

Classification: Public

Key Decision: No

Gravesham Borough Council

Report to: Committee Standards

Date: 27 July 2016

Reporting officer: Monitoring Officer

Subject: Annual report (the Localism Act 2011, Monitoring Officer and appointment of Independent Persons)

Purpose and summary of report:

To report on the operation of the Standards Regime, in particular during the last calendar year, and to appoint an Independent Person.

Recommendations:

1. The Standards Committee notes the report;
2. The Standards Committee recommends to Full Council the appointment of the Independent Person.

1. INTRODUCTION TO THE STANDARDS REGIME

- 1.1 As required by section 5 of the Local Government and Housing Act 1989, the Council has appointed an officer, known as the Monitoring Officer, whose primary functions are to report on contraventions, or likely contraventions, of any enactment or rule of law and to report on any maladministration or injustice where the Ombudsman has carried out an investigation. This position of responsibility is held by the Assistant Director (Governance and Law) at Gravesham Borough Council, who has enjoyed this role since 2001.
- 1.2 The Monitoring Officer is one of three statutory officers appointed by the Council. The other officers are the Head of Paid Service, a position held by the Chief Executive, and the Chief Finance Officer who is the Director (Corporate Services). All three officers have roles to play in promoting high standards of corporate governance within the Council.
- 1.3 The Monitoring Officer undertakes the role of promoting and maintaining high standards of conduct. He investigates complaints about member conduct and oversees the processes in place for determining any appropriate sanction.
- 1.4 The Monitoring Officer has put in place a Gravesham standards regime reflective of the loose statutory framework brought about by the Localism Act 2011. The Council has established a Standards Committee to oversee the systems in place and, if necessary, to consider how to approach reports of breaches.

- 1.5 The Council has adopted The Kent Code of Conduct which has been adopted by a number of local authorities in Kent, including the County Council and places an obligation on members and others to conduct themselves in accordance with the highest standards. Members will be familiar with the provisions of the existing code and particularly with the rules on interests. A copy of the code is annexed to this report. Gravesham Borough Council also has a role in assisting in the oversight of standards in Parish Councils.

2. THE LOCALISM ACT 2011

- 2.1 The Localism Act 2011 reformed and simplified the standards regime applicable to the Council. The body known as Standards for England was abolished on 31 January 2012 and the Council thereafter was obliged to adopt a local code of conduct. It appointed a Standards Committee although this was not mandatory.
- 2.2 Under the Localism Act members became obliged to register 'Disclosable Pecuniary Interests'. All members will be familiar with the basic registration form, which is logged and published on the Council's website. The Monitoring Officer has powers to grant dispensations in respect of any form of interest, although none have been granted at Gravesham. Such a dispensation would allow a member to participate in business from which they otherwise would be barred.
- 2.3 It has been well publicised that the Localism Act creates a number of criminal offences in relation to non-compliance with the statutory rules on interests, although prosecutions may only be pursued with the permission of the Director of Public Prosecutions and have rarely been pursued. Members will of course know that no such prosecution has ever taken place in relation to a Gravesham Member.
- 2.4 Members should be aware that if they have a Disclosable Pecuniary Interest in Council business they may not participate in that business. In practice that means that Members must leave meetings where (for example) their own land or private source of income is the subject of a report.
- 2.5 If members have an 'Other Significant Interest' (which may for example arise where a family member applies for planning permission on land the Member does not himself own) the situation is similar. It should be noted however that the Code does permit a member to remain in a meeting for as long as necessary to make representations to that meeting if a member of the public would enjoy the same right.
- 2.6 In addition to the above, Members commonly declare 'interests' not falling within the definition of 'Disclosable Pecuniary' or 'Other Significant' interests. These declarations are made for clarity and to foster as sense of openness.
- 2.7 Under the pre 2011 regime any and all complaints of member misconduct had to be referred to the Standards Board For England but that procedurally cumbersome process was swept away along with the Board itself by the 2011 act.
- 2.8 On the other hand the Localism Act doesn't make any provision for sanctions against members who are found to have breached the codes of conduct of their authorities. Authorities are only able to censure members, to publicise breaches of their codes, to report to their councils and to recommend that members are removed from positions on committees and outside bodies.

3. INDEPENDENT PERSON

- 3.1 The Localism Act allows considerable local discretion in how to handle complaints about breaches and simply requires the Council to have in place arrangements under which allegations can be investigated and decisions on allegations can be made. Such arrangements must include provision for the appointment of at least one 'independent person' (IP) whose views must be sought by the Monitoring Officer or Council on certain specified matters. The views of an IP may also be sought by Members the subject of complaint. The IP may not be a recent officer, Member or co-opted Member of the Council.
- 3.2 The Localism Act 2011 requires the Council to appoint an Independent Person. Although the Monitoring Officer has been granted authority to appoint, a report such as this should be made to seek Standards Committee and Council authority. To this end the Monitoring Officer proposes that Mr David Moore, having applied for the position and been interviewed, be appointed. Further information will be made available to Members by way of an oral report.

4. ANNUAL REPORT

- 4.1 The Monitoring Officer has not dealt with any substantive complaints of Borough Council Member misconduct during the past calendar year. He has assisted in resolving standards issues at a Parish Council and has sought out and published Members' Disclosable Pecuniary Interests forms.

5. BACKGROUND PAPERS

None.

IMPLICATIONS**APPENDIX 1**

The standards regime under the Localism Act 2011 has wide ranging propriety implications for the whole of the Council.

Legal	The new regime is subject to judicial review in the event of unlawful or otherwise unreasonable decisions by the Standards Committee, Monitoring Officer or Council. This will only apply if the Council steps outside the statutory framework.
Finance and Value for Money	Negligible.
Risk Assessment	Low.
Equality Impact Assessment	Screening for Equality Impacts
	Question
	a. Does the decision being made or recommended through this paper have potential to cause adverse impact or discriminate against different groups in the community? If yes, please explain answer. No. There is no potential to discriminate. The appointed Independent Persons have been arrived at following a Borough-wide advert.
	b. Does the decision being made or recommended through this paper make a positive contribution to promoting equality? If yes, please explain answer. No. It is unlikely that the appointment of the Independent Persons will have any effect either way to equalities issues, although it should be noted that the proposed individuals are one of each gender.
	<i>In submitting this report, the Chief Officer doing so is confirming that they have given due regard to the equality impacts of the decision being considered, as noted in the table above</i>
Corporate Plan	Managing the Council's business responsibly
Crime and Disorder	No direct implications under section 17 of the Crime and Disorder Act 1998.
Digital and website implications	
Safeguarding children and vulnerable adults	