

Watford Borough Council's Arrangements for dealing with standards allegations under the Localism Act 2011

Context

These "Arrangements" set out how you may make a complaint that an elected or co-opted member of Watford Borough Council has failed to comply with the Council's Code of Conduct, and sets out how the Council will deal with allegations of a failure to comply with the Council's Code of Conduct.

Under Section 28(6) and (7) of the Localism Act 2011, the Council must have in place "arrangements" under which allegations that a member or co-opted member of the Council or of a Committee or Sub-Committee of the Council, has failed to comply with that Council's Code of Conduct can be investigated and decisions made on such allegations.

Such arrangements must provide for the Council to appoint at least one Independent Person, whose views must be sought by the Council before it takes a decision on an allegation which it has decided shall be investigated, and whose views can be sought by the Council at any other stage, or by a member against whom an allegation has been made.

2 The Code of Conduct

The Council has adopted a Code of Conduct for members, which is attached as Appendix One to these arrangements and which is available for inspection on the Council's website www.watford.gov.uk and on request from the Customer Service Centre at the Town Hall.

3 Making a complaint

If you wish to make a complaint, please write or email to –

The Group Head of Democracy and Governance, Town Hall, Watford, Herts
WD17 3EX

Or –

legalanddemocratic@watford.gov.uk

The Group Head of Democracy and Governance is the Council's Monitoring Officer and is a senior officer of the Council who has statutory responsibility for maintaining the register of members' interests and who is responsible for administering the system in respect of complaints of member misconduct.

In order to ensure that we have all the information which we need to be able to process your complaint, please complete and send us the model complaint form, which can be downloaded from the authority's website, next to the Code of Conduct, and is available on request from the Customer Service Centre at the Town Hall.

Please do provide us with your name and a contact address or email address, so that we can acknowledge receipt of your complaint and keep you informed of its progress. If you want to keep your name and address confidential, please indicate this in the space provided on the complaint form or in your letter or email and provide supporting reasons. The Group Head of Democracy and Governance will consider the request and may, in appropriate circumstances, agree to withhold your name and address from the member against whom the complaint is made.

The Council does not normally investigate anonymous complaints, unless there is a clear public interest in doing so.

The Group Head of Democracy and Governance will acknowledge receipt of your complaint within 5 working days of receiving it, and will keep you informed of the progress of your complaint.

4 Will your complaint be investigated?

The Group Head of Democracy and Governance will review every complaint received and, after consultation with the Independent Person, undertake an initial assessment of the complaint to determine firstly, whether the complaint is admissible and, if so, to decide whether:-

- a) It warrants referral for investigation
- b) It may be suitable for alternative resolution without investigation, (e.g. apology, mediation, training) or
- c) It does not warrant any further action;

This decision will normally be taken within 14 working days of receipt of your complaint. When considering your complaint the Group Head of Democracy and Governance and Independent Person will have regard to the assessment criteria set out in Appendix 3 below. Once a decision has been taken, she will inform you of her decision and the reasons for that decision.

Where she requires additional information in order to come to a decision, she may come back to you for such information, and may request information from the member against whom your complaint is directed.

Alternative Dispute Resolution

In appropriate cases, the Group Head of Democracy and Governance may seek to resolve the complaint informally, without the need for a formal investigation. Such informal resolution may involve the member accepting that his/her conduct was unacceptable and offering an apology, or other remedial action by the authority. Where the member or the authority make a reasonable offer of local resolution, but you are not willing to accept that offer, the Group Head of Democracy and

Governance will take account of this in deciding whether the complaint merits formal investigation.

If your complaint identifies criminal conduct or breach of other regulation by any person, the Group Head of Democracy and Governance has the power to call in the Police and other regulatory agencies.

5 How is the investigation conducted?

The Council has adopted the following procedure for the investigation of misconduct complaints.

If the Group Head of Democracy and Governance decides that a complaint merits formal investigation, she will appoint an Investigating Officer, who may be another senior officer of the Council, an officer of another council or an external investigator.

The Group Head of Democracy and Governance will at the outset discuss with the Investigating Officer how long the Investigating Officer considers he/she will require to complete their investigation.

The Investigating Officer will decide whether he/she needs to meet or speak to you to understand the nature of your complaint and so that you can explain your understanding of events and suggest what documents the Investigating Officer needs to see, and who the Investigating Officer needs to interview.

In exceptional cases, where it is appropriate to keep your identity confidential or disclosure of details of the complaint to the member might prejudice the investigation, the Group Head of Democracy and Governance can delete your name and address from the papers given to the member, or delay notifying the member until the investigation has progressed sufficiently.

The Group Head of Democracy and Governance will write to the member against whom you have complained and provide him/her with a copy of your complaint, and inform him/her that an investigation will be carried out and provide the details of the Investigating Officer.

The Investigating Officer will also interview anybody else he/she deems necessary and may also ask for copies of any documents to assist him/her with the investigation. The Investigating Officer will then contact the member and ask him/her to provide his/her explanation of events, and to identify what documents he needs to see and who he/she needs to interview.

At the end of his/her investigation, the Investigating Officer will produce a draft report and will send copies of that draft report, in confidence, to you and to the member concerned, to give you both an opportunity to identify any matter in that draft report which you disagree with or which you consider requires more consideration.

Having received and taken account of any comments which you may make on the draft report, the Investigating Officer will send his/her final report to the Group Head of Democracy and Governance.

In the event that the Investigating Officer does not get cooperation from any person he/she wishes to interview. The Investigating Officer will be entitled to conclude his/her report based on the information that has been made available to him/her.

What happens if the Investigating Officer concludes that there is no evidence of a failure to comply with the Code of Conduct?

The Group Head of Democracy and Governance will review the Investigating Officer's report and, if she is satisfied that the Investigating Officer's report is sufficient, the Group Head of Democracy and Governance will write to you and to the member concerned, notifying you that she is satisfied that no further action is required, and give you both a copy of the Investigating Officer's final report. If the Group Head of Democracy and Governance is not satisfied that the investigation has been conducted properly, she may ask the Investigating Officer to reconsider his/her report.

What happens if the Investigating Officer concludes that there is evidence of a failure to comply with the Code of Conduct?

The Group Head of Democracy and Governance will review the Investigating Officer's report and in consultation with the Independent Person will then either send the matter for local hearing before the Standards Committee or, seek an informal resolution if they consider it appropriate.

7.1 Local Resolution

The Group Head of Democracy and Governance may consider that the matter can reasonably be resolved without the need for a hearing. In such a case, she will consult with the Independent Person. Such resolution may include the member accepting that his/her conduct breached the code and offering an apology, and/or other remedial action by the Council. If the member complies with the suggested resolution, the Group Head of Democracy and Governance will report the matter to the Standards Committee for information, but will take no further action.

7.2 Local Hearing

If the Group Head of Democracy and Governance considers that local resolution is not appropriate, or is impossible to achieve, the Group Head of Democracy and Governance will report the Investigating Officer's report to the Standards Committee which will conduct a local hearing before deciding whether the member has failed to comply with the Code of Conduct and, if so, whether to take any action in respect of the member.

The Council has agreed a procedure for local hearings, which is attached as Appendix Two to these arrangements.

In summary, the Group Head of Democracy and Governance will conduct a "prehearing process", requiring the member to give his/her response to the Investigating Officer's report, in order to identify what is likely to be agreed and what is likely to be in contention at the hearing, and the Chair of the Standards Committee may issue directions as to the manner in which the hearing will be conducted.

