

NOTICE
OF
MEETING

MEMBER STANDARDS PANEL

will meet on

MONDAY, 12TH APRIL, 2021

At 6.15 pm

in a

VIRTUAL MEETING - ONLINE ACCESS

TO: MEMBERS OF THE MEMBER STANDARDS PANEL

COUNCILLORS SAMANTHA RAYNER (CHAIRMAN), SHAMSUL SHELM (VICE-CHAIRMAN), CHRISTINE BATESON, DAVID COPPINGER, ANDREW JOHNSON, LYNNE JONES, JOSHUA REYNOLDS AND SIMON WERNER

SUBSTITUTE MEMBERS

COUNCILLORS JOHN BALDWIN, DEL CAMPO, DAVID CANNON, STUART CARROLL, PHIL HASELER, GEOFF HILL, DAVID HILTON AND JULIAN SHARPE

Karen Shepherd – Head of Governance - Issued: 31 March 2021

Members of the Press and Public are welcome to attend Part I of this meeting. The agenda is available on the Council's web site at www.rbwm.gov.uk or contact the Panel Administrator **Karen Shepherd** 01628 796529

Recording of Meetings – In line with the council's commitment to transparency the Part I (public) section of the virtual meeting will be streamed live and recorded via Zoom. By participating in the meeting by audio and/or video, you are giving consent to being recorded and acknowledge that the recording will be in the public domain. If you have any questions regarding the council's policy, please speak to the Democratic Services or Legal representative at the meeting

AGENDA

PART I

<u>ITEM</u>	<u>SUBJECT</u>	<u>PAGE NO</u>
1.	<u>APOLOGIES FOR ABSENCE</u> To receive any apologies for absence	
2.	<u>DECLARATIONS OF INTEREST</u> To receive any declarations of interest	5 - 6
3.	<u>CODE OF CONDUCT</u> To consider the above report	7 - 54
4.	<u>MONITORING OFFICER ANNUAL REPORT</u> To consider the above report	55 - 66
5.	<u>LOCAL GOVERNMENT ACT 1972 - EXCLUSION OF THE PRESS AND PUBLIC</u> To consider passing the following resolution:- "That under Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the remainder of the meeting whilst discussion takes place on the grounds that it involves the likely disclosure of exempt information as defined in Paragraphs 1-7 of part I of Schedule 12A of the Act"	
<u>PART II – PRIVATE MEETING</u>		
6.	<u>MONITORING OFFICER ANNUAL REPORT</u> To note the Part II appendix to the earlier Part I report <i>(Not for publication by virtue of Paragraph 1, 2 of Part 1 of Schedule 12A of the Local Government Act 1972)</i>	67 - 68

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MEMBERS' GUIDE TO DECLARING INTERESTS IN MEETINGS

Disclosure at Meetings

If a Member has not disclosed an interest in their Register of Interests, they **must make** the declaration of interest at the beginning of the meeting, or as soon as they are aware that they have a DPI or Prejudicial Interest. If a Member has already disclosed the interest in their Register of Interests they are still required to disclose this in the meeting if it relates to the matter being discussed.

A member with a DPI or Prejudicial Interest **may make representations at the start of the item but must not take part in the discussion or vote at a meeting.** The speaking time allocated for Members to make representations is at the discretion of the Chairman of the meeting. In order to avoid any accusations of taking part in the discussion or vote, after speaking, Members should move away from the panel table to a public area or, if they wish, leave the room. If the interest declared has not been entered on to a Members' Register of Interests, they must notify the Monitoring Officer in writing within the next 28 days following the meeting.

Disclosable Pecuniary Interests (DPIs) (relating to the Member or their partner) include:

- Any employment, office, trade, profession or vocation carried on for profit or gain.
- Any payment or provision of any other financial benefit made in respect of any expenses occurred in carrying out member duties or election expenses.
- Any contract under which goods and services are to be provided/works to be executed which has not been fully discharged.
- Any beneficial interest in land within the area of the relevant authority.
- Any licence to occupy land in the area of the relevant authority for a month or longer.
- Any tenancy where the landlord is the relevant authority, and the tenant is a body in which the relevant person has a beneficial interest.
- Any beneficial interest in securities of a body where:
 - a) that body has a piece of business or land in the area of the relevant authority, and
 - b) either (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body **or** (ii) the total nominal value of the shares of any one class belonging to the relevant person exceeds one hundredth of the total issued share capital of that class.

Any Member who is unsure if their interest falls within any of the above legal definitions should seek advice from the Monitoring Officer in advance of the meeting.

A Member with a DPI should state in the meeting: ***'I declare a Disclosable Pecuniary Interest in item x because xxx. As soon as we come to that item, I will leave the room/ move to the public area for the entire duration of the discussion and not take part in the vote.'***

Or, if making representations on the item: ***'I declare a Disclosable Pecuniary Interest in item x because xxx. As soon as we come to that item, I will make representations, then I will leave the room/ move to the public area for the entire duration of the discussion and not take part in the vote.'***

Prejudicial Interests

Any interest which a reasonable, fair minded and informed member of the public would reasonably believe is so significant that it harms or impairs the Member's ability to judge the public interest in the item, i.e. a Member's decision making is influenced by their interest so that they are not able to impartially consider relevant issues.

A Member with a Prejudicial interest should state in the meeting: ***'I declare a Prejudicial Interest in item x because xxx. As soon as we come to that item, I will leave the room/ move to the public area for the entire duration of the discussion and not take part in the vote.'***

Or, if making representations in the item: ***'I declare a Prejudicial Interest in item x because xxx. As soon as we come to that item, I will make representations, then I will leave the room/ move to the public area for the entire duration of the discussion and not take part in the vote.'***

Personal interests

Any other connection or association which a member of the public may reasonably think may influence a Member when making a decision on council matters.

Members with a Personal Interest should state at the meeting: ***'I wish to declare a Personal Interest in item x because xxx'. As this is a Personal Interest only, I will take part in the discussion and vote on the matter.***

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Report Title:	Code of Conduct
Contains Confidential or Exempt Information	No - Part I
Lead Member:	Councillor Rayner, Deputy Leader of the Council, Resident and Leisure Services, HR, IT, Legal, Performance Management and Windsor; Armed Forces Champion
Meeting and Date:	Member Standards Panel 12 April 2021
Responsible Officer(s):	Emma Duncan Monitoring Officer and Deputy Director of Law and Strategy
Wards affected:	All



REPORT SUMMARY

This report outlines the new recommended Code of Conduct which is published by the Local Government Association. The Member Standards Panel is asked to review the new Model Code, with a view to recommending to Council its adoption it in its entirety or with revisions.

On 23 December 2020, the Local Government Association (LGA) published a model Councillor Code of Conduct (the Model Code). The Model Code, attached at Annex A, is described by the LGA as ‘designed to protect our democratic role, encourage good conduct and safeguard the public’s trust in local government.

The LGA describes the development of the Model Code as being ‘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’.

All councils are required to have a local Councillor Code of Conduct and the Model Code is provided for use by councils as a template to adopt in whole and/or with local amendments should they wish to.

It is the role of the Member Standards Panel to determine whether to recommend the Model Code, amended or otherwise to Council for inclusion in the Council’s Constitution.

The report presents the Model Code, compares it to the Council’s current Code of Conduct, attached at Annex B, raises specific issues to consider in relation to amendments and offers choices to the Committee.

