right to be Accompanied by a Representative

- 3.1 The Subject Member may choose to be represented by counsel, a solicitor, or by any other person they wish. The panel does, however, have the right to require a representative to leave if that representative disrupts the hearing. However, an appropriate warning will be given before requiring a representative to leave the hearing.

4. Order of Business

- 4.1 Subject to paragraph 4.2 below, the order of business will be as follows:-
 - (a) Elect a Chairman.
 - (b) Apologies for absence.
 - (c) Declarations of interests.

¹ Janik v Standards Board for England & Adjudication Panel for England (2007)

- (d) In the absence of the Subject Member, consideration as to whether to adjourn or to proceed with the hearing (refer to paragraph 2.7 above).
 - (e) Introduction by the Chairman, of members of the Hearing Panel, the Independent Person, Monitoring Officer, Investigating Officer, legal advisor, complainant and the Subject Member and their representative.
 - (f) To receive representations from the Monitoring Officer and/or Subject Member as to whether any part of the hearing should be held in private and/or whether any documents (or parts thereof) should be withheld from the public/press.
 - (g) To determine whether the public/press are to be excluded from any part of the meeting and/or whether any documents (or parts thereof) should be withheld from the public/press.
- 4.2 The Chairman may exercise their discretion and amend the order of business, where they consider that it is expedient to do so in order to secure the effective and fair consideration of any matter.
- 4.3 The Hearing Panel may adjourn the hearing at any time.

5. Presentation of the Complaint

- 5.1 The Monitoring Officer, legal advisor, or chairman may make an introductory statement outlining the nature of the complaint and the purpose of the hearing, and the procedure to be followed.
- 5.2 The Investigating Officer presents their report including any documentary evidence or other material and calls their witnesses. No new points will be permitted.
- 5.3 The Subject Member or their representative may question the Investigating Officer and any witnesses called by the Investigating Officer.
- 5.4 The Hearing Panel may question the Investigating Officer upon the content of their report and any witnesses called by the Investigating Officer.

6. Presentation of the Subject Member's Case

- 6.1 The Subject Member or their representative presents their case and calls their witnesses.
- 6.2 The Investigating Officer may question the Subject Member and any witnesses called by the Subject Member.
- 6.3 The Hearing Panel may question the Subject Member and any witnesses called by the Subject Member.

7. Summing Up

- 7.1 The Investigating Officer sums up the complaint.
- 7.2 The Subject Member or their representative sums up their case.

8. Views/Submissions of the Independent Person

- 8.1 The Chairman will invite the Independent Person to express their view on whether or not they consider that on the facts presented to the Hearing Panel, there has been a breach of the Code of Conduct.

9. Deliberations of the Hearing Panel to be in Private

- 9.1 The Hearing Panel will adjourn the hearing and deliberate in private (assisted on matters of law by a legal advisor) to consider whether or not, on the facts found, the Subject Member has failed to comply with the Code of Conduct.
- 9.2 The Hearing Panel may at any time come out of private session and reconvene the hearing in public, in order to seek additional evidence from the Investigating Officer, the Subject Member, or the witnesses. If further information to assist the Panel cannot be presented, then the Panel may adjourn the hearing and issue directions as to the additional evidence required and by whom.

10. Announcing Decision on Facts Found

- 10.1 The Hearing Panel will reconvene the hearing in public (if the public have not been excluded from the proceedings) and the Chairman will announce whether or not on the facts found, the Panel considers that there has been a breach of the Code of Conduct.
- 10.2 Where the Hearing Panel considers that there has been a breach of the Code of Conduct, the Chairman will invite the Independent Person, the Subject Member and the Monitoring Officer to make their representations as to whether or not any sanctions should be applied and, if so, what form they should take.
- 10.3 When deciding whether to apply one or more sanctions, the Hearing Panel will ensure that the application of any sanction is reasonable and proportionate to the Subject Member's behaviour. The Hearing Panel will consider the following questions along with any other relevant circumstances or other factors specific to the local environment:
 - (a) What was the Subject Member's intention and did they know that they were failing to follow the Borough or Parish Council's Code of Conduct?

- (b) Did the Subject Member receive advice from officers before the incident and was that advice acted on in good faith?
- (c) Has there been a breach of trust?
- (d) Has there been financial impropriety, e.g., improper expense claims or procedural irregularities?
- (e) What was the result/impact of failing to follow the Borough or Parish Council's Code of Conduct?
- (f) How serious was the incident?
- (g) Does the Subject Member accept that they were at fault?
- (h) Did the Subject Member apologise to the relevant person(s)?
- (i) Has the Subject Member previously been reprimanded or warned for similar misconduct?
- (j) Has the Subject Member previously breached the Borough or Parish Council's Code of Conduct?
- (k) Is there likely to be a repetition of the incident?

10.4 Mitigating factors may include:

- (a) An honestly held, although mistaken, view that the action concerned did not constitute a failure to follow the provisions of the Code of Conduct, particularly where such a view has been formed after taking appropriate advice.
- (b) A councillor's previous record of good service.
- (c) Substantiated evidence that the councillor's actions have been affected by ill-health.
- (d) Recognition that there has been a failure to follow the Code.
- (e) Co-operation in rectifying the effects of that failure.
- (f) An apology to affected persons where that is appropriate.
- (g) Self-reporting of the breach by the councillor.
- (h) Compliance with the Code since the events giving rise to the complaint.

10.5 Aggravating factors may include:

- (a) Dishonesty or breaches of trust.
- (b) Trying to gain an advantage or disadvantage for themselves or others.
- (c) Bullying.
- (d) Continuing to deny the facts despite clear contrary evidence.
- (e) Seeking unfairly to blame other people.
- (f) Failing to heed appropriate advice or warnings or previous findings of a failure to follow the provisions of the Code.
- (g) Persisting with a pattern of behaviour which involves repeatedly failing to abide by the provisions of the Code.

10.6 Having heard the representations of the Independent Person, the Subject Member and the Monitoring Officer on the application of sanctions, the Hearing Panel will adjourn and deliberate in private.

11. Final Decision

11.1 Where the complaint has a number of elements, the Hearing Panel may reach a finding, apply a sanction and/or make a recommendation on each element separately.

11.2 The Hearing Panel will make its decision on the balance of probabilities, based on the evidence before it during the hearing.

