



Committee: STANDARDS COMMITTEE
Date: THURSDAY 25th APRIL 2013
Venue: LANCASTER TOWN HALL
Time: 6.00 P.M.

A G E N D A

1. **Apologies for Absence**

2. **Minutes**

Minutes of meeting held on 24th January 2013 (previously circulated).

3. **Items of Urgent Business authorised by the Chairman**

4. **Declarations of Interest**

To receive declarations by members of interests in respect of items on this agenda.

Members are reminded that, in accordance with the Localism Act 2011, they are required to declare any disclosable pecuniary interests which have not already been declared in the council's Register of Interests. (It is a criminal offence not to declare a disclosable pecuniary interest either in the register or at the meeting).

Whilst not a legal requirement, in accordance with Council Procedure Rule 10 and in the interests of clarity and transparency, members should declare any disclosable pecuniary interests which they have already declared in the register, at this point in the meeting.

In accordance with Part B Section 2 of the Code Of Conduct, members are required to declare the existence and nature of any other interests as defined in paragraphs 8(1) or 9(2) of the Code of Conduct.

5. **Press Protocol (Pages 1 - 5)**

Report of the Monitoring Officer.

6. **Amendment of the Descriptions of the Seven General Principles of Conduct (Pages 6 - 10)**

Report of the Monitoring Officer.

7. **Review of the Protocol of Member/Officer Relations (Pages 11 - 30)**

Report of the Monitoring Officer.

8. **Openness and Transparency on Personal Interests: A Guide for Councillors** (Pages 31 - 44)

Report of the Monitoring Officer.

9. **Exclusion of the Press and Public**

The Committee is recommended to pass the following recommendations in relation to the following items:

“That, in accordance with Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following item of business, on the grounds that it could involve the possible disclosure of exempt information, as defined in paragraph 1 of Schedule 12A of that Act.”

Members are reminded that, whilst the following item have been marked as exempt, it is for the committee itself to decide whether or not to consider each of them in private or in public. In making the decision, members should consider the relevant paragraph of Schedule 12A of the Local Government Act 1972, and also whether the public interest in maintaining the exemption outweighs the public interest in disclosing the information. In considering their discretion members should also be mindful of the advice of council officers.

10. **Summary of Complaints** (Pages 45 - 47)

Report of the Monitoring Officer

ADMINISTRATIVE ARRANGEMENTS

(i) Membership

Councillors Roger Sherlock (Chairman), Roger Mace (Vice-Chairman), Chris Coates, Sheila Denwood, Billy Hill, Joyce Taylor and David Whitaker

(ii) Substitute Membership

Councillors Shirley Burns (Substitute), Roger Dennison (Substitute), Paul Gardner (Substitute), Kathleen Graham (Substitute), Andrew Kay (Substitute) and Peter Williamson (Substitute)

(iii) Queries regarding this Agenda

Please contact Peter Baines, Democratic Services - telephone 01524 582074 or email pbaines@lancaster.gov.uk.

(iv) Changes to Membership, substitutions or apologies

Please contact Members' Secretary, telephone 582170, or alternatively email memberservices@lancaster.gov.uk.

MARK CULLINAN,
CHIEF EXECUTIVE,
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DALTON SQUARE,
LANCASTER, LA1 1PJ

Published on Wednesday 17th April 2013.

STANDARDS COMMITTEE**PRESS PROTOCOL
25th April 2013****Report of the Monitoring Officer****PURPOSE OF REPORT**

To enable members to give further consideration to the draft Press Protocol presented at the last meeting of the Committee.

