

**You are hereby summoned to attend a meeting of the  
MAIDSTONE BOROUGH COUNCIL**

Date: Wednesday 17 July 2024  
Time: 6.30 pm  
Venue: Town Hall, High Street, Maidstone

**Membership:**

Councillors Barwick, Burke, Cannon, Clark, Cleator, Coates, Conyard, Cooke, Couch, Cox, Dawes, English, Field, Forecast, Fort, Mrs Gooch, Greenan, Harper, Harwood, Higson, Jeffery, Jenkins-Baldock, Jones, Kehily, Khadka, McKay, Milham, D Naghi, M Naghi, Oliver, Parfitt-Reid, Perry (Mayor), Riordan, Rodwell, Round, Russell, J Sams, T Sams, Spooner, Springett, Summersgill, Sweetman, M Thompson, S Thompson, Trzebinski, Wales, Wilby, D Wilkinson and J Wilkinson

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**AGENDA**

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1. Prayers
2. Apologies for Absence
3. Dispensations (if any)
4. Disclosures by Members and Officers
5. Disclosures of Lobbying
6. To consider whether any items should be taken in private because of the possible disclosure of exempt information
7. Minutes of the Annual Meeting of the Borough Council Held on 18 May 2024 1 - 6
8. Mayor's Announcements
9. Petitions
10. Question and Answer Session for Local Residents

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**Issued on Tuesday 9 July 2024**

**Continued Over/:**

*Alison Broom*

**Alison Broom, Chief Executive**

11. Questions from Members of the Council to the
  - (a) Leader of the Council
  - (b) Cabinet Members
  - (c) Chairmen of Decision-Making Committees
12. Current Issues - Report of the Leader of the Council, Response of the Group Leaders and Questions from Council Members
13. To consider any motion moved by the Leader of the Council in respect of the Administration's Programme for the Municipal Year 2024/25
14. Report from the Audit, Governance and Standards Committee and Democracy and General Purposes Committee - Revised Members' Code of Conduct and Arrangements for Dealing with Councillor Conduct Complaints 7 - 74
15. Report from the Democracy and General Purposes Committee held on 19 July 2024 - Constitutional Amendments 75 - 76
16. Report from the Democracy and General Purposes Committee held on 19 July 2024 - Outside Bodies 2024/25 77 - 79

17. Notice of Motion - Voting Age to 16

Notice of the following motion has been given by Councillor Clark, seconded by Councillor Wilby:

"This Council re-iterates its support for reducing the voting age to 16 and agrees that our worshipful Mayor should, following the general election on 4th July, write an open letter to the Prime Minister requesting the introduction of legislation to reduce the voting age to 16.

Separately, this council will explore the creation of an advisory board, consisting of student representatives from colleges and secondary schools in the borough, allowing the sharing of opinions and perspective while considering issues faced by younger citizens.

We believe that encouraging participation in the political process is a valuable means of engaging young people in modern society and note law changes in both Scotland and Wales, where under 16's can vote in the Scottish Parliament and Welsh Assembly elections and also in local council elections.

Historically "Voting at 16" motions have gained cross party support at Kent County Council and Maidstone Borough Council. We recognise the important contribution of 16 and 17 year olds in Wales and Scotland and continue to believe that the young citizens of Maidstone should also play an important role in determining the future of their borough and country."

Notice of the following motion has been given by Councillor Harwood, seconded by Councillor Rodwell, and supported by Councillors Mike Thompson, Richard Conyard and Rob Field:

“Maidstone Borough Council recognises the catastrophic and ongoing declines impacting the natural world and the profound harm this can inflict on local health and wellbeing and our economic resilience. Through a democratic confirmation of a **Maidstone Borough Council Nature Recovery Declaration**, this Local Authority makes a solemn commitment to embed positive change across all its interactions with the natural world and to become a powerful local advocate and champion for nature recovery.”

The Maidstone Borough Council Nature Recovery Declaration is included on the agenda.

### **INFORMATION FOR THE PUBLIC**

In order to ask a question at this meeting, please call **01622 602899** or email [committee@maidstone.gov.uk](mailto:committee@maidstone.gov.uk) by 5 p.m. one clear working day before the meeting (i.e. by 5 p.m. on Monday 15 July 2024). You will need to provide the full text in writing.

If your question is accepted, you will be provided with instructions as to how you can access the meeting.

In order to make a statement in relation to an item on the agenda, please call **01622 602899** or email [committee@maidstone.gov.uk](mailto:committee@maidstone.gov.uk) by 4 p.m. one clear working day before the meeting (i.e. by 4 p.m. on Monday 15 July). You will need to tell us which agenda item you wish to speak on.

If you require this information in an alternative format please contact us, call **01622 602899** or email [committee@maidstone.gov.uk](mailto:committee@maidstone.gov.uk).

To find out more about the work of the Committee, please visit the [Council's Website](#).

## **MAIDSTONE BOROUGH COUNCIL**

### **MINUTES OF THE ANNUAL MEETING OF MAIDSTONE BOROUGH COUNCIL HELD AT THE TOWN HALL, HIGH STREET, MAIDSTONE ON 18 MAY 2024**

**Present:** Mr Gordon Newton (The Mayor) and Councillors Barwick, Burke, Cannon, Clark, Cleator, Coates, Conyard, Cooke, Couch, Cox, Dawes, English, Field, Forecast, Fort, Mrs Gooch, Greenan, Harper, Harwood, Higson, Jeffery, Jenkins-Baldock, Jones, Kehily, Khadka, McKay, Milham, D Naghi, M Naghi, Oliver, Parfitt-Reid, Perry, Riordan, Rodwell, Round, Russell, J Sams, T Sams, Spooner, Springett, Summersgill, Sweetman, M Thompson, S Thompson, Trzebinski, Wales, Wilby, D Wilkinson and J Wilkinson

1. **MINUTE'S SILENCE**

The Council stood in silence for one minute in memory of Mrs Margaret Shaw, a former Member of the Borough Council, who sadly passed away in April 2024.

2. **PRAYERS**

Prayers were said by the Very Reverend John S Richardson of All Saints Church.

3. **WELCOME TO NEW MEMBERS**

The Mayor welcomed Councillors Sarah Barwick, Ronald Burke Grace Couch, Kathy Cox, Anne Dawes, Donna Greenan, Joe Higson, Hilary Jenkins-Baldock, Claire Kehily, Kimberley Milham, Mark Naghi, Ciaran Oliver, Rachel Rodwell, Michael Summersgill, Alison Sweetman and Simon Wales to their first meeting of the Council following the elections on 2 May 2024.

The Mayor also welcomed Councillors Rob Field and Malcolm McKay who were returning to the Council after a break in service.

4. **APOLOGIES FOR ABSENCE**

There were no apologies for absence, but it was noted that Councillor Barwick would be late in arriving at the meeting.

5. **DISPENSATIONS**

There were no applications for dispensations.

6. **DISCLOSURES BY MEMBERS AND OFFICERS**

There were no disclosures by Members.

Robin Harris, Deputy Head of Legal Partnership and Deputy Monitoring Officer, disclosed an interest in agenda item 23 relating to his proposed appointment as the Council's Monitoring Officer. Mr Harris said that he would leave the room when the matter was discussed.

7. DISCLOSURES OF LOBBYING

There were no disclosures of lobbying.

8. ANNOUNCEMENTS BY THE CURRENT MAYOR 2023/24

The Mayor provided an overview of events and engagements that he and the Mayoress had attended throughout the year and explained that his aim had been to support and promote the many and varied projects in the Maidstone area, and to support the charitable events of other Kent Mayors and Chairmen. It had been a busy, memorable and enjoyable year. Together with the Mayoress, he had attended 245 engagements during the year, all of which had been informative, interesting and educational, and, in some cases, great fun.

The Mayor said that he would like to thank Julie, the Mayor's PA, and Ray and Russell, the Civic Officers, for their patience and support.

9. ELECTION OF MAYOR FOR THE ENSUING MUNICIPAL YEAR

It was moved by Councillor Russell, seconded by Councillor English, supported by Councillors Jeffery, Cleator and Harper, and

**RESOLVED:** That John Anthony Perry, a Councillor of the Borough, be duly elected Mayor of the Borough of Maidstone until the Annual Meeting of the Council in 2025.

**\*\* THE MAYOR (COUNCILLOR PERRY) IN THE CHAIR \*\***

When thanking the Council for his election, the new Mayor took the opportunity to thank long-serving former Members Gordon Newton, Martin Cox, Cynthia Robertson, Denise Joy and Annabelle Blackmore who had not returned following the elections on 2 May 2024.

Note: Councillor Barwick entered the meeting whilst the new Mayor was being robed (9.25 a.m.).

10. CONGRATULATIONS TO THE MAYOR

The Mayor received congratulations on his election from scholars representing local schools as follows:

Isaac Marriner	Maidstone Grammar School
Izzy Ratcliffe	Maidstone Grammar School for Girls
Maya Fernandes &	Archbishop Courtenay Church of England
Natalia Kostrzewa	Primary School

11. THE RETIRING MAYOR

It was moved by Councillor Mrs Gooch, seconded by Councillor McKay, supported by Councillors Springett and Naghi, and

**RESOLVED:** That the hearty thanks of this Council be given to Mr Gordon Newton and Mrs Carol Newton for the admirable discharge of their duties as Mayor

and Mayoress during the past year, and for their courteous approach to all sections of the community.

12. EXEMPT ITEMS

**RESOLVED:** That the items on the agenda be taken in public as proposed.

13. MINUTES OF THE MEETING OF THE BOROUGH COUNCIL HELD ON 21 FEBRUARY 2024

**RESOLVED:** That the Minutes of the meeting of the Borough Council held on 21 February 2024 be approved as a correct record and signed.

14. MINUTES OF THE EXTRAORDINARY MEETING OF THE BOROUGH COUNCIL HELD ON 29 FEBRUARY 2024

**RESOLVED:** That the Minutes of the extraordinary meeting of the Borough Council held on 29 February 2024 be approved as a correct record and signed.

15. MINUTES OF THE EXTRAORDINARY MEETING OF THE BOROUGH COUNCIL HELD ON 20 MARCH 2024

**RESOLVED:** That the Minutes of the extraordinary meeting of the Borough Council held on 20 March 2024 be approved as a correct record and signed.

16. APPOINTMENT OF DEPUTY MAYOR FOR THE ENSUING MUNICIPAL YEAR

It was moved by Councillor Trzebinski, seconded by Councillor Naghi, supported by Councillors S Thompson, D Wilkinson and Mrs Gooch, and

**RESOLVED:** That Councillor Martin Round be duly appointed Deputy Mayor for the Borough of Maidstone until the Annual Meeting of the Council in 2025.

17. NEW MAYOR'S ANNOUNCEMENTS

The new Mayor updated Members on forthcoming engagements including the Jobs Fair, meeting the High Sherriff and events commemorating the D-Day operation of 6 June 1944. The Mayor also announced the charities that he would be supporting during his Mayoral year (Diabetes UK, The Torch Trust, and Demelza, a local Charity in Kent and Sussex), and said that he wished to thank colleagues for their assistance and support.

18. ELECTION OF THE LEADER OF THE COUNCIL IN ACCORDANCE WITH CORE PROVISION A2, 7.2 OF THE CONSTITUTION

It was moved by Councillor English, seconded by Councillor J Sams, that Councillor Jeffery be elected as the Leader of the Council in accordance with Core Provision A2, 7.2 of the Constitution.

In accordance with Council Procedure Rule 18.4, five Members requested that a named vote be taken on the motion. The voting was as follows:

FOR (34)

Councillors Barwick, Clark, Cleator, Conyard, Couch, Cox, Dawes, English, Field, Greenan, Harper, Harwood, Higson, Jeffery, Jenkins-Baldock, Jones, Kehily, Khadka, McKay, Milham, D Naghi, M Naghi, Oliver, Rodwell, J Sams, T Sams, Summersgill, Sweetman, M Thompson, S Thompson, Wales, Wilby, D Wilkinson and J Wilkinson

AGAINST (14)

Councillors Burke, Cannon, Cooke, Forecast, Fort, Mrs Gooch, Parfitt-Reid, Perry, Riordan, Round, Russell, Spooner, Springett and Trzebinski

ABSTENTIONS (1)

Councillor Coates

**RESOLVED:** That Councillor Jeffery be elected as the Leader of the Council in accordance with Core Provision A2, 7.2 of the Constitution.

19. REPORT OF THE LEADER OF THE COUNCIL ON APPOINTMENTS TO THE CABINET AND THE DELEGATION OF EXECUTIVE FUNCTIONS

Councillor Jeffery, the Leader of the Council, advised the Council that:

- The Delegation of Executive Functions would be as set out in the document circulated and the Delegation of Executive Functions to Officers would be as set out in Part B of the Constitution.
- His appointments to portfolios were as follows:

Cabinet Member for Climate Transition and Nature Recovery	Cllr Vanessa Jones
Cabinet Member for Community Cohesion and Safety	Cllr David Naghi
Cabinet Member for Corporate Resources	Cllr Kathy Cox
Cabinet Member for Environmental Services and Enforcement and Deputy Leader	Cllr Clive English
Cabinet Member for Healthier Stronger Communities	Cllr Stephen Thompson
Cabinet Member for Housing and Homelessness	Cllr Simon Wales
Cabinet Member for Planning Policy and Management	Cllr Tony Harwood

- The Proper Officer would implement the changes into the Constitution and give effect to the consequential amendments to Policy Advisory Committees arising from the Portfolios.

20. TO CONSIDER ANY MOTION MOVED BY THE LEADER OF THE COUNCIL IN RESPECT OF THE ADMINISTRATION'S PROGRAMME FOR THE MUNICIPAL YEAR 2024/25

The Leader of the Council advised the Council that he would put the Administration's Programme for the Municipal Year 2024/25 to the next meeting of the Council which was within the requisite 60-day period. He would ensure that matters go through the Policy Advisory Committees before they go to Cabinet.

