

09 February 2016 at 7.00 pm

Conference Room, Argyle Road, Sevenoaks
Despatched: 01.02.16



Standards Committee

Membership:

Chairman, Cllr. Gaywood; Vice-Chairman, Cllr. Ball
Cllrs. Bosley, McGregor, Mrs. Morris and Reay

Agenda

	Pages	Contact
Apologies for Absence		
1. Minutes To agree the Minutes of the meeting of the Committee held on 22 January 2015, as a correct record	(Pages 1 - 4)	
2. Declarations of interest Any interests not already registered		
3. Monitoring Officer's Annual Report	(Pages 5 - 24)	Christine Nuttall Tel: 01732 227245
4. Interpretation of Disclosable Pecuniary Interests	(Pages 25 - 28)	Christine Nuttall Tel: 01732 227245

EXEMPT INFORMATION

At the time of preparing this agenda there were no exempt items. During any such items which may arise the meeting is likely NOT to be open to the public.

If you wish to obtain further factual information on any of the agenda items listed above, please contact the named officer prior to the day of the meeting.

Should you need this agenda or any of the reports in a different format, or have any other queries concerning this agenda or the meeting please contact Democratic Services on 01732 227247 or democratic.services@sevenoaks.gov.uk.

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STANDARDS COMMITTEE

Minutes of the meeting held on 22 January 2015 commencing at 7.00 pm

Present: Cllr. Gaywood (Chairman)

Cllr. Ball (Vice-Chairman)

Cllrs. Mrs. Bosley and Lindsay

Apologies for absence were received from Cllr. Mrs. Bracken

Cllr. Bosley was also present.

1. Minutes

Resolved: That the minutes of the Standards Committee held on 16 January 2014, be approved and signed as a correct record.

2. Declarations of interest

No additional declarations of interest were made.

3. Actions from Previous Meeting

The Committee noted that an email was circulated to all Members on 17 February 2014 regarding updating pecuniary interest forms.

4. Monitoring Officers Annual Report

The Monitoring Officer presented her tenth Annual Report, which provided an overview of the work of the Monitoring Officer; the work of the Standards Committee; and other governance arrangements monitored by other committees within the Council. Members were notified that ethical standards at the Council were high, there had been no cases of maladministration and although there had been 18 complaints made to the Local Government Ombudsman over the year, this figure was low compared with other local authorities. No compensation payments had been made this year in relation to local settlements.

The Committee reviewed the summary of the six complaints against Members within the report. All complaints were to do with Parish Councils and no complaints had gone forward for investigation. The Monitoring Officer reported that since publication of the agenda one complaint concerning a Parish Councillor had been received.

In response to a question, the Monitoring Officer reported that the new system that had been implemented was much improved on the previous regime and as a result of this there had been a reduction in the number of frivolous complaints received. However, the

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Standards Committee - 22 January 2015

high number of Town and Parish Councils within our District compared with other authorities meant that there was a higher risk of complaints being received.

The Monitoring Officer reported that plans were in place to provide training for Members following the election in May 2015. The Clerks of Parish/Town Councils would also be invited to attend the training, as this could benefit achieving a reduction in the number of complaints received.

The Committee thanked the Monitoring Officer for all her work.

Resolved: That the Monitoring Officer's Annual Report be noted and recommended to Council to note.

5. Ethical Standards for Members

The Monitoring Officer presented a report providing information on recent publications concerning ethical standards for Members. One of the remits of the Standards Committee at Sevenoaks District Council (SDC) was to maintain and promote high standards of conduct by Members and Co-opted Members of SDC and to advise and assist Parish/Town Councils and Parish/Town Councillors to maintain high standards of conduct.

In response to a question, the Monitoring Officer confirmed that following the election in May all Members of the Council would be required to complete a new Declaration of Acceptance of Office Form agreeing to abide by the Code of Conduct and would be required to complete the Disclosable Pecuniary Interests Form as well as Non Pecuniary Interests Form. The forms would then be published on the Council's website in line with statutory requirements.

The Monitoring Officer highlighted the DCLG publication entitled "Openness and transparency on personal interests" as giving valuable information on the interpretation of interests. The Monitoring Officer indicated that Members should be vigilant in making sure their Disclosable Pecuniary Interests Form is up to date as information had been received from the Local Government Lawyer published on the 18th November 2014 giving information that the Crown Prosecution Service had authorised the police to institute proceedings against the leader of Dorset County Council for three offences under the Localism Act for failing to declare interests. He has pleaded not guilty and the case has been adjourned until April 2015.

The Monitoring Officer reported that Appendix A to the report related to 'Duel-Hatted' Members. In January 2013, an informal view had been received from the Department for Communities and Local Government (DCLG) concerning the disclosable pecuniary interests of duel-hatted councillors. It was the view of the DCLG that where a councillor received a taxable allowance from any authority of which they were a member, the allowance would give rise to a disclosable pecuniary interest that should be entered on the register of interests. The question of whether a councillor had a disclosable pecuniary interest in an item of council business relating to another authority of which they were a member would depend on the nature of what was to be discussed.

In response to a question, the Monitoring Officer confirmed that Members sitting on Town/Parish Councils should declare their District Council allowance on the relevant part of the Town/Parish Disclosable Pecuniary Interest Form.

The Chairman suggested that if Members had any concerns they should speak to the Monitoring Officer as soon as possible.

Resolved: That the report be noted.

