

NOTICE  
OF  
MEETING  
**MEMBER STANDARDS PANEL**

will meet on

**WEDNESDAY, 8TH JUNE, 2022**

**At 6.30 pm**

**VIRTUAL MEETING - ONLINE ACCESS, AND ON [RBWM YOUTUBE](#)**

TO: MEMBERS OF THE MEMBER STANDARDS PANEL

COUNCILLORS SAMANTHA RAYNER (CHAIRMAN), SHAMSUL SHELIM (VICE-CHAIRMAN), DAVID COPPINGER, ANDREW JOHNSON, LYNNE JONES, JOSHUA REYNOLDS, SIMON WERNER AND JOHN STORY

SUBSTITUTE MEMBERS

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

Karen Shepherd – Head of Governance - Issued: 27/5/22

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](http://www.rbwm.gov.uk) or contact the Panel Administrator **Karen Shepherd** 07766 778286

**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 Democratic Services or Legal representative at the meeting.

## **AGENDA**

### **PART I**

<b><u>ITEM</u></b>	<b><u>SUBJECT</u></b>	<b><u>PAGE NO</u></b>
1.	<b><u>APOLOGIES FOR ABSENCE</u></b>  To receive any apologies for absence	
2.	<b><u>DECLARATIONS OF INTEREST</u></b>  To receive any declarations of interest	3 - 4
3.	<b><u>MINUTES</u></b>  To consider the Part I minutes of the meeting held on 12 April 2021	5 - 10
4.	<b><u>MONITORING OFFICER ANNUAL REPORT</u></b>  To consider the above report	11 - 36
5.	<b><u>MEMBERS' CODE OF CONDUCT - CONSTITUTION UPDATES JUNE 2022</u></b>  To consider the above report	37 - 70
6.	<b><u>LOCAL GOVERNMENT ACT 1972 - EXCLUSION OF THE PRESS AND PUBLIC</u></b>  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"	
<b>PART II - PRIVATE MEETING</b>		
7.	<b><u>MINUTES</u></b>  To consider the Part II minutes of the meeting held on 12 April 2021  <b><i>(Not for publication by virtue of Paragraph 1, 2 of Part 1 of Schedule 12A of the Local Government Act 1972)</i></b>	71 - 72

## MEMBERS' GUIDE TO DECLARING INTERESTS AT 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 Disclosable Pecuniary Interest (DPI) or Other Registerable 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.

Any Member with concerns about the nature of their interest should consult the Monitoring Officer in advance of the meeting.

### Non-participation in case of Disclosable Pecuniary Interest (DPI)

Where a matter arises at a meeting which directly relates to one of your DPIs (summary below, further details set out in Table 1 of the Members' Code of Conduct) 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' (as agreed in advance by the Monitoring Officer), you do not have to disclose the nature of the interest, just that you have an interest. Dispensation may be granted by the Monitoring Officer in limited circumstances, to enable you to participate and vote on a matter in which you have a DPI.

Where you have a DPI 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.

*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 (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
- 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 council.
- Any licence to occupy land in the area of the council for a month or longer.
- Any tenancy where the landlord is the council, and the tenant is a body in which the relevant person has a beneficial interest in the securities of.
- Any beneficial interest in securities of a body where:
  - a) that body has a place of business or land in the area of the council, 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.

### Disclosure of Other Registerable Interests

Where a matter arises at a meeting which **directly relates** to one of your Other Registerable Interests (summary below and as set out in Table 2 of the Members Code of Conduct), 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' (as agreed in advance by the Monitoring Officer), you do not have to disclose the nature of the interest.

*Other Registerable Interests (relating to the Member or their partner):*

*You have an 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) directed to charitable purposes or*

*one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)*

## **Disclosure of Non- Registerable Interests**

Where a matter arises at a meeting which **directly relates** to your financial interest or well-being (and is not a DPI) 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' (agreed in advance by the Monitoring Officer) you do not have to disclose the nature of the interest.

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 DPIs as set out in Table 1 of the Members' code of Conduct

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.

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' (agreed in advance by the Monitoring Officer, you do not have to disclose the nature of the interest.

## **Other declarations**

Members may wish to declare at the beginning of the meeting any other information they feel should be in the public domain in relation to an item on the agenda; such Member statements will be included in the minutes for transparency.

# Agenda Item 3

## MEMBER STANDARDS PANEL

MONDAY, 12 APRIL 2021

PRESENT: Councillors Samantha Rayner (Chairman), Shamsul Shelim (Vice-Chairman), Christine Bateson, David Coppinger, Catherine Del Campo, Andrew Johnson, Lynne Jones and Joshua Reynolds

Also in attendance: Councillor John Baldwin, Councillor David Cannon, Councillor Gurpreet Bhangra, Councillor Ewan Larcombe, Councillor Gurch Singh, Councillor Donna Stimson and Councillor Amy Tisi

Officers: David Cook, Emma Duncan, Karen Shepherd and Mary Severin

### APOLOGIES FOR ABSENCE

An Apology for Absence was received from Councillor Werner.

### DECLARATIONS OF INTEREST

No declarations were made.

### CODE OF CONDUCT

Members considered the new recommended Code of Conduct which had been published by the Local Government Association (LGA). The Monitoring Officer explained that there was no nationally agreed model which had led to variations across the country, and also between parish councils and principal authorities. There were also issues of interpretation and consistency of application.

The Committee on Standards in Public Life (CSPL) had taken evidence from bodies including principal authorities, parish councils and Monitoring Officers. It had found that the code was not effective, in particular in relation to sanctions. The CSPL had issued a set of recommendations to the government for implementation, along with some best practice recommendations that could be implemented straight away. The LGA had subsequently developed a model Code of Conduct and was recommending that councils adopted it for both the principal authority and any parish councils.

Members noted that at the time of report publication the government had not indicated any desire to change the sanctions as recommend by the CSPL report, however the Ministry of Housing, Communities and Local Government (MHCLG) had since suggested it would bring forward legislation to change the sanctions regime including suspension of Members from duty.

The Chairman commented that it was important to continually review the Code of Conduct and adapt it to changing circumstances such as the increase in social media usage.

