

Agenda

Standards Committee Meeting

Date: Tuesday, 23 September 2025

Time 7.00 pm

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

Membership:

Councillors Monique Bonney, Angela Harrison (Chair), James Hunt (Vice-Chair), Mark Last, Rich Lehmann, Charlie Miller, Pete Neal, Tom Nundy, Richard Palmer, Hannah Perkin and Ashley Wise.

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

Kent Association of Local Councils representative (non-voting): Vacant.

Quorum = 3

Pages

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- (a) The fire alarm is a continuous loud ringing. In the event that a fire drill is planned during the meeting, the Chair will advise of this.
- (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.

- (c) In the event of the alarm sounding, leave the building via the nearest safe exit and gather at the assembly point on the far side of the car park. Do not leave the assembly point or re-enter the building until advised to do so. Do not use the lifts.
- (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 29 July 2025 (Minute Nos. 229 - 235) as a correct record.

4. Declarations of Interest

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

5.	Forward Plan	5 - 6
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11.	Recruitment of Independent Persons - verbal update	

Issued on Monday, 15 September 2025

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 Forward Plan – September 2025

There are no reports currently due for discussion

Report title, background information and recommendation(s)	Date of meeting	Open or exempt	Lead Officer and report author

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Standards Committee	
Meeting Date	23 September 2025
Report Title	Member-officer protocol
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 whether the protocol at Appendix I remains fit for purpose and if not, propose amendments to the form, substance and structure. 2. Delegate authority to the Monitoring Officer to make any amendments to the text in consultation with the Chairman of the Standards Committee and for a further review of the protocol.in 12 months time.

1 Purpose of Report and Executive Summary

- 1.1 This report asks the Standards Committee to review the operation of the Member Officer Protocol in accordance with the direction of Full Council when the protocol was adopted on 3rd April 2024.

2 Background

- 2.1 Most councils' constitutions include a member/officer protocol setting out the respective roles of members and officers and providing some elementary regulation of the relations between members and officers. Until last year, Swale Council did not have such a protocol, notwithstanding that the Council's code of conduct made reference to one.
- 2.2 Work commenced on a member/officer protocol for Swale Council in 2022 and a final draft went to Standards Committee in December 2023, who recommended the document to Full Council for adoption.
- 2.3 Full Council agreed the adoption of the protocol on 3rd April 2024, however, following its adoption, there was immediately a request for some minor amendments to improve the clarity and consistency of the document. These amendments were agreed in December 2024 and the document was published at the beginning of 2025. As such, while the protocol was adopted some 17 months ago, in practice, the protocol has been in operation for less than 9 months.

- 2.4 There have been limited opportunities to test the protocol in the operative period, it being relevant only for code complaints between Swale Members and Officers and not to complaints regarding Parishes, or between Members, or made by members of the public.

3 Proposals

- 3.1 The intention of Council was for the protocol to be reviewed in relation to its operation in real world circumstances. This is not practical at the present time, due to there being insufficient data to draw meaningful conclusions from.
- 3.2 Therefore the Standards Committee is presently asked to: **Consider** whether the protocol at Appendix I remains fit for purpose and if not, propose amendments to the form, substance and structure.
- 3.3 **Delegate** authority to the Monitoring Officer to make any amendments to the text in consultation with the Chairman of the Standards Committee and for a further review of the protocol in 12 months' time.

4 Alternative Options Considered and Rejected

- 4.1 There is no legally mandated format for these protocols, so the specific content is for Swale's members and officers to agree.

5 Consultation Undertaken or Proposed

- 5.1 Prior to its adoption, the protocol has been before the standards committee, all staff and the trade union.

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	There is no legal obligation to adopt a member/officer protocol, but equally there are no specific legal constraints on what a protocol can cover.

Crime and Disorder	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: Published Member/Officer Protocol

8 Background Papers

- 8.1 Report to Full Council of 3rd April 2024
8.2 Report to Standards Committee of 18th December 2023

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MEMBER-OFFICER PROTOCOL JANUARY 2025

Protocol for Member/Officer Relations

1 Introduction

- 1.1 Mutual trust and respect between members and officers is core to the Council's governance strategy and working culture. It is an essential partnership necessary for the effective and successful operation of the Council.
- 1.2 The Member Code of Conduct states "*The public have high expectations of us and entrust us to represent our local area, taking decisions fairly, openly, and transparently. We have both an individual and collective responsibility to meet these expectations by maintaining high standards and demonstrating good conduct, and by challenging behaviour which falls below expectations.*" Therefore, this Protocol supplements the Member Codes of Conduct.
- 1.3 The Council has adopted Codes of Conduct for both officers and members. The Protocol also seeks to reflect the principles underlying the respective Codes of Conduct which apply to members and officers. The shared objective of these Codes is to enhance and maintain the integrity (real and perceived) of local government.
- 1.4 This Protocol guides members and officers of the Council in their relations with one another. Members and officers have a responsibility to act fairly, honestly, in good faith.
- 1.5 Given the variety and complexity of such relations, this Protocol does not seek to be either prescriptive or comprehensive. It seeks simply to offer guidance on some of the issues, which most commonly arise. It is hoped however, that the approach, which it adopts to these issues, will serve as a guide to dealing with other issues.
- 1.6 Members and officers must always respect the roles and duties of each other. They must show respect in all their dealings and by not seeking to take unfair advantage by virtue of their position.