1. DETAILS OF RECOMMENDATION(S)

RECOMMENDATION: That the Member Standards Panel notes the report and:

- i) **Recommends to full Council that the Model Code, with agreed amendments, be adopted.**

- ii) **Agrees that a training programme for the new adopted Code be developed and presented by the Monitoring Officer after the next Council elections for the benefit of all new and existing councillors**

2. REASON(S) FOR RECOMMENDATION(S) AND OPTIONS CONSIDERED

Options

Table 1: Options arising from this report

Option	Comments
(a) recommend no change to the current Code of Conduct and resolve to continue with the existing Code of Conduct	This would not reflect best practice
(b) recommend to Council the adoption of the Model Code with or without potential amendments	This is the recommended option
(c) identify issues and ask for a report to come to a later meeting of the Committee that addresses those issues	This would delay the implementation of the new Code
(d) resolve to await the outcome of the Government consideration of the Committee for Standards in Public Life recommendations, and in the meantime invite, neighbouring authorities and other interested parties, individuals and stakeholders for comments on both the Council's existing Code of Conduct and the Model Code.	The Code has already been consulted on extensively

3. KEY IMPLICATIONS

POLICY CONTEXT

- 3.1 The Council has established a number of Interim Strategic Objectives to cover the period 2020-21 including a number of Interim Focus Objectives as follows;
- 3.2 Interim Focus Objectives 2020-21

- Service Stand Up Plans (business continuity)
- Revised Service Operating Plans
- Transformation Plan
- Climate Strategy
- Governance
- People Plan – Values, Leadership, Diversity and inclusion

- 3.3 Full details of the Council's interim focus objectives and the actions which will deliver these priorities are published on the [Council's website](#). This report concerns good Member conduct in the Council and is relevant to the governance element of the interim focus objectives.
- 3.4 The Localism Act requires all Councils to have a local Member Code of Conduct. The Council's current Code was last considered in September 2018.

New LGA Model Code

- 3.4 In its January 2020 report into Local Government Ethical Standards, the Committee for Standards in Public Life (CPSL) included a best practice recommendation for local authorities to adopt a Code of Conduct based on a model produced by the Local Government Association (LGA).
- 3.5 When researching the local Codes of Conduct, the CPSL found there was considerable variation in the length, quality and clarity of codes of conduct. They believed that this created confusion among members of the public, and among councillors who represent more than one tier of local government. This is a limited issue in RBWM and for the other Berkshire unitaries. All six councils may have councillors serving on the Royal Berkshire Fire and Rescue Authority, and whilst some areas like West Berkshire have many parishes, RBWM has 14.
- 3.6 The LGA has produced a model code of conduct, which is based on the CPSL best practice recommendations and the expectation is that all councils should adopt it as a minimum, but with provision for additional local variations.
- 3.7 Discussions with Monitoring Officers from neighbouring authorities indicate a collective leaning towards adoption of the Model Code albeit with some variations. Most intend to take the issue to upcoming meetings of their Member Standards Panels (or equivalent).
- 3.8 Appendix C of the Model Code lists the CPSL's 15 Best Practice Recommendations and notes that the Government is yet to respond to the recommendations made by CPSL, some of which require legislative changes. It should be noted that the Government's response, when it comes, may require a change to the Council's adopted Code. The date of the response is unknown.
- 3.9 One of the CPSL's best practice recommendations is that principal authorities should review their Code of Conduct annually and regularly seek, where possible, the views of the public, community organisations and neighbouring authorities. Given the wide-reaching consultation recently conducted by the LGA, it is not recommended that consultation is currently required on a local basis should the decision be to recommend to Council adoption of the Model Code.

3.10 The Committee should also consider how frequently the Code is to be reviewed. The annual review recommended by CPSL is best practice and there is clearly merit in ensuring that the Code is current and having an opportunity to deal with any obvious points that need amending. On the other hand, concern has been raised about the practicality and feasibility of annual reviews with consultation built in having regard to the work programme of the Committee generally. If an annual review is not considered feasible, a solution may be an annual light touch health check and a full review as recommended by the Monitoring Officer dependent on the issues which arise from its operation and the complaints received.

3.11 The Model Code:

- Continues to require upholding the Seven principles of public life (the Nolan Principles)
- Contains twelve obligations with guidance
- Sets out legal requirements
- Defines a councillor as a member or co-opted member of a local authority
- Is written in the first person
- Sets out when the Code applies: 'acting in capacity as a councillor or representative of the Council', adds 'claiming to act', 'giving the impression you are acting' and 'referring publicly to your role as councillor or use knowledge you could only obtain in your role as a councillor'
- Introduces:
 - concept of 'acting with civility'
 - the word 'harassment' and a definition of bullying and harassment
 - reference to social media
 - specific reference to treating employees of the Council, partners and volunteers for the local authority with respect
 - under the Obligation to comply with the Code of Conduct: to undertake Code of conduct training, co-operate with any investigation or determination, not to intimidate persons administering or investigating a complaint and to comply with any sanctions
- Requires registration of gifts and hospitality with a value of £50 and over
- Maintains the concept of 'bringing the council into disrepute'
- Codifies the position on declaration and participation in relation to personal interests that already applies in the Council

Specific Issues for Consideration

3.12 There are several points to bring to the attention of the Committee for its consideration of whether local variations to the Model Code are appropriate.

Social Media

3.13 A tricky and prevalent issue most local authorities is the application of the Code to councillors' activity on social media. The Council has a Social Media Protocol ([Part 71 of the Constitution](#)). It is helpful that the Model Code states that application of the Code extends to 'all forms of communication and interaction,

including ... in electronic and social media communication, posts , statements and comments’. Councillors may wish to consider if they wish to review their social media protocol at a future meeting.

- 3.14 While this reference makes it clear that social media activity is covered by the Code, it does not provide any guidance specific to social media on the issue of when a councillor is acting as a councillor, claiming to act as a councillor and/ or a representative of your council, giving the impression you are acting that you are acting as a councillor and/or as a representative of your council and public reference to your role as a councillor or use knowledge that you could only use in your role as a councillor.

Gift and Hospitality Threshold

- 3.15 The monetary threshold of £50 and over for registration of gifts and hospitality in the Model Code is more than the £25 threshold in the Council’s current Code of Conduct. To assist the Committee in determining the appropriate threshold, the LGA reports that over seven in ten respondents (72 per cent) supported £25 as the threshold for registering gifts and hospitality. 9% of respondents thought that the threshold should be lower than £25 while 16 per cent felt that it should be higher.

Dealing with Disrespect

- 3.16 Under the obligation of respect, the Model Code advises councillors to ‘report’ members of the public who are abusive, intimidatory or threatening to the local authority. Given the jurisdiction of the local authority and the police for example, consideration can be given to whether the word ‘report’ is amended to ‘seek guidance from’. Alternatively, councillors could be encouraged to speak with the Monitoring Officer who is able to advise on such matters.

Exempt Information

- 3.17 When explaining the obligation in relation to ‘Confidentiality and access to information’ the Model Code refers to information that would be contained in what is known as ‘exempt information’ locally in the Council. This is information, that, in accordance with Schedule 12A of the Local Government Act 1972 and the Council’s Access to Information Procedure Rules ([Part 8E of the Council Constitution](#)) has been deemed to be exempt information and were historically presented on green paper to councillors in advance of a meeting.
- 3.18 In the context of these constitutional Rules and the law, ‘confidential’ has a restricted meaning: ‘information furnished to the Council by a Government Department upon terms which forbid the disclosure of the information to the public and information the disclosure of which to the public is prohibited by law or order of the Court’.
- 3.19 In practice there is limited confidential information whereas exempt information, on the other hand, is in practice the majority of what is contained in green papers. Exempt information is defined by seven categories which include legal professional privilege and information relating to the financial and business affairs of the Council.

- 3.20 The operation of this clause is quite complicated, and it contrasts with the plain English adopted throughout the rest of the document. It may be that the Committee wishes to adopt a more straightforward obligation on councillors when dealing with Exempt and Confidential information, namely to seek advice from the Monitoring Officer before releasing any paper which is marked, or could reasonably be assumed to be, confidential or exempt.

Equality and Diversity

- 3.21 Full Council, at its meeting held on 27 October 2020, agreed to amend the Code of Conduct to include the following requirement:

- You must undertake training arranged by the Council on equality and diversity within two calendar months of your election and annually thereafter

- 3.22 Members may wish to include this requirement in any future Code of Conduct.

OPTIONS

- 4.1 There are several choices open to the Committee:

- (b) recommend no change to the current Code of Conduct and resolve to continue with the existing Code of Conduct
- (c) recommend to Council the adoption of the Model Code with or without potential amendments
- (d) identify issues and ask for a report to come to a later meeting of the Committee that addresses those issues
- (e) resolve to await the outcome of the Government consideration of the Committee for Standards in Public Life recommendations, and in the meantime invite, neighbouring authorities and other interested parties, individuals and stakeholders for comments on both the Council's existing Code of Conduct and the Model Code.

4. FINANCIAL DETAILS / VALUE FOR MONEY

- 4.1 No financial implications

5. LEGAL IMPLICATIONS

- 5.1 The Council is bound to maintain a Councillor Code of Conduct and to publish arrangements to advise residents how complaints can be made under the Code.

