



**ANNUAL REPORT OF THE MONITORING OFFICER ON
THE REVIEW OF THE COUNCIL'S ETHICAL
GOVERNANCE ARRANGEMENTS AND ANCILLARY
MATTERS**

2019 and 2020

1. Introduction

- 1.1.1 Local authorities are established in statute, with their responsibilities largely set out through a framework of legal duties. Councils are subject to duties that set out what they must do and set checks and balances on their actions. These duties include the role of officers and accountability to the public. The core accountability system is largely based on the application of these legal duties.
- 1.1.2 Effective local government relies on public confidence in elected councillors and appointed officers. Good governance underpins credibility and confidence in public services. The function of governance is to ensure that the Council fulfils its purpose and achieves its intended outcomes for citizens and service users and that it operates in an effective, efficient, economic and ethical manner. These concepts guide all governance activity.
- 1.1.3 Ethics is a key element of governance and the purpose of the Monitoring Officer's annual review of the Council's ethical governance is to ensure that robust arrangements are in place and that the Council continues to develop and improve management and reporting arrangements so as to satisfy itself that its approach to ethical governance is both adequate and effective in practice. Other aspects of governance on financial propriety within the Council are reviewed by the Section 151 Officer and reported to the Audit Board/Cabinet.

2. CIPFA/SOLACE framework for good governance

- 2.1 The framework produced by CIPFA/SOLACE 'Delivering Good Governance in Local Government'¹ (the CIPFA/SOLACE Framework') provides a structure to help individual authorities with their approach to governance. It also provides guidance on best practice for developing and maintaining a local code of corporate governance.
 - 2.1.1 To achieve good governance, the Council should be able to demonstrate that its governance structures comply with the core and sub principles contained in the CIPFA/SOLACE Framework. The Council should therefore develop and maintain a local code of governance/governance arrangements reflecting those principles. Whatever form of arrangements are in place, the Council should test its governance structures and partnerships against the CIPFA/SOLACE Framework's principles.
- 2.2 The following are the key elements of the typical systems and processes that comprise an authority's governance arrangements. The Council's review of the effectiveness of its governance arrangements makes appropriate reference to these elements:

¹ December 2016

- identifying and communicating the authority's vision of its purpose and intended outcomes for citizens and service users;
- reviewing the authority's vision and its implications for the authority's governance arrangements;
- translating the vision into objectives for the authority and its partnerships;
- measuring the quality of services for users, to ensure they are delivered in accordance with the authority's objectives and for ensuring that they represent the best use of resources and value for money;
- *defining and documenting the roles and responsibilities of the executive, non-executive, scrutiny and officer functions, with clear delegation arrangements and protocols for effective communication in respect of the authority and partnership arrangements;*
- *developing, communicating and embedding codes of conduct, defining the standards of behaviour for members and staff;*
- *reviewing the effectiveness of the authority's decision-making framework, including delegation arrangements, decision making in partnerships and robustness of data quality;*
- reviewing the effectiveness of the framework for identifying and managing risks and demonstrating clear accountability;
- ensuring effective counter-fraud and anti-corruption arrangements are developed and maintained;
- ensuring effective management of change and transformation;
- ensuring the authority's financial management arrangements conform with the governance requirements of the CIPFA Statement on the Role of the Chief Financial Officer in Local Government² and, where they do not, explain why and how they deliver the same impact;
- ensuring the authority's assurance arrangements conform with the governance requirements of the CIPFA Statement on the Role of the Head of Internal Audit³ and, where they do not, explain why and how they deliver the same impact;
- *ensuring effective arrangements are in place for the discharge of the monitoring officer function;*
- ensuring effective arrangements are in place for the discharge of the head of paid service function;
- undertaking the core functions of an audit committee, as identified in CIPFA's Audit Committees: Practical Guidance for Local Authorities and

²April 2016 publication

³2019

Police⁴;

- *ensuring compliance with relevant laws and regulations, internal policies and procedures, and that expenditure is lawful;*
- establishing whistleblowing arrangements and for receiving and investigating complaints from the public;
- *identifying the development needs of members and senior officers in relation to their strategic roles, supported by appropriate training;*
- establishing clear channels of communication with all sections of the community and other stakeholders, ensuring accountability and encouraging open consultation;
- enhancing the accountability for service delivery and effectiveness of other public service providers;
- incorporating good governance arrangements in respect of partnerships and other joint working as identified by CIPFA/SOLACE 'Delivering Good Governance in Local Government'⁵, and reflecting these in the Council's overall governance arrangements.

2.3 This report addresses the key elements (shown above in italics) which are the responsibility of the Monitoring Officer. These key elements are supported by a number of underlying principles, which in turn, translate into a range of specific requirements referred to in the Council's local code of corporate governance.

2.4 The Council is required to prepare an Annual Governance Statement. This Statement is presented by the Section 151 Officer to the Audit Board for approval, with the Annual Statement of Accounts. The Annual Governance Statement was presented to the Audit Board on 22 July 2020 [Min.No.44].

2.5 The Monitoring Officer's Annual Report provides assurance that the Council's control environment in the areas which are the responsibility of the Monitoring Officer is adequate and effective. This Annual Report supports the assurance statements included in the Annual Governance Statement.

2.6 Some of the assurances required to be given affect the Audit Board's work in so far as ethical standards are concerned. By way of example, the Council is required to demonstrate how the Member Code of Conduct is embedded, how awareness is raised about the Code, what steps are taken to enforce the Code in the form of registers of interests etc. and how the Code is reviewed. Other key documents and functions which impact on the work of the Audit Board include the Constitution, Member induction and training, Member/Officer Relations' Protocol and other Protocols that have been adopted by the Audit Board. Those assurances are dealt with in this report.

⁴ 2018

⁵ 2016

3. THE ANNUAL REVIEW OF THE CONSTITUTION

3.1 Executive arrangements

3.1.1 Elected Members are collectively responsible for the governance of the Council.

3.1.2 On 23 April 2001 [Min.No.186], the Council adopted 'executive arrangements' comprising a Cabinet and Leader form of local governance. In 2010, the Local Government & Public Involvement in Health Act 2007 (as amended) required the Council to reconsider its governance arrangements to either an elected mayor and cabinet executive or to a new style leader and cabinet. The Council consulted on its preferred model between June and September 2010. Following the consultation, the formal resolution to adopt a leader and cabinet form of executive from 8 May 2011 was passed by the GAC on 13 December 2010 [Min. No.85]. Standing Orders provide for the removal of the Leader by way of resolution, on a vote of no confidence.

3.1.3 Under the Local Government & Public Involvement in Health Act 2007 (as amended), the Leader was appointed for a further 4-year term of office from the 2019 Annual Meeting.

The Localism Act 2011 (Local Authority Governance Transitional Provisions) Order 2012 preserves the current rules relating to the election and terms of office of executive leaders, until such time as the local authority makes provision for different arrangements under Section 9C of the Local Government Act 2000 (different forms of local authority executives).

Emergency legislation was made in April 2020 to support local authorities in the vital work they are doing to respond to the Covid-19 pandemic, whilst ensuring essential business and services continue. The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings)(England and Wales) Regulations 2020 (the Covid Regs 2020) removed the requirement to hold an annual meeting in 2020.

Under Reg.4(2) of the Covid Regs, appointments made at the Annual Meeting 2019 will continue until the 2021 Annual Meeting, unless the Council decides otherwise.

3.1.4 By law, executive arrangements must include one or more overview and scrutiny committees through which non-executive councillors can question and challenge the performance of the executive and promote public debate.

3.1.5 The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) provide for a division of responsibilities between the Cabinet and the remainder of the Council, in particular the GAC and the regulatory committees.

3.2 The Constitution

3.2.1 The Constitution sets out how the Council operates, how decisions are made and the procedures which are to be followed, to ensure that decisions are efficient, transparent and that those who make the decisions, are accountable to local people. The Monitoring Officer is the guardian of the Council's Constitution and is responsible for ensuring that the Constitution operates efficiently, is properly maintained and is adhered to. The Monitoring Officer is responsible for the review of and keeping up to date the Constitution, in line with changes in legislation, Officer structure etc.

3.2.2 A key role for the Monitoring Officer is to be aware of the strengths and weaknesses of the Constitution and to make recommendations for ways in which it could be amended, in order better to achieve the proper governance of the Council.

(i) The **General Assembly of the Council** (the GAC) is responsible inter alia for:

- agreeing the Council's Constitution containing the key governance documents including executive arrangements;
- agreeing the policy framework and key strategies;
- agreeing the budget;
- appointing Statutory Officers⁶ and electing the Leader of the Council;
- appointing committees to discharge Council functions.

(ii) The **Cabinet** is responsible inter alia for:

- proposing the policy framework and key strategies;
- proposing the budget;
- implementing the policy framework and key strategies;
- appointing committees to discharge Cabinet functions.

(iii) **Statutory Officers**

All local authorities are required by law to:

- designate an officer as Head of the Paid Service;
- designate an officer as Monitoring Officer responsible for informing councillors of any proposal, decision or omission of the council which is unlawful or involves maladministration and having investigation and advisory duties under the ethical framework for councillors;
- appoint an officer as Chief Finance Officer (Section 151 Officer) responsible for the financial administration of the local authority's affairs.

⁶ Head of Paid Service, Monitoring Officer and Section 151 Officer

The Statutory Officers' roles encompass both proactive and reactive elements. The proactive role centres on raising standards, encouraging ethical behaviour, increasing awareness and utilisation of the elements of good governance and ensuring that robust procedures are in place. The reactive role focuses on taking appropriate action to deal with issues and potential problems as they arise. The Statutory Officers' effectiveness in this role is, in turn, dependent on effective systems and procedures being in place to identify problems and ensure that Councillors, Officers and the public are aware of appropriate channels to raise concerns.