2 The Role of Members and Officers and Effective Relations

- 2.1 Members and officers are indispensable to one another and mutual respect between both is essential. It is important to recognise and take account of their different roles. This is necessary for the day-to-day interaction between members and officers and for the public perception of the council by ensuring transparency between the political role of members and the professional, impartial, role of officers.
- 2.2 Members provide a democratic mandate to the council, whereas officers contribute to the professional expertise needed to deliver the policy framework agreed by members.
- 2.3 Members are accountable to the electorate and serve only for as long as their term of office lasts whereas officers are employees of the council and accountable to it.
- 2.4 An officer's role essentially is to put policies into effect and organise the provision of services. Officers may also be delegated by members to make policy decisions. Officers may have to advise members from time to time that certain courses of action cannot be carried out. Officers, therefore, have a duty to give unbiased professional advice.
- 2.5 Ultimately, officers serve the Council as a whole and not any political group, combination of groups or any individual member. Nonetheless, officers may properly be called upon to assist the deliberations of political groups and to help individual members in their different roles.
- 2.6 Mutual respect and good communication are the key to establishing good member and officer relations.
- 2.7 Where a personal relationship has been disclosed, those concerned should avoid a situation where conflict could be perceived. Specifically, a member should not sit on a body or participate in any decision which directly affects the Officer on a personal basis.

2.8 In order to be effective, both members and officers should discuss together and agree the values and behaviours they expect from each other in a relationship of mutual trust.

2.9 Members and officers should communicate clearly and openly avoiding ambiguity and the risk of misunderstanding.

2.10 Members and officers should work in a spirit of partnership, to turn the council's core values and priorities into practical policies for implementation.

2.11 Officers can expect from members:

- political leadership and direction.
- respect, dignity and courtesy.
- Not to be treated or considered as subordinate or subservient but a partner within their respective roles.
- an understanding of and support for respective roles, workload and pressures.
- not to be subjected to bullying.
- not to be harassed or placed undue pressure.
- not to use their position or relationship with officers to advance their personal interests or those of others or to influence decisions improperly.
- to comply with the Member Code of Conduct.

2.12 Members can expect officers to:

- behave in a professional manner and courteous manner.
- To respect, have dignity and courtesy.
- maintain confidentiality.
- perform their duties effectively, efficiently and with political neutrality.
- avoid personal close familiarity with members and not use their relationship with members to advance their personal interests or to influence decisions improperly.

- report to their director any time that a member asks or pressurises the officer to deal with a matter outside of Council procedure or policy.
- demonstrate an understanding of and support for respective roles, workload and pressures.
- comply with the Officer Code of Conduct

2.13

Communication and Consultation		
Political (Members)	Collaboration (Together)	Operational (Officers)
Being clear about the Council's priorities	Prioritisation taking account of aims and constraints.	Options and platforms for consultation and communication
Understanding people's concerns	Understanding and responding to community concerns	Managing and facilitating the change (meetings in the community etc)
Signalling political change	Focus on the positive	
	Promoting community interaction and leveraging community action	

Partnership Working		
Political (Members)	Collaboration (Together)	Operational (Officers)
<p>Understanding that councillors have a community leadership role that goes beyond the Council's services</p> <p>Be clear about what we can and cannot do (and what we are responsible for)</p> <p>Provide the political willingness to work in partnership and understand this may involve some loss of control/sovereignty</p>	<p>Agree services to be delivered in partnership</p> <p>Sign up to the aims and ambitions of the partnership</p> <p>Facilitate 'connectivity' – e.g. with parish and town councils, VCS</p> <p>Leveraging capacity from partnerships and communities</p>	<p>Being clear about the resource required to lobby or undertake work on behalf of a partner</p> <p>Resource and service partnerships as required</p>
Governance		
Political (Members)	Collaboration (Together)	Operational (Officers)
<p>Provide a political steer on political architecture and decision-making</p> <p>Providing a political steer on appetite for risk</p>	<p>Understand, oversee and approve key control mechanisms</p> <p>Set the approach to risk and be clear on the appetite for it</p>	<p>Advise on what is required to meet statutory obligations and ensure they are met</p> <p>Set and manage departmental budgets and operational risks</p>

	Work together on a realistic and deliverable budget	
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3 Officer Impartiality and Undue Pressure