At the hearing, the Investigating Officer will present his/her report, call such witnesses as he/she considers necessary and make representations to substantiate his/her conclusion that the member has failed to comply with the Code of Conduct. For this purpose, the Investigating Officer may ask you as the complainant to attend and give evidence to the Standards Committee. The member will then have an opportunity to give his/her evidence, to call witnesses and to make representations to the Standards Committee as to why he/she considers that he/she did not fail to comply with the Code of Conduct.

The Standards Committee, with the benefit of any advice from the Independent Person, may conclude that:

the member did not fail to comply with the Code of Conduct, and so dismiss the complaint.

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- i) The member breached the code, in which case the Chair will inform the member of this finding and the Standards Committee will then consider what sanction or action, if any, the Standards Committee should take as a result of the member's failure to comply with the Code of Conduct. In doing this, the Standards Committee will give the member an opportunity to make representations to it and will consult the Independent Person, and will then decide what action, if any, to take in respect of the matter.

8. What action can the Standards Committee take where a member has failed to comply with the Code of Conduct?

The Council has delegated to the Standards Committee such of its powers to take action in respect of individual members as may be necessary to promote and maintain high standards of conduct. Accordingly the Standards Committee may –

- 8.1 Publish its findings in respect of the member's conduct;
- 8.2 Report its findings to Council for information;
- 8.3 Recommend to the member's Group Leader (or in the case of ungrouped members, recommend to Council or to Committees) that he/she be removed from any or all Committees or Sub-Committees of the Council;
- 8.4 Recommend to Mayor that the member be removed from the Cabinet, or removed from particular Portfolio responsibilities;
- 8.5 Instruct the Group Head of Democracy and Governance to arrange training for the member;
- 8.6 Remove from all outside appointments to which he/she has been appointed or nominated by the authority or ask the Mayor to remove the member from all outside bodies that he/she has been nominated to by the Mayor;
- 8.7 Withdraw facilities provided to the member by the Council, such as a computer, website and/or email and Internet access; or
- 8.8 Exclude the member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council, Committee and Sub-Committee meetings.

The Standards Committee has no power to suspend or disqualify the member or to withdraw members' or special responsibility allowances.

9. What happens at the end of the hearing?

At the end of the hearing, the Chair will state the decision of the Standards Committee as to whether the member failed to comply with the Code of Conduct and as to any actions which the Standards Committee resolves to take.

As soon as reasonably practicable thereafter, the Group Head of Democracy and Governance shall prepare a formal decision notice in consultation with the Chair of the Standards Committee, and send a copy to you, to the member, and publish it on the Council's website and report the decision to the next convenient meeting of the Council.

There is no right of appeal for Complainant or the member in respect of an initial assessment decision of the Group Head of Democracy or Governance or the Standards Committee.

If a complainant feels that the Council has failed to deal with their complaint properly they may make a complaint to the Local Government and Social Care Ombudsman or make an application to the High Court.

10 Who are the Standards Committee?

The Standards Committee is a Committee of the Council that five members of the Council, each political party is represented on the Committee. It is appointed on the nomination of party group leaders at Annual Council in May of each year

The Independent Person is invited to attend all meetings of the Standards Committee and his/her views are sought and taken into consideration before the Standards Committee takes any decision on whether the member's conduct constitutes a failure to comply with the Code of conduct and as to any action to be taken following a finding of failure to comply with the Code of Conduct.

11 Who is the Independent Person?

The Independent Person is a person who has applied for the post following advertisement of a vacancy for the post, and is appointed by a positive vote from a majority of all the members of Council.

A person cannot be "independent" if he/she –

- 11.1 (a) Is, or has been within the past 5 years, a member, co-opted member or officer of the authority; or
- (b) stood for election to the Council: or

11.2 Is a relative, or close friend, of a person within paragraph 11.1(a) above. For this purpose, “relative” means –

- 11.2.1 Spouse or civil partner;
- 11.2.2 Living with the other person as husband and wife or as if they were civil partners;
- 11.2.3 Grandparent of the other person;
- 11.2.4 A lineal descendent of a grandparent of the other person;
- 11.2.5 A parent, sibling or child of a person within paragraphs 11.2.1 or 11.2.2;
- 11.2.6 A spouse or civil partner of a person within paragraphs 11.2.3, 11.2.4 or 11.2.5; or
- 11.2.7 Living with a person within paragraphs 11.2.3, 11.2.4 or 11.2.5 as husband and wife or as if they were civil partners.

12 Revision of these arrangements

The Council may by resolution agree to amend these arrangements, and has delegated to the Chair of the Standards Committee the right to depart from these arrangements where he/she considers that it is expedient to do so in order to secure the effective and fair consideration of any matter.

13 Appeals

There is no right of appeal for you as complainant against a decision of the Group Head of Democracy and Governance or of the Hearings Panel.

If you feel that the authority has failed to deal with your complaint properly, you may make a complaint to the Local Government and Social Care Ombudsman.

Appendix One The authority’s Code of Conduct Appendix

Appendix Two Procedure for Hearings

Appendix Three Standards Complaints Assessment

Criteria.

Local Government Association

Model Councillor Code of Conduct 2020

Joint statement

The role of councillor across all tiers of local government is a vital part of our country's system of democracy. It is important that as councillors we can be held accountable and all adopt the behaviours and responsibilities associated with the role. Our conduct as an individual councillor affects the reputation of all councillors. We want the role of councillor to be one that people aspire to. We also want individuals from a range of backgrounds and circumstances to be putting themselves forward to become councillors.

As councillors, we represent local residents, work to develop better services and deliver local change. The public have high expectations of us and entrust us to represent our local area; taking decisions fairly, openly, and transparently. We have both an individual and collective responsibility to meet these expectations by maintaining high standards and demonstrating good conduct, and by challenging behaviour which falls below expectations.

Importantly, we should be able to undertake our role as a councillor without being intimidated, abused, bullied or threatened by anyone, including the general public.

This Code has been designed to protect our democratic role, encourage good conduct and safeguard the public's trust in local government.

Introduction

The Local Government Association (LGA) has developed this Model Councillor Code of Conduct, in association with key partners and after extensive consultation with the sector, as part of its work on supporting all tiers of local government to continue to aspire to high standards of leadership and performance. It is a template for councils to adopt in whole and/or with local amendments.

All councils are required to have a local Councillor Code of Conduct.

The LGA will undertake an annual review of this Code to ensure it continues to be fit-for-purpose, incorporating advances in technology, social media and changes in legislation. The LGA can also offer support, training and mediation to councils and councillors on the application of the Code and the National Association of Local Councils (NALC) and the county associations of local councils can offer advice and support to town and parish councils.

Definitions

For the purposes of this Code of Conduct, a “councillor” means a member or co-opted member of a local authority or a directly elected mayor. A “co-opted member” is defined in the Localism Act 2011 Section 27(4) as “a person who is not a member of the authority but who

- a) is a member of any committee or sub-committee of the authority, or;
- b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority;

and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee”.

For the purposes of this Code of Conduct, “local authority” includes county councils, district councils, London borough councils, parish councils, town councils, fire and rescue authorities, police authorities, joint authorities, economic prosperity boards, combined authorities and National Park authorities.

Purpose of the Code of Conduct

The purpose of this Code of Conduct is to assist you, as a councillor, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow councillors, local authority officers and the reputation of local government. It sets out general principles of conduct expected of all councillors and your specific obligations in relation to standards of conduct. The LGA encourages the use of support, training and mediation prior to action being taken using the Code. The fundamental aim of the Code is to create and maintain public confidence in the role of councillor and local government.