The Monitoring Officer highlighted a number of specific areas covered by the model code. Social media had been picked up as a specific danger area for Members. The council had received a number of complaints about Member use of social media and it was an area that was easy to get wrong. The Member/office relationship was affected

by a culture that developed over time; it was important to be aware what a healthy culture looked like. Due to the lack of sanctions, a Code of Conduct was not a panacea for everything. An informal process for dealing with some complaints was therefore useful alongside self-policing by Members. The best practice recommendations in the CSPL report highlighted the Nolan principles and the importance of ethics in relation to the business of the council.

The Monitoring Officer explained that since she had been in post she had made more use of the council's Independent Persons in assessing initial complaints and supporting Subject Members. Members were seeking lots of advice on the Code itself, which was very helpful, therefore progress was being made. The support of the Deputy Monitoring Officers had been important in this respect. The Chairman echoed this sentiment.

It was confirmed that if the council adopted the new model Code of Conduct, it would be up to the individual parish councils in the area to decide if they also wished to adopt it. The LGA had worked with the National Association of Local Councils (NALC) to seek support for consistency. It was helpful if both tiers adopted the same model, particularly when it came to dual-hatted Members.

Councillor Jones commented that she felt the Member Standards Sub Committee should not necessarily be politically balanced. The Local Independents Group had concerns that the process had become politicised; an Independent chairman was therefore very important. The Monitoring Officer suggested these issues could be the subject of discussions at a future Constitution Sub Committee.

Councillor Reynolds highlighted that most responses to the consultation had suggested the appropriate level for declarations of gifts and hospitality was £25 but the recommendation in the report was £50. He felt that the £25 level that was in the current scheme worked well and should remain. Councillor Del Campo agreed the appropriate level would be £25. Councillor Johnson agreed that the £25 level worked well therefore there was no need to change it. Councillor Shelim commented that since the Code of conduct was last reviewed, all costs would have increased in hospitality.

The Monitoring Officer explained that the assessment framework set out the process for dealing with a Code of Conduct complaint. There were a number of 'sieving' procedures including Data Protection consent and ensuring the right areas of the Code were being addressed. Other issues related to vexatious complaints, timeliness, whether the costs of an investigation were worthwhile and whether the complaint could be better dealt with in another way. On some occasions the complainant was asked to provide further evidence. The Subject Member was then notified to enable them to provide input, before the Monitoring Officer consulted with the Independent Person. If an investigation was needed, this could then take some time.

In relation to multiple gifts below the threshold from the same organisation or individual, Members noted that it was a grey area as to whether or not a declaration should be made. The Monitoring Officer suggested Members could, via their Group Leader, formally request the issue of aggregate gifts be considered by the Constitution Sub Committee. Registers of Interest were kept and in the public domain for as long as an individual was a Councillor.

Councillor Bateson commented that she would wish to be notified about a complaint from the start; sometimes a Member was not notified until the issue had been sorted out. Whether innocent or not, she felt it was better to be notified as soon as possible. The Monitoring Officer agreed there was a balance to be struck to ensure all felt they were being treated fairly. If a complaint was not dismissed outright, for example for being outside the remit of the Code of Conduct, then it was important to involve the Subject Member as soon as possible to get their view.

Members noted that legislation relating to sanctions would likely come forward in the next 6-9 months.

Councillor Baldwin asked how free Members were to discuss in public references either by themselves or about themselves under the Code of Conduct, prior or post adjudication. The Monitoring Officer confirmed that details remained confidential until they became public when the complaint went to a Sub Committee hearing. However, some hearings were held in private, for example in relation to allegations of bullying of a parish clerk. Post adjudication, unless there had been a decision at a Sub Committee, then details would remain confidential, otherwise unfounded and unsubstantiated claims would be in the public domain.

Councillor Reynolds proposed that the value of gifts and hospitality that required declaration should remain at £25. The proposal was seconded by Councillor Del Campo.

**RESOLVED UNANIMOUSLY: That the Member Standards Panel notes the report and:**

- i) Recommends to full Council that the Model Code, with agreed amendments, be adopted, subject to the value of gifts and hospitality that required declaration remaining at £25.**
- 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**

#### MONITORING OFFICER ANNUAL REPORT

Members considered that annual report from the Monitoring Officer, which supported the Annual Governance Statement process, which in turn supported the submission of the accounts. The Monitoring Officer explained that under the constitution she was obliged to report on a number of issues including Member standards, maladministration, unlawful decisions, and breaches of contract rules. The report also gave a broad understanding of the work of the Monitoring Officer and the Deputy Monitoring Officers over the past year.

Members noted that the three statutory officers (the Monitoring Officer, Head of Paid Service and Section 151 Officer) plus their deputies met on a regular basis to review the governance framework of the council. This was a very useful meeting that had been instigated by the Managing Director. The meeting provided a check on the governance framework including how it was operating and how it could be developed. The recently published Risk and Resilience Framework published by the Centre for Governance and Scrutiny (CfGS) had been utilised to provide a sense check on where the council was in terms of governance. Further information on the sections in the

framework would be discussed with Members during the year. The Code of Corporate Governance would be strengthened using the Risk and Resilience framework.

The Monitoring Officer confirmed that there had been no need to report any illegality over the past year. Cases where maladministration had been found by the Ombudsman were contained in the Part II Appendix.

Members noted that the constitution was regularly reviewed and updated as necessary. The importance of properly documenting decisions made under delegated authority had been highlighted by the Head of Governance through updated guidance to officers and reporting templates.

The Monitoring Officer commented that all acknowledged there were currently some issues with Member behaviour. This was a key risk under the governance framework. There had been 36 Code of Conduct complaints in the last year, which was significantly up on the previous year. The volume had tailed off in the last few months because of the new approach to dealing with complaints and work by Group Leaders and all Members to understand their responsibilities and the importance of self-policing. There was a potential issue with the recent reduction in the Members' training budget as it was important that Members were appropriately trained to ensure good decision making occurred.

The Chairman thanked the Monitoring Officer and the Deputy Monitoring Officers for their work over the past year. She commented that it had been heartening to see progress over the last 18 months. It was important to raise issues such as Member behaviour and recognise the need for more improvements.