- 3.1 Members must not do anything which compromises or is likely to compromise officers' impartiality.
- 3.2 The Council operates through a system of groups of councillors, based on political affiliation. All Officers must, in their dealings with political groups and individual Members, treat them in a fair and even-handed manner. Officers must at all times, maintain political neutrality (see para' 17 Officer Code of Conduct)
- 3.3 The support provided by officers can take many forms, ranging from the meeting with a Chair and Vice-Chair before a committee meeting to a presentation to a full political group meeting. Officers will provide support and advice to the executive, scrutiny and regulatory functions of the Council. Officers will also provide advice and assistance to individual members in respect of Council business, including issues raised by constituents.
- 3.4 Officers, therefore, must ensure that there is no conflict of interest in their advice or conduct.
- 3.5 Whilst in practice such support is likely to be in most demand from whichever political group is for the time being in control of the Council, it should be available to all political groups. The advice given by officers to different political groups should be consistent.
- 3.6 Members must respect officers' impartiality.
- 3.7 The LGA Members Code of Conduct states, paragraph 3, *"Officers work for the local authority as a whole and must be politically neutral (unless*

they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. Members can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, members must not try and force officers to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity”.

- 3.8 Therefore, a member should not apply undue pressure on an officer to do anything which he/she is not empowered or authorised to do, or which is against the officer’s professional judgement, or to undertake work outside normal duties or normal hours (other than within accepted working patterns, e.g. evening meetings). Members should be aware that to exert pressure improperly on an officer in this way may be a breach of the Council's Code of Conduct for Members.
- 3.9 Similarly, an officer must neither seek to use undue influence on an individual member to decide in her/his favour nor raise personal matters to do with her/his job nor make claims or allegations about other employees. The Council has formal procedures for consultation, grievance and discipline set out in Part 4.1 Members' Code of Conduct

4 Service Standards

- 4.1 Officers and members will do their best to give timely responses to enquiries from one another. This will be in accordance with the minimum service standards. Enquiries should be responded to in no later than 10 working days unless a holding response, setting out the reasons for delay is given. However, neither officers should not have unreasonable requests placed on them.

5 Confidentiality and access to information

- 5.1 The Officers Code of Conduct emphasises importance of maintaining confidential information. For example, officers will provide advice and information to members on declarations of interests. However,

members will know the nature and extent of any interest they may have. It is the member's responsibility, therefore, to decide whether any interest should be declared. Officers must, when requested to do so, respect members' confidentiality when providing advice on declarations of interest but may otherwise draw to a members' attention the need to declare a known interest.

- 5.2 Officers are reminded that the misuse of confidential information is a breach of the Officers Code of Conduct; thus, regarded as a disciplinary offence.
- 5.3 Any Council information provided to a member must only be used by the member for the purpose for which it was provided i.e. in connection with the proper performance of the member's duties as a member of the Council.
- 5.4 Officers should make it clear to members if they are giving them confidential information. If a member is not sure whether information is confidential, he or she should ask the relevant officer, but treat the information as confidential in the meantime.
- 5.5 Each member has the right to inspect and have copies of the reports, minutes and background papers relating to the public part of any Council, Panel or Committee agenda. This is set out in Part 3.2 Access to Information Procedure Rules
- 5.6 The Members Code of Conduct, states "*[members] Behaving in accordance with all our legal obligations, alongside any requirements contained within this authority's policies, protocols and procedures, including on the use of the Authority's resources.*" Accordingly, members are expected to comply with Paragraph 10, Part 3.2 Access to Information Procedure Rules members do not have an automatic right of access to all documents relating to confidential or "Exempt" items on the agenda. These might include, for instance, information relating to employees, occupiers of council property, applications for grants, contracts, industrial relations negotiations, legal advice and criminal investigations.

- 5.7 In respect of such confidential information, members will normally receive, or have access to all papers unless they are of particular sensitivity. A member may have access to such sensitive documentation insofar as it is reasonably necessary to enable them to properly perform their duties as a member of the Council. The relevant question to be asked is whether they need to know the information to perform such duties.
- 5.8 Any Council confidential information provided to a member must only be used by the member in connection with the proper performance of the member's duties as a member of the Council. Confidential information should not be disclosed, discussed with or released to any other persons. Such disclosure would be a betrayal of trust.
- 5.9 Members should never disclose or use confidential information for the personal advantage of themselves or of anyone known to them, or to the disadvantage or the discredit of the Council or anyone else.
- 5.10 Any confidential information provided to members should be clearly marked as such prior to its provision.
- 5.11 Further advice regarding members' rights to inspect Council documents may be obtained from the Monitoring Officer.

6 Officer relations with specific members

- 6.1 The working relationship between senior officers and the Leader/Committee Chairs will be particularly close. Committee Chairs will have broad-ranging responsibilities. Officers may provide briefing notes, advice and information to the Committee Chairs in respect of reports or questions at Panel, Committee and Council Meetings. This relationship, however, must not:
- compromise officers' duties to all members of the Council;
 - be so close as to give the appearance of partiality on the part of the officer;

- undermine the confidentiality of any discussions that officers are privy to;
- compromise officers' professional responsibility to advise members that a particular course of action should not be pursued;
- abrogate officer responsibility for action taken under delegated powers.