This report is public

RECOMMENDATIONS

- (1) **That the Committee approve the Protocol for dealing with press enquiries about complaints to the Standards Committee, appended to this report.**

1.0 Introduction

- 1.1 At its meeting on the 24th January 2013, the Committee considered a draft Protocol prepared by the Monitoring Officer for dealing with press enquiries about complaints to the Standards Committee. The Protocol reflected the comments that had been made by the Committee at its meeting in October 2012. A copy of the draft Protocol is appended to this report.
- 1.2 The Committee, in considering the draft protocol in January noted that later in the agenda for that meeting, there was an item where the appeals process had been used and members agreed that, in cases where standards complaints had been upheld against a councillor, the decision should not be made public until the person complained about had had the opportunity to go through the appeals process. In view of this, members considered adding wording to the protocol at the end of point 7: "...for release after any period for an appeal be lodged."
- 1.3 The Democratic Services Manager pointed out that the agenda item in question related to a complaint dealt with under an appeals process which was part of the old standards framework and this system had now been replaced. It was therefore agreed that the Democratic Services Manager should report back to members on whether or not an appeals process existed under the new framework and the protocol be brought back to the next meeting for consideration.
- 1.4 Members will recall that under the old standards regime there was a right of appeal to an external body, the Adjudication Panel for England, subsequently renamed the First Tier Tribunal (Local Government Standards in England),

against a finding by the Standards Committee of breach of the Code, or against any sanction imposed. That right of appeal no longer exists under the new standards regime implemented under the Localism Act 2011, and the sanctions that can be imposed are of course more restricted under the new regime. Whilst it is possible that a decision of the Standards Committee could be the subject of judicial review, this is perhaps unlikely, given the cost of such proceedings, and there is no other means of appeal.

- 1.5 Accordingly, the Monitoring Officer's advice is that the amendment to paragraph 7 of the Protocol, suggested at the last meeting is not necessary or appropriate, and the Monitoring Officer's advice would be that the Protocol be approved as drafted.

2.0 Conclusion

- 5.1 The Committee is asked to approve the draft Protocol as appended to this report.

CONCLUSION OF IMPACT ASSESSMENT

(including Health & Safety, Equality & Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)

The Protocol seeks to balance the rights of those who may be the subject of a complaint, and the integrity of the investigation process, with the rights of freedom of speech and public interest in transparency.

LEGAL IMPLICATIONS

Under the Localism Act 2011 there is no statutory provision in respect of the complaints process, and any protocols are a matter for the Committee to determine.

FINANCIAL IMPLICATIONS

There are no financial implications directly arising from this report.

OTHER RESOURCE IMPLICATIONS

Human Resources:

None

Information Services:

None

Property:

None

Open Spaces:

None

SECTION 151 OFFICER'S COMMENTS

The Section 151 Officer has been consulted and has no further comments.

MONITORING OFFICER'S COMMENTS

The report has been prepared by the Monitoring Officer in her role as adviser to the Committee.

BACKGROUND PAPERS

None

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**PROTOCOL FOR DEALING WITH PRESS ENQUIRIES ABOUT
COMPLAINTS TO THE STANDARDS COMMITTEE**