6. RISK MANAGEMENT

Table 2: Impact of risk and mitigation

Risk	Level of uncontrolled risk	Controls	Level of controlled risk

Reputational – poor behaviour by Members undermines confidence in local government	High	Code of Conduct Training Group Discipline Informal resolution Culture – clear understanding of acceptable behaviours	Medium
Governance – poor behaviour by Members represents a significant governance risk to the Council	High	Code of Conduct Training Group Discipline Informal resolution Culture – clear understanding of acceptable behaviours	Medium

7. POTENTIAL IMPACTS

7.1 Equalities.

An EQIA screening has been completed and is available on the [council's website](#).

7.2 Climate change/sustainability.

Not relevant

7.3 Data Protection/GDPR.

Not relevant

8. CONSULTATION

8.1 Section 138 of the Local Government and Public Involvement in Health Act 2007 places a duty on local authorities to involve local representatives when carrying out "any of its functions" by providing information, consulting or "involving in another way".

8.2 It is not anticipated that there will be public consultation on the Model Code of Conduct. It will however be in the public domain at Member Standards Panel and Council (if recommended to approve the adoption of the Model Code).

9. TIMETABLE FOR IMPLEMENTATION

9.1 Not subject to call in

10. APPENDICES

10.1 This report is supported by 3 Appendices:

- Appendix A LGA Model Code of Conduct
- Appendix B Current RBWM Code of Conduct
- Appendix C CSPL Best Practice Recommendations

11. BACKGROUND DOCUMENTS

11.1 This report is supported by 0 background documents:

12. CONSULTATION (MANDATORY)

Name of consultee	Post held	Date sent	Date returned
Cllr Rayner	Deputy Leader of the Council, Resident and Leisure Services, HR, IT, Legal, Performance Management and Windsor; Armed Forces Champion	16/03/21	
Duncan Sharkey	Managing Director	16/03/21	
Adele Taylor	Director of Resources/S151 Officer	16/03/21	
Andrew Durrant	Director of Place	16/03/21	
Kevin McDaniel	Director of Children's Services	16/03/21	
Hilary Hall	Director of Adults, Health and Commissioning	16/03/21	
Andrew Vallance	Head of Finance	16/03/21	
Elaine Browne	Head of Law	16/03/21	
Nikki Craig	Head of HR Corporate Projects and IT	16/03/21	25/03/21
Louisa Dean	Communications	16/03/21	
Karen Shepherd	Head of Governance	16/03/21	23/3/21

REPORT HISTORY

Decision type:	Urgency item?	To follow item?
Member Standards Panel recommendation to full Council for decision	No	No

Report Author: Emma Duncan, Deputy Director of Law and Strategy, 07583074039



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 behaviors 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 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.

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 friend, relative, close associate; or
- c. a body included in those you need to disclose under Disclosable Pecuniary Interests as set out in **Table 1**

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 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.

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 Registerable 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.

APPENDIX B

PART 7 – THE CODES, PROTOCOLS AND ADVICE

A – MEMBERS’ CODE OF CONDUCT

Royal Borough of Windsor & Maidenhead Members' Code of Conduct

Under this Code of Conduct, when acting in your capacity as a Member or co-opted Member¹ you must have regard to the following rules²:

- i) You must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits of financial value for yourself, or others.
- ii) You must co-operate fully with whatever scrutiny is appropriate to your office, including reasonably co-operating with enquiries connected to any Code of Conduct complaint made against you under this Code of Conduct.
- iii) You must, in your decision making role, declare personal, prejudicial and disclosable pecuniary interests, as well as any predetermination, and take steps to resolve any conflicts as a result of those interests, including registering and declaring interests in accordance with the procedures set out in the Appendices 1 to 2 below.
- iv) You must, when using the Council's resources, ensure that such resources are not used for improper purposes. This rule includes not doing anything which could potentially cause the Council to be in breach of the Code of Recommended Practice on Local Government Publicity.
- v) You must promote and support high standards of conduct by leadership and example in your dealings with members of the public, Members and Officers by ensuring that:³
 - a. You must not act in a way which a reasonable person would regard as bullying or intimidating
 - b. You must not unlawfully discriminate against anyone, regardless of gender, race, disability, sexual orientation, age or religion.
 - c. You must not behave in such a way that a reasonable person would regard as disrespectful
 - d. You must not disclose information which you believe, or ought reasonable be aware is confidential, unless you have the consent of the person authorised to give it, or where you are required by law to do so.
 - e. You must undertake training arranged by the Council on equality and diversity within two calendar months of your election and annually thereafter

¹ 'Acting as a Member or Co-Opted Member' - see Appendix 4

² The Code of Conduct is consistent with the following principles: selflessness, integrity, objectivity, accountability, openness, honesty and leadership, as required by s28 Localism Act 2011

³ See Appendix 3 'High Standards of Conduct' for guidance on this part of the Code

Appendix 1

Registering Disclosable Pecuniary Interests (s.30 Localism Act 2011) and Personal Interests

You must, within 28 days of taking office as a Member or co-opted Member, notify your authority's Monitoring Officer of any Disclosable Pecuniary Interests ('DPIs'), where the DPI is yours, your spouse's or civil partner's, or is the DPI of somebody with whom you are living with as a husband or wife, as if you were civil partners. The definition of each DPI is in Appendix 2.

In addition, you must, within 28 days of taking office as a Member or co-opted Member, notify your authority's Monitoring Officer of any Personal Interest as defined in Appendix 2.

If any DPI or Personal Interest has not been entered onto the authority's Register of Interests, then the Member must disclose the interest to any meeting of the authority at which they are present, where they have an interest in any matter being considered and where the matter is not a Sensitive Interest as defined in Appendix 2.

Following disclosure of any interest not on the authority's Register of Interests or the subject of a pending notification, you must notify the Monitoring Officer of the interest within 28 days beginning with the date of disclosure in order that it may be placed on the Register of Interests.

You must also, within 28 days of receipt, notify the Monitoring Officer, in writing, of any gift, benefit or hospitality, with a value in excess of £25, which will then be entered on the public register of gifts and hospitality.

A copy of the register will be available for public inspection and will be published on the authority's website.

Disclosure of interests and participation in meetings. (s.31 Localism Act 2011)

Disclosure at Meetings

You are required to disclose interests at meetings when you are aware that a DPI, a Prejudicial Interest⁴ or a Personal Interest which is relevant to the matter being considered.

You are not required to (but can do so if you wish) disclose any other type of interest that you may have. If in doubt, it is always better to disclose an interest than not do so as the Council places a high value upon its public reputation for openness and integrity.

⁴ See definition of Disclosable Pecuniary Interests, Prejudicial Interest and Personal Interests at Appendix 2

Participation for Decision Makers at Meetings

If you attend a meeting as a decision maker and have:

- (a) DPI which is relevant to the matter under discussion; or
- (b) a Prejudicial Interest;

then you must not participate in any debate of the matter and/or participate in any vote at the meeting, unless you have obtained a Dispensation. Details of how to obtain a Dispensation are below.

If you have a DPI or Prejudicial Interest (and do not have a Dispensation) as described then you must declare the interest at the start of the meeting when the Chairman asks if there are any interests to declare. Before the item is to be discussed, you may make representations before there is debate on the matter but, when finished, you must move to the public area or leave the room and take no further part in the discussion or vote.

If you remain in the room, you must not sit with the other Members of the meeting and must move to the public area. You must not speak after making your representations. It is also important that you do not express your views in a non-verbal way, for example by using body language or expressing emotion.

You cannot avoid disclosure of a DPI or Prejudicial Interest merely by withdrawing during that part of the meeting when the matter you have a DPI or Prejudicial Interest, is to be discussed. In respect to a DPI, failure to comply is a Criminal Offence.

How to obtain a Dispensation

If you seek a Dispensation under s33 Localism Act 2011, you must make a written request to the Proper Officer of the Council.