11.3 Having taken into account the Independent Person, the Subject Member and the Monitoring Officer's representations on the application of sanctions, the Hearing Panel will reconvene the hearing in public and the Chairman will announce:

- (a) The Panel's decision as to whether or not the Subject Member has failed to comply with the Code of Conduct, and the principal reasons for the decision.
- (b) The sanctions (if any) to be applied.
- (c) The recommendations (if any) to be made to the Borough or Parish Council or Monitoring Officer.
- (d) That there is no right of appeal against the Panel's decision and/or recommendations.

12. Range of Possible Sanctions or Other Actions

12.1 Where the Hearing Panel determines that the Subject Member has failed to comply with the Code of Conduct, any one or more of the following sanctions may be applied/recommended:

- (a) Report its findings in respect of the subject member's conduct to the Council (or the relevant Parish Council).
- (b) Issue (or recommend to the Parish Council to issue) a formal censure (i.e., the issue of an unfavourable opinion or judgement or reprimand).
- (c) Recommend to the leader of the authority that the Subject Member be removed from positions of responsibility.
- (d) Instruct the Monitoring Officer to (or recommend that the Parish Council) arrange training for the Subject Member.
- (e) Recommend to Council (or recommend to the Parish Council) that the Subject Member be removed from all outside appointments to which they have been appointed or nominated by the authority (or by the parish Council).
- (f) Recommend to Council (or recommend to the Parish Council) that it withdraws facilities provided to the Subject Member by the authority for a specified period, such as a computer, website and/or email and internet access.
- (g) Recommend to Council (or recommend to the Parish Council) that it excludes the Subject Member from the authority's offices or other premises for a specified period, with the exception of meeting rooms as necessary for attending Council, committee and sub-committee meetings, and/or restricts contact with officers to named officers only.
- (h) If relevant recommend to Council that the Subject Member be removed from their role as leader of the authority.
- (i) If relevant recommend to the secretary or appropriate official of a political group that the councillor be removed as group leader or other position of responsibility.
- (j) Recommend that the Subject Member make an apology in respect of the conduct or take some other action to resolve the matter.

12.2 Where the Subject Member is a Parish or Town councillor, the matter is referred back to their Council to say that a breach of the Code has been found and with a recommended sanction. The Town or Parish Council must then meet to consider whether to impose that sanction or to replace it with another relevant sanction. They cannot overturn the finding that there has been a breach of the Code and if

they wish to impose a different sanction they should seek advice from the clerk and/or the Monitoring Officer. The panel should also ask the Parish or Council to report back to the monitoring officer within three months to confirm that they have met to discuss the sanction, and if necessary, to write again once the sanction has been fulfilled.

- 12.3 Note that under the Code of Conduct failure to comply with a sanction may of itself be a breach of the Code.
- 12.4 The Hearing Panel has no power to suspend or disqualify the Subject Member or to withdraw basic or special responsibility allowances.
- 12.4 The Hearing Panel may specify that any sanction take effect immediately or take effect at a later date and that the sanction be time limited.

13. Publicising the Findings

- 13.1 The Monitoring Officer should arrange for a decision notice to be published on the website of any authorities concerned. A template decision notice is appended which may be used for these purposes.
- 13.2 If the panel finds that the Subject Member did not fail to follow the authority's Code of Conduct, the public summary must say this and give reasons for this finding.
- 13.3 If the panel finds that the Subject Member failed to follow the Code but that no action is needed, the public summary should:
 - (a) Say that the councillor failed to follow the Code, but that no action needs to be taken.
 - (b) Outline what happened.
 - (c) Give reasons for the panel's decision not to take any action.
- 13.4 If the panel finds that a councillor failed to follow the Code and it imposed or recommended a sanction or other action, the public summary should:
 - (a) Say that the councillor failed to follow the Code.
 - (b) Outline what happened.
 - (c) Explain what sanction has been imposed.
 - (d) Give reasons for the decision made by the panel.
- 13.5 The panel's reports and minutes should be available for public inspection in the same way as other local authority committee papers.

14. Appeals

- 14.1 Given that the framework and sanctions are meant to be light-touch and proportionate, there is no right of appeal against a decision on a Code of Conduct complaint.

TEMPLATE – DECISION NOTICE (of Hearing Panel)

Complaint No: xxxx

On [insert date], the Hearing Panel of Swale Borough Council considered a report of an investigation into the alleged conduct of [insert name of councillor], a member of [insert authority name]. A general summary of the complaint is set out below.

Complaint summary

[Summarise complaint in numbered paragraphs as set out in the Investigating Officer's report to the Hearing Panel]

Consultation with Independent Person

[Summarise the Independent Person's views in numbered paragraphs]

Findings

After considering the submissions of the parties to the hearing and the views of the Independent Person, the Hearing Panel reached the following decision(s):

[Summarise the finding of facts and the Hearing Panel's decision against each finding of fact in numbered paragraphs as set out in the Investigating Officer's report to the Hearing Panel, but substitute the Investigating Officer for the Hearing Panel. Please note that the Hearing Panel's findings may differ from that of the Investigating Officer]

The Hearing Panel also made the following recommendation(s)

[Detail recommendations]

Sanctions applied

The breach of the [insert authority name] Code of Conduct warrants a [detail sanctions applied].

Appeal

There is no right of appeal against the Hearing Panel's decision.

Notification of decision

This decision notice is sent to the:

- Councillor [name of councillor]
- Complainant
- Monitoring Officer

- [Clerk to the xxxx Parish/Town Council]
- Kent County Council's Monitoring Officer *[applicable only where the Councillor is serving at both Borough and County level]*

Additional help

If you need additional support in relation to this decision notice or future contact with the Borough Council, please let us know as soon as possible. If you have difficulty reading this notice, we can make reasonable adjustments to assist you, in line with the requirements of the Equality Act 2010. We can also help if English is not your first language. Please refer to the attached Community Interpreting Service leaflet or contact our Customer Services on [insert telephone number] or email [insert email address].

Signed:

Date

Print name:

Chair of the Hearing Panel
Swale Borough Council

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Standards Committee	
Meeting Date	11 July 2024
Report Title	Member Training and Development 2023/24
EMT Lead	Larissa Reed, Chief Executive
Head of Service	
Lead Officer	
Classification	Open
Recommendations	The Standards committee is recommended to: 1. Note the report on Member Training and Development 2023/24

1 Purpose of Report and Executive Summary

- 1.1 This report provides an update on progress in Member Training and Development since May 2023 and sets out the proposed future work programme as discussed by the Member Development Working Group and EMT.