General principles of councillor conduct

Everyone in public office at all levels; all who serve the public or deliver public services, including ministers, civil servants, councillors and local authority officers; should uphold the [Seven Principles of Public Life](#), also known as the Nolan Principles.

Building on these principles, the following general principles have been developed specifically for the role of councillor.

In accordance with the public trust placed in me, on all occasions:

- ☐ I act with integrity and honesty
- ☐ I act lawfully
- ☐ I treat all persons fairly and with respect; and
- ☐ I lead by example and act in a way that secures public confidence in the role of councillor.

In undertaking my role:

- ☐ I impartially exercise my responsibilities in the interests of the local community
- ☐ I do not improperly seek to confer an advantage, or disadvantage, on any person
- ☐ I avoid conflicts of interest
- ☐ I exercise reasonable care and diligence; and
- ☐ I ensure that public resources are used prudently in accordance with my local authority's requirements and in the public interest.

Application of the Code of Conduct

This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of councillor or attend your first meeting as a co-opted member and continues to apply to you until you cease to be a councillor.

This Code of Conduct applies to you when you are acting in your capacity as a councillor which may include when:

- ☐ you misuse your position as a councillor
- ☐ Your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a councillor;

The Code applies to all forms of communication and interaction, including:

- ☐ at face-to-face meetings
- ☐ at online or telephone meetings
- ☐ in written communication
- ☐ in verbal communication
- ☐ in non-verbal communication
- ☐ in electronic and social media communication, posts, statements and comments.

You are also expected to uphold high standards of conduct and show leadership at all times when acting as a councillor.

Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from your Monitoring Officer on any matters that may relate to the Code of Conduct. Town and parish councillors are encouraged to seek advice from their Clerk, who may refer matters to the Monitoring Officer.

Standards of councillor conduct

This section sets out your obligations, which are the minimum standards of conduct required of you as a councillor. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken.

Guidance is included to help explain the reasons for the obligations and how they should be followed.

General Conduct

1. Respect

As a councillor:

1.1 I treat other councillors and members of the public with respect.

1.2 I treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.

Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a councillor, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.

In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in councillors.

In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider or the police. This also applies to fellow councillors, where action could then be taken under the Councillor Code of Conduct, and local authority employees, where concerns should be raised in line with the local authority's councillor-officer protocol.

2. Bullying, harassment and discrimination

As a councillor:

2.1 I do not bully any person.

2.2 I do not harass any person.

2.3 I promote equalities and do not discriminate unlawfully against any person.

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The Equality Act 2010 places specific duties on local authorities. Councillors have a central role to play in ensuring that equality issues are integral to the local authority's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

3. Impartiality of officers of the council

As a councillor:

3.1 I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.

Officers work for the local authority as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

4. Confidentiality and access to information

As a councillor:

4.1 I do not disclose information:

- a. given to me in confidence by anyone**
- b. acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless**
 - i. I have received the consent of a person authorised to give it;**
 - ii. I am required by law to do so;**
 - iii. the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or**
 - iv. the disclosure is:**
 - 1. reasonable and in the public interest; and**
 - 2. made in good faith and in compliance with the reasonable requirements of the local authority; and**
 - 3. I have consulted the Monitoring Officer prior to its release.**

4.2 I do not improperly use knowledge gained solely as a result of my role as a councillor for the advancement of myself, my friends, my family members, my employer or my business interests.

4.3 I do not prevent anyone from getting information that they are entitled to by law.

Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the local authority must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

5. Disrepute

As a councillor:

5.1 I do not bring my role or local authority into disrepute.

As a Councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other councillors and/or your local authority and may lower the public's confidence in you or your local authority's ability to discharge your/its functions. For example, behaviour that is considered dishonest and/or deceitful can bring your local authority into disrepute.

You are able to hold the local authority and fellow councillors to account and are able to constructively challenge and express concern about decisions and processes undertaken by the council whilst continuing to adhere to other aspects of this Code of Conduct.

6. Use of position

As a councillor:

6.1 I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.

Your position as a member of the local authority provides you with certain opportunities, responsibilities, and privileges, and you make choices all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

7. Use of local authority resources and facilities

As a councillor:

7.1 I do not misuse council resources.

7.2 I will, when using the resources of the local or authorising their use by others:

- a. act in accordance with the local authority's requirements; and**
- b. ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which I have been elected or appointed.**

You may be provided with resources and facilities by the local authority to assist you in carrying out your duties as a councillor.

Examples include:

- ☐ office support
- ☐ stationery
- ☐ equipment such as phones, and computers
- ☐ transport
- ☐ access and use of local authority buildings and rooms.

These are given to you to help you carry out your role as a councillor more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the local authority's own policies regarding their use.

8. Complying with the Code of Conduct

As a Councillor:

8.1 I undertake Code of Conduct training provided by my local authority.

8.2 I cooperate with any Code of Conduct investigation and/or determination.

8.3 I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.

8.4 I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.

It is extremely important for you as a councillor to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the local authority or its governance. If you do not understand or are concerned about the local authority's processes in handling a complaint you should raise this with your Monitoring Officer.

Protecting your reputation and the reputation of the local authority

9. Interests

As a councillor:

9.1 I register and disclose my interests.

Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members of the authority .

You need to register your interests so that the public, local authority employees and fellow councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether or not you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by you or other councillors when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

You should note that failure to register or disclose a disclosable pecuniary interest as set out in **Table 1**, is a criminal offence under the Localism Act 2011.

Appendix B sets out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from your Monitoring Officer.

10. Gifts and hospitality

As a councillor:

- 10.1 I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.**
- 10.2 I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.**
- 10.3 I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept.**

In order to protect your position and the reputation of the local authority, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a councillor. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered. However, you do not need to register gifts and hospitality which are not related to your role as a councillor, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a councillor. If you are unsure, do contact your Monitoring Officer for guidance.

Appendices

Appendix A – The Seven Principles of Public Life

The principles are:

Selflessness

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

Integrity

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

Objectivity

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

Accountability

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

Openness

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

Honesty

Holders of public office should be truthful.

Leadership

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

Appendix B Registering interests

Within 28 days of becoming a member or your re-election or re-appointment to office you must register with the Monitoring Officer the interests which fall within the categories set out in **Table 1 (Disclosable Pecuniary Interests)** which are as described in "The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012". You should also register details of your other personal interests which fall within the categories set out in **Table 2 (Other Registerable Interests)**.

"Disclosable Pecuniary Interest" means an interest of yourself, or of your partner if you are aware of your partner's interest, within the descriptions set out in Table 1 below.

"Partner" means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

1. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.
2. A 'sensitive interest' is as an interest which, if disclosed, could lead to the councillor, or a person connected with the councillor, being subject to violence or intimidation.
3. Where you have a 'sensitive interest' you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

Non participation in case of disclosable pecuniary interest

4. Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests as set out in **Table 1**, you must disclose the interest, not participate in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest, just that you have an interest. Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.
5. Where you have a disclosable pecuniary interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it

Disclosure of Other Registerable Interests

6. Where a matter arises at a meeting which **directly relates** to one of your Other Registerable Interests (as set out in **Table 2**), you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

Disclosure of Non-Registerable Interests

7. Where a matter arises at a meeting which **directly relates** to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) or a financial interest or well-being of a relative or close associate, you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.
8. Where a matter arises at a meeting which **affects** –
 - a. your own financial interest or well-being;
 - b. a financial interest or well-being of a relative, close associate; or
 - c. a body included in those you need to disclose under Other Registrable Interests as set out in **Table 2**

you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied

9. Where a matter **affects** your financial interest or well-being:
 - a. to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;
 - b. a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest

You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation.

