



Date: 23 December 2019  
Ask For: Emily Kennedy  
Direct Dial: (01843) 577046  
Email: emily.kennedy@thanet.gov.uk

## STANDARDS COMMITTEE

9 JANUARY 2020

A meeting of the Standards Committee will be held at **7.00 pm on Thursday, 9 January 2020** in the Council Chamber, Cecil Street, Margate, Kent.

### Membership:

Dr Jonathan Sexton (Chairman); Councillors: Braidwood, J Bayford, Campbell, Crittenden, Dexter, Duckworth, Fellows and Kup

Parish Councillors: Quittenden and Crow-Brown

## A G E N D A

Item  
No

Subject

1. **APOLOGIES FOR ABSENCE**

2. **DECLARATIONS OF INTEREST** (Pages 3 - 4)

To receive any declarations of interest. Members are advised to consider the advice contained within the Declaration of Interest advice attached to this Agenda. If a Member declares an interest, they should complete the [Declaration of Interest Form](#)

3. **MINUTES OF PREVIOUS MEETING** (Pages 5 - 6)

To approve the Minutes of the meeting of Standards Committee held on **27 June 2019**, copy attached.

4. **STANDING ORDERS IN RELATION TO STAFF** (Pages 7 - 34)

5. **LOCAL GOVERNMENT OMBUDSMAN ANNUAL REVIEW LETTER** (Pages 35 - 58)

6. **STANDARDS COMPLAINT STATISTICS** (Pages 59 - 64)

This page is intentionally left blank

### **Do I have a Disclosable Pecuniary Interest and if so what action should I take?**

Your Disclosable Pecuniary Interests (DPI) are those interests that are, or should be, listed on your Register of Interest Form.

If you are at a meeting and the subject relating to one of your DPIs is to be discussed, in so far as you are aware of the DPI, you **must** declare the existence **and** explain the nature of the DPI during the declarations of interest agenda item, at the commencement of the item under discussion, or when the interest has become apparent

Once you have declared that you have a DPI (unless you have been granted a dispensation by the Standards Committee or the Monitoring Officer, for which you will have applied to the Monitoring Officer prior to the meeting) you **must**:-

1. Not speak or vote on the matter;
2. Withdraw from the meeting room during the consideration of the matter;
3. Not seek to improperly influence the decision on the matter.

### **Do I have a significant interest and if so what action should I take?**

A significant interest is an interest (other than a DPI or an interest in an Authority Function) which:

1. Affects the financial position of yourself and/or an associated person; or  
Relates to the determination of your application for any approval, consent, licence, permission or registration made by, or on your behalf of, you and/or an associated person;
2. And which, in either case, a member of the public with knowledge of the relevant facts would reasonably regard as being so significant that it is likely to prejudice your judgment of the public interest.

An associated person is defined as:

- A family member or any other person with whom you have a close association, including your spouse, civil partner, or somebody with whom you are living as a husband or wife, or as if you are civil partners; or
- Any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors; or
- Any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000;
- Any body of which you are in a position of general control or management and to which you are appointed or nominated by the Authority; or
- any body in respect of which you are in a position of general control or management and which:
  - exercises functions of a public nature; or
  - is directed to charitable purposes; or
  - has as its principal purpose or one of its principal purposes the influence of public opinion or policy (including any political party or trade union)

An Authority Function is defined as: -

- Housing - where you are a tenant of the Council provided that those functions do not relate particularly to your tenancy or lease; or
- Any allowance, payment or indemnity given to members of the Council;
- Any ceremonial honour given to members of the Council
- Setting the Council Tax or a precept under the Local Government Finance Act 1992



If you are at a meeting and you think that you have a significant interest then you **must** declare the existence **and** nature of the significant interest at the commencement of the matter, or when the interest has become apparent, or the declarations of interest agenda item.

Once you have declared that you have a significant interest (unless you have been granted a dispensation by the Standards Committee or the Monitoring Officer, for which you will have applied to the Monitoring Officer prior to the meeting) you **must:-**

1. Not speak or vote (unless the public have speaking rights, or you are present to make representations, answer questions or to give evidence relating to the business being discussed in which case you can speak only)
2. Withdraw from the meeting during consideration of the matter or immediately after speaking.
3. Not seek to improperly influence the decision.

### **Gifts, Benefits and Hospitality**

Councillors must declare at meetings any gift, benefit or hospitality with an estimated value (or cumulative value if a series of gifts etc.) of £25 or more. You **must**, at the commencement of the meeting or when the interest becomes apparent, disclose the existence and nature of the gift, benefit or hospitality, the identity of the donor and how the business under consideration relates to that person or body. However you can stay in the meeting unless it constitutes a significant interest, in which case it should be declared as outlined above.

### **What if I am unsure?**

If you are in any doubt, Members are strongly advised to seek advice from the Monitoring Officer or the Committee Services Manager well in advance of the meeting.

If you need to declare an interest then please complete the declaration of [interest form](#).

# Public Document Pack Agenda Item 3

## STANDARDS COMMITTEE

Minutes of the meeting held on 27 June 2019 at 7.00 pm in Council Chamber, Cecil Street, Margate, Kent.

**Present:** Dr Jonathan Sexton (Chairman); Councillors J Bayford, Campbell, Crittenden, Dexter, Duckworth, Fellows, Kup and Quittenden (Minster Parish Council)

**In Attendance:** Bailey, Bayford, Wright and Stevens

### 173. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor Braidwood.

### 174. DECLARATIONS OF INTEREST

Tim Howes, Director of Corporate Governance and Monitoring Officer declared an interest in agenda item 4, recognising that he would be a non-voting participant in the deliberations.

No declarations of interest were received from Members of the Standards Committee.

### 175. MINUTES OF PREVIOUS MEETING

Councillor Dexter proposed, Parish Councillor Quittenden seconded and it was agreed that the minutes of the Standards Committee held on 7 March 2019 be approved and signed by the Chairman.

### 176. STANDING ORDERS IN RELATION TO STAFF

Tim Howes, Director of Corporate Governance and Monitoring Officer presented the report.

Members asked questions and the following was discussed and changes were proposed:

- Members were advised that committees are presented with an Exclusion of Press and Public report and it is at the discretion of the committee whether to hear matters in private but there is a presumption that personnel matters are held in private.
- There is a recruitment process with set criteria for the appointment of independent persons.
- Clarification/re-wording is needed at 6.0, part a) of Annex 2 relating to timescales and review period for suspensions.
- It was requested that 7.8 of Annex 2 be amended, adding “she” and “her” as appropriate.

Councillor Campbell proposed, Councillor Crittenden seconded and Members agreed the following recommendations subject to the above amendments:

- a) to extend the terms of reference of the General Purposes Committee, as set out in Annex 1;
- b) to appoint a Disciplinary Appeals Committee and agree its terms of reference, as set out in Annex 1, and agree the Committee should comprise five Members of the Council appointed on a politically proportionate basis;

- c) to appoint an Independent Persons Panel, agree its terms of reference, as set out in Annex 1, and agree that it should comprise three Independent Persons;
- d) to agree to pay a fee to Independent Persons appointed to the Independent Persons Panel equal to the agreed rate paid in respect of their role in advising Council on Councillor Conduct issues;
- e) to amend the Employment Rules, as set out in Annex 2;
- f) to delegate to the Committee Services Manager authority to invite and appoint members to serve on the Independent Persons Panel as set out in paragraph 5 of the report, and;
- g) to delegate to the Chief Executive (in consultation with Chairman of the General Purposes Committee) the authority to suspend the S.151 Officer or the Monitoring Officer in cases of urgency, as set out in paragraph 9

**STANDING ORDERS IN RELATION TO STAFF**

Standards Committee                      **9 January 2019**

Report Author                                **Director of Corporate Governance and Monitoring Officer**

Status    **Recommendation**

Classification:                                **Unrestricted**

**Executive Summary:**

This report sets out the revisions to the constitution which are required for setting out the arrangements for dealing with disciplinary action against the Council’s Statutory Officers (Head of Paid Service, Chief Finance Officer and Monitoring Officer) in order to comply with the The Local Authorities (Standing Orders) (England) Regulations 2001 (the 2001 Regulations) as amended by the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 (the 2015 Regulations).

**Recommendation(s):**

The Standards Committee is requested to recommend to Council:

- a) to create an Investigation and Disciplinary Sub-Committee and Disciplinary Appeals Sub-Committee as sub-committees of the General Purposes Committee , as set out in Annex 1;
- b) to appoint an Independent Persons Panel, agree its terms of reference, as set out in Annex 1, and agree that it should comprise three Independent Persons;
- c) to agree to pay a fee to Independent Persons appointed to the Independent Persons Panel equal to the agreed rate paid in respect of their role in advising Council on Councillor Conduct issues;
- d) to amend the Employment Rules, as set out in Annex 2;
- e) to delegate to the Committee Services Manager authority to invite and appoint members to serve on the Independent Persons Panel as set out in paragraph 5 of the report

**CORPORATE IMPLICATIONS**

<b>Financial and Value for Money</b>	The proposals will result in costs being incurred in relation to the appointment of an Independent Investigator and also if the Investigation and Disciplinary Sub-Committee, the Disciplinary Appeals Sub-Committee or the Independent Persons Panel decides to commission external legal and professional advice. In addition, the Members of the Independent Persons Panel are entitled to receive a fee, which must not exceed the rate payable to that person in respect of their role in advising the Council on Councillor Conduct issues. Any costs will be met from within existing budgets.
<b>Legal</b>	The The Local Authorities (Standing Orders) (England) Regulations 2001 as amended by the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 require local authorities to make or modify

	<p>standing orders to include certain provisions relating to staff and other matters.</p> <p>The Council amended the Employment Rules in February 2016 to comply with the broad requirements of the Regulations but left the details to be resolved later due to uncertainty over the operation of the rules. The proposals in this report are compliant with the 2015 Regulations.</p> <p>The Independent Persons Panel is an advisory committee of the Council appointed under S.102 (4) of the Local Government Act 1972.</p>								
<b>Corporate</b>	<p>The Council is vulnerable to claims if its processes do not fully comply with the legislation and its contractual obligations. The proposals have been agreed with Kent Monitoring Officers following advice from Counsel on key issues.</p>								
<b>Equality Act 2010 &amp; Public Sector Equality Duty</b>	<p>Members are reminded of the requirement, under the Public Sector Equality Duty (section 149 of the Equality Act 2010) to have due regard to the aims of the Duty at the time the decision is taken. The aims of the Duty are: (i) eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act, (ii) advance equality of opportunity between people who share a protected characteristic and people who do not share it, and (iii) foster good relations between people who share a protected characteristic and people who do not share it.</p> <p>Protected characteristics: age, sex, disability, race, sexual orientation, gender reassignment, religion or belief and pregnancy &amp; maternity. Only aim (i) of the Duty applies to Marriage &amp; civil partnership.</p> <table border="1" style="width: 100%; border-collapse: collapse; margin-top: 10px;"> <tr> <td colspan="2">Please indicate which aim is relevant to the report.</td> </tr> <tr> <td style="width: 80%;">Eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act,</td> <td style="text-align: center;">✓</td> </tr> <tr> <td>Advance equality of opportunity between people who share a protected characteristic and people who do not share it</td> <td style="text-align: center;">✓</td> </tr> <tr> <td>Foster good relations between people who share a protected characteristic and people who do not share it.</td> <td style="text-align: center;">✓</td> </tr> </table> <p>There are no direct equalities implications.</p>	Please indicate which aim is relevant to the report.		Eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act,	✓	Advance equality of opportunity between people who share a protected characteristic and people who do not share it	✓	Foster good relations between people who share a protected characteristic and people who do not share it.	✓
Please indicate which aim is relevant to the report.									
Eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act,	✓								
Advance equality of opportunity between people who share a protected characteristic and people who do not share it	✓								
Foster good relations between people who share a protected characteristic and people who do not share it.	✓								

<b>CORPORATE PRIORITIES (tick those relevant) ✓</b>	
A clean and welcoming Environment	
Promoting inward investment and job creation	
Supporting neighbourhoods	

<b>CORPORATE VALUES (tick those relevant) ✓</b>	
Delivering value for money	
Supporting the Workforce	✓
Promoting open communications	

## 1.0 Introduction and Background

# Agenda Item 4

1.1 The Council's Employment Rules and Prescribed Standing Orders must stipulate that the Council's Statutory Officers (i.e. The Head of Paid Service, Monitoring Officer and Chief Finance Officer) may not be dismissed by the Council unless in accordance with the requirements of the 2001 Regulations as amended by the 2015 Regulations.

