
STANDARDS COMMITTEE

MINUTES of the Meeting held in the Council Chamber, Swale House, East Street, Sittingbourne, ME10 3HT on Thursday, 11 July 2024 from 7.00 pm - 9.23 pm.

PRESENT: Councillors Monique Bonney (Vice-Chair), Angela Harrison, Elliott Jayes, Charlie Miller, Tony Winckless and Ashley Wise (Chair).

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

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

ALSO IN ATTENDANCE (virtually): Councillors Mike Baldock, Hayden Brawn, Carole Jackson, Rich Lehmann and Dolley Wooster.

OFFICERS PRESENT: Steph Curtis, Robin Harris, Charlotte Hudson, Jo Millard and Larissa Reed.

APOLOGIES: Councillors James Hunt, Mark Last, Pete Neal, Richard Palmer and Hannah Perkin.

67 EMERGENCY EVACUATION PROCEDURE

The Chair outlined the emergency evacuation procedure.

68 MINUTES

The minutes of the meetings held on 16 April 2024 (Minutes Nos. 831 – 835) and 15 May 2024 (Minutes Nos. 37-38) were taken as read, approved and signed by the Chair as correct records.

69 DECLARATIONS OF INTEREST

No interests were declared.

70 CODE OF CONDUCT ARRANGEMENTS

The Monitoring Officer introduced the report which asked the committee to consider comments made by the Standards Committee on the draft code of conduct complaints arrangements, and determine what further steps should be taken. He went through the comments made by Members, one-by-one, and responses to these are set out below:

- Paragraph 1.1: Remove the word 'co-opted' from the last line – Members agreed.
- Paragraph 2: The interpretation at the beginning was better than the previous policy – Members agreed.
- Paragraph 3.2: Why was a substitute needed now but not previously? Members considered it was helpful to have a substitute.

- Paragraph 4.1: Should information be provided on the methods to complain, and an explanation that all complaints would be referred to the Monitoring Officer? Any complaints in writing had met the test in law.
- Complaint form: Could the process/form be made simpler? Members agreed the complaint form provided consistency in information provided on complaints.
- Complainant form: Was the Equalities Monitoring Information form necessary? Members agreed to add 'Completion of the form is optional' and to consider updating the language to be consistent with other Council documents.
- Procedure to complain was an improvement and much clearer: Members agreed.
- Hearing Panel Procedure - Paragraph 2: Should be made clearer who chose the Chair. Members agreed to include a sentence so that members of the sub-committee were chosen in advance and then those Members would agree who would chair.
- Paragraph 11.3 (c) – Should be made clearer where it would be reported to. Members agreed to take out 'or Monitoring Officer'.
- Paragraph 12.1 – Having the sanctions listed was an improvement.

There was some discussion around the lobbying of Government to carry out a review of the process and sanctions and it was agreed this would be discussed under the final Agenda item.

- Paragraph 2.3 – Suggested that the complainant must highlight the areas or how they felt the Member had breached the Code of Conduct. Members agreed with the Monitoring Officer's suggestion that this paragraph considered the definition of a complainant, so the amendment could be discussed later in the document.
- Paragraph 2.6 (a) - Asked whether the Standards hearing panel should decide the date of a complaint? Members agreed with the Monitoring Officer's suggestion of considering the suggestion later in the document.
- Paragraph 2.7 – said the Investigating Officer should be external to the Council from a pool of Council-approved investigators. After a long discussion on this, with Members having differing views, Members agreed to revisit this suggestion.
- Paragraph 2.8 – asked whether it was necessary to keep the definition. Members agreed to take this out.

- Suggested an additional paragraph at 3.3 in respect of the keeping of notes and dates, as set out in the published appendix. During the discussion on this, the Independent Person advised that she was happy for this addition and Members agreed to include it.
- Paragraph 4.1 (b) – a suggestion, as set out in the appendix, for a verbal complaint to be transcribed was agreed by Members.
- Paragraph 4.2 – raised an issue of anonymity, as set out in the published appendix. The Monitoring Officer clarified that anonymous complaints were extremely rare, and complainants would likely be identified by the circumstances of a complaint.
- Paragraph 6.1 – said that anonymous complaints should not be accepted without documented evidence to support the allegation. The Monitoring Officer said he had never granted an anonymous complaint.
- Paragraph 13.1 – commented that reviews of decisions should be undertaken if basic procedures or the constitution had not been followed. In the discussion that followed, the Monitoring Officer clarified there was no right of appeal of a decision but options were open to challenge the process.
- Paragraph 14.1 – no change.
- Suggested new paragraph 14.2 – a possible breach of standards should be decided within 14 days of the receipt of the complaint and the subject member being informed. During clarification from the Monitoring Officer a Member said he was referring to an initial assessment of the complaint. Members agreed this paragraph to not be included in this section but be considered elsewhere in the document.
- Paragraph 15.1 Members did not support the delegation to the Monitoring Officer and Hearing Panel and agreed that reference to this be taken out.