6. The Seven Principles of Public Life

The Monitoring Officer introduced a report setting out the work undertaken by the Committee on Standards in Public Life in relation to the Seven Principles of Public Life. The Localism Act 2011 required that a relevant authority must promote and maintain high standards of conduct by Members and Co-opted Members of the authority. An authority must ensure that a Code adopted by it, when viewed as a whole, was consistent with the Seven Principles of Public Life.

Members noted that the Committee on standards in Public Life had concluded that the seven principles should be kept although the brief descriptions appended to each of the seven principles should be updated.. The revisions were outlined in the report to the Committee. The Monitoring Officer assured the Committee that when the new standards regime was implemented by Sevenoaks District Council this Committee had taken a lot of trouble in evaluating the descriptions and changing them where necessary. However, if the Committee was minded to look at this further a working group could be set up.

Resolved: That the guidance set out in the report be noted.

THE MEETING WAS CONCLUDED AT 7.40 PM

CHAIRMAN

MONITORING OFFICER'S ANNUAL REPORT

Standards Committee - 9 February 2016

Report of Monitoring Officer

Status: For consideration

Also considered by: Council - 16 February 2016

Key Decision: No

This report supports the Key Aim of effective management of Council resources.

Contact Officer(s) Mrs Christine Nuttall - Chief Officer Legal and Governance

Recommendation to the Standards Committee: That the Monitoring Officer's Annual Report be noted.

Recommendation to Full Council: That the Monitoring Officer's Annual Report be noted.

Reason for recommendation: This report sets out the work of the Monitoring Officer, Standards Committee and other governance arrangements monitored by other committees within the Council thus providing Members and the public with valuable information which should promote Member and Public confidence in the high ethical standards set by the Council.

Introduction and Background

- 1 This is the eleventh Annual Report of the Monitoring Officer as attached as an Appendix to this report.
- 2 The purpose of the Monitoring Officer's Report is to provide an overview of the work of the Monitoring Officer, the work of the Standards Committee and the general governance arrangements within the Council in the past year and to provide an opportunity to review and learn from experience.
- 3 The information contained within this Report will also provide Members of the Standards Committee, with an overview of the workings of the Council thus providing them with valuable information to facilitate the carrying out of their functions.

Substance of Report

- 4 The Monitoring Officer's Report sets out the Monitoring Officer's statutory responsibilities, summarises how these duties have been discharged during

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2015 in accordance with the Council's Constitution, legislative requirements and draws attention to those issues that will require attention in the next calendar year.

Key Implications

Financial

- 5 The Monitoring Officer's Report has not identified any financial implications for this Council over and above normal requirements.

Legal Implications and Risk Assessment Statement.

- 6 The Monitoring Officer's Report has not uncovered any illegality.

Equality Assessment

- 7 The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

Conclusions

- 8 The Monitoring Officer's report sets out the elements of good governance and demonstrates that robust procedures are in place to raise ethical standards, identify problems and ensure that Members, Officers and the Public are aware of appropriate channels to raise concerns.

Appendices

Appendix - Monitoring Officer's Report

Background Papers:

None

Mrs Christine Nuttall
Chief Officer for Legal and Governance

**REPORT OF THE
MONITORING OFFICER
2015**

Introduction

This is the eleventh Annual Report of the Monitoring Officer for the period January 2015 to December 2015. The purpose of the report is not only to provide an overview of the work of the Monitoring Officer in the past year, but also to provide an opportunity to review and learn from experience. This report therefore sets out the Monitoring Officer’s statutory responsibilities and summarises how these duties have been discharged from the last Monitoring Officer’s Report for the period January 2014 to December 2014. The Report also highlights the work of the Standards Committee.

1. Recommendations

That the Standards Committee comments on and notes the Monitoring Officer’s Annual Report.

That the Full Council notes the Monitoring Officer’s Annual Report.

2. The Role of the Monitoring Officer

The role of the Monitoring Officer derives from the Local Government and Housing Act 1989. The Act requires local authorities to appoint a Monitoring Officer.

The Monitoring Officer has a broad role in ensuring the lawfulness and fairness of Council decision making, ensuring compliance with Codes and Protocols and promoting good governance and high ethical standards.

A Summary of the Monitoring Officer’s Functions is as follows:

<u>Description</u>	<u>Source</u>
Report on contraventions or likely contraventions of any enactment or rule of law	Local Government and Housing Act 1989
Report on any maladministration or injustice where the Ombudsman has carried out an investigation	Local Government and Housing Act 1989
Appoint a Deputy	Local Government and Housing Act 1989
Establish and maintain the Register of Members’ interests.	The Localism Act 2011 (Commencement No. 6 and Transitional, Savings and Transitory Provisions) Order 2012 The Localism Act 2011 The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012
Report on sufficiency of resources.	Local Government and Housing Act 1989

<u>Description</u>	<u>Source</u>
Maintain the Constitution	The Constitution
Promote and maintain high standards of conduct.	The Localism Act 2011
Grant Dispensations	The Localism Act 2011 and delegation from Council
Consulting with, supporting and advising the Head of Paid Service and s.151 Officer on issues of lawfulness and probity.	The Constitution
Appointing an Investigating Officer in relation to Member Complaints	The Localism Act 2011 and the Constitution
Advising the Standards Hearings Sub Committee in relation to allegations of breaches of the Code of Conduct and advising when matters are determined following an investigation	The Localism Act 2011 and the Constitution
Advise on whether executive decisions are within the Budget & Policy Framework.	The Constitution
Provide advice on vires issues, maladministration, financial impropriety, probity, Budget and Policy Framework issues to all members.	The Constitution and s.5 of Local Government and Housing Act 1989
Legal Advice and Support to the authority	The Constitution
Considering whether certain Information is exempt from disclosure under the Freedom of Information Act.	Freedom of Information Act 2000

3. The Constitution

The Constitution sets out how the Council operates and how decisions are made. It sets out the procedures which are followed to ensure that these decisions are efficient, transparent and that those who make the decisions are accountable to local people. The Monitoring Officer is responsible for ensuring that the Constitution operates efficiently, is properly maintained and is adhered to.