The specific roles and responsibilities of the Statutory Officers are set out in the Annex 1 to this report.

The Local Authorities) Standing Orders (England) (Amendment) Regulations 2015 provide disciplinary and dismissal procedures for Statutory Officers. The key feature of the process is that a Statutory Officer cannot be dismissed, unless the dismissal has been approved by the GAC, by way of a vote. The legislation also makes provision for an advisory panel, to include Independent Persons, which can advise the Council on the proposed dismissal.

The Statutory Officer Advisory Panel was established (under Section 102(4) of the Local Government Act 1972 (as amended)), by the GAC, on 14 January 2019 [Min.No.89].

3.3 Contract Standing Orders

- 3.3.1 All local authorities have statutory power under the Local Government Act 1972, to make discretionary standing orders if they choose for the regulation of council proceedings and business and regarding the quorum, proceedings and place of meeting of their committee etc. However, there are a number of mandatory standing orders relating to staff and regulating certain aspects of the local authorities' proceedings and business and for contracting purposes that must be incorporated into local authorities' constitutions.
- 3.3.2 Section 135 of the Local Government Act 1972 (as amended) imposes a duty on local authorities to adopt contract standing orders (CSOs), which contain the core obligations for a robust purchasing framework. In addition to CSOs, the Council has adopted a Procurement Guide that provides practical guidance on how the CSOs apply to purchasing decisions and processes. The Guide explains some of the more technical and legal issues involved in procurement and provides practical working examples.
- 3.3.3 Pursuant to the Public Contracts Regulations 2015, the Council is required to ensure that tender processes are run on a fully electronic basis.

3.4 **Scheme of Delegations to Officers**

- 3.4.1 Pursuant to the powers contained respectively, in Section 101(1) of the Local Government Act 1972 (as amended) and Section 14(3) of the Local Government Act 2000 (as amended), Council and Cabinet may arrange for certain of their respective functions to be discharged by Officers, in the manner, to the extent and subject to the conditions set out in the Scheme of Delegations to Officers.
- 3.4.2 The Scheme of Delegations to Officers is reviewed annually by the Head of Legal Services in consultation with Directors and service managers to ensure fitness for purpose. Directors have delegated authority to make in-year amendments to the Scheme.
- 3.4.3 A comprehensive review of the Scheme of Delegations to Officers will be undertaken and reported to the GAC and Cabinet, following the proposed restructure of the directorates, as reported to the GAC [12.10.2020].
- 3.4.4 The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 requires written records to be made of Cabinet decisions that have been delegated to an officer under a specific express authorisation, or under a general authorisation (scheme of delegations). It is for the Council to decide what information should be recorded on the basis of the national rules.
- 3.4.5 The Openness of Local Government Bodies Regulations 2014 extends the requirement to produce written records of decisions delegated to Officers by the GAC and Committees.

The Council has made provision within its Constitution for the recording and publishing on its website, of decisions referred to in paras.3.4.4 and 3.4.5 above.

3.5 **The committee framework**

- 3.5.1 It is important that committees are clear about their roles and responsibilities and that there is a clear distinction in their terms of reference. This avoids confusion, disputes and possible duplication. Furthermore, committees are likely to be more effective, if they are required to focus on their own defined areas of business.
- 3.5.2 The functions of 'overseeing financial processes, audit and risk management' are delegated to the Audit Board. Since the repeal on 30 June 2012, of the legislative requirement to have a statutory standards committee, the promotion of good ethical conduct by Councillors has been delegated to the Audit Board. The Audit Board not only fulfils its statutory obligations, but also provides a supportive, as well as a regulatory role, within its Terms of Reference.

The **Audit Board** oversees the following functions:

- internal control;
- risk management;
- financial management and reporting;
- anti-fraud and anti-corruption arrangements;
- issues raised by internal and external auditors.

The Audit Board also:

- provides the Council with advice on adopting the Member Code of Conduct;
- monitors the effectiveness of the Code;
- trains Members on the Code or arranges such training;
- promotes and maintains high standards of conduct for Members;
- assists Members to follow the Code.

A Hearing Panel (a sub-committee of the Audit Board) deals with hearings into alleged Member misconduct, following an investigation. There is no right of appeal against the Hearing Panel's or Monitoring Officer's decision on a Code of Conduct complaint, except through the courts by way of judicial challenge, or through the Local Government and Social Care Ombudsman on matters related to maladministration or service failure.

3.6 Overview and Scrutiny

3.6.1 The Council appointed the **Scrutiny Committee** in response to the Local Government Act 2000 (as amended), in order to introduce more democracy into the decision making process and to ensure that those who make decisions are held accountable.

Scrutiny Committee:

- reviews and questions Cabinet members and Officers about decisions and performance;
- scrutinises the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
- makes recommendations to the Cabinet, the Council etc. arising from the outcome of the scrutiny process.

3.6.2 The **Councillor Call for Action (CCfA)** is a process by which Councillors who are not members of Scrutiny Committee, may refer to the Committee for scrutiny, any genuine, significant and persistent local government matter which is relevant to the functions of the Committee. Although no CCfA referrals were made to Scrutiny Committee in 2019/20, it should be noted that the Scrutiny Committee Protocol provides for Members to raise concerns related to their ward and that Cabinet Advisory Panels are an opportunity for all backbench Members to participate in policy formulation etc. pre-decision.

3.6.3 **Scrutiny Committee Call-ins**

Scrutiny Committee and the Crime and Disorder (Overview and Scrutiny) Committee may, in accordance with their Protocols, exercise a call-in of Cabinet decisions and key decisions delegated to officers, either prior to the decision being taken or once the decision has been taken, but prior to implementation.

Under the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013, Scrutiny Committee can review and scrutinise matters relating to the planning, provision and operation of the health service in the Borough of Dartford.

There were no call-ins during 2019/20.

3.6.4 **Policy Overview Committee** carries out the 'overview' function by reviewing general policies of the Council and recommending accordingly to the Cabinet on future policy options.

3.6.5 **Crime and Disorder (Overview and Scrutiny) Committee** reviews and scrutinises the discharge of the Council's crime and disorder functions.

3.6.6 **Treasury Management Panel** oversees the Council's treasury management function, in accordance with the CIPFA Treasury Management in Public Services Code of Practice⁷ and the CIPFA Prudential Code for Capital Finance in Local Authorities⁸.

3.6.7 Scrutiny Committee, Policy Overview Committee and the Crime and Disorder (Overview and Scrutiny) Committee have adopted **protocols** that provide guidance on the application of the Committees' respective processes. The protocols are reviewed annually by the Committees, to ensure fitness for purpose and compliance with legislation.

3.7 **Terms of Reference** are reviewed annually to ensure fitness for purpose and compliance with legislation. They are then adopted at the Annual Meeting in May. In - year amendments (delegated to the Directors), may however be required, through changes in legislation and/or officer structure.

3.8 The co-ordination and maintenance of Key Decisions through a **Regulation 9 Notice** (formerly referred to as the 'Forward Plan') is central to meeting the requirements of good governance as it enhances open and transparent decision making. In compliance with the Access to Information Procedure Rules and the Constitution, the Regulation 9 Notice sets out Key Decisions, which will be taken by the Cabinet, together with any decisions, expected to be taken *in camera*, and the date/period within which the decision will be taken. The Regulation 9 Notice

⁷2017

⁸2017

must be published on the Council's website www.dartford.gov.uk at least 28 days in advance of a Key Decision being taken by the Cabinet.

3.9 Support to GAC, Cabinet, Scrutiny and other committee meetings

3.9.1 The distribution and publication of committee reports, agendas and decisions is central to meeting the requirements of a key deliverable. Responsibility for overseeing the process and for ensuring that documents comply with statutory and constitutional requirements is that of the Democratic Services Manager reporting to the Strategic Director (Internal Services). Responsibility includes:

- distributing and publishing all agendas not less than five clear working days' prior to the meeting taking place and ensuring that all agendas are compliant with the access to information rules and exempt information is identified/marked accordingly;
- advertising public meetings five clear days' before the meeting date;
- ensuring that papers are made reasonably available to the public;
- drafting minutes for agreement by the Chairman within five working days' of the meeting;
- publishing a record of all decisions, including key decisions taken by Cabinet within five working days' of the meeting;
- ensuring that petitions are handled in accordance with the Council's Standing Orders;
- ensuring that meetings are accessible.

3.9.2 Meetings' analysis

One of the explicit aims of the Local Government Act 2000 (as amended), was to streamline the decision making process to allow councils to focus on service delivery.

The COVID-19 pandemic and the unprecedented in peacetime Government measures in response to the crisis (e.g. prohibitions on gatherings, social distancing, self-isolation and shielding of those deemed to be the most vulnerable) have meant that the requirement for local authorities to hold public meetings in person, with all Members present in one place, cannot be met.

Reg.5 of the Covid Regs 2020 permits the holding of remote meetings. The effect of this is that Members and other participants e.g. Officers do not need to be in the same place.

Due to the impact of the pandemic, meetings scheduled at the end of March 2020 through to late May 2020, including the Annual Meeting 2020, were cancelled, whilst the Council established practical arrangements for holding remote meetings, including making the necessary changes to Standing Orders, policies and protocols and the temporary reduction of allocated seats on the larger

committees as at the time of the lockdown in March 2020, it was not clear whether a virtual platform could work with more than 10 people.

The Council has made arrangements for meetings to be held ‘virtually’ from remote locations (via the Zoom platform), where it is necessary to consider matters which are, by their nature, essential for the proper conduct of the Council’s business (including complying with statutory requirements, legal or contractual obligations, or to meet the needs of public health and well-being) and which are time-critical.

Remote meetings are meetings in public and as such, the public and press must, as a minimum requirement, be able to hear the proceedings. Meetings held in open session are live steamed on YouTube.