1.2 Decisions on the arrangements needed to comply with these Regulations are a matter for Council.

## **2.0 Background**

2.1 The Local Government Act 1972, the Local Government Finance Act 1988 and the Local Government and Housing Act 1989 require local authorities to designate officers as the "head of paid service", the "monitoring officer" and the officer "responsible for the administration of the authority's financial affairs" (called the "chief finance officer" or "section 151 officer"), each of whom has a personal statutory duty to report to Cabinet or Full Council in certain circumstances. Their duties are, in very broad terms, to prevent or highlight organisational, legal or financial problems. This Council has designated the Chief Executive, the Director of Corporate Governance and the Deputy Chief Executive to these respective roles.

2.2 As a result of the personal duties upon them, the post holders have a degree of statutory protection from dismissal or other disciplinary action. Before the 2001 Regulations as amended by the 2015 Regulations, referred to above, there was a requirement to appoint a Designated Independent Person (DIP) to undertake an investigation where disciplinary proceedings were contemplated against a Statutory Officer. The Council or a relevant Committee was obliged to consider that report before making a decision involving disciplinary sanction or dismissal of a Statutory Officer. Under the previous rules, only Full Council could dismiss the Head of Paid Service. The Monitoring Officer and Chief Finance Officer could be dismissed by a Committee. The DIP procedures dated back to 1993 but the concept of statutory protection is a much older one.

2.3 In March 2015, the 2001 Regulations 2001 were amended by the 2015 Regulations. The amendments changed the procedure which local authorities must follow before dismissing the Head of Paid Service, the Monitoring Officer or the Chief Finance Officer (the Statutory Officers). The 2001 Regulations required the Council to include in its Constitution, Standing Orders which deal with the appointment and dismissal of staff with particular provisions relating to the statutory officers.

2.4 The Department for Communities and Local Government (DCLG) had cited issues of complexity and expense associated with the previous regime as the reasons for bringing forward this legislative change. The 2001 Regulations as amended by the 2015 Regulations, sought to introduce a new streamlined procedure while attempting to retain an independent check within the system by giving the 'Independent Persons' (IPs) appointed to support the Members' conduct framework a role in the disciplinary and dismissal process for these three officers.

2.5 The Council's Employment Rules were revised as part of the review of the Constitution in 2016, but they are silent as to the specific procedures which the Council will adopt if disciplinary action is to be taken against one of the Statutory Officers. Nor does the Constitution currently contain the "machinery" required to

operate the new procedures. This is because there has been uncertainty as to how the legislation ought to be applied in practice.

- 2.6 The 2015 Regulations, as drafted, raised some fundamental questions about their scope, an apparent conflict with the Localism Act 2011 (see paras 5.12-5.13 below) and how, if at all, an appeal against a decision to dismiss could be incorporated into the new arrangements. Additional uncertainty was caused by the fact that the previous DIP process was embedded within the terms and conditions for Chief Executives as set out in the Joint Negotiating Committee (JNC) for Local Authority Chief Executives handbook. The latter only has contractual effect where an authority has agreed to be bound by JNC terms and conditions. Until October 2016, when the JNC issued a new handbook, there was a scenario where the contractual obligations owed under JNC terms required different steps to be taken to those set out in the new Regulations. The procedures proposed in this paper are largely modelled on what is contained in the new JNC handbook.
- 2.7 To try and resolve these issues discussions have taken place with other Monitoring Officers through the Kent Secretaries Group who have sought clarification from the Government as well as instructing Counsel on several key issues. The Group has now reached a Kent wide view on the most appropriate way to implement the new arrangements.

### **3.0 The New Process for Dismissal**

- 3.1 The 2001 Regulations as amended by the 2015 Regulations replaced the previous Designated Independent Person (DIP) arrangements with a new system. There is now no requirement to appoint a DIP where disciplinary action against a Statutory Officer is being considered and instead full Council must approve the dismissal of any of the Statutory Officers (previously this had only applied to the Head of Paid Service).
- 3.2 The Regulations stipulate that the following procedure must be followed before a Statutory Officer can be dismissed: The Council must invite a number of independent persons ("IPs") to be appointed to a Panel. (These are the same independent persons who have been appointed to advise the Council on member conduct complaints under the Localism Act 2011.) The Council must appoint IPs who have accepted such an invitation to a Panel at least 20 days before the Council takes a decision to approve the dismissal of a Statutory Officer. Full Council must then meet and, before a vote is taken on whether or not to approve the proposed dismissal, it must take into account any advice, views or recommendations of the Panel as well as the conclusions of any investigation and any representations made by the officer concerned.
- 3.3 The Ministry for Housing, Communities and Local Government (MHCLG) was asked if the new arrangements were limited to dismissal on conduct grounds or whether they also applied in cases of dismissal due to ill health or redundancy etc. MHCLG have clarified that the procedures set out in paragraph 3.2 only apply to dismissal on disciplinary grounds. However, if one of the Statutory Officers was to request that these procedures be invoked where dismissal was proposed on grounds other than conduct then it is considered such a request should be agreed to.

- 3.4 The The Local Authorities (Standing Orders) (England) Regulations 2001 define disciplinary action as follows: *“any action occasioned by alleged misconduct which, if proved, would, according to the usual practice of the authority, be recorded on the member of staff’s personal file, and includes any proposal for dismissal of a member of staff for any reason other than redundancy, permanent ill-health or infirmity of mind or body, but does not include failure to renew a contract of employment for a fixed term unless the authority has undertaken to renew such a contract;”*
- 4.0 The JNC for Local Authority Chief Executives Model Disciplinary Procedure for Disciplinary Action.**
- 4.1 The JNC October 2016 handbook contains a model disciplinary procedure. Whilst this procedure only applies to those Heads of Paid Service who are subject to JNC terms and conditions, it is recommended that these procedures (in relation to disciplinary action) should be followed (with some minor deviations) and also applied to the other Statutory Officers too (i.e. to the Monitoring Officer and the Section 151 officer).
- 4.2 The main features of the JNC model procedure are:
- a) That there should be a standing Investigation and Disciplinary Committee which oversees any disciplinary process and determines the outcome. (It is recommended that this role is carried out by a sub-committee of our General Purposes Committee)
  - b) That any disciplinary investigation should be carried out by an Independent Investigator.
  - c) That there should be a Disciplinary Appeals Committee to consider any appeal against a decision of the Investigation and Disciplinary Committee to take any disciplinary action short of dismissal. (It is recommended that this is a Council Committee of 5 members).
- 4.3 The model procedure suggests that any decision to suspend the Head of Paid Service should be made by a Committee, but that the power to make such a decision in urgent circumstances should be delegated to the Chairman of the Committee. However, this cannot lawfully be delegated to a single Member and as such is not recommended in this paper.
- 4.4 At present the Chief Executive and Directors have the power to discipline, suspend and dismiss employees in accordance with the Council’s disciplinary procedure and capability procedures. However, in keeping with the principle of a consistent application of the protections to all of the Statutory Officers, it is proposed that an Investigation and Disciplinary Sub-Committee be formed from the General Purposes Committee with responsibility for deciding whether or not to suspend a Statutory Officer.
- 4.5 The model procedure suggests that any suspension of the Head of Paid Service (and so, by extension, the Monitoring Officer and S151 officer) is reviewed after a period of two months by a Committee. In doing so it should consult with the Independent Investigator and consider any representations from the officer concerned.
- 4.6 The model procedure makes provision for the Investigation and Disciplinary Committee and the Disciplinary Appeals Committee to include a Cabinet Member.

4.7 Amendments will be made to the Employment Rules to reflect the model procedure. The proposed amended Rules are attached as Annex 2.

4.8 The numbers on the General Purposes Committee will have to be increased from ten to twelve to allow an even split which complies with the proportionality rules.

## **5.0 Proposals for Change**

### **a) Disciplinary action**

5.1 The words “disciplinary action” in relation to a member of staff of a local authority has a specific meaning under the 2001 Regulations (set out earlier).

### **b) Investigation and Disciplinary Sub-Committee (formed from the General Purposes Committee)**

5.2 The terms of reference of the Investigation and Disciplinary Sub-Committee (formed from half the members of the General Purposes Committee) need to include the power to decide whether any of the Statutory Officers should be suspended and to also determine whether any allegation against any of the Statutory Officers warrants investigation. It is recommended that when the Sub-Committee is exercising this power that, for consistency, unless a Member is unavoidably indisposed or conflicted, the same Members shall comprise the Sub-Committee until the matter has been dealt with fully. It is recommended that the same approach be applied to the Disciplinary Appeals Sub-Committee.

5.3 The Investigation and Disciplinary Sub-Committee would appoint an Independent Investigator. The Sub-Committee will consider any report of the Independent Investigator and, if appropriate conduct a hearing. The Sub-Committee may determine that no action should be taken, that some action short of dismissal should be taken, or propose that the officer should be dismissed.

5.4 If the action taken is short of dismissal the officer should have the right to appeal that decision.

5.5 If the Investigation and Disciplinary Sub-Committee recommends that the officer should be dismissed it will forward its proposal and the necessary information to the Independent Persons Panel. The Panel will consider the proposal and the necessary particulars and decide what advice, views or recommendations to make to full Council. Full Council will decide whether or not to dismiss the officer, having regard to any advice, views or recommendations of the Panel, the conclusions of any investigation, and any representations from the officer.

### **c) Disciplinary Appeals Committee (formed from the General Purposes Committee)**

5.6 It is proposed to set up a Disciplinary Appeals Committee formed from the other half of the members of the General Purposes Committee to determine any appeals by one of the statutory officers against a decision by the General Purposes Committee to take disciplinary action short of dismissal.

- 5.7 The new sub-committee clearly cannot comprise any of the members of the Investigation and Disciplinary Sub-Committee who originally heard the matter.