3.1 Constitutional Review and Revision

This Council continues to update its Constitution as and when necessary and reports to the Governance Committee of the Council in this respect.

On the 23rd April 2013 Council approved a proposed new governance structure following Members concerns with the previous structure in the following areas:

Perception of remoteness/inaccessibility of portfolios; feeling of disengagement from influence and decision-making; lack of training and development (succession planning for future Cabinet members); and the need to streamline the system to match the resource available.

The approval was subject to detailed mechanisms being brought back to the Annual Council in May 2013 to enable implementation of the structure with a review of the new governance arrangements being undertaken and reported back to Full Council by April 2014. In addition, options requiring more detailed consideration, such as the Committee System or a Hybrid Model requiring Secretary of State approval, were to be investigated during the next municipal year. The new governance structure was accordingly approved at Annual Council on the 14th May 2013.

The Governance Committee reviewed the new governance structure in 2014 with two Member Surveys being carried out during the year. The first survey had a response rate of 55% and the second 69%. The results from the surveys provided a range of information which helped with the review of the effectiveness of the new arrangements. Changes resulted whereby Membership of the Scrutiny Committee is now fixed with Members of the Committee being independent of the Cabinet Advisory Committees. Membership of the Advisory Committees increased to 12 Members and Members are now able to sit on more than 1 Cabinet Advisory Committee which facilitates greater Member involvement. The new Structure is now embedded and working well and promoted in a national publication entitled "Rethinking governance" produced by the Local Government Association.

Investigation into future Governance arrangements in general is taking place, to allow the newly elected administration in 2015 to consider future governance with further research planned to take place via the Governance Committee for reporting to Annual Council in 2016.

3.2 Fitness for Purpose

The Constitution sets out in clear terms how the Council operates and how decisions are made. Some of these processes are required by law, while others are a matter for the Council to choose. The purpose of the Constitution is to:

- ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions;
- support the active involvement of local people in local authority decision making;
- help Members represent local people more effectively;

- enable decisions to be taken efficiently and effectively; and
- hold decision makers to public account.

3.3 Managing the Constitution

Any significant changes to the Council's decision making arrangements and Committee structure need to be approved by full Council. The Council will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect. The Governance Committee ensures that this takes place.

4. Lawfulness and Maladministration

The Monitoring Officer is the Council's lead adviser on issues of lawfulness and the Council's powers and in consultation with the Head of Paid Service and the Chief Finance Officer (s.151 Officer), advises on compliance with the Budget and Policy Framework. Part of this role involves monitoring Committee reports, agendas and decisions to ensure compliance with legislation and the Constitution. The Monitoring Officer ensures that agendas, reports and minutes of all Council meetings are made publicly available unless there is a reason for exemption under the Local Government Act 1972. In addition, Portfolio Holder decisions are also made publicly available subject to the same caveat as are all planning and licensing decisions made by Officers including other Officer delegated decisions as required by the new legislation entitled "The Openness of Local Government Bodies Regulations 2014". All such decisions can be viewed by members of the public through the Council's website: www.sevenoaks.gov.uk.

If the Monitoring Officer considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration she must report to the full Council or where appropriate the Cabinet after first consulting with the Head of Paid Service and the Chief Finance Officer (s.151 Officer). Any proposal or decision that is subject to such a report cannot be implemented until the report has been considered.

The sound governance arrangements operated by the Council ensure that the power to report potentially unlawful decision making is rarely used and the Monitoring Officer has not had to issue such a report throughout 2015.

4.1 Reports from the Local Government Ombudsman

In 2014/15 the annual letter from the Local Government Ombudsman reported 18 complaints and enquiries received.

Four complaints related to benefits & tax, two related to corporate & other services, one environmental services & public protection, one for housing and ten for Planning & Development.

Of these complaints the following decisions were made by the Local Government Ombudsman:

Two were closed after initial enquiries. Six were referred back for local resolution. Two were incomplete/invalid. Four were not upheld and one was upheld.

It is worth noting that some customers are signposted back to the Council but may never contact us, hence the discrepancy in the number of complaints received by the Local Government Ombudsman compared to the decisions made.

It should be further noted that in relation to the one complaint that was upheld this was because there had been delay in agreeing a Disabled Facilities Grant. There were reasons for the delay. The matter was resolved by a meeting of all the parties to try and identify any barriers to starting the work and to agree solutions. Progress has now been taken in meeting the complainant's needs.

No compensation payments have been made during 2014/15 and no complaints have resulted in maladministration.

5. Report of the Chief Surveillance Commissioner

On the 19th June 2013 the Council was inspected by the Office of the Surveillance Commissioner (OSC). These inspections are carried out on a 3 yearly basis with the next inspection due to take place in June 2016

The Regulations of Investigatory Powers Act 2000 (RIPA) introduced a statutory framework for those carrying out surveillance as part of an investigation. The Protection of Freedoms Act 2012 (2012 Act) amended RIPA to provide additional controls. The internal authorisation process is now followed by external authorisation from a Justice of the Peace.

In practice the District Council seeks to carry out surveillance activity by overt means whereby it is not necessary to engage the provisions of RIPA.