If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

10. Where you have a personal interest in any business of your authority and you have made an executive decision in relation to that business, you must make sure that any written statement of that decision records the existence and nature of your interest.

Table 1: Disclosable Pecuniary Interests

This table sets out the explanation of Disclosable Pecuniary Interests as set out in the [Relevant Authorities \(Disclosable Pecuniary Interests\) Regulations 2012](#).

Subject	Description
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain. [Any unpaid directorship.]
Sponsorship	Any payment or provision of any other financial benefit (other than from the council) made to the councillor during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a councillor, or towards his/her election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	Any contract made between the councillor or his/her spouse or civil partner or the person with whom the

	<p>councillor is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the council —</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p>
Land and Property	<p>Any beneficial interest in land which is within the area of the council.</p> <p>'Land' excludes an easement, servitude, interest or right in or over land which does not give the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners (alone or jointly with another) a right to occupy or to receive income.</p>
Licenses	<p>Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer</p>
Corporate tenancies	<p>Any tenancy where (to the councillor's knowledge)—</p> <p>(a) the landlord is the council; and</p> <p>(b) the tenant is a body that the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.</p>
Securities	<p>Any beneficial interest in securities* of a body where—</p> <p>(a) that body (to the councillor's knowledge) has a place of business or land in the area of the council; and</p> <p>(b) either—</p> <p>(i) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or</p> <p>(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were</p>

	spouses/civil partners has a beneficial interest exceeds one hundredth of the total issued share capital of that class.
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* 'director' includes a member of the committee of management of an industrial and provident society.

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

Table 2: Other Registrable Interests

You have a personal interest in any business of your authority where it relates to or is likely to affect:

- a) any body of which you are in general control or management and to which you are nominated or appointed by your authority
- b) any body
 - (i) exercising functions of a public nature
 - (ii) any body directed to charitable purposes or
 - (iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)

Appendix C – the Committee on Standards in Public Life

The LGA has undertaken this review whilst the Government continues to consider the recommendations made by the Committee on Standards in Public Life in their report on [Local Government Ethical Standards](#). If the Government chooses to implement any of the recommendations, this could require a change to this Code.

The recommendations cover:

- ☐ Recommendations for changes to the Localism Act 2011 to clarify in law when the Code of Conduct applies
- ☐ The introduction of sanctions
- ☐ An appeals process through the Local Government Ombudsman
- ☐ Changes to the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012
- ☐ Updates to the Local Government Transparency Code
- ☐ Changes to the role and responsibilities of the Independent Person
- ☐ That the criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished

The Local Government Ethical Standards report also includes Best Practice recommendations. These are:

Best practice 1: Local authorities should include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition.

Best practice 2: Councils should include provisions in their code of conduct requiring councillors to comply with any formal standards investigation and prohibiting trivial or malicious allegations by councillors.

Best practice 3: Principal authorities should review their code of conduct each year and regularly seek, where possible, the views of the public, community organisations and neighbouring authorities.

Best practice 4: An authority's code should be readily accessible to both councillors and the public, in a prominent position on a council's website and available in council premises.

Best practice 5: Local authorities should update their gifts and hospitality register at least once per quarter, and publish it in an accessible format, such as CSV.

Best practice 6: Councils should publish a clear and straightforward public interest test against which allegations are filtered.

Best practice 7: Local authorities should have access to at least two Independent Persons.

Best practice 8: An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation, and should be given the option to

review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious, or trivial.

Best practice 9: Where a local authority makes a decision on an allegation of misconduct following a formal investigation, a decision notice should be published as soon as possible on its website, including a brief statement of facts, the provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker, and any sanction applied.

Best practice 10: A local authority should have straightforward and accessible guidance on its website on how to make a complaint under the code of conduct, the process for handling complaints, and estimated timescales for investigations and outcomes.

Best practice 11: Formal standards complaints about the conduct of a parish councillor towards a clerk should be made by the chair or by the parish council, rather than the clerk in all but exceptional circumstances.

Best practice 12: Monitoring Officers' roles should include providing advice, support and management of investigations and adjudications on alleged breaches to parish councils within the remit of the principal authority. They should be provided with adequate training, corporate support and resources to undertake this work.

Best practice 13: A local authority should have procedures in place to address any conflicts of interest when undertaking a standards investigation. Possible steps should include asking the Monitoring Officer from a different authority to undertake the investigation.

Best practice 14: Councils should report on separate bodies they have set up or which they own as part of their annual governance statement and give a full picture of their relationship with those bodies. Separate bodies created by local authorities should abide by the Nolan principle of openness and publish their board agendas and minutes and annual reports in an accessible place.

Best practice 15: Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.

The LGA has committed to reviewing the Code on an annual basis to ensure it is still fit for purpose.

PROTOCOLS

Alongside this Code are a number of Protocols which will be the responsibility of the Standards Committee to monitor, but will not form part of the formal Code of Conduct.

1. Rules relating to Access to Information
2. Relations between Members and Officers

1. Rules Relating to Access to Information

The Council's Constitution contains the Council's Access to Information Procedure Rules which sets out the entitlements of Members to information.

In addition Members have statutory rights under the Local Government Act 1972 to see documents relating to reports going to the Executive or Committees.

Also Members have a right to inspect any documents if they have "a need to know", i.e. if it is reasonably necessary to fulfil their duties as a Councillor. A Member will normally have a "need to know" if they are a member of the Executive or if they are a member of the Audit Committee, Development Control Committee, Licensing Committee, Functions Committee or Neighbourhood Forum and the document relates to a matter within the responsibility of that Committee. Similarly a particular involvement as either a Ward Member or as part of a scrutiny process will often amount to the "need to know". Otherwise in the case of documents which are confidential, e.g. because they deal with personal circumstances or commercially sensitive information, the Councillor will have to justify why they wish to see a particular document.

If documents are not confidential they will be made available to Councillors on request unless there is a doubt about the reason for the request, e.g. if they are being sought to assist an individual to contest action by the Council.

The ultimate decision on whether there is a good reason for access to the information is for the Executive in relation to the exercise of an Executive function, or the Council or Committee in relation to the exercise of a non-Executive function to decide, but any dispute about whether a Member has a "need to know" in respect of a particular document will be referred initially to the appropriate Head of Service. If the dispute cannot be resolved by the Head of Service, it will be referred to the Corporate Director or Managing Director for decision. The Head of Legal & Property Services will advise at all stages. These rules apply to documents in the possession of the Council, and not for example documents in the possession of a particular political group.

Finally, any information provided to a Member must only be used by the Member for the purpose for which it was provided, i.e. in connection with the proper performance of the Member's duties as a Member of the Council.