The Proper Officer or the Council by a majority vote may grant a dispensation under this section only if, after having had regard to all relevant circumstances, the authority—

- (a) considers that without the dispensation the number of persons from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business,
- (b) considers that without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business,
- (c) considers that granting the dispensation is in the interests of persons living in the Royal Borough of Windsor and Maidenhead.
- (d) in the case of decisions made by Cabinet, considers that without the dispensation each Member of the Cabinet would be prohibited from participating in any particular business of Cabinet, or

(e) considers that it is otherwise appropriate to grant a dispensation.⁵

A dispensation under this section must specify the period for which it has effect, and the period specified may not exceed four years.⁶

The Proper Officer in connection to this Appendix is the Managing Director, the Monitoring Officer or his or her Deputy, or the officer clerking the meeting.

⁵ S33(2) Localism Act 2011

⁶ S33(3) Localism Act 2011

Appendix 2

Definitions of Disclosable Pecuniary, Prejudicial and Personal Interests and Predetermination

Disclosable Pecuniary Interest (DPIs)

These are statutory interests defined by regulations made under s30(3) of the Localism Act 2011 and described in the table below.

(‘M’ means you and ‘relevant person’ means you and your partner). “Partner” means a spouse or civil partner of M, or a person with whom M is living as husband and wife or a person with whom M is living as if they were civil partners

Subject	Prescribed description
Employment, office, trade, profession or vacation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M. 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 which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority— a) under which goods or services are to be provided or works are to be executed; and b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	Any tenancy where (to M’s knowledge)— a) the landlord is the relevant authority; and b) the tenant is a body in which the relevant person has a beneficial interest.
Securities	Any beneficial interest in securities of a body where— a) that body (to M’s knowledge) has a place of business or land in the area of the relevant authority; and b) either— i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or

Subject	Prescribed description
	ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

These descriptions on Disclosable Pecuniary Interests above are subject to the following definitions;

The Act	means the Localism Act 2011
Body in which the relevant person has a beneficial interest	means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director, or in the securities of which the relevant person has a beneficial interest;
Director	includes a member of the committee of management of an industrial and provident society;
Land	excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income;
M	means a member of a relevant authority;
Member	includes a co-opted member;
Relevant authority	means the authority of which M is a member;
Relevant period	means the period of 12 months ending with the day on which M gives a notification for the purposes of section 30(1) or section 31(7), as the case may be, of the Act;
Relevant person	means M or any other person referred to in section 30(3)(b) of the Act;
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.

It is a potentially a criminal offence under s34 Localism Act 2011 if you fail, without reasonable excuse, to comply with the requirements under s30 or s31 Localism Act 2011 to register or declare a Disclosable Pecuniary Interest.

Personal Interests

These are interests which the Council has decided should be disclosed, under s29(2) Localism Act 2011. A Personal Interest is:

- i) Any body of which you are in a position of general control or management and to which you are elected appointed or nominated by the Council;
- ii) Any body of which you are a member, or have a close association or which you are in a position of general control, influence or management and that body:
 - exercises functions of a public nature; or
 - is in receipt of any grant from the Council; or

- is directed to charitable purposes; or
 - is one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union),
- iii) Membership of any private club, society or association operating within the Borough Council's area, where you hold a position of general control or management
- iv) Any other connection or association which a member of the public may reasonably think may influence you when you make a decision on Council matters and acting as a Councillor. e.g. the decision relates to a close family member or friend and could have a benefit to them.

You are not required to record any Personal Interest in point (iv) above on your Register of Interests but may do so if you wish.

Prejudicial Interest

This is Personal Interest which a reasonable fair minded and informed member of the public, with knowledge of all the facts, would reasonably believe is so significant that it influences your judgement of the public interest, in other words, you have the appearance of being biased towards a decision before actually making it. This would include where you have predetermined a matter. It is not enough for you to make reassurances that you are in fact not biased, but what it appears like, in the view of a reasonable and fair-minded informed member of the public.

The mere existence of local knowledge, or connections within the local community, will not in itself amount to a prejudicial interest. There must be some factor that might positively appear to harm your ability to judge the public interest objectively. The nature of the matter is also important, including whether a large number of people are equally affected by it or whether you or a smaller group are particularly affected.

Predetermination

Predetermination means that you have a closed mind and do not make a decision impartially and solely on the basis of the relevant facts. This will be demonstrated if you make a public statement in absolute terms about a decision you are to make. If you make such statements but nevertheless participate in a decision, you will put the Council at risk of legal action challenging that decision.

You will not have predetermined a matter just because you have expressed a particular opinion previously or hold a view prior to any meeting. If you have an open mind, are willing to listen and are open to consider all the facts and arguments presented to you before making your decision, then you will not have predetermined a matter. If you have indicated a view in a public forum, you will be asked at a decision-making meeting to declare that, although you have given such a view, you nevertheless have an open mind. This will be done when the Chairman asks if there are any interests to declare.⁷

Sensitive Interest

⁷ See s25 Localism Act 2011 Prior indications of a view are not to amount to predetermination

A Sensitive Interest occurs where you and the Monitoring Officer consider that disclosure of the details of a DPI or a Personal Interest could lead to you, or a person connected with you, being subject to violence or intimidation. If the interest is entered on the register, copies of the register that are made available for inspection and any published version of the register will exclude details of the interest, but may state that you have a DPI or a Personal Interest and that the details are withheld under Section 32(2).

Guidance on High Standards of Conduct (para. v)**Appendix 3****What is 'bullying' and 'intimidation'?**

Bullying has been described by ACAS as 'offensive, intimidating, malicious, or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient'. A victim's obvious vulnerability will be taken into account when assessing whether bullying has occurred.

Bullying conduct can involve behaving in an abusive or threatening way, or making allegations about people in public, in the company of their colleagues, through the press or in blogs. It may happen once or be part of a pattern of behaviour, although minor isolated incidents are unlikely to be considered bullying. It is also unlikely that a Member will be found guilty of bullying when both parties have contributed to a breakdown in relations.

Bullying should be contrasted with the legitimate challenges which a Member can make in challenging policy or scrutinising performance. Contributing to debates in Council meetings about policy and asking officers to explain the rationale for their professional opinions are to be encouraged. All Members should feel free to challenge fellow councillors and professional officers as to why their views are held. However, Members need to be careful about criticism which becomes offensive in nature which will cross the line of what a reasonable person would find acceptable.

Discrimination

It is unlawful to discriminate against a person because they have one of the "protected characteristics", which are, age, disability, gender reassignment, marriage and civil partnership, race, religion or belief, sex, and sexual orientation.

The primary legislation is the [Equality Act 2010](#), which outlaws discrimination in access to education, public services, private goods and services or premises in addition to employment. An allegation that a Member has unlawfully discriminated against anyone will be judged by reference to the requirements of the Equality Act 2010.

Respect - what a reasonable person would regard as disrespectful to others.

Everyone in normal life is very aware of what 'respect' looks like; however, in a culture of positive argument in politics and legal matters, the lines can get blurred between interacting with others to make a point, and yet remaining respectful of other's views. Ideas and policies may be robustly criticised, but individuals should not be subject to unreasonable or excessive personal attack. This particularly applies to dealing with the public and officers. Chairmen of meetings are expected to apply the rules of debate and procedure rules or standing orders to prevent abusive or disorderly conduct.

In politics, rival groupings are common, either in formal political parties or more informal alliances. It is expected that each will campaign for their ideas, and they may also seek to discredit the policies and actions of their opponents. Criticism of ideas and opinion is part of democratic debate, and does not in itself amount to failing to treat someone with respect. In an arena of political discussion, including postings on social media, and debate in Council meetings, a finding of a breach for disrespect would be exceptional. It is not for the Council

to get involved in political arguments between Members, which are better dealt with by a complaint to the relevant political group or leader. The Monitoring Officer will reject complaints which appear to be political ‘tit for tat’ alone. Parody postings on social media by a Member about another Member, for example, whilst considered to be of significant poor taste, are unlikely to amount to disrespect unless there was an indication of discrimination or other unlawful issue.

The Council is under a legal obligation to ensure that officers work in a safe environment and the same rules about their interaction with the public apply equally to their work with Members. Anyone should feel free to express disagreement with officers, so long as it is done in an appropriate way. Officers should make decisions which are unbiased, and attempts to coerce them or persuade them to act in a particular way to a point where to do so would prejudice their professional integrity would not be acceptable. It is also unacceptable to criticise officers as individuals in a public forum. When receiving such a complaint, the Monitoring Officer will take into account the specific circumstances of the case, whether the member was entitled to question the officer concerned, whether there was an attempt to intimidate or undermine the officer and the content and context of what was said.