2 Background

- 2.1 The Council's cross party Member Development Group (MDWG) monitors and develops the Council's Member Training and Development Programme. The Working Group is supported by the Chief Executive and Democratic Services and whilst Members have been settling into their roles since their induction in May 2023, and many training and briefing sessions have been taking place, the Working Group did not meet until February 2024 and are now meeting regularly again.
- 2.2 The MDWG is made up of a Member from each political party on the Council who is encouraged to seek views from their respective members and feedback to the working group. The Chair of the MDWG for 23/24 is Councillor Elliott Jayes.
- 2.3 The Member Development Working Group continue to evaluate the training and briefing sessions provided as well as discuss training needs for newly-elected Members and re-elected Members.
- 2.4 A Member training programme is usually developed at the start of each civic year and reviewed during the year. Ideas of future training sessions are sought from Members and Officers, and Members of the Member Development Working Group also agree relevant topics. The MDWG regularly review the training programme to ensure it is deliverable and within budget. Given the number of

new Members elected in May 2023, the training programme has focused on equipping new Members for their various roles such as membership of the Planning Committee, Licencing Committee and Audit Committee.

- 2.5 To encourage higher attendance, several bite-size training/briefing sessions have taken place directly before scheduled Committee meetings and sessions are generally hybrid allowing remote attendance. Sessions are recorded and added to the Member Teams Channel in order that Members may watch at a convenient time.
- 2.6 The table below sets out the Training/Briefing sessions that have taken place since the beginning of the civic year:

Title of Training/Briefing session	Date
Member Induction	13.5.23 & 15.5.23
Planning	18.5.23
Chair's training	15.6/23
Briefing prior to first P & R Committee	14.6.23
Briefing prior to first Env Committee	29.6.23
Briefing prior to first Housing & Health Committee	4.7.23
Finance briefing	5.7.23
Briefing prior to first Reg & Prop Committee	6.7.23
Waste & Street Cleansing Contract	18.7.23
Sound reasons for decision-making (Planning)	20.7.23
Audit training session	24.7.23
Cllrs Teams Channel drop in sessions	August/September 23
Rainbow Homes training	11.9.23
New Waste Contract	25.9.23
5 year land supply and monitoring	14.9.23
Licensing Training	19.9.23 & 4.10.23
Mid Kent Shared Services briefing	10.10.23
Information Governance Training	17.10.23
Audit Training on Statement of Accounts	23.10.23
Understanding Planning conditions	9.11.23
Child Safeguarding Basic Awareness	28.11.23
Members briefing on Draft Budget	29.11.23
Meet the Planning Policy Team, and learn about Swale's latest 5-year housing land supply position statement, and the housing delivery test	07.12.23
Bolstering responses to outline planning applications	11.1.24
Medway Estuary and Swale Programme presentation	17.1.24
Understanding and participating in the Planning Appeals process	03.2.24
Waste Contract Update	26.2.24
Urban design/design codes	7.3.24
Members Safeguarding Adults Training	19.3.24
Member/officer protocol	3.4.24
Employer Pension fund briefing by KCC	4.4.24

Future work

- 2.7 At the MDWG's meeting held in March, a suggested programme of training and its individual priority was put together. The programme was subsequently discussed at SMT and a survey has been circulated to Members requesting feedback on convenient times to hold sessions. Proposed training for 2024/5 and beyond is attached at Appendix 1.

3 Proposals

- 3.1 The Standards Committee is asked to review and note the information contained in the report.

4 Alternative Options Considered and Rejected

N/A

5 Consultation Undertaken or Proposed

- 5.1 The report is submitted on behalf of the Member Development Working Group.

6 Implications

Issue	Implications
Corporate Plan	Members need to be equipped with the skills and knowledge to help deliver the Council's priorities and to effectively represent their ward constituents
Financial, Resource and Property	Provision of £6,000 is made within the budget for Member Training and Development for 2024/25.
Legal, Statutory and Procurement	<p>Local authorities are complicated organisations that are heavily regulated and must act lawfully when discharging their functions. They can only act where there is a legal power or duty and decisions taken by them must comply with administrative law principles. Members are often required to take complex decisions or to follow prescribed procedures and they can be challenged by individuals or organisations who disagree with decisions taken.</p> <p>Knowledge of the relevant legal frameworks is vital to support them in their roles as community leaders, advocates and policy makers. It also protects the Council from the costs and bad publicity that is likely to result from legal challenges.</p> <p>Training in Planning and Licensing is a mandatory requirement for any Member to sit on those Committees. All Members should be</p>

	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.
Crime and Disorder	No implications identified at this stage.
Environment and Climate/Ecological Emergency	No implications identified at this stage.
Health and Wellbeing	No implications identified at this stage.
Safeguarding of Children, Young People and Vulnerable Adults	No implications identified at this stage.
Risk Management and Health and Safety	No implications identified at this stage.
Equality and 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.
Privacy and Data Protection	No 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: Proposed Member Training sessions

8 Background Papers

8.1 None

Member Development Strategy 2024 - 2027

Published:

DRAFT

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Foreword and Commitment

Members of Swale Borough Council wish to serve the communities they were elected to represent, and the Borough as a whole, to the best of their ability.

The Council wishes to ensure that all Members have the necessary skills and knowledge to best serve their community. This is very important, at a time of ongoing changes in local government.

The Council has set out its aims and objectives in the new Corporate Plan which was agreed in April 2024. There are five Themes in the Corporate Plan, which are

- Community - To enable our residents to live, work and enjoy their leisure time safely in our borough and to support community resilience.
- Economy - Working with our businesses and community organisations to work towards a sustainable economy which delivers for local people.
- Environment - To provide a cleaner, healthier, more sustainable and enjoyable environment, and to prepare our borough for the challenges ahead.
- Health & Housing - To aspire to be a borough where everyone has access to a decent home and improved health and wellbeing.
- Running the Council - Working within our resources to proactively engage with communities and outside bodies to deliver in a transparent and efficient way”

Councillors play a key role in developing and delivering these Themes, for the benefit of the Council and its communities.