1. A new standards regime was introduced by the Localism Act 2011, replacing the previous statutory regime under the Local Government Act 2000.
2. Lancaster City Council has within its Constitution a "Protocol on Publicity for Complaints made to the Standards Committee". This recommends that Members should not make any public or press comment about any complaint which they have made, are aware of, or are the subject of, until the complaint has been resolved. The Protocol acknowledges, however, that it cannot bind members of the public, and that there may be situations where a complaint becomes known to the public through the press or some other medium. In these circumstances, the Protocol does not preclude the Member who is the subject of the complaint from making a press comment, although the Member should carefully consider the appropriateness of so doing.
3. The Standards Committee's arrangements for dealing with allegations of breach of the Code of Conduct enable the matter to be resolved informally at the outset if possible. Otherwise, a complaint will be assessed by the Monitoring Officer in consultation with the Independent Person, the Chairman of the Standards Committee, and, if appropriate, the Chief Executive. In some cases the Monitoring Officer may ask the full Standards Committee to assess a complaint. The assessment process will determine whether the complaint is to be referred for investigation, or whether no action is to be taken. If the press become aware of a complaint at this assessment stage, and make enquiries of the Council, the response will be given that it is not the Council's policy to comment on whether or not a complaint has been made, but that all complaints are considered in accordance with the arrangements approved by the Standards Committee. Accordingly, no confirmation will be given, prior to assessment, as to whether a complaint has been received or not.
4. The Standards Committee will at its scheduled quarterly meetings receive a report on the complaints received and the action taken on them. This report will be exempt from publication under paragraph 1 of Schedule 12A of the Local Government Act 1972, and information will not be provided to the press.
5. Where no action is to be taken on a complaint and the press become aware of the identity of the member complained of, the Monitoring Officer will liaise with the member complained of as to what response should be given.
6. Where a complaint is referred for investigation, no comment will be made on behalf of the Standards Committee until after the matter has been resolved, other than to confirm that a complaint is being investigated. The member who is the subject of the complaint/investigation will be informed of the press enquiry, and may consider whether or not to comment, in accordance with the Members' Protocol on publicity for complaints to the Standards Committee (see para 2 above).
7. Following an investigation, a complaint will generally be resolved after consideration of the investigation report by the Committee. If the investigator's finding is that there has been a breach of the Code of Conduct, there will be a hearing before the Committee. The hearing is likely to be held in public, although

the press and public may be excluded if any exempt or confidential information would be disclosed. The press and public will also be excluded during the Sub-Committee's deliberations. Where a complaint is resolved after investigation, the Committee will consider, as part of its deliberations, whether a press statement should be made by the Committee.

8. Where the Member complained of is a member of a parish council, the City Council will inform the clerk to the relevant parish council of any press enquiry received at any stage of the procedure and how it is being dealt with.
9. The foregoing is a general summary of how the Council will deal with press enquiries relating to complaints received by the Standards Committee. Any information that may be provided to the press may depend on the particular circumstances of a complaint. The Council will seek to balance the public interest in openness and transparency with the need to uphold natural justice and human rights, to protect confidential information and safeguard the integrity of any investigation.

STANDARDS COMMITTEE**Amendment of the Descriptions of the Seven General Principles of Conduct
25th April 2013****Report of the Monitoring Officer****PURPOSE OF REPORT**

To advise members of changes made by the Committee on Standards in Public Life to the descriptions of the seven general principles of conduct, and to enable the Committee to consider recommending Council to amend the preamble to the Code of Conduct accordingly.

This report is public

RECOMMENDATIONS

(1) That Council be recommended to amend the Preamble to the Members' Code of Conduct in Part 7 Section 2 of the Constitution, to incorporate the amendments of the descriptions of the seven general principles of conduct, made by the Committee on Standards in Public Life in its 14th report published in January 2013.

1.0 Introduction

- 1.1 The Localism Act 2011 requires that a Council's code of conduct must be consistent with seven principles: selflessness, integrity, objectivity, accountability, openness, honesty and leadership. These principles were established by the Committee on Standards in Public Life under the chairmanship of Lord Nolan in 1995. That Committee formulated descriptions for the seven principles, and these were incorporated in the Preamble to the Council's Code of Conduct for Members, as set out in Appendix 1 to this report.
- 1.2 The Committee on Standards in Public Life, in its fourteenth report published in January 2013, reviewed the seven principles, and took the view that changing the principles now would be both pointless and unnecessary. However, the Committee felt that leaving the principles unchanged did not mean that the words used to describe them could not be changed.
- 1.3 The Committee felt that since the seven principles were first formulated, understanding of the meaning of certain words has developed. The Committee considered comments made during the course of their review, and previously, which suggested that there were a number of areas where the descriptions of the seven principles could usefully be brought up to date.
- 1.4 For example, the description of the present formulation of honesty refers to

holders of public office having a duty to declare any conflicts of interest. The Committee felt that avoidance of conflicts of interest fits more obviously into our current understanding of integrity. Most people today would expect honesty to have a much broader meaning, focusing on truthfulness. The Committee felt that this has particular resonance at the present time since a number of issues of current concern have involved allegations of inappropriate behaviour being covered up.