The meetings listed below for 2019/20 include all meetings held up to the scheduled date of the 2020 Annual Meeting.

In 2019/20, the following meetings were serviced by Democratic Services:

	2018/2019	2019/2020
GAC (including Budget and Annual Meeting)	6	5
GAC specials (Aldermen)	0	1
Cabinet Advisory Panels	9	6
Cabinet	9	7
Scrutiny Committee	4	2
Policy Overview Committee	4	3
Development Control Board	12	10
Audit Board	4	3
Hearing Panel	0	0
Licensing Sub-committee hearings	3	2
Licensing Committee	2	2
Appeals Panel	0	0

Joint Transportation Board	4	4
Deed, Trust and Obligations Committee	2	2
Borough and Parish Council Forum	4	3
Tenants & Leaseholders Joint Liaison Group (formerly the Resident Involvement Joint Liaison Group)	2	1
Electoral Provisions Subcommittee	3	0
Crime and Disorder (Overview and Scrutiny) Committee	2	2
Treasury Management Panel	2	2
Appointments Panel	0	0
Remuneration and Performance Management Panel	0	0
Independent Remuneration Panel	0	1
Strategic Housing Board	N/A	3

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

Following the regular review for fitness for purpose over a number of years of the Council's strategies, policies etc. in accordance with the Code of Corporate Governance, business for the GAC has reduced and one GAC meeting, formerly held in March each year, has been deleted from the calendar of meetings. However, there will still be the need to hold one-off additional special GAC meetings as business dictates.

- 3.9.4 Under the Openness of Local Government Bodies Regulations 2014 any person attending a local authority public meeting may film, photograph, audio record or use any other communication methods, including the internet, to publish, post or otherwise share the results of their reporting activities, during or after the meeting.

The Council has approved a policy that governs the exercise of these rights [GAC 28 July 2014 - Min.No:114].

The 2014 Regulations do not affect the current circumstances in which a private meeting may be held or a person may be excluded (for example, where exempt information would be disclosed or in the case of disorderly conduct).

- 3.9.5 The Local Government (Electronic Communications)(England) Order 2015 allows for agendas to be sent electronically thereby delivering savings. Members must however consent to receiving summonses electronically and they may at any time withdraw their consent.

Members will be consulted before a decision is taken to move to electronic agendas.

3.10 Skills of committees and councillors

- 3.10.1 Given the different roles of committees, it follows that arrangements should be in place to ensure that Members have the necessary skills, experience and knowledge. Although some aspects of the skills and experiences required for committees are likely to be similar, there are some that are likely to be more specific. For example, overseeing risk management and financial arrangements undertaken by the Audit Board requires different skills to that of overseeing the Council's ethical governance arrangements.

- 3.10.2 The **Development Control Board** and hearings of the **Licensing Committee** and **its sub-committee**, the **Appeals Panel** and the **Hearing Panel**, are quasi-judicial. All quasi-judicial committee members are trained on the quasi-judicial nature of their functions, either through attendance at relevant training courses or through previously gained experience - Members cannot participate in the decision making of these committees, until they have been trained.

- 3.10.3 The planning system is a rapidly changing area of responsibility for Councillors and is a significant issue for all Borough Councillors, partly because of the division of responsibility between the Development Control Board which is principally involved with development control and related issues and Cabinet, who have a role to play in the development of planning policy and partly because, on rare occasions, the GAC does have a role in planning related matters. The Localism Act 2011 has resulted in wide ranging changes to housing and planning, which represent a fundamental shift in policy to a more localised system.

3.10.4 Members will inevitably encounter planning issues through their ward work, or through schemes for regeneration. Consideration is therefore given to training which not only covers the procedure and principles for determining planning applications but also, understanding planning policy development.

3.10.5 The Council is the sole trustee of a number of **charitable land holdings** (Kidd Legacy at Central Park, Hesketh Park and Children's Playing Field and Recreation Ground Savoy Road Dartford). The charitable functions fall to the Cabinet, which has established and appointed the **Deed, Trust and Obligations Committee** to manage these land holdings. The Member Code of Conduct and a Conflicts Policy (approved by the Charity Commission) applies to the governance of the Committee. Membership of the Committee comprises elected Councillors and four voting co-opted Independent Members.

There is currently an Independent Member vacancy on the Committee. The recruitment process will be undertaken shortly.

3.11 **Membership of committees**

(a) CIPFA recommends that audit committees should ideally be separate from scrutiny arrangements and be chaired independently of both functions⁹. The Council's Constitution maintains this separation of functions between the Audit Board, the executive and scrutiny functions.

(b) Under the Localism Act 2011, the Council is required to appoint at least one **Independent Person**, who acts in an advisory capacity on matters related to alleged Member misconduct. The role also extends to advising any panel appointed to deal with disciplinary matters related to a Statutory Officer.

Ms Marion Agyemon and Ms Linda Comstive were appointed as the Council's Independent Persons, with effect from 15 January 2019, for a period of 5 years and 1 day [GAC – 14.01.2019 Min No: 88].

4. **LAWFULNESS AND ADMINISTRATION**

4.1 The Monitoring Officer, in consultation with the Head of Legal Services (the Deputy Monitoring Officer), is the Council's lead adviser on issues of lawfulness and the Council's legal powers. Part of this role involves monitoring committee reports, agendas and decisions, to ensure compliance with legislation and the Constitution.

4.2 Decisions of the Cabinet and other Council Committees are accessible through the Council's website www.dartford.gov.uk

⁹ Audit Committees: Practical Guidance for Local Authorities and Police (2013 Edition)

- 4.3 If the Monitoring Officer considers that any proposal, decision or omission would give rise to unlawfulness, or, if any decision or omission has given rise to maladministration, she must report to the GAC or where appropriate, the Cabinet, after first consulting with the Head of Paid Service and the Section 151 Officer. Any proposal or decision that is subject to such a report cannot be implemented, until the report has been considered by the Council.
- 4.4 The sound governance arrangements operated by the Council ensure that the power to report potentially unlawful decision-making is rarely used. No such report was issued in 2019/20.

5. CORPORATE COMPLIANCE WITH LEGISLATION

- 5.1 All Committee reports have a compulsory heading in which the author has to consider legal implications, under advice from the Head of Legal Services. Financial and staffing implications are similarly dealt with, except that they are referred respectively to the Section 151 Officer, Head of Finance and if applicable, the HR Manager.
- 5.2 Training sessions, letter/email and/or reports to relevant Committees and Officers, provide updates on new legislation.

Equality Act 2010

- 5.3 The general public sector equality duty is set out in section 149(1) of the Equality Act 2010. The broad purpose of this duty is to integrate consideration of equality and good relations into the day-to-day business of public authorities and requires the Council to consider how it could positively contribute to the advancement of equality and good relations. It requires equality considerations to be reflected into the design of policies and the delivery of services, including internal policies, and for these issues to be kept under review.

In summary, the Council, must, in the exercise of its functions, have due regard to the need to:

- (a) eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
 - (b) advance equality of opportunity between people who share a protected characteristic (as defined in the Act) and those who do not;
 - (c) foster good relations between people who share a protected characteristic and those who do not.
- 5.4 The Equality Act 2010 (Statutory Duties) Regulations 2011 requires the Council to publish at intervals of not greater than one year beginning with the date of last publication, sufficient information to demonstrate its compliance with the public sector equality duty. The Council's Equality and Diversity Document Framework 2018-2022 reflects the public sector equality duty and is published accordingly.

Bribery Act 2010

5.5 Ministry of Justice¹⁰ guidance sets out the following six principles the Council should consider when seeking to prevent bribery:

- (a) risk assessments - keeping up to date with the bribery risks;
- (b) top level commitment – establishing a culture across the organisation in which bribery is unacceptable;
- (c) due diligence – knowing who the Council does business with, knowing why, when and to whom funds should be released and seeking reciprocal anti-bribery agreements and being able to feel confident that business relationships are transparent and ethical;
- (d) clear, practical and accessible policies and procedures – applied to all employees and business partners;
- (e) effective implementation – going beyond ‘paper compliance’ to embedding anti-bribery in the organisation’s internal controls, recruitment, remuneration policies, operations, communications and training on practical business issues;
- (f) monitoring and review – auditing and financial controls that are sensitive to bribery and are transparent, with regular reviews of policies and procedures with possible external verification.

5.6 The review of the Anti-fraud and Corruption Strategy is dealt with as a separate item on the agenda. No investigations were carried out in the year 2019/20.

Information Governance Assurance

5.7 The Information Commissioner (ICO) emphasises the importance of good information governance in ensuring transparency, providing people with confidence that their personal information is being handled properly and in protecting the vulnerable.

5.8 Staff are required to undertake the online data protection training and disciplinary procedures refer to sanctions that may apply for breaches of data protection principles.

5.9 The Senior Information Risk Officer (Strategic Director (Internal Services)) is responsible for managing information risk within the Council and for providing assurance to the Accountable Officer (the Managing Director) on the content of

¹⁰ March 2011

the Annual Governance Statement in regards to information governance assurances.

General Data Protection Regulation (GDPR) and Data Protection Act 2018

5.10 The Data Protection Act 2018 (applying the GDPR) came into force on 25 May 2018. Drawn up by the EU, GDPR strengthens the data rights of EU residents and harmonises data protection law across all member states, making it identical.

The Information Commissioner is the independent supervisory authority for data protection in the UK.

GDPR increases the potential administrative fines (up to 10 million euros or 2% of annual global turnover) combined in some cases with other corrective action for serious breaches of the data protection legislation and makes it easier for people to discover what information organisations have on them. In essence, it seeks to bring more transparency to people about what data organisations collect about them, and what those organisations use it for, as well as the requirement to prevent unnecessary data collection.