21. REPORT OF THE DIRECTOR OF STRATEGY, INSIGHT AND GOVERNANCE - REVIEW OF ALLOCATION OF SEATS ON COMMITTEES

In accordance with Section 15 of the Local Government and Housing Act 1989, the Council considered the allocation of seats to each Political Group in relation to its various Committees.

It was moved by Councillor Jeffery, seconded by Councillor English, and

**RESOLVED:** That the allocation of seats on Committees be as set out in amended Appendix 1 to the report of the Director of Strategy, Insight and Governance, which was circulated at the meeting, and which reflects the amendments to the Policy Advisory Committees arising from the changes to the Portfolios.

22. APPOINTMENT OF COMMITTEES

In accordance with Section 16 of the Local Government and Housing Act 1989, the Council considered the appointments to its Committees.

Councillor English stated that he wished to make the following amendments to the Committee membership schedule circulated at the meeting:

Climate Transition, Corporate and Environmental Services Policy Advisory Committee

Remove Councillor Wilby. Insert Councillor Higson.

Housing and Community Cohesion Policy Advisory Committee

Remove Councillor Higson. Insert Councillor Wilby.

Councillor Cleator stated that she wished to make the following amendments to the Committee membership schedule circulated at the meeting:

Overview and Scrutiny Committee

Remove Councillor Jenkins-Baldock. Insert Councillor J Wilkinson.

Climate Transition, Corporate and Environmental Services Policy Advisory Committee

Remove Councillor Barwick. Insert Councillor Jenkins-Baldock.



Planning and Healthier Stronger Communities Policy Advisory Committee

Remove Councillor J Wilkinson. Insert Councillor Barwick.

It was moved by Councillor Jeffery, seconded by Councillor English, and

**RESOLVED:** That the wishes of the Group Leaders with regard to appointments to Committees, as set out in the schedule circulated at the meeting, and as amended at the meeting, be accepted.

23. ADOPTION OF THE SCHEME OF DELEGATION OF NON-EXECUTIVE FUNCTIONS

It was moved by Councillor Jeffery, seconded by Councillor English, and

**RESOLVED:** That the Scheme of Delegation of Non-Executive Functions, as set out in Part B of the Constitution, be adopted.

24. APPOINTMENT OF THE VICE-CHAIRMAN OF THE JOINT TRANSPORTATION BOARD FOR THE MUNICIPAL YEAR 2024/25

It was moved by Councillor Jeffery, seconded by Councillor English, and

**RESOLVED:** That Councillor Harwood be appointed as the Vice-Chairman of the Joint Transportation Board for the Municipal Year 2024/25.

25. APPOINTMENT OF MONITORING OFFICER

Having disclosed an interest in this item, Robin Harris, Deputy Head of Legal Partnership and Deputy Monitoring Officer, left the meeting whilst it was discussed.

It was moved by Councillor Jeffery, seconded by Councillor English, and

**RESOLVED:** That Robin Harris be appointed to undertake statutory duties and responsibilities as the Council's Monitoring Officer, as noted in the Constitution at Part B5 paragraph 19, with effect from 18 May 2024.

26. DURATION OF MEETING

9.00 a.m. to 11.00 a.m.

**COUNCIL**

**17 JULY 2024**

**Report from the Audit, Governance and Standards Committee and Democracy and General Purposes Committee – Revised Members’ Code of Conduct and Arrangements for Dealing with Councillor Conduct Complaints**

<b>Timetable</b>	
<b>Meeting</b>	<b>Date</b>
Audit, Governance and Standards Committee	11 April 2024
Democracy and General Purposes Committee	19 June 2024
Council	17 July 2024

<b>Wards affected</b>	All
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**Executive Summary**

This report asks the Council to adopt the revised Member Code of Conduct and revised arrangements for dealing with Councillor conduct complaints to replace the existing Code and arrangements.

On 19 June 2024 the Democracy and General Purposes Committee assessed the changes to the Constitution required to give effect to the revised Code and arrangements, and recommended to Council that the existing documents be replaced with the new ones.

Members are familiar with the layout of the extant Maidstone Code of Conduct and the changes proposed are not extensive and provide consistency with other Kent authorities.

**This report makes the following recommendations:**

The Audit Governance and Standards Committee recommends:

1. That the Council agree the revised Member Code of Conduct (Appendix 1) and revised arrangements for dealing with Councillor conduct complaints (Appendix 2)

The Democracy and General Purposes Committee recommends:

2. That the Council agree the changes to the Constitution to give effect to the introduction of the revised Member Code of Conduct and revised arrangements for dealing with Councillor conduct complaints.

# Report from the Audit, Governance and Standards Committee and Democracy and General Purposes Committee – Revised Members’ Code of Conduct and Arrangements for Dealing with Councillor Conduct Complaints

## 1. REASONS FOR RECOMMENDATION

- 1.1 Pursuant to Section 27 of the Localism Act 2011, all Councils are under a statutory duty to promote and maintain high standards of conduct by Members and Co-opted Members of the authority. In discharging this duty, the Council *“must, in particular, adopt a Code dealing with the conduct that is expected of Members and Co-opted Members of the authority when they are acting in that capacity”*. The Council’s Code of Conduct, when viewed as a whole, must be consistent with the Seven Principles of Public Life of Selflessness, Integrity, Objectivity, Accountability, Openness, Honesty, and Leadership (known as “the Nolan Principles”). In addition, the Code must include provision for the registration and disclosure of pecuniary interests and other relevant interests. There is no mandatory Code of Conduct.
- 1.2 The Council adopted its current Code of Conduct on 5 July 2012 (the extant Maidstone Code of Conduct). The extant Maidstone Code of Conduct is contained within the Council’s Constitution at Part D1 (Members’ Code of Conduct) with the arrangements for dealing with Councillor conduct complaints being contained in Part D2 (Code Complaints) and associated Appendices. This Code of Conduct is based on the Kent County Council Code, which is considered good practice to promote consistency for the authorities.
- 1.3 On 30 January 2019, the Committee on Standards in Public Life (CSPL) produced a report on Local Government Ethical Standards. The report found that there was considerable variation in the length, quality, and clarity in local authority Codes of Conduct. A link to the full report has been provided in the Background Papers (CSPL January 2019 Report). It is important to note that notwithstanding the issues raised by the CSPL, the only recommendation from the CSPL effectively taken forward by the government was the Model Code of Conduct recommendation.
- 1.4 To this end, the CSPL recommended that the Local Government Association (LGA) should create an updated Model Code of Conduct, in consultation with representative bodies of Councillors and Officers of all tiers of local government. In December 2020, the LGA issued the “Local Government Association Model Councillor Code of Conduct 2020”. This was updated on 19 January and 17 May 2021. A link to the Model Code is provided below:

<https://www.local.gov.uk/publications/local-government-association-model-councillor-code-conduct-2020>

The LGA subsequently published “Guidance on the Local Government Association Model Councillor Code of Conduct” in July 2021. The LGA also published a “Guidance on Member Model Code of Conduct Complaints

Handling” in September 2021. Links to these guidance documents are provided in the background papers.

- 1.5 The Government’s response to the CSPL January 2019 Report was finally published in March 2022 and can be accessed via the link contained in the Background Papers.
- 1.6 The Kent Secretaries’ Group, a forum for Heads of Legal Services and Monitoring Officers across Kent, set up an Officers’ working group to review all the reports and guidance documents referred to above. MKLS was represented on that group. This resulted in the production of a recommended Kent Members’ Code of Conduct and arrangements for dealing with Councillor conduct complaints (the Kent Code). This has the advantage in seeking to ensure (so far as possible) a consistent approach to Code of Conduct complaints across Kent. This also assists dual-hatted Members to ensure that they can work within the same/similar Code of Conduct framework and assist Monitoring Officers and Independent Persons to try, so far as possible, to adopt a consistent approach to dealing with Code of Conduct complaints. As various Heads of Legal and Monitoring Officers across the County had input into the Kent Code, any issues arising for one authority can be raised within the Kent Secretaries’ group and solutions sought to amend the Code to ensure (so far as possible) consistency and lead to further improvements. Ultimately it is for each authority to adopt its own Code of Conduct and arrangements for dealing with complaints.
- 1.7 That said, the Kent Secretaries’ group adopted the majority of the LGA’s Model Code of Conduct save for the following provisions:
  - 1.7.1 some of the introductory and explanatory paragraphs as these were considered to be verbose; and
  - 1.7.2 the civility/respect provisions. This was included in a previous Model Code but later removed due to concerns that the definition of “disrespectful” was subjective and resulted at the time in an increase in the number of petty complaints. There was concern expressed that this would be repeated, and the Kent Secretaries’ group considered it would suffice for this aspect to be covered by the existing sections of the Code relating to bullying and harassment and bringing the Council into disrepute.

This approach has been approved by Kent County Council’s Standards Committee.

- 1.8 The proposed changes to the extant Maidstone Code of Conduct and arrangements for dealing with Code of Conduct complaints have been informed by the work of the Kent Secretaries’ Group. The amendments proposed to the Kent Model Code of Conduct and arrangements have been incorporated into the extant Maidstone Code of Conduct at Appendix 1 (Code of Conduct) and Appendix 2 (Arrangements for Dealing with Councillor conduct complaints).

- 1.9 With specific reference to the Code of Conduct, save for formatting issues, by way of summary, the proposed principal changes to the extant Maidstone Code of Conduct are:
- 1.9.1 Part D1. Paragraph 1, sub-paragraph 1.1 "Associated Person" - The words "or body" have been added, these were not included in the Code but have been incorporated in other Codes and therefore to ensure consistency this has been suggested as being incorporated into the Code by Kent Secretaries' Group.
  - 1.9.2 Part D1. Paragraph 2, sub-paragraph 2.1- Additional wording has been included to reference social media. The LGA Model Code recommended including a long list of different types of communication and interaction. The form of words suggested here is simpler and reduces the risk of an unintended gap due to the list missing something. The current Code was adopted prior to the rapid growth in social media and this section recognises this.
  - 1.9.3 Part D1. Paragraph 3, sub-paragraph 3.2.1 – This has been expanded to include reference to "harassment" and provide definitions as to what constitutes "bullying" and "harassment".
  - 1.9.4 Part D1. Paragraph 3, sub-paragraph 3.2.5 - This section provides a direct cross-reference between the sections in the Constitution referring to information that is classified as exempt in Committee papers.
  - 1.9.5 Part D1. Paragraph 3, sub-paragraph 3.3 – A new section has been suggested to include training. The LGA Model Code recommended including a requirement to undertake Code of Conduct training. Rather than mandate it, the approach taken here is to establish the principle that not undertaking training cannot be used as an excuse for breaching the Code.
  - 1.9.6 Part D1. Paragraph 3, sub-paragraph 3.4 – A new section has been added to promote cooperation by Members subject to a Code of Conduct complaint. The LGA Model Code recommended including a requirement to cooperate with any investigation and/or subsequent determination.
- 1.10 In January 2024, at the request of the Audit, Governance and Standards Committee, the Kent Association of Local Councils (KALC) was consulted on the proposed amendments to the extant Maidstone Code of Conduct. Suggestions provided by KALC have been considered by the Monitoring Officer. Stylistic amendments aimed at enhancing clarity or addressing specific concerns have been accepted and incorporated into the document at Appendix 1. Amendments tailored to Parish Councils, which do not directly pertain to the regulation of Maidstone Borough Council Members, have not been universally adopted but remain open for consideration by the respective Parish Councils. Amendments which do not align with the existing legal framework have not been accepted.

- 1.11 An urgent update to the meeting of the Audit, Governance and Standards Committee held on 11 April 2024 replaced the definition of Co-opted Member to align with the definition in Section 27 (4) of the Localism Act 2011 and re-instated reference to “plus one non-voting Parish Councillor when a Parish Councillor is the subject of a complaint” at paragraphs 2.1 and 2.2 of the Hearing Panel Rules of Procedure.
- 1.12 The arrangements for dealing with Councillor conduct complaints contained at Appendix 2 are procedural in nature and reflect cumulative Monitoring Officer/Head of Legal Services experience.
- 1.13 The Audit, Governance and Standards Committee, at its meeting held on 11 April 2024, agreed to recommend to the Democracy and General Purposes Committee that the Constitution be updated to give effect to the introduction of a revised Member Code of Conduct (Appendix 1) and revised arrangements for dealing with Councillor conduct complaints (Appendix 2). During the discussion, it was suggested by the Parish Council representatives that no changes be made to the extant Maidstone Code of Conduct at the present time to enable further work to take place to achieve a model which can be adopted by all Parish Councils without change. However, the Committee agreed to proceed as recommended, with the Chairman’s casting vote in favour. The Parish Council representatives wished to emphasise that they did not have a vote on this matter.
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## 2. **ALTERNATIVES CONSIDERED AND WHY NOT RECOMMENDED**

- 2.1. **Alternative 1:** To recommend to Council that the Constitution be updated to reflect the amendments proposed by KALC. Stylistic amendments aside, this option is not recommended as some of the amendments are Parish Council specific and this would create interpretational issues for breaches of the Code of Conduct by Maidstone Borough Council Members and would not align with the regulatory framework.
- 2.2 **Alternative 2:** To recommend to Council that the Constitution be updated to reflect alternative proposed amendments to the Members’ Code of Conduct and arrangements for dealing with Councillor conduct complaints. This is not a recommended course of action as the Council could inadvertently create a “third” Code of Conduct in circumstances where various options have already been considered and assessed extensively by both the LGA and separately by the Kent Secretaries’ group.
- 2.3 **Alternative 3:** To recommend to Council that the Constitution be updated to reflect the LGA Model Code of Conduct. This option is not recommended as the Monitoring Officer on review of the existing Code considers that the majority of the points set out in the LGA Model Code are captured in the Kent Code. The LGA will continuously review the Model code and the Monitoring Officer (and Kent Secretaries’ group) will in turn continuously review the changes and update Members to determine whether further changes need to be made to the local Code. The majority of the LGA Model Code has been incorporated within a Code that Councillors are familiar with.