## **d) The Independent Persons Panel**

- 5.8 It is recommended that a standing Independent Persons Panel should be established, comprising three Independent Persons (IPs) and a substitute IP, appointed in priority order in accordance with the Regulations. The Panel will be an advisory committee of the Council. The substitute would take the place of any IP who was unable to participate because he or she was not available at the time, or had a personal conflict of interest. The Council currently has two IPs. In line with the priority order set out in the 2015 Regulations the Council's two IPs would be invited to serve on the Panel first and then an invitation would be extended to an IP from another authority in Kent. It is recommended that the Committee Services Manager is authorised to make these invitations.
- 5.9 If a Council has fewer than two IPs, it must extend the invitation to one or more IPs from another authority. If more accept the invitation than are needed, then appointments must be made in the following priority order:
- An IP appointed by the Council who is on the electoral register in Thanet
  - Any other IP appointed by the Council
  - An IP who has been appointed by another authority
- 5.10 At least two of the IPs who have accepted the invitation must be appointed, but there is no upper limit. They can be paid an allowance or expenses, but no more than they would receive for their Localism Act work. The appointment must be made at least 20 days before the Council takes a decision to approve the dismissal of a Statutory Officer. At the full Council meeting, the authority must take into account any advice, views or recommendations of the Panel as well as the conclusions of any investigation and any representations made by the officer concerned.
- 5.11 The JNC for Local Authority Chief Executives (the JNC) has sought clarification from MHCLG on whether the Panel referred to above should be comprised solely of independent persons or whether it can, or should, also include elected members. MHCLG has indicated that the intention is that this Panel should consist solely of IPs "so that independent scrutiny can be attained before a full council takes the final decision on a dismissal motion". The proposal is therefore to follow that approach as this emphasises the independence of the Panel while still ensuring Member involvement at every other stage of the process.
- 5.12 One of the difficulties in implementing the amendments from the 2015 Regulations has been its apparent incompatibility with the Localism Act in relation to the appointment of independent persons. S. 28(8) of the Localism Act provides that any independent person appointed to provide a view on councillor conduct issues is ineligible to be appointed to this position if they are a voting co-opted member of a committee of the council (and/or hold such a position at any time during the 5 years ending with the appointment). However, an independent person appointed to an Independent Persons Panel under the 2015 Regulations will become a voting co-opted member of a committee of the council. The Council could decide not to give them a vote but that is not recommended as it is difficult to see how the Panel can come to a view on a matter if Panel Members do not have voting rights.

- 5.13 Counsel's advice is that, ultimately, the two pieces of legislation are not in irreconcilable conflict "because appointment to an IP (i.e. the Independent Persons Panel) cannot itself be regarded as disqualifying an Independent Person (IP) from being such on the basis that the very appointment makes them a co-opted member". An IP appointed under the Localism Act is not excluded from continuing in this role by virtue of being appointed as a voting member of the Independent Persons Panel as on that logic they would be prevented from serving on the Panel as they would no longer be an independent person.
- 5.14 The Kent Secretaries Group have agreed in principle reciprocal arrangements whereby each Council is able to invite the IP of another council in Kent to serve on the Independent Persons Panel. This proposal is being explored with the Independent Persons and contact is being made with the Chair of their Forum to seek their agreement to this reciprocal arrangement. Therefore it would be possible for the Independent Persons Panel to comprise one or more IPs from other authorities.
- 5.15 The proposed revised Terms of Reference for the General Purposes Committee and its new Sub-Committees, and the terms of reference for the Independent Persons Panel are attached at Annex 1.

## **6.0 Options**

- 6.1 The Council could have the whole General Purposes Committee with the responsibility of the Investigation and Disciplinary Sub-Committee and establish a new standing Disciplinary Appeals Committee to carry out the appeal functions.

## **7.0 Advice and analysis**

- 7.1 The model procedure adopts a balanced approach to the need to set up a new disciplinary process, which will ensure that the Council has a fair process which is unlikely to be susceptible to successful challenge. It has taken over a year for the JNC to reach agreement on this process. Any attempt to seek local agreement to a different process is likely to cause further delay and it may be difficult to reach agreement. Any alternative process would have to be fair and comply with employment law, so it would be unlikely to be radically different from the model procedure.
- 7.2 The protection rules which apply to the Statutory Officers are an important means of ensuring good governance and maintaining high standards of legal, ethical and financial conduct and probity. The proposals in this report have been formulated in such a way that implements the 2001 Regulations as amended by the 2015 Regulations, maintains those protections and governance safeguards while also minimising the costs and risks to the Council.
- 7.3 A flowchart detailing the processes for dealing with allegations in relation to disciplinary matters relating to the Council's Statutory Officers is attached at Annex 3.

## **8.0 Independent Persons**

- 8.1 The Independent Persons who will comprise the Independent Persons Panel are the same independent persons appointed by the Council to advise on councillor conduct

matters.

- 8.2 A person may not be appointed as an Independent Person (i.e. to advise on councillor conduct issues) if that person:

(a) is a member, co-opted member or officer of the Council or a parish/town council in Thanet, or

(b) is a relative, or close friend of such a person, or

(c) has been a member, co-opted member or officer of the Council or a parish/town council in Thanet in the previous 5 years.

- 8.3 The Council must advertise any vacancies for an Independent Person and applicants must submit an application form before they can be appointed. Only Full Council can make the appointment, which must be approved by a majority of the Members of the Council.

## **9.0 Decision making in cases of a need to urgently suspend one of the statutory chief officers**

- 9.1 Where there is a need to urgently suspend one of the Statutory Officers. The Investigation and Disciplinary Sub-Committee is given the power to suspend any of the Statutory Officers. Such a decision could not be lawfully delegated to the Chairman of the Committee or any other Member but there remains a gap where the seriousness of a situation meant there was an urgent need to suspend one of the officers and it was not feasible to wait until the statutory five days' notice of a public meeting had been given. This is particularly an issue in the case of the Head of Paid Service as it would be possible for them to be given the power to suspend the Monitoring Officer or the S.151 Officer in a situation of urgency.

- 9.2 It was therefore recommended to the Constitutional Review Working Party that the Chief Executive be given the explicit authority, following consultation with the Chairman of the General Purposes Committee where practicable, to suspend the Monitoring Officer or the S.151 Officer in cases of urgency. If agreed the following additional amendment to the Employment Rules is suggested:

*"In cases of urgency the Head of Paid Service may suspend the Chief Finance Officer or the Monitoring Officer, following consultation with the Chairman of the General Purposes Committee where practicable whilst an investigation takes place into alleged misconduct. The Head of Paid Service shall, before deciding to suspend, invite the officer to make representations unless it is impractical to do so. The General Purposes Committee shall review the suspension as soon as is practicable and in any event no later than two months following the original decision to suspend".*

- 9.2 This option of suspension was rejected by the Constitutional Review Working Party, since it did not provide equality amongst the three statutory officers. Instead it was felt that all three statutory officers should be subject to urgent suspension by the Investigation and Disciplinary Sub-Committee. This is described in 9.3 below.

- 9.3 If there was an urgent need to suspend the Head of Paid Service (or other statutory officer), the Council could rely on an implicit power in the Local Government (Access

to Information) Act 1985 to convene a meeting of a Committee (in this case the General Purposes Committee) by giving shorter notice than the prescribed 5 clear days. The Act does not specify in what circumstances this provision can be relied on and, as such, it is rarely invoked because of the risk of challenge. If this provision was to be used then the Council would need to be able to demonstrate that it had used this power reasonably and for good reasons. The view of the Monitoring Officer is that this is a power the Council could justify relying on in circumstances where there was an urgent need to suspend the Head of Paid Service. In any event, the proposed procedures require that any suspension must be reviewed every two months by the General Purposes Committee and, for those meetings, the usual period of notice (i.e. 5 clear days) would be given.

### **10.0 Views of the Constitutional Review Working Party**

10.1 This report was reviewed by the Constitutional Review Working Party on 21 June. The changes suggested by the Constitutional Review Working Party have been included in this report.

10.2 The main changes were:

- a. Increasing the membership of the Disciplinary Appeals Committee from three to five members
- b. Making clear that the Disciplinary Appeals Committee and General Purposes Committee should contain a Cabinet Member
- c. Clarity on the role of the Independent Investigator
- d. That the Chief Executive should consult with the Chair of the General Purposes Committee before suspending the Chief Finance Officer or Monitoring Officer.

10.3 This report was reviewed by the Constitutional Review Working Party on the 21 June 2019 and the 21 November 2019. The principal changes proposed by the Working Party were:

- a. To Create two sub-committees of the General Purposes Committee for initial hearings and appeals respectively.
- b. To have all suspensions (including urgent suspensions) carried out by the Investigation and Disciplinary Sub-Committee.

### **11.0 Views of the Standards Committee**

11.1 This report was reviewed by the Standards Committee on 27 June 2019. There were a number of typographical and other minor changes to clarify meaning, which have been incorporated into this report.

11.2 One particular point was raised under paragraph 3.3 above. This was whether the Council could invoke this process in respect of ill-health dismissal or redundancy? The MHCLG have already advised that it should only be used by the Council for dismissal on disciplinary grounds (whilst an officer could request it on other grounds for dismissal). This is because the Regulations are there as a 'shield' to protect the

officer from arbitrary use of other powers to dismiss them, they aren't there as a 'sword' for the council to use at will in cases other than disciplinary dismissals. Therefore, the Council should only invoke this procedure for dismissal on disciplinary grounds.

## 12.0 Withdrawal of the matter from Council on the 11 July 2019

12.1 Following the withdrawal of this report from Council on the 11 July 2019, the report was referred back to the Constitutional Review Working Party for greater clarity on the 'filter process' for referring allegations of alleged misconduct against the Chief Executive to the GPC.

12.2 Advice was sought from the Joint Secretaries of the JNC for Chief Executives on this point. Their advice was that the filter process should not involve substantive member involvement beyond the Chair of the IDC, as demonstrated in the JNC Handbook for Chief Executives. The handbook sets out a procedure where, in the case of the Chief Executive, the Monitoring Officer and the Chair of the IDC would oversee referrals to that committee.

Contact Officer:	Tim Howes, Director of Corporate Governance and Monitoring Officer
Reporting to:	Madeline Homer, Chief Executive

### Annex List

Annex 1	(a) General Purposes Committee Amended Terms of Reference (b) Disciplinary Appeals Committee Terms of Reference (c) Independent Persons Panel Terms of Reference
Annex 2	Amended Employment Rules
Annex 3	Disciplinary process flow chart

### Background Papers

Title	Details of where to access copy
The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 The Local Authorities (Standing Orders) (England) Regulations 2001	<a href="http://www.legislation.gov.uk/ukxi/2015/881/contents/made">http://www.legislation.gov.uk/ukxi/2015/881/contents/made</a>

### Corporate Consultation

<b>Finance</b>	Chris Blundell, Head of Financial Services
<b>Legal</b>	Estelle Culligan, Head of Legal and Democratic Services

This page is intentionally left blank

**Annex 1 Amendments to COUNCIL FUNCTIONS CARRIED OUT BY COMMITTEES**

**Decision Making Body: General Purposes Committee**

**Functions:**

To exercise any function of the Council, which by statute or regulation is a function not to be the responsibility of an authority's executive, and which is not delegated to another committee or reserved to the Council by statute, regulations or the Council's Constitution.

**Investigation and Disciplinary Sub-Committee**

**Functions:**

To consider allegations /issues regarding disciplinary matters relating to the Head of Paid Service, the S.151 Officer and the Monitoring Officer.

To suspend the Head of Paid Service, Monitoring Officer and Section 151 Officer.

The Investigation and Disciplinary Sub-Committee will be formed from half of the members of the General Purposes Committee. This is subject to compliance with the requirements regarding political proportionality.

- (a) Members of the sub-committee must have completed mandatory training in respect of the latter function.
- (b) For consistency, unless unavoidably indisposed or conflicted, once appointed, the same Members shall comprise the sub-committee (and any adjournment of it) over the course of the full consideration of the matter (and any related matter) that it has been convened to consider, until such time as the matter is disposed of.