Councillor Del Campo noted that statutory officers reviewed reports in advance of publication, but she had at times seen decisions made 'on the hoof' in meetings. She therefore asked if decisions were then made subject to input from the officers in a retrospective manner. The Monitoring Officer explained that, for example, if Cabinet tried to make an unlawful decision or one that was outside the budget or policy framework, officers would stop that either at the meeting or prevent it being implemented before the end of the call-in period. If an illegal decision was made statutory officers would need to consult each other to decide the next steps. Usually this could be resolved without a formal report to full Council but that was an option.

Councillor Del Campo commented that it was good to see the recent reduction in complaints. She requested details of the number of complaints that were by a Member about another Member as opposed to by a resident about a Member. The Monitoring Officer agreed to circulate the information to Members of the Panel.

**RESOLVED UNANIMOUSLY: That the Member Standards Panel notes the report.**

#### LOCAL GOVERNMENT ACT 1972 - EXCLUSION OF THE PRESS AND PUBLIC

**RESOLVED: 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**



The meeting, which began at 6.18 pm, finished at 7.27 pm

CHAIRMAN.....

DATE.....

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Report Title:	Monitoring Officer Annual Report
Contains Confidential or Exempt Information	No - Part I
Lead Member:	Councillor Rayner, Deputy Leader of the Council & Cabinet Member for Business, Corporate & Residents Services, Culture & Heritage, & Windsor; Armed Forces Champion
Meeting and Date:	Member Standards Panel 8 June 2022
Responsible Officer(s):	Emma Duncan Monitoring Officer and Deputy Director of Law and Strategy
Wards affected:	All

## 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

### 4. OPTIONS

4.1 Members are asked to note the report.

### 5. CONSULTATION

5.1 N/A

### 6. TIMETABLE FOR IMPLEMENTATION

6.1 Not subject to call in

### 7. APPENDICES

7.1 The report has two Appendices:

- Equalities Impact Assessment
- Monitoring Officer Annual Report 2021/22

## 8. BACKGROUND DOCUMENTS

8.1 This report is supported by 0 background documents:

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

Name of consultee	Post held	Date sent	Date returned
<i>Mandatory: Statutory Officers (or deputies)</i>			
Adele Taylor	Executive Director of Resources/S151 Officer	19/05/22	19/05/22
Emma Duncan	Deputy Director of Law and Strategy / Monitoring Officer	Author	
<i>Deputies:</i>			
Andrew Vallance	Head of Finance (Deputy S151 Officer)	19/05/22	19/05/22
Elaine Browne	Head of Law (Deputy Monitoring Officer)	19/05/22	19/05/22
Karen Shepherd	Head of Governance (Deputy Monitoring Officer)	19/05/22	19/05/22
<i>Mandatory: Procurement Manager (or deputy) - if report requests approval to award, vary or extend a contract</i>			
Lyn Hitchinson	Procurement Manager		
<i>Other consultees:</i>			
<i>Directors (where relevant)</i>			
Duncan Sharkey	Chief Executive	19/05/22	19/05/22
Andrew Durrant	Executive Director of Place		

Kevin McDaniel	Executive Director of Children's Services		
Hilary Hall	Executive Director of Adults, Health and Housing		
<i>Heads of Service (where relevant)</i>			
Nikki Craig	Head of HR Corporate Projects and IT		
Louisa Dean	Communications		
<i>External (where relevant)</i>			
N/A			

Confirmation relevant Cabinet Member(s) consulted		No – statutory officer report
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## REPORT HISTORY

<b>Decision type:</b>	<b>Urgency item?</b>	<b>To follow item?</b>
Member Standards Panel to note	No	No

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

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# ROYAL BOROUGH OF WINDSOR AND MAIDENHEAD

## EQUALITY IMPACT ASSESSMENT

**EqlA : Title of EQIA**

### Essential information

Items to be assessed: (please mark 'x')

Strategy		Policy		Plan		Project		Service/Procedure	X
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Responsible officer	Emma Duncan	Service area	Monitoring Officer	Directorate	Law, Governance, Strategy
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Stage 1: EqlA Screening (mandatory)	Date created: 260522	Stage 2 : Full assessment (if applicable)	Date created : n/a
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**Approved by Head of Service / Overseeing group/body / Project Sponsor:**

*"I am satisfied that an equality impact has been undertaken adequately."*

**Signed by (print):** Emma Duncan

**Dated:** 260522

# ROYAL BOROUGH OF WINDSOR AND MAIDENHEAD

## EQUALITY IMPACT ASSESSMENT

### EqlA : Title of EQIA

#### Guidance notes

##### What is an EqlA and why do we need to do it?

The Equality Act 2010 places a 'General Duty' on all public bodies to have 'due regard' to:

- Eliminating discrimination, harassment and victimisation and any other conduct prohibited under the Act.
- Advancing equality of opportunity between those with 'protected characteristics' and those without them.
- Fostering good relations between those with 'protected characteristics' and those without them.

EqlAs are a systematic way of taking equal opportunities into consideration when making a decision, and should be conducted when there is a new or reviewed strategy, policy, plan, project, service or procedure in order to determine whether there will likely be a detrimental and/or disproportionate impact on particular groups, including those within the workforce and customer/public groups. All completed EqlA Screenings are required to be publicly available on the council's website once they have been signed off by the relevant Head of Service or Strategic/Policy/Operational Group or Project Sponsor.

##### What are the "protected characteristics" under the law?

The following are protected characteristics under the Equality Act 2010: age; disability (including physical, learning and mental health conditions); gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex; sexual orientation.

##### What's the process for conducting an EqlA?

The process for conducting an EqlA is set out at the end of this document. In brief, a Screening Assessment should be conducted for every new or reviewed strategy, policy, plan, project, service or procedure and the outcome of the Screening Assessment will indicate whether a Full Assessment should be undertaken.

##### Openness and transparency

RBWM has a 'Specific Duty' to publish information about people affected by our policies and practices. Your completed assessment should be sent to the Strategy & Performance Team for publication to the RBWM website once it has been signed off by the relevant manager, and/or Strategic, Policy, or Operational Group. If your proposals are being made to Cabinet or any other Committee, please append a copy of your completed Screening or Full Assessment to your report.

##### Enforcement

Judicial review of an authority can be taken by any person, including the Equality and Human Rights Commission (EHRC) or a group of people, with an interest, in respect of alleged failure to comply with the general equality duty. Only the EHRC can enforce the specific duties. A failure to comply with the specific duties may however be used as evidence of a failure to comply with the general duty.