2. Protocol on the Council – Relationships between Officers and Members

“Every Local Authority should have its own written statement or protocol governing relations between Members and Officers” (*Third report of the Committee on Standards in Public Life – the Nolan Committee*)

Definitions

- 1 Unless the context indicates otherwise, references to the term “Council” include the Executive, Overview and Scrutiny Committees and other Committees and Sub-Committees.
- 2 For the purposes of this Protocol, the term “Executive” refers to the Mayor and Cabinet.
- 3 Unless the context indicates otherwise, the terms “Member” and “Members” include non-elected (i.e. co-opted) Members as well as elected Councillors.
- 4 “Officers” mean all persons employed by the Council – either directly or through an Agency or engaged as a Consultant.
- 5 “Chief Officer” has the meaning set out in Article 12.01(b) of the Constitution.
- 6 “S151 Officer” means the Officer exercising the duties prescribed by law for the financial administration of the Council.

Principles

7. Members and Officers must at all times observe this Protocol.
8. The Protocol has been approved by the Council’s Standards Committee who will monitor its operation.
9. The Protocol seeks to maintain and enhance the integrity (real and perceived) of local government which demands the highest standards of personal conduct.
10. Members and Officers must always respect the roles and duties of each other. They must show respect in all their dealings by observing reasonable standards of courtesy, and by not seeking to take unfair advantage by virtue of their position.
11. Whilst Members and Officers are indispensable to one another, their responsibilities are distinct. Members are accountable to the electorate and serve only as long as their term of office lasts. Officers are accountable to the Council as a whole. Their job is to give advice to Members (individually and collectively) and to carry out the Council’s work under the direction of the Council.
12. The Council has adopted Codes of Conduct for both Members and Officers. Both represent best practice. The Members’ Code follows the National Code which in turn is based on the general principles governing members’ conduct enshrined in law, viz:
 - *Selflessness* – serving only the public interest
 - *Honesty and integrity* – not allowing these to be questioned; not behaving improperly
 - *Objectivity* – taking decisions on merit
 - *Accountability* – to the public; being open to scrutiny
 - *Openness* – giving reasons for decisions
 - *Personal judgement* – reaching one’s own conclusions and acting accordingly
 - *Respect for others* – promoting equality; avoiding discrimination; respecting others (Member/Member, as well as Member/Officer)
 - *Duty to uphold the law* – not acting unlawfully
 - *Stewardship* – ensuring the prudent use of a council’s resources
 - *Leadership* – acting in a way which has public confidence
- 13. These principles underpin this Protocol. They will also be reflected in a new National Code of Conduct for employees due in the near future and on which the Office of the Deputy Prime Minister began a three months’ consultation period in August 2004.

- 14. Until such time as a new national Code appears, Officers are bound by the Council's own Code of Conduct for staff and, in some cases, by the Codes of their Professional Associations.
- 15. Breaches of this protocol by a member may result in a complaint to the Council's Standards Committee if it appears the members' Code has also been breached. Breaches by an Officer may lead to disciplinary action.

The Role of Members

16. Members have a number of roles and need to be alert to the potential for conflicts of interest which may arise between the roles. Where such conflicts are likely, Members may wish to seek the advice of senior colleagues, the relevant Chief Officer(s) and/or the Monitoring Officer.

17. Collectively, Members are the ultimate policy-makers determining the core values of the Council and approving the Authority's policy framework, strategic plans and budget.

18. Members represent the community, act as community leaders and promote the social, economic and environmental well-being of the community often in partnership with other agencies.

19. Every elected Member represents the interests of, and is an advocate for, his/her Ward and individual constituents. He/she represents the Council in the Ward, responds to the concerns of constituents, meets with partner agencies, and often serves on local bodies.

20. Some Members have roles relating to their position as members of the Executive, Overview and Scrutiny Committees or other Committees and Sub-Committees of the Council.

21. Members of the Executive can have individual delegated powers. They may determine matters within their portfolios but implementation of their decisions is the responsibility of Officers.

22. Members serving on Overview and Scrutiny Committees monitor the effectiveness of the Council's policies and services, develop policy proposals and examine community issues. They also monitor local health service provision.

23. Members who serve on other Committees and Sub-Committees collectively have delegated responsibilities, e.g. deciding quasi-judicial matters which by law are excluded from the remit of the Executive.

24. Some members may be appointed to represent the Council on local, regional or national bodies.

25. As politicians, Members may express the values and aspirations of the party political groups to which they belong, recognising that in their role as Members they have a duty always to act in the public interest.

26. Members are not authorised to instruct Officers other than:

- Through the formal decision-making process
 - To request the provision of consumable resources provided by the Council for Members' use
 - Where staff have been specifically allocated to give support to a Member or group of Members; and
 - In the case of the Mayor's Political Assistant
- 27. Members are not authorised to initiate or certify financial transactions, or to enter into a contract on behalf of the Council.
- 28. Members must avoid taking actions which are unlawful, financially improper or likely to amount to maladministration. Members have an obligation under their Code of Conduct to have regard, when reaching decisions, to any advice provided by the Monitoring Officer or the S151 Officer.
- 29. Members must respect the impartiality of Officers and do nothing to compromise it e.g. by insisting that an Officer change his/her professional advice.
- 30. Members have a duty under their Code of Conduct:
- Not to do anything which may cause the Council to break any equality laws, and
 - To treat others with respect
- 31. Under the Code, a Member must not when acting as a Member:

- Bring the Council or his/her position as a Member into disrepute, or
- Use his/her position as a Member improperly to gain an advantage or disadvantage for his/herself or any other person

The Role of Officers

32. Officers are responsible for giving advice and information to Members to enable them to fulfil their roles. In seeking advice and information Members should have regard to the workload of officers and the Council's management structure. Members should usually address requests for advice and information to the Chief Officer of the respective department. In providing advice and information Officers will take into account all available relevant factors. Officers will be entitled to refuse to provide information where the information has been provided to the Member on a previous occasion and circumstances have not changed, or if the collating of the information would, in the view of the Chief Officer, unduly tie up officer resources to the detriment of the effective operation of the service. In this situation the Member will be so informed by the Chief Officer and will be entitled to make the request to the Managing Director who will be the final arbiter.

33. Under the direction and control of the Council (including, as appropriate, the Executive, Committees and Sub-Committees), Officers manage and provide the Council's services within the framework of responsibilities delegated to them. This includes the effective management of employees and operational issues.

34. Officers have a duty to implement decisions of the Council, the Executive, Committees and Sub-Committees which are lawful, and which have been properly approved in accordance with the requirements of the law and the Council's Constitution and duly minuted.

35. Officers have a contractual and legal duty to be impartial. They must not allow their professional judgement and advice to be influenced either by their own personal views or by undue pressure from any Member or Group. Whilst officers implement the lawful policies of the ruling administration they must, when exercising their professional judgement, act in the best interests of the Council.

36. Officers must assist and advise all parts of the Council. They must always act to the best of their abilities in the best interests of the authority as expressed in the Council's formal decisions.

37. Officers must be alert to issues which are, or are likely to be, contentious or politically sensitive, and be aware of the implications for Members, the media or other sections of the public.

38. Officers have the right not to support Members in any role other than that of Member and not to engaged in actions incompatible with this Protocol. In particular, to comply with the provisions relating to politically restricted posts if they occupy such a post.

The Relationship between Members and Officers: General

39. The conduct of Members and Officers should be such as to instil mutual confidence and trust.

40. The key elements are a recognition of and a respect for each other's roles and responsibilities. These should be reflected in the behaviour and attitude of each to the other, both publicly and privately.

41. Informal and collaborative two-way contact between Members and Officers is encouraged. But personal familiarity can damage the relationship, as might a family or business connection.

42. Members and Officers should inform the Monitoring Officer of any relationship which might be seen as unduly influencing their work in their respective roles.