To achieve this, it is a great benefit to have Councillors from a range of different backgrounds. They bring with them a wealth of different experiences. It also means that they have different training needs and learning styles. The Member Development Strategy (the Strategy) recognises this. It sets out clearly how the Council will support Members in obtaining the knowledge and skills that they require, whilst also recognising that Councillors need to take responsibility for their own learning and development.

The Strategy has been reviewed and updated by the Member Development Working Group (MDWG), which includes representatives from all the political groups represented on the Council. The MDWG’s main role is to champion Member Development and to ensure that learning and development meets the needs of Councillors.

The Strategy covers the period up to May 2027. It includes activities to support those who have been councillors, previously, those who were newly elected in May 2023, and those who might be thinking of standing for election.

The Strategy is divided into a number of sections that explain the vision, values and aims; how they will be achieved and monitored; how learning and development needs will be identified and met; what support and resources are available, and what the role of the MDWG is. Also, how the success of Member Development will be measured and assessed, together with an Action Plan, setting out specific targets required to deliver the Strategy.

Councillors are faced with a wide range of roles and responsibilities. These cannot be underestimated. With its consistent and structured approach to Member Development, the Strategy represents a major commitment by the Council to support its Members. If Councillors have this support, it helps them to carry out their roles, effectively and efficiently. This, in turn, helps to promote efficient decision making, strong representation

and good governance.

***Cllr Tim Gibson
Leader of Swale
Borough Council***

***Cllr Elliot Jayes
Chair MDWG***

***Larissa Reed
Chief Executive***

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Context

Many people who are elected as Members have their own political views and core social values. Those in political groups will receive leadership and support from their own group.

The Strategy outlines the support that will be given to Councillors to help them fulfil their roles and contribute to the delivery of the council's Corporate Plan. The Strategy ensures that a long-term view is taken of Member Development but is also one which can flex to fit changing needs and priorities.

The Strategy recognises that Councillors are not employees of the Council and strives to help them seek a balance between their demanding roles, both inside, and outside, of the Council.

Vision and Values

The vision for the Strategy is that all Councillors, have the necessary skills and knowledge to perform effectively and efficiently in their current roles, and to be able to develop those skills/knowledge for future roles in the Council.

To help achieve this vision, the key values that underpin the Strategy are:

- Development opportunities will be available to all Councillors irrespective of political allegiance.
- Member development will be based on the identified and agreed needs of the individual Councillor through their participation in the Member Development Plan (MDP) process.
- Member development will be delivered through methods, at locations, and at times, that ensure equality of access for Councillors personal circumstances, backgrounds and learning styles.
- The Council has a learning culture that sees continuous development and life-long learning for Councillors as vital to its success.
- The Council acknowledges that Councillors and any Co-opted Members may have transferable skills from their work place and/or life experiences that can be used to help them perform their Council role.

Aims

The Strategy has the following aims:

1. To create a clear framework for the development of Councillors based on their individual needs and the needs of the Council as a whole.
2. To ensure that all Councillors have the skills at a level that is suitable for their roles and responsibilities.
3. To ensure Councillors have the skills and knowledge necessary to oversee the delivery of high-quality public services by the Council through their community leadership.
4. To ensure that Councillors feel confident and motivated to undertake their roles.
5. To ensure that Councillors are fully aware of their roles and responsibilities, legal requirements and matters of good practice as a means of delivering good governance.
6. To support the continued development of Councillors and help prepare them for roles that they may fulfil in the future.
7. To ensure a consistency of approach to Member development.
8. To attract and retain high calibre Councillors from as wide a range of backgrounds as possible.

Overall Management and Monitoring of the Strategy

Member development must be undertaken and managed if the Strategy is to be successful. To do this, it is vital that Councillors play an integral part in the management of the development programme.

The MDWG will advise the Council on all Member Development matters and will evaluate the programme of Member Development to ensure that it is responsive to Members' needs as follows:

- At least once a year, the MDWG will evaluate the implementation and effectiveness of this Strategy. If necessary, it will be updated to take account of lessons learned, Member feedback, latest developments and best practice.
- Where possible, Members will be asked to complete evaluation forms after each training session in the core programme either via a paper form at the session or electronically afterwards. Members attending externally provided courses will be encouraged to provide feedback to the Council on them to ensure that value for money is obtained.

- Member Development Plan (MDP) meetings will be offered to all new Councillors by their Group Leader as soon as it practical but within the first 12 months of their election with a review taking place annually afterwards or earlier, on request. The review meeting will include an opportunity for Members to comment on the training provided since their initial review and to assess the impact training has had on their ability and capacity to carry out their role, and any ongoing benefits.
- During the period covered by the Strategy, at least one comprehensive survey of Members will be undertaken to investigate a range of issues relating to their needs and their views of the services provided for them.
- Where appropriate, exit interviews will be undertaken with Members who have resigned or who are not seeking re-election to determine whether Member Development opportunities contributed to their decision.

Evaluation and feedback will be analysed and will inform the provision of Member training and will shape future policies. Each year, the MDWG will review the feedback that is received in respect of Member Development and share this information with other Councillors, and if necessary, with the Standards Committee. Significant issues will be brought to the attention of the MDWG at other times, if required.

Each year, the MDWG will draft a report for the Standards Committee and Full Council giving a summary of the attendance of each training session, the training activities and their costs, and the forthcoming municipal year's training schedule.

Member Development Working Group

The Strategy is owned by the Council as a whole. However, it will be the responsibility of the MDWG and the Democratic Services team to ensure that the Strategy is reviewed and updated to reflect any changes arising from external and internal factors, and that it continues to be fit for purpose.

Role and Composition

The MDWG will include representatives from all the political groups (including independent members) that make up Full Council, with officer support being provided by a Democratic Services Officer.

The Group will meet a minimum of 4 times a year to agree and review training and development for Councillors.

The main purpose of the MDWG is to:

- Provide strong leadership and guidance in respect of Member Development.
- Develop a comprehensive Member Development Programme.
- Ensure that learning and development is effective in building capacity and ensuring that Councillors have the necessary skills and knowledge to carry out their community leadership roles effectively.