On the 10th September 2013 the Audit Committee considered a report recommending the adoption of a revised surveillance policy and the approval of reporting arrangements to Elected Members following the Commissioner's inspection.

Training on RIPA for officers of this Council took place on the 11th November 2013 with an emphasis on allowing delegates to do their job whilst respecting the law. Delegates worked through a number of real life case studies and exercises in order to discuss issues that commonly arise.

Council on the 1st October 2013 noted the Chief Surveillance Commissioner's report and adopted a revised Surveillance Policy. During 2015 there has been no instance of covert monitoring requiring the need for a RIPA authorisation.

6. Good Governance

The Monitoring Officer has a pro-active role in promoting good practice, good procedures and good governance. This involves networking, collaboration and joined-up working practices and decision making as well as ensuring standing orders, codes of practice, procedures are kept under review and up to date.

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Collaborative working entails regular weekly meetings with the Chief Executive, the Chief Finance Officer (s.151 officer), Chief Officers/Senior Management Team as well as working in partnership with other departments to develop and disseminate policies and procedures. There is also the work undertaken in partnership with other authorities.

On the last day of 2015 the Council stepped up its efforts to bring further economic growth to the District by establishing a Trading Company wholly owned by the Council so as to exercise the power to trade contained in the Local Government Act 2003 and the Localism Act 2011. The establishment of the Company builds on the direction of travel set out in the Corporate Plan for the Council to move towards a more financially self sufficient position.

In 2015 the Council has invested in income earning assets including a petrol station and supermarket in Swanley and officer accommodation in Sevenoaks Town. The Council has continued through the planning process to lay the foundations for continued employment use of the Fort Halstead site in preparation for the departure of DSTC.

The Council has acquired land adjacent to its existing land holdings in Swanley and has started to develop a master plan for the regeneration of the Town Centre.

During the year the Council has run many business support and networking events for local businesses and these have been very well attended. In addition, the Council has consulted on and approved a new Economic Development Strategy which set out a strategic direction for business growth, skills and jobs for the future.

New anti-social behaviour legislation has now been introduced which provides tools to enable us to deal with anti-social behaviour. Working with our community safety partners we have continued to see low levels of crime.

The Council has been taking part in the new Health and Wellbeing Boards designed to focus on local needs and increase input from democratically elected Members. The Council continues to work with our partner organisations and our Leisure Centres to improve the health and well being of our residents.

Our voluntary sector continues to make an important contribution to the lives of the most vulnerable people in our communities. The District Council has maintained its grant funding for local voluntary activity and in 2015 it introduced a New Community Awards Scheme to honour volunteers who have made outstanding contributions to their communities.

7. The Ethical Framework and Work of the Standards Committee

The New Standards Committee which was introduced on the 24th July 2012 comprises 7 Members in accordance with the political balance rules.

The new rules allow for the appointment of Independent Persons who have a statutory role under the Localism Act 2011 to assist any Member who has been accused of breaching the Code of Conduct. Sevenoaks District Council has

appointed two Independent Persons who are not Members of the Standards Committee although they are given details of the Committee's meeting date in order that they may attend.

The Independent Persons also assist the Monitoring Officer in considering complaints and will also be consulted by the Monitoring Officer following investigations to help decide what action to take.

The Standards Committee has a key role in facilitating and promoting the Ethical Framework and in promoting and maintaining high standards of conduct within the Authority. The terms of reference of the committee are set out within Part 3 of the Constitution entitled "Standards Committee".

Examples of the Standards Committee's work during 2015 are as follows:

- Receive the Annual Monitoring Officer's Report
- Looking at How Disclosable Pecuniary Interests are Interpreted
- Being on Standby to grant Dispensations in relation to Member Interests
- Being on Standby to carry out a Hearing following an investigation into an alleged breach of the Member's Code of Conduct

7.1 Maintaining a Register of Member Interests

The codes of conduct of relevant authorities must include provision for the registration and disclosure of "disclosable pecuniary interests", as defined in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012. Members with disclosable pecuniary interests in the business of their authorities are prohibited from participating in such business unless they have a dispensation. The Localism Act 2011 has introduced criminal offences relating to failure to register disclosable pecuniary interests. Members convicted of such offences are liable to a scale 5 fine and may also be disqualified from being a councillor for up to five years.

Disclosable pecuniary interests are defined in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012. Members at this Council through training have been made aware that even if a Member's interest does not amount to a disclosable pecuniary interest, if their interest in a matter would lead them to predetermine a decision, it would not be appropriate for that member to participate in the decision, If they did so the decision could be vulnerable to challenge.

The prohibitions on councillors participating in any discussion or vote on an item of Council business in which they have a disclosable pecuniary interest ensures that Councillors cannot put their private financial interests before the public interest. However, where a Councillor has a disclosable pecuniary interest but stand to make no personal financial gain by participating in a discussion or vote on Council business related to that interest, they can apply for a dispensation, under section

33 of the Localism Act 2011. The grounds for granting a dispensation will depend on the circumstances.

8. Code of Conduct for Employees

The Code is based on an original draft published by the IDeA and has been updated since being implemented in 2006. The Code forms part of the employers' terms and conditions of employment. The Code is well publicised on the Council's internal intranet and is introduced to employees through the induction process.

Under the Code employees must declare any non-financial or financial interests that they or members of their family have which they consider could conflict with the Council's interests. Chief Officers and the Chief Executive declarations of non-financial or financial interests are declared to the Monitoring Officer.