The Data Protection Act 2018 controls how personal information is processed by the Council. Individuals must understand why their data is being processed, and how it is being processed, while that processing must abide by GDPR rules.

There is a legal obligation on the Council to notify the ICO of personal data breaches within 72 hours of becoming aware of the breach, where feasible. In some cases, this obligation extends to notifying data subjects as well.

The Council must comply with the 'data protection principles' and make sure that information is:

- used fairly and lawfully
- used for limited, specifically stated purposes
- used in a way that is adequate, relevant and not excessive
- accurate
- kept for no longer than is absolutely necessary
- handled according to people's data protection rights
- kept safe and secure
- not transferred outside the European Economic Area without adequate protection

There is stronger legal protection for more sensitive information, such as:

- ethnic background
- political opinions
- religious beliefs

- health
- sexual health
- criminal records

5.11 The Head of Legal Services has been appointed the **Data Protection Officer**. Guidance is issued by the Data Protection Officer to Members and Officers.

When sharing personal information with other organisations/public bodies e.g. the Police, the Council is required to consider the legal implications of the sharing. The **Kent & Medway Information Sharing Agreement** (v4 2020) (based on the statutory guidance (Data Sharing Code of Practice), provides a framework for the Council to make good quality decisions about data sharing.

Officers are required to undertake annual refresher GDPR training (recorded through the appraisal process).

An audit in May 2019 of the Council's data protection practices, resulted in 'substantial assurance' with some low level recommendations.

Borough Councillors are data controllers in their own right. Since 1 April 2019, Councillors are no longer required to register as data controllers with the ICO and pay the fee, if they are only processing personal data in connection with their constituency work as an elected member - which includes ward/case work. This is referred to as an 'exempt purpose'.

However, if Councillors also process personal data for any other non-exempt purpose, for example as a business owner, or if, as a business owner, they have CCTV at their offices for crime prevention purposes, then as that processing is not exempt, they must pay the fee to the ICO in respect of that processing – they would do so not as a councillor, but in their business capacity (see the ICO's self-assessment toolkit <https://ico.org.uk/for-organisations/data-protection-fee/self-assessment/y>)

The ICO has advised that Parish/Town Councillors are not data controllers in their own right, as it is the Parish/Town Council that is the data controller.

The ICO has [launched a number of bite-sized resources](#), which address the top three GDPR compliance challenges for Parish/Town Councils, although equally applicable to the Borough Council.

The Home Office has introduced a revised [code of practice for public authorities disclosing information to specified anti-fraud organisations](#). The Council must have regard to the Code and the Data Protection Act 2018 when disclosing information for the purposes of fraud prevention e.g. when in the course of investigating fraud or as a matter of routine, when processing applications for housing benefit or employment.

Regulation of Investigatory Powers Act 2000 (RIPA)

5.12 RIPA provides the legislative framework within which covert surveillance operations (directed surveillance, deployment of a covert human intelligence source and access to communications data) must be conducted in order to ensure that investigatory powers are used in accordance with human rights.

The right to respect for one's private and family life is enshrined in Article 8 of the European Convention on Human Rights, which renders it unlawful for a public authority to act in a way, which is incompatible with any of the Convention rights. As with many of the rights in the Convention, the right to privacy is not an absolute right and is subject to certain exemptions.

RIPA limits local authorities to using the following three covert techniques for the purpose of preventing or detecting crime or preventing disorder:

- directed surveillance (essentially covert surveillance in places other than residential premises or private vehicles);
- covert human intelligence sources (includes undercover officers, public informants and people who make test purchases);
- communications data – service use information (such as the type of communication, time sent and its duration) and subscriber information (includes billing information such as the name, address and bank details of the subscriber of telephone or internet services).

Use of these techniques has to be authorised internally by an authorising officer or a designated person. The authorisation will not take effect until the Council has obtained an order from a JP (a District Judge or lay magistrate) approving the grant (or renewal) of an authorisation or notice. If the JP is satisfied that the statutory tests have been met and that the use of the technique is necessary and proportionate, he/she will issue an order approving the grant or renewal for the use of the technique as described in the application.

These techniques can only be used where it is considered necessary (e.g. to investigate a suspected crime or disorder) and proportionate (e.g. balancing the seriousness of the intrusion into privacy against the seriousness of the offence and whether the information can be obtained by other means).

Local authorities cannot conduct 'intrusive' surveillance (i.e. covert surveillance carried out in residential premises or private vehicles), obtain traffic data (which includes information about where the communications are made or received) or intercept the content of any person's communications.

Through its published [Policy Statement](#) [adopted by Cabinet 22.04.2010 Min.No.179] (reviewed periodically by the Head of Legal Services), the Council is

committed to implementing the provisions of RIPA to ensure that any covert surveillance carried out during the course of investigations is undertaken properly and that the surveillance is necessary and proportionate to the alleged offence/s.

Given that the Council investigates fly tipping offences through overt and signed use of mobile CCTV, the Council does not need to rely on its RIPA powers.

The Investigatory Powers Commissioner's Office (IPCO) has oversight of the conduct of directed surveillance and covert human intelligence sources by public authorities. The Council is usually inspected by IPCO, every three years – the last [desktop] inspection took place in January 2019. The inspection recommended up to date training for investigating and authorising officers and reporting annually, to the Audit Board, to remind Members of the scope of the legislation.

Officers were trained on 13 May 2019 in the use of RIPA powers. Further training on the use of social media for investigative purposes, was held in October 2019.

The Council is required to submit annual returns to IPCO on its use of RIPA. The return for 2019/20 was a 'nil' return.

Compliance with transparency code

5.13 The [Local Government Transparency Code 2015](#) imposes a legally binding requirement on local authorities to be held fully accountable to the local people they serve. The Government believes that in principle, all data held and managed by local authorities should be made available to local people unless there are specific sensitivities (e.g. protecting vulnerable people or commercial and operational considerations) to doing so. The Transparency Code encourages local authorities to see data as a valuable resource not only to themselves, but also their partners and local people.

The Transparency Code sets out in detail the type of information held by local authorities which must be published and ought to be published e.g. expenditure over £500 (including costs, supplier and transaction information), senior employees' salaries, councillors' allowances and expenses, copies of contracts and tenders, grants to the voluntary community, key indicators, land and property assets etc.

The Council is required to publish on an annual basis, the most recent valuation of its social housing stock, to ensure it is being put to best use.

The Localism Act 2011 requires local authorities to be open about their approach to pay, by preparing approving and publishing a 'pay policy statement'. The Council first adopted its pay Policy Statement on 27 February 2012 [Min.No.5]. The Policy Statement is approved annually at the Budget Meeting. Any decisions

taken by the Council in relation to pay and reward of staff must reflect its current Pay Policy.

If the Council fails to comply with the mandatory requirements of the Transparency Code, MHCLG may withhold the new burdens funding which is paid to eligible authorities by grant, under section 31 of the Local Government Act 2003 (as amended).

Compliance with publicity code

5.14 The [Code of Recommended Practice on Local Authority Publicity](#)¹¹ provides recommended practice on a number of aspects of publicity, covering subject matter, costs, content, dissemination, advertising, recruitment advertising, publicity about individual members of an authority, timing of publicity, elections, referendums and petitions, and assistance to others for publicity. The Secretary of State has powers in the Local Audit and Accountability Act 2014, to direct compliance with the Publicity Code.

Freedom of Information and Environmental Information Regulations

5.15 The Freedom of Information Act 2000 provides public access to information held by the Council. It does this in two ways:

- through a [publication scheme](#), the Council is obliged to publish certain information about its activities – this increases transparency and allows the public to routinely access information relating to the Council’s functions; and
- members of the public are entitled to request information from the Council - however, this does not mean the Council is always obliged to provide the information. In some cases, there will be a good reason why it should not make public some or all of the information requested e.g. a vexatious request can be refused and exemptions may be applied.

The 2000 Act covers any ‘recorded information’ that is held by the Council. ‘Recorded information’ includes printed documents, computer files, letters, emails, photographs, and sound or video recordings.

The 2000 Act does not cover information that is in someone’s head. If a member of the public asks for information, the Council only has to provide information it already has in recorded form – it does not have to create new information or find out the answer to a question.

Anyone can make a request for information under the 2000 Act. Requests are often made by people concerned about local issues, journalists, researchers, scientists, lawyers on behalf of clients, MPs, campaign groups, or companies.

¹¹ March 2011

The 2000 Act:

- covers information that is held on behalf of the Council even if it is not held on the Council's premises e.g. the Council may keep certain records in off-site storage, or it may send out certain types of work to be processed by a contractor. Similarly, information held in non-work personal email accounts (e.g. Hotmail, Yahoo and Gmail) may be subject to FOIA if it relates to the official business of the Council. All such information which is held by someone who has a direct, formal connection with the Council is potentially subject to FOI regardless of whether it is held in an official or private email account. If the information held in a private account amounts to Council business it is very likely to be held on behalf of the Council in accordance with section 3(2)(b) of the 2000 Act e.g. a Councillor may hold information relating to Council business in his/her private email account on behalf of the Council. In the local government context, the ICO advises that there needs to be a clear demarcation between Council business and work for individuals as their local representative;
- does not cover information in private email accounts that does not relate to the business of the Council;
- does not give people access to their own personal data (information about themselves) such as their tenancy records. If a member of the public wants to see information that the Council holds about them, they should make a data protection subject access request.

The ICO targets its monitoring activity towards those authorities, which repeatedly or seriously fail to respond to freedom of information requests within the appropriate timescales (20 working days following the date of receipt of the request, unless an extension has been agreed). Monitoring may be a precursor to further action if an authority is unable to demonstrate an improvement within a specified timescale.