- 1.5 Discussion around the importance of public office-holders making decisions on merit tends to refer more frequently to impartiality than to objectivity. The Committee thought it would be helpful to include impartiality in the description of the meaning of objectivity.
- 1.6 Equality of opportunity has become even more of a central tenet of thinking about ethics and values in the period since the principles were first established. The Committee thought it would be helpful to make clearer that objectivity requires giving full regard to the importance of equality of opportunity and fair treatment, irrespective of individual characteristics such as disability, race, gender or sexual orientation.
- 1.7 Public office-holders sometimes need to show courage in speaking up about difficult issues, speaking “truth to power” and making or sticking by difficult decisions. The Committee saw this as a key element of ethical leadership and amended the description of leadership accordingly.
- 1.8 The revised descriptions of the seven principles which the Committee will use in all future publications are set out in Appendix 2 to this report.

2.0 Proposal Details

- 2.1 For the sake of consistency, it would seem appropriate for the descriptions of the seven principles which will in future be used nationally by the Committee on Standards in Public Life, to be incorporated in the preamble to the Council’s Code of Conduct. This will ensure that it reflects the up to date interpretation of the seven principles which overarch the Code of Conduct.
- 2.2 The Code of Conduct may only be amended by Council, and it the Committee is asked therefore to recommend Council to amend the Preamble to the Code to incorporate the new descriptions of the seven principles.

3.0 Details of Consultation

- 3.1 There has been no consultation. The amendments were introduced by the Committee on Standards in Public Life on the basis of its own review and consultations.

4.0 Conclusion

- 4.1 The Committee is asked to make the appropriate recommendation to Council.

CONCLUSION OF IMPACT ASSESSMENT

(including Health & Safety, Equality & Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)

None directly arising from this report.

LEGAL IMPLICATIONS

The proposed amendment is not a legal requirement, but is recommended in the interests of

consistency with national interpretation of the seven principles.

FINANCIAL IMPLICATIONS

None directly arising from this report.

OTHER RESOURCE IMPLICATIONS

Human Resources:

None

Information Services:

None

Property:

None

Open Spaces:

None

SECTION 151 OFFICER'S COMMENTS

The Section 151 Officer has been consulted and has no further comments.

MONITORING OFFICER'S COMMENTS

The report has been prepared by the Monitoring Officer in her role as adviser to the Standards Committee.

BACKGROUND PAPERS

None

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SEVEN GENERAL PRINCIPLES OF CONDUCT

The Code is intended to be consistent with the following seven principles, as required by the Act.

Selflessness

Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

Integrity

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

Objectivity

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards or benefits, holders of public office should make choices on merit.

Accountability

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

Openness

Holders of public office should be as open as possible about the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands

Honesty

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest

Leadership

Holders of public office should promote and support these principles by leadership and by example, and should act in a way that secures or preserves public confidence.

CODE OF CONDUCT

Appendix 2

Principle	Revised description
<i>Preamble</i>	The principles of public life apply to anyone who works as a public office-holder. This includes all those who are elected or appointed to public office, nationally and locally, and all people appointed to work in the civil service, local government, the police, courts and probation services, NDPBs, and in the health, education, social and care services. All public office-holders are both servants of the public and stewards of public resources. The principles also have application to all those in other sectors delivering public services.
<i>Selflessness</i>	Holders of public office should act solely in terms of the public interest.
<i>Integrity</i>	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 declare and resolve any interests and relationships.
<i>Objectivity</i>	Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.
<i>Accountability</i>	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.
<i>Openness</i>	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.
<i>Honesty</i>	Holders of public office should be truthful.
<i>Leadership</i>	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.

STANDARDS COMMITTEE**Review of the Protocol on Member/Officer Relations
25th April 2013****Report of the Monitoring Officer****PURPOSE OF REPORT**

To enable the Committee to review the Protocol on Member/Officer Relations.