Annex 1

2.1 Members agreed the addition of ‘Notes/minutes of this assessment must be made’.

2.3 (f) The suggestion by a Member to reduce acceptability of a complaint from the time of the misconduct taking place from 3 months to 28 days was not supported.

(i) There was some discussion around circumstances where other legal action might be taken and whether it was appropriate to include reference to defamation. Members agreed to add ‘or may be’ in front of ‘the subject’ in the first line.

The Chair commented that seeing a clean, up to date draft of the document, with all updates included, would help Members when revisiting the document.

4.3, 4.4 and 4.5 (c)– Members agreed to revisit this.

4.7 – suggested that the right of review to an external body be included. The Monitoring Officer confirmed this had already been discussed.

5.2 – Members agreed this had been discussed.

6.2 (e) – with reference to the suggested addition that the Standards Committee took the decision to informally resolve the complaint rather than the Monitoring Officer, this would fundamentally change the process and would not be included.

Complaint form

Appeal – it was agreed to add the word ‘statutory’ in front of ‘right of appeal’...and this had been discussed earlier in the meeting.

Annex 2

1.1 Members agreed to add ‘the Localism Act 2011’ after the ‘Human Rights Act 1988.’

1.2 The suggested comment would be covered when revisiting the document.

1.6 Members agreed to add ‘normally’ before 20 working days.

1.7 Members agreed to add a final sentence: ‘A date for receipt of documents, etc, should be set’.

4.1(b), 4.3 and 4.6 The additional comment would be covered when revisiting the document.

Annex 3

1.1 (e) and (f) Members accepted the additional comment ‘The default position must be that all hearings are public hearings.’

Members supported the Monitoring Officer’s suggestion that the document now be consulted upon with all Members.

Councillor Elliott Jayes proposed and Richard Palmer seconded the recommendations.

Resolved:

(1) That the comments on the draft code of conduct be considered.

(2) That, subject to the updates agreed by Members, all Members be consulted on the Code of Conducts arrangements.

71 CHANGE IN ORDER OF BUSINESS

The Chair brought forward item 7 – Member Disclosure and Barring Service (DBS) Check proposal.

72 MEMBER DBS CHECK PROPOSAL

The Community Services Manager introduced the report which discussed proposals to introduce DBS checks for Members following a request from the Housing and Health Committee on 5 March 2024. She said that whilst there was no statutory requirement for DBS checks for Members, there was legislation that promoted high standards of conduct for elected Members and grounds for disqualification. The Community Services Manager highlighted the risks to the public and to the reputation of the Council should a Member be elected whilst having an unknown criminal conviction and explained that whilst there were different levels of DBS checks, it was appropriate for elected Members to receive a voluntary, basic DBS check. She referred to the recommendations in the report and steps suggested should there be a conviction.

A Member asked why the suggested term was two years and not every term? The Community Services Manager said research had shown other authorities carried out checks at different rates and it was for Members to decide the frequency.

Other comments included:

- Pleased to see the subject being taken seriously;
- Councillors were trusted members of the community and it was important for checks to be carried out;
- a DBS check would re-affirm that Councillors could be trusted;
- there should be an expectation that if any incidents occurred to a Councillor within their term of office, they would volunteer to carry out an additional DBS check;
- it was a Councillor's responsibility to protect themselves and their community; and
- should Members appointed to the Community Safety Partnership (CSP) have an enhanced DBS check?.