- 2.4 **Alternative 4:** To recommend to Council that no changes be made to the Constitution so the existing Members' Code of Conduct and arrangements for dealing with Councillor conduct complaints remain as they are currently. This option would run counter to the recommendations of the CSPL whose intention was to strengthen the position regarding ethical standards.
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## **2. APPENDICES**

- 2.1 Appendix 1 – Proposed Updated Maidstone Borough Council Members' Code of Conduct

Appendix 2 - Revised Arrangements for Dealing with Councillor Conduct Complaints.

Appendix 3 - Member Code of Conduct Complaint Form

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## **3. BACKGROUND PAPERS**

- 3.1 [Committee on Standards in Public Life - Local Government Ethical Standards - A Review by the Committee on Standards in Public Life \(30 January 2019\)](#)
- 3.2 [Guidance on LGA Model Councillor Code of Conduct \(July 2021\)](#)
- 3.3 [Guidance on Member Model Code of Conduct Complaints Handling \(September 2021\)](#)
- 3.4 [Local government ethical standards: government response to the Committee on Standards in Public Life report \(March 2022\)](#)



## **D1. MEMBERS' CODE OF CONDUCT**

### **PREAMBLE**

- (A) The Code of Conduct that follows is adopted under section 27(2) of the Localism Act 2011.
- (B) The Code is based on the Seven Principles of Public Life under section 28(1) of the Localism Act 2011, which are set out in Annex 1.
- (C) This Preamble and Annex 1 do not form part of the Code, but you should have regard to them as they will help you to comply with the Code.
- (D) If you need guidance on any matter under the Code, you should seek it from the Monitoring Officer or your own legal adviser – but it is entirely your responsibility to comply with the provisions of this Code.
- (E) In accordance with section 34 of the Localism Act 2011, where you have a Disclosable Pecuniary Interest it is a criminal offence if, without reasonable excuse, you:
  - (a) Fail to notify the Authority's Monitoring Officer of the Interest before the end of 28 days beginning with the day on which you became a Member.
  - (b) Fail to disclose the Interest at Meetings where the interest is not entered in the Register of Members' Interests.
  - (c) Fail to notify the Authority's Monitoring Officer of the Interest before the end of 28 days beginning with the date of disclosure at a Meeting, if the Interest is not entered in the Register of Members' Interests and is not the subject of a pending notification.
  - (d) Take part in discussion or votes, or further discussions or votes, at Meetings on matters in which you have the Interest which are being considered at the Meeting.
  - (e) Fail to notify the Monitoring Officer of the Interest before the end

of 28 days beginning with the date when you become aware that you have such an interest in a matter to be dealt with, or being dealt with, by you acting alone in the course of discharging a function of the Authority.

- (f) Take any step in relation to a matter being dealt with by you acting alone in the course of discharging a function of the Authority, except a step for the purpose of enabling the matter to be dealt with otherwise than by you.
  - (g) Knowingly or recklessly provide false or misleading information in any of the above disclosures or notifications.
- (F) Any written allegation received by the Monitoring Officer that you have failed to comply with the Code will be dealt with under the arrangements adopted by the Authority for such purposes. If it is found that you have failed to comply with the Code, the Monitoring Officer may have regard to this failure in deciding whether to take action and, if so, what action to take in relation to you.

## **THE CODE**

### **1. Interpretation**

#### **1.1.** In this Code:

**“Associated Person”** means (either in the singular or in the plural):

- (a) a family member or any other person or body 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
- (b) 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
- (c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or

- (d) 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
- (e) any body in respect of which you are in a position of general control or management which:
  - (i) exercises functions of a public nature; or
  - (ii) is directed to charitable purposes; or
  - (iii) has a principal purpose to influence public opinion or policy (including any political party or trade union).

**“Authority”** means Maidstone Borough Council.

**“Authority Function”** means any one or more of the following interests that relate to the functions of the Authority:

- (a) housing - where you are a tenant of the Authority provided that those functions do not relate particularly to your tenancy or lease; or
- (b) school meals or school transport and travelling expenses - where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which your child attends; or
- (c) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992 - where you are in receipt of, or are entitled to the receipt of, such pay; or
- (d) an allowance, payment or indemnity given to Members of the Authority; or
- (e) any ceremonial honour given to Members of the Authority; or
- (f) setting council tax or a precept under the Local Government Finance Act 1992.

**“Code”** means this Code of Conduct.

**"Co-opted Member"** means a person who is not an elected Member of the Authority but who:

- (a) is a member of any Committee or Sub-Committee of the Authority:  
or
- (b) is a member of, and represents the Authority on, any joint committee or joint sub-committee of the Authority;  
and who is entitled to vote on any question that falls to be decided at any Meeting.

**"Disclosable Pecuniary Interest"** means those interests of a description specified in regulations made by the Secretary of State (as amended from time to time) as set out in Annex 2 and where either it is:

- (a) your interest; or
- (b) an interest of your spouse or civil partner, a person with whom you are living as husband and wife, or a person with whom you are living as if you were civil partners and provided you are aware that the other person has the interest;

and the word **"DPI"** shall be construed accordingly.

**"Interest"** means any Disclosable Pecuniary Interest or Other Significant Interest.

**"Meeting"** means any meeting of:

- (a) the Authority;
- (b) the executive of the Authority;
- (c) any of the Authority's committees, sub-committees, joint committees and/or joint sub-committees.

**"Member"** means a person who is an elected Member of the Authority and includes a Co-opted Member.

**"Other Significant Interest"** means an interest (other than a Disclosable Pecuniary Interest or an interest in an Authority Function) in any business of the Authority which:

- (a) may reasonably be regarded as affecting the financial position of yourself and/or an Associated Person to a greater extent than the majority of: -
- (i) other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision; or
  - (ii) (in other cases) other council tax payers, ratepayers or inhabitants of the Authority's area; or
- (b) relates to the determination of your application (whether made by you alone or jointly or on your behalf) for any approval, consent, licence, permission or registration or that of an Associated Person;

and where, in either case, a member of the public with knowledge of the relevant facts would reasonably regard the interest as being so significant that it is likely to prejudice your judgement of the public interest.

**“Register of Members’ Interests”** means the Authority's register of Disclosable Pecuniary Interests established and maintained by the Monitoring Officer under section 29 of the Localism Act 2011.

**“Sensitive Interest”** means information, the details of which, if disclosed, could lead to you or a person connected with you being subject to violence or intimidation.

## **2. Scope**

**2.1.** You must comply with this Code whenever you act in your capacity as a Member or Co-opted Member of the Authority.

**2.2.** This Code applies to all forms of communication and interaction including social media.

## **3. General Obligations**

**3.1.** You must, when using or authorising others to use the resources of the Authority:

- 3.1.1. act in accordance with the Authority’s reasonable requirements;
- and
- 3.1.2. ensure that such resources are not used improperly for political purposes (including party political purposes).
- 3.2.** You must not:
- 3.2.1. bully any person or carry out any act of harassment. For the purposes of this paragraph bullying and harassment shall be construed as follows:-
- (a) the Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Their website contains examples;
  - (b) harassment will have the meaning set out in The Protection from Harassment Act 1997 and other relevant legislation.
- 3.2.2. intimidate or attempt to intimidate any person who is or is likely to be a complainant, a witness, or involved in the administration of any investigation or proceedings, in relation to an allegation that a Member (including yourself) has failed to comply with this Code;
- 3.2.3. do anything that compromises, or is likely to compromise, the impartiality or integrity of those who work for, or on behalf of, the Authority;
- 3.2.4. disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:
- (a) you have the written consent of a person authorised to give it; or
  - (b) you are required by law to do so; or

- (c) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees in writing not to disclose the information to any other person; or the disclosure is
  - (i) reasonable and in the public interest; and
  - (ii) made in good faith and in compliance with the reasonable requirements of the Authority;
- 3.2.5. disclose information which is exempt information within the meaning of Part VA Local Government Act 1972 or The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012;
- 3.2.6. prevent another person from gaining access to information to which that person is entitled by law;
- 3.2.7. conduct yourself in a manner which could reasonably be regarded as bringing your office or the Authority into disrepute; or
- 3.2.8. use or attempt to use your position as a Member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage:
- 3.3 Where you have not undertaken training relating to conduct matters, you shall not be able to use this as a defence where a complaint has been made.
- 3.4 You must co-operate with any Code of Conduct investigation initiated by the Monitoring Officer and/or their determination.

#### **4. Registering Disclosable Pecuniary Interests**

- 4.1.** You must, before the end of 28 days beginning with the day you become a Member of the Authority, or before the end of 28 days beginning with the day on which this Code takes effect (whichever is the later), notify the Monitoring Officer of any Disclosable Pecuniary Interest.
- 4.2.** In addition, you must, before the end of 28 days beginning with the day

you become aware of any new Disclosable Pecuniary Interest or change to any DPI already registered, register details of that new DPI or change, by providing written notification to the Monitoring Officer.

- 4.3.** Where you have a Disclosable Pecuniary Interest in any matter to be dealt with, or being dealt with, by you acting alone in the course of discharging a function of the Authority (including making a decision in relation to the matter), then if the DPI is not registered in the Register of Members' Interests and is not the subject of a pending notification, you must notify the Monitoring Officer before the end of 28 days beginning with the day you become aware of the existence of the DPI.

## **5. Declaring Interests**

- 5.1.** Whether or not a Disclosable Pecuniary Interest has been entered onto the Register of Members' Interests or is the subject of a pending notification, you must comply with the disclosure procedures set out below.

- 5.2.** Where you are present at a meeting and have an Interest in any business to be considered, or being considered, at the Meeting, you must:

- 5.2.1. disclose the Interest; and
- 5.2.2. explain the nature of that Interest at the commencement of that consideration or when the Interest becomes apparent (subject to paragraph 6, below); and

unless you have been granted a dispensation or are acting under para 5(4):

- 5.2.3. not participate in any discussion of, or vote taken on, the matter at the Meeting; and
- 5.2.4. withdraw from the Meeting whenever it becomes apparent that the business is being considered; and
- 5.2.5. not seek improperly to influence a decision about that business.

- 5.3.** Where you have an Interest in any business of the Authority where you are acting alone in the course of discharging a function of the Authority (including making an executive decision), you must:



- 5.3.1. notify the Monitoring Officer of the interest and its nature as soon as it becomes apparent; and
  - 5.3.2. not take any steps, or any further steps, in relation to the matter except for the purpose of enabling the matter to be dealt with otherwise than by you; and
  - 5.3.3. not seek improperly to influence a decision about the matter.
- 5.4.** Where you have an Other Significant Interest in any business of the Authority, you may attend a Meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the Meeting for the same purpose. Having made your representations, given evidence or answered questions you must:
- 5.4.1. not participate in any discussion of, or vote taken on, the matter at the Meeting; and
  - 5.4.2. withdraw from the Meeting.

## **6. Sensitive Interests**

- 6.1.** Where you consider that the information relating to any of your Disclosable Pecuniary Interests is a Sensitive Interest, and the Monitoring Officer agrees, the Monitoring Officer will not include details of the Sensitive Interest on any copies of the Register of Members' Interests which are made available for inspection or any published version of the Register, but may include a statement that you have a DPI, the details of which are withheld under this paragraph.
- 6.2.** You must, before the end of 28 days beginning with the day you become aware of any change of circumstances which means that the details excluded under paragraph 6.1 are no longer a Sensitive Interest, notify the Monitoring Officer asking that the details be included in the Register of Members' Interests.
- 6.3.** The rules relating to disclosure of Interests in paragraphs 5.2 and 5.3 will apply, save that you will not be required to disclose the nature of the Sensitive Interest, but merely the fact that you hold an Interest in the matter under discussion.

## **7. Gifts & Hospitality**

- 7.1.** You must, before the end of 28 days beginning with the day of receipt/acceptance, notify the Monitoring Officer of any gift, benefit or hospitality with an estimated value of £100 or more, or a series of gifts, benefits and hospitality from the same or an associated source, with an estimated cumulative value of £100 or more, which are received and accepted by you (in any rolling twelve month period) in the conduct of the business of the Authority, the business of the office to which you have been elected or appointed or when you are acting as representative of the Authority. You must also register the source of the gift, benefit or hospitality.
- 7.2.** Where any gift, benefit or hospitality you have received or accepted relates to any matter to be considered, or being considered at a Meeting, you must disclose at the commencement of the Meeting or when the interest becomes apparent, the existence and nature of the gift, benefit or hospitality, the person or body who gave it to you and how the business under consideration relates to that person or body. You may participate in the discussion of the matter and in any vote taken on the matter, unless you have an Other Significant Interest, in which case the procedure in paragraph 5 above will apply.
- 7.3.** You must continue to disclose the existence and nature of the gift, benefit or hospitality at a relevant Meeting, for 3 years from the date you first registered the gift, benefit or hospitality.
- 7.4.** The duty to notify the Monitoring Officer does not apply where the gift, benefit or hospitality comes within any description approved by the Authority for this purpose.

## **8. Dispensation**

- 8.1.** The Monitoring Officer may, on a written request made to the Monitoring Officer by a Member with an Interest, grant a dispensation relieving the Member from either or both of the restrictions on participating in discussions and in voting (referred to in paragraph 5 above).

- 8.2.** A dispensation may be granted only if, after having had regard to all relevant circumstances, the Monitoring Officer considers that:
- 8.2.1. without the dispensation the number of Members prohibited from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business; or
  - 8.2.2. without the dispensation, the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business; or
  - 8.2.3. granting the dispensation is in the interests of persons living in the Authority's area; or
  - 8.2.4. without the dispensation each member of the Authority's executive would be prohibited from participating in any particular business to be transacted by the Authority's executive; or
  - 8.2.5. it is otherwise appropriate to grant a dispensation.
- 8.3.** A dispensation must specify the period for which it has effect, and the period specified may not exceed four years.
- 8.4.** Paragraph 5 above does not apply in relation to anything done for the purpose of deciding whether to grant a dispensation under this paragraph 8.