All relationships of a business or private nature with external contractors, or potential contractors should be made known to the employees' Managers and Chief Officers. All hospitality received and given should be appropriate, necessary and must, wherever possible, have the prior sanction of the relevant Chief Officer and must be recorded in the Hospitality book kept by the Chief Executive's Secretary. There is a Protocol on Corruption, Gifts and Hospitality contained within the Staff Code of Conduct.

9. Whistle Blowing

Sevenoaks Council is committed to having effective whistleblowing arrangements, in order to safeguard individuals who have genuine cause for raising concerns in the work place and to promote good governance and safeguard the public interest. The Council's Whistle Blowing Policy sets out how to raise concerns within the organisation and is designed to give statutory protection to employees who "blow the whistle" on their employer's malpractice. In addition, the Council aims to mitigate the risk of inappropriate behaviour by those undertaking work on behalf of the Council and the Council refers to this Policy in contracts with suppliers and service providers, in the Procurement Guide and in its partnership arrangements.

The Council takes seriously and will investigate all reports of improper activities. The Policy aims to ensure that when concerns are raised, the Council will address the concerns and protect the person raising the concern.

The Council is committed to the highest possible standards of openness, probity and accountability and in line with this commitment the Council reviewed and updated its Whistleblowing Policy in January 2015 to incorporate the requirements of the new Statutory Code of Practice recommended by the Whistleblowing Commission. It is recommended that the new Whistleblowing Policy will be subject to annual review by the Audit Committee with the review taking into consideration the views of users of the Policy and any relevant professional or regulatory changes. To this effect, the policy will be reviewed by the Audit Committee during the 2016 calendar year.

The new Code of Practice makes whistleblowing more effective within organisations and provides practical guidance to employers, workers and their

representatives and sets out recommendations for raising, handling, training and reviewing whistleblowing in the work place.

In the last calendar year no concerns have been raised under the Council's current Whistle Blowing Policy.

10. Human Resources

Human resources plays a vital role in developing the organisation through the development of its people and in planning and delivering the changes required by the Council.

Human resources adds value to the organisation by ensuring that we take account of, and plan for, future changes in the wider environment which are likely to have a major impact. It is recognised that both Members and Officers are integral to achieving these aims, through working together in an open, honest and co-operative way.

All the Council's Human Resources policies are available on "Insite" or direct from the Human Resources Team on request and new employees to the organisation are made aware of the numerous policies that exist.

11. New Standards

The Localism Act 2011 and subordinate legislation made extensive changes to the Standards regime which had previously applied under the Local Government Act 2000 and subordinate legislation. The changes are to achieve high standards of conduct and to put in place an appropriate regime.

Under the new regime Councils have been obliged to adopt a Code of Conduct for their Members and Co-opted Members as part of their duty to promote and maintain high standards of conduct. These include provisions relating to the registration and disclosure of interests although, unlike the arrangements under the previous legislation, authorities were no longer required to adopt codes based on a national model. However, most authorities have chosen to adopt codes which reflect models suggested by various recognised organisations. Sevenoaks District Council chose the text published by the Department for Communities and Local Government (DCLG).

Town and Parish Councils will have adopted their own Codes although they must be based on the seven Nolan principles laid down in the Localism Act 2011. The District Council encouraged Town and Parishes to adopt the Sevenoaks District Council Code, although it is known that some have adopted the National Association of Local Council's model.

Councils in England are no longer required to have the statutory Standards committee which was established under the provisions of the Local Government Act 2000 and the Standards Committee (England) Regulations 2008. However, the majority of Councils did choose to retain such a committee including Sevenoaks District Council. The new standards committee is an ordinary committee of the

council which means that it is politically balanced and subject to the usual requirements relating to access to information.

Under the Localism Act 2011 authorities are not obliged to include provisions in their arrangements for members to be able to appeal against findings that they have breached the code of conduct of their authorities. This Council decided not to include appeal provisions in their arrangements although for procedural irregularity a complaint can always be made to the Ombudsman.

The Localism Act 2011 makes no provision for sanctions against Members who are found to have breached the codes of conduct of their authorities. However, authorities are able to censure members, to publicise breaches of their codes of conduct, to report to their Councils and to recommend that members are removed from positions on committees and outside bodies. This Council decided to include provisions for the Monitoring Officer to be instructed to arrange training for the Member and/or conciliation, if appropriate, which is a useful practical measure for improving member conduct.

11.1 Complaints against Members

The current Standard Regime, set up under the Localism Act 2011, was implemented by this Council in July 2012.

Allegations of Member Misconduct received under this regime, up to December 2012, numbered 15. All of these related to Parish/Town Council Members and no complaints related to District Council Members. 11 of these complaints related to one Parish Council. None of these complaints went to formal investigation.

Three complaints were received between January and December 2013. Two of these related to Parish/Town Council Members and one to a District Councillor. None of the complaints went to formal investigation. One of the Parish/Town Council complaints was subject to Informal Resolution with the help of the Independent Person.

Six complaints were received between January and December 2014. All of these related to Parish/Town Council Members. Two of these complaints were subsequently withdrawn as they would not have met the Initial Intake Test. None of the other four complaints went to formal investigation. One of the complaints was subject to attempted Informal Resolution.

Six complaints have been received between January and December 2015

	Subject Member	Complainant	Received	Assessed	Result
15/01	Parish/Town	Member of the Public	January 15	February 15	No Further Action
15/02	Parish/Town	Member of the	July 15	August 15	No Further

		Public			Action
15/03	District Council	Member of the Public	July 15	August 15	No Further Action
15/04	Parish/Town	Member of the Public	August 15	October 15	No Further Action
15/05	Parish/Town	Member of the Public	November 15	Withdrawn	
15/06	Parish/Town	Member of the Public	December 15	Awaiting Assessment	No Further Action

The first complaint in the table above related really to a service issue; the second complaint related to a member who, at the time, was acting in a private capacity - it did not relate to the Parish Council as such.