The Head of Housing and Communities advised that should a Member have a DBS check as part of their work or similar, the DBS check could be considered to be acceptable on a case by case basis. She explained it was not necessary for Members who sat on the CSP to have an enhanced DBS check as they should treat the confidential information in the same way as any other confidential information they received. The Chief Executive added that if the Police had any concerns over any Member that sat on the CSP, they would raise their concerns with her who in turn would speak to the relevant Group Leader. In the discussion that followed, a Member highlighted that some Members were not in Groups. The Chief Executive said the subject Member would be spoken to directly and would be supported in the same way.

There was some discussion around what action could be taken if a conviction was revealed. The Head of Housing and Communities said there were limitations, but highlighted that it could be a deterrent to those with a conviction to stand and whilst DBS checks were not perfect, it was another tool to safeguard residents and sent out the message that the Council took the matter seriously. The Chief Executive added that by having knowledge, risk assessments could be put in place to protect

the public, staff and other Members as well as to the subject Member. A Member suggested that sanctions for elected Members whose DBS checks revealed a conviction could be included as part of the wider issue of sanctions for Members, when contacting the Minister to review. The same Member said that it was important to agree the principle of Members having DBS checks and then consider the details and next steps after. Another Member agreed and said there needed to be a regular review. The Head of Housing and Communities said that this could be regularly reviewed alongside the Safeguarding Policy, to ensure it was fit for purpose. Members said a report with the final details of how the process would work, should come back to the Committee.

Councillor Angela Harrison proposed that the frequency that DBS checks be carried out should be on a Members' term of office. This was seconded by Councillor Charlie Miller. Councillor Elliott Jayes proposed that the DBS check be carried out annually. This was seconded by Councillor Monique Bonney. On being put to the vote Members agreed with checks being carried out on a term of office. Councillor Harrison proposed a further amendment that the DBS check should be carried out within six weeks of being elected or, for current serving Members, within six weeks of agreement of the process by Full Council. On being put to the vote Members agreed.

Resolved:

(1) That the introduction of basic DBS checks for elected Members be adopted, at the time of their election (and for current Members to take place after agreement of the recommendation by Full Council) until the point of their appointment ceased, and for those Members with an existing, relevant DBS check, to provide evidence to Democratic Services, and for this process be recommended to Full Council for agreement.

(2) That the Chief Executive, in conjunction with the Leader and support from the Monitoring Officer, managed the process for failure to complete the DBS checks and if the check did reveal an offence.

73 MEMBER DEVELOPMENT STRATEGY

This item was withdrawn from the Agenda and it was agreed to discuss at the next Standards Committee meeting in September 2024.

The KALC representative advised that he had not been invited to attend the recent Standards training that took place. The Chief Executive advised that the training had been recorded and the session would be circulated. A Member suggested that the Standards training be circulated to all Parish Councils.

A Member considered that some of the Planning Training sessions be brought forward, drawing attention to the importance of the sessions on conditions and design codes.

POST MEETING NOTE: The Standards Training was circulated to the KALC representative who confirmed receipt.

74 STANDARDS HEARING ARRANGEMENTS

The Chief Executive introduced the report which set out proposed changes to hearings following a complaint about the hearing held on 27 November 2023, and in response to the subsequent investigations. She highlighted the recommendations of the investigations, carried out by an independent investigator as set out at 2.2.1 – 2.25 in the report.

A Member raised an issue at 2.2.3 that the Monitoring Officer should not be the investigating officer and Members agreed the wording should be updated.

Councillor Harrison proposed that after each Standards Committee, the chair wrote to the relevant Government Minister seeking a review on the sanctions available to authorities when carrying out a Standards Hearing. This was seconded by Councillor Charlie Miller and on being put to the vote, agreed by Members.

Resolved:

(1) That the changes to Standards Hearing as set out at 2.21 to 2.25 of the report (as amended), and listed below be agreed:

2.2.1 The Council should make clear on the website the process for making complaints against Councillors;

2.2.2 Ensure there are clear and comprehensive procedures notes for undertaking a hearing;

2.2.3 That the Monitoring Officers ensure they are not sitting on the top table with the Members/Legal representative/Chief Executive, but somewhere where there can be no perception of influence;

2.2.4 Provide formal training for the Members of Standards Committee in undertaking hearings;

2.2.5 Not allowing Members to sit on hearings until the training had been fully completed.

(2) After each Standards Committee, the chair wrote to the relevant Government Minister seeking a review on the sanctions available to authorities when carrying out a Standards Hearing.

Chair

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

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