6.2 Committee Chairs are recognised as the legitimate elected spokesperson on their committees' areas of responsibility. Where authority is delegated to officers (under the Scheme of Delegations to Officers), they will often wish to consult the relevant Chairs about the action which they propose to take, but the responsibility for the final decision remains with the officer who is accountable for it.

7 Officer attendance at political group meetings

7.1 Officer advice and support will be provided to: -

- Council Meetings;
- Meetings of any Committees established by the Council;
- Meetings of Committees/Sub-Committees and Panels;
- Working Parties/Forums, etc.;
- Chairs/Vice-Chairs of Committees and Panels;
- All Members of Council on Council business

7.2 Senior officers may be invited to attend political group meetings. The Chief Executive will decide whether such attendance may take place. If it is agreed that an officer can attend a political group meeting, the Chief Executive will inform the other group leaders and offer a similar facility.

7.3 Officer attendance at group meetings must be approved in advance, by the relevant Director.

- 7.4 Officer support will not extend beyond providing factual information or professional advice in relation to matters of Council business.
- 7.5 Officers will not be involved in advising on matters of party business, and therefore should not be expected to be present at meetings or parts of meetings when such matters are to be discussed.
- 7.6 Political group meetings are not empowered to make decisions on behalf of the Council, and conclusions reached at such meetings do not rank as formal Council decisions. The presence of an officer confers no formal status on such meetings in terms of Council business and must not be interpreted as doing so. Where officers provide factual information and advice to a political group in relation to a matter of Council business, this is not a substitute for providing all the necessary information and advice when the matter in question is formally considered by the relevant committee of the Council.
- 7.7 It must not be assumed that an officer is supportive of a particular policy or view considered at a political group meeting simply because they have attended or provided information to the meeting.
- 7.8 Officers will respect the confidentiality of any political group discussions at which they are present and, unless requested to do so by that political group, will not relay the content of such discussions to another political group or to other Members. This will not prevent an officer providing feedback to other officers on a need-to-know basis. Factual information upon which advice is based will, if requested, be available to all political groups.
- 7.9 The duration of an officer's attendance at a political group meeting will be at the discretion of the group, but an officer may leave at any time if they feel it is no longer appropriate to be there.
- 7.10 An officer accepting an invitation to any one political group meeting will not decline an invitation to advise another group about the same matter.

- 7.11 Officers should be given the opportunity of verifying comments and advice attributed to them in any written record of a political group meeting.
- 7.12 No member will refer in public or at meetings of the Council, to advice or information given by officers to a political group meeting.
- 7.13 At political group meetings, where some of those present are not members of the Council, care must be taken not to divulge confidential information relating to Council business.
- 7.14 Special care needs to be exercised whenever officers are involved in providing information and advice to a meeting of a political group which includes persons who are not members of the Council. Such persons will not be bound by the codes of conduct [for members and employees] (in particular, the provisions concerning the declarations of interest and confidentiality) and for this and other reasons, officers may not be able to provide the same level of information and advice as they would to a members only meeting.
- 7.15 Should any difficulty or uncertainty arise in the area of officer advice to political groups, this will be raised with the relevant Director, who should discuss the matter with the group leader.

8. Friendships/relationships between members and officers

- 8.1 Informal and collaborative two-way contact between members and officers is encouraged, but personal familiarity in the workplace can damage the relationship, as might a family or business connection.
- 8.2 Members and officers should always be open about their relationships to avoid any reason for suspicion and any appearance of improper conduct. Close personal familiarity in the workplace should be avoided; i.e. 'be friendly, but don't be friends'.
- 8.3 Members and officers should inform the Monitoring Officer of any relationship which might be seen as unduly influencing their work in their respective roles.

9. Use of council resources and facilities

- 9.1 The only basis on which the Council can lawfully provide support services to members (e.g. stationery, typing, printing, photocopying, transport, computers etc), is to assist them in discharging their role as members of the Council.
- 9.2 Members should not approach or pressure staff to carry out duties or provide resources or support in a biased or partisan way. Examples are:
- business which is solely to do with a political party;
 - work in connection with a ward or constituency party political meeting;
 - electioneering;
 - work associated with an event attended by a member in a capacity other than as a member of the Council;
 - private personal correspondence;
 - work in connection with another body or organisation where a member's involvement is other than as a member of the Council; and
 - support to a member in his/her capacity as a councillor of another local authority.

10. Criticism and complaints

- 10.1 Members and officers must conduct themselves in a way that is acceptable within a professional environment. They must afford dignity, trust and respect to everyone and themselves. They must have awareness of the effect of their behaviour on others and only make reasonable and manageable demands.
- 10.2 Members and officers must not conduct themselves in an unacceptable manner. The Members Code of Conduct states:

" Valuing my colleagues and staff and engaging with them in an appropriate manner and one that underpins the mutual respect between us that is essential to good local government.

Always treating people with respect, including the organisations and public I engage with and those I work alongside".

10.3 In line with the above, LGA model of Code of Conduct , at paragraph 2, explicitly states members must not bully, harass or discriminate.