**ANNEX 1****THE SEVEN PRINCIPLES OF PUBLIC LIFE**

In accordance with the Localism Act 2011, and in order to help maintain public confidence in this Authority, you are committed to behaving in a manner that is consistent with the following principles. However, it should be noted that these Principles do not create statutory obligations for Members and do not form part of the Code. It follows from this that the Authority cannot accept allegations that they have been breached. The definitions of the Principles are as below, or as set out on the website of the Committee on Standards in Public Life.

**SELFLESSNESS:** Holders of public office should act solely in terms of the public interest.

**INTEGRITY:** Holders of public office must avoid placing themselves under any obligation to people or organisations to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

**OBJECTIVITY:** Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

**ACCOUNTABILITY:** Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

**OPENNESS:** Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

**HONESTY:** Holders of public office should be truthful.

**LEADERSHIP:** Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

**ANNEX 2****DISCLOSABLE PECUNIARY INTERESTS**

**Disclosable Pecuniary Interests, as prescribed by regulations, areas follows:**

The descriptions on Disclosable Pecuniary Interests are subject to the following definitions:

**“the Act”** means the Localism Act 2011.

**“body in which the relevant person has a beneficial interest”** means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest.

**“director”** includes a member of the committee of management a registered society within the meaning given by section 1(1) of the Co-operative and Community Benefit Societies Act 2014, other than a society registered as a credit union.

**“land”** excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income.

**“M”** means a Member of the relevant authority.

**“member”** includes a co-opted member.

**“relevant authority”** means the authority of which M is a Member.

**“relevant period”** means the period of 12 months ending with the day on which M gives a notification for the purposes of section 30(1), or section 31(7), as the case may be, of the Act.

**“relevant person”** means M or any other person referred to in section 30(3)(b) of the Act (namely M’s spouse or civil partner, or a person with whom

M is living as if they were a married couple or civil partners).

**“securities”** means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

<b>Interest</b>	<b>Description</b>
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	<p>Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M.</p> <p>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.</p>
Contracts	<p>Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority:</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p>
Land	Any beneficial interest in land which is within the area of the relevant authority.

Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	Any tenancy where (to M's knowledge):  (a) the landlord is the relevant authority; and  (b) the tenant is a body in which the relevant person has a beneficial interest.
Securities	Any beneficial interest in securities of a body where:  (a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and  (b) either  (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or  (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

## **D2. CODE COMPLAINTS**

### **1. Context**

- 1.1.** These Arrangements are made under section 28 of the Localism Act 2011. They set out the process that Maidstone Borough Council has adopted for dealing with complaints that an elected Member or co-opted Member or Parish/Town Councillor or co-opted member has failed to comply with the Code of Conduct.

### **2. Interpretation**

- 2.1.** '**Borough Council**' means Maidstone Borough Council.
- 2.2.** '**Code of Conduct**' means the Code of Conduct, which the Borough and Parish/Town Council have adopted under section 27(2) of the Localism Act 2011.
- 2.3.** '**Complainant**' means a person who has submitted a complaint in accordance with these Arrangements alleging that a Subject Member has breached the Code of Conduct.
- 2.4.** '**Disclosable Pecuniary Interest**' means those disclosable pecuniary interests that meet the definition prescribed by regulations (as amended from time to time) as set out in Annex 2 to the Members' Code of Conduct.
- 2.5.** '**Hearing Panel**' means the panel appointed by the Borough Council to determine the outcome of any complaint alleging a breach of the Code of Conduct by a Subject Member in accordance with these Arrangements.
- 2.6.** '**Independent Person**' means a person or persons appointed by the Borough Council under section 28(7) of the Localism Act 2011:
- 2.6.1. whose views are to be sought and taken into account by the Borough Council before it makes its decision on an allegation that it has decided to investigate and whose views may be sought by the Borough Council at any other stage, or



2.6.2. who may be consulted by the Subject Member about the complaint.

- 2.7.** **'Investigating Officer'** means the person appointed by the Monitoring Officer to undertake a formal investigation of a complaint alleging a breach of the Code of Conduct by a Subject Member. The Investigating Officer may be another senior Officer of the Borough Council, an Officer of another authority or an external investigator.
- 2.8.** The **'Monitoring Officer'** is a senior Officer of the Borough Council who has statutory responsibility for maintaining the Register of Members' Interests and who is responsible for administering the arrangements for dealing with any complaint alleging a breach of the Code of Conduct by a Subject Member. It includes any other Officer of the Borough Council nominated by the Monitoring Officer to act on their behalf.
- 2.9.** **'Parish/Town Council'** means the relevant Parish/Town Council within the Borough of Maidstone.
- 2.10.** **'Parties'** means the Complainant, Subject Member and the Investigating Officer, as appropriate.
- 2.11.** **'Subject Member'** means an elected member or co-opted member of the Borough or Parish/Town Council against whom a complaint has been made alleging a breach of the Members' Code of Conduct.

### **3. Appointment of Independent Person**

- 3.1.** The Borough Council shall appoint the Independent Person (and any substitute) in accordance with the requirements of section 27 of the Localism Act 2011 upon such terms as to remuneration and expenses as may be determined by the Borough Council from time to time.
- 3.2.** The Independent Person (and any substitute) shall be treated as if they were a Member of the Borough Council for the purposes of the Borough Council's arrangements for indemnifying and insuring its Members.

#### **4. Making a complaint**

**4.1.** A complaint alleging a breach of the Code of Conduct by a Subject Member must be made either:

4.1.1. in writing and addressed to the Monitoring Officer using the Complaint Form included within Annex 1 to these Arrangements, or.

4.1.2. via the Council's website using the on-line complaint form provided there.

Complainants who find difficulty in making their complaint in writing (e.g. because of a disability), should inform the Monitoring Officer of any such difficulty and the Monitoring Officer will arrange for assistance to be offered.

**4.2.** The Subject Member will normally be informed of the identity of the Complainant and details of the complaint made against them, but the Complainant's identity and/or details of their complaint may be withheld at the Complainant's request if it appears to the Monitoring Officer that there are sound reasons for granting such a request (refer to paragraph 5 of Annex 1 to these Arrangements).

**4.3.** The Monitoring Officer will normally acknowledge receipt of a complaint within 15 working days of receiving it. At the same time (and subject to paragraph 4.2 above), the Monitoring Officer will send a copy of the complaint to the Subject Member in accordance with paragraph 1 of Annex 1 to these Arrangements.

#### **5. Criminal conduct**

**5.1.** In accordance with section 34 of the Localism Act 2011, it is a criminal offence if, without reasonable excuse, you:

5.1.1. fail to notify the Monitoring Officer of a Disclosable Pecuniary Interest before the end of 28 days beginning with the day you become, or are re-elected or re-appointed, a member or Co-opted Member of the Authority;

5.1.2. fail to notify the Monitoring Officer of a Disclosable Pecuniary

Interest before the end of 28 days beginning with the day you become aware of it, where you are acting alone in the course of discharging a function of the Authority (including making a decision in relation to the matter) and the interest is not already registered or is not the subject of a pending notification to the Monitoring Officer;

- 5.1.3. fail to disclose a Disclosable Pecuniary Interest at a meeting, where such interest has not already been registered or notified to the Monitoring Officer;
- 5.1.4. fail to notify the Monitoring Officer of a Disclosable Pecuniary Interest before the end of 28 days beginning with the day you disclose it at a meeting, where such interest has not already been registered or notified to the Monitoring Officer;
- 5.1.5. take part in discussions or vote at meetings that relate to the Disclosable Pecuniary Interest, unless a dispensation has been granted;
- 5.1.6. knowingly or recklessly provide false or misleading information in any of the above disclosures or notifications.

**5.2.** Where a complaint against a Subject Member relates to conduct of a criminal nature referred to above, the Monitoring Officer will deal with the complaint in accordance with paragraph 4.4 of Annex 1 to these Arrangements.

## **6. Anonymous complaints**

**6.1.** Complainants must provide their full name and address. An anonymous complaint will only be accepted by the Monitoring Officer, providing it is accompanied by corroborating evidence that indicates to the Monitoring Officer that it is in the public interest to accept the complaint. The Monitoring Officer may consult the Independent Person.

## **7. Role of Independent Person**

The Independent Person must be consulted and have their views taken into account before the Borough Council makes a finding as to

whether a Member has failed to comply with the Code or decides on action to be taken in respect of that Member. At any other stage of the complaints process under these Arrangements, the Independent Person may be consulted by the Monitoring Officer and/or the Subject Member.

## **8. Preliminary tests**

**8.1.** The Monitoring Officer will, put the complaint through a number of preliminary tests, in accordance with paragraph 2~~1~~ of Annex 1 to these Arrangements and may do so in consultation with the Independent Person.

**8.2.** In the event that the Independent Person is unavailable or unable to act, the time limits specified in paragraph 2 of Annex 1 may either be extended by the Monitoring Officer or the Monitoring Officer may act alone in taking the decision or action.

## **9. Informal resolution**

**9.1.** The Monitoring Officer, may consider that the complaint can be resolved informally at any stage in accordance with paragraph 6 of Annex 1 to these Arrangements and may do so in consultation with the Independent Person.

## **10. Investigation**

**10.1.** If the Monitoring Officer, decides that the complaint merits formal investigation, they will, normally within 30 working days of receiving it, appoint an Investigating Officer to undertake the investigation, and inform the Parties of the appointment.

**10.2.** The Investigating Officer will investigate the complaint in accordance with Annex 2 to these Arrangements.

## **11. Hearing**

**12.** If the Monitoring Officer, in consultation with the Independent Person, considers that informal resolution is not appropriate or is unlikely to be achieved, then they will convene a meeting of the Hearing Panel to determine the outcome of the complaint in accordance with Annex 3 to

these Arrangements.

### **13. Sanctions**

- 13.1.** Where a Subject Member has been found by the Hearing Panel to have breached the Code of Conduct, the Hearing Panel may apply any one or more sanctions in accordance with paragraph 124 of Annex 3 to these Arrangements.

### **14. Appeal**

- 14.1.** There is no right of appeal for the Complainant or the Subject Member against decisions of either the Monitoring Officer or the Hearing Panel.

### **15. Discontinuance of Action**

- 15.1.** In the event that the Subject Member has died, is seriously ill or has ceased to be an elected member or co-opted member of the Borough or Parish/Town Council the Monitoring Officer may determine to end the complaints process.

### **16. Revision of these Arrangements**

- 16.1.** The Borough Council may by resolution agree to amend these Arrangements and has delegated to the Monitoring Officer and the Hearing Panel the right to depart from these Arrangements, where considered expedient to do so in order to secure the effective and fair consideration of any matter.

## **Annexes**

Annex 1 - Procedure on Receipt of A Complaint

Annex 2 - Procedure For Investigating The Complaint

Annex 3 - Hearing Panel Procedure

**ANNEX 1:****PROCEDURE ON RECEIPT OF A COMPLAINT****1. Notification of Complaint to Subject Member**

- 1.1.** Subject to any representations from the Complainant on confidentiality (see paragraph 5 below), the Monitoring Officer will notify the Subject Member and, if applicable, the Parish/Town Clerk of the complaint.
- 1.2.** The Monitoring Officer may invite the Subject Member [and, if applicable, the Parish/Town Clerk] to submit initial views on the complaint, which will be taken into account by the Monitoring Officer when they decide how to deal with the complaint (see paragraph 4 below).

**2. Preliminary Tests**

- 2.1.** The complaint will be assessed by the Monitoring Officer against the legal jurisdiction test in paragraph 2.2 and, if applicable, the local assessment criteria test in paragraph 2.4 below. The Monitoring Officer may assess the complaint in consultation with the Independent Person.
- 2.2.** Legal jurisdiction criteria test:
- 2.2.1. Did the alleged conduct occur before the adoption of the Code of Conduct? If the answer to this is 'Yes' the test is failed.
- 2.2.2. Was the person complained of a member of the Borough or Parish/Town Council at the time of the alleged conduct? If the answer to this is 'No' the test is failed.
- 2.2.3. Was the person complained of acting in an official capacity at the time of the alleged conduct? If the answer to this is 'No' the test is failed.
- 2.2.4. Did the alleged conduct occur when the person complained of

was acting as a member of another authority? If the answer to this is 'Yes' the test is failed.

- 2.2.5. If the facts could be established as a matter of evidence, could the alleged conduct be capable of supporting a breach of the Code of Conduct? If the answer to this is 'No' the test is failed.
- 2.2.6. Is the complaint about dissatisfaction with the Borough or Parish/Town Council's decisions, policies, priorities, processes and governance etc.? If the answer to this is 'Yes' the test is failed and the matter should be raised by the complainant directly with the Borough or Parish/Town Council, via their general complaints process.

### **2.3. Local assessment criteria test:**

If the complaint satisfies the legal jurisdiction test, the Monitoring Officer will then apply the following local assessment criteria test:

- 2.3.1. The complaint is substantially the same as a complaint which has previously been made.
- 2.3.2. The complaint is anonymous, unless the Monitoring Officer is of the view, on the basis of corroborating evidence, that it is in the public interest to accept the complaint. The Monitoring Officer may consult the Independent Person.
- 2.3.3. No or insufficient information/evidence to substantiate the complaint has been submitted by the Complainant.
- 2.3.4. The complaint is malicious or relatively minor, and, in the view of the Monitoring Officer, the public interest would not be served by taking further action.
- 2.3.5. The Complainant is unreasonably persistent and/or vexatious.
- 2.3.6. The alleged misconduct happened more than 3 months prior to the submission of the complaint.
- 2.3.7. Dealing with the complaint would have a disproportionate effect on both public money and/or officers' and Members' time.