The Freedom of Information Code of Practice¹² recommends that as a matter of best practice, public authorities with over 100 full time equivalent employees should publish, on a quarterly basis, details of their performance on handling requests for information under the 2000 Act. The information should include:

- the number of requests received during the period;
- the number of the received requests that have not yet been processed (you may also wish to show how many of these outstanding requests have extended deadlines or a stopped clock, e.g. because a fee notice has been issued);
- the number of the received requests that were processed in full (including numbers for those that were met within the statutory deadline, those where the deadline was extended and those where the processing took longer than the statutory deadline);
- the number of requests where the information was granted in full;

¹² 4 July 2018

- the number of requests where the information was refused in full (separately identifying those where this was because the information was not held);
- the number of requests where the information was granted in part and refused in part;
- the number of requests received that have been referred for internal review.

Following the review of the FOI procedures, compliance statistics are published on the Council's website, on a quarterly basis.

Environmental Information Regulations 2004 (EIRs)

The principle behind the law is that giving the public access to environmental information e.g. Information about land development, pollution levels, energy production, and waste management) will encourage greater awareness of issues that affect the environment.

The EIRs give people a right of access to information about the activities of the Council that relate to or affect the environment, unless there is good reason for them not to have the information. This is sometimes referred to as a presumption in favour of disclosure.

The EIRs apply only to the environmental information held by the Council whereas the 2000 Act gives people access to most other types of information held by the Council.

Compliance with Modern Slavery Act 2015

5.16 The Modern Slavery Act 2015 provides a modern definition of slavery and human trafficking, establishing them as serious criminal offences meriting punishment up to and including life imprisonment. It allows the courts to impose orders aimed at preventing the commission of these offences and creates a new independent anti-slavery commissioner.

Local authorities are under a duty,¹³ shared with police bodies and the Gangmasters Licensing Authority, to notify the Secretary of State upon developing reasonable grounds to believe that a person may be a victim of slavery or human trafficking. Referrals are made to the Home Office and the Strategic Director (External Services), the Council's Safeguarding Lead, is informed.

Although the Council engages in commercial activities by providing services (statutory and discretionary), because its annual turn-over is less than £36million it is not duty bound to issue an anti-slavery and human trafficking statement, but has chosen to do so, with publication of [its statement](#) on the Council's website.

The Public Contracts Regulations 2015 require the exclusion of any supplier that has itself committed a modern slavery offence. The Council's Modern Anti-slavery and Human Trafficking Statement sets out inter alia, the steps it has

¹³ Section 52 of the Modern Slavery Act 2015 and Modern Slavery Act 2015 (Duty to Notify) Regulations 2015

taken to ensure there is no slavery or human trafficking in its business or supply chains and the standards expected of those with whom it does business. Standard terms and conditions have been reviewed and child exploitation (levels 1 and 2) incorporated in the Council's safeguarding training.

5.17 Compliance with Fluency Duty - Part 7 of the Immigration Act 2016

Under Part 7 of the Immigration Act 2016, the Council is under a duty to ensure that employees in customer-facing roles (i.e. whose main duties require regular interaction with members of the public) speak fluent English and so provide higher quality services to the public.

The Council must have to have regard to the Government's statutory Code of Practice¹⁴. The Code aims to provide assistance to public authorities to determine the necessary standard of spoken English to be met by their customer-facing staff, the appropriate complaints procedure to follow should a member of the public consider that the required standard has not been met and the appropriate forms of remedial action which may be taken if a member of staff falls below the standard required.

The Code is not intended to prescribe the process for every type of customer-facing role and it is not a definitive statement of the law. However, it provides principles and examples that public authorities can consider when fulfilling their legal duties and obligations.

The Council's Corporate Complaints Procedure has been updated to reflect the requirements of the Code and HR policies are under review.

6. THE ETHICAL GOVERNANCE FRAMEWORK REVIEW

Member Code of Conduct

6.1 Following the implementation of the standards regime under the Localism Act 2011, the Member Code of Conduct was adopted by the GAC on 16 July 2012 [Min.No.35.4]. The Code was reviewed by the GAC on 16 December 2013 [Min.No:72].

On 13 January 2020 [Min.No. 74], the GAC adopted the International Holocaust Remembrance Alliance's definition and recommended that the definition be included in the Member Code of Conduct, in the broader context of respect, tolerance, inter-faith understanding and equality. The Audit Board agreed to the amendment to the Member Code of Conduct [22.04.20:Min.No. 43].

6.2 The Code regulates the conduct of all elected Members and voting Co-optees and defines the standards of conduct required of Members and voting Co-optees

¹⁴ Code of practice on the English language requirement for public sector workers

in carrying out their duties and in their relationships with the Council and its Officers.

- 6.3 Borough Councillors are supportive of the principles underlying the ethical framework.
- 6.4 As lead Officer for the Audit Board on matters related to the ethical governance framework, the Monitoring Officer has a key role in facilitating, promoting and maintaining high standards of conduct within the Council. As well as procedure development and implementation, this also involves advising Borough and Parish/Town Councillors, Officers and Parish/Town Clerks on propriety issues, advising the Audit Board on applications for dispensations and on matters related to allegations of misconduct on the part of Borough or Parish/Town Councillors.
- 6.5 The Monitoring Officer is responsible for:
1. Overseeing the day-to-day implementation and monitoring of the operation of the Member Code of Conduct;
 2. Reviewing the operation of the Member Code of Conduct;
 3. Reporting annually to the Audit Board, on compliance with the Member Code of Conduct and any changes necessary to maintain and ensure its effectiveness in practice.
- 6.6 The Monitoring Officer and Deputy Monitoring Officer have an open door policy of proactively helping Members with any ethical problems. Members, Town/Parish Councillors, Clerks and Officers are encouraged to make contact earlier, rather than later, if they are anticipating or experiencing a problem.
- 6.7 Local Government Ethical Standards - A Review by the Committee on Standards in Public Life (CSPL) - the 20th report of the CSPL identifies some specific areas of concern noting a minority of councillors who engage in bullying or harassment, or other highly disruptive behaviour and a small number of parish councils giving rise to a disproportionate number of complaints about poor behaviour. The report also identifies a number of risks in the sector: the current rules around conflicts of interest, gifts, and hospitality are commented on as inadequate; and the increased complexity of local government decision-making has been found to place governance under strain.

CSPL's recommendations will require amendments to primary and secondary legislation and the Local Government Transparency Code.

The LGA has committed to reviewing the current model member code of conduct, as recommended by the CSPL. The LGA's consultation on the draft member code of conduct ran for 10 weeks, from 8 June until 17 August 2020. The outcome of the consultation is awaited.

- 6.8 Following the implementation of the Council's ethical governance framework under the Localism Act 2011, the following protocols etc. were reviewed and referred to the Audit Board, as the committee that oversees the Council's ethical governance arrangements.

Under Sections 28(6) and (7) of the Localism Act 2011, the Council must have in place '**Arrangements**' for investigations and decisions relating to Code of Conduct breach allegations involving a Borough or Parish/Town Councillor or co-opted member. The Council's Arrangements were adopted in July 2012 [GAC 16.07.12: Min.No.35.16] and subsequently reviewed by the Audit Board in September 2013 [18.09.2013:Min.No.28].

Consistently with localism, it is for the Council to ensure that its Arrangements for dealing with Member Code of Conduct breach allegations are sufficiently robust and effective to fulfil its statutory requirement of promoting and maintaining high standards of Member conduct.

The Arrangements were again reviewed by the Audit Board on 24 October 2018 [Min.No.23] and remain fit for purpose.

6.9. **Protocol on Member/Officer Relations**

The Member/Officer Relations' Protocol provides a guide to good working relationships between elected Members (including co-optees) and Officers. It does not aim to be comprehensive, but is intended to offer guidance on issues, which often arise. No complaints relating to alleged breaches of the Member/Officer Relations' Protocol were received by the Monitoring Officer, in the year 2019/20.

The revised Member/Officer Relations' Protocol was adopted by the Audit Board on 13 May 2013 [Min.No. 5] and remains fit for purpose.

6.10 **Probity in Planning Protocol and Probity in Licensing Protocol**

The **Probity in Planning Protocol** was adopted by the Development Control Board on 20 December 2012 [Min. No.96] and referred to the Audit Board on 9 January 2013 [Min.No.43] for endorsement.

The **Probity in Licensing Protocol** was adopted by the Licensing Committee on 19 December 2012 [Min. No.11] and referred to the Audit Board on 9 January 2013 [Min.No.44] for endorsement.

The Protocols provide guidance to the Council respectively as local planning authority and licensing authority, on practices and procedures designed to avoid grounds for allegations and malpractice. Both Protocols remain fit for purpose.

6.11 **Members' Gifts, Benefits and Hospitality**

- (i) The Member Code of Conduct states 'You must not place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties. You should have regard to the guidance in the Council's Protocol on Gifts, Benefits and Hospitality.'
- (ii) Within 28 days of offer and acceptance, Members must register with the Monitoring Officer any gift, benefit and/or hospitality within the terms of the Protocol, with an estimated/guide value of £100 or more offered to and accepted by them, in the conduct of the business of the Council, the business of the office to which they have been elected or appointed or when they are acting as representative of the Council. The source of the gift, benefit and/or hospitality must also be registered.
- (iii) Members do not need to register gifts, benefits and/or hospitality offered and accepted that are not related to their role as a Member - for example, Christmas gifts from family and friends. However, Members should always consider whether any gifts, benefits and/or hospitality received could be seen as being connected to their role as a Member.
- (iv) No requests were received during 2019/20 to view the Register and no requests were received under the Freedom of Information Act 2000 for information relating to Members' gifts, benefits and/or hospitality and expenses.
- (v) No complaints were referred to the Monitoring Officer in 2019/20, relating to alleged failure to register the receipt of gifts, benefits and/or hospitality.