This report is public

RECOMMENDATIONS

(1) That in accordance with the request of the Council Business Committee, the Committee review the Protocol on Member/Officer Relations, with a view to recommending an amended Protocol to the Council Business Committee for inclusion in the Constitution.

1.0 Introduction

1.1 At its meeting on the 14th March 2013, the Council Business Committee considered a report from the Chief Executive on officer advice to groups of members. A copy of the report is appended to this report at Appendix 1. It will be noted that extracts from the Protocol on Member/Officer Relations were referred to in the report .

1.2 The Business Committee noted that the report was written following discussion with some members about the differences in briefing received by different political groups, depending on if and when information was requested by a political group. Information requested by one group was not routinely passed to others unless there was a request from that group for the information to be shared with others.

1.3 The Committee resolved as follows:

(1) That the Standards Committee be requested to review the Protocol on Member / Officer Relations, which had changed little over the past ten years and was out of date.

(2) That, as part of the review, the Standards Committee be recommended to ensure that the protocol was clear about how members could request that information provided to them by officers was also provided to other political groups on the council. This applied to both confidential and non-confidential information.

1.4 The Standards Committee last reviewed the Protocol on Member/Officer Relations in January 2010, and a copy of the current version is attached as Appendix 2.

1.5 The Monitoring Officer has reviewed the document and has suggested some possible amendments which are tracked in the version at Appendix 3.

2.0 Proposal Details

2.1 The Committee is asked to review the Protocol, to consider the amendments proposed in Appendix 3, and to consider whether any other amendments are required.

3.0 Details of Consultation

3.1 There has been no consultation. The review has been requested by the Council Business Committee.

4.0 Options and Options Analysis (including risk assessment)

4.1 The options open to the Committee are to approve a revised Protocol at this meeting, or, if further detailed amendments or review are required, to request the Monitoring Officer to prepare an amended version for further consideration at the Committee's next meeting.

5.0 Conclusion

5.1 The views of the Committee are sought.

**CONCLUSION OF IMPACT ASSESSMENT
(including Health & Safety, Equality & Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)**

None arising directly from this report.

LEGAL IMPLICATIONS

The Protocol is not a legal requirement. It provides guidance, and is not legally enforceable.

FINANCIAL IMPLICATIONS

There are no financial implications directly arising from this report.

OTHER RESOURCE IMPLICATIONS

Human Resources:

None

Information Services:

None

Property:

None

Open Spaces:

None

SECTION 151 OFFICER'S COMMENTS

The Section 151 Officer has been consulted and has no further comments.

MONITORING OFFICER'S COMMENTS

The report has been prepared by the Monitoring Officer in her capacity as adviser to the Standards Committee.

BACKGROUND PAPERS

None

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Ref:

COUNCIL BUSINESS COMMITTEE

**Officer Advice to Groups of Members
14 March 2013**

Report of Chief Executive

PURPOSE OF REPORT

To allow members to consider whether they wish to change the current rules regarding officer advice to groups of members by amending the Council's Constitution

This report is public

RECOMMENDATIONS OF THE CHIEF EXECUTIVE

(1) That Members' views be sought.

1.0 Introduction

- 1.1 I have agreed to produce a report for consideration by the Committee regarding that part of the Protocol on Member/Officer Relations which relates to Officer Advice to Groups of Members (extracted paragraphs 3.1 to 3.4 below refer). This follows discussions with some Members about the differences in briefing received by different political groups on the Council depending on if and when information is requested by a political group. Information specifically requested by one group is not routinely passed to other groups, unless there is a specific request from that group for the information to be shared with other groups.
- 1.2 Members will note that this section of the Constitution is a little out of date, although it was reviewed by the Standards Committee in 2010. Standards Committee's Terms of Reference include advising on and reviewing any local protocols regulating the conduct of Members.
- 1.3 If Members decide to review these sub-sections of the Protocol then, at the same time, it may be decided to ask the Standards Committee to review the Protocol as a whole, as it has changed little in the last ten years.
- 1.4 The full Protocol is attached as **Appendix A**.
- 1.5 Paragraph 3 currently states:

3. OFFICER ADVICE TO GROUPS OF MEMBERS

- 3.1 *It is common practice for political groups to give preliminary consideration to matters of Council business in advance of such matters being considered. As an example, the Council's four-month Forward Plan will identify the Key Decisions that the Cabinet will be considering in that time. Individual Members and/or groups of Members may properly call upon Officers to support and provide factual advice to their deliberations. The support provided by Officers can take many forms, ranging from a briefing meeting prior to a committee meeting, to a presentation to a full group meeting.*

Briefing of political groups should only be undertaken by the Chief Executive, Deputy Chief Executive or Service Heads, or with the approval of the Chief Executive.

3.2 *Certain points must, however, be clearly understood by all those participating in this type of process, Members and Officers alike. In particular:*

(a) *Officer support in these circumstances must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of a 'political' nature. Officers are not expected to be present at meetings, or parts of meetings, where matters of political business are to be discussed.*

(b) *Similarly, where Officers provide information and advice to a group of Members meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the Cabinet, Overview and Scrutiny or other Committee meeting when the matter in question is considered.*

3.3 *Officers must respect the confidentiality of any group discussions at which they are present in the sense that they should not relay the content of any such discussion to another group of Members.*

3.4 *Any particular cases of difficulty or uncertainty in this area of Officer advice to groups of Members should be raised with the Chief Executive or, in his absence, the Council's Monitoring Officer, who will discuss them with the relevant Group Leader(s).*

2.0 Proposal Details

2.1 Paragraph 3.1 needs to be amended to reflect the fact that Regulations implemented in September 2012 no longer provide for a four month Forward Plan. Officers are currently reviewing the Constitution to amend such references and to ensure that it reflects the wording of the current Regulations.

2.2 Members are asked to consider whether any further changes are required to the current rules, particularly at paragraph 3.1.

CONCLUSION OF IMPACT ASSESSMENT

(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)

None arising directly as a result of this report.

LEGAL IMPLICATIONS

None arising directly as a result of this report.

FINANCIAL IMPLICATIONS

None arising directly as a result of this report.

OTHER RESOURCE IMPLICATIONS

Human Resources:

None

Information Services:

None

Property:

None

Open Spaces:

None

SECTION 151 OFFICER'S COMMENTS

The Section 151 Officer has been consulted and has no further comments.

MONITORING OFFICER'S COMMENTS

The Monitoring Officer has been consulted and has no further comments.

BACKGROUND PAPERS

None

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Part 7, Section 6

Protocol on Member/Officer Relations

Appendix 2

1. INTRODUCTION

- 1.1 The purpose of this protocol is to guide Members and Officers in their relations with one another, to define their respective roles and to provide guidance for dealing with particular issues that may most commonly arise or cause concern.
- 1.2 However, given the variety and complexity of such relations, this protocol does not seek to be either prescriptive or exhaustive. It is hoped that the general approach set out in the protocol will serve as a guide in dealing with other issues that may not be specifically covered.
- 1.3 The protocol also seeks to reflect the principles underlying the respective Codes of Conduct which apply to Members and Officers. The shared object of these Codes is to enhance and maintain the integrity of local government and they therefore demand very high standards of personal conduct.