Terms of Reference

- To champion and encourage Member development.
- To monitor and review the Strategy and associated documents/processes on an at least an annual basis.
- To shape and prioritise Member Development, e.g., New Member induction Programme, Prospective Councillor Events, training, and development needs identified through MDP or other means etc.
- To oversee the development of a comprehensive Member Development Programme, that takes advantage of partnership opportunities with other local authorities and promotes best practice for the delivery of Member Development.
- To ensure that the Council provides Member Development that meets the needs of all Councillors.
- To encourage effective Member / officer working relationships in accordance with the Code of Conduct and Officer Member Protocol to ensure that all Councillor roles are explained clearly.
- To assist in the development of effective evaluation to ensure the effectiveness of the Member Development Programme and to make best use of resources.
- To maintain a dialogue with national and regional bodies supporting Member Development and to explore external sources of funding for Member Development.
- To receive regular update reports on Member Development within the Council, to review Member attendance at Member Development events and to retain an overview of the Member Development budget.
- To ensure equal access for all Councillors to training and development and to promote the use of information technology for and by Members.

How Member Development Needs will be Identified

Member development needs will be identified through the following four main avenues:

1. Corporate Training Needs

The environment in which local government operates may change frequently and fundamentally. This is because of changes in the law, corporate priorities, or changes to local government services/structures. The Council must be alert to these changes and be ready to adapt its learning and development to suit every circumstance, and to fill any gaps in skills and knowledge that arise.

2. Role of Members

It is vital that Member Development and this Strategy relate directly to the roles and duties that Members have to fulfil. To ensure this, the Council will develop a number of Role Descriptions for Councillors which will be included in the Council's Constitution. The MDWG will ensure that there is a programme of development that enables Councillors to have the skills and knowledge to fulfil the specific roles identified. Each newly elected Councillor will be invited to participate in an induction programme relevant to their role.

3. Specialist Role Needs

Many Members will have additional roles that they currently carry out, or roles that they aspire to, in the future, and these will require specialist or more focused training. These roles include:

- Chair or Vice-Chair of Committees or Sub-Committees
- Leadership, for example Leader of the Council or Leader of a Political Group
- Regulatory Committees such as Licensing and Planning which exercise regulatory functions
- Audit and Governance
- Standards
- Civic and ceremonial protocols

4. Identifying Personal Development Needs

The skills needed to carry out the roles listed in points 1 – 3 above set the training needs for Councillors, which are also linked to the delivery of Themes in the Strategic Plan. However, for a truly effective training needs analysis which identifies specific development needs for individual Members, a more in-depth discussion is needed on a one-to-one basis. This can best be achieved through participation in the MDP process. This involves:

- Participation in an individual Member Development Plan meeting where Councillors can identify any gaps in their skills / knowledge to inform their development needs.
- Considering other relevant, necessary skills eg presentational skills, speed reading, public speaking etc.
- Discussions with Political Group Leaders or the Democratic Services Team.
- Reviewing the impact of learning and development through the MDP process as well as feedback received through course evaluation.
- Councillors maintaining their own personal development / training records and regularly reviewing if there any gaps in their skills / knowledge.

Based on the above, an overall Member Development Programme will be developed each year but will be reviewed by the MDWG on a regular basis to ensure that it is responsive to the needs of Members and the Council.

How Member Development Needs will be Met

To support the diverse development needs of Councillors and Co-opted Members, a range of options will be made available to suit different learning styles and individual circumstances. In some cases, these can be delivered through the Council's own internal resources or, where necessary, specialist providers with a proven track records in terms of training will be brought in. Potential development delivery methods may include:

- Training courses
- Informal in-house briefings and workshops, including joint Member / officer training where appropriate
- External conferences and seminars
- Member briefings
- Written learning materials
- Peer Mentors
- E-Learning packages
- Distance learning packages
- Visits to other Councils or relevant partners
- Shadowing opportunities
- Sharing of knowledge amongst other Elected Members
- Personal research or preparation for specific projects.

Councillors will be encouraged to be involved in Member Development, where appropriate, by leading workshops, disseminating expert knowledge, offering mentoring or by encouraging the take-up of Member Development opportunities. The delivery of these activities will also be considered as contributing towards a Member's own continued professional development and can be a method of achieving goals identified on their specific Member Development Plan.

Support for Prospective and New Councillors

Swale Borough Council is keen to attract Members from all different backgrounds to join the Council, including those people who are not necessarily part of established political groups. Such people might require some additional information, and support, on what it is like to be a Councillor, such as details of the potential time commitments, the benefits of being a Councillor, as well as some of the challenges.

The following specific support will be offered to prospective Councillors:

- A media campaign to attract and support prospective Councillors will commence at least 6 months before the elections and drop-in sessions will be available with Elections and Democratic Services staff, to provide information on being a councillor.
- A candidate pack will give information on the process for standing for election and the required forms to be completed, as well as brief details on what it means to be a Swale Borough Councillor.
- Candidates will be encouraged to observe Council and Committee meetings to further their understanding of how the Council operates.

The following specific support will be offered to New Councillors:

- After the elections, each new Councillor will be provided with an Electronic Member Handbook providing a more detailed introduction to the Council and practical information about being a Councillor.
- A comprehensive Induction Programme will be provided to ensure that newly-elected Councillors can quickly participate fully in the business of the Council. This will include an opportunity to meet senior officers, find out about the Council's key priorities, be given information to get them started and receive basic training on key areas such as the Code of Conduct.
- Sessions tailor made for new councillors will be provided to induct them into how the council operates and the roles of councillors and officers. The sessions will also include 'Teams' training
- Details of the Democratic Services Team will be given to provide support with information and signposting.
- Newly-elected Councillors will receive a tour of Swale House so they can familiarise themselves with the building, Chamber and ensure they feel comfortable in the surroundings.
- Councillors who have been elected at by-elections will be provided with a similar Induction Programme and support.
- New Councillors will be offered a tour of key locations across the Borough within the first 6 months after election.
- New Councillors will also be offered a Member Development Plan Meeting by their Group Leader within 6 months of being elected to identify any specific training needs.

In addition, Councillor Communication Guidelines (Appendix A) have been developed so that new Members understand the minimum level of service that residents can reasonably expect when contacting their Borough Councillor.

The Member Support Scheme (Appendix B) provides for a Senior Council Officer (buddy) to be assigned to a newly elected Member immediately following the election. Members can also request peer support and/or mentoring by a more experienced Member which is particularly helpful for newly-elected colleagues as well as those Councillors stepping into key roles. This provides development benefits for both the mentor and the mentee.