10.4 Bullying is characterised as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others. Examples of bullying include but are not limited to:

- verbal abuse, such as shouting, swearing, threats, insults, sarcasm, ridiculing or demeaning others, inappropriate nicknames, or humiliating language
- physical or psychological threats or actions towards an individual or their personal property
- practical jokes
- overbearing or intimidating levels of supervision, including preventing someone from undertaking their role or following agreed policies and procedures
- inappropriate comments about someone's performance
- abuse of authority or power, such as placing unreasonable expectations on someone in relation to their job, responsibilities, or hours of work, or coercing someone to meet such expectations
- ostracising or excluding someone from meetings, communications, work events or socials
- sending, distributing, or posting detrimental material about other people, including images, in any medium

- smear campaigns.

10.5 Bullying behaviour should be contrasted with the legitimate challenges which a member can make in challenging policy or scrutinising performance. An example of this would be debates in the chamber about policy or asking officers to explain the rationale for the professional opinions they have put forward. Members are entitled to challenge fellow councillors and officers as to why they hold their views. However, if the criticism is a personal attack, threat, unsubstantiated allegation, abusive or offensive in nature, members are likely to cross the line of what is acceptable behaviour.

10.6 Harassment is conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person. Examples of harassment include but are not limited to:

- sending unwelcome emails
- unnecessarily repetitive, intrusive questioning
- unwelcome physical contact such as touching or invading 'personal space'
- haranguing
- intimidation
- inappropriate remarks or questioning such as comments about someone's appearance, lewd comments, and offensive jokes
- overbearing or intimidating levels of supervision, including preventing someone from undertaking their role or following agreed policies and procedures
- inappropriate comments about someone's performance
- placing unreasonable expectations on someone in relation to their job, responsibilities, or hours of work, or coercing someone to meet such expectations
- sexual harassment

There is not an exhaustive list of acts of harassment that may constitute a criminal offence. Examples may include, but are not limited to physical assault:

- making violent or death threats

- stalking
- hate crimes
- sexual harassment

10.6 Unlawful discrimination is where someone is treated unfairly because of a protected characteristic e.g. age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. Examples of discriminatory behaviour include but are not limited to:

- exclusion or victimisation based on the Protected Characteristics
- treating someone less favourably or limiting their opportunities based on any of the Protected Characteristics
- comments, slurs, jokes, statements, questions, or gestures that are derogatory or offensive to an individual's or group's characteristics
- promoting negative stereotypes relating to individual's or group's characteristics
- racial or ethnic slurs, insults, or jokes
- intolerance toward religious customs
- mimicking, mocking, or belittling a person's disability
- homophobic, biphobic or transphobic comments or slurs
- discriminating against pregnant people or mothers
- declaring ('outing') someone's religion or sexuality or threatening to do so against their will
- deliberate, unwarranted application of an authority's practice, policy or rule in a way that may constitute indirect discrimination
- instructing, causing, inducing, or knowingly helping someone to commit an act of unlawful discrimination under the Equality Act 2010.

10.7 Members and officers personality and life experiences will naturally incline them to think and act in certain ways. They may form views about others based on those experiences, such as having an affinity with someone because they have a similar approach to life or thinking less of someone because they are from a different generation. This is known as

“unconscious bias” and it can lead people to make decisions based on biases or false assumptions. Members need to be alert to the potential of unconscious bias and ensure they make decisions based on evidence, and not on assumptions they have made based on biases.

10.8 Members must not intimidate or attempt to intimidate any officer who is likely to be a complainant, a witness, or involved in the administration of any investigation or proceedings relating to a failure to comply with the Member Code of Conduct.

10.9 A Member who is unhappy about the actions taken by, or conduct of, an officer should:

- avoid personal attacks on, or abuse of, the Officer at all times;
- ensure that any criticism is well founded and constructive;
- never make a criticism in public;
- take up the concern with the officer privately. If direct discussion with the officer is inappropriate (e.g. because of the seriousness of the concern) or fails to resolve the matter, the member should raise the issue with the officer’s manager or the relevant Director.

10.10 Members and officers should not criticise or undermine respect for the other at meetings of the Full Council, Committee or Sub-Committees, or in any public forum.

10.11 Members should not raise matters relating to the conduct or capability of an individual officer or officers collectively at meetings held in public. officers should observe the same rule in respect of Members.

10.12 If a member believes that they have not been treated with proper courtesy or has a concern about the conduct or capability of an officer, then they should raise the matter confidentially with the Chief Executive or relevant Director who may utilise the Council’s formal disciplinary procedures if this is considered appropriate. If the member is still not satisfied with the action that has been taken, then they may raise the matter confidentially with the Chief Executive, or a Director if the Chief Executive considered the original concern, who will look into the matter afresh. If they believe that there is a case to answer, then they may utilise the Council’s formal disciplinary procedures. If the Chief

Executive/Director suggests no action they will inform the member and relevant Group Leader of this.