43. It is not enough to avoid actual impropriety. Members and Officers should always be open about their relationships to avoid any reason for suspicion and any appearance of improper conduct. Where a personal relationship has been disclosed, those concerned should avoid a situation where conflict could be perceived. Specifically a Member should not sit on a body or participate in any decision which directly affects the Officer on a personal basis.

44. Officers serve the Council as a whole. They have a duty to implement the properly authorised decisions of the Council.

45. With the exception of the Mayor's Political Assistant, Officers work to the instructions of their

senior officers, not individual Members. It follows that, whilst such Officers will always seek to assist a Member, they must not be asked to exceed the bounds of authority they have been given by their managers. Except when the purpose of an enquiry is purely to seek factual information, members should normally direct their requests and concerns to the Head of Service, at least in the first instance.

46. Officers will do their best to give timely responses to Members' enquiries. However, Officers should not have unreasonable requests placed on them. Their work priorities are set and managed by senior managers. Members should avoid disrupting Officers' work by imposing their own priorities.

47. Members will endeavour to give timely responses to enquiries from Officers.

48. An Officer shall not discuss with a Member personal matters concerning him/herself or another individual employee. This does not prevent an Officer raising on a personal basis, and in his/her own time, a matter with his/her Ward Member.

49. Members and Officers should respect each other's free (i.e. non-Council) time.

The Council as an Employer

50. Officers are employed by the Council as a whole.

51. Members' roles are limited to:

- The appointment of specified senior posts
- Determining Human Resources Policies and Conditions of Employment
- Hearing and determining Appeals
- 52. Members shall not act outside these roles.
- 53. If participating in the appointment of Officers, Members should:
 - Remember that the sole criterion is merit (other than in the case of Political Assistants, where political consideration may apply)
 - Never canvass support for a particular candidate
 - Not take part where one of the candidates is a close friend or relative
 - Not be influenced by personal preferences, and
 - Not favour a candidate by giving him/her information not available to the other candidates
- 54. A Member should not sit on an Appeal Hearing if the appellant is a friend, a relative or an Officer with whom the Member has had a close working relationship.

Chairman and Officers

55. Officers will respect the position of Chairman and provide appropriate support.

Executive Members and Officers

56. Executive Members will take decisions in accordance with the Constitution and will not otherwise direct staff. Chief Officers will be responsible for instructing staff to implement the Executive's decisions.

57. In addition to individual members of the Executive, Chief Officers (including the Monitoring Officer and the S151 Officer) have the right to submit papers to the Executive as a whole or to individual Executive members for consideration.

58. Chief Officers and Executive members shall agree mutually convenient methods of regular contact. Before taking any formal decisions, the Executive will seek appropriate professional advice including, without exception, the Monitoring Officer and S151 Officer, and will not direct Officers in the framing of recommendations.

59. Before any formal decisions with a financial implication are taken by the Executive, the S151 officer and the Chief Officer(s) for the service(s) concerned must be consulted. This is to ensure that those Officers who are budget holders:

- Are aware of the proposed decision
- Have the opportunity to offer advice, and
- Are subsequently able properly to authorise the financial transactions needed to implement decisions.

• 60. An individual Executive member who is minded to write or commission a report or to make a decision about a matter within his/her portfolio must ensure that those other Members and Officers who need to know of the matter are so informed. There is a particular requirement to involve other Executive members on cross-cutting issues.

• 61. Executive members when making decisions (whether collectively or individually) must state the reasons for those decisions. The written record of the decisions must include the reasons.

• 62. Officers taking decisions under their delegated powers must consider the advisability of informing the relevant Executive member(s) of their intentions in advance when the matter to which the decisions relates is likely to be sensitive or contentious, or has wider policy implications.

Overview and Scrutiny Members and Officers

63. Chairmen and other leading Overview and Scrutiny members shall maintain regular contact with the Officer(s) providing the principal support to the Overview and Scrutiny function. In consultation with Chairmen, it shall be the responsibility of the latter to ensure that those who need to know of matters being considered or for possible future consideration are so informed.

64. An Overview and Scrutiny Committee or its Chairman acting on its behalf may require Officers to attend Overview and Scrutiny meetings. Members should not normally expect junior officers to give evidence. All requests should be made to Chief Officers in the first instance.

65. When making requests for Officer attendance, Overview and Scrutiny members shall have regard to the workload of Officers.

66. It is recognised that Officers required to appear before an Overview and Scrutiny Committee may often be those who have advised the Executive or another part of the Council on the matter under investigation. In these circumstances, an Officer may have a conflict of interest. Both Members and Officers need to consider the severity of the conflict. If deemed appropriate, research and advice may be sought elsewhere – from the Council's Scrutiny Officer or externally.

67. Subject to 66 above, officers should be prepared to justify advice given to the Council, the Executive or other Committees and Sub-Committees even when the advice was not accepted.

68. Officers must also be prepared to justify decisions they have taken under delegated powers.

69. In giving evidence, Officers must not be asked to give political views.

70. Officers should respect members in the way they respond to members' questions.

71. Members should not question Officers in a way which could be interpreted as harassment. Neither should they ask about matters of a disciplinary nature.

72. Overview and Scrutiny proceedings must not be used to question the capability or competence of Officers. Chairmen and Members need to make a distinction between reviewing the policies and performance of the Council and its services and appraising the personal performance of staff. The latter is not an Overview and Scrutiny function.

73. In exercising the right to call-in a decision of the Executive, Overview and Scrutiny members must seek Officer advice if they consider the decision is contrary to the Council's approved plans, policies or frameworks, or is unlawful.

Members of Other Committees or Sub-Committees and Officers

74. The appropriate Officers will offer to arrange regular informal meetings with Chairmen, Vice-Chairmen and spokesmen of Committees and Sub-Committees.

75. Chief Officers (including the Monitoring Officer and the S151 Officer) have the right to present reports and give advice to Committees and Sub-Committees.

76. Members of a Committee or Sub-Committee shall take decisions within the remit of that Committee or Sub-Committee and will not otherwise instruct Officers to act.

77. At some Committee or Sub-Committee meetings, a resolution may be passed which authorises a named Officer to take action between meetings in consultation with the Chairman. In these circumstances it is the officer, not the Chairman, who takes the action and is responsible for it. A Chairman has no legal power to take decisions on behalf of a Committee or Sub-Committee, neither should he/she apply inappropriate pressure on the Officer.

Party Groups and Officers (excluding Political Assistants)

78. Chief Officers may properly be asked to contribute to deliberations of matters concerning Council business by party groups.

79. Officers have the right to refuse such requests, and will normally not attend a meeting of a party group where some of those attending are not Members of the Council.

80. Officer support will not extend beyond providing factual information or professional advice in relation to matters of Council business. Officers must not be involved in advising on matters of party business, and therefore should not be expected to be present at meetings or parts of meetings when such matters are to be discussed.

81. Party group meetings are not empowered to make decisions on behalf of the Council and conclusions reached at such meetings do not rank as formal decisions. The presence of an Officer confers no formal status on such meetings in terms of Council business and must not be interpreted as doing so.

82. Where officers provide factual information and advice to a party group in relation to a matter of Council business, this is not a substitute for providing all the necessary information and advice when the matter in question is formally considered by the relevant part of the Council.

83. It must not be assumed that an officer is supportive of a particular policy or view considered at a party group meeting simply because he/she has attended or provided information to the meeting.

84. Officers will respect the confidentiality of any party group discussions at which they are present and, unless requested to do so by that party group, will not relay the content of such discussions to another party group or to any other members. This shall not prevent an Officer providing feedback to other senior officers on a need-to-know basis.