- 2.3.8. The circumstances have changed so much that there would be little benefit arising from an investigation or other action.
  - 2.3.9. The complaint has been the subject of an investigation or other action and there is nothing more to be gained by further action being taken.
  - 2.3.10. The complaint is such that it is unlikely that an investigation will be able to come to a firm conclusion on the matter, e.g. where there is no firm evidence on the matter.
  - 2.3.11. The complaint is about a deceased person.
  - 2.3.12. The complaint is about a person who is no longer a Borough or Parish/Town Councillor or Co-opted Member.
- 2.4.** If the complaint fails one or more of the jurisdiction tests no further action will be taken by the Monitoring Officer and the complaint will be rejected. The Complainant will be notified accordingly with reasons, within 60 working days of receipt of the complaint by the Monitoring Officer. There is no right of appeal against the Monitoring Officer's decision.

### **3. Asking for additional information**

- 3.1.** The Monitoring Officer may ask the Complainant and the Subject Member [and, if applicable, the Parish/Town Clerk] for additional information before deciding how to deal with the complaint.

### **4. What process to apply - informal resolution or investigation and/or no action?**

- 4.1.** The Monitoring Officer may at any stage seek to resolve the complaint informally in accordance with paragraph 6 below. Where the Subject Member or the Monitoring Officer or the Borough or Parish/Town Council make a reasonable offer of informal resolution, but the Complainant is not willing to accept this offer, the Monitoring Officer will take account of this in deciding whether the complaint merits formal investigation.



- 4.2.** The Monitoring Officer may refer the complaint for investigation when:
- 4.2.1. It is serious enough, if proven, to justify the range of sanctions available to the Audit, Governance and Standards Committee (see paragraph 12 of Annex 3 to these Arrangements), or
  - 4.2.2. The Subject Member’s behaviour is part of a continuing pattern of less serious misconduct that is unreasonably disrupting the business of the Borough or Parish/Town Council and there is no other avenue left to deal with it short of investigation. In considering this, the Monitoring Officer may take into account the time that has passed since the alleged conduct occurred.
- 4.3.** Where the complaint is referred for investigation, the Monitoring Officer will appoint an Investigating Officer who will conduct the investigation in accordance with the procedure at Annex 3 to these Arrangements.
- 4.4.** If the complaint identifies potential criminal conduct or a potential breach of other regulations by the Subject Member or any other person, the Complainant may be advised by the Monitoring Officer to report the complaint to the police or other prosecuting or regulatory authority. Alternatively, the Monitoring Officer will consider the complaint against the legal jurisdiction criteria test and if the complaint passes that test the Monitoring Officer may pass the complaint to the police. Where a complainant has been advised to refer a matter to the police or the Monitoring Officer has referred the matter to the police the complaints process under these Arrangements will be suspended, pending a decision/action by the police or other prosecuting or regulatory authority. Where the police or other prosecuting or regulatory authority decide to take no action on the complaint, the Monitoring Officer will lift the suspension and will apply the local assessment criteria test in paragraph 2.4 above.
- 4.5.** The Monitoring Officer may decide to take no action or to defer further action on the complaint whilst one or more of the following apply:
- 4.5.1. On-going criminal proceedings or a police investigation into the Subject Member’s conduct.

- 4.5.2. Investigation cannot be proceeded with<sup>7</sup> without investigating similar alleged conduct or needing to come to conclusions of fact about events which are also the subject of some other investigation or court proceedings.
  - 4.5.3. The investigation might prejudice another investigation or court proceedings.
  - 4.5.4. Genuine long term (3 months or more) unavailability of a key party.
  - 4.5.5. Serious illness of a key party.
- 4.6.** Normally within 90 working days of receipt of the complaint, the Monitoring Officer will notify the Complainant, Subject Member {and, if applicable, the Parish/Town Clerk of their decision and reasons for applying one of the following processes in the format of the Decision Notice template (appended to this Annex 1):
- 4.6.1. Not to refer the complaint for investigation.
  - 4.6.2. Refer the complaint for investigation.
  - 4.6.3. Apply the informal resolution process either before or after an investigation.
  - 4.6.4. To refer the complaint to the relevant political group leader for action.
- 4.7.** There is no right of appeal against the Monitoring Officer's decision.

## **5. Confidentiality**

- 5.1.** If the Complainant has asked for their identity to be withheld, this request will be considered by the Monitoring Officer when they initially assess the complaint (see paragraph 2 above). The Monitoring Officer may consult the Independent Person.
- 5.2.** As a matter of fairness and natural justice, the Subject Member will usually be told who the Complainant is and will also receive details of the complaint. However, in exceptional circumstances, it may be appropriate to keep the Complainant's identity confidential or not disclose details of the complaint to the Subject Member during the early stages of an

investigation. The Monitoring Officer may withhold the Complainant's identity and/or details of the complaint if they are satisfied that there are reasonable grounds for believing that the Complainant or any other person (e.g. a witness):

- 5.2.1. Is either vulnerable or at risk of threat, harm or reprisal;
- 5.2.2. May suffer intimidation or be victimised or harassed;
- 5.2.3. Works closely with the Subject Member and is afraid of the consequences, e.g. fear of losing their job;
- 5.2.4. Suffers from a serious health condition and there are medical risks associated with their identity being disclosed (medical evidence will need to be provided to substantiate this);
- 5.2.5. May receive less favourable treatment because of the seniority of the person they are complaining about in terms of any existing Borough or Parish/Town Council service provision or any tender/contract they may have with or are about to submit to the Borough or Parish/Town Council.

OR where early disclosure of the complaint:

- 5.2.6. May lead to evidence being compromised or destroyed; or
- 5.2.7. May impede or prejudice the investigation; or
- 5.2.8. Would not be in the public interest.

**5.3.** Relevant public interest factors favouring disclosure (not an exhaustive list) include:

- 5.3.1. To facilitate transparency and ethical governance accountability: recognising that decision-making may be improved by constructive contributions from others;
- 5.3.2. To raise public awareness: disclosing the complaint or part of it may inform the community about matters of general concern;
- 5.3.3. Justice to an individual: the balance of the public interest may favour disclosure of the complaint to the Subject Member when

it may not be in the public interest to disclose it to the world at large;

5.3.4. Bringing out in the open serious concerns about the behaviour/conduct of an individual.

**5.4.** If the Monitoring Officer decides to refuse the Complainant's request for confidentiality, they will offer the Complainant the option to withdraw their complaint. The Complainant will be notified of the Monitoring Officer's decision, with reasons by the Monitoring Officer. There is no right of appeal against the Monitoring Officer's decision to refuse the Complainant's request for confidentiality.

## **6. Informal resolution**

**6.1.** The Monitoring Officer may seek to resolve complaints informally at any stage in the process, whether without the need for an investigation, or before or after investigation has been commenced or concluded. In so doing, the Monitoring Officer will consult with the Complainant and the Subject Member to agree what they consider to be a fair resolution, which will help to ensure higher standards of conduct for the future.

**6.2.** Informal resolution may be the simplest and most cost-effective way of resolving the complaint and may be appropriate where:

6.2.1. The Subject Member appears to have a poor understanding of the Code of Conduct and/or related Borough or Parish/Town Council procedures; or

6.2.2. There appears to be a breakdown in the relationship between the Complainant and the Subject Member; or

6.2.3. The conduct complained of appears to be a symptom of wider underlying conflicts which, if unresolved, are likely to lead to lead to further misconduct or allegations of misconduct; or

6.2.4. The conduct complained of appears common to a number of members of the Borough or Parish/Town Council, demonstrating a lack of awareness, experience or recognition of the particular provisions of the Code of Conduct and/or other Borough or

Parish/Town Council procedures etc.; or

- 6.2.5. The conduct complained of appears to the Monitoring Officer not to require a formal sanction; or
- 6.2.6. The complaint appears to reveal a lack of guidance, protocols and procedures within the Borough or Parish/Town Council; or
- 6.2.7. The Complainant and the Subject Member are amenable to engaging in an informal resolution; or
- 6.2.8. The complaint consists of allegations and retaliatory allegations between Members; or
- 6.2.9. The complaint consists of allegations about how formal meetings are conducted; or
- 6.2.10. The conduct complained of may be due to misleading, unclear or misunderstood advice from officers.

**6.3.** Informal resolution may consist of one or more of the following actions, which do not have to be limited to the Subject Member, but may extend to other Members including the whole Borough or Parish/Town Council where it may be useful to address systemic behaviour:

- 6.3.1. Training.
- 6.3.2. Conciliation/mediation.
- 6.3.3. Mentoring.
- 6.3.4. Apology.
- 6.3.5. Instituting changes to the Borough or Parish/Town Council's Procedures.
- 6.3.6. Conflict management.
- 6.3.7. Development of the Borough or Parish/Town Council's protocols.
- 6.3.8. Other remedial action by the Borough or Parish/Town Council.
- 6.3.9. Other steps (other than investigation) if it appears appropriate

to the Monitoring Officer.

- 6.4.** If the Subject Member is agreeable to and complies with the informal resolution process, the Monitoring Officer may report the matter to the Audit, Governance and Standards Committee and, if applicable, the Parish/Town Council for information, but will take no further action against the Subject Member.
- 6.5.** Where the Subject Member will not participate in the informal resolution process or if, having agreed to one or more actions under the informal resolution process, the Subject Member refuses or fails to carry out any agreed action, the Monitoring Officer will report the matter to the Audit, Governance and Standards Committee.

**COMPLAINT FORM**

[Separate Document]

## **EXAMPLE TEMPLATE - DECISION NOTICE (of the Monitoring Officer): e.g., REFERRAL FOR INVESTIGATION**

*Parties should take care when passing on information that is in the notice or about the notice. For example, some details such as names and addresses may be confidential or private in nature or may be personal information.*

**Complaint No:** *[insert]*

### **Complaint**

On *[insert date]*, the Monitoring Officer considered a complaint from *[insert name of complainant]* concerning the alleged conduct of *[insert name of councillor]*, a member of *[insert authority name]*. A general summary of the complaint is set out below.

### **Complaint summary**

*[Summarise complaint in numbered paragraphs]*

### **Consultation with Independent Person**

*[Summarise the Independent Person's views in numbered paragraphs]*

### **Decision**

*[Having consulted and taken into account the views of the Independent Person]*, the Monitoring Officer decided to refer the complaint for investigation.

### **Potential breaches of the Code of Conduct identified**

At this stage, the Monitoring Officer is not required or able to decide if the Code of Conduct has been breached. They are only considering if there is enough information which shows a potential breach of the Code of Conduct that warrants referral for investigation.

The Monitoring Officer considers that the alleged conduct, if proven, may amount to a breach of the following paragraphs of the Code of Conduct. The Monitoring Officer has appointed *[insert name]* as the Investigating Officer.

Please note that it will be for the Investigating Officer to determine which paragraphs are relevant, during the course of the investigation.

*[detail relevant Code of Conduct paragraphs]*

### **Notification of decision**

This decision notice is sent to the:

- Complainant.
- Member against whom the complaint was made.
- [Clerk to the relevant Parish/Town or Town Council].
- Kent County Council's Monitoring Officer (*applicable only where the Subject Member is serving at both Borough and County level*).



**What happens now**

The complaint will now be investigated under the Borough Council's Arrangements for Dealing with Code of Conduct Complaints under the Localism Act 2011.

**Appeal**

There is no right of appeal against the Monitoring Officer's decision.

**Additional Help**

If you need additional support in relation to this decision notice or future contact with the Borough Council, please let us know as soon as possible. If you have difficulty reading this notice, we can make reasonable adjustments to assist you, in line with the requirements of the Equality Act 2010. We can also help if English is not your first language. Please refer to the attached Community Interpreting Service leaflet or contact our Customer Services on [insert telephone number] or email [insert email address].