**ROYAL BOROUGH OF WINDSOR AND MAIDENHEAD**  
**EQUALITY IMPACT ASSESSMENT**

**EqlA : Title of EQIA**

**Stage 1 : Screening (Mandatory)**

**1.1 What is the overall aim of your proposed strategy/policy/project etc and what are its key objectives?**

Monitoring Officer Report as required by the Constitution

**1.2 What evidence is available to suggest that your proposal could have an impact on people (including staff and customers) with protected characteristics? Consider each of the protected characteristics in turn and identify whether your proposal is Relevant or Not Relevant to that characteristic. If Relevant, please assess the level of impact as either High / Medium / Low and whether the impact is Positive (i.e. contributes to promoting equality or improving relations within an equality group) or Negative (i.e. could disadvantage them). Please document your evidence for each assessment you make, including a justification of why you may have identified the proposal as “Not Relevant”.**

# ROYAL BOROUGH OF WINDSOR AND MAIDENHEAD

## EQUALITY IMPACT ASSESSMENT

### EqlA : Title of EQIA

Protected characteristics	Relevance	Level	Positive/negative	Evidence
<b>Age</b>	None			Key data: The estimated median age of the local population is 42.6yrs [Source: <a href="#">ONS mid-year estimates 2020</a> ]. An estimated 20.2% of the local population are aged 0-15, and estimated 61% of the local population are aged 16-64yrs and an estimated 18.9% of the local population are aged 65+yrs. [Source: ONS mid-year estimates 2020, taken from <a href="#">Berkshire Observatory</a> ]
<b>Disability</b>	None			
<b>Gender re-assignment</b>	None			
<b>Marriage/civil partnership</b>	None			
<b>Pregnancy and maternity</b>	None			
<b>Race</b>	None			Key data: The 2011 Census indicates that 86.1% of the local population is White and 13.9% of the local population is BAME. The borough has a higher Asian/Asian British population (9.6%) than the South East (5.2%) and England (7.8%). The forthcoming 2021 Census data is expected to show a rise in the BAME population. [Source: 2011 Census, taken from <a href="#">Berkshire Observatory</a> ]
<b>Religion and belief</b>	None			Key data: The 2011 Census indicates that 62.3% of the local population is Christian, 21.7% no religion, 3.9% Muslim, 2% Sikh, 1.8% Hindu, 0.5% Buddhist, 0.4% other religion, and 0.3% Jewish. [Source: 2011 Census, taken from <a href="#">Berkshire Observatory</a> ]
<b>Sex</b>	None			Key data: In 2020 an estimated 49.6% of the local population is male and 50.4% female. [Source: ONS mid-year estimates 2020, taken from <a href="#">Berkshire Observatory</a> ]
<b>Sexual orientation</b>	None			

# ROYAL BOROUGH OF WINDSOR AND MAIDENHEAD

## EQUALITY IMPACT ASSESSMENT

EqlA : Title of EQIA

### Outcome, action and public reporting

Screening Assessment Outcome	Yes / No / Not at this stage	Further Action Required / Action to be taken	Responsible Officer and / or Lead Strategic Group	Timescale for Resolution of negative impact / Delivery of positive impact
Was a significant level of negative impact identified?	No			
Does the strategy, policy, plan etc require amendment to have a positive impact?	No			

If you answered **yes** to either / both of the questions above a Full Assessment is advisable and so please proceed to Stage 2. If you answered “No” or “Not at this Stage” to either / both of the questions above please consider any next steps that may be taken (e.g. monitor future impacts as part of implementation, re-screen the project at its next delivery milestone etc).

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**Monitoring Officer**  
**Annual Report 2021/22**  
**Section Contents**

- 1 Introduction
- 2 The Monitoring Officer's Work April 2021 – March 2022
- 3 Key Messages
- 4 Looking Forward
- 5 Overall opinion on the adequacy and effectiveness of the Governance framework

## **Monitoring Officer Annual Report 2021/22**

### **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 2021 to 31 March 2022 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 2021 – March 2022

- 2.1 Emma Duncan (Deputy Director Law and Governance) has carried out the statutory functions since February 2021. She is supported by two Deputy Monitoring Officers, Elaine Browne (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 Governance Officers Group that meets regularly and provides advice to the authority as a whole on the governance framework and monitors the Annual Governance Statement Action Plan.
- 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 in the past 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 few years to strengthen the governance framework, as acknowledged by the LGA Corporate Peer Challenge in February 2022.
- 2.5 Work continues to engender a robust 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 The governance framework of the Council has been assessed against these key areas by the Statutory Governance Officers and the Action Plan for the annual governance statement is partly derived from this work, together with the CIPFA Guidance. This means the governance framework is actively managed through a risk-based model.

### 3. The Monitoring Officer duties

Duties	Work undertaken
<p><b>1. Maintaining the Constitution.</b></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"> <li>• observed meetings of different parts of the Member and Officer structure;</li> <li>• undertaken an audit trail of a sample of decisions;</li> <li>• recorded and analysed issues raised with him/her by Members, Officers, the public and other relevant stakeholders and</li> <li>• compared practices in this Council with those in other comparable authorities, or national examples of best practice.</li> </ul> <p>The Constitution Working Group has met to consider amendments to the Constitution.</p> <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><b>2. Ensuring lawfulness and fairness of decision making.</b></p>	<p>During the year the Monitoring Officer and her staff have been asked to determine whether decisions and actions proposed or taken by the Council were unlawful. Counsel's advice has</p>



*After consulting with the Head of Paid Service and Director of Resources, the Monitoring Officer will report to the Council or to Cabinet in 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.*

been sought by the Monitoring Officer to clarify the position where necessary and to ensure effective discharge of the function.

A number of issues have arisen during the year and in particular the following have been addressed:

From 9 September 2021, the types of accommodation that could lawfully be used by local authority Social Services departments when placing a looked after child was limited by law to regulated placements under new Regulations. This meant that it became unlawful for local authorities to place a child under the age of 16 in an accommodation which is not regulated by Ofsted and left many local authorities without lawful placements for some looked after children.