The sub-committee must include at least one Cabinet Member

**Disciplinary Appeals Sub-Committee**

**Functions:**

To hear and determine appeals brought by the Head of Paid Service, the S.151 Officer and the Monitoring Officer against any decisions made by the Investigation and Disciplinary Sub-Committee to take disciplinary action short of dismissal.

The Disciplinary Appeals Sub-Committee will be formed from half of the members of the General Purposes Committee. This is subject to compliance with the requirements regarding political proportionality.

- (a) No Member who was a member of the Investigation and Disciplinary Sub-Committee making the decision which is the subject of the appeal may serve as a member of the Disciplinary Appeals Committee.

# Agenda Item 4

## Annex 1

(b) Members of the sub-committee must have completed mandatory training.

(c) For consistency, unless unavoidably indisposed or conflicted, once appointed, the same Members shall comprise the sub-committee (and any adjournment of it) over the course of the full consideration of the matter (and any related matter) that it has been convened to consider, until such time as the matter is disposed of.

The sub-committee must include at least one Cabinet Member

### **Advisory Body: Independent Persons Panel**

#### **Functions;**

To advise the authority on matters relating to the dismissal of the officers designated as the Head of Paid Service, the Chief Finance Officer and the Monitoring Officer.

(a) The Panel will comprise of three Independent Persons (IPs) appointed under section 28(7) of the Localism Act 2011 plus one reserve.

(b) To be appointed in the following priority order:

(i) An Independent Person who has been appointed by the Council and who is on electoral roll in Thanet

(ii) Any other IP appointed by the Council

(iii) An IP who has been appointed by another authority

(c) Panel members must have completed mandatory training in respect of this function

**Annex 2**

**Officer Employment Procedure Rules (see also Standing Orders relating to Staff)**

**1.0 Recruitment and Appointment**

(a) Declarations

(i) The Council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing Councillor or officer of the Council; or of the partner of such persons.

(ii) No candidate so related to a Councillor or an officer will be appointed without the authority of the relevant chief officer or an officer nominated by him/her.

(b) Seeking support for appointment.

(i) The Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.

(ii) No Councillor will seek support for any person for any appointment with the Council.

(iii) Paragraphs (i) and (ii) above preclude a Councillor from giving a written reference for a candidate for submission with an application for appointment.

**2.0 Recruitment of Head of Paid Service and Chief Officers**

Where the Council proposes to appoint a chief officer and it is not proposed that the appointment be made exclusively from among their existing officers, the Council will:

(a) draw up a statement specifying:

(i) the duties of the officer concerned; and

(ii) any qualifications or qualities to be sought in the person to be appointed;

(b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and

(c) make arrangements for a copy of the statement mentioned in paragraph (1) to be sent to any person on request.

**3.0 Appointment of Head of Paid Service**

- (a) The full Council will appoint the Head of Paid Service.
- (b) The full Council may only make or approve the appointment of the Head of Paid Service where no well-founded objection has been made by any member of the Cabinet.

#### 4.0 Appointment of Chief Officers and Deputy Chief Officers

- (a) A Committee or Sub-Committee of the Council will appoint chief officers and deputy chief officers. That Committee or Sub-Committee must include at least one member of the Cabinet.
- (b) An offer of employment as a chief officer or deputy chief officer shall only be made where no well-founded objection from any member of the Cabinet has been received. A list of Chief Officers and Deputy Chief Officers is appended.

#### 5.0 Other Appointments

- (a) **Officers below deputy chief officer.** Appointment of officers below deputy chief officer (other than assistants to political groups) is the responsibility of the Head of Paid Service or his/her nominee, and may not be made by Councillors.
- (b) **Assistants to political groups.** Appointment of an assistant to a political group shall be made in accordance with the wishes of that political group.

#### 6.0 Disciplinary Action

**(a) Suspension.** The Head of Paid Service, Monitoring Officer and Chief Finance Officer may be suspended by the Investigation and Disciplinary Sub-Committee whilst an investigation takes place into alleged misconduct. Before deciding whether to suspend, the Committee shall invite the officer to make representations unless it is impracticable to do so. That suspension will be on full pay and last no longer than two months. The Sub-Committee shall review any continuing suspension every two months. In carrying out such review the Sub-Committee shall consider any representations made by the officer.

~~(b) Independent person. No other disciplinary action may be taken in respect of any of those officers except in accordance with a recommendation in a report made by a designated independent person.~~

~~(b) The Head of Paid Service, Monitoring Officer and Chief Finance Officer have a right of appeal to the Disciplinary Appeal Sub-Committee against any decisions made by the Investigation and Disciplinary Sub-Committee to take disciplinary action short of dismissal~~

(c) Councillors will not be involved in the disciplinary action (as defined by the Local Authorities (Standing Orders) (England) Regulations 2001) against any officer below

# Agenda Item 4

## Annex 2

deputy chief officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the Council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to members in respect of disciplinary action.

### 7.0 Dismissal

- 7.1 Councillors will not be involved in the dismissal of any officer below deputy chief officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct, though the Council's disciplinary, capability and related procedures, as adopted from time to time may allow a right of appeal to members in respect of dismissals.
- 7.2 All Chief Officers and Deputy Chief Officers (with the exception of the Head of Paid Service, Monitoring Officer and Chief Finance Officer) have a right of appeal to the General Purposes Committee against dismissal.
- 7.3 The Head of Paid Service, Monitoring Officer and Chief Finance Officer have a right of appeal to the Disciplinary Appeals Sub-Committee against any decisions of the Investigation and Disciplinary Sub-Committee to take disciplinary action short of dismissal.
- 7.4 Where a committee, sub committee or officer is discharging, on behalf of the authority, the function of the dismissal of an officer designated as the Head of Paid Service, as the authority's Chief Finance Officer, or as the authority's Monitoring Officer, the Full Council must approve that dismissal before notice is given to that person.

### List of chief officers and deputy chief officers for the purposes of Officer Employment Procedure Rule 4

Chief Executive  
Deputy Chief Executive and Section 151 Officer  
Director of Commercial and Operational Services  
Director of Corporate Governance and Monitoring Officer  
Deputy Chief Officers

## **Prescribed and Other Standing Orders**

### **Part I – Prescribed Standing Orders**

#### **Introduction, Application and Interpretation**

1. The following Standing Orders shall be known as ‘Prescribed Standing Orders’, and shall form part of the Council’s Standing Orders. The Council’s Standing Orders other than Prescribed Standing Orders shall be known as ‘Ordinary Standing Orders’.
2. In the event of any conflict or inconsistency between Ordinary Standing Orders and Prescribed Standing Orders the latter shall prevail.
3. Any word or phrase contained within Prescribed Standing Orders shall, if such word or phrase is given a meaning by The Local Authorities (Standing Orders) Regulations 1993, have that same meaning for the purposes of Prescribed Standing Orders.

#### **Appointment of Chief Officers**

4. Where the authority propose to appoint a Chief Officer, and it is not proposed that the appointment be made exclusively from among their existing Officers, they shall:-
  - (a) draw up a statement specifying:-
    - (i) the duties of the Officer concerned, and
    - (ii) any qualifications or qualities to be sought in the person to be appointed;
  - (b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it: and
  - (c) make arrangements for a copy of the statement mentioned in paragraph (a) to be sent to any person on request.
5. (1) Where a post has been advertised as provided in standing order 4 (b) the authority shall:-
  - (a) interview all qualified applicants for the post, or
  - (b) select a short list of such qualified applicants and interview those included on the short list.

(2) Where no qualified person has applied, the authority shall make further arrangements for advertisement in accordance with standing order 4 (b).
6. Every appointment of a Chief Officer shall be made by the authority unless made by any duly authorised Committee, Action/Sub-Committee, or a relevant Joint Committee.

# Agenda Item 4

## Annex 2

7. The steps under Prescribed Standing Orders 4 and 5 above may be taken by any Committee, Action/Sub-Committee or Chief Officer of the authority if duly authorised in that behalf.
8. Where the duties of a Chief Officer include the discharge of functions of two or more local authorities in pursuance of Section 101 (5) of the Local Government Act 1972:-
  - (a) the steps under prescribed standing orders 4 and 5 above may be taken by any duly authorised joint committee of those authorities, sub committee of such a committee or a chief officer of any of the authorities concerned, and
  - (b) any chief officer may be appointed by such a duly authorised joint committee, sub committee of such a committee or a committee or sub committee of any of those authorities.
9. Excluded from the application of prescribed standing orders 4 to 6 shall be any appointment in pursuance of Section 9 (assistants for political groups) of the Act.

### **Disciplinary Action Against the Head of Paid Service and Others**

- 10.1 ~~The Head of Paid Service, Monitoring Officer and Chief Finance Officer may not be dismissed by the Council unless in accordance with the requirements of the The Local Authorities (Standing Orders) (England) Regulations 2001 as amended by the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015.~~

~~A relevant officer may not be dismissed by the Council unless the procedure set out in Schedule 3 to the Local Authorities (Standing Orders) (England) Regulations 2001 is complied with.~~

~~(Note: In this standing order 'relevant officer' means head of the authority's paid service, monitoring officer or the chief finance officer, as the case may be.)~~

- 10.2 ~~The Head of Paid Service, Monitoring Officer and Chief Finance Officer have a right of appeal to the Disciplinary Appeals Sub-Committee against any decisions made by the Investigation and Disciplinary Sub-Committee to take disciplinary action short of dismissal~~

### **Recording of Votes at Meetings**

11. (1) Where immediately after a vote is taken at a meeting of a relevant body any member of that body so requires, there shall be recorded in the minutes of the proceedings of that meeting whether that person cast his/her vote for the question or against the question or whether he/she abstained from voting.
- (2) In this paragraph 'relevant body' means the authority, a committee or sub

# Agenda Item 4

## Annex 2

committee of the authority or a relevant joint committee or sub committee of such a committee.

### **Signing Minutes - Extraordinary Meetings**

12. Where in relation to any meeting of the authority the next such meeting is a meeting called under paragraph 3 (extraordinary meetings) of Schedule 12 to the Local Government Act 1972, the next following meeting of the authority (being a meeting called otherwise than under that paragraph) shall be treated as a suitable meeting for the purposes of paragraph 41 (1) and (2) (signing of minutes) of that Schedule.

### **Variation and Revocation**

13. Otherwise than to incorporate options allowed by the Regulations these prescribed standing orders shall not be revoked or amended.

**Part II – Standing Orders relating to Staff**

1. In this Part:

“the 1989 Act” means the Local Government and Housing Act 1989;

“the 2000 Act” means the Local Government Act 2000;

“disciplinary action” has the same meaning as in the Local Authorities (Standing Orders) (England) Regulations 2001;

“executive” and “executive leader” have the same meaning as in Part II of the 2000 Act;

“member of staff” means a person appointed to or holding a paid office or employment under the authority; and

“proper officer” means the Human Resources Manager or his or her nominee.

2. Subject to paragraphs 3 and 7, the function of appointment and dismissal of, and taking disciplinary action against, a member of staff of the authority must be discharged, on behalf of the authority, by the officer designated under section 4(1) of the 1989 Act (designation and reports of head of paid service) as the head of the authority’s paid service or by an officer nominated by him/her.

3. Paragraph 2 shall not apply to the appointment or dismissal of, or disciplinary action against:

- (a) the officer designated as the head of the authority’s paid service;
- (b) a statutory chief officer within the meaning of section 2(6) of the 1989 Act;
- (c) a non-statutory chief officer within the meaning of section 2(7) of the 1989

Act;

- (d) a deputy chief officer within the meaning of section 2(8) of the 1989 Act; or
- (e) a person appointed in pursuance of section 9 of the 1989 Act (assistants for political groups).