Resources

Each year, the MDWG will identify the budget and resources that are needed to support Member Development and will refer any recommendations for the Member Development budget to Full Council (as part of the annual budget review process). These resources will be monitored by the MDWG and include:

- Financial budget allocation and other capacity to support Member Development activities

- Member support from within the Democratic Services Team
- Conference / Seminar attendance by specific postholders eg Group Leaders, Chairs of Committees etc
- Opportunities for cross-authority / partner training on a countywide, regional or national basis
- Specific training programmes provided by national / regional course providers eg Local Government Association, South East Employers etc.
- Relevant opportunities for learning through seminars, conferences or visits hosted by partners.

The budget for Member Development is currently set at £6,000 per annum. The MDWG will look at this budget and identify whether it is enough and make the necessary requests to Policy and Resources Committee for funding.

Ongoing Commitment

As part of their ongoing commitment, the MDWG has developed an Action Plan setting out specific pieces of training required to deliver the Member Development Strategy (Appendix C) which will support the direction and priorities within the Corporate Plan.

The Strategy and the Action Plan are flexible and dynamic, ensuring that the right support can be offered to Members, depending on what the changes in priorities might be, arising from national or local circumstances.

Remote Working/Training

The pandemic had a major impact on the way in which people live and work. It has impacted on Councillors, too, in terms how they conduct their roles, and carry out their duties.

During the Pandemic, Councillors increased the use of MS Teams and following Covid, this has not changed. Officers are in the council on average 2 days per week and councillor behaviour has shifted to coming into Swale House predominately for formal meetings.

The Members' Teams area has also been set up and the MDP will identify what training councillors require to enable them to work successfully remotely. Wherever possible, briefing and training sessions will be recorded and shared in the Members' Team area.

COUNCILLOR COMMUNICATION GUIDELINES

Swale Borough Council is committed to delivering quality services. These Communication Guidelines outline the minimum level of service that members of the public can reasonably expect when contacting their SBC Councillor.

We will:

- Respect your views and respond to you in a fair, objective, polite and helpful manner.
- Respond as quickly as possible to all requests for information or services.
- Respect your right to privacy and confidentiality.
- Actively seek your views and feedback, acting on them appropriately
- Apologise if we get it wrong and put it right as quickly as possible

If you visit us:

- If you have made an appointment we will ensure that you are seen at the time agreed, or keep you informed of any delay and the reasons for this

If you telephone us:

- We will answer or respond to your call as soon as possible, but understanding that many councillors work full time or have family commitments.

If you email or write to us:

- We aim to respond to letters within 14 days and emails within 7 days. If this is not possible, we will acknowledge your correspondence telling you why and we will give you a response date
- We will respond to you in plain language

What we expect from you:

- Openness and honesty, giving as much information as possible to assist us in dealing with your enquiry, letting us know if you have any special needs
- Full co-operation and for you to be respectful when dealing with Councillors, as although we will do our best to help you, we will not tolerate abuse, threats or harassment, on or off Council premises.

MEMBER SUPPORT SCHEME

The Member Support Scheme provides Councillors with a named contact from the Council's Senior Management Team following their election. In addition, if requested, a peer Mentor who is usually a Councillor from their own political group, can be assigned to help with signposting and providing advice on all issues affecting the life of a Councillor.

The Scheme is not designed to replace the direct contact and access that all Councillors can expect when they wish to speak to their Group Leaders, the Chief Executive, Directors or Heads of Services. It is also not intended that it will create personal assistants or research assistants for individual Councillors

Buddy's can offer support and advice, especially during the first year after a Member is elected or if they have been appointed to a new role, and can help the Councillor understand the requirements of the role and develop their confidence. The Member Support Scheme should enable Councillors to:

- be more aware of where to go for information and support
- feel more confident in their representative and decision-making roles
- be able to make an early contribution to the work of the Council and representing their local community.

If Members need factual information about Council services and details about who to contact within the Council, or any other day to day information about Council business, contact can be made with their named buddy or anyone within the Democratic Services Team or refer to the information contained in the Member Handbook.

What can a Councillor expect from their named buddy or a Mentor?

- A friendly response to questions however trivial they may appear
- Support and advice from the Officer/Mentor's personal knowledge and experience
- Signposting to an appropriate officer or Councillor to take forward a query as needed – this will usually be at service head or team leader level for any new service enquiry or it could be a Committee
- A sounding board to help the Councillor reflect on new experiences and issues raised
- A response to emails and telephone calls as promptly as possible and to be advised who will respond to queries if the Buddy/Mentor is away for an extended period of time
- A prompt response to requests to meet with the Buddy/Mentor

How and when is a named Buddy or Peer Mentor assigned?

The named Buddy will be appointed immediately following the election and will contact the new Councillor within the first day or so after the Count. Once notified of a request for a Peer Mentor, the Democratic Services Officer will contact Political Group Leaders to ask for a nomination as soon as practicable.

The Member Support Scheme is informal and intended to be helpful, therefore, Councillors can make as much or as little use of it as they wish.

Strategic Plan Theme/ Responsible SMT Rep	Training Action	Date for training to be completed by	When will the session be held
Mandatory Training			
	Planning Committee Training	15 th October 2024	Evening session starting around 6 – 9 pm
	Licensing Training	13 th June 2024	In-House training from Legal and Licensing
	Audit Committee Training		Bitesize training before committee, starting at 6 pm
	DSE Training		
Democratic Services and Monitoring officer			
	Neurodiversity Training	12 th , 13 th , 19 th or 20 th November – 2 hour session	External Training
	Officer/Member Protocol briefing – COMPLETED		
	MENTalk briefing		TBC
	Standards Training and conducting Standards Hearing training	10 th June 2024	External Training
	Understanding the Committee System		
	Elections training around General Election and what you can and can't do during 'purdah'		Bitesize training during core hours
	Electoral Review of Swale – Group leader briefing	4 June 2024	To be rescheduled
	Electoral Review of Swale – Briefing to all Members	12 June 2024	To be rescheduled
Audit and Finance			
	Employer Pension Fund Briefing by KCC – COMPLETED		
	Risk Management Training		Bitesize training before committee starting at 6 pm
	Budget Setting training		Training session starting at 6 pm
	Not-so-basic Finance Information		Bitesize training before committee starting at 6 pm
	Basics of Budget monitoring, plus specific finance terms		Training session starting at 6 pm