The third and fourth complaints both related to a particular planning application and related to Parish Council procedures and finances which do not fall within the remit of the District Council. On this basis the complaint did not pass the Initial Intake Test and was subsequently withdrawn.

The sixth complaint is, was considered not to be a breach of the Code of Conduct.

Given that May 2015 saw both District Council and Town and Parish Council elections it was expected that the number of complaints would increase prior to the election. Clearly this did not happen and there were no major issues raised during the year. There are no lessons to be learnt from operating the procedures this year requiring amendment to any of our procedures. It did prove extremely useful to have the Independent Person involved in mediation/conciliation work and I must thank the Independent Persons for all their hard work through the year.

12. Equalities and the Public Sector Equality Duty under the Equality Act 2010

As a community leader, service provider and employer Sevenoaks District Council recognises that everyone has a contribution to make to our society and a right to access services without being discriminated against or disadvantaged.

Sevenoaks District Council is part of the West Kent Equality Partnership which also includes Tonbridge & Malling Borough Council and Tunbridge Wells Borough Council.

The Partnership sets out its aims and commitments for 2012-16 and reviews its progress against its aims and commitments. An annual report for Sevenoaks District Council was considered by the Legal & Democratic Services Advisory Committee on 2 July 2015 and can be accessed via the following link <http://cds.sevenoaks.gov.uk/ieListDocuments.aspx?CId=325&MId=1970&Ver=4>

The Council has reviewed its aims and commitments for the period commencing 1 April 2016. To inform this review, at the request of the Portfolio Holder for Legal & Democratic Services, a Members Workshop took place on 26 January 2016. The findings of which will be incorporated in a report to Cabinet at their March meeting.

13. Support to Councillors, Cabinet, Scrutiny and Committee Meetings

The distribution and publication of committee reports, agendas and decisions is central to meeting the requirements of a key deliverable. It is the Monitoring Officer's responsibility to oversee the process and ensure that these documents comply with statutory and constitutional requirements.

This includes:

- Distributing and publishing all agendas within five clear working days of the meeting taking place and ensuring that all agendas are compliant with the access to information rules and exempt information is marked up accordingly.
- Advertising public meetings five clear days before the meeting date.
- Ensuring that papers are made available to the public.
- Drafting minutes for publication within nine working days.
- Publishing a record of all decisions including key decisions taken by Cabinet within 48 hours (2 working days) of the meeting.
- Ensuring that petitions are handled in accordance with the Council's Constitution including e-petitioning.
- Ensuring that meetings are accessible.
- Complying with the requirements of The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.
- The Openness of Local Government Bodies Regulations 2014.

13.1 Statutory Meeting Analysis

One of the explicit aims of the Council has been to try and streamline the decision making process to allow Council to focus on service delivery.

The size of the Cabinet increased by two Members in May 2015, and therefore there were two additional Advisory Committees and some name changes. There were also some scheduled meetings cancelled.

Between the 1st January 2015 and 31st December 2015 the following were serviced:

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Appendix

Full Council Meetings (including 1 annual meeting)	5
Cabinet	11
Audit Committee	4
Development Control Committee	16
Economic & Community Development Advisory Committee	4
Finance & Resources Advisory Committee (January - May)	2
Finance Advisory Committee (May - December)	3
Governance Committee	3
Health Liaison Board	5
Housing & Community Safety Advisory Committee (January - May)	2
Housing & Health Advisory Committee (May December)	3
Licensing Committee	4
Licensing Sub Committee Hearings	7
Local Planning & Environmental Advisory Committee (January - May)	2
Planning Advisory Committee	2
Scrutiny Committee	3
Sevenoaks Joint Transportation Board	4
Standards Committee	1

Strategy & Performance Advisory Committee	1
Policy & Performance Advisory Committee (May to December)	3
Direct & Trading Advisory Committee (May to December)	2
Legal & Democratic Services Advisory Committee (May to December)	2

As yet the CIL Board has not met.

The volume of meetings represents a substantial commitment of both Councillors' and Officers' time and resources. It is of great importance that meetings constitute an effective use of time and resources; that they add value to corporate effectiveness and help in meeting the aims and objectives of the Constitution and the Community Plan and Corporate Plan.

13.2 Notice of Key Decisions which replaces the Forward Plan

The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 replaced the 2000 Executive Access to Information Regulations. The new regulations only apply to executive decisions. Previously there was a requirement to publish a rolling forward plan at least 14 days before the start of each month that set out details of all the key decisions which the authority anticipated making within the next four months. This has now been replaced by a requirement to publish a 28 clear days' notice of any intended key decision. This notice is available for inspection and is also published on the authority's website. If an urgent decision is required and it is impracticable to give the full notice, the key decision can still be taken if the authority gives at least five days' clear notice to the Scrutiny Committee of the authority which can then call in the decision to check that it was genuinely urgent. Where a key decision is so urgent there is not even time to give five clear days' notice, the authority can still take the decision if the Chairman of the Scrutiny Committee has agreed that the key decision is urgent and cannot reasonably be deferred.

This new requirement is being observed by the authority and by publishing the Notice of Key Decisions the public will be able to find out the expected timing of key decisions.

13.3 Call-In requests

There were no call-in requests within 2015.