4. (1) Where a committee, sub-committee or officer is discharging, on behalf of the authority, the function of the appointment of an officer designated as the head of the authority’s paid service, the authority must approve that appointment before an offer of appointment is made to that person.

- (2) Where a committee, sub-committee or officer is discharging, on behalf of the authority, the function of the dismissal of an officer designated as the head of the authority’s paid service, as the authority’s chief finance officer, or as the

# Agenda Item 4

## Annex 2

authority's monitoring officer, the authority must approve that dismissal before notice is given to that person.

- (3) The Head of Paid Service, Monitoring Officer and Chief Finance Officer may not be dismissed by the Council unless in accordance with the requirements of the The Local Authorities (Standing Orders) (England) Regulations 2001 as amended by the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015:

(a) At least 20 days before the relevant Council meeting an Independent Persons Panel has been established for the purposes of advising on matters relating to the dismissal and independent persons appointed under section 27 of the Localism Act 2011 have been invited to be appointed to the Panel and

(b) Any advice, views or recommendations of the Independent Persons Panel, the conclusions of any investigation into the proposed dismissal and any representations from the relevant officer have been taken into account before the taking of the vote on whether or not to approve such a dismissal

- (3) Where a committee or a sub-committee of the authority is discharging, on behalf of the authority, the function of the appointment or dismissal of any officer referred to in sub-paragraph ~~(a), (b), (c)~~ or (d) of paragraph 3, at least one member of the executive must be a member of that committee or subcommittee.

5. (1) In this paragraph, "appointor" means, in relation to the appointment of a person as an officer of the authority, the authority or, where a committee, subcommittee or officer is discharging the function of appointment on behalf of the authority, that committee, sub-committee or officer, as the case may be.

- (2) An offer of an appointment as an officer referred to in sub-paragraph (a), (b) (c) or (d) of paragraph 3 must not be made by the appointor until:

(a) the appointor has notified the proper officer of the name of the person to whom the appointor wishes to make the offer and any other particulars which the appointor considers are relevant to the appointment;

(b) the proper officer has notified every member of the executive of the authority of:

(i) the name of the person to whom the appointor wishes to make the offer;

(ii) any other particulars relevant to the appointment which the appointor has notified to the proper officer; and

## Agenda Item 4 Annex 2

(iii) the period within which any objection to the making of the offer is to be made by the executive leader on behalf of the executive to the proper officer; and

(c) either:

(i) the executive leader has, within the period specified in the notice under sub-paragraph (b)(iii), notified the appointee that neither he/she nor any other member of the executive has any objection to the making of the offer;

(ii) the proper officer has notified the appointor that no objection was received by him/her within that period from the executive leader; or

(iii) the appointor is satisfied that any objection received from the executive leader within that period is not material or is not wellfounded.

6. (1) In this paragraph, “dismissor” means, in relation to the dismissal of an officer of the authority, the authority or, where a committee, sub-committee or another officer is discharging the function of dismissal on behalf of the authority, that committee, sub-committee or other officer, as the case may be.
- (2) Notice of the dismissal of an officer referred to in sub-paragraph (a), (b), (c) or (d) of paragraph 3 must not be given by the dismissor until:
- (a) the dismissor has notified the proper officer of the name of the person who the dismissor wishes to dismiss and any other particulars which the dismissor considers are relevant to the dismissal;
- (b) the proper officer has notified every member of the executive of the authority of –
- (i) the name of the person who the dismissor wishes to dismiss;
- (ii) any other particulars relevant to the dismissal which the dismissor has notified to the proper officer; and
- (iii) the period within which any objection to the dismissal is to be made by the executive leader on behalf of the executive to the proper officer; and
- (c) either:
- (i) the executive leader has, within the period specified in the notice under sub-paragraph (b)(iii), notified the dismissor that

## Agenda Item 4

### Annex 2

neither he/she nor any other member of the executive has any objection to the dismissal;

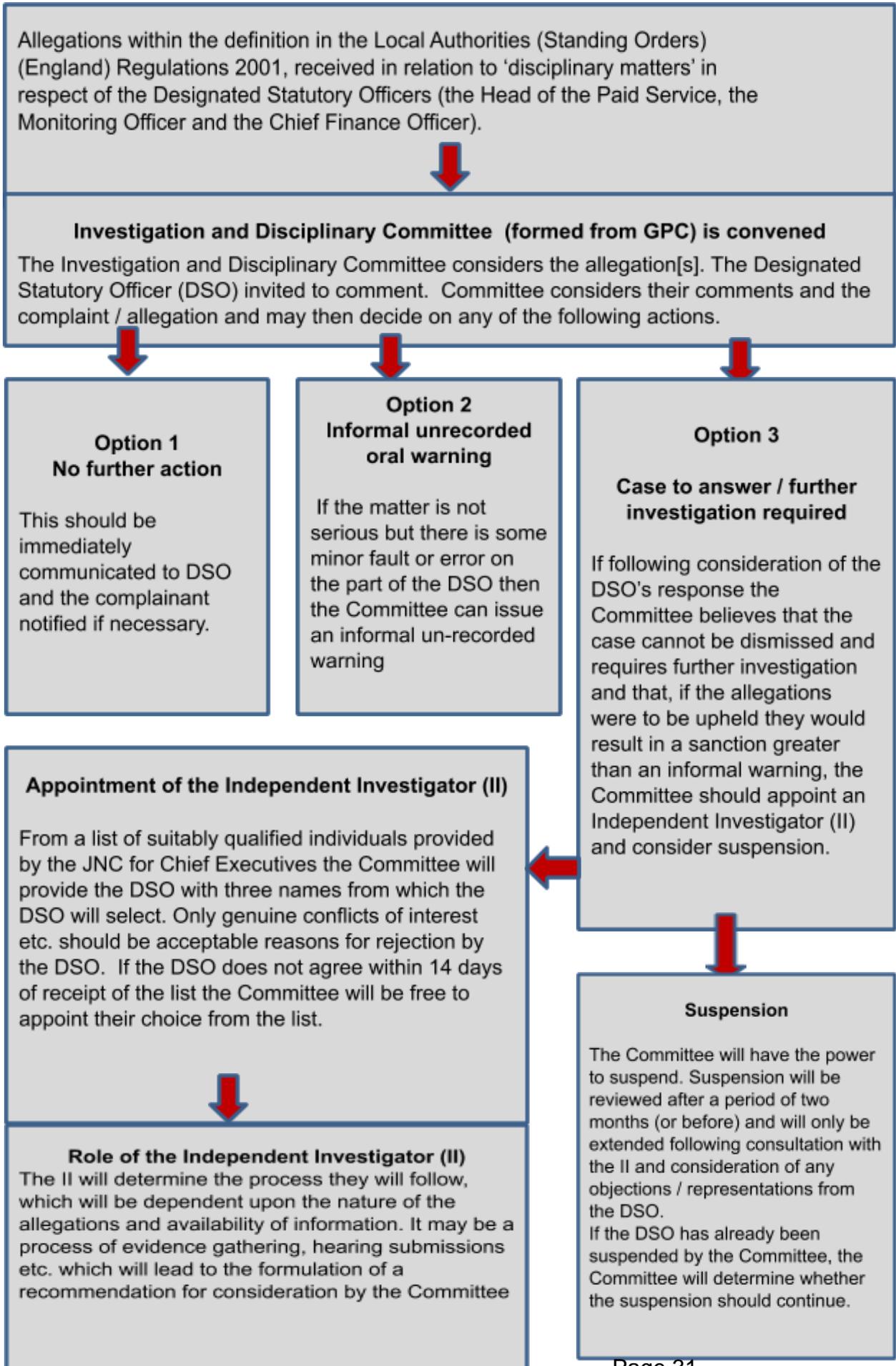
- (ii) the proper officer has notified the dismissor that no objection was received by him/her within that period from the executive leader; or
- (iii) the dismissor is satisfied that any objection received from the executive leader within that period is not material or is not well founded.

7. Nothing in paragraph 2 shall prevent a person from serving as a member of any committee or sub-committee established by the authority to consider an appeal by:

- (a) another person against any decision relating to the appointment of that other person as a member of staff of the authority; or
- (b) a member of staff of the authority against any decision relating to the dismissal of, or taking disciplinary action against, that member of staff.

Agenda Item 4  
Annex 3

**Annex 3  
Procedure for Local Authority  
Designated Statutory Officers**



**Report by Independent Investigator and consideration and decision by the GPC**

On completion of the investigation the Independent Investigator will prepare a report with recommendations and rationale for submission to the Committee.

The Committee will afford the DSO the opportunity for a hearing to allow the post holder to challenge the recommendations of the Independent Investigator, call witnesses etc.

The Committee may decide to call witnesses for clarification. The DSO and Independent Investigator should attend this meeting and both parties afforded the opportunity to summarise their case and will have the usual opportunities to present evidence and cross examine witnesses etc. Both parties will have the right to be represented at the hearing. The hearing should be conducted in accordance with the ACAS code of practice.



**Recommendation of the GPC**

Following either consideration of the report of the II or a full hearing of the case the GPC will essentially have the following options:

- No case to answer
- Recommend informal resolution or other appropriate procedures
- Refer back to the II for further investigation
- Disciplinary action short of dismissal
- Propose dismissal



**No case to answer**

*Appropriate communication should be prepared in agreement with the DSO to ensure that as far as possible there is no damage to the post holder's reputation.*



**Action short of dismissal**

A decision to take action short of dismissal should be communicated in writing to the DSO with rationale for the decision. The DSO has the right to appeal to the Disciplinary Appeals Committee against this decision.



**Recommendation to dismiss**

If there is a recommendation to dismiss, the reports of the GPC and the II should then be sent to Independent Panel (IP) for its consideration. The DSO may make written representation to the IP.



### **Composition, role and process of the Independent Panel (IP)**

The IP will be a committee of the Council, appointed under section 102(4) of the Local Government Act 1972, and will comprise only independent persons (at least two) appointed under S28 (7) of the Localism Act 2011. Appropriate training should be provided to these independent members. Both parties should be present or represented\* at the meeting. The IP should receive any oral representations from the DSO in which case it should invite any response of behalf of the GPC to the points made, and may ask questions of either party. The IP should review the decision and prepare a report for Council. This report should contain clear rationale if they disagree with the recommendation to dismiss.

\*The GPC should nominate a person to attend on its behalf. This will usually be the Chairman of the GPC.