Planning			
	Understanding the Local Plan		Training session starting at 6 pm
	Mid Kent Planning Portal Training		Bitesize training before committee
	5 Year Housing Land Supply Briefing		Bitesize training before committee
	Introduction and testing of the draft Member Development Protocol	23 rd May 2024	6.15 pm, Committee Room, Swale House
	Swale's Enforcement Strategy	18 th July 2024	6.15 pm, Committee Room, Swale House
	Bolstering Responses to Outline Applications	12 th September 2024	6.15 pm, Committee Room, Swale House
	Understanding BREEAM	7 th November 2024	6.15 pm, Committee Room, Swale House
	'Your role as a Ward Member' at Planning Committee		Bitesize training before committee
	Heritage briefing		Dedicated training session 6 pm – 7 pm
ICT			
	MS Teams training including top tips for Councillors and awareness of cyber security		Bitesize training during core hours Training Away day on Saturday
Community Safety and Housing			
	Community Safety briefing		Training session starting at 6 pm
	Prevent Training		Training session starting at 6 pm
	Swale Voluntary Alliance presentation	21 st May 2024	6.30 pm, Virtual via Microsoft Teams
	Rent reform briefing		Bitesize training before Committee
	Emergency Planning training		Training session starting at 6 pm
	Housing training on homelessness and the housing budget		Bitesize training before committee

	How to deal with desperate residents and situations		Training session starting at 6 pm
	Briefing on operation 'Menai Bridge'		Bitesize training during core hours
Communications and Customer Services			
	Customer services briefing including how to signpost correctly to the correct services		Training Away day on Saturday
	Communications strategy briefing		Training session starting at 6 pm
	When to talk to the press, and how to deal with the press training		Training Away day on Saturday
	Effective use of Social Media		Bitesize training during core hours
Council Tax			
	Understanding Council Tax and Business Rates		Training session starting at 6 pm
Information Governance			
	FOI and GDPR		Training session starting at 6 pm
	Covert Surveillance and RIPA training		Training session starting at 6 pm
Leisure Services			
	Waste Contract Briefings		Training session starting at 6 pm
	Carbon Literacy Training		Training session starting at 6 pm

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Standards Committee Meeting	
Meeting Date	Thursday 11 th July 2024
Report Title	Elected Members DBS Proposal
DMT Lead	Emma Wiggins, Director of Regeneration and Neighbourhoods
Head of Service	Charlotte Hudson, Head of Housing and Communities
Lead Officer	Steph Curtis, Community Services Manager
Classification	Open
Recommendations	<p>For Standards Committee to discuss the introduction of basic DBS Checks for elected members, at the time of election and then two yearly until the point that their appointment ceases; and to recommend to Full Council that this process be adopted.</p> <p>For Standards Committee to agree that the Chief Executive, in conjunction with the Leader and support from the Monitoring Officer, to manage the process for failure to complete DBS checks and if the check did reveal an offence.</p>

1 Purpose of Report and Executive Summary

- 1.1 This report discusses proposals to introduce DBS Checks for Members following the request from the Housing and Health Committee on 5th March 2024.

2 Background

- 2.1 At the Housing and Health Committee on the 5th March 2024, as part of the item on the revised Safeguarding Policy, an elected member posed the question to ask why elected members do not currently have DBS checks as part of their role. Following the discussion, it was agreed that officers would take this away to review.
- 2.2 Section 27 of the Localism Act 2011 requires local authorities to promote and maintain high standards of conduct by members and co-opted members of the authority. There is currently no statutory requirement or policy in place for DBS checks for councillors. There is potential that the public may be at risk if a councillor has a serious conviction that the Council is not aware of. There may be a reputational risk to the Council if a councillor is found to have a criminal conviction/s. However, candidates for election to local government must declare they are not disqualified from standing using prescribed 'Consent to Nomination' forms at nomination. It is a criminal offence to make a false statement on nomination papers.

- 2.3 The Local Government (Disqualification) Act 2022 (“the 2022 Act”) introduced new grounds on which a person is disqualified from being elected to, or holding, certain positions in local government in England, including the position of councillor. This new disqualification criteria explicitly disqualifies individuals who are subject to the relevant notification requirements or orders due to sexual offences from standing or remaining in office.
- 2.4 Levels of DBS Checks that can be submitted depends on the role that is being carried out and whether it is ‘Regulated Activity’ as set out in the Safeguarding Vulnerable Groups Act (SVGA). These relate to certain types of activities and interactions with children and vulnerable groups. In relation to elected Member activities, the SVGA states that they would be undertaking regulated activity if they: (a) discharge, as a result of their membership, any education or social services functions of the Council; (b) are a Cabinet Member (and the cabinet discharges education and social services functions); are a member of a committee of the Cabinet or (c) they are a member of a committee of the Council which discharges education or social services functions.
- 2.5 The duties of Swale Borough Councillors mean that a standard or enhanced DBS check cannot legally be undertaken. Swale Borough Councillors could however be required to undertake a Basic DBS check as a requirement under DBS Checks for Members Protocol. A basic DBS shows any ‘unspent convictions’ a person may have and a conviction record at a point in time, so there is no set time that it lasts for. Individuals can apply for a Basic Disclosure themselves.
- 2.6 There is no unified approach to councillor DBS checks nationally. Research has shown a mixture of Councils at a district or county level having introduced DBS checks. Medway Council recently agreed to introduce enhanced DBS checks for those that are appointed to relevant member bodies/committees, including any substitutes. Kent County Council do not have an official policy in place, but established practice sees all Councillors subject to an enhanced DBS check at the point of election.
- 2.7 Introducing a voluntary process for all elected Members (with the support of group leaders) to complete a basic DBS check would ensure that SBC is fully aware of any convictions that affect the suitability of a councillor to work in the public domain and could bring the council into disrepute. It would also provide added assurance that the Council is committed to promoting high standards.
- 2.8 In the event that a DBS check did reveal an offence, the Chief Executive and the Council Leader would need to consider next steps, with support from the Monitoring Officer. This would ensure confidentiality is maintained at all levels. This would not mean an automatic disqualification from being an elected member, but mitigations and any risks would need to be assessed and managed, including the below to be factored in:
- (i) the significance and/or severity of the offence,

- (ii) the amount of time that has elapsed since the date of the conviction,
 - (iii) whether public confidence in the position held by Elected Member in question could be adversely affected, and if so, to what extent,
 - (iv) The potential reputational harm (if any) that could impact upon the Council
- 2.9 A committed resource has been agreed to ensure a checking and verification process is utilised to support elected members to comply with the process.
- 2.10 If an elected Member failed to comply with this requirement, the Standards Committee would work with Group leaders with support from the Monitoring Officer to agree next steps.
- 2.11 It is recognised that a DBS check is only valid on the day that it is provided, and circumstance may change at any time. Officers will work with the Political Groups to ensure Elected Members understand that they have an obligation to declare any criminal offences/convictions (other than minor offences such as traffic offences) to the Monitoring Officer as soon as reasonable practicable.
- 2.12 An annual report will be presented at Standards Committee for compliance levels for each political party.