13.4 Scrutiny Function

The Council is required by Law to discharge certain scrutiny functions. These

functions are an essential component of local democracy. A Scrutiny Committee is a powerful committee which principally holds the Executive to account for its decisions. Policy development used to take place within the Select Committees and this now takes place within the Cabinet Advisory Committees, this being part of the changes made by the Governance restructure which introduced the Hybrid Model of Governance which was further extended in 2015 to include two additional Cabinet Advisory Committees.

14. The Transparency Code

The Council has been under a duty to publish a range of data under the Local Government Transparency Code and associated Regulations since 2014.

It is the Government's stated desire to place more power into citizens' hands to increase democratic accountability and make it easier for local people to contribute to the local decision making process and help shape public services. The Code has been issued to meet this desire. The Government has set out that "Transparency is the foundation of local accountability and the key that gives people the tools and information they need to enable them to play a bigger role in society. The availability of data can also open new markets for local business, the voluntary and community sectors and social enterprises to run services or manage public assets".

The Government published a revised and updated Code in 2015 and the Council remains committed to carrying forward the enhanced requirements of the new Transparency Code. The development of a new Council website in 2016 is aimed to provide improved access to Council information, including data sets required to be published by Government.

15. The Recording of Council Meetings

In March 2014 the Governance Committee of this Council considered a report recommending to Full Council that their meetings be recorded on a trial basis and if successful Full Council would ratify the roll out of recording all meetings of Full Council, Development Control Committee and Licensing Hearings. Following the successful recording of Full Council, as a pilot study, Full Council approved the earlier recommendation in November 2014. This approval coincided with the new Openness of Local Government Bodies Regulations 2014 allowing people the right to film, blog, tweet or use any other type of social media to report any public meetings of their local government bodies, including, committees, sub-committees and joint committees. In order to facilitate the public's new powers a Protocol on Recording Meetings was approved by Council to make sure that recording especially filming takes place safely and without obstructions to the meeting. Council also gave Officers the discretion with the Chairman's approval to record such other public meetings of Council, the Cabinet and their committees, sub-committees or joint committees as was seen fit.

The recording of meetings has gone well in 2015 and no problems have arisen in relation to the extended powers given to the public under the Openness of Local Government Bodies Regulations 2014.

16. Member Training and Development

The Council delivered a comprehensive Induction for Members' following the 2015 Elections. Held on Monday 11 May, the first day after the completion of the election count Members were able to attend either a day time or evening induction session.

Members were provided with their own Members Handbook which provides a range of information about local government, Council services and officers that Members are able to contact for help and advice. The Handbook also provides advice and guidance on safeguarding and the use of social media. A Senior Officer Support scheme was provided for the very first time for new Councillors. This provided them with a dedicated contact for the first six months of their term to assist them with any queries they may have.

The Induction day, ensured that Members were able to complete their Acceptance of Office and record any interests they may have, with officers available throughout to assist and advise. A presentation from the Council's Strategic Management Team provided Members with information about the Council, its financial position, its achievements and objectives and challenges for the future. There was also an introduction to the District which was complemented by a Members' Tour of District which was held in October 2015.

To support Members gain further knowledge about Council services each of the first meetings of the Council's Advisory Committee meetings in 2015 had a presentation from Officers on the services that were in the Committee's responsibilities. In some cases there has been further information sessions on specific topics, for example risk management.

On the 8th September 2015 two training sessions on the Code of Conduct was delivered to both District Council Members and Parish/Town Council Clerks. Both sessions were well attended with over 70 persons receiving the training which covered the following areas:

- What does the law say and why is it important?
- What are Sevenoaks' local arrangements?
- Sevenoaks' Code - behaviours.
- Registering and declaring interests.

17. Conclusion

The Monitoring Officer's role in conjunction with the Standards Committee encompasses both proactive and reactive elements. The proactive role centres on raising standards, encouraging ethical behaviour, increasing awareness and utilisation of the elements of good governance and ensuring that robust procedures are in place.

The reactive role focuses on taking appropriate action to deal with issues and potential problems as they arise. The Monitoring Officer together with the

Standards Committee's effectiveness in this role is in turn dependent on effective systems and procedures being in place to identify problems and ensure that Members, Officers and Public are aware of appropriate channels to raise concerns.

Christine Nuttall
Monitoring Officer

INTERPRETATION OF DISCLOSABLE PECUNIARY INTERESTS

Standards Committee - 9 February 2016

Report of Monitoring Officer

Status: For consideration

Key Decision: No

Executive Summary: This report provides details of the first conviction of a councillor under the ethics provisions of the Localism Act 2011 and examines lessons that may be learnt as a result.

This report supports the Key Aim of effective management of Council resources.

Contact Officer Mrs Christine Nuttall - Chief Officer Legal and Governance

Recommendation to the Standards Committee:

That the information and advice set out in this report be noted.

Reason for recommendation: To ensure good governance within the Council.

Introduction and Background

- 1 Fundamental changes to the regulation of standards of conduct for elected and co-opted Members were introduced in 2012 by the Localism Act 2011 (the LA). These included a requirement for local government members to register disclosable pecuniary interests and non pecuniary interests and the creation of a new criminal offence of failing to register relevant interests.
- 2 In relation to a criminal prosecution, the Crown Prosecution Service must be satisfied that there is sufficient evidence for a realistic prospect of conviction and that it is in the public interest to prosecute.
- 3 Although the criminal sanction provisions came into force over three years ago, a former leader of Dorset County Council is the first member to be found guilty of an offence under the Disclosable Pecuniary Interest provisions of s.31 of the LA., that is having a Disclosable Pecuniary Interest in a matter considered at a meeting.
- 4 According to various reports, the charge brought against the individual, a serving member of East Dorset District Council, that on 25 January 2013 he was present at a meeting about the East Dorset Core Strategy and, despite having a Disclosable Pecuniary Interest in a matter that was considered at

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that meeting and without reasonable excuse, he participated in the vote taken at the meeting. At that time, he was a non-executive director of a housing charity and although he was not in receipt of a salary, he had received various remuneration payments for the years 2010 to 2013 totalling some £29,920. In accordance with s.30 of the LA, he had listed that interest in the Disclosable Pecuniary Interest forms submitted to the District and the County Council in 2012.