The Monitoring Officer was notified by the Executive Director for Children's Services at the end of October that following the granting of a deprivation of liberty order (DOL order) by the High Court in respect of one young person, it was necessary because of the lack of regulated placements, to make a placement in an unregulated setting, in the young person's best interest. Ofsted were notified accordingly. The Statutory Governance Officers Group discussed the issue and noted the placement, determined to keep the issue under review and recommended that the issue be reported in the MO Annual Report.

The position was clarified by caselaw earlier this year which determined that where a young person is subject to a DOL order it is lawful for them to be placed in an unregulated setting.

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One report was made to Cabinet on 10 February 2022 in relation to a delegated decision and the Audit and Governance Committee have been asked to consider the corrective actions.

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The Council is currently subject to a number of judicial reviews of decisions upon which legal advice has been sought. On the basis of that advice it is not considered that any further reporting under the statutory provisions is necessary and this will be kept under review.

	<p>The Monitoring Officer is a member of the Council's Directors' Team, Statutory Governance Officers 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 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 and assess and respond to changes in the legal framework.</p> <p>This has been strengthened this year with the bringing back of the service in house.</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>The Monitoring Officer also requires appropriate recording of delegated authority to evidence compliance with the Constitution. These procedures were reviewed and updated in light of the pandemic and further work is being undertaken currently, in light of the Section 5 report to embed this further.</p> <p>In terms of Ombudsman complaints there have been no cases where maladministration was found; all complaints are detailed in Appendix 1. This reporting discharges the Monitoring Officer responsibility under s5(2)(b) of the Local Government and Housing Act 1989</p>
<p><b>3. Proper Officer for access to information.</b></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>A refresher session is planned on delegated decision making for CLT.</p> <p>There has been one disclosure of confidential information contained in a Cabinet Report.</p>

	Members and Officers have been reminded of their obligations under the Code of Conduct.
<p><b>4. Advising whether Cabinet decisions are within the budget and policy framework in accordance with the requirement under the Budget and Framework Rules.</b></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>	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><b>5. Providing advice.</b></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>	The Monitoring Officer and Deputies regularly advise officers and Members on issues of lawfulness including seeking external legal opinion where necessary.
<p><b>6. Contributing to corporate management.</b></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 Directors' Team, Statutory Governance Officers 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, 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 to underpin decision making. This is part of the Council's Corporate Plan in the "investing in strong foundations" work identified as part of the Council's values.</p> <p>This investment was recognised as having made significant progress in terms of the governance framework in the Corporate Peer Challenge in January 2022.</p>
<b>7. Overseeing breaches of the tendering rules</b>	There are a number of areas where the use of waivers needs to be reviewed to ensure that the Council is getting best value for money.

	These are within the tendering rules. A list of waivers granted within the municipal year is attached at Appendix 2
<b>8. To set out guidance for Directors for the preparation of directorate registers of interests.</b>	The appraisal form has been updated to include this requirement. No issues have arisen.
<b>9. To monitor the operation of the Members' Code of Conduct.</b>	<p>In the current municipal year, the Monitoring officer has received 79 complaints. The number of complaints is significantly up on previous years (36 in 20/21). This is partly due to the number of multiple complaints in relation to one member (18) and a complaint made by one individual in respect of one political grouping (22). The remainder of the matters (39) are almost entirely in relation to matters that are connected to RBWM Members and are spread evenly across the Groups. The majority of complaints do not meet the threshold for investigation – four investigations have taken place. There are a significant number of member to member complaints. Further detail on the complaints appears at Appendix 3.</p> <p>The volume of complaints being received means that officer capacity is often stretched in dealing with complaints that rely on multiple inputs by the complaints team, the complainant, the subject member and the Monitoring Officer or Deputies.</p> <p>The average length of time from receipt of complaint to the issue of the Decision Notice is 76 days.</p>
<b>10. To promote and maintain high standards of conduct by Members, co-opted Members, including church and parent governor representatives</b>	<p>The Corporate Peer Challenge (CPC) identified that Member behaviour and the relationships between the Groups were issues that impacted on the reputation of the Council</p> <p>“There are still issues with continuing “tit for tat” Code of Conduct complaints between members (especially around social media). The Monitoring Officer is addressing this, but there is a reluctance from some Group Leaders to address the poor behaviour of a small number of members. Elected members engagement in</p>

	<p>public needs to be consistently constructive to enable good community engagement, public confidence and demonstrate effective progression on key issues. Group leaders should shape the tone of the political culture, they should be role models for the behaviour that is expected – and needed – across the parties. They should be working with the Monitoring Officer to clarify their roles to drive improved behaviours across all groups including using group structures to support improved behaviour. The Code of Conduct should not be used as a way to settle scores between individuals or seen as a way of abdicating personal responsibility.</p> <p>To attempt to resolve some of the issues with tit for tat complaints mediation routes are being utilised. There are a number of improvement actions identified in the CPC report which will be implemented. Four complaints have been investigated.</p> <p>Members have been provided with training on social media and also been given materials to support them in engaging constructively on social media.</p>
<b>11. To assist Members, co-opted members, including church and parent governor representatives, to observe the Members' Code of Conduct</b>	The Monitoring Officer provides advice to Members around the Code of Conduct and associated probity issues to support high standards of behaviour and this is, in the main, acted upon.
<b>12. To recommend to the Council on the adoption or revision of its Members' Code of Conduct</b>	<p>The LGA Model Code was adopted in May 2021 and this has brought some clarity to the operation of the Code.</p> <p>A small number of correction amendments have been made through delegation during the year.</p>
<b>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;</b>	<p>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 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</p>

	potential risk to the Council as development of Members is a key area for governance. The Corporate Peer Challenge noted the need for a comprehensive induction programme designed in conjunction with the Group Leaders.
<b>12. To consider an annual report on Member Standards by the Monitoring Officer</b>	This is the annual report.
<b>13. To maintain and keep up to date a register of Members' interests</b>	<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>
<b>14. To prepare and keep under review a protocol for managing Member and officer relationships.</b>	Members and CLT have had training on the Member Officer Protocol.

### 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. Delegated authority and procurement are areas that have been addressed and will continue to be addressed in the forthcoming year.
- (iv) The Code of Conduct process is being used for minor issues resulting in large numbers of complaints. This has been abated in the short term but needs to become a more permanent position.