**Signed:****Date****Print name:**

Monitoring Officer of Maidstone Borough Council Address:  
Maidstone Borough Council  
Maidstone House  
King Street  
Maidstone  
Kent ME15 6JQ

**ANNEX 2****PROCEDURE FOR INVESTIGATING THE COMPLAINT****PRELIMINARIES**

- 1.1.** The Investigating Officer will be appointed by the Monitoring Officer and will be aware of their obligations under UK General Data Protection Regulation and the Data Protection Act 2018, Equalities Act 2010, the Human Rights Act 1998 and other relevant legislation.
- 1.2.** The Investigating Officer is responsible for gathering all the facts, documents and, where applicable, for interviewing witnesses with knowledge of the facts, and they should remain objective, impartial and unbiased at all times.
- 1.3.** The Subject Member and the Complainant will be advised that the investigation is for the purposes of establishing facts and making recommendations as to whether the facts disclose a breach of the relevant code of conduct.
- 1.4.** Witnesses will be identified at the investigation stage and wherever possible their evidence supported by signed and dated witness statements and/or notes of interview with the Investigating Officer. The Investigating Officer cannot compel the attendance of witnesses or their co-operation.
- 1.5.** The Investigating Officer will not make recommendations on sanctions.
- 1.6.** The Investigating Officer will notify the Subject Member and the Complainant of their appointment, normally within 20 working days of being appointed and:
  - 1.6.1. Provide details of the complaint to the Subject Member;
  - 1.6.2. Detail the procedure to be followed in respect of the investigation

and the relevant timescales for responses and concluding the investigation;

- 1.6.3. Detail the sections of the Code of Conduct that appear to be relevant to the complaint;
  - 1.6.4. Request contact details of any potential witnesses;
  - 1.6.5. Require that confidentiality is maintained throughout the duration of the investigation and the procedures contemplated by this Annex and that details of the complaint not be disclosed to any third party, unless disclosure is to a representative, witness, immediate family members or otherwise as may be required by law or regulation. However, the fact that an investigation is being conducted does not need to remain confidential.
- 1.7.** It may be necessary for the Investigating Officer to agree with the Subject Member which documents will be submitted in evidence. This will generally include documents that will be relied on, or in support of, the Subject Member's case and which are relevant to the complaint.
- 1.8.** The Investigating Officer may conclude their investigation at any point, where they are satisfied that they have sufficient information to enable them to report to the Monitoring Officer.
- 2. Evidence of New Breaches**
- 2.1.** The Investigating Officer may find evidence of conduct by councillors that breaches the Code of Conduct but extends beyond the scope of the investigation referred to them. Their powers as an Investigating Officer relate only to the allegation that they been given. While that means that the Investigating Officer may consider other parts of the Code than those initially considered if they are relevant to the matter in hand, they may also find evidence of a possible breach that does not directly relate to the allegation being investigated. If this happens, the Investigating Officer should tell the person they obtained the information from that they cannot investigate the possible breach as part of their existing investigation. The Investigating Officer should advise them that they are able to make a separate complaint to the Monitoring Officer.
- 3. Referring Cases Back to the Monitoring Officer**

- 3.1.** During the course of an investigation, it may be necessary for the Monitoring Officer to consider whether the investigation should continue, for example, if:
- 3.1.1. Evidence suggests a case is less serious than may have seemed apparent originally and that a different decision might therefore have been made about whether to investigate it or not.
  - 3.1.2. It emerges during the investigation that the conduct under investigation was not conduct by the Subject Member in their role as a councillor but rather in a private capacity.
  - 3.1.3. Evidence indicates something which is potentially more serious which should be referred to the police.
  - 3.1.4. The Subject Member has died, is seriously ill, has resigned from the authority, or is otherwise reasonably unable to take part in the process for the foreseeable future and it is considered that it is no longer appropriate to continue with the investigation.
  - 3.1.5. The Subject Member has indicated that they wish to make a formal apology or take other action which should resolve the matter.
- 3.2.** In this context 'seriously ill' means that the councillor has a medical condition which would prevent them from engaging with the process of an investigation or a hearing for the foreseeable future. This might be a terminal illness or a degenerative condition. The Investigating Officer would be expected to establish this from a reliable independent and authoritative source other than the Subject Member. This would include where a councillor claims they are suffering from stress brought on by the investigation.
- 3.3.** Ultimately it will be for the Monitoring Officer to conclude whether the investigation should continue. In reaching that decision, the Monitoring Officer may consult with the Independent Person before deciding to defer or end the investigation.
- 3.4.** If the investigation has been deferred or ended the Subject Member and the complainant should be notified of the decision and where possible provided with timescales within which the matter will be dealt with if it has been deferred. This would not always be possible, however, particularly if the matter has been referred to the police.

#### **4. Deferring an Investigation**

- 4.1.** An investigation should be deferred when any of the following conditions are met:
- 4.1.1. There are ongoing criminal proceedings or a police investigation into the Subject Member's conduct.
  - 4.1.2. The investigation might prejudice another investigation or court proceeding.
- 4.2.** An investigation may also need to be deferred for any of the reasons set out in paragraph 4.5 of Annex 1.
- 4.3.** When it is clear that there is an ongoing police or other investigation, or related court proceedings, the Investigating Officer should make enquiries about the nature of the police, or other investigation, or the nature of any court proceedings.
- 4.4.** If at any time during the investigation the Investigating Officer becomes aware of any circumstances that might require the investigation to be deferred, the Investigating Officer should notify the Monitoring Officer who should determine whether there should be a deferral. The Monitoring Officer may also wish to consult with the Independent Person.
- 4.5.** In some cases, it will be possible to investigate some of the alleged conduct, where there is no overlap with another investigation or court proceedings. The Investigating Officer should highlight those areas where investigation may be possible in the investigation plan.
- 4.6.** The Monitoring Officer or the Investigating Officer should ask the police, other relevant organisation or individual, in writing to keep them informed of the outcome of any police or other investigation, court proceedings or other relevant matter. Any important dates, for example of committal hearings should be noted in the investigation plan review.
- 4.7.** A deferred investigation should be kept under regular review, in the interests of natural justice.
- 4.8.** Once a decision is taken to begin the investigation again the Investigating Officer should notify in writing: the Subject Member; the complainant; the

relevant Independent Person; and the relevant Parish/Town council if the Subject Member is a Parish/Town councillor.

- 4.9.** The investigation plan should be reviewed in the light of the outcome of any police investigation or court proceedings.

**5. The draft report**

- 5.1.** On the conclusion of their investigation the Investigating Officer will issue a draft report (clearly labelled 'DRAFT' and 'CONFIDENTIAL') to the Monitoring Officer for review.

- 5.2.** Following review by the Monitoring Officer, the draft report will be sent in confidence to the Subject Member and the Complainant (not witnesses) for comment. The draft report will be clearly labelled 'DRAFT' and "CONFIDENTIAL" and will detail:

- 5.2.1. The relevant provisions of the law and the relevant paragraphs of the Code of Conduct;
- 5.2.2. A summary of the complaint;
- 5.2.3. The Subject Member's response to the complaint;
- 5.2.4. Relevant information, explanations, etc, which the Investigation Officer has obtained in the course of the investigation;
- 5.2.5. A list of any documents relevant to the matter;
- 5.2.6. A list of those persons/organisations who have been interviewed;
- 5.2.7. A statement of the Investigating Officer's draft findings of fact and reasons;
- 5.2.8. The Investigating Officer's conclusion as to whether the Subject Member has or has not failed to comply with the Authority's Code of Conduct;
- 5.2.9. That the Investigating Officer will present a final report once they have considered any comments received on the draft.

- 5.3.** Once the Investigating Officer has received any responses from the

Subject Member and/or the Complainant, they will finalise the draft report and make their final conclusions and recommendations to the Monitoring Officer. The report will be clearly labelled 'FINAL' and 'CONFIDENTIAL'.

## **6. Consideration of Investigating Officer's final report**

**6.1.** The Monitoring Officer will review the Investigating Officer's final report and any comments submitted by the Parties, in consultation with the Independent Person.

**6.2.** Where, on the basis of the Investigating Officer's report, the Monitoring Officer, having consulted with the Independent Person, concludes that there is no evidence of a failure to comply with the Code of Conduct, they will inform the Parties in writing that no further action is considered necessary. There is no right of appeal against the Monitoring Officer's decision.

**6.3.** Where, on the basis of the Investigating Officer's report, the Monitoring Officer, having consulted with the Independent Person, concludes that there is evidence of a failure to comply with the Code of Conduct, they will either:

6.3.1. Take no action; or

6.3.2. Seek informal resolution; or

6.3.3. Refer the matter for consideration by the Hearing Panel in accordance with the relevant procedure detailed in Annex 2 to these Arrangements.

## **7. Confidentiality**

**7.1.** The procedures detailed in this Annex are all treated as confidential to those involved in the process. Some details (which would include names and addresses) may be personal data, subject to data protection laws, some content of statements or reports may be otherwise private or confidential or, may be potentially defamatory if published.

**7.2.** Whilst non-members are not covered by the Code of Conduct (e.g., members of the public, witnesses and non-councillor complainants) if,

they do decide to publish details of the complaint they may expose themselves to liability in defamation (if information turns out to be untrue) or to other liabilities e.g., for breach of confidence, or for breach of data protection laws which could arise even where the information is true. Non-members may wish to seek their own legal advice.



**ANNEX 3****HEARING PANEL PROCEDURE****1. Pre-Hearing Procedure**

- 1.1.** In order to allow the hearing to proceed fairly and efficiently, the Monitoring Officer may in appropriate cases use a pre-hearing procedure to identify:
- 1.1.1. Which facts in the investigation report are agreed and which are in dispute.
  - 1.1.2. Whether there is fresh evidence not mentioned in the investigation report which will be put before the hearing.
  - 1.1.3. Whether there is documentary evidence which a party intends to put before the hearing.
  - 1.1.4. Whether the parties intend to attend, whether the parties intend to be represented in accordance with paragraph 3 and, if so, by whom, the number and identity of witnesses to be called.
  - 1.1.5. Whether the Subject Member requests the whole or any part of the hearing to be held in private.
  - 1.1.6. Whether the Subject Member requests the whole or any part of the investigation report or other relevant documents to be withheld from the public.
- 1.2.** The Monitoring Officer will notify the parties of the date, time, and place for the hearing.

**2. Rules of procedure**

- 2.1.** The Hearing Panel consists of three voting elected Members when a Parish Councillor is the subject of a complaint drawn from the Audit, Governance and Standards Committee, one of whom shall be elected as Chairman plus one non-voting Parish Councilor.

- 2.2.** The quorum for a meeting of the Hearing Panel is three elected Members plus one non-voting Parish Councillor when a Parish Councillor is the subject of a complaint.
- 2.3.** The Independent Person's views must be sought and taken into consideration before the Hearing Panel takes any decision on whether the Subject Member's conduct constitutes a failure to comply with the Code of Conduct and as to any sanction to be taken following a finding of failure to comply with the Code of Conduct. The Independent Person should normally be present throughout the hearing (but not during the deliberations of the Hearing Panel in private) but in the event that this is not possible, may instead submit their views on the complaint to the Hearing Panel in writing.
- 2.4.** The legal requirements for publishing agendas, minutes and calling meetings, will apply to the Hearing Panel. The presumption is that the hearing will be held in public no earlier than 14 working days after the Monitoring Officer has copied the Investigating Officer's final report to the complainant and the Subject Member. Schedule 12A Local Government Act 1972 (as amended) will be applied to exclude the public and press from meetings of the Hearing Panel.
- 2.5.** Once a hearing has started, the Borough Council's Rules of Substitution do not apply to the Hearing Panel's proceedings.
- 2.6.** All matters/issues before the Hearing Panel will be decided by a simple majority of votes cast, with the Chairman having a second or casting vote.
- 2.7.** Where the Subject Member fails to attend the Hearing Panel and where the Hearing Panel is not satisfied with their explanation for their absence from the hearing, the Hearing Panel may in the first instance, have regard to any written representations submitted by the Subject Member and may resolve to proceed with the hearing in the Subject Member's absence and make a determination or, if satisfied with the Subject Member's reasons for not attending the hearing, adjourn the hearing to another date. The Hearing Panel may resolve in exceptional circumstances, that it will proceed with the hearing on the basis that it is

in the public interest to hear the allegations expeditiously.<sup>1</sup>

### **3. Right to be accompanied by a representative**

**3.1.** The Subject Member may choose to be represented by counsel, a solicitor, or by any other person they wish. The panel does, however, have the right to require a representative to leave if that representative disrupts the hearing. However, an appropriate warning will be given before requiring a representative to leave the hearing

### **4. Order of Business**

**4.1.** Subject to paragraph 4.2 below, the order of business will be as follows:

4.1.1. Elect a Chairman.

4.1.2. Apologies for absence,

4.1.3. Declarations of interests,

4.1.4. In the absence of the Subject Member, consideration as to whether to adjourn or to proceed with the hearing (refer to paragraph 1.11 above).

4.1.5. Introduction by the Chairman, of members of the Hearing Panel, the Independent Person, Monitoring Officer, Investigating Officer, legal advisor, complainant and the Subject Member and their representative.

4.1.6. To receive representations from the Monitoring Officer and/or Subject Member as to whether any part of the hearing should be held in private and/or whether any documents (or parts thereof) should be withheld from the public/press.

4.1.7. To determine whether the public/press are to be excluded from any part of the meeting and/or whether any documents (or parts thereof) should be withheld from the public/press.

**4.2.** The Chairman may exercise their discretion and amend the order of

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<sup>1</sup> Janik v Standards Board for England & Adjudication Panel for England (2007)

business, where they consider that it is expedient to do so in order to secure the effective and fair consideration of any matter.

**4.3.** The Hearing Panel may adjourn the hearing at any time.

## **5. Presentation of the complaint**

**5.1.** The Monitoring Officer, legal advisor, or chairman may make an introductory statement outlining the nature of the complaint and the purpose of the hearing, and the procedure to be followed.

**5.2.** The Investigating Officer presents their report including any documentary evidence or other material and calls their witnesses. No new points will be permitted.

**5.3.** The Subject Member or their representative may question the Investigating Officer and any witnesses called by the Investigating Officer.

**5.4.** The Hearing Panel may question the Investigating Officer upon the content of their report and any witnesses called by the Investigating Officer.

## **6. Presentation of the Subject Member's case**

**6.1.** The Subject Member or their representative presents their case and calls their witnesses.

**6.2.** The Investigating Officer may question the Subject Member and any witnesses called by the Subject Member.

**6.3.** The Hearing Panel may question the Subject Member and any witnesses called by the Subject Member.

## **7. Summing up**

**7.1.** The Investigating Officer sums up the complaint.

**7.2.** The Subject Member or their representative sums up their case.

## **8. Views/Submissions of the Independent Person**

**8.1.** The Chairman will invite the Independent Person to express their view on



whether or not they consider that on the facts presented to the Hearing Panel, there has been a breach of the Code of Conduct.

## **9. Deliberations of the Hearing Panel to be in Private**

**9.1.** The Hearing Panel will adjourn the hearing and deliberate in private (assisted on matters of law by a legal advisor) to consider whether or not, on the facts found, the Subject Member has failed to comply with the Code of Conduct.

**9.2.** The Hearing Panel may at any time come out of private session and reconvene the hearing in public, in order to seek additional evidence from the Investigating Officer, the Subject Member or the witnesses. If further information to assist the Panel cannot be presented, then the Panel may adjourn the hearing and issue directions as to the additional evidence required and by whom.

## **10. Announcing Decision on Facts Found**

**10.1.** The Hearing Panel will reconvene the hearing in public (if the public have not been excluded from the proceedings) and the Chairman will announce whether or not on the facts found, the Panel considers that there has been a breach of the Code of Conduct

**10.2.** Where the Hearing Panel considers that there has been a breach of the Code of Conduct, the Chairman will invite the Independent Person, the Subject Member and the Monitoring Officer to make their representations as to whether or not any sanctions should be applied and, if so, what form they should take.