### **Report to Full Council**

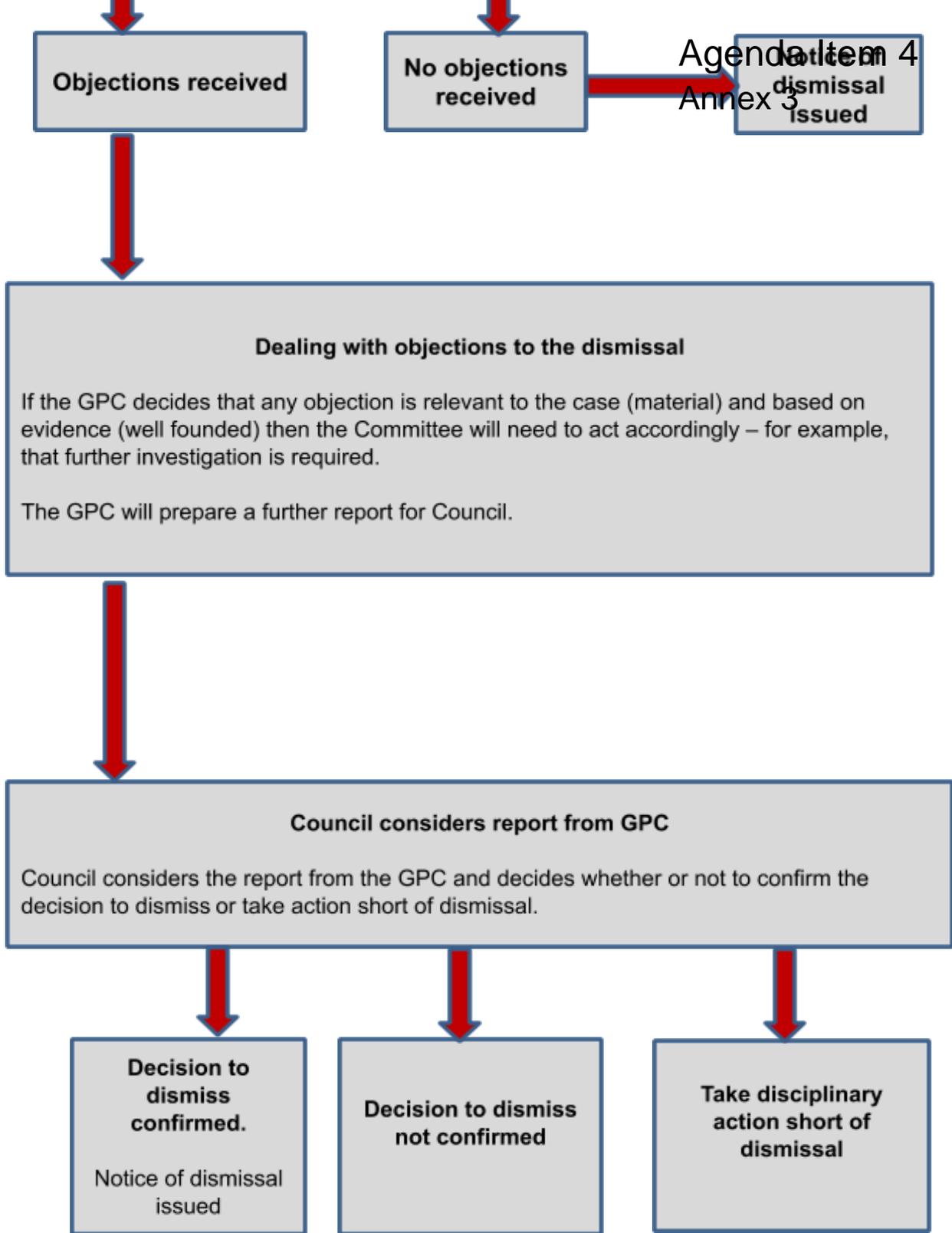
Following consideration by the IP a report will be presented to Council. This report should comprise the recommendation of the GPC, the IP's report and any comments on the recommendations for dismissal from the IP. In the light of this information, Council should consider the recommendation to dismiss. The DSO should be allowed to attend this meeting and address the Council. The IP may also be invited to attend to provide clarification if required. Following this consideration Council should either confirm or reject the recommendation to dismiss. It may at this stage impose a lesser sanction (in which case there would be no right of appeal)



### **Notice of dismissal and Executive Notification Procedure**

The DSO will not be issued with the notice of the dismissal until:

- the Council has notified the proper officer of the name of the person who the Council wishes to dismiss and any other particulars which the Council considers are relevant to the dismissal
- the proper officer has notified every member of the cabinet of this information together with the period within which any objection to the dismissal is to be made by the Leader of the Council on behalf of the cabinet to the proper officer; and either—
  - (i) the Leader has, within the period specified, notified the Council that neither they nor any other member of the cabinet has any objection to the dismissal;
  - (ii) the proper officer has notified the Council that no objection was received by the proper officer within that period from the Leader; or
  - (iii) the Council is satisfied that any objection received from the Leader within that period is not material or is not well-founded.



**LOCAL GOVERNMENT OMBUDSMAN ANNUAL REVIEW  
LETTER 2018/19**

Meeting **9 January 2020**

Report Author **Director of Corporate Governance and Monitoring Officer**

Portfolio Holder **Cabinet Member for Corporate Governance and Coastal Development**

Status **For Information**

Classification: **Unrestricted**

**Executive Summary:**

The Ombudsman's annual review letter for 2018-19 is attached to this report with annexes. Further detail is provided of formal decisions received by the Ombudsman showing the outcome and learning points.

**Recommendation(s):**

Members are requested to note the report.

<b>CORPORATE IMPLICATIONS</b>	
<b>Financial and Value for Money</b>	There are no financial implications arising directly from this report.
<b>Legal</b>	The Local Government and Social Care Ombudsman, formerly the Local Government Ombudsman (LGO) is a service that investigates complaints from the public about councils and some other bodies providing public services in England. It also investigates complaints about registered adult social care providers. It is the last stage of the complaints process, for people who have given the council or provider opportunity to resolve the issue first. It is a free service.
<b>Corporate</b>	The Standards Committee receives and considers the Local Government Ombudsman annual review.
<b>Equality Act 2010 &amp; Public Sector Equality Duty</b>	Members are reminded of the requirement, under the Public Sector Equality Duty (section 149 of the Equality Act 2010) to have due regard to the aims of the Duty at the time the decision is taken. The aims of the Duty are: (i) eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act, (ii) advance equality of opportunity between people who share a protected characteristic and people who do not share it, and (iii) foster good relations between people who share a protected characteristic and people who do not share it.

	Protected characteristics: age, sex, disability, race, sexual orientation, gender reassignment, religion or belief and pregnancy & maternity. Only aim (i) of the Duty applies to Marriage & civil partnership.	
	Please indicate which aim is relevant to the report.	
	Eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act,	
	Advance equality of opportunity between people who share a protected characteristic and people who do not share it	
	Foster good relations between people who share a protected characteristic and people who do not share it.	
	There are no equality implications arising from this report.	

<b>CORPORATE PRIORITIES (tick those relevant) ✓</b>	
Growth	
Environment	
Communities	✓

## 1.0 Introduction and Background

- 1.1 The annual letter from the Ombudsman is attached together with its appendices.
- 1.2 A brief commentary on some of the outcomes and learning points from the complaints is also attached for information. This is intended to provide greater transparency on the issues dealt with by the Ombudsman and our responses.

## 2.0 The Figures

- 2.1 The raw figures show:
  - 41 complaints and enquiries were received in 2018-19 compared to 49 in 2017-18.
  - Detailed investigations upheld has increased to 8 in 2018-19 compared to 5 in 2017-18.
  - Detailed investigations not upheld has dropped to 4 in 2018-19 from 5 in 2017-18.
  - All recommendations have been complied with.

Contact Officer:	Tim Howes, Director of Corporate Governance and Monitoring Officer
Reporting to:	Madeline Homer, Chief Executive

### Annex List

Annex 1	Annual Review letter 2019
Annex 2	List of outcomes and learning points (where applicable)

## Corporate Consultation

<b>Finance</b>	
<b>Legal</b>	Tim Howes, Director of Corporate Governance and Monitoring Officer

This page is intentionally left blank

24 July 2019

*By email*

Madeline Homer  
Chief Executive  
Thanet District Council

Dear Ms Homer

### **Annual Review letter 2019**

I write to you with our annual summary of statistics on the complaints made to the Local Government and Social Care Ombudsman about your authority for the year ending 31 March 2019. The enclosed tables present the number of complaints and enquiries received about your authority, the decisions we made, and your authority's compliance with recommendations during the period. I hope this information will prove helpful in assessing your authority's performance in handling complaints.

### **Complaint statistics**

As ever, I would stress that the number of complaints, taken alone, is not necessarily a reliable indicator of an authority's performance. The volume of complaints should be considered alongside the uphold rate (how often we found fault when we investigated a complaint), and alongside statistics that indicate your authority's willingness to accept fault and put things right when they go wrong. We also provide a figure for the number of cases where your authority provided a satisfactory remedy before the complaint reached us, and new statistics about your authority's compliance with recommendations we have made; both of which offer a more comprehensive and insightful view of your authority's approach to complaint handling.

The new statistics on compliance are the result of a series of changes we have made to how we make and monitor our recommendations to remedy the fault we find. Our recommendations are specific and often include a time-frame for completion, allowing us to follow up with authorities and seek evidence that recommendations have been implemented. These changes mean we can provide these new statistics about your authority's compliance with our recommendations.

I want to emphasise the statistics in this letter reflect the data we hold and may not necessarily align with the data your authority holds. For example, our numbers include

# Agenda Item 5

## Annex 1

enquiries from people we signpost back to your authority, some of whom may never contact you.

In line with usual practice, we are publishing our annual data for all authorities on our website, alongside our annual review of local government complaints. For the first time, this includes data on authorities' compliance with our recommendations. This collated data further aids the scrutiny of local services and we encourage you to share learning from the report, which highlights key cases we have investigated during the year.

### **New interactive data map**

In recent years we have been taking steps to move away from a simplistic focus on complaint volumes and instead focus on the lessons learned and the wider improvements we can achieve through our recommendations to improve services for the many. Our ambition is outlined in our [corporate strategy 2018-21](#) and commits us to publishing the outcomes of our investigations and the occasions our recommendations result in improvements for local services.

The result of this work is the launch of an interactive map of council performance on our website later this month. [Your Council's Performance](#) shows annual performance data for all councils in England, with links to our published decision statements, public interest reports, annual letters and information about service improvements that have been agreed by each council. It also highlights those instances where your authority offered a suitable remedy to resolve a complaint before the matter came to us, and your authority's compliance with the recommendations we have made to remedy complaints.

The intention of this new tool is to place a focus on your authority's compliance with investigations. It is a useful snapshot of the service improvement recommendations your authority has agreed to. It also highlights the wider outcomes of our investigations to the public, advocacy and advice organisations, and others who have a role in holding local councils to account.

I hope you, and colleagues, find the map a useful addition to the data we publish. We are the first UK public sector ombudsman scheme to provide compliance data in such a way and believe the launch of this innovative work will lead to improved scrutiny of councils as well as providing increased recognition to the improvements councils have agreed to make following our interventions.

### **Complaint handling training**

We have a well-established and successful training programme supporting local authorities and independent care providers to help improve local complaint handling. In 2018-19 we delivered 71 courses, training more than 900 people, including our first 'open courses' in Effective Complaint Handling for local authorities. Due to their popularity we are running six more open courses for local authorities in 2019-20, in York, Manchester, Coventry and London. To find out more visit [www.lgo.org.uk/training](http://www.lgo.org.uk/training).

Finally, I am conscious of the resource pressures that many authorities are working within, and which are often the context for the problems that we investigate. In response to that situation we have published a significant piece of research this year looking at some of the

## Agenda Item 5 Annex 1

common issues we are finding as a result of change and budget constraints. Called, Under Pressure, this report provides a contribution to the debate about how local government can navigate the unprecedented changes affecting the sector. I commend this to you, along with our revised guidance on Good Administrative Practice. I hope that together these are a timely reminder of the value of getting the basics right at a time of great change.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'M King', with a stylized flourish at the end.