3 Proposals

- 3.1 For Standards Committee to discuss the introduction of basic DBS Checks for elected members, at the time of election and then two yearly until the point that their appointment ceases; and to recommend to Full Council that this process be adopted.
- 3.2 For Standards Committee to agree that the Chief Executive, in conjunction with the Leader and support from the Monitoring Officer, to manage the process for failure to complete DBS checks and if the check did reveal an offence.

4 Alternative Options

- 4.1 That basic DBS checks are not introduced for Members: some Members may consider such checks to be an invasion of their privacy if there is no legal duty to have them in place. However, it is felt that the community could be at risk if there are undeclared convictions by an elected Member; and the Council could be brought into disrepute if convictions are identified after a councillor has been elected.

5 Consultation Undertaken or Proposed

- 5.1 No consultation has currently been undertaken.

6 Implications

Issue	Implications
Corporate Plan	This proposal contributes to the community ‘enabling our residents to live, work and enjoy their time safely’ priority and the running the council priority.
Financial, Resource and Property	<p>The current cost of a Basic DBS check is £18. There are 47 councillors. This would cost the council £846.00 every two years. There will be additional costs if new councillors are elected following by-elections.</p> <p>There are also the costs of staff time connected with managing the process – this will include viewing certificates and recording the outcome. There will be additional staff time required if there are any compliance issues or if a check does reveal an offence.</p>
Legal, Statutory and Procurement	<p>Local Government (Disqualification) Act 2022 and the Localism Act 2011 are discussed in the main body of this report.</p> <p>The Kent and Medway Adult Safeguarding Policy has also introduced the People in Position of Trust (PIPOT) policy which is referenced within the Swale Safeguarding Policy.</p> <p>Other relevant legislation linked to this proposal are the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975, and the Police Act 1997 (Criminal Records) Regulations 2002.</p>
Crime and Disorder	Compliance with this proposal would see a reduction in risk of any criminal convictions arising from SBC elected members.
Environment and Climate/Ecological Emergency	There are no impacts on sustainability or climate change issues.
Health and Wellbeing	If there are no conflicts with compliance this should not have any impact on the health and wellbeing of any elected member
Safeguarding of Children, Young People and Vulnerable Adults	There is potential that the public may be at risk if a councillor has a serious conviction that the Council is not aware of. There may be a reputational risk to the Council if a councillor is found to have a criminal conviction.
Risk Management and Health and Safety	The implementation of this requirement would see a reduction in risk to wider community of Swale for an individual who has

	undeclared convictions which may put those at risk within certain categories within SVGA.
Equality and Diversity	No specific equality and diversity implications have been identified at this stage.
Privacy and Data Protection	The Council will maintain a record of Members who have produced their basic DBS checks to the Officer appointed by the Monitoring Officer. Only the completion date and if any convictions are produced will be recorded.

7 Appendices

None

8 Background Papers

Housing and Health Committee Minutes 5th March 2024 -
<https://services.swale.gov.uk/meetings/ieListDocuments.aspx?CId=357&MId=3976&Ver=4>

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Standards Committee	
Meeting Date	11 July 2024
Report Title	Changes to Standards Hearings
EMT Lead	Larissa Reed – Chief Executive
Head of Service	Lisa Fillery – Director of Resources
Lead Officer	Larissa Reed – Chief Executive
Classification	Open.
Recommendations	1. To agree changes to Standards Hearings as set out in 2.2.1 – 2.2.5 of the main report.

1 Purpose of Report and Executive Summary

- 1.1 This report sets out proposed changes to hearings following a complaint and subsequent investigation.

2 Background

- 2.1 Following a standards hearing held on 27 November 2023, a complaint was received by the Chief Executive in relation to both the outcome of the hearing and the process undertaken.

- 2.2 The Chief Executive commissioned Mid Kent Legal services to investigate the complaint. The complainant then requested a review. This was undertaken by an independent person (not the council appointed independent person) who was an experienced Monitoring Officer.

- 2.1 Whilst neither of the two investigations felt the outcome of the hearing was invalid, they both suggested changes going forward which could ensure more robust hearings be held.

- 2.2 The recommendations are as follows:

- 2.2.1** The council should make clear on the website the process for making complaints against councillors.
- 2.2.2** Ensure there are clear and comprehensive procedure notes for undertaking a hearing.
- 2.2.3** If the Monitoring Officer is the investigating officer, ensure they are not sitting on the top table with the members/legal representative/Chief Executive, but somewhere where there can be no perception of influence.

2.2.4 Provide formal training for the members of Standards Committee in undertaking hearings.

2.2.5 Not allowing members to sit on hearings until the training has been fully completed.

3 Alternative Options Considered and rejected by officers

3.1 The only other option considered by officers not to implement these changes. This has been rejected as this would not be fair to members who take any role in a standards hearing

4 Consultation Undertaken or Proposed

4.1 There has been no formal consultation. The complainant has agreed to this report coming to Standards Committee.

5 Implications

Issue	Implications
Corporate Plan	This strategy meets the needs of the corporate plan (Running the Council Pledge) as training and governance are key to running a successful council
Financial, Resource and Property	The delivery of the training recommended is within council resources
Legal, Statutory and Procurement	There is a a legal requirement to manage the standards regime.
Crime and Disorder	No implications
Environment and Climate/Ecological Emergency	No implications
Health and Wellbeing	No implications
Safeguarding of Children, Young People and Vulnerable Adults	No implications
Risk Management and Health and Safety	No implications
Equality and Diversity	Councillors have the right to have clear and fair processes.

Privacy and Data Protection	No implications
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6 Appendices

None

7 Background Papers

Stage 1 complaint – undertaken by R Fitzpatrick
Independent review undertaken by S Boyle

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