### 4. Looking Forward

The key issues for 2021/22 are as follows:

#### 4.1 Code of Conduct

- 4.1.1 The expectation around Member behaviour particularly around public discourse and the use of social media needs to be reset and there needs to be an understanding around the Code not being used to settle political scores. If successful, this approach should reduce the amount of complaints received.

#### **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.
- 4.3.2 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.
- 4.3.3 The focus this year will be to strengthen understanding and compliance with officer delegated decision making and procurement waivers.

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

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 2021 and March 2022 for the purposes of the latest regulations (subject to the areas outlined above).

Emma Duncan  
Monitoring Officer and Deputy Director for Law and Strategy  
25/04/2022

## **Appendix 1 – complaints to the Ombudsman 2021/22**

<b>Service</b>	<b>Decision outcome</b>	<b>Reason</b>
Communities, Enforcement and Partnerships	Premature referral	not completed RBWM complaints process
Communities, Enforcement and Partnerships Adult Services Planning Strategy and Commissioning	LGSCO did not investigate In progress Evidence of fault In progress	Remedy offered by RBWM
Communities, Enforcement and Partnerships Revenues and Benefits Library and resident services Planning Planning Children's Services Revenues and Benefits Planning Planning Library and resident services Children's Services	Discontinued Investigation LGSCO did not investigate Fault caused LGSCO did not investigate LGSCO did not investigate LGSCO did not investigate LGSCO did not investigate LGSCO did not investigate LGSCO did not investigate LGSCO did not investigate LGSCO did not investigate	Remedy offered by RBWM Alternative appeal route Council to reconsider decision Alternative appeal route Alternative appeal route No evidence of fault Alternative appeal route Alternative appeal route Insufficient evidence of fault Alternative appeal route
Solicitor and Team Leader Revenues and Benefits	LGSCO did not investigate LGSCO did not investigate	Can achieve no meaningful outcome No evidence of fault Unlikely to find fault and cannot investigate
Housing Services Children's Services Revenues and Benefits	LGSCO did not investigate Premature referral No fault	personnel issues not completed RBWM complaints process No fault



Planning Strategy and Commissioning	LGSCO did not investigate LGSCO did not investigate	No evidence of fault and did not meet LGSCO Assessment Code No significant injustice has been caused Insufficient evidence of any significant injustice
Housing Services Children's Services Planning Adult Services	LGSCO did not investigate In progress LGSCO did not investigate Submitted	Out of time and alternative appeal route
Strategy and Commissioning Housing Services Children's Services Planning Children's Services Children's Services Planning	LGSCO did not investigate In progress In progress Premature referral In progress In progress premature referral	No evidence of fault and alternative appeal route  not completed RBWM complaints process  not completed RBWM complaints process
Strategy and Commissioning Children's Services Children's Services Children's Services Strategy and Commissioning Planning Children's Services Communities, Enforcement and Partnerships	LGSCO did not investigate In progress LGSCO did not investigate In progress LGSCO did not investigate LGSCO did not investigate LGSCO did not investigate LGSCO did not investigate	No fault Out of time Insufficient evidence of fault Out of time, alternative appeal route and did not meet Assessment Code Alternative appeal route / Unlikely to find fault and unlikely to achieve more Did not meet Assessment Code. Has not caused the complainant significant injustice

Planning  
Planning  
Adult Services

LGSCO did not investigate  
LGSCO did not investigate  
In progress

Did not meet Assessment Code. No evidence  
of fault  
Old case

## **Appendix 2 – details of procurement waivers**

Service area	Contract details	Value	Reason for waiver
Infrastructure, Sustainability and Economic Growth	Bikeability Training Delivery	£105,000	A tender was carried out for these services in 2021 to which only two suppliers responded. Due to the lack of market interest in RBWM's requirements at this time a further tender at this stage is not a realistic option.
Transformation	PARIS Social Care Case Management System	£172,000	The PARIS Case Management System (CMS) used primarily by Children's and Adult Social Care is at the end of its life and needs urgent replacement. Owing to the scale and complexity of the 6 system, a significant resource commitment is needed to successfully progress further. RBWM, Optalis and AfC have now made this resource commitment and the procurement process has begun. The two-year period is required to allow for supplier engagement, specification and contract writing, tender preparation, tender duration, evaluation, approval, and transition.
IT	Broadband Digital Lines	£275,000	This waiver is for the provision of broadband digital lines (service via the lines, not the physical lines themselves) into the Council's buildings. It is a subsequent waiver to one for the same requirement which was approved in September 2020 covering the period 01/10/2020- 31/03/2022. The current waiver is requesting (now retrospectively as the renewal date for the lines has passed) authority to enter into a three-year contract (on a 1+1+1 basis) with the incumbent covering the period 01/04/2022- 31/03/2025. This will enable the Authority to define its requirements, tender and if the incumbent is unsuccessful at tender to transition to a new provider. If the incumbent is successful at tender then only a 12-month waiver period will be required.

Place	Windsor Vision Project	£50,300	The waiver was seeking authority to appoint a consultant to use a particular approach suitable for the scheme using an Enquiry by Design (EbD) approach which will add value to the project through engagement with key stakeholders and residents as well as presenting a strong, recognisable brand that enhances that of the council as the project develops.
Pension Fund	Custodian Services for the Berkshire Pension Fund	£458,333	The waiver is to cover the period retrospectively from the 01/06/2021 and for the existing rolling contract for a further maximum period of 15 months to 31 March 2023 in order to enable a compliantly tendered contract to be awarded and put in place.
Environmental Services	Dog Warden and Pest Control Services	£291,808	The waiver is to cover a 10-month period (January 2022 to and including October 2022) and to account for the previous period of time during which a waiver was required. The applicable services are statutory dog warden services and a subsidised resident pest control service. The Council has not had a formally procured contract in place for these services since September 2014
Communications	Offsite External Printing	£117,000	The client has spoken with Procurement and will be setting up a meeting in order to progress the requirement

### **Appendix 3 – Code of Conduct complaints**

**Total number of complaints received was 79. It should be noted that there were two sets of complaints that need to be distinguished to adequately reflect the numbers – ONE complainant made the same complaint against multiple members (22), and multiple complainants (18) made the same complaint against ONE member. These have been separately identified in the figures.**