The revised Gifts, Benefits and Hospitality Protocol was adopted by the Audit Board on 13 May 2013 [Min.No. 5] and remains fit for purpose. The Gifts and Hospitality Register was checked and no declarations were made in the year 2019/20.

6.12 **Protocol on the Release of Confidential information**

- (a) The Member Code of Conduct states '..... You should have regard to the guidance in the Council's Protocol on the release of confidential information.'
- (b) The Council is committed to the principles of openness and transparency. However, in the practical application of these principles, Members need to have regard to legal obligations, which, in some cases, may require information to be kept confidential.

- (c) Members will have access to a great deal of information which is confidential, either because it is personal information or because it is commercially sensitive or it is information, which would not otherwise be placed in the public arena/domain. The handling of confidential information is an essential element in the relationships of trust that should exist between Members, Officers and the public and a mishandling of such information and/or its accidental or deliberate disclosure is likely to damage trust as well as lead to formal proceedings being taken against the Council, individual Members or Officers.
- (d) No complaints were referred to the Monitoring Officer in 2019/20, alleging disclosure of confidential information.

The revised Protocol on the Release of Confidential Information was adopted by the Audit Board on 13 May 2013 [Min.No.5] and remains fit for purpose.

6.13 Protocol on the use of Council Facilities and Resources by Councillors

- (a) The Member Code of Conduct states ‘You must, when using or authorising the use by others of the resources of the Council, ensure that such resources are not used improperly for political purposes (including party political purposes) and you must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986¹⁵ and guidance on the Use of Resources by Councillors within the Council’s Protocol.’
- (b) The Council provides a range of facilities to support Councillors, such as IT equipment, to enable Councillors to carry out their duties as a councillor. Members must make sure that they use the Council’s resources for proper purposes only. The onus is placed on individual Members to be aware of and ensure the Council complies with the rules governing local authority publicity.
- (c) No complaints were referred to the Monitoring Officer in 2019/20, alleging misuse of Council resources.

The revised Protocol on the use of Council Facilities and Resources was adopted by the Audit Board on 13 May 2013 [Min.No. 5] and remains fit for purpose.

6.14 Outside Bodies

- (a) The Standards Committee adopted the Guidance for Members on Outside Bodies [4 July 2007 Min.No. 9].

¹⁵ Superseded by the Code on Recommended Practice for Local Government Publicity (31 March 2011).

- (b) The Council is now increasingly working in partnership with external organisations and greater clarity is needed as to the role of Members appointed to these bodies. Funding streams may benefit outside bodies and be channelled through the Council as the accountable body and questions of accountability and governance will arise.
- (c) Service on outside bodies has always been an established part of a Member's role. An appointed Member on an external body will be able to use their knowledge and skills as a Councillor to assist the organisation to which they are appointed.
- (d) Membership of an outside body brings into play different considerations to those, which relate to Council membership. Members will have different duties, obligations and liabilities depending upon the type of organisation involved.
- (e) Councillors who serve in a decision-making capacity as members of outside bodies, whether companies, trusts or other associations, owe duties and responsibilities to those bodies which are separate and distinct from their duties owed to the Council. On occasion, it is likely that duties owed to the outside body and to the Council, will conflict.
- (f) The majority of outside bodies on which Councillors serve are, at present, either charitable organisations or companies. Nominations to outside bodies are made at the Annual Meeting or in year appointments are made, as and when the need arises.

The guidance remains fit for purpose.

6.15 **Maintaining Registers of Members' Interests**

The Monitoring Officer is responsible for establishing and maintaining a Register of Members' [Disclosable Pecuniary] Interests for Borough Councillors. This duty extends to the Registers for Parish/Town Councillors. Section 29(5) of the Localism Act 2011, requires that all Registers be accessible to the public, via councils' websites. Whilst Parish/Town Council Registers have to be published on their websites, there is also the requirement that they be published on the Borough Council's website.

(a) **Register of Members' Interests- Disclosable Pecuniary Interests**

- (i) A **Disclosable Pecuniary Interest (DPI)** is specific to a Member's business interests (for example their employment, trade, profession, contracts, or any company with which they are associated and wider financial interests they might have (for example trust funds, investments, and assets including land and property). The nature of the interest is listed in national rules.

- (ii) The Member Code of Conduct requires Members to register their DPs (including those of their husband/wife/civil partner, or a person with whom they are living as husband/wife or as if they are civil partners, where they are aware that the other person has the interest) within 28 days of their *election or appointment*, or 28 days of the interest arising if subsequent to election or appointment. It is a criminal offence under the Localism Act 2011, if without reasonable excuse, Members fail to notify the Monitoring Officer of their DPs or any changes thereto.
- (iii) In addition to the above, Members are required to notify the Monitoring Officer of any DPs before the end of 28 days beginning with the day on which the *Member Code of Conduct takes effect*. Failure to comply with this requirement would not of itself be a criminal offence, but could render Members liable to action being taken against them under the Code.
- (iv) Members need to register their interests so the public, Council staff and fellow Members know which of their interests might give rise to a conflict of interest. The Register is a document that can be consulted when (or before) an issue arises and lets others consider whether or not the Member may have a conflict of interest.
- (v) Members have an ongoing obligation to keep their Register of Interests up to date. Failure to do so is a criminal offence under the Localism Act 2011.
- (vi) Where a Member is re-elected, written confirmation that their DPs have not changed is acceptable. If their interests change, then the changes will have to be recorded on the Register of Interests.
- (vii) There is no public right of access to the Register of Interests of former Members. Information about Members who have ceased to hold office is removed from the public copy of the Register immediately.

All Borough Councillors and Parish/Town Councillors have notified the Monitoring Officer of their DPs.

Parish/Town Clerks are responsible for ensuring that outdated information in their published Registers e.g. the removal of entries related to persons who are no longer councillors are removed from their Parish/Town Council's website.

Kent local authorities have a protocol with Kent Police for the handling and investigation of alleged criminal offences created by Section 34 of the Localism Act 2011 and specifically related to DPs.

As discussed in para.(a)(i) above, DPs are a very specific form of financial interests regulated by law and applying nationally.

The Council has determined that other financial interests should also be declared. These interests are referred to in the Constitution as '**Prejudicial Interests**'.

Simply put, if an item under discussion at a meeting affects a Member's financial position or the financial position of a person or body associated with that Member 'to a greater extent than other council tax payers, ratepayers or inhabitants of the Council's area', then it is a Prejudicial Interest.

Prejudicial Interests are not registrable in the same way as DPIs, but do need to be declared when relevant to a matter under consideration by the committee.

(b) **Conflicts of interest**

A more difficult area is that of **apparent bias**. This is where Councillors do not have a DPI or Prejudicial Interest in a particular matter but some other interest that can bring decision-making into disrepute, if not well-managed. Often the **perception of conflict** is alone enough to cause concern. This can lead to reputational damage and undermine public confidence in the integrity of the Council.

A conflict of interest is a set of circumstances that creates a risk that an individual's ability to apply judgement or act in one role is, or could be, impaired or influenced by a secondary interest. It can occur in any situation where an individual or organisation can exploit a professional or official role for personal or other benefit. This definition is based on generally accepted standards.

Conflicts can exist if the circumstances create a risk that decisions *may* be influenced, regardless of whether the individual actually benefits. The perception of competing interests, impaired judgement or undue influence can also be a conflict of interest.

Conflicts might occur if individuals have, for example:

- a direct or indirect financial interest;
- non-financial or personal interests; or
- conflicts of loyalty where decision-makers have competing loyalties between an organisation they owe a primary duty to and some other person or entity.

The Council has a system to identify and manage conflicts of interest, rather than to eliminate them. The effect is to make Members aware of what to do if they suspect a conflict and ensure decision-making is efficient, transparent and fair. Rules are clear and robust but not overly prescriptive or complex.

Where the circumstances create a risk that decisions may be influenced, Members are required to declare any known interests at the beginning of a meeting or as soon as they become aware of the interest and withdraw from the meeting room during the debate on the item.

In a recent review of the types of interest declared by Members, it was noted that Members will on occasion declare non- financial interests e.g. an association with an individual as 'prejudicial'. Some Members also appear confused as to whether or not they have an interest to declare and whether those interests are DPIs or prejudicial interests.

If in doubt, Members are asked to contact the Democratic Services Manager for guidance.

6.16 Dispensations

- (a) Section 33 of the Localism Act 2011 sets out the rules for the granting of dispensations by the Audit Board or under delegated authority, by the Managing Director in consultation with the Monitoring Officer.
- (b) During 2019/20, Members were each granted a dispensation by the Managing Director, in consultation with the Monitoring Officer, to speak and vote on Members' Allowances and financial contributions to Parish/Town Councils [as reported to the GAC (Budget) - 25.02.19: Min. No.2].

6.17 Related Party Transactions

- (a) The requirement for Members and senior Officers to declare Related Party Transactions has been considered by the Accounting Standards Board as fundamental to the presentation of the Council's published accounts. External auditors require the completion of a signed declaration on an annual basis. The objective is to identify any transactions that may have taken place as a result of the control or influence exercised by one party over another. The concern is that such transactions may not be, or may not be perceived to be, in the best interests of the Council. Each year, Members and senior Officers are asked by the Managing Director to provide brief details of any related party transaction. If any disclosure becomes likely, a draft of the proposed disclosure note will be provided to the individual for comments prior to publication.
- (b) On 12 April 2007 [Min No.32(3)], the Standards Committee agreed that a refusal by a Member to make the appropriate declaration, be treated as a breach of a local protocol and that the matter be investigated and determined locally.

Eight Councillors made related declarations, but only one of the declarations was deemed necessary for disclosure in the financial statements for the year 2019/20.