Confidential Information

All information marked ‘confidential’, or given as confidential via verbal or non-verbal communication, must be treated as such and not disclosed in any form to another person.

Unmarked Information is confidential where it involves personal data, or that it is information that is deemed reasonable that it should be kept confidential, for example where there is an obvious detriment to someone by a disclosure.

Councillors must not cause the Council to breach Data Protection legislation by releasing any personal information which is held by the Council, but comes to the knowledge of the Councillor. Such disclosure could cause the Council to be subject to severe fines.

Members are advised to seek advice from the Monitoring Officer if they are unsure whether information is confidential.

When ‘acting as a Member or Co-opted Member’**Appendix 4**

S27 of the Localism Act 2011 obliges a local authority, in discharging its duty to promote and maintain high standards of conduct by Members, to adopt a Code of Conduct dealing with the conduct that is expected of Members ‘*when they are acting in that capacity*’.

(s27(2)). The Council does not therefore have authority to consider a Member’s conduct undertaken in their private capacity.⁸ This includes allegations of disrespect, bullying or intimidation which have no link to Council business, no matter how serious the allegation.

You will nevertheless be deemed to be acting as a Councillor, and therefore within the rules in this Code of Conduct, when you are conducting the business of the Council, or communicating or corresponding about the business of the Council, or whenever you act, claim or give the impression you are acting in the role of Councillor. The rules of the Code of Conduct will apply where there is a clear link to Council business, for example with regard to confidentiality and use of Council resources, even if your actions in respect of these examples are undertaken during private business:

⁸ This position sits with Art. 10 of the European Convention on Human Rights which protects an individual’s freedom of speech when done in their private capacity. This includes not only the substance of any political comment but the form in which it is conveyed. This stance has been supported in caselaw, notably *Livingstone v Adjudication Panel for England* (2006) and for example *MC v Standards Committee of London Borough of Richmond* (2011).

Appendix 5

Arrangements for dealing with breaches of the Code of Conduct

Complaints in respect of this Code of Conduct are made to the Monitoring Officer.

1. Receipt and Acknowledgment of the Complaint

The Monitoring Officer will acknowledge a Code of Conduct complaint within 5 working days. An initial response will then be sent within 10 working days after that, either seeking further clarification, or setting out how the council will consider the complaint. The onus is on the complainant to ensure that all relevant information is given. The complainant will be told that full details of their complaint will be given to the Councillor concerned ("the Subject Member").

Anonymous complaints will not be considered unless accompanied by documentary or photographic evidence, evidencing an exceptionally serious or significant matter.

If the Subject Member is a Parish or Town Councillor, the clerk will be informed of the complaint on a confidential basis.

2. Response of the Subject Member

The Subject Member will be informed of the complaint within 5 working days of the complaint being received and clarified. The Subject Member will be asked to supply written comments within 10 working days from the complaint being received or such longer time as determined by the Monitoring Officer. A Subject Member will be informed that he or she is entitled under the Localism Act 2011 to seek support from one of the Council's Independent Persons

3. Initial Assessment of the complaint by the Monitoring Officer

Once a response has been received from the Subject Matter, or when a reasonable time has passed and no responses has been received, the Monitoring Officer will carry out an initial assessment of the complaint. The purpose of the initial assessment by the Monitoring Officer is to determine whether the complaint should be accepted for further consideration or rejected. In determining whether a complaint should proceed the Monitoring Officer may apply the following criteria:

- Acting as a Member: Was the Subject Member acting as a Member at the time of the allegation?⁹
- Seriousness of the complaint – is the complaint trivial, vexatious, malicious, politically motivated, or 'tit for tat'? Would the resources/cost involved in investigating and determining the complaint be disproportionate to the allegation if proven? Where complaints are raised by Members alleging a lack of respect or courtesy by the Subject Member then the Monitoring Officer may reject the complaint - see guidance on 'Respect - what a reasonable person would regard as disrespectful to others' Appendix 3.

⁹ See guidance at Appendix 4

- Duplication – Is the complaint substantially similar to a previous allegation or is it subject of an existing investigation? If there is a current complaint about the same matter then a repeat allegation will be rejected unless the complainant is directly harmed by the allegation or they can provide new evidence.
- Length of time – Did the events or behaviour to which the complaint relates take place more than six months prior to receipt of the complaint. Does the time lapse mean that those involved are unlikely to remember matters clearly, or does the lapse of time mean that there would be little benefit in taking action
- Public Interest – In all cases, is the public interest served in referring the complaint further. Has the Subject Member offered an apology or other remedial action which is satisfactory to the Monitoring Officer, taking into account the circumstances of the complaint?

The complainant and the Subject Member will normally be informed by the Monitoring Officer of the initial assessment decision within 10 working days of it being made. Should it be determined by the Monitoring Officer, in consultation with an Independent Person where appropriate, that the complaint should not proceed, then the complaint shall be dismissed. There is no right of appeal for the complainant under these rules.

4. Decision of the Monitoring Officer

Should it be determined, having regard to the criteria referred to in section 3 above, that the complaint be accepted for further consideration, the Monitoring Officer shall, subject to consultation with an Independent Person, have delegated authority to decide to take one of the following actions:

- If there is clear evidence that there has been no breach of the Code of Conduct, the Monitoring Officer will write a No Breach Decision Notice explaining the reason for the decision which will be given to the complainant and the Subject Member. The Parish or Town Clerk, if appropriate, will be informed that there is no breach.
- Where there has been a clear breach of the Code of Conduct the Monitoring Officer will write a report with a recommendation for a decision for a breach of the Code of Conduct, giving reasons for that recommended decision, and then refer the matter to a Members Standards Sub-Committee for a formal decision. The Member Standards Sub-Committee will conduct a local hearing following the procedure in Appendix 6 of this Part, and make a decision in accordance with paragraph 2.2.
- Where there has possibly been a breach of the Code of Conduct, the Monitoring Officer will require a formal investigation and a written investigation report by an Investigating Officer. An indicative timescale for the process should be given to the complainant and the Subject Member. At least a monthly update report will be provided to all parties in an ongoing investigation. The investigation report shall conclude whether or not there has been a breach of the Code of Conduct and give clear reasons for that conclusion.

5. Finding on Investigation

5.1 No Breach of Code of Conduct

Where an investigation finds no evidence that the Subject Member has failed to comply with the Code of Conduct, the Monitoring Officer, in consultation with an Independent Person and the Chairman of the Member Standards Panel, shall make a decision to take no further action. The Monitoring Officer will write a No Breach Decision Notice explaining the reason for the decision which will be given to the complainant and the Subject Member. The Parish or Town Clerk, if appropriate, will be informed that there is no breach, but no further information will be supplied.

5.2 Breach of Code of Conduct

Where there is evidence that the Subject Member has failed to comply with the Code of Conduct, the Monitoring Officer, in consultation with an Independent Person and the Chairman of the Member Standards Panel, shall make a decision to refer the Investigating Officer's report to a Member Standards Sub-committee. The Member Standards Sub-Committee will conduct a local hearing following the procedure Appendix 6 of this Part, and make a decision in accordance with paragraph 2.2.

The Member Standards Sub Committee will usually hear a complaint within one calendar month of the date that the Monitoring Officer has referred the matter to the Sub Committee. The Subject Member and complainant will be informed of the decision.

6. Appeals, Transparency and Confidentiality

6.1 Appeals

There is no right of appeal under the Code of Conduct and the decision of the Monitoring Officer or the Member Standards Sub Committee will be final. However, Subject Members who have been found in breach of the Code of Conduct may make a statement about the complaint and the findings. This statement shall be published on the Council's website for the period stated in Transparency section below.

If the complainant is unhappy with this decision, they may write to the Local Government and Social Care Ombudsman to complain if he or she believes that proper process has not been followed. The Ombudsman will not however have authority to change the decision itself. Note that the Ombudsman will not consider a complaint from a Councillor.

6.2 Transparency

The decision of the Monitoring Officer or Member Standards Sub Committee will be sent to the Subject Member and the complainant. A decision that a Subject Member is in breach of the Code of Conduct will be published on the Council's website. The decision will be publicised for 12 months unless the Member Standards Sub-Committee consider an alternative time is appropriate.