2. ROLE OF MEMBERS AND OFFICERS

- 2.1 Both Members and Officers are servants of the public and they are indispensable to one another, but their responsibilities are distinct. Members are responsible to the electorate and serve only so long as their term of office lasts. Officers are responsible to the Council as a whole, and they are accountable to the Chief Executive. Their job is to give advice to Members and the Council, and to carry out the Council's work under the direction and control of the Council and Cabinet, and the various Committees.
- 2.2 The Council's Constitution sets out the clear distinction between the roles of Members and Officers. Members will perform roles on the Cabinet, and on the Regulatory and Overview and Scrutiny and other Committees, in addition to sitting as members of the full Council. They may also represent the Council on outside bodies. Officers are employed by and serve the whole Council, and are accountable to the Chief Executive. They provide support to the executive, scrutiny and regulatory functions of the Council, providing impartial advice and implementing the decisions of the Council, the Cabinet and Committees. They may also make decisions under powers delegated to them.
- 2.3 Members should not get involved in the day to day operational management of services. Equally, Officers should not get involved in politics.
- 2.4 Officers are responsible for advising on and implementing policies, and for the delivery of services in the manner that they consider is most appropriate given their managerial and professional expertise. Members would not be expected to be involved in the detail of implementation, but can expect reports on progress, and in certain circumstances, at Overview and Scrutiny meetings, can require Chief Officers to account for their decisions.
- 2.5 It is appropriate, however, for Members to propose initiatives and ideas about how things can be done better. It is essential that existing ways of doing things are challenged and reviewed. This needs to be done in a professional and constructive environment. The Constitution sets out the procedures for both the Cabinet and Overview and Scrutiny to review existing policies and bring forward new policy initiatives. The procedural rules also set out the process for Officer involvement with the Cabinet, the Regulatory Committees and the Overview and Scrutiny.

2.6 Mutual respect between Members and Officers is essential to good local government. It is important in all dealings between Members and Officers that both should observe reasonable and consistent standards of courtesy and that neither party should seek to take advantage of their position. Close personal familiarity between individual Members and Officers can damage this relationship and prove embarrassing to other Members and Officers.

2.7 The general obligations in the Members' Code of Conduct include a requirement to treat others with respect, and not to do anything which compromises or is likely to compromise the impartiality of those who work for or on behalf of the authority. There is also a requirement for Members in making decisions to have regard to any advice provided by the Council's Section 151 Officer and the Monitoring Officer.

3. OFFICER ADVICE TO GROUPS OF MEMBERS

3.1 It is common practice for political groups to give preliminary consideration to matters of Council business in advance of such matters being considered. As an example, the Council's four-month Forward Plan will identify the Key Decisions that the Cabinet will be considering in that time. Individual Members and/or groups of Members may properly call upon Officers to support and provide factual advice to their deliberations. The support provided by Officers can take many forms, ranging from a briefing meeting prior to a committee meeting, to a presentation to a full group meeting. Briefing of political groups should only be undertaken by the Chief Executive, Deputy Chief Executive or Service Heads, or with the approval of the Chief Executive.

3.2 Certain points must, however, be clearly understood by all those participating in this type of process, Members and Officers alike. In particular:

(a) Officer support in these circumstances must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of a 'political' nature. Officers are not expected to be present at meetings, or parts of meetings, where matters of political business are to be discussed.

(b) Similarly, where Officers provide information and advice to a group of Members meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the Cabinet, Overview and Scrutiny or other Committee meeting when the matter in question is considered.

3.3 Officers must respect the confidentiality of any group discussions at which they are present in the sense that they should not relay the content of any such discussion to another group of Members.

3.4 Any particular cases of difficulty or uncertainty in this area of Officer advice to groups of Members should be raised with the Chief Executive or, in his absence, the Council's Monitoring Officer, who will discuss them with the relevant Group Leader(s).

4. OFFICER/MEMBER RELATIONSHIPS

4.1 It is clearly important that there should be a close working relationship between Cabinet members and Committee members, including their Chairmen, and the relevant Chief Officers. However, such relationships should never be allowed to become so close, or

appear to be so close, as to bring into question an Officer's ability to deal impartially with other Members.

4.2 Whilst the Cabinet Leader and Committee Chairmen will routinely be consulted as part of the process of drawing up agenda items for a forthcoming meeting, it must