6.18 Partnership Working

- (a) Partnership working is playing an increasingly important role in public sector service delivery. The Council is fully committed to partnership working because it recognises the strength and value of effective partnerships in contributing to the improvement of the well-being of the Borough's communities. The Council encourages partnership working wherever benefits can be demonstrated.
- (b) Partnership working includes 'joined up' or collaborative working between the Council and other public sector bodies, the private sector and the third sector (non-governmental organisations that are value driven and which principally reinvest their surpluses to further social, environmental or cultural objectives - includes voluntary and community organisations, charities, social enterprises, co-operatives and housing associations).
- (c) Poor ethical standards in partnership arrangements may adversely affect the Council's community leadership role, reputation etc. The Audit Board encourages high standards of behaviour in the Council and amongst partners. The Seven General Principles of Public Life (referred to below), guide the conduct of Councillors and underpin the Code of Conduct that all Councillors, including Parish and Town Councillors, are bound:
- Selflessness
 - Integrity
 - Honesty
 - Objectivity
 - Accountability
 - Openness
 - Leadership
- (d) Maintaining high standards is crucial to maintaining effective partnerships, but if problems are to occur, they are likely to be exacerbated by the adverse impact on partnership working, which may follow. The General Principles are simple, and coherent, which means they can also be followed by partners, who are not obliged to formally adhere to the Code of Conduct. The Code of Practice for Effective Joint Working Arrangements recommends that the General Principles should, as a minimum, be incorporated in all partnership arrangements.

The Code of Practice for effective Joint Working Arrangements has been reviewed by the Strategic Director (Internal Services), to ensure fitness for purpose.

6.19 Politically Restricted Posts

- (a) There is long established tradition that local government employees involved in advising elected members of their authority, should be seen to observe a policy of political neutrality. This policy is important for two main reasons: it is essential to the functioning of the democratic system that members of a local authority should be able to receive impartial advice from its officers and that its officers should not be influenced by any political bias in the implementation of the authority's policies. It is also vital that members and those who have elected them, should have complete confidence that their officers will give impartial advice and will act impartially in implementing the authority's policies.
- (b) To ensure that local authority employees who hold posts involving duties of a politically sensitive nature cannot, at the same time, become or remain a member of a local authority (other than parish/town councils), Part 1 of the Local Government and Housing Act 1989 (as amended) imposes restrictions on political activities by local government employees.
- (c) The Council provides standard information to all applicants who are seeking appointment to a politically restricted post and these restrictions are also incorporated into the contract of employment. The Council is required to maintain an up to date list of its politically restricted posts. The list is open to public inspection.
- (d) The Localism Act 2011 gives the responsibility to the Head of Paid Service to determine applications for exemption from political restriction by holders of such posts.
- (e) No applications for exemption or directions were made to or by the Head of Paid Service, during the year 2019/20.

7. MEMBER CODE OF CONDUCT COMPLAINTS STATISTICAL ANALYSIS 2019/20

7.1 Complaints to the Monitoring Officer 2019/20

A successful ethical standards regime is one where there are no complaints because Councillors are seen to be complying with the Code of Conduct. If a complaint is received, a measure of the regime can be assessed firstly by whether the complaint was justified, then secondly, by the seriousness of the breach of the Code of Conduct and the action required. The number of complaints received by the Monitoring Officer in the year 2019/20 is as follows:

Borough Councillors	2 ¹⁶
Parish/Town Councillors	0

¹⁶ Of which one investigation was concluded in the year 2020/2021

The complaints were dealt with as follows, where applicable, in consultation with the Independent Person:

DPI Offence referred to the Police – 0

Dismissed at Preliminary Stage (Legal &/or Local Criteria Tests not met) – 1

Formal Investigation Undertaken – 0

Upheld - 0

Referred to Hearing Panel - 0

Dealt with by Informal Resolution - 0

Dealt with by Mediation (Political Group Leader) - 0

Dealt with by Mediation (Political Group Panel) - 0

Not Upheld (No Further Action) - 0

8. TRAINING AND DEVELOPMENT OF COUNCILLORS 2019/20

8.1 **Induction** - The Committee on Standards in Public Life (CSPL) has issued guidance on how best to embed high ethical standards in public sector organisations through induction, education and training. The CSPL's aim is not to impose a one-size-fits-all model of induction, but that every organisation should take the lead in designing and delivering an induction programme that responds to the challenges and circumstances of their particular area of public life. However, as a basic minimum, the CSPL expects to see induction cover the relevant code of conduct and the principles on which it is based, with an explanation of any compliance requirements that derive from that code and reference to the channels for raising and dealing with ethical issues.

Following a Borough Council local or by-election or appointment to the Council, Councillors and Co-optees are provided with a Member Handbook, which details the background into the Council's corporate governance arrangements. This is an invaluable guide for first-time Councillors and Co-optees, who may be unfamiliar with the work of the Council or with local government in general.

The Council has a Members' induction process for newly elected councillors. This covers the Member Code of Conduct and its principles and the particular role and responsibilities of Members, particularly when participating in quasi - judicial decision-making committees e.g. Development Control Board and Licensing Sub-committee. The induction covers the practical as well as theoretical relevance and involves active rather than passive learning.

Following local elections, Parish/Town Councillors are invited to participate in the [Borough Council's] induction process. Attendance at induction is compulsory for newly elected Borough Councillors.

8.2 Training

- (a) In recognition of the changing responsibilities and demands on Councillors (principally through legislation), the Council provides training and development, facilities, access to information and guidance to help them carry out their roles. There are no set guidelines on training and development. The Council offers induction courses to introduce newly elected Councillors to the workings and responsibilities of the Council and to familiarise them with systems, facilities and the decision making process.
- (b) Members are aware of training opportunities available to them, but do on occasions feel overloaded with meetings, making the logistics difficult. Nevertheless, Members are prepared to attend training as long as it is of the right quality and pitched at the right level. The levels of awareness present an opportunity to raise the profile of Member development within the Council.
- (c) Training records for Borough Councillors are maintained by Member Services and by the Parish/Town Council Clerks for Parish/Town Councillors. Training records form part of the evidence during any investigation into complaints of breaches of the Code.
- (d) First Tier Tribunal decisions were critical of councillors who failed to attend training put on by their local authorities and non-attendance was not accepted as a justification for a breach of the Code of Conduct occurring. Further criticism was levied at councillors who failed to read the Code.
- (e) Prior to a Borough Council local or by-election, candidates are advised that they will be required to attend training on the Member Code of Conduct, if elected a councillor. Arrangements are made to train new Councillors and Co-optees on the Code of Conduct, as soon as possible, following their election/confirmation of appointment.
- (f) In organising training/development sessions, Officers are mindful of the pressures on Councillors' time and will endeavour to make the sessions as flexible as possible, to accommodate these time pressures. 'Flexibility' includes on-line training and one to one sessions with the Head of Legal Services.

8.3 Training - Member Code of Conduct, Development Control, Licensing and Treasury Management Panel

The training provided by the Council reflects the changing roles of Councillors, and ensures that Councillors understand the implications of new legislation.

However, Councillors themselves are ultimately responsible for ensuring they have the skills they need to carry out their duties.

Training is categorised as non-mandatory and mandatory. Non-mandatory training includes softer skills development such as community leadership. Mandatory training includes ethical governance related matters e.g. code of conduct and training for Members who sit on quasi-judicial committees, boards and /or panels.

Following the 2019 local elections, all Members received training on the Member Code of Conduct & Safe and Effective Use of Social Media. All members (and nominated substitutes) of the Development Control Board and Licensing Committee participated in mandatory training relevant to their respective areas of decision making before they could take part in the decision-making process.

Treasury Management Panel (TMP) members have received and continue to receive, from Arlingclose (the Council's Treasury Advisor), 'bite size' training during meetings. The training to date, has included an overview/background of the TMP's role, the meaning/definition of key terms and an explanation of matters on the agenda.

All Members have been trained on the GDPR (through attendance either at a training session, on-line or through a one to one with the Data Protection Officer). Four Members of the Deed, Trust and Obligations Committee (including an Independent Member) received training on the Charity Act 2011.

9. MEMBER TRAINING DEVELOPMENT 2020/2021

Providing effective training and development opportunities for Members is integral to the achievement of the Council's corporate priorities.

The Kent Design CPD programme includes [webinar training](#) for councillors on the delivery of high-quality architecture, public space and infrastructure to improve the quality of life for both visitors and residents. As a member of Kent Design, the Council receives a number of places at events. Recent training concerned the design quality of major applications in relation to uses, lifespan and movement.

The national consultation on the revisions to the Member Code of Conduct is likely to impact on the standards regime in the year 2020/21 and may require refresher training for all Members.

Following a review of the Licensing Sub-committee hearing procedure, the Head of Legal Services has been asked to arrange mandatory training for all Licensing Committee members. This training will be delivered by 31 December 2020.

10. PARISH/TOWN COUNCILS

- (a) There are eight Parish/Town Councils in the Borough of Dartford. Seven Councils adopted a Code of Conduct based upon the Borough Council's Member Code and one adopted the National Association of Local Councils (NALC) Code.
- (b) The Monitoring Officer and Head of Legal Services periodically issue guidance notes to the Parish/Town Council Clerks on the Code of Conduct and declarations of interest.
- (c) Audit Board agendas and minutes are copied to Parish/Town Clerks.
- (d) Parish/Town Clerks assist the Monitoring Officer in compiling the Parish/Town Councillor DPI Registers and keeping them under review. The Registers are open to inspection by members of the public at the Parish/Town Council offices and on their websites.
- (e) The NALC publication 'Standing Orders for Local Councils' provides guidance, the most up to date legislation and model standing orders for parish/town councils.
- (f) Following complaints received by one Parish Council regarding alleged breaches of its Code of Conduct, the [Borough] Council's Independent Member will deliver on-line training to the whole Parish Council, including its Clerk.