Unless the Member Standards Sub-Committee determines otherwise, the decision notice, the Group Leader/ Chairman's statement and the Subject Member's statement only will be published on the website.

6.3 Confidentiality

Subject to the requirements of Data Protection legislation, unless the Monitoring Officer or Member Standards Sub Committee decides otherwise or unless stated to the contrary in this Part, the complaint, all communications and correspondence, investigation reports, reports and decisions will remain confidential. Statements and investigations will be conducted with an expectation that such information will only be released to the parties involved under these arrangements.

The members 'need to know' in relation to access to information shall only extend to the Subject Member, the complainant (where such is a member) and members of the Member Standards Sub Committee.

Requests for information will be provided on the basis of the expectation of confidentiality by the parties and exemptions under the various statutory schemes. Where investigation reports have been prepared, only summary or the conclusions will be released.

Appendix 6

1 Procedure for Member Standards Sub Committee

1.1 Appointment, Composition and Terms of Reference of the Member Standards Sub Committee

The Monitoring Officer is required to convene a Member Standards Sub Committee from the membership of the Member Standards Panel as necessary. The Member Standards Sub Committee will therefore not have a fixed membership.

The Member Standards Sub Committee shall comprise of two members of the Member Standards Panel, and one of the Council's Independent Persons. If the complaint relates to a Town or Parish Councillor then a co-opted Town or Parish Councillor may also be an additional member of the Member Standards Sub Committee, but will not have voting rights.

1.2 Pre Hearing Process

The date of the hearing will be arranged by the Monitoring Officer in consultation with the members of the Member Standards Sub Committee and the Subject Member.

Once the date for the Member Standards Sub Committee has been arranged the Subject Member will be notified and asked if they:

- a) wish to attend the hearing;
- b) wish to be accompanied or represented at the hearing by any other person;
- c) wish to submit any written evidence or documentation to be considered by the Sub Committee. This must be sent no later than 3 working days prior to the hearing and will be passed to the complainant and the Investigating Officer for any comment. Additional evidence or documentation not submitted by this deadline may not be accepted by the Sub Committee;
- d) wish to call relevant witnesses to give evidence at the hearing. The Chairman of the Member Standards Sub Committee appointed at the meeting will have the final decision on how many witnesses may reasonably be needed.

The Member Standards Sub Committee and the Subject Member, and the Independent Person will each receive a report from the Monitoring Officer which will include a copy of the Investigating Officer's final report, on a strictly confidential basis.

The Members Standards Sub Committee will be held in private and this will be confirmed at the hearing. The complainant will not attend unless the Chairman of the Member Standards Sub Committee agrees, or the Subject Member requests that they attend for the purposes of answering questions on the evidence provided.

1.3 Procedure for the Member Standards Sub Committee

The procedure for the Member Standards Sub Committee will be as follows:

- a) The Chairman will confirm the names and status of those attending. If the Subject Member is not present at the start of the hearing, and they had indicated their intention to attend, the Chairman shall ask the Monitoring Officer whether the Subject Member has provided any reasons why he or she would not be present. From the response the Member Standard Sub Committee will decide whether to make a determination in the absence of the Subject Member or adjourn the hearing to another date.
- b) If an Investigating Officer was used then the Investigating Officer, or in his/her absence the Monitoring Officer, shall present the Investigating Officer's report having particular regard to any points of difference identified by the Subject Member and why the Investigating Officer had concluded, on the basis of their findings of fact, that the Subject Member had failed to comply with the Code of Conduct. The Investigating Officer or Monitoring Officer may call witnesses as necessary in order to substantiate his/her findings.
- c) The Subject Member will then be given the opportunity to ask the Investigating Officer, or any of the witnesses, questions relating to the report or matters that have arisen during the witness statements.
- d) Members of the Member Standards Sub Committee, the Independent Person and the Monitoring Officer will then have the opportunity of asking the Investigating Officer, or any of the witnesses, questions relating to the report or matters that have arisen in the witness statements.
- e) The Subject Member will then be invited to respond to the Investigating Officer's report and provide evidence, either by calling witnesses or by making representations to the Member Standards Sub Committee as to why they consider that they did not fail to comply with the Code of Conduct.
- f) The Investigating Officer will then be given the opportunity to ask the Subject Member and any witnesses, questions relating to the representations made to the Member Standards Sub Committee.
- g) Members of the Member Standards Sub Committee, the Independent Person and the Monitoring Officer will then have the opportunity to ask the Subject Member, and any witnesses, questions relating to the representations made to the Member Standards Sub Committee.
- h) The Investigating Officer will then be given the opportunity to sum up.
- i) The Subject Member will then be given the opportunity to sum up
- j) The Independent Person will then be invited to comment and outline their view in respect of the complaint.
- k) The Chairman will check with the other members of the Member Standards Sub Committee whether they are satisfied that they have sufficient evidence to come to a considered conclusion on the matter. If it is decided that additional evidence

is required before a determination can be made then the hearing will be adjourned and the Investigating Officer or Monitoring Officer will be asked either to seek and provide such additional evidence and/or undertake further investigation on any point specified by the Member Standards Sub Committee.

- l) If the Member Standards Sub Committee is satisfied that that they do have sufficient evidence to make a decision this will conclude the evidence gathering part of the hearing. The Investigating Officer, the Subject Member, the Independent Person and any witnesses that might be present will be asked to leave at this point, but the clerk and Monitoring Officer to the Sub Committee will remain.
- m) The Member Standards Sub Committee will then determine the complaint on the balance of probabilities. If the Member Standards Sub Committee determine that there has been a failure to follow the Code they shall seek advice from the Monitoring Officer as to what action they believe should be taken against the Subject Member.

2 Findings of the Member Standards Sub Committee

2.1 No Finding of a Failure to follow the Code of Conduct

If the Member Standards Sub Committee determine that the Subject Member has not failed to follow the Code of Conduct then the complaint will be dismissed.

The Monitoring Officer shall prepare a decision notice in consultation with the Chairman of the Member Standards Sub Committee stating the Member Standards Sub Committee's findings in relation to a non-failure to follow the Code of Conduct . The decision notice will be provided to the Subject Member, the Investigating Officer if relevant, the complainant and the Independent Person for their information.

2.2 Finding of Failure to follow the Code of Conduct

If the Member Standards Sub Committee determines that the Subject Member has failed to follow the Code of Conduct then it can decide to take any or more of the following actions:

- a) Formally censure the Subject Member in writing for their failure to follow the Code of Conduct;
- b) Recommend to the Subject Member's Group Leader (or in the case of un-grouped Members, recommend to Council or any subcommittee(s) of Council that the Subject Member be removed from any or all subcommittee(s) of the Council;
- c) Recommend to the Leader of Council that the Subject Member be removed from the Cabinet, or removed from particular portfolio responsibilities;
- d) Instruct the Monitoring Officer (or recommend that the relevant Town/Parish Council, as appropriate) to arrange training for the Subject Member;

- e) Remove (or recommend to the relevant Town/Parish Council that the Subject Member be removed) from all outside appointments to which he/she has been appointed or nominated by the authority (or by the Town/Parish Council);
- f) Withdraw (or recommend to the relevant Town/Parish Council that it withdraws) facilities provided to the Subject Member by the Council, such as a computer, website and/or e-mail and internet access;
- g) Exclude (or recommend that the relevant Town/Parish Council exclude) the Subject Member from the Council's offices or other premises, with the exception of meeting rooms as necessary for attending Council or Panel meetings; or
- h) Report its findings to the Crown Prosecution Service in respect of a Subject Member that has been found to have committed an offence under s30 and/or s31 Localism Act 2011.

2.3 Publication of the Decision on Finding a Breach of the Code of Conduct

Within 5 working days of the decision, the Monitoring Officer shall prepare a formal decision notice in consultation with the Chairman of the Member Standards Sub Committee. A copy of the decision notice will be sent to the complainant, the Subject Member (and, if applicable, the relevant Town/Parish Council) and the Independent Person for their information.

A decision that a Subject Member is in breach of the Code of Conduct will be published on the Council's website for 12 months unless the Member Standards Sub-Committee consider an alternative time is appropriate.

The Subject Member has no right of appeal to the Council against a decision of the Monitoring Officer or the Member Standards Sub Committee.