10.13 If an officer feels that they have not been treated with respect or is concerned about any action or statement relating to themselves or a colleague by a member, or the conduct of a member, they should raise the matter with their line manager. If they are not satisfied with any action that has been taken as a result, they should raise the matter with the Chief Executive or their Director. If the Chief Executive or Director is of the opinion that the member has acted in breach of the Members' Code of Conduct, they should make a complaint to the Monitoring Officer.

11. Oversight, breaches and further advice

11.1 The Executive Management Team and Standards Committee oversees compliance of this Protocol.

11.2 If a member believes an officer may have acted other than in accordance with this Protocol, he/she should raise their concern with the relevant Director who will consider how the complaint or allegation should be dealt with. A breach of this Protocol by an Officer may lead to an investigation under the Council's Disciplinary Policy and Procedure.

11.3 If an officer feels that they have not been treated with respect or is concerned about any action or statement relating to themselves or a colleague by a member, or the conduct of a member, they should raise the matter with their line manager. If they are not satisfied with any action that has been taken as a result, they should raise the matter with the Chief Executive or their Director. If the Chief Executive or Director is of the opinion that the member has acted in breach of the Members' Code of Conduct, they should make a complaint to the Monitoring Officer.

11.4 Further advice or clarification can be sought from the Monitoring Officer or the Head of Legal Partnership.

Standards Committee Meeting	
Meeting Date	23 September 2025
Report Title	Member Development Update
EMT Lead	Larissa Reed, Chief Executive
Head of Service	Lisa Fillery, Director of Resources
Lead Officer	Billy Attaway, Senior Democratic Services Officer
Classification	Open
Recommendations	1. That Members note the Member Development Update.

1 Purpose of Report and Executive Summary

- 1.1 This report provides the Standards Committee with a formal update on Member Training events conducted during the civic years 2023/24 and 2024/25.
- 1.2 It summarises the training sessions into three topics, mandatory training, other training sessions and Member briefings.
- 1.3 The report provides an overview of the planning training sessions held in the current civic year (2025/26) and outlines the action plan that the Member Development Working Group will follow during the current Members' term.

2 Background

- 2.1 In May 2023, Democratic Services undertook a survey of all Councillors to identify the most appropriate times and dates for the delivery of training sessions. Based on the findings of this survey, the Member Development Working Group formulated a schedule of training events for the 2023/24 civic year, whilst developing the Member Development Strategy.
- 2.2 At Full Council in October 2024, the Council agreed to the Member Development Strategy which sought to ensure that all Members have the necessary skills and knowledge to best serve their community. It was important that any training sessions that the Council provided to Members was high quality and was delivered in a variety of methods to meet the differing learning styles of Councillors.
- 2.3 Some training which is mandatory (e.g. planning, licensing and standards) to enable Councillors to take regulatory decisions.
- 2.4 Training is everyone's responsibility, and Group Leaders play a key role in ensuring training plans are developed with their Members. It is also the responsibility of Group Leaders to encourage their Members to attend training

relevant to their role, or training which has been identified within their training plan.

- 2.5 During 2023/24 and 2024/25, officers recorded Members' attendance at training sessions. The attendance statistics are provided in Appendix I of the report.
- 2.6 It should be noted that attendance records for certain training sessions are unavailable, and it is currently not possible to verify when a Councillor has viewed a recording of a session on the Members Teams Channel at any point since the training took place.

3 Proposals

- 3.1 That Members note the Member Development Update.

4 Alternative Options Considered and Rejected

- 4.1 This report is for noting only.

5 Consultation Undertaken or Proposed

- 5.1 Whilst there has been no formal consultation, this report has been shared with the Member Development Working Group which has representatives from all political groups and also the Independent councillor.

6 Implications

Issue	Implications
Corporate Plan	Member Development meets the needs of the corporate plan (Running the Council) as Development and training enables elected members to understand their role and represent their constituents.
Financial, Resource and Property	All Member training is agreed within the council resources.
Legal, Statutory and Procurement	With the exception of Licensing and Planning training, there is no legal requirement for Members to undertake training.
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	Where possible, all training sessions are delivered in a hybrid format and at different dates or times so that it is open to all Councillors.
Privacy and Data Protection	No implications

7 Appendices

- 7.1 The following documents are to be published with this report and form part of the report:
- Appendix I: Overview of Member Training sessions (2023-24 and 2024-25).

8 Background Papers

[Council \(02.10.24\)](#)

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Overview of Member Training sessions (2023-24 and 2024-25).

During 2023-24 there were 19 training sessions, 2 of these were Mandatory training sessions, 11 were 'Other' training sessions which were requested by Councillors or Officers due to projects or tasks occurring in the borough, and 6 were briefing sessions to give Members a steer or guidance on decisions or events.

During 2024-25 there were 24 training sessions, 3 of these were Mandatory training sessions, 15 were 'Other' training sessions which were requested by Councillors or Officers due to projects or tasks occurring in the borough and 6 were briefing sessions to give Members a steer or guidance on decisions or events.