Michael King  
Local Government and Social Care Ombudsman  
Chair, Commission for Local Administration in England

**Local Authority Report:** Thanet District Council  
**For the Period Ending:** 31/03/2019

For further information on how to interpret our statistics, please visit our [website](#)

### Complaints and enquiries received

Adult Care Services	Benefits and Tax	Corporate and Other Services	Education and Children's Services	Environment Services	Highways and Transport	Housing	Planning and Development	Other	Total
0	6	6	0	10	2	5	12	0	41

### Decisions made

Detailed Investigations				Total
Incomplete or Invalid	Advice Given	Referred back for Local Resolution	Closed After Initial Enquiries	Uphold Rate (%)
4	0	14	13	67
			8	43

**Note:** The uphold rate shows how often we found evidence of fault. It is expressed as a percentage of the total number of detailed investigations we completed.

### Satisfactory remedy provided by authority

Upheld cases where the authority had provided a satisfactory remedy before the complaint reached the Ombudsman	% of upheld cases
2	25

**Note:** These are the cases in which we decided that, while the authority did get things wrong, it offered a satisfactory way to resolve it before the complaint came to us.

### Compliance with Ombudsman recommendations

Complaints where compliance with the recommended remedy was recorded during the year*	Complaints where the authority complied with our recommendations on-time	Complaints where the authority complied with our recommendations late	Complaints where the authority has not complied with our recommendations	Number	Compliance rate**
2	2	0	0		
		100%	-		

**Notes:**  
 \* This is the number of complaints where we have recorded a response (or failure to respond) to our recommendation for a remedy during the reporting year. This includes complaints that may have been decided in the preceding year but where the data for compliance falls within the current reporting year.  
 \*\* The compliance rate is based on the number of complaints where the authority has provided evidence of their compliance with our recommendations to remedy a fault. This includes instances where an authority has accepted and implemented our recommendation but provided late evidence of that.

Reference	Authority	Category	Received
18000197	Thanet District Council	Benefits & Tax	05 Apr 2018
18000246	Thanet District Council	Benefits & Tax	06 Apr 2018
18000673	Thanet District Council	Highways & Transport	13 Apr 2018
18000855	Thanet District Council	Planning & Development	17 Apr 2018
18000982	Thanet District Council	Benefits & Tax	19 Apr 2018
18001240	Thanet District Council	Environmental Services & Public Protection & Regulation	24 Apr 2018
17017488	Thanet District Council	Environmental Services & Public Protection & Regulation	18 May 2018
17019690	Thanet District Council	Housing	18 May 2018
17015269	Thanet District Council	Corporate & Other Services	25 May 2018
18004882	Thanet District Council	Planning & Development	29 Jun 2018
18006221	Thanet District Council	Planning & Development	20 Jul 2018
18007028	Thanet District Council	Corporate & Other Services	03 Aug 2018
18007910	Thanet District Council	Environmental Services & Public Protection & Regulation	20 Aug 2018
18006675	Thanet District Council	Planning & Development	28 Aug 2018
18001708	Thanet District Council	Housing	04 Sep 2018
18008700	Thanet District Council	Corporate & Other Services	04 Sep 2018
18008730	Thanet District Council	Planning & Development	05 Sep 2018
18009474	Thanet District Council	Environmental Services & Public Protection & Regulation	18 Sep 2018
18003870	Thanet District Council	Housing	25 Sep 2018
18010068	Thanet District Council	Benefits & Tax	28 Sep 2018
18011172	Thanet District Council	Highways & Transport	19 Oct 2018
18011649	Thanet District Council	Environmental Services & Public Protection & Regulation	27 Oct 2018
18012106	Thanet District Council	Environmental Services & Public Protection & Regulation	05 Nov 2018
18001270	Thanet District Council	Corporate & Other Services	23 Nov 2018
18013264	Thanet District Council	Environmental Services & Public Protection & Regulation	27 Nov 2018
18012024	Thanet District Council	Planning & Development	05 Dec 2018
18010203	Thanet District Council	Planning & Development	12 Dec 2018
18014407	Thanet District Council	Planning & Development	18 Dec 2018
18014786	Thanet District Council	Planning & Development	02 Jan 2019
18013535	Thanet District Council	Planning & Development	09 Jan 2019

Reference	Authority	Category	Received
18015305	Thanet District Council	Housing	10 Jan 2019
18015439	Thanet District Council	Corporate & Other Services	14 Jan 2019
18015476	Thanet District Council	Benefits & Tax	14 Jan 2019
18016638	Thanet District Council	Planning & Development	01 Feb 2019
18017180	Thanet District Council	Planning & Development	11 Feb 2019
18017958	Thanet District Council	Environmental Services & Public Protection & Regulation	25 Feb 2019
18018164	Thanet District Council	Environmental Services & Public Protection & Regulation	27 Feb 2019
18018358	Thanet District Council	Environmental Services & Public Protection & Regulation	01 Mar 2019
18018827	Thanet District Council	Corporate & Other Services	11 Mar 2019
18018978	Thanet District Council	Benefits & Tax	12 Mar 2019
18019828	Thanet District Council	Housing	27 Mar 2019

Reference	Authority	Category	Decided	Decision	Decision Remedy	Service improvement recommendations
18000197	Thanet District Council	Benefits & Tax	05 Apr 2018	Premature Decision - advice given	Referred back for local resolution	
17019814	Thanet District Council	Benefits & Tax	18 Apr 2018	Other reason not to investigate	Closed after initial enquiries	
18000855	Thanet District Council	Planning & Development	11 May 2018	Not warranted by alleged injustice	Closed after initial enquiries	
18000982	Thanet District Council	Benefits & Tax	22 May 2018	26(6)(a) tribunal Other	Closed after initial enquiries	
17015269	Thanet District Council	Corporate & Other Services	05 Jun 2018	Not warranted by alleged injustice	Closed after initial enquiries	
17018812	Thanet District Council	Planning & Development	08 Jun 2018	mal & inj - no further action, BinJ already remedied	Upheld	
17018835	Thanet District Council	Planning & Development	08 Jun 2018	mal & inj - no further action, BinJ already remedied	Upheld	
18000673	Thanet District Council	Highways & Transport	20 Jun 2018	At request of complainant	Not Upheld	
16008881	Thanet District Council	Highways & Transport	26 Jun 2018	no mal	Not Upheld	

Reference	Authoriti	Category	Decided	Decision	Decision	Remedy	Service improvement recommendations
18006221	Thanet District Council	Planning & Development	20 Jul 2018	Premature Decision - advice given	Referred back for local resolution	Null	
18007028	Thanet District Council	Corporate & Other Services	03 Aug 2018	Premature Decision - advice given	Referred back for local resolution	Null	
18004882	Thanet District Council	Planning & Development	07 Aug 2018	Not warranted by alleged mal/service failure	Closed after initial enquiries	Null	
18007910	Thanet District Council	Environmental Services & Public Protection & Regulation	20 Aug 2018	Premature Decision - advice given	Referred back for local resolution	Null	
18008700	Thanet District Council	Corporate & Other Services	04 Sep 2018	Insufficient information to proceed and PA advised	Incomplete/Invalid	Null	
17014087	Thanet District Council	Planning & Development	12 Sep 2018	26B(2) not made in 12 months	Closed after initial enquiries	Null	
18000246	Thanet District Council	Benefits & Tax	17 Sep 2018	mal & inj	Upheld	Apology, Financial redress: Avoidable distress/ti me and trouble, Procedure or policy change/re view	By 21 December 2018, the Council has agreed to ask a senior manager to review the process of sending out multiple letters on the same date to the same claimant, with a view to ensuring covering letters become normal practice. In this way, the Council will hopefully be able to avoid a similar issue to that identified in this case in future.

Reference	Authoritl Category	Decided	Decision	Decision Remedy	Service improvement recommendations
17017488	Thanet District Council Environmental Services & Public Protection & Regulation	01 Oct 2018	no mal	Not Upheld	Null
17013382	Thanet District Council Planning & Development	03 Oct 2018	mal no inj	Upheld	Null
18006675	Thanet District Council Planning & Development	09 Oct 2018	26(6)(b) appeal to Minister	Closed after initial enquiries	Null
18001240	Thanet District Council Environmental Services & Public Protection & Regulation	15 Oct 2018	mal & inj	Upheld	Other Remedy
18011172	Thanet District Council Highways & Transport	19 Oct 2018	Insufficient information to proceed and PA advised	Incomplete/Invalid	Null
18011649	Thanet District Council Environmental Services & Public Protection & Regulation	27 Oct 2018	Premature Decision - advice given	Referred back for local resolution	Null
17019690	Thanet District Council Housing	08 Nov 2018	mal & inj	Upheld	Apology, Training and guidance
18010068	Thanet District Council Benefits & Tax	16 Nov 2018	26B(2) not made in 12 months	Closed after initial enquiries	Null
18013264	Thanet District Council Environmental Services & Public Protection & Regulation	27 Nov 2018	Premature Decision - advice given	Referred back for local resolution	Null

Reference	Authori	Category	Decided	Decision	Decision	Remedy	Service improvement recommendations
18009474	Thanet District Council	Environmental Services & Public Protection & Regulation	03 Dec 2018	No worthwhile outcome achievable by further investigation	Not Upheld	Null	
18012024	Thanet District Council	Planning & Development	05 Dec 2018	Premature Decision - advice given	Referred back for local resolution	Null	
18012106	Thanet District Council	Environmental Services & Public Protection & Regulation	21 Dec 2018	Not warranted by alleged mal/service failure	Closed after initial enquiries	Null	
18015305	Thanet District Council	Housing	10 Jan 2019	Premature Decision - advice given	Referred back for local resolution	Null	
18001270	Thanet District Council	Corporate & Other Services	15 Jan 2019	26(6)(a) tribunal ICO FOIA only	Closed after initial enquiries	Null	
18015476	Thanet District Council	Benefits & Tax	29 Jan 2019	Premature Decision - referred to BinJ	Referred back for local resolution	Null	
18010203	Thanet District Council	Planning & Development	30 Jan 2019	No worthwhile outcome achievable by investigation	Closed after initial enquiries	Null	
18014786	Thanet District Council	Planning & Development	07 Feb 2019	Not warranted by alleged injustice	Closed after initial enquiries	Null	

Reference	Authorif	Category	Decided	Decision	Decision	Remedy	Service improvement recommendations
18017180	Thanet District Council	Planning & Development	11 Feb 2019	Premature Decision - advice given	Referred back for local resolution	Null	
18015439	Thanet District Council	Corporate & Other Services	13 Feb 2019	Insufficient information to proceed and PA advised	Incomplete/Invalid	Null	
18017958	Thanet District Council	Environmental Services & Public Protection & Regulation	25 Feb 2019	Premature Decision - advice given	Referred back for local resolution	Null	
18001708	Thanet District Council	Housing	27 Feb 2019	mal & inj	Upheld	New appeal/rev iew or reconsider ed decision	
18018164	Thanet District Council	Environmental Services & Public Protection & Regulation	27 Feb 2019	Insufficient information to proceed and PA advised	Incomplete/Invalid	Null	
18018358	Thanet District Council	Environmental Services & Public Protection & Regulation	01 Mar 2019	Premature Decision - advice given	Referred back for local resolution	Null	
18018978	Thanet District Council	Benefits & Tax	12 Mar 2019	Premature Decision - advice given	Referred back for local resolution	Null	
18018827	Thanet District Council	Corporate & Other Services	15 Mar 2019	S27 not by member of the public	Closed after initial enquiries	Null	