Appendix C

The Best Practice Recommendations from 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

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Report Title:	Monitoring Officer Annual Report
Contains Confidential or Exempt Information	Main report - No - Part I; Appendix 1 – Yes - Not for publication by virtue of paragraphs 1 and 2 of Part 1 of Schedule 12A of the Local Government Act 1972.
Lead Member:	Councillor Rayner, Deputy Leader of the Council, Resident and Leisure Services, HR, IT, Legal, Performance Management and Windsor; Armed Forces Champion
Meeting and Date:	Member Standards Panel 12 April 2021
Responsible Officer(s):	Emma Duncan Monitoring Officer and Deputy Director of Law and Strategy
Wards affected:	All

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REPORT SUMMARY

This report introduces the Annual Monitoring Officer Report as required under the Council's Constitution which Members are asked to note.

1. DETAILS OF RECOMMENDATION(S)

RECOMMENDATION: That the Member Standards Panel notes the report.

2. REASON(S) FOR RECOMMENDATION(S) AND OPTIONS CONSIDERED

N/A

3. KEY IMPLICATIONS

N/A

OPTIONS

4.1 Members are asked to note the report.

4. CONSULTATION

4.1 N/A

5. TIMETABLE FOR IMPLEMENTATION

5.1 Not subject to call in

6. APPENDICES

6.1 The Monitoring Officer's report is supported by 1 Appendix:

- Appendix 1 EXEMPT – details of complaints where maladministration has been found - **Not for publication by virtue of paragraphs 1 and 2 of Part 1 of Schedule 12A of the Local Government Act 1972**

7. BACKGROUND DOCUMENTS

7.1 This report is supported by 0 background documents:

8. CONSULTATION (MANDATORY) – not relevant as this relates to the discharge of a statutory function.

Name of consultee	Post held	Date sent	Date returned
Cllr Rayner	Deputy Leader of the Council, Resident and Leisure Services, HR, IT, Legal, Performance Management and Windsor; Armed Forces Champion		
Duncan Sharkey	Managing Director		
Adele Taylor	Director of Resources/S151 Officer		
Andrew Durrant	Director of Place		
Kevin McDaniel	Director of Children's Services		
Hilary Hall	Director of Adults, Health and Commissioning		
Andrew Vallance	Head of Finance		
Elaine Browne	Head of Law		
Nikki Craig	Head of HR Corporate Projects and IT		
Louisa Dean	Communications		
Karen Shepherd	Head of Governance		

REPORT HISTORY

Decision type:	Urgency item?	To follow item?
Member Standards Panel to note	No	No

Report Author: Emma Duncan, Deputy Director of Law and Strategy,
07583074039

Monitoring Officer
Annual Report 2020/21
Section Contents

- 1 Introduction
- 2 The Monitoring Officer's Work April 2020 – March 2021
- 3 Key Messages
- 4 Looking Forward
- 5 Overall opinion on the adequacy and effectiveness of the Governance framework

Monitoring Officer Annual Report 2020/21

1. Introduction

1.1 The Monitoring Officer's Annual Report summarises the more important matters arising from the Monitoring Officer's work for the Council from 1 April 2020 to 31 March 2021 and comments on other current issues.

1.2 Corporate Governance is the system by which local authorities direct and control their functions and relate to their communities. It is founded on the fundamental principles of openness, integrity and accountability together with the overarching concept of leadership. In this respect, RBWM recognises the need for sound corporate governance arrangements and has put in place policies, systems and procedures designed to achieve this.

1.3 The Monitoring Officer is appointed under Section 5 of the Local Government and Housing Act 1989 and has a number of statutory functions in addition to those conferred under the Local Government Act 2000 and subsequent regulations governing local investigations into Member conduct. These are outlined in the next section of the report.

2. The Monitoring Officer's Work April 2020 – March 2021

- 2.1 Mary Severin performed the role of the Monitoring Officer of the Council until 1 February 2021 and following the appointment of Emma Duncan (Deputy Director Law and Governance) she has carried out the statutory functions since that time. She is supported by three Deputy Monitoring Officers, Mary Severin, Elaine Brown (Head of Law) and Karen Shepherd (Head of Governance).
- 2.2 The three statutory officers (The Head of Paid Service, the S151 Officer and the Monitoring Officer), often called the “golden triangle” have specific roles within the organisation and responsibility, with other officers and with senior members. The Statutory Officers together with their deputies, form the Statutory Officers Group that meets regularly and provides advice to the authority as a whole on the governance framework.
- 2.3 Good governance is a critical part of engendering trust with communities and importantly reduces the risk of organisational failures.
- 2.4 It is acknowledged that many of the systems and behaviours that underpin good governance at the Royal Borough were either underused or absent. Significant progress has been made in the past year or so in terms of strengthening the framework but there are still elements that are weak in the structure.
- 2.5 The more significant issue for the authority is engendering a culture of good governance throughout the officer and Member cohorts. These behavioural issues are now acknowledged as the key factor in building a robust governance framework.
- 2.6 Following recent high profile governance failures in local government, the Centre for Governance and Scrutiny (CfGS) undertook a research piece to produce a new [Governance Risk and Resilience Framework](#), which identifies behaviours that support a healthy governance environment and the work behind the Annual Governance Statement and the CIPFA principles in “[Delivering Good Governance](#)”.
- 2.7 The behaviours are as follows;
- **Extent of recognition of individual and collective responsibility for good governance.** *This is about ownership of governance and its associated systems;*
 - **Awareness of political dynamics.** *This is about the understanding of the unique role that politics plays in local governance and local government. Positive behaviour here recognises the need for the tension and “grit” in the system that local politics brings, and its positive impact on making decision-making more robust;*
 - **How the council looks to the future to set its decision-making priorities.** *This is about future planning, and insight into what the future might hold for the area, or for the council as an institution and includes the way the council thinks about risk;*
 - **Officer and councillor roles.** *Particularly at the top level, this is about clear mutual roles in support of robust and effective decision-making and oversight. It also links to communication between key individuals, and circumstances where ownership means that everyone has a clear sense of where accountability and responsibility lie;*
 - **How the council's real situation compares to its sense of itself.** *This is about internal candour and reflection; the need to face up to unpleasant realities and to listen to dissenting voices. The idea of a council turning its back on things “not invented here” may be evidence*

of poor behaviours, but equally a focus on new initiatives and “innovation” as a way to distract attention, and to procrastinate, may also be present;

- **Quality of local (external) relationships.** *This is about the council’s ability to integrate an understanding of partnership working and partnership needs in its governance arrangements, and about a similar integration of an understanding of the local community and its needs. It is about the extent to which power and information is shared and different perspectives brought into the decision-making, and oversight, process;*
- **The state of member oversight through scrutiny and audit committees.** *This is about scrutiny by councillors, and supervision and accountability overall.*

2.8 Some work (described later in the report) has started to address these factors and will be used moving forward as a basis for identifying areas of risk for the authority in its governance frameworks.

3. The Monitoring Officer duties

Duties	Work undertaken
<p>1. Maintaining the Constitution.</p> <p><i>The Monitoring Officer will maintain an up to date version of the Constitution and will ensure that it is widely available for consultation by Members, staff and the public.</i></p>	<p>A key role for the Monitoring Officer is to be aware of the strengths and weaknesses of the Constitution adopted by the Council, and to make recommendations for ways in which it could be amended.</p> <p>To achieve this the Monitoring Officer has;</p> <ul style="list-style-type: none"> • observed meetings of different parts of the Member and Officer structure; • undertaken an audit trail of a sample of decisions; • recorded and analysed issues raised with him/her by Members, Officers, the public and other relevant stakeholders and • compared practices in this Council with those in other comparable authorities, or national examples of best practice. <p>During the year the Constitution has been updated a number of times to reflect best practice and provide clarification with the principles that are articulated within the Constitution.</p>
<p>2. Ensuring lawfulness and fairness of decision making.</p> <p><i>After consulting with the Head of Paid Service and Director of Resources, the Monitoring Officer will report to the Council or to Cabinet in</i></p>	<p>There were no occasions where the Monitoring Officer had reason to believe that there was a likelihood that the Council was about to take a decision that would be unlawful. Counsel’s advice has been sought by the Monitoring</p>