Numbers of complaints by Subject Member

Conservative Group	Liberal Democrat Group	Local Independents Group	Parish Councillors
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16 18 identical complaints about a single member 22 complaints regarding group decision on BLP	7	12	4
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Number of complaints by Complainant

Member of the Public	Conservative Group	Liberal Democrat Group	Local Independents Group	Parish Councillors
58	10	2	8	

Report Title:	Members' Code of Conduct - Constitution Updates June 2022
Contains Confidential or Exempt Information	No - Part I
Lead Member:	Councillor Rayner, Deputy Leader of the Council & Cabinet Member for Business, Corporate & Residents Services, Culture & Heritage, & Windsor; Armed Forces Champion
Meeting and Date:	Member Standards Panel - 8 June 2022
Responsible Officer(s):	Emma Duncan Monitoring Officer and Deputy Director of Law and Strategy
Wards affected:	All



## REPORT SUMMARY

*This report identifies minor changes to the LGA Member Code of Conduct.*

*The Council adopted the LGA Model Code of Conduct in May 2021 and since that time the LGA have made minor amendments to the Code to make it clearer.*

*The recommendation is to recommend to full Council the amendments identified in Appendix B.*

### 1. DETAILS OF RECOMMENDATION(S)

**RECOMMENDATION:** That the Member Standards Panel notes the report and recommends to full Council the proposed amendments detailed in Appendix B.

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

- 2.1 The reason for the recommendation to ensure that the Council maintains a Code which is up to date.
- 2.2 The other Options considered was to not update the Code, but then it would not reflect the current up to date model LGA Code, which is not the preferred option.

### 3. KEY IMPLICATIONS

- 3.1 The Code will be current and up to date, which strengthens governance.
- 3.2 There are no financial or legal implications.

#### 4. OPTIONS

4.1 Members are asked to recommend the amendments to full Council.

#### 5. CONSULTATION

5.1 N/A

#### 6. TIMETABLE FOR IMPLEMENTATION

6.1 Not subject to call in

#### 7. APPENDICES

7.1 The report is supported by two Appendices:

- Appendix A - EQIA
- Appendix B - Proposed amendments to the Members Code of Conduct

#### 8. BACKGROUND DOCUMENTS

8.1 This report is supported by 0 background documents:

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

Name of consultee	Post held	Date sent	Date returned
<i>Mandatory: Statutory Officers (or deputies)</i>			
Adele Taylor	Executive Director of Resources/S151 Officer	26/5/22	27/5/22
Emma Duncan	Deputy Director of Law and Strategy / Monitoring Officer	Author	
<i>Deputies:</i>			
Andrew Vallance	Head of Finance (Deputy S151 Officer)	26/5/22	
Elaine Browne	Head of Law (Deputy Monitoring Officer)	26/5/22	27/5/22
Karen Shepherd	Head of Governance (Deputy Monitoring Officer)	26/5/22	27/5/22
<i>Mandatory: Procurement Manager (or deputy) - if report requests</i>			

<i>approval to award, vary or extend a contract</i>			
Lyn Hutchinson	Procurement Manager		
<i>Other consultees:</i>			
<i>Directors (where relevant)</i>			
Duncan Sharkey	Chief Executive		
Andrew Durrant	Executive Director of Place		
Kevin McDaniel	Executive Director of Children's Services		
Hilary Hall	Executive Director of Adults, Health and Housing		
<i>Heads of Service (where relevant)</i>			
<i>External (where relevant)</i>			
N/A			

Confirmation relevant Cabinet Member(s) consulted		No – statutory officer report
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## REPORT HISTORY

<b>Decision type:</b>	<b>Urgency item?</b>	<b>To follow item?</b>
Member Standards Panel to recommend to full Council	No	No

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

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# ROYAL BOROUGH OF WINDSOR AND MAIDENHEAD

## EQUALITY IMPACT ASSESSMENT

**EqlA : Title of EQIA**

### Essential information

**Items to be assessed: (please mark 'x')**

Amendments to Member Code of Conduct

<b>Strategy</b>		<b>Policy</b>		<b>Plan</b>		<b>Project</b>		<b>Service/Procedure</b>	X
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<b>Responsible officer</b>	Emma Duncan	<b>Service area</b>	Monitoring Officer	<b>Directorate</b>	Law, Governance, Strategy
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<b>Stage 1: EqlA Screening (mandatory)</b>	Date created: 260522	<b>Stage 2 : Full assessment (if applicable)</b>	Date created : n/a
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**Approved by Head of Service / Overseeing group/body / Project Sponsor:**

*"I am satisfied that an equality impact has been undertaken adequately."*

**Signed by (print):** Emma Duncan

**Dated:** 260522

# ROYAL BOROUGH OF WINDSOR AND MAIDENHEAD

## EQUALITY IMPACT ASSESSMENT

### EqlA : Title of EQIA

#### Guidance notes

##### What is an EqlA and why do we need to do it?

The Equality Act 2010 places a 'General Duty' on all public bodies to have 'due regard' to:

- Eliminating discrimination, harassment and victimisation and any other conduct prohibited under the Act.
- Advancing equality of opportunity between those with 'protected characteristics' and those without them.
- Fostering good relations between those with 'protected characteristics' and those without them.

EqlAs are a systematic way of taking equal opportunities into consideration when making a decision, and should be conducted when there is a new or reviewed strategy, policy, plan, project, service or procedure in order to determine whether there will likely be a detrimental and/or disproportionate impact on particular groups, including those within the workforce and customer/public groups. All completed EqlA Screenings are required to be publicly available on the council's website once they have been signed off by the relevant Head of Service or Strategic/Policy/Operational Group or Project Sponsor.

##### What are the "protected characteristics" under the law?

The following are protected characteristics under the Equality Act 2010: age; disability (including physical, learning and mental health conditions); gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex; sexual orientation.

##### What's the process for conducting an EqlA?

The process for conducting an EqlA is set out at the end of this document. In brief, a Screening Assessment should be conducted for every new or reviewed strategy, policy, plan, project, service or procedure and the outcome of the Screening Assessment will indicate whether a Full Assessment should be undertaken.