Please see table below:

Year	Mandatory sessions	Other training sessions	Briefing sessions	Total number of sessions
2023-2024	2	11	6	19
2024-2025	3	15	6	24
Total	5	26	12	43

In comparing the number of trained members on Committees with those that require mandatory training, the table below shows the percentage of Councillors in each political group that can sit on either Planning or Licensing Committee.

Please note the Standards training is excluded as it is only mandatory required for standards sub-hearings.

Political Group	Planning Committee seats	No. of Cllrs Trained on Planning	%of Group Trained to sit on Planning Committee		Licensing Committee Seats	No. of Cllrs Trained on Licensing	%of Group Trained to sit on Licensing Committee
Conservative	4	8	80%		4	7	70%
Greens	1	3	100%		1	2	67%
Independent	0	0	0%		0	1	100%
Labour	5	14	93%		5	7	47%
Liberal Democrats	2	4	80%		1	2	40%
SIA	3	6	75%		2	3	38%
Reform UK	2	5	100%		2	4	80%

For both Planning and Licensing Committees there are sufficiently trained Members from all political groups for those political groups that are entitled to the seat.

The tables below provide a more detailed summary of the attendance at the training sessions held during both periods, broken down by each political group.

Please note that for some training sessions a full attendance list is not held, so those sessions have been excluded from these statistics. Please also note that some Members might have watched recordings of training sessions on the Members Teams Channel and it is not currently possible to gather that information.

It is important to consider group size when reviewing the attendance figures, for example, the Labour group shows a significantly higher number of Members at training sessions, because they are the largest political group, and therefore have more Members available to attend, whilst the Independent Member has a 100% training record on Licensing because he is the only Independent Member and has attended licensing training.

All groups show good attendance at training sessions in relation to their overall size.

Comparison between attendance at different training sessions during 2023-24 and 2024-25

Political Group	Total Mandatory Training 23-24	Total Mandatory Training 24-25	Total 'Other' Training 23-24	Total 'Other' Training 24-25	Total Briefing Sessions 23-24	Total Briefing Sessions 24-25	Total
Conservative	6	7	10	6	7	1	37
Greens	4	2	5	2	4	3	20
Independent	1		1	1	1	1	5
Labour	9	15	48	27	26	29	154
Liberal Democrats	3	2	3	5	2	1	16
SIA	7	6	12	8	10	9	52
Reform UK		8		2		6	16
Total	30	40	79	51	50	50	300

Key:

Mandatory Training: Planning, Licensing and Standards.

'Other': training sessions requested by Councillors or Officers due to certain projects or tasks occurring in the borough.

Briefing: held to give Members steer or guidance on decisions or events.

Number of Members who attended training sessions held during 2023-24 broken down by Political group

Political Group	5 Year Housing Land Supply Planning Briefing	Audit Committee training	Chairing Skills Workshop	Community Safety briefing	Housing and Health Committee training	Information Governance training	Licensing Training	Member Finance Briefing	Member Officer Protocol Training	New waste contract Briefing	Understanding Conditions	Sound reasons for decision-making	Safeguarding Children	Planning Committee training	Understanding and participating in Planning Appeal Process	Waste and Street Cleansing current service Briefing	Total Training attended by Party
Conservative	2	1	1				2	2	1	1			6	4	1	2	23
Greens	2		2			1	1		2	1				3		1	13
Independent	1						1						1				3
Labour	5	5	12	5	1	6	3	4	11	7	1	3	7	6	2	5	83
Liberal Democrats	1			1			1		2				1	2			8
SIA	3		4		2		2	3	3	2	1		1	5	1	2	29
Total	14	6	19	6	3	7	10	9	19	11	2	3	16	20	4	10	159

Attendance at all the training sessions held during 2024-25 broken down by Political Group

Political Group	All Member Briefing - Local Government Boundary Review	First Aid & Defib training session	Licensing Committee Training	Member Briefing Environment Agency - New predicted erosion maps	MenTalk Briefing	Planning Etesize - Bolstering Responses to Outline Applications	Planning Etesize - Minor Material Amendments	Planning Etesize - Section 106	Planning Etesize - Your role as a ward member	Planning Committee training	Standards Training	Total
Conservative			1	1		2		3	1	4	2	14
Greens	1		1	2				1	1		1	7
Independent	1							1				2
Labour	9	2	3	10	10	5	4	8	8	8	4	71
Liberal Democrats	1					1	1	3		1	1	8
SIA	3		1	2	4	2	2	3	1	3	2	23
Reform UK			3	4	2		1	1		4	1	16
Total	15	2	9	19	16	10	8	20	11	20	11	141

Overview of External training sessions held during 2023-2025

Type of External Training	Date of training	Number of attendees	Total cost of training
Chairing Skills for Members	16/06/2023	19	£1,546.00
Standards Training	24/06/2024	11	£1,517.07
Neurodiversity Workshop	25/09/2024	Information not held	£850.00
Questioning, scrutiny and critical thinking, Chairing skills workshops x4	21/05/25 & 03/06/25	24	£3,316.00

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Standards Committee	
Meeting Date	23 September 2025
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 draft code of conduct arrangements and make any necessary amendments. 2. Authorise the Monitoring Officer to consult with all members as to the content of the arrangements. 3. Delegate the Monitoring Officer to make any further amendments, in consultation with the Chairman of the Standards Committee. 4. Recommend the arrangements to Full Council, following the outcome of the consultation with all members.

