

Independent Chair of Standards' Annual Report

Council	28 March 2019
Report Author	Dr Jonathan Sexton, Independent Chairman of Standards Committee
Status	For Information
Classification:	Unrestricted

Executive Summary:

The Chairman's annual report summarises and comments on the work of the Standards Committee for the period March 2018 - March 2019.

Recommendation(s):

Members note the report.

CORPORATE IMPLICATIONS

Financial and Value for Money	None arising from this report.
Legal	The role of the Standards Committee is to promote high standards of conduct by councillors and co-opted members in accordance with the Members' Code of Conduct. This report relates to the Committee's function to monitor the effectiveness of the Code of Conduct.
Corporate	The role of the Standards Committee is to promote high standards of conduct by councillors and co-opted members in accordance with the Members' Code of Conduct. This report relates to the Committee's function to monitor the effectiveness of the Code of Conduct.
Equality Act 2010 & Public Sector Equality Duty	<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 & maternity. Only aim (i) of the Duty applies to Marriage & civil partnership.</p>

	Please indicate which aim is relevant to the report.	
	Eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act,	x
	Advance equality of opportunity between people who share a protected characteristic and people who do not share it	x
	Foster good relations between people who share a protected characteristic and people who do not share it.	x

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

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

1.0 My fifth report to Thanet District Council covers the Municipal Year 2018/19.

2.0 A Review of Local Government Ethical Standards in England

2.1 In last year's report reference was made to the above named review then underway and that evidence to the review would be submitted separately by both the Authority's Monitoring Officer and also by myself.

2.2 Now published in January 2019 and at the time of writing not considered by any committee of the Council, the review report states that the vast majority of councillors elected to local authorities throughout the country maintain the highest standards of conduct. However, a small minority do not. The following principal recommendations are made:

- A model Code of Conduct be published for local adoption as exemplar. The responsibility for maintaining that Code should remain with each authority, there being no need to create an elaborate national or regional oversight mechanism.
- The scope of the Code should be widened with a rebuttable presumption that a councillor's behaviour, including comments made on publicly accessible social media, is in their official capacity.
- The current scope of declaration of interest is unclear and too narrow and needs to be replaced by an objective test.
- Standards Committees should be retained with Independent person involvement to manage impartiality and to manage proportionality of sanction
- The sanctions themselves should be strengthened. This should include suspension without allowances for up to six months. There would be a right of appeal to the Ombudsman whose determination would be final. However the nature of that appeal is likely to be one focused on process rather than an appeal because of objections to a panel's findings.
- Parish and Town Councils should be required to adopt the Code of the principal authority and decisions and sanctions on a Parish/Town councillor would be binding.

- All Councils need an ethical culture. That is what fundamentally the Standards function is about.

2.3 In my view these are welcome changes and reflect some of the submissions I made. Implementing the report recommendations will require some changes requiring primary legislation (i.e parliamentary time) and thus the challenge of gaining this when other more immediate matters of national concern are preoccupying parliament at present, may delay progress.

3.0 Constitutional Review Working Party (CRWP) and Standards Committee Meetings

3.1 CRWP has met three times this year. On 14th June 2018 it considered proposed changes to Overview and Scrutiny procedures; meeting 14th August it received proposals of East Kent wide application for Standing Orders for Contracting processes; on 22nd January 2019 it recommended mandatory training for Members of Regulatory Committees, this latter being commended to the Council as current best practice.

3.2 Correspondingly Standards Committee met on 26th June 2018 and 11th September to review CRWPs deliberations and also at the latter also to receive the Local Government Ombudsman's Annual Letter. At the time of writing, further meetings of Standards Committee are scheduled. The infrequency of CRWP meetings continues to be testament to the considerable work to overhaul the Council's Constitution during the period 2015/16. Meetings of the Standards Committee whilst scheduled in annual meetings cycle are held only whenever there are issues to be discussed and do not meet merely for the sake of fulfilling a schedule.

4.0 Town and Parish Councils in the Thanet Area

4.1 As will be seen from the next section, the one complaint of 2018 judged to warrant the formality of independent investigation arose in relation to a town/parish councillor. Aside from the specific facts of this case, the investigation findings highlighted some shortcomings in the planning procedures and in the related conduct of meetings by that council. Informally I understand that these are now being addressed. However, it suggests a general training need which might require addressing amongst all such councils and the continued obligation by the latter to find the resources necessary for this.

4.2 I am grateful for the help received from Cllr John Way and Cllr John Quittenden, the parish council members who are nominated to sit on the Thanet Standards Committee. Their insight is valuable when Sub Committees are formed to address complaints involving Parish and Town Council Members.