##### Openness and transparency

RBWM has a 'Specific Duty' to publish information about people affected by our policies and practices. Your completed assessment should be sent to the Strategy & Performance Team for publication to the RBWM website once it has been signed off by the relevant manager, and/or Strategic, Policy, or Operational Group. If your proposals are being made to Cabinet or any other Committee, please append a copy of your completed Screening or Full Assessment to your report.

##### Enforcement

Judicial review of an authority can be taken by any person, including the Equality and Human Rights Commission (EHRC) or a group of people, with an interest, in respect of alleged failure to comply with the general equality duty. Only the EHRC can enforce the specific duties. A failure to comply with the specific duties may however be used as evidence of a failure to comply with the general duty.

**ROYAL BOROUGH OF WINDSOR AND MAIDENHEAD**  
**EQUALITY IMPACT ASSESSMENT**

**EqlA : Title of EQIA**

**Stage 1 : Screening (Mandatory)**

**1.1 What is the overall aim of your proposed strategy/policy/project etc and what are its key objectives?**

Amendments to Code of Conduct

**1.2 What evidence is available to suggest that your proposal could have an impact on people (including staff and customers) with protected characteristics? Consider each of the protected characteristics in turn and identify whether your proposal is Relevant or Not Relevant to that characteristic. If Relevant, please assess the level of impact as either High / Medium / Low and whether the impact is Positive (i.e. contributes to promoting equality or improving relations within an equality group) or Negative (i.e. could disadvantage them). Please document your evidence for each assessment you make, including a justification of why you may have identified the proposal as “Not Relevant”.**

# ROYAL BOROUGH OF WINDSOR AND MAIDENHEAD

## EQUALITY IMPACT ASSESSMENT

### EqlA : Title of EQIA

Protected characteristics	Relevance	Level	Positive/negative	Evidence
<b>Age</b>	None			Key data: The estimated median age of the local population is 42.6yrs [Source: <a href="#">ONS mid-year estimates 2020</a> ]. An estimated 20.2% of the local population are aged 0-15, and estimated 61% of the local population are aged 16-64yrs and an estimated 18.9% of the local population are aged 65+yrs. [Source: <a href="#">ONS mid-year estimates 2020</a> , taken from <a href="#">Berkshire Observatory</a> ]
<b>Disability</b>	None			
<b>Gender re-assignment</b>	None			
<b>Marriage/civil partnership</b>	None			
<b>Pregnancy and maternity</b>	None			
<b>Race</b>	None			Key data: The 2011 Census indicates that 86.1% of the local population is White and 13.9% of the local population is BAME. The borough has a higher Asian/Asian British population (9.6%) than the South East (5.2%) and England (7.8%). The forthcoming 2021 Census data is expected to show a rise in the BAME population. [Source: 2011 Census, taken from <a href="#">Berkshire Observatory</a> ]
<b>Religion and belief</b>	None			Key data: The 2011 Census indicates that 62.3% of the local population is Christian, 21.7% no religion, 3.9% Muslim, 2% Sikh, 1.8% Hindu, 0.5% Buddhist, 0.4% other religion, and 0.3% Jewish. [Source: 2011 Census, taken from <a href="#">Berkshire Observatory</a> ]
<b>Sex</b>	None			Key data: In 2020 an estimated 49.6% of the local population is male and 50.4% female. [Source: <a href="#">ONS mid-year estimates 2020</a> , taken from <a href="#">Berkshire Observatory</a> ]
<b>Sexual orientation</b>	None			

# ROYAL BOROUGH OF WINDSOR AND MAIDENHEAD

## EQUALITY IMPACT ASSESSMENT

EqlA : Title of EQIA

### Outcome, action and public reporting

Screening Assessment Outcome	Yes / No / Not at this stage	Further Action Required / Action to be taken	Responsible Officer and / or Lead Strategic Group	Timescale for Resolution of negative impact / Delivery of positive impact
Was a significant level of negative impact identified?	No			
Does the strategy, policy, plan etc require amendment to have a positive impact?	No			

If you answered **yes** to either / both of the questions above a Full Assessment is advisable and so please proceed to Stage 2. If you answered “No” or “Not at this Stage” to either / both of the questions above please consider any next steps that may be taken (e.g. monitor future impacts as part of implementation, re-screen the project at its next delivery milestone etc).

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APPENDIX B

**PART 7 – THE CODES, PROTOCOLS  
AND ADVICE**

**A – MEMBERS' CODE OF CONDUCT**

## **Royal Borough of Windsor & Maidenhead Members' Code of Conduct**

### **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 subcommittee 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.

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

### **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 your or your local authority's ability to discharge your/it's 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 £25 within 28 days of its receipt.**
- 10.3 I register with the Monitoring Officer any multiple or recurring gift or hospitality (with an individual value of less than £25 but a combined total of £50 over a three-month period) received from an individual or group, within 28 days of its receipt.**
- 10.4 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~~
- c. a financial interest or well-being of a body included under Other Registrable Interests as set out in Table 2

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

9. Where a matter (referred to in paragraph 8 above) **affects** ~~the 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 an Other Registrable Interest or Non-Registrable 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. 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
<b>Employment, office, trade, profession or vocation</b>	Any employment, office, trade, profession or vocation carried on for profit or gain. [Any unpaid directorship.]

<b>Subject</b>	<b>Description</b>
<b>Sponsorship</b>	<p>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.</p> <p>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.</p>
<b>Contracts</b>	<p>Any contract made between 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 (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 which has not been fully discharged</p>
<b>Land and Property</b>	<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>
<b>Licenses</b>	<p>Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer</p>

Subject	Description
<b>Corporate tenancies</b>	Any tenancy where (to the councillor's knowledge)— (a) the landlord is the council; and 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.
<b>Securities</b>	Any beneficial interest in securities* of a body where— (a) that body (to the councillor's knowledge) has a place of business or land in the area of the council; 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 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 spouses/civil partners has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

\* '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 must register as an Other Registerable Interest:

a) any unpaid directorships

b ) any body of which you are a member or are in a position of general control or management and to which you are nominated or appointed by your authority

c) any body

(i) exercising functions of a public nature

(ii) 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)

of which you are a member or in a position of general control or management

~~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~~

~~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.

## **Appendix D**

### **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?<sup>1</sup>
- 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.
- 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:

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<sup>1</sup> See guidance at Appendix 4

- 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 E**

### **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.

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

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