11. JOINT COLLABORATION/WORKING

- (a) The Council recognises the benefits, economies of scale and wealth of advice and experience that suitable collaboration can bring to it.
- (b) The Council's formal partnership arrangements with Sevenoaks District Council cover Audit and Fraud, Environmental Health and Revenues and Benefits.

12. STAFF

12.1 Code of Conduct for Employees

- (a) The Council's employees are bound by the Employee Code of Conduct. The Code is incorporated in contracts of employment and referred to in the induction process. The Code is well publicised on the Council's Intranet.
- (b) The Head of Paid Service, deals with all matters related respectively, to the appointment, dismissal etc. of staff below Statutory Officer and Director level. Appointment, dismissal etc. of Statutory Officers and Directors are dealt with by the Statutory Officer Advisory Panel.
- (c) The Government has not introduced a statutory code of conduct for employees and it now seems unlikely that this will be introduced.

The Employee Code of Conduct is under review. No allegations of breaches of the Code were reported to the Head of Paid Service in 2019/20.

12.2 Registration of Officer Interests

A Register of Employees' Interests is maintained by the Head of Paid Service. The Register is open to inspection by Borough Councillors, not the public.

No complaints of alleged failure to declare interests were received by the Head of Paid Service in the year 2019/20.

12.3 Whistleblowing

- (a) The Public Interest Disclosure Act 1998 (as amended) contains measures which help to promote greater openness between employers and employees in the workplace and supports a structure for whistleblowing.

In order to benefit from whistleblower protection, a disclosure must 'in the reasonable belief of the worker making the disclosure' be 'made in the public interest'. The 'good faith' requirement for whistleblowing no longer applies, although compensation can be reduced where good faith is lacking.

- (b) The Audit Board considers reports on whistleblowing, where fraud, corruption (including alleged breaches of the Bribery Act 2010) or other malpractice has served to undermine the Council's internal controls and lines of reporting.
- (c) The Whistleblowing Policy ensures that robust arrangements are in place for confidential reporting of concerns and the proportionate and independent investigation of whistleblowing matters and for appropriate follow up action. The Audit Manager maintains a record of concerns raised and the outcomes (but in a form that does not endanger confidentiality).
- (d) The review of the Whistleblowing Policy is dealt with as a separate item on the agenda. No investigations were carried out in the year 2019/20.

13. CORPORATE COMPLAINTS PROCEDURE

- (a) The Corporate Complaints Procedure is designed and intended to give all staff, Councillors and the Council's contractors/partners, guidance on how to handle complaints effectively. Complaints monitoring is seen as a stimulus to system improvement. Statistical/analytical reports are submitted quarterly to Management Team and Policy Overview Committee.
- (b) The annual report to the Audit Board on the Corporate Complaints Procedure, is reported elsewhere on the agenda. This also updates Members on the roles respectively, of the Local Government and Social Care Ombudsman, Housing Ombudsman and Members as 'designated persons'.

- (c) The Regulators' Code¹⁷ provides a clear, flexible and principles-based framework for how regulators should engage with those they regulate. Local authorities must have regard to the 'Regulators' Code when formulating complaints and appeals' processes and when developing standards, policies or procedures that guide their regulatory activities. The Council's activities should be carried out in a way, which is transparent, accountable, proportionate and consistent.

14. LOCAL GOVERNMENT AND SOCIAL CARE OMBUDSMAN & HOUSING OMBUDSMAN

- (a) The Local Government and Social Care Ombudsman (LGO) issues an Annual Review of Complaints setting out the number of complaints against the Council during a specified period.
- (b) All social housing (landlord related functions) complaints are dealt with by the Housing Ombudsman (HO).
- (c) An analysis of LGO and HO related complaints for the year 2019/20 is provided elsewhere on the agenda.
- (d) The LGO cannot determine whether a Member has breached the Code of Conduct. However, committees are within the jurisdiction of the LGO. It is possible to make a complaint of maladministration causing injustice as a result of some action or inaction by a committee or monitoring officer about the handling of a complaint (e.g. delay or bias).
- (e) A complaint to the LGO may only be made by, or on behalf of, a member of the public or a body of persons other than a local authority or other public service body. A complainant must be able to claim a personal injustice. An elected Member may only complain to the LGO about something that affects them personally as a member of the public. This includes actions of an authority's committee and officers carrying out functions in relation to the committee.

15. IN SUMMARY

This Annual Report summarises the key work carried out in 2019/2020 and provides assurance that the Council's control environment, in the areas that are the responsibility of the Monitoring Officer, is adequate and effective. This Annual Report supports the assurance statements included in the Annual Governance Statement.

¹⁷ 6 April 2014

ANNEX 1

1. THE ROLE OF THE HEAD OF PAID SERVICE

The responsibilities of the Head of Paid Service rest with the Managing Director, who undertakes to discharge these statutory responsibilities in a positive way and in a manner that enhances the overall reputation of the Council.

In general, the Head of Paid Service has overall corporate management and operational responsibility for the way in which the Council delivers its services and in particular, he co-ordinates the staffing needs of the Council, including the organisation, appointment and proper management of staff, reporting to the GAC or Cabinet as appropriate.

Having excellent working relations with Members and Officers assists in the discharge of the statutory responsibilities of the Head of Paid Service. Equally, a speedy flow of relevant information and access to debate (particularly at the early stages of any decision-making by the Council) will assist in fulfilling those responsibilities.

The Head of Paid Service meets regularly with Directors to consider and recommend action in connection with corporate governance issues and other matters.

The Head of Paid Service has a special relationship of respect and trust with the Leader of the Council, Deputy Leader and Committee chairmen, with a view to ensuring the effective and efficient discharge of Council business.

The Head of Paid Service's functions are summarised as follows:

Description	Source
Report on decisions incurring unlawful expenditure, unlawful loss or deficiency or unlawful item of account	Section 4 Local Government and Housing Act 1989
Report on resources	Section 4 Local Government and Housing Act 1989
All staff to be appointed on merit	Section 7 Local Government and Housing Act 1989
Duty to adopt Standing Orders with respect to staff	Section 8 Local Government and Housing Act 1989
Confidentiality of staff records	Section 11 Local Government and Housing Act 1989
Conflicts of interest in staff negotiations	Section 12 Local Government and Housing Act 1989
Appointment of staff	Section 112 Local Government Act 1972
Dispensations (see Delegations)	Section 33 Localism Act 2011
Exemptions from political restrictions	Section 3A Local Government & Housing Act 1989 (as amended)

2. THE ROLE OF THE MONITORING OFFICER

The responsibilities of the Monitoring Officer role rest with the Strategic Director (External Services). The Monitoring Officer has a broad role in ensuring the lawfulness and fairness of Council decision making, ensuring compliance with codes and protocols and promoting good governance and high ethical standards.

The Monitoring Officer's functions are summarised as follows:

Description	Source
Report on any maladministration or injustice where the Ombudsman has carried out an investigation	Section 5 Local Government and Housing Act 1989 (as amended)
Appoint a Deputy	Section 5 Local Government and Housing Act 1989 (as amended)
Report on sufficiency of resources for carrying out the Monitoring Officer functions	Section 5 Local Government and Housing Act 1989 (as amended)
Establish and maintain the Register of Members' Interests for Borough and Parish/Town Councils	Section 81 Local Government Act 2000 (as amended) and Member Code of Conduct
Maintain and update the Constitution	The Constitution
Key role in promoting and maintaining high standards of conduct in the Council	The Constitution
Advise Councillors on interpretation of the Code of Conduct	The Constitution
Support the Audit Board (on ethical governance issues)	Local Government Act 2000 (as amended) and Statutory Guidance para.8.20
Receive alleged breach of Code of Conduct complaints and consult Independent Person	Localism Act 2011 – Adopted Arrangements for dealing with Code of Conduct breaches
Investigate Member misconduct (Borough and Parish Councils)	Localism Act 2011 – Adopted Arrangements for dealing with Code of Conduct breaches
Overview of ethical framework in relation to Parish/Town Councils	Section 83(12) Local Government Act 2000 (as amended)
Consult with, support and advise the Head of Paid Service and Section 151 Officer on issues of lawfulness and probity	The Constitution
Provide advice on vices issues and maladministration	The Constitution
In consultation with the Section 151 Officer, advise on whether executive decisions are within the	The Constitution

budget and policy framework	
Consider whether certain information is exempt from disclosure under the Freedom of Information Act	Section 36 Freedom of Information Act 2000
Receive copies of whistleblowing allegations of misconduct	Whistleblowing Policy

3. THE ROLE OF THE SECTION 151 OFFICER

The responsibilities of the Section 151 Officer rests with the Strategic Director (Internal Services).

There are five areas that are critical to the achievement of the Section 151 Officer's statutory responsibilities:

- maintaining strong financial management underpinned by effective financial controls;
- contributing to corporate management and leadership;
- supporting and advising democratically elected representatives;
- supporting and advising officers in their operational roles;
- leading and managing an effective and responsive financial service.

The Section 151 Officer's functions are summarised as follows:

Description	Source
Report on decisions incurring unlawful expenditure, unlawful loss or deficiency or unlawful item of account	Sections 114, 114a, 115, 116 Local Government and Finance Act 1988
Appointment of Deputy	Section 114 Local Government and Finance Act 1988
Report on resources	Section 114 Local Government and Finance Act 1988
Responsibility for the administration of financial affairs	Section 151 Local Government Act 1972
Borrowing, investment accounts and financial administration	Sections 1 – 92 Local Government Act 2003
Responsibility to determine the form of the Council's accounts and records, provide internal audit and statement of accounts	The Accounts and Audit Regulations 2015 Local Authorities (Capital Finance and Accounting) (England) Regulations 2003 (as amended)