5.0 Complaints about Member Behaviour Considered by Thanet District Council 2018/19

5.1 The totality of complaints received relating to both District and Town/Parish Councils is set out in the table below. In view of the data (small numbers) an expression in percentage terms might lead to misleading or sensational interpretation. Absolute numbers are therefore used.

COMPLAINT NO:	DATE	PROGRESS	COMPLAINANT	AGAINST	ALLEGATION
2018					
TDCSC192/18	26/02/18	Informal dispute resolution. Closed	Member of the public	TDC Councillor	Complainant alleged subject member made inappropriate post on social media regarding an officer.
TDCSC193/18	27/02/18	Did not meet jurisdiction test. Closed	Member of the public	TDC Councillor	-
TDCSC194/18	05/03/18	Did not meet jurisdiction test. Closed	Member of the public	-	-
TDCSC195/18	07/03/18	Did not meet jurisdiction test. Closed	Member of the public	TDC Councillor	-
TDCSC196/18	08/03/18	Did not meet jurisdiction test. Closed	Member of the public	TDC Councillor	-
TDCSC197/18	15/03/18	Did not meet jurisdiction test. Closed	Member of the public	TDC Councillors	-
TDCSC198/18	11/04/18	Did not meet jurisdiction test.	TDC Councillor	TDC Councillor	-

		Closed			
TDCSC199/18	16/04/18	Did not meet jurisdiction test. Closed	TDC Councillor	TDC Councillor	-
TDCSC200/18	29/05/18	Did not meet jurisdiction test. Closed	Member of the public	TDC Councillor	-
TDCSC201/18	06/06/18	Did not meet jurisdiction test. Closed	TDC Councillor	TDC Councillor	-
TDCSC202/18	16/07/18	Did not meet jurisdiction test. Closed	Other council officer or authority employee	TDC Councillor	-
TDCSC203/18	16/07/18	Did not meet jurisdiction test. Closed	Member of the public	Parish Councillors	-
TDCSC204/18	18/07/18	Did not meet jurisdiction test. Closed	Member of the public	Parish Councillor	-
TDCSC205/18	24/07/18	Did not meet jurisdiction test. Closed	Other	District Councillor	-
TDCSC206/18	19/07/18	Investigation Breach of Code Closed	Member of the public	Parish Councillor	Complainant alleged that Subject Member has tried to use their position

					to gain a personal advantage.
TDCSC207/18	27/09/18	Did not meet jurisdiction test. Closed	Member of the public	Parish Councillor	-
TDCSC208/18	03/10/18	No further action Closed	District Councillor and member of the public	District Councillor	Complainant alleged that the Subject Member misrepresented their position in order to influence and had brought the Council into disrepute.
TDCSC209/18	15/10/18	Did not meet jurisdiction test. Closed	Member of the public	Officer	-
TDCSC210/18	26/11/18	Informal dispute resolution. Closed	Other	District Councillor	Complainant alleged that the subject member had been rude to multi-agency professionals in public forum and had brought their position into disrepute.
TDCSC211/18	26/11/18	Did not meet jurisdiction test. Closed	Member of the public	District Councillor	-

TDCSC212/18	19/12/18	Did not meet jurisdiction test. Closed	Member of the public	District Councillor	-
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5.2 The Council received 21 complaints, of these 17 did not pass the initial jurisdiction test and therefore were rejected. The remaining 4 progressed for further scrutiny. Of these 2 cases were found to have potentially breached the Code of Conduct, but their nature was such that Informal Resolution was judged the appropriate sanction, typically a letter of admonishment from the Monitoring Officer. One complaint (concerning a Parish/Town councillor) was judged to warrant formal investigation and found proven. In the final case one member complaining about the actions of another it was determined by the relevant sub committee that no further action was the appropriate response.

5.3 Overall therefore during 2018/19 there was a welcome reduction in the number of complaints both received in absolute terms, managed through the complaints process, and most importantly in being found to be of substance. This level is at the lowest since I have had oversight of Standards.

5.4 From the perspective of managing the complaints process I am delighted that the informal performance management standard of an average acknowledgement from receipt of 3 working days, and an average of 28 days to the meeting of an assessment Sub Committee, has been maintained. In that regard I would like to commend Emily Kennedy for her personal commitment to achieving these time thresholds.

5.5 I must also place on record my continued appreciation for the work of the investigation officer in relation to the two investigations which were carried out. His work is judged to be of a high professional standard, undertaken consciously and in a timely manner. I must again remind Members however, that formal investigations are not budgeted for. Resort to formal investigations is not given lightly and is driven by severity of the allegations.