1 Purpose of Report and Executive Summary

- 1.1 This report asks the committee to consider the draft code of conduct complaints arrangements at appendix I (“arrangements”) in their current form and make any necessary amendments to them. To agree to consult with all members in respect of the content and form of the arrangements and to recommend the arrangements to Full Council for adoption.

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 at that time.
- 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 in April 2024 determined to pursue new arrangements for Swale Borough Council. In July 2024 the Standards Committee considered a draft set of arrangements that had been made available for members to provide comments on and further refined this

document. The draft arrangements were based on the Kent Secretaries agreed arrangements, that are used widely across Kent.

- 2.4 Following the July meeting, the government made announcements suggesting that there might be national changes to the code of conduct regime. As such, the Committee paused work on new Swale arrangements and subsequently provided comments on the government's consultation on strengthening the local code of conduct regime, which ran from December 2024 to February 2025.
- 2.5 At the Standards Committee meeting in July 2025, the Committee noted that there had been an absence of any progress from the government following this consultation and directed the Monitoring Officer to circulate the most up to date version of the draft Swale arrangements and bring a further report to the September 2025 Committee.
- 2.6 The previous report and most up to date version of the draft arrangements was shared with Committee Members on 4th August. At the date of writing, there remains no further update from Central Government as to any national changes.

3 Proposals

- 3.1 Between April and July 2024, the Committee made substantial progress with new draft arrangements. As such the Standards Committee is asked to: **Consider** the draft code of conduct arrangements and make any necessary amendments to the text, form and content.
- 3.2 **Authorise** the Monitoring Officer to consult with all members as to the content of the arrangements.
- 3.3 **Delegate** the Monitoring Officer to make any further amendments to the text, following the consultation, with reference to the Chairman of the Standards Committee.
- 3.4 **Recommend** the arrangements to Full Council, following the outcome of the consultation with all members.

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.
- 4.2 In the alternative, the Council could consider wholly different arrangements. This is not recommended, as in following the arrangements agreed by the Kent Secretaries group, Swale will be aligned with other districts and the county council.

5 Consultation Undertaken or Proposed

- 5.1 The Committee is asked to consult with all members, as all members can be affected by the operation of the amendments.

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 Report to Standards Committee on [11th July 2024](#)

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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 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.~~ The Investigating Officer should be external to the Council from a pool of investigators approved by the Council.

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.

3.3 The Independent Person must maintain notes of meetings and discussions with the Monitoring Officer and subject member. Such notes to be agreed in writing and provided on request.

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.

Where a complainant is unable to write due to a disability that prevents them from putting their complaint in writing or there is a language barrier then a verbal complaint will be transcribed and sent to the complainant for approval before any process can start.

- 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. [Where basic procedures or the constitution hasn't been followed then the Subject Member can ask for a review to be undertaken of the decision and the Council should, in place a process, to review such outcomes.](#)

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
- Annexes**

Annex 1 - Procedure on Receipt of A Complaint

Annex 2 - Procedure For Investigating The Complaint

Annex 3 - Hearing Panel Procedure

ANNEX 1

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. [Notes/minutes of this assessment must be made.](#)
- 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 or may be the subject of an investigation or other action and there is nothing more to be gained by further action being taken. For example, where the complaint has another legal remedy i.e. defamation.
 - (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. [All complaints must be investigated by an external body/person.](#)
- 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, [such as defamation.](#)
 - (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 statutory 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;
- (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.

EXAMPLE TEMPLATE – COMPLAINT FORM

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

--	--	--	--

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.

5. **Only complete this next section if you are requesting that your identity is kept confidential. Please see the notes in the accompanying leaflet "How to make a complaint".**

There is a presumption that a copy of this form will be provided to the subject member of your complaint. If you wish to request that information relating to your identity is kept confidential and withheld from the subject please complete the box below.

Please provide us with details of why you believe we should withhold your name and/or the details of your complaint:

Signed: _____

Date: _____

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.

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**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 statutory 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

ANNEX 2

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, [the Localism Act 2011](#) 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. [The Investigating Officer must be an external body/person](#)
- 1.3
 - 1.4 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.
 - 1.5 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.
 - 1.6 The Investigating Officer will not make recommendations on sanctions.
 - 1.7 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. [A date should be set for the disclosure of documents etc.](#)
- 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. For example [defamation](#) proceedings
- 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.

ANNEX 3

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. [The default position is that hearings are held in public.](#)
 - (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. [The default position is that hearings are held in 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 by the members of the panel.
- 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.

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

- (c) Declarations of interests.
 - (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's Full Council or the 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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