85. In their dealings with party groups, Officers must treat each group in a fair and even-handed manner.

86. Members must not do anything which compromises or is likely to compromise Officers' impartiality.

87. The duration of an Officer's attendance at a party group meeting will be at the discretion of the group, but an officer may leave at any time if he/she feels it is no longer appropriate to be there.

88. An Officer accepting an invitation to the meeting of one party group shall not decline an invitation to advise another group about the same matter. He/she must give substantially the same

advice to each.

89. An Officer who is not a Chief Officer shall not be invited to attend a party group meeting, but a senior officer may nominate another Officer to attend on his/her behalf.

90. An Officer should be given the opportunity of verifying comments and advice attributed to him/her in any written record of a party group meeting.

91. No Member will refer in public or at meetings of the Council to advice or information given by Officers to a party group meeting.

92. At party group meetings where some of those present are not members of the Council, care must be taken not to divulge confidential information relating to Council business. Persons who are not Members are not bound by the Members' Code of Conduct. They do not have the same rights to Council information as Members.

93. Any particular cases of difficulty or uncertainty in relation to this part of the Protocol should be raised with the Managing Director and the relevant party group leader.

Mayor's Political Assistant

94. This Officer has been appointed by the Council exclusively to provide support to the Mayor. This function is to assist the interests and work of the Mayor. This is in contrast to all other staff whose duty is to serve the Council as a whole.

95. The Mayor's Political Assistant will be treated in accordance with and expected to observe all Codes, Policies and Practices relating to the Council's staff. This includes the courtesy and consideration which the Council expects its Officers to show to one another.

96. The Mayor's Political Assistant will have no line management responsibility or power of direction over other staff.

97. The Mayor's Political Assistant is not authorised to comment publicly on behalf of the Council as a whole, or to commit the Council to any particular course of action, but can comment on behalf of the Mayor.

98. The level of access to Council documents and information shall be that enjoyed by Members.

Local Members and Officers

99. To enable them to carry out their Ward role effectively, Members need to be fully informed about matters affecting their Ward. Chief Officers must ensure that all relevant staff are aware of the requirement to keep Ward Members informed, thus allowing Members to contribute to the decision-making process and develop their respective role.

100. This requirement is particularly important:

- During the formative stages of Policy development, where practicable
 - In relation to significant or sensitive operational matters
 - Whenever any form of public consultation exercise is undertaken, and
 - During an overview and scrutiny investigation
- 101. Issues may affect a single Ward. Where they have a wider impact, a number of local Members will need to be kept informed.
 - 102. Whenever a public meeting is organised by the Council to consider a local issue, all the Members representing the Wards affected should be invited to attend the meeting as a matter of course.
 - 103. If a local Member intends to arrange a public meeting on a matter concerning some aspect of the Council's work, he/she should inform the relevant Officer. Provided the meeting has not been arranged on a party political basis:
 - An Officer may attend, but is not obliged to do so, and
 - The meeting may be held in Council owned premises
 - 104. No such meetings should be arranged or held in the immediate run-up to Council elections.
 - 105. Whilst support for Members' Ward work is legitimate, care should be taken if staff are asked to accompany Members to Ward surgeries. In such circumstances:
 - The surgeries must be open to the general public, and
 - Officers should not be requested to accompany Members to surgeries held in the offices or premises of political parties
 - 106. Officers must never be asked to attend Ward or Constituency political party meetings.
 - 107. It is acknowledged that some Council staff (e.g. those providing dedicated support to Executive members) may receive and handle messages for Members on topics unrelated to the Council. Whilst these will often concern diary management, care should be taken to avoid Council resources being used for private or party political purposes.
 - 108. In seeking to deal with constituents' queries or concerns, Members should not seek to jump the queue but should respect the Council's procedures. Officers have many pressures on their time. They may not be able to carry out the work required by Members in the requested timescale, and may need to seek instructions from their managers.

Members' Access to Documents and Information

109. This part of the protocol should be read in conjunction with the Access to Information Rules in the Council's Constitution.

110. Members may request Officers to provide them with such information, explanation and advice as they may reasonably need to assist them to discharge their roles as members. This may range from general information about some aspect of the Council's services to specific information on behalf of a constituent. Where information is requested on behalf of a third party, it will only be provided if:

- It is in the public domain, and
- It is not barred by the Data Protection Act from being given
- 111. Every member of the Executive, an Overview and Scrutiny Committee, and/or any other Committee or Sub-Committee has a right to inspect documents about the business of that Overview and Scrutiny Committee, other Committee or Sub-Committee or the Executive.
- 112. A Member who is not a member of a specific Overview and Scrutiny Committee, other Committee or Sub-Committee, or the Executive may have access to any document of that specific part of the Council provided:
 - He/she can demonstrate a reasonable need to see the documents in order to carry out his/her roles as a Member (the "need to know" principle), and
 - The documents do not contain "confidential" or "exempt" information as defined by the law.
- 113. Disputes as to the validity of a Member's request to see a document on a need to know basis will be determined by the Monitoring Officer. Officers should seek his/her advice if in any doubt about the reasonableness of a Member's request.
- 114. A Member should obtain advice from the Monitoring Officer in circumstances where he/she wishes to have access to documents or information:
 - Where to do so is likely to be in breach of the Data Protection Act, or
 - Where the subject matter is one in which he/she has a personal or prejudicial interest as defined in the Members' Code of Conduct.
- 115. Information given to a Member must only be used for the purpose for which it was requested.
- 116. It is an accepted convention that a member of one party group will not have a need to know and therefore a right to inspect a document which forms part of the internal workings of another party group.
- 117. Members and Officers must not disclose information given to them in confidence without the consent of a person authorised to give it, or unless required by law to do so.
- 118. When requested to do so, Officers will keep confidential from other Members advice requested by a Member.
- 119. Members and Officers must not prevent another person from gaining access to information to which that person is entitled by law.

Media Relations

120. All formal relations with the media must be conducted in accordance with the Council's agreed procedures and the law on local authority publicity.

121. Press releases or statements made by officers must promote or give information on Council policy or services. They will be factual and consistent with Council policy. They cannot be used to promote a party group.

122. Officers will keep relevant Members informed of media interest in the Council's activities, especially regarding strategic or contentious matters.

123. Before responding to enquiries from the media, Officers shall ensure they are authorised to do so.

124. Likewise, Officers will inform the Council's Communications Manager of issues likely to be of media interest, since that unit is often the media's first point of contact.

125. If a Member is contacted by, or contacts, the media on an issue, he/she should:

- Indicate in what capacity he/she is speaking (e.g. as Ward Member, in a personal capacity, as an Executive member, on behalf of the Council, or on behalf of a party group),
- Be sure of what he/she wants to say or not to say,
- If necessary, and always when he/she would like a press release to be issued, seek assistance from the Council's Communications Office and/or relevant Chief Officer, except in relation to a statement which is party political in nature,
- Consider the likely consequences for the Council of his/her statement (e.g. commitment to a particular course of action, image, allegations of jumping to conclusions),
- Never give a commitment in relation to matters which may be subject to claims from third parties and/or are likely to be an insurance matter
- Consider whether to consult other relevant members, and
- Take particular care in what he/she says in the run-up to local or national elections to avoid giving the impression of electioneering, unless he/she has been contacted as an election candidate or political party activist.