6.0 Standards Ethics and Governance

6.1 During the autumn of 2018 Full Council was asked to declare a vacancy for a ward because the then incumbent Member became disqualified through having accepted a paid post with the Council; this being contrary to the Local Government Act 1972.

6.2 This issue became a source of some debate across a range of Members in the political groupings, not just the group most directly affected, as well as from certain politically committed members of the community. It would also be fair to state that there was some sympathy for the ex Member and the situation he had found himself in. When the declaration item came to Full Council on 11th October the meeting necessarily adjourned due to disruption from the public gallery; on being reconvened on 15th October, Members declined to enable the declaration to be made. It was subsequently acknowledged by Officers that the original report was rather brief and that more background information could have been provided.

- 6.3 Finally on on 27th November a specially convened Full Council was presented with the formality of a Monitoring Officer Report stating the full legal position and consequent risks of not making the vacancy declaration. Only then was the declaration of vacancy passed albeit still with some reluctance in some quarters.
- 6.3 At the outset, it should be stated that there was obvious miscommunication and procedural error involved in this recruitment. I am advised that recruitment controls and training across the Council have strengthened to manage down the risk of a repetition of this kind of mistake in the future.
- 6.4 What has this to do with Standards? No conduct complaints were received (though as an observer at two of the meetings I consider that the behaviour of some individual Members fell short). There are four responses to this.
- 6.5 Firstly the timely publication of the aforementioned report on Ethical Standards in Local Government stresses that an ethical culture requires leadership from a range of individuals and groups. The aim of a Standards system is to maintain that culture and ethical practice. So Standards is about more than complaints, indeed the incidence of proven complaints is a good indicator of ethical failure. The maintenance of Standards is fundamental to the way any Council does all its business.
- 6.7 Secondly the role of Monitoring Officer has to be impartial and objective: to ensure that the functions of the Council are properly discharged in accordance with the principles of good governance. That obligation overrides all other considerations, notwithstanding that this can lead to instances such in this case of 'truth speaking to power'.
- 6.8 Thirdly through its adoption of the local code of Corporate Governance 2016 (as updated regularly since) Members are committed to respect legal provision notwithstanding that on occasions, such as this instance, it can have uncomfortable or 'disappointing' consequences. Respect for the rule of law also has direct resonance with the Members Code of Conduct and with the Seven Principles of Public Life. It should not have taken three meetings, two of which had to be specially convened to get this vacancy declaration moved.
- 6.9 Lastly it is regrettable that no Member, at least publicly, took a 'reflective' approach to the issue and ask 'what would this appointment look like to the public?' The appointment to a paid post of an elected member, even for something as worthy and socially relevant in Thanet as in this case, would surely have raised a heightened degree of public cynicism towards Thanet District Council, ('all they are interested in is lining their pockets and creating nice jobs for themselves 'etc). It is to avoid such assertions that the relevant provision within the 1972 Act (despite its age) is designed for.
- 6.10 I would urge that serious consideration is given to the constitutional change necessary that future ward vacancies are, as an administrative function, declared by the Council Chief Executive in line with all other casual vacancies.

7.0 Training and The Next Council

- 7.1 I want to end with some congratulations. As announced in early autumn, Thanet District Council has been awarded Charter status for Elected Member Development

and is only one of three Councils in Kent to be so designated, one of the other two being KCC. In earlier reports I have commended to the Council the importance of Members' training and it is good that many (not me!) have worked hard to achieve this. I particularly recognise Nick Hughes for his leadership in achieving Charter status for the council.

7.2 A new Council will be elected in May 2019 and I have been shown the outline programme for all Members, those new elected as well as old hands, to enjoy and benefit from.

8.0 Thanks

8.1 I would like to thank Tim Howes, Monitoring Officer for his wisdom knowledge and professional integrity. My thanks also go to the officers of Democratic Services who continue to serve the Standards agenda with diligence. I must acknowledge the support of Mrs Janet Bacon, Vice Chair of Standards who has ably deputised on several occasions when I have been unavailable during the past year. I must also note the contribution of Mr Dennis James who independently assesses all potential complaints to determine their jurisdiction test, and his assistant, Mr Peter Tucker, who among other things has often kept me company when sitting in the public gallery during meetings of Full Council.

8.2 Finally I would like to acknowledge those elected Members of the Standards Committee who have severally contributed on convened Standards Committees. It is never easy to pass judgement on other elected colleagues and their essential contribution to good governance should be publicly acknowledged.

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

Annex List

	<i>None</i>
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Background Papers

Title	Details of where to access copy
	None