<p><i>relation to an executive function if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.</i></p>	<p>Officer to clarify the position where necessary and to ensure effective discharge of the function.</p> <p>Consequently, no reports have been issued to the council under Section 5(2)(a) of the Local Government and Housing Act (1989).</p> <p>The Monitoring Officer is a member of the Council's Director's Team, Statutory Officer Group and Corporate Leadership Team, together with the Head of Paid Service and the s151 Officer and is able to comment on issues discussed there.</p> <p>The Council's legal team provider SLS provide advice and assistance to officers throughout the Council and report to the Monitoring Officer on any areas of concern in relation to lawfulness and compliance with the Council's protocols and processes.</p> <p>SLS assess and respond to either changes in the legal framework and in particular this year, with Democratic Services have implemented the remote meeting provisions.</p> <p>The Monitoring Officer and her teams attend meetings and provide advice to officers and Members at an early stage, including seeing reports to committee prior to publication.</p> <p>Officers have been trained in Member/Officer roles so it is clear where and by whom the decision is being made.</p> <p>The Monitoring Officer also requires appropriate recording of delegated authority to evidence compliance with the Constitution. These procedures have been reviewed and updated in light of the ongoing pandemic.</p> <p>There have been a number of issues with member behaviour at meetings of the Council leading to reputational issues for RBWM.</p> <p>In terms of Ombudsman complaints there have been 8 where maladministration was found and these are detailed in Appendix 1. Discharging the Monitoring Officer responsibility under</p>
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	s5(2)(b) of the Local Government and Housing Act 1989
<p>3. Proper Officer for access to information.</p> <p><i>The Monitoring Officer will ensure that Cabinet decisions, together with the reasons for those decisions and relevant Officer reports and background papers are made publicly available as soon as possible.</i></p>	<p>The Head of Governance has refreshed the officer decision making recording process and guidance to provide clarity.</p>
<p>4. Advising whether Cabinet decisions are within the budget and policy framework in accordance with the requirement under the Budget and Framework Rules.</p> <p><i>The Director of Resources in consultation with the Monitoring Officer will advise whether decisions of the Cabinet are in accordance with the budget and policy framework.</i></p>	<p>Both the Monitoring Officer and s151 Officer and their deputies see reports prior to publication and advise on the Budget and Policy Framework rules.</p>
<p>5. Providing advice.</p> <p><i>The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all councillors and will support and advise councillors and officers in their respective roles.</i></p>	<p>The Monitoring Officer and Deputies regularly advise officers and Members on issues of lawfulness including seeking external legal opinion where necessary.</p>
<p>6. Contributing to corporate management.</p> <p><i>The Monitoring Officer will contribute to the corporate management of the Council, in particular through the provision of professional advice on the lawfulness or probity of any matter.</i></p>	<p>The Monitoring Officer is a member of the Council's Director's Team, Statutory Officer Group and Corporate Leadership Team. The Head of Law and the Head of Governance both sit on CLT.</p> <p>The Council has increased capacity for governance in the past year, including the appointment of a full time Monitoring Officer and the creation of a new corporate core directorate to build capability and to spin out consistent governance standards and processes throughout the rest of the organisation so underpin decision making. This is part of the</p>

	governance strand of the interim strategic position and the “investing in strong foundations” work identified as part of the Council’s values.
7. Overseeing breaches of the tendering rules	No breaches have been reported. This is an area where further work is needed to ensure systems are working effectively.
8. To set out guidance for Directors for the preparation of directorate registers of interests.	The appraisal form has been updated to include this requirement.
9. To monitor the operation of the Members’ Code of Conduct.	In the current municipal year the Monitoring officer has received 36 complaints. The number of complaints are significantly up on previous years and is mainly in relation to matters that are connected to RBWM Members. The majority of complaints do not meet the threshold for investigation however they have required quite significant resource to process and have not contributed to the raising of standards at the authority.
10. To promote and maintain high standards of conduct by Members, co-opted Members, including church and parent governor representatives	Following the appointment of the new Monitoring Officer and Deputy Director a new approach has been taken to dealing with complaints following the model identified by the Committee on Standards in Public Life in their best practice recommendations. This focuses on raising standards across the board, rather than seeking to use the Code as a way of resolving minor issues, which is costly, time-consuming and can be counter productive. This is resulting in behaviour being addressed more effectively than it would potentially be through the formal Code of Conduct routes.
11. To assist Members, co-opted members, including church and parent governor representatives, to observe the Members’ Code of Conduct	The Monitoring Officer has met with the Group Leaders to discuss the new approach to standards within the existing framework and has also met with other Members to discuss behaviour at the Council so that there is a clear understanding of how issues are approached and behaviours addressed.
12. To recommend to the Council on the adoption or revision of its Members’ Code of Conduct	The Member Standards Panel are considering the adoption of the LGA Model Code at their next meeting.
11. Advising, training or arranging to train Members, co-opted members and church and parent governor representatives on matters relating to the Members’ Code of Conduct;	Members have been trained on the Code, including common issues that have arisen around social media and Member/Officer roles. However it is the application of the Code and

	<p>the understanding of Members as to “how we do things around here” that is important.</p> <p>The Member training budget has been cut to £500 for the year and this represents a potential risk to the Council as development of Members is a key area for governance.</p>
12. To consider an annual report on Member Standards by the Monitoring Officer	This is the annual report.
13. To maintain and keep up to date a register of Members’ interests	<p>All Members of both the Borough and Parish Councils completed new returns following the 2019 elections and subsequent by-elections. Members are reminded to keep these up to date on a regular basis.</p> <p>The Register of Members’ Interests is published on the Council’s website.</p>
14. To prepare and keep under review a protocol for managing Member and officer relationships.	<p>Members and CLT have had training on the Member Officer Protocol. There is a need to train Members and Officer further on this aspects and will be picked up as part of the work on the Risk and Resilience Framework.</p>

3. Key Messages

3.1 The key messages to note from the year are:

- (i) The systems of internal control administered by the Monitoring Officer including compliance with the Council’s Constitution were adequate and effective during the period for the purposes of the latest Regulations at a minimum level.
- (ii) The Constitution continues to be regularly updated.
- (iii) Whilst there are no significant systems of governance control absent, the issue is the culture and behaviours around them, including Member behaviour. This does need to be addressed as it presents a significant risk of governance failure for the authority.
- (iv) The Code of Conduct process was being used for minor issues resulting in large numbers of complaints. This has now been addressed for the moment, but the progress made, needs to be embedded.

4. Looking Forward

The key issues for 2021/22 are as follows;

4.1 Code of Conduct

4.1.1 The Member Code of Conduct is being considered by the Member Standards Panel.

4.2 Corporate Governance Framework

- 4.2.1 The Council will keep the Code of Corporate Governance under review, and will undertake work with Members and officers on the CfGS risk and resilience framework to strengthen the position.
- 4.2.2 The Monitoring Officer will continue to provide an assurance in respect of the Code and the Annual Governance Statement by way of this Annual Report.
- 4.3 **Constitution and Regulations**
- 4.3.1 The Constitution will continue to be kept under review by the Monitoring Officer working closely with the Democratic Services Team.
- 4.3.1 It will be appropriate to continue to remind Members and staff of the importance of compliance with the Council's regulations, as set out in the Constitution and other policy framework documents, and the Monitoring Officer and other staff will give advice accordingly.

5. Overall opinion on the adequacy and effectiveness of the Governance framework

The Monitoring Officer confirms that she is not aware of;

- Any breaches of, or deficiencies in, internal control in respect of fraud or compliance with relevant legal provisions that could have a significant effect on the entity or a material impact on the financial statements;
- Any actual, suspected or alleged frauds or breaches of legislative requirements during 2020/21;
- Any excessive or undue pressure to meet financial or operating targets that may unduly influence the actions of either those charged with governance or management;
- Any actual or potential litigation or claims that would have a significant effect on the entity or a material impact on the financial statements;
- Any circumstances that would call into question the preparation of the financial statements on an ongoing basis.
- That the systems of internal control administered by the Monitoring Officer including the Code of Conduct and the Council's Constitution, were adequate and effective during the year between April 2020 and March 2021 for the purposes of the latest regulations (subject to the areas outlined above).

Emma Duncan

Monitoring Officer and Deputy Director for Law and Strategy

31/05/2021

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By virtue of paragraph(s) 1, 2 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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