Judgement

- 5 In relation to the charge against the member he had pleaded not guilty. At the hearing of the case, the district judge noted that the defendant member was of good character and that, in the member's view, the matters that were considered at the meeting on 25 February 2013 in relation to the East Dorset Core Strategy were broad in nature and did not concern detailed issues of planning and ownership. However, the district judge concluded that before the meeting the defendant member should have taken time to consider his position. The LA was clear that, having declared his interest as a non-executive director of the housing charity, he could not take part in that meeting. As the district judge pointed out, the defendant member could have done one of two things.

What the Member Could Have Done

- 6 The member could have obtained a dispensation by virtue of s.33 of the LA. This section empowers an authority, upon receipt of a written request, to grant dispensations for up to four years from a member to be able to participate in or vote at meetings where they have a Disclosable Pecuniary Interest if, having regard to all relevant circumstances, the authority considers that:
- Not granting the dispensation is likely to impede the particular business transaction.
 - Without the dispensation, the representation of different political groups on the body would be so upset as to alter the outcome of any vote on the matter.
 - The granting of the dispensation is in the interests of individuals living in the authority's area.
 - It is otherwise appropriate to grant a dispensation.
- 7 Secondly, it would not have been unreasonable for the defendant member to have consulted with the Monitoring Officer to obtain his advice on the issue, particularly given that the onus is on the local authority member to deal with such matters.
- 8 However, the defendant member had not sought a dispensation or obtained advice on his position from the Monitoring Officer. On the evidence, the district judge found that the defendant was prevented by the LA from taking

part in the meeting on 25 February 2013 and, without a dispensation, he could not take part. At that meeting, the East Dorset Core Strategy had been considered. The housing charity, for which the member was a non-executive director, had responded to the consultation about the Core Strategy, owned land that was being considered and was part of the details contained in the Core Strategy, and indeed the defendant member had previously attended a meeting of the charity at which its long-term use of the land was discussed.

- 9 The district judge was clear that it was not a reasonable excuse to effectively fail to consider those matters in the defendant member's knowledge and it was incorrect to assert, as he had, that the Core Strategy had no relevance to the pecuniary matters considered at a meeting.
- 10 The LA imposed a positive duty on him not to participate and vote. Although there was no evidence before the court, that the defendant member's participation in the meeting resulted in any direct benefit to him, the provisions of the LA made it clear that he should not have taken part or voted at that meeting.

Outcome

- 11 The LA creates a criminal offence where a member fails, without reasonable excuse to comply with the requirements to declare Disclosable Pecuniary Interests or takes part in council business at meetings. The district judge indicated that the defendant member had failed to satisfy the court that what he did amounted to a reasonable excuse. He was therefore given a six-month conditional discharge and was ordered to pay £930 in costs (the lowest penalty that the court could impose) and he was allowed to remain an elected member.
- 12 This case is the first that has gone to trial. The publicity that the case has generated is likely to serve as a timely reminder for local authority members of the importance of declaring Disclosable Pecuniary Interests and ensuring that they do not participate in meetings where those interests may be a matter for discussion.
- 13 However, it is important to bear in mind that, although the prosecution in this case was successfully taken, strict tests are required to warrant a criminal prosecution and prosecution may not be always appropriate for many breaches of conduct.

Wider Implications

- 14 Monitoring Officers across Kent have now voiced concerns in relation to how they should advise Members on the interpretation of Disclosable Pecuniary Interests following the outcome of this case. Before this case the advice was that a Disclosable Pecuniary Interest, would only apply if the interest directly affected the property owned by the Member, and the effect of such interest had direct financial repercussions for the Member. The circumstances of this case could suggest that a Disclosable Pecuniary Interest

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can exist even if the Member's property is not directly affected and even if the Member may not be financially affected by the decision. However, despite the uncertainty created by the circumstances of this case, the government's view has not changed, in that, their advise is that a Disclosable Pecuniary Interest should still be interpreted as only applying if a Member's property is directly affected and the Member is financially affected by the decision.

Key Implications

Financial

14 There are no direct financial implications arising from this report.

Legal Implications and Risk Assessment Statement

15 There are no direct legal consequences arising from the contents of this report beyond those set out in the body of the report.

Equality Assessment

16 The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

Conclusions

17 The reports of the conviction show that the Councillor had not sought advice from the Monitoring Officer. There was also a focus on the fact that the Councillor had not sought a dispensation. The district judge indicated that the Defendant Member had failed to satisfy the court that what he did amounted to a reasonable excuse.

18 The conviction should serve as a timely reminder for Members of the importance of declaring Disclosable Pecuniary Interests and ensuring that a Member should not participate in meetings where those interests may be a matter for discussion.

Background Papers:

[Practical Law - Public Sector Blog 10/04/2015](#)

[Local Government Lawyer - The Localism Act - Two Years On - 1/1/2015.](#)

Christine Nuttall
Chief Officer for Legal and Governance