Correspondence

126. Correspondence between an individual Member and an Officer should not be copied to another member unless the author expressly intends and states that this is the case or consents. Where correspondence is copied, this should always be made explicit, i.e. there should be no “blind” copies.

127. Official letters written on behalf of the Council should normally be in the name of the relevant Officer. It may be appropriate in some circumstances (e.g. representations to a Government Minister) for letters to appear in the name of an Executive member or the Chairman of an Overview and Scrutiny Committee.

128. The Chairman may initiate correspondence in his/her own name.

129. The Mayor may initiate correspondence in his/her own name.

130. Letters which create legally enforceable obligations or which give instructions on behalf of the Council should never be sent in the name of a Member.

131. When writing in an individual capacity as a Ward member, a member must make clear that fact.

Access to Premises

132. Officers have the right to enter Council land and premises to carry out their work. Some Officers have the legal power to enter property in the ownership of others.

133. Members have a right of access to Council land and premises to fulfil their duties.

134. When making visits as individual members, Members should:

- Whenever practicable, notify and make advance arrangements with the appropriate manager or Officer in charge
- Comply with health and safety, security and other workplace rules
- Not interfere with the services or activities being provided at the time of the visit
- If outside his/her own Ward, notify the Ward member(s) beforehand, and
- Take special care at schools and establishment serving vulnerable sections of society to avoid giving any impression of improper or inappropriate behaviour.

Use of Council Resources

141. The Council provides all Members with services such as printing and photocopying and goods such as stationery and computer equipment, to assist them in discharging their roles as Members of the Council. These goods and services are paid for from the public purse. They should not be used for private purposes or in connection with party political or campaigning activities.

142. Members should ensure they understand and comply with the Council's own rules about the use of such resources, particularly:

- Where facilities are provided in Members' homes at the Council's expense
 - In relation to any locally agreed arrangements e.g. payment for private photocopying, and
 - Regarding ICT security
143. Members should not put pressure on staff to provide resources or support which Officers are not permitted to give. Examples are:
- Business which is solely to do with a political party
 - Work in connection with a Ward or constituency party political meeting
 - Electioneering
 - Work associated with an event attended by a member in a capacity other than as a Member of the Council
 - Private personal correspondence

- Working connection with another body or organisation where a Member's involvement is other than as a member of the Council, and
- Support to a Member in his/her capacity as a Councillor of another local authority

Interpretation, Complaints and Allegations of Breaches

144. This part of the Protocol should be read in conjunction with any “Whistle-Blowing” Policy the Council may have.

145. Members or Officers with questions about the implementation or interpretation of any part of this Protocol should seek the guidance of the Monitoring Officer.

146. A member who is unhappy about the actions taken by, or conduct of, an Officer should:

- Avoid personal attacks on, or abuse of, the Officer at all times
- Ensure that any criticism is well founded and constructive
- Never make a criticism in public, and
- Take up the concern with the Officer privately

• 147. If direct discussion with the Officer is inappropriate (e.g. because of the seriousness of the concern) or fails to resolve the matter, the Member should raise the issue with the Officer's manager or the relevant Chief Officer.

• 148. A serious breach of this Protocol by an Officer may lead to an investigation under the Council's Disciplinary Procedure.

• 149. An Officer who believes a Member may have acted other than in accordance with this Protocol should raise his/her concern with the Monitoring Officer. He/she will consider how the complaint or allegation should be dealt with. At a minor level, this may be no more than informally referring the matter to the leader of the relevant party group. More serious complaints may involve alleged breaches of the Members' Code of Conduct and may be referred to the Council's Standards Committee.

Appendix 2 Procedure for Hearings.

1. The Group Head of Democracy and Governance will request the convening of a Standards Committee such Committee to sit no earlier than 21 working days from the date of the request
2. The Group Head of Democracy and Governance will notify the member of the decision to convene a Standards Committee hearing and ask the member to provide her with a written response to the Investigating Officers report within 5 working days with the purpose of narrowing the issues of dispute at the hearing. The member will also be required to indicate any witnesses he/she would intend to call
3. The Group Head of Democracy and Governance will notify the Investigating Officer and complainant of the decision to convene a hearing.
4. On receipt of the member's written response or if no response is received after 5 working days the Group Head of Democracy and Governance will meet with the Chair of the Standards Committee to agree any specific directions to be set for the hearing, these can include clarifying which areas are disputed and evidence needs to be adduced on, witnesses required, documents to be submitted.
5. If any directions are set the Group Head of Democracy and Governance will write to both the member and the Investigating Officer with those directions.
6. The Investigating Officer will be informed of those areas of his/her report in dispute and be asked what witnesses he/she intends to call and will be required to respond within 5 working days.
7. All papers to be relied on by any party must be submitted to the Group Head of Democracy and Governance no later than 5 clear days before the date of the Hearing with a copy sent to the other party.
8. The member will be entitled to employ a representative to speak on his/her behalf at the hearing. If a member chooses to employ a representative he/she does so at their own expense.
9. At the Hearing the procedure to be followed will be:
 1. Consideration of whether the matter should be dealt with in private or public
 2. Investigating Officer to present his/her case
 3. Questions by Committee and member to Investigating Officer and any witnesses
 4. Member or his/her representative to present his/her case
 5. Questions by Committee and Investigating Officer to member and any witnesses
 6. Investigating officer sums up
 7. Member or his/her representative sums up
 8. Committee takes view of Independent Person
 9. Committee makes decision if code breached or not
 10. If Committee decides code breached Committee asks member or his/her representative to make any representations before considers sanction.
 11. Committee takes view of Independent Person
 12. Committee announces decision.
10. Following the hearing the Group Head of Democracy and Governance will after consulting with the Committee Chair, on behalf of the Committee formally notify the member and the complainant of the Committee's decision within 5 working days of the Hearing.

Appendix 3

Standards Complaints Assessment Criteria

Complaints which would not normally be referred for Investigation

1. The complaint is not considered sufficiently serious to warrant Investigation; or
2. The complaint appears to be simply motivated by malice or is “tit-for-tat”; or
3. The complainant appears to be politically motivated; or
4. It appears that there can be no breach of the Code; or
5. It is about someone who is no longer a member of the Council; or
6. There is insufficient information available for a referral; or
7. The matter occurred so long ago that it would be difficult for a fair investigation to be carried out; or
8. The same, or similar complaint has already been investigated and there is nothing further to be gained by seeking the sanctions available to the Standards Committee; or
9. It is an anonymous complaint.
10. Where the member complained of has apologised and/or admitted making an error and the matter would not warrant a more serious sanction.

Complaints which may be referred to the Standards Committee

1. It is serious enough, if proven, to justify the range of actions available to the Standards Committee; or
2. There are individual acts of minor misconduct which appear to be part of a continuing pattern of behaviour that is unreasonably disrupting the business of the Council and there is no other avenue left to deal with it other than by way of an investigation; or
3. When the complaint comes from a senior officer of the Council, such as the Managing Director or the Group Head of Democracy and Governance and it would be difficult for the Group Head of Democracy and Governance to deal with it; or
4. The complaint is about a high profile member such as the Elected Mayor, Portfolio Holder or Group Leader and it would be difficult for the Group Head of Democracy and Governance to deal with it; or
5. Such complaints that the Group Head of Democracy and Governance considers should be referred.

Whilst complainants must be confident that complaints are taken seriously and dealt with appropriately, deciding to investigate a complaint or to take further action will cost both public money and officers’ and members’ time. This is an important consideration where the complaint is relatively minor.