Reference	Authorit Category	Decided	Decision	Decision Remedy	Service improvement recommendations	
18008730	Thanet District Council Planning & Development	20 Mar 2019	mal & inj	Upheld	Apology	I am pleased to see the complaint has prompted the Council to write a procedure, that may help in future in clarifying what the Council expects of its officers when they carry our listed building site visits. The Council has also agreed to share with its planning enforcement officers my final decision and the Ombudsman's Principles of Good Administrative Practice guidance.
18019828	Thanet District Council Housing	27 Mar 2019	Premature Decision - advice given	Referred back for local resolution	Null	

Reference	Authority	Category	Decided	Remedy	Remedy Target Date	Remedy Achieved Date	Satisfaction with Compliance
17010079	Thanet District Council	Benefits & Tax	17-Sep-18	Apology Financial redress: Avoidable distress/time and trouble Procedure or policy change/review	21-Dec-18	10-Jan-19	Remedy complete and satisfied
18009601	Thanet District Council	Housing	8-Nov-18	Apology Training and guidance	6-Dec-18	10-Dec-18	Remedy complete and satisfied

<b>Outcome Date</b>	<b>Issue</b>	<b>Conclusion</b>	<b>Learning Points</b>
April 2018	Mr A, complains that the Council holds him liable for business rates and has asked the court to grant a liability order.	The Ombudsman will not investigate this complaint. This is because the matter will be decided in court.	None for the Council
May 2018	Ms B complains about the Council's decision to charge 150% Council Tax on an empty property.	The Ombudsman will not investigate this complaint. This is because she can appeal the Council's decision that the property was empty to the Tribunal.	None for the Council
June 2018	Mr Y, complains a local councillor breached the code of conduct by meeting privately with a developer. Mr Y is unhappy about how the Council dealt with complaints about this matter.	We will not investigate this complaint. Mr Y is not caused significant personal injustice from his complaint; we cannot achieve the outcome he seeks; and it is unlikely the Council acted with fault.	None for the Council
June 2018	Miss D says the Council failed to notify her about a planning application for new homes near her property in 2016 and failed to consider the impact of the plans on her amenity.	I have completed the investigation and upheld the complaint. I do not see there is a significant unremedied injustice to Miss D.	The Council has improved its procedural checks since this case to prevent similar failings happening again.
11 June 2018	Mr G says the Council failed to notify him about a planning application for new homes near his property in 2016. He also complains about the Council's planning enforcement investigation.	I have found evidence of fault but no significant unremedied injustice. I am completing the investigation and have upheld the complaint.	The Council has improved its procedural checks regarding planning applications since this case to prevent similar failings happening again.

21 June 2018	Mr A complains about fly tipping in his road. He says Thanet District Council's response to his concerns was inadequate	I have discontinued my investigation into fly tipping, at Mr A's request.	Rubbish was removed and complaint was withdrawn
8 August 2018	Mr X, complains about the Council's failure to take prompt enforcement action against his neighbour. As a result he says that he has been left with an extended wall which causes maintenance problems to his property and affects his amenity.	The Ombudsman should not investigate this complaint. This is because there is insufficient evidence of fault on the Council's part which would warrant an investigation.	None for the Council
Oct 2018	Ms B complains the Council has consistently missed recycling collections in her road since July 2017 which has caused her inconvenience and frustration.	Ms B has not been caused injustice as a result of fault by the Council and we will not pursue the complaint any further.	Problems in collecting the recycling bins from her street are the result of the narrowness of the road and residents and visitors parking their vehicles in such a way which prevents access for the collection vehicles.
Oct 2018	The complainant whom I shall refer to as Mr X complains about the way the Council dealt with and approved a planning application at a neighbouring property causing him distress.	We found fault because the Council misrepresented rooms in Mr X's property in its planning report. But this fault did not cause Mr X an injustice.	Council will investigate further allegations of breaches

Oct 2018	Mr X complains the Council has refused to give permission for emergency works on a listed building or agree with his view that he can lawfully do the work. Mr X says the Council failed to properly assess his request to replace an insecure window and do urgent structural repairs.	The Ombudsman will not investigate Mr X's complaint about the Council refusing his request to do urgent works on a listed building. Mr X has a right of appeal to the planning inspector because the Council has refused his formal application for the works.	None for the Council
Oct 2018	Mrs X says the Council is at fault for missing recycling collections in her road on many occasions this year. She says her refuse collections have not been missed and therefore she questions why there have been problems with her recycling collections.	I have ended my investigation as the Council has agreed to take the above action.	I note that collections have improved since monitoring was put in place. I recommended the Council continue monitoring collections for the next six months. I also suggested the Council ensures that two refuse lorry drivers are familiar with the route so that suitable cover can be provided should the regular driver be unavailable. The Council agreed.
Nov 2018	Mrs X, complains that the Council failed to take appropriate action against her landlord or provide her with housing support. She states this has resulted in her living in unsuitable accommodation.	There is no evidence of fault with the Council's inspections of disrepair issues or in its enforcement of selective licensing conditions. But, at times, its communication with Mrs X should have been clearer. The Council should have also taken a homelessness	Apologise to Mrs X for the distress, frustration and uncertainty she has experienced. Issue a guidance note to relevant staff about good communication between the homelessness and housing

		application earlier.	allocation departments to ensure no homelessness applications are missed.
Nov 2018	Mr B, complained that in 1994 the Council pursued court action against him for non-payment of business rates when he had paid the amount demanded. He told us he received a prison sentence.	The Ombudsman will not investigate Mr B's complaint This is because we cannot investigate complaints about the Council's commencement or conduct of court proceedings, Mr B's complaint is late and I have decided not to exercise discretion to investigate it after such a significant lapse of time.	None for the Council
Dec 2018	Mr B complains the Council has regularly failed to make a waste collection from his property over the past 12 months.	The problems of missed waste collections have been resolved and I do not, therefore, consider there are grounds to investigate the complaint further.	The Council introduced a smaller collection vehicle on 1 October which has resolved the issues.
Dec 2018	Miss X, complains about the Council's decision to withdraw its green waste collection service. She says she wishes to continue recycling her green waste and that the service, which residents pay for, should be re-instated.	The Ombudsman should not investigate this complaint. This is because there is insufficient evidence of fault which would warrant an investigation.	None for the Council
Jan 2019	Mr B, is dissatisfied with the Council's responses to his information requests.	The Ombudsman will not investigate this complaint about the Council's response to the complainant's freedom of information requests. This is because it is reasonable to	None for the Council

		expect the complainant to have pursued his concerns with the Information Commissioner.	
Jan 2019	Mr X, complains the Council delayed in taking action against the owner of land near to his house which adversely affected the amenity of the area.	The Ombudsman will not investigate Mr X's complaint. It is unlikely we would find fault causing Mr X significant injustice or that investigation would achieve any worthwhile outcome for him.	None for the Council
Feb 2019	Mr and Mrs X, complain the Council failed to consider the impact of a new side-facing window, approved as part of a wider proposal for development to their neighbour's property, on their privacy.	The Ombudsman will not investigate Mr and Mrs X's complaint. It is unlikely we would find fault by the Council causing Mr and Mrs X significant injustice.	None for the Council
Feb 2019	Ms X complains the Council has refused their application to join the housing register.	The Council is at fault as it has not properly considered the information Ms X supplied in support of her application. It has agreed to do so now.	Within one month of the date of this final decision, the Council has agreed to reconsider the information supplied The Council should clearly set out how it reached its decision and what information it took into account.
Mar 2019	Miss X, complains a Council officer has breached political impartiality by re posting a comment from an MP on social media.	We cannot investigate as Miss X does not complain as a member of the public. The complaint is therefore outside our legal remit.	None for the Council

Mar 2019	Mr J, is a landlord. He complains on behalf of his tenant (Ms K), his builder and letting agent, about the behaviour of a Council officer.	The Ombudsman upholds the complaint and has agreed recommendations, including an apology.	The Council to write a procedure, that may help in future in clarifying what the Council expects of its officers, when they carry out listed building site visits. A senior officer from the Council write to the three complainants apologising for the fault. The Council share with its planning enforcement officers my final decision and the Ombudsman's Principles of Good Administrative Practice guidance.

<b>COMPLAINT NO:</b>	<b>DATE</b>	<b>PROGRESS</b>	<b>COMPLAINANT</b>	<b>AGAINST</b>	<b>ALLEGATION</b>
TDCSC213/19	18/02/19	Informal Dispute Resolution procedure instigated.  Closed.	Parish Councillor	Parish Councillors	Complainant alleges that subject members are bullying and harassing them.
TDCSC214/19	18/02/19	Did not meet jurisdiction test.  Closed	Member of the public	-	-
TDCSC215/19	18/02/19	Did not meet jurisdiction test.  Closed	Member of the public	-	-
TDCSC216/19	20/02/19	Did not meet jurisdiction test.  Closed	Member of the public	-	-

TDCSC217/19	25/02/19	Initial jurisdiction test.  Closed	Parish Councillor	Parish Councillors	-
TDCSC218/19	28/02/19	Did not meet jurisdiction test.  Closed	Member of the public	Parish Councillor	-
TDCSC219/19	28/02/19	Did not meet jurisdiction test.  Closed	Member of the public	TDC Councillor	-
TDCSC220/19	08/03/19	Referred to MO for investigation. Councillor not re-elected.  Closed.	TDC Officer	TDC Councillor	Allegations of bullying and bringing the council into disrepute with posts made on social media.
TDCSC221/19	12/03/19	Insufficient evidence. NFA.	Member of the public	TDC Councillor	Allegations of bullying and "trolling" on social media.

		Closed.			
TDCSC222/19	27/03/19	Did not meet jurisdiction test.  Closed	Member of the public	Parish Councillor	-
TDCSC223/19	18/04/19	Complainant requested anonymity but did not advise on what grounds. No response to follow up.  Councillor not re-elected.  Closed.	Member of the public	TDC Councillor	Allegations made regarding offensive posts on social media.
TDCSC224/19	25/04/19	Councillor not re-elected.  Closed.	Other council officer or authority employee	TDC Councillor	Allegations made regarding offensive posts on social media.

TDCSC225/19	28/04/19	Did not meet jurisdiction test.  Closed	Member of the public	Officer	-
TDCSC226/19	31/05/19	Did not meet jurisdiction test.  Closed	Members of the public	TDC Councillor	-
TDCSC227/19	25/06/19	Did not meet jurisdiction test.  Closed	Member of the public	Officer	-
TDCSC228/19	19/07/19	Did not meet jurisdiction test.  Closed	Member of the public	TDC Councillor	-
TDCSC229/19	30/07/19	NFA  Closed.	Members of the public	Parish Councillor	Allegations that the subject member was not eligible to hold office, had brought the parish into disrepute, dishonest and rude.

TDCSC230/19	12/08/19	Did not meet jurisdiction test.  Closed	Member of the public	Officer	-
TDCSC231/19	21/08/19	NFA  Closed.	Officer	TDC Councillor	Allegations that the subject member had made inappropriate comments to the media regarding staffing matters.
TDCSC232/19	29/08/19	NFA  Closed.	Member of the public	TDC Councillor	Allegations that the subject member had made inappropriate comments to the media regarding staffing matters.
TDCSC233/19	09/09/19	Did not meet jurisdiction test.  Closed	Member of the public	Dover District Council	-
TDCSC234/19	19/09/19	Did not meet jurisdiction test.  Closed	Member of the public	TDC Councillor	-
TDCSC235/19	23/09/19	Did not meet jurisdiction test.  Closed	Member of the public	KCC	-

TDCSC236/19	16/10/19	Did not meet jurisdiction test.  Closed	Member of the public	TDC Councillor	-
TDCSC237/19	20/12/19	Did not meet jurisdiction test.  Closed	Member of the public	TDC Councillor	-