**10.3.** When deciding whether to apply one or more sanctions, the Hearing Panel will ensure that the application of any sanction is reasonable and proportionate to the Subject Member's behaviour. The Hearing Panel will consider the following questions along with any other relevant circumstances or other factors specific to the local environment:

10.3.1. What was the Subject Member's intention and did they know that they were failing to follow the Borough or Parish/Town Council's Code of Conduct?

- 10.3.2. Did the Subject Member receive advice from officers before the incident and was that advice acted on in good faith?
- 10.3.3. Has there been a breach of trust?
- 10.3.4. Has there been financial impropriety, e.g. improper expense claims or procedural irregularities?
- 10.3.5. What was the result/impact of failing to follow the Borough or Parish/Town Council's Code of Conduct?
- 10.3.6. How serious was the incident?
- 10.3.7. Does the Subject Member accept that they were at fault?
- 10.3.8. Did the Subject Member apologise to the relevant persons?
- 10.3.9. Has the Subject Member previously been reprimanded or warned for similar misconduct?
- 10.3.10. Has the Subject Member previously breached of the Borough or Parish/Town Council's Code of Conduct?
- 10.3.11. Is there likely to be a repetition of the incident?

**10.4.** Mitigating factors may include:

- 10.4.1. An honestly held, although mistaken, view that the action concerned did not constitute a failure to follow the provisions of the Code of Conduct, particularly where such a view has been formed after taking appropriate advice.
- 10.4.2. A councillor's previous record of good service.
- 10.4.3. Substantiated evidence that the councillor's actions have been affected by ill-health.
- 10.4.4. Recognition that there has been a failure to follow the Code.
- 10.4.5. Co-operation in rectifying the effects of that failure.
- 10.4.6. An apology to affected persons where that is appropriate.
- 10.4.7. Self-reporting of the breach by the councillor.

10.4.8. Compliance with the Code since the events giving rise to the complaint.

**10.5.** Aggravating factors may include:

10.5.1. Dishonesty or breaches of trust.

10.5.2. Trying to gain an advantage or disadvantage for themselves or others.

10.5.3. Bullying.

10.5.4. Continuing to deny the facts despite clear contrary evidence.

10.5.5. Seeking unfairly to blame other people.

10.5.6. Failing to heed appropriate advice or warnings or previous findings of a failure to follow the provisions of the Code.

10.5.7. Persisting with a pattern of behaviour which involves repeatedly failing to abide by the provisions of the Code.

**10.6.** Having heard the representations of the Independent Person, the Subject Member and the Monitoring Officer on the application of sanctions, the Hearing Panel will adjourn and deliberate in private.

**Final Decision**

**10.7.** Where the complaint has a number of elements, the Hearing Panel may reach a finding, apply a sanction and/or make a recommendation on each aspect separately.

**10.8.** The Hearing Panel will make its decision on the balance of probabilities, based on the evidence before it during the hearing.

**10.9.** Having taken into account the Independent Person, the Subject Member and the Monitoring Officer's representations on the application of sanctions, the Hearing Panel will reconvene the hearing in public and the



Chairman will announce:

- 10.9.1. The Panel's decision as to whether or not the Subject Member has failed to comply with the Code of Conduct, and the principal reasons for the decision.
- 10.9.2. The sanctions (if any) to be applied.
- 10.9.3. The recommendations (if any) to be made to the Borough or Parish/Town Council or Monitoring Officer.
- 10.9.4. That there is no right of appeal against the Panel's decision and/or recommendations.

## **11. Range of possible sanctions**

**11.1.** Where the Hearing Panel determines that the Subject Member has failed to comply with the Code of Conduct, any one or more of the following sanctions may be applied/recommended:

- 11.1.1. Report its findings in respect of the subject member's conduct to the Council (or the relevant Parish Council).
- 11.1.2. Issue (or recommend to the Parish Council to issue) a formal censure (i.e., the issue of an unfavourable opinion or judgement or reprimand).
- 11.1.3. Recommend to the leader of the authority that the Subject Member be removed from positions of responsibility.
- 11.1.4. Instruct the Monitoring Officer to (or recommend that the Parish Council) arrange training for the Subject Member.
- 11.1.5. Recommend to Council (or recommend to the Parish Council) that the Subject Member be removed from all outside appointments to which they have been appointed or nominated by the authority (or by the parish Council).
- 11.1.6. Recommend to Council (or recommend to the Parish Council) that it withdraws facilities provided to the Subject Member by the authority for a specified period, such as a computer, website and/or email and internet access.

- 11.1.7. Recommend to Council (or recommend to the Parish Council) that it excludes the Subject Member from the authority's offices or other premises for a specified period, with the exception of meeting rooms as necessary for attending Council, committee and sub-committee meetings, and/or restricts contact with officers to named officers only.
  - 11.1.8. If relevant recommend to Council that the Subject Member be removed from their role as leader of the authority.
  - 11.1.9. If relevant recommend to the secretary or appropriate official of a political group that the councillor be removed as group leader or other position of responsibility.
  - 11.1.10. Recommend that the Subject Member make an apology in respect of the conduct or take some other action to resolve the matter.
- 11.2.** Where the Subject Member is a Parish or Town councillor, the matter is referred back to their Council to say that a breach of the Code has been found and with a recommended sanction. The Town or Parish Council must then meet to consider whether to impose that sanction or to replace it with another relevant sanction. They cannot overturn the finding that there has been a breach of the Code and if they wish to impose a different sanction they should seek advice from the clerk and/or the Monitoring Officer. The panel should also ask the Parish or Council to report back to the monitoring officer within three months to confirm that they have met to discuss the sanction, and if necessary, to write again once the sanction has been fulfilled.
- 11.3.** Note that under the Code of Conduct failure to comply with a sanction may of itself be a breach of the Code.
- 11.4.** The Hearing Panel has no power to suspend or disqualify the Subject Member or to withdraw basic or special responsibility allowances.

- 11.5.** The Hearing Panel may specify or recommend that any sanction take effect immediately or take effect at a later date and that the sanction be time limited.

## **12. Publicising the Findings**

- 12.1.** The Monitoring Officer should arrange for a decision notice to be published on the website of any authorities concerned. A template decision notice is appended which may be used for these purposes.
- 12.2.** If the panel finds that the Subject Member did not fail to follow the authority's Code of Conduct, the public summary must say this and give reasons for this finding.
- 12.3.** If the panel finds that the Subject Member failed to follow the Code but that no action is needed, the public summary should:
- 12.3.1. Say that the councillor failed to follow the Code, but that no action needs to be taken.
  - 12.3.2. Outline what happened.
  - 12.3.3. Give reasons for the panel's decision not to take any action.
- 12.4.** If the panel finds that a councillor failed to follow the Code and it imposed or recommended a sanction or other action, the public summary should:
- 12.4.1. Say that the councillor failed to follow the Code.
  - 12.4.2. Outline what happened.
  - 12.4.3. Explain what sanction has been imposed.
  - 12.4.4. Give reasons for the decision made by the panel.
- 12.5.** The panel's reports and minutes should be available for public inspection in the same way as other local authority committee papers.
- ## **13. Appeals**
- 13.1.** Given that the framework and sanctions are meant to be light-touch and proportionate, there is no right of appeal against a decision on a Code of Conduct complaint.

## **TEMPLATE - DECISION NOTICE (of Hearing Panel)**

### **Complaint No:** *[insert]*

On *[insert date]*, the Hearing Panel of Maidstone Borough Council considered a report of an investigation into the alleged conduct of *[insert name of councillor]*, a member of *[insert authority name]*. A general summary of the complaint is set out below.

### **Complaint summary**

*[Summarise complaint in numbered paragraphs as set out in the Investigating Officer's report to the Hearing Panel]*

### **Consultation with Independent Person**

*[Summarise the Independent Person's views in numbered paragraphs]*

### **Findings**

After considering the submissions of the parties to the hearing and the views of the Independent Person, the Hearing Panel reached the following decision(s):

*[Summarise the finding of facts and the Hearing Panel's decision against each finding of fact in numbered paragraphs as set out in the Investigating Officer's report to the Hearing Panel but substitute the Investigating Officer for the Hearing Panel. Please note that the Hearing Panel's findings may differ from that of the Investigating Officer]*

The Hearing Panel also made the following recommendation(s)

*[Detail recommendations]*

### **Sanctions applied**

The breach of the *[insert authority name]* Code of Conduct warrants a *[detail sanctions applied]*.

### **Appeal**

There is no right of appeal against the Hearing Panel's decision.

### **Notification of decision**

This decision notice is sent to the:

- Councillor [name of Councillor]
- Complainant
- Monitoring Officer
- [Clerk to the xxxx Parish/Town Council];

- Kent County Council’s Monitoring Officer *[applicable only where the Councillor serving at both Borough and County level]*

**Additional help**

If you need additional support in relation to this decision notice or future contact with the Borough Council, please let us know as soon as possible. If you have difficulty reading this notice, we can make reasonable adjustments to assist you, in line with the requirements of the Equality Act 2010. We can also help if English is not your first language. Please refer to the attached Community Interpreting Service leaflet or contact our Customer Services on *[insert telephone number]* or email *[insert email address]*.

**Signed:**

Date:

**Print name:**

Chairman of the Hearing Panel

# MAIDSTONE BOROUGH COUNCIL

## COMPLAINT FORM –

### ALLEGATIONS OF BREACH OF MEMBER CODE OF CONDUCT

#### 1. YOUR DETAILS

**Before you send us your complaint, you should be aware that whilst we will redact your address and contact details, we are unlikely to be able to keep your identity confidential from the person about who you are making the complaint. We will tell the following people that you have made this complaint:**

- **The member(s) you are complaining about**
- **The monitoring officer of the authority**
- **The parish clerk (if applicable)**
- **The Independent Person**

**If you have serious concerns about your identity being released, please ensure you complete Section 3 below.**

1.1. Please complete the following contact information:

Title:	
First Name:	
Last name:	
Address	
Daytime telephone:	
Evening telephone:	
Mobile telephone:	
Email address:	

1.2. Please tell us which complainant type best describes you:

	Member of the public
	An elected or co-opted member of an authority
	An independent member of the standards committee
	Member of Parliament
	Local authority monitoring officer
	Other council officer or authority employee
	Other: (please state)

**2. YOUR COMPLAINT**

**Before you send us your complaint, you should be aware that, save possibly during the early stages of an investigation, we are unlikely to be able to keep the details of your complaint confidential. If you have serious concerns about a summary or details of your complaint being released, please ensure you complete Section 3 below.**

2.1. Please provide us with the name of the member(s) you believe have breached the Code of Conduct and the name of their authority:

Title	First name	Last name	Borough, Town or Parish name

2.2. Please explain in this section (or on separate sheets) what the councillor has done that you believe breaches the Code of Conduct. If you are complaining about more than one councillor you should clearly explain what each individual person has done that you believe breaches the Code of Conduct.

**WHAT YOU CAN COMPLAIN ABOUT**

You can complain about a Councillor who you consider has breached any provision in any part of their Council's Code of Conduct<sup>1</sup>. Whilst the detail is contained within the Council's Code of Conduct, in summary this can include:

- misusing the council's resources
- allowing the council's resources to be misused for the activities of a political party
- bullying and intimidation
- doing something to prevent those who work for the council from being impartial
- revealing information that was given to them in confidence, or stopping someone getting information they are entitled to by law
- damaging the reputation of their office or the Council
- using their position improperly, to their own or someone else's advantage or disadvantage
- failing to register a Disclosable Pecuniary Interest
- failing to disclose a Disclosable Pecuniary Interest or an Other Significant Interest at a meeting
- taking part in a meeting or making a decision where the councillor has a Disclosable Pecuniary Interest or an Other Significant Interest
- failing to register any gift, benefit or hospitality they have received in their role as a councillor, worth £100 or more

Further details can be found in the Council's Code of Conduct.

### **WHAT WE CANNOT INVESTIGATE**

There are some complaints that cannot be (or are unlikely to be) investigated. Whilst the detail is contained within the Maidstone Borough Council's Constitution (see Part D2 (Code Complaints))<sup>2</sup>, in summary this includes:

- complaints that are not in writing (using this complaint form)
- incidents or actions that are not covered by the Code of Conduct
- complaints about dissatisfaction with the Council's decisions and decision-making process, its policies and priorities
- complaints that are anonymous (unless supported by independent documentary evidence substantiating or indicating that the complaint is exceptionally serious or significant)

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<sup>1</sup> Each Council (Borough, Town and Parish Council) is required to adopt a code dealing with the conduct that is expected of members of the Council when they are acting in that capacity as a Councillor. Please go to the relevant Council's webpage to access this. Maidstone Borough Council's "Members' Code of Conduct" is contained in Part D1 of its Constitution (which can be accessed at the following link <https://ws.maidstone.gov.uk/docs/PDF%20Constitutions/Constitution%20July%202023.pdf>).

<sup>2</sup> Part D2 (Code of Complaints) can be accessed at the following link <https://ws.maidstone.gov.uk/docs/PDF%20Constitutions/Constitution%20July%202023.pdf>.



- complaints where a Councillor is not named
- complaints which are the subject of ongoing court proceedings or police or other regulatory investigations
- complaints about person who is no longer a Councillor or Co-opted member or incidents that happened before a councillor/member was elected or co-opted
- acts carried out in a Councillor's private life when they are not acting as a councillor
- complaints that are a 'repeat complaint' (unless supported by new or further evidence substantiating or indicating that the complaint is exceptionally serious or significant)
- No or insufficient information/evidence to substantiate the complaint
- complaints that are malicious, trivial, politically motivated or 'tit-for-tat'
- complainants that are unreasonably persistent, malicious and/or vexatious
- complaint that are relatively minor and dealing with the complaint would have a disproportionate effect on both public money and officers' and Councillors' time
- where the circumstances have changed so much that there would be little benefit arising from an investigation or other action
- complaints that have been the subject of an investigation or other action and there is nothing more to be gained by further action being taken
- complaints where the alleged misconduct took place so long ago that the complaint should not be pursued
- complaints where an investigation is unlikely to come to a firm conclusion on the matter (e.g., where there is no firm evidence on the matter)
- complaints about deceased persons
- complaints about a service the Council has provided. Such complaints can be made by using a separate complaints system
- complaints about people employed by local councils. Such complaints can be made by using a separate complaints system
- complaints about Council administration and procedures, the way in which the council conducts and records its meetings or how council employees have dealt with your concerns. Such complaints should be made direct to the relevant council.

**PLEASE NOTE:**

It is important that you provide all the information you wish to have considered by the Monitoring Officer for when he decides whether to take any action on your complaint. For example:

- You should specify what sections of the Code you believe have been breached and why.

- You should be specific, wherever possible, about exactly what you are alleging the councillor said or did. For instance, instead of writing that the councillor insulted you, you should state what it was they said.
- You should provide the dates of the alleged incidents wherever possible. If you cannot provide exact dates, it is important to give a general timeframe.
- You should confirm whether there are any witnesses to the alleged conduct and provide their names and contact details if possible.
- You should provide any relevant background information and, where possible, supporting evidence.

**Please provide us with the details of your complaint. Continue on a separate sheet if there is not enough space on this form.**

- 2.3. In appropriate circumstances, Maidstone Borough Council's Constitution (Annex 1 to Part D2 (Code Complaints)) allows the Monitoring Officer, in consultation with the Independent Person, to consider informal resolution of a complaint. Please indicate whether you consider the matter could be satisfactorily resolved informally (e.g., by way of a suitable apology). Please give reasons.

**Please provide us with your thoughts on a satisfactory outcome and reasons.**

**NOTE:** If your complaint were investigated and a breach of the code of conduct was found, the range of possible sanctions available is set out in Paragraph 4 to Annex 3 of Part D2 of the Constitution.

### 3. CONFIDENTIALITY

**Only complete this section if you are requesting that your identity and/or the details of the complaint be kept confidential.**

Before you send us your complaint, unless the Monitoring Officer is of the opinion that it is in the public interest to do so, you should be aware that we are unlikely to be able to keep your identity and/or the details of the complaint confidential from the person about who you are making the complaint.

In the interests of fairness and natural justice, we believe Councillors who are complained about have a right to know who has made the complaint and the details of the complaint. In exceptional circumstances, it may be appropriate to keep your identity confidential or not disclose details of the complaint to the Councillor during the early stages of an investigation.

Please note that requests for confidentiality or requests for suppression of complaint details will not automatically be granted. The Monitoring Officer will consider the request. We will then contact you with a decision. If your request for confidentiality is not granted, we will usually allow you the option of withdrawing your complaint. However, it is important to understand that in certain exceptional circumstances where the matter complained about is very serious, we can proceed with an investigation or other action and disclose your name even if you have expressly asked us not to.

**Circumstances where identity/details of the complaints may be withheld:**

The Monitoring Officer may withhold your identity and/or details of the complaint if satisfied that there are reasonable grounds for believing that you or any other person (e.g., a witness):

- is either vulnerable or at risk of threat, harm or reprisal
- may suffer intimidation or be victimised or harassed
- works closely with the Councillor(s) and is afraid of the consequences, (e.g., fear of losing their job)
- suffers from a serious health condition and there are medical risks associated with their identity being disclosed (medical evidence will need to be provided to substantiate this)
- may receive less favourable treatment because of the seniority of the person they are complaining about in terms of any existing Borough or Parish Council service provision or any tender/contract they may have with or are about to submit to the Borough or Parish Council.

OR where early disclosure of the complaint:

- may lead to evidence being compromised or destroyed
- may impede or prejudice the investigation
- would not be in the public interest.

**Please provide us with details (and, where appropriate, evidence) of why you believe we should withhold your name and/or the details of your complaint:**

#### **4. ADDITIONAL HELP AND INFORMATION**

Complaints must be submitted in writing using the correct form. This includes printed and electronic submissions. However, in line with the requirements of the Disability Discrimination Act 2000, we can make reasonable adjustments to assist you if you have a disability that prevents you from making your complaint in writing.

We can also help if English is not your first language. However, we recommend that you always try to find a friend or relative who can speak or read English to help you with your enquiry initially. This will help both you and us to deal with your needs more effectively.

Further information (including information on possible sanctions) can be found in the Councils "Complain about a councillor" webpage<sup>3</sup>.

If you need any support in completing this form, please email [LegalQueries@MidKent.gov.uk](mailto:LegalQueries@MidKent.gov.uk) or contact us on 01622 602100 or contact your local Citizens Advice Bureau, Law Centre or other advice centre.

Once you have completed the form, please return it, together with supporting documents, to [MonitoringOfficer@Maidstone.gov.uk](mailto:MonitoringOfficer@Maidstone.gov.uk) or you can return it to:

The Monitoring Officer  
Maidstone Borough Council  
Maidstone House  
King Street  
Maidstone  
ME15 6JQ

<sup>3</sup> <https://maidstone.gov.uk/home/primary-services/find-and-contact-us/additional-areas/complain-about-a-councillor>



\_\_\_\_\_  
Signature:

Date: \_\_\_\_\_

**COUNCIL**

**17 JULY 2024**

**Report from the Democracy and General Purposes Committee – Constitutional Amendments**

<b>Timetable</b>	
<b>Meeting</b>	<b>Date</b>
Democracy and General Purposes Committee	19 June 2024
Council	17 July 2024

<b>Wards affected</b>	All
-----------------------	-----

**Executive Summary**

This report asks the Council to make a minor amendment to the constitution relating to the Joint Transportation Board.

**This report makes the following recommendations:**

That Council agree the following constitutional amendment:

- Delete point (i) in Part B4 2.2.3 Joint Transportation Board (JTB)

# Report from the Democracy and General Purposes Committee – Constitutional Amendments

## 1. REASONS FOR RECOMMENDATION

1.1 Democracy and General Purposes have responsibility to regularly review the constitution in conjunction with the Monitoring Officer and recommend proposed changes where significant to the Council.

1.2 One amendment has been identified for Council to agree:

**Delete point (i) in Part B4 2.2.3 Joint Transportation Board (JTB)**– to remove the ambiguity of the bullet point, and the interpretation that it restricts Council’s locus to appoint the Chairman (or Vice-Chairman) that it wants to from the membership of the JTB.

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## 2. ALTERNATIVES CONSIDERED AND WHY NOT RECOMMENDED

2.1 **Alternative 1:** To not make the amendment. This is not recommended for the reason set out in 1.2.

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## 2. APPENDICES

2.1 None

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## 3. BACKGROUND PAPERS

3.1 None

**COUNCIL**

**17 JULY 2024**

**Report from the Democracy and General Purposes Committee – Outside Bodies 2024/25**

<b>Timetable</b>	
<b>Meeting</b>	<b>Date</b>
Democracy and General Purposes Committee	19 June 2024
Council	17 July 2024

<b>Wards affected</b>	All
-----------------------	-----

**Executive Summary**

This report asks the Council to amend the allocation of Outside Bodies seats between the Democracy and General Purposes Committee and Cabinet.

On 19 June 2024 the Democracy and General Purposes Committee considered the Council’s outside bodies allocations and arrangements.

**This report makes the following recommendations:**

1. That Council amend the constitution to properly reflect which Outside Bodies are related to Cabinet portfolios and which are for appointment by the Democracy and General Purposes Committee (as set out in table 1.3); and
2. That the Maidstone Street Pastors have the limitation to High Street Ward members only, removed.



# Report from the Democracy and General Purposes Committee – Outside Bodies 2024/25

## 1. REASONS FOR RECOMMENDATION

1.1 Following the Annual Meeting of Council, with revised Cabinet appointments and Part B to the constitution, the constitution is recommended to be amended to reflect the in practice allocation of Outside Body vacancies to Cabinet Portfolios. Those bodies highlighted below each have one of their vacancies that is allocated to a Cabinet Member, as they were last year. It is recommended that the outside bodies allocation in the constitution is amended to reflect this.

1.2 An additional outside body, Upper Medway Internal Drainage Board, has been included in the new portfolios for Cabinet Members. The Committee are asked to consider whether to agree to amend the outside body allocations in the constitution to reflect this. The Upper Medway Internal Drainage Board appointments are currently held by non-Cabinet members and are not vacant, this would mean that when agreed by Council those Members would be removed from that outside body. The Upper Medway Internal Drainage Board has the power to raise a levy (currently £138,430) which is a direct cost for the council. It is therefore appropriate for executive members to participate in the decision on the levy through membership of the Board. Membership of the Board will also allow the relevant cabinet members to influence issues of strategic importance to the council around water management and flood resilience.

1.3

Outside Body	Cabinet Member Representative	Number of Cabinet Positions
Maidstone Twinning Association	Cabinet Member for Community Cohesion and Safety	1 position of 4
Maidstone Sea Cadets	Cabinet Member for Community Cohesion and Safety	1 position of 2
Upper Medway Internal Drainage Board	Cabinet Member for Climate Transition and Nature Recovery, and  Cabinet Member for Planning Policy and Management	2 positions of 2

1.4 Due to the recent boundary changes and that the outside body works across more than one ward, Maidstone Street Pastors Management Committee should be opened up beyond only High Street Ward members.

## 2. ALTERNATIVES CONSIDERED AND WHY NOT RECOMMENDED

- 2.1 **Alternative 1:** To not make amendments to reflect current arrangements, or consider changing the outside body allocations to the Cabinet. This is not recommended as it would not reflect what is happening in practice nor achieve the points raised in paragraph 1.2 above.
- 

## **2. APPENDICES**

- 2.1 None
- 

## **3. BACKGROUND PAPERS**

- 3.1 None

# Agenda Item 18

Maidstone Borough Council Nature Recovery Declaration version 1 (2024)

## Nature Recovery Declaration

### Maidstone Borough Council recognises that:

Nature is in long-term and accelerating decline. The UK is one of the most nature depleted countries on Earth, with one in six species of our animals and plants at risk of being lost from these islands. With 41 per cent of wild species in decline nationally, and most of the important habitats for the UK's wildlife in poor condition. Due to human activity the UK now has less than 50% of its historic biodiversity remaining\*. Time is running out if we are to stop this nature decline and ultimately reverse it.

We recognise that:

- Nature provides us with vital life support systems ['ecosystem services'], and severe declines in biodiversity are undermining nature's productivity and adaptability, posing excessive uncertainty and risks for our economy, health and wellbeing
- A thriving natural environment underpins a healthy, happy, resilient and prosperous society
- The impacts of climate change are contributing to nature's decline, while restoration and protection of natural habitats provides a wide variety of cost-effective benefits that can effectively mitigate and enable adaptation to the impacts arising from a heating planet and associated increases in severe weather events
- Many of our services across our Borough can have profound impacts upon nature, both positive and negative, and we have responsibilities to ensure our decisions protect and enhance the natural world

### This Council further acknowledges that:

To address the nature crisis and aim to achieve the multiple environmental benefits that nature can bring to people, the 'Bigger, Better, More and Joined-up' principles of the 2010 Lawton Report - 'Making Space for Nature' - should be followed to help rebuild nature:

- There must be more space provided for nature
- Existing wildlife spaces must be expanded
- The quality of existing wildlife spaces must be improved by better habitat management choices
- Connectivity between wildlife spaces must be enhanced

In order to support a genuine recovery of nature across Maidstone Borough, and in recognition of new obligations under the Environment Act 2021, this Council commits to:

1. Actively improving and protecting the Borough's natural habitats and seeks to strengthen their resilience to climate change, by means such as improved connectivity and appropriate investment in natural solutions to reduce atmospheric carbon, better manage flooding, tackle urban heat island impacts and other severe weather risks, all while sustaining vital eco-systems

2. Prioritising the restoration of natural habitats in accordance with Maidstone Borough Council's Biodiversity and Climate Change Action Plan and overarching UK Biodiversity Action Plan
3. Formulating a tree cover policy, underpinned by Nature Recovery Plan objectives, to reconnect the fragmented woodland and hedgerow network across our local authority area, informed by landscape restoration and "right tree, right place" principles. Recognise that tree planting is inappropriate in certain situations, such as downland, heathland, unimproved grassland and some wetlands
4. Managing and enhancing council-owned land to benefit nature and actively support and encourage projects that restore lost native species and natural processes, including through rewilding and river restoration initiatives
5. Embedding Local Nature Recovery into all strategic plans and policy areas, not just those directly related to the natural environment. Ensure the Local Nature Recovery Strategy (Making Space for Nature Kent) is well understood across the authority and complements other relevant Council plans and strategies
6. Working with partners, demonstrate leadership by supporting and engaging with the parishes, businesses, communities and the wider public to take action to facilitate Local Nature Recovery
7. Designating the Borough Council's Cabinet Member for Climate Transition and Nature Recovery as portfolio lead and also identifying a senior officer to co-ordinate the Council's operations across Local Nature Recovery
8. Engaging positively and proactively with the operation of Biodiversity Net Gain, supporting optimal gains for natural habitat restoration and connectivity across the Borough
9. Working positively with farm businesses, landowners and rural communities to deliver meaningful gains for nature from Environmental Land Management (ELM)
10. Where appropriate, and in accordance with the Council's Biodiversity and Climate Change Action Plan, investing in nature-based solutions to climate change, in order to tackle the nature crisis and climate emergency together
11. Negotiating an arrangement whereby Overview and Scrutiny Committee monitors the Local Nature Recovery work and the Council's action to support biodiversity and Local Nature Recovery on a regular basis
12. Working closely with Maidstone Borough's partners to promote Local Nature Recovery on their landholdings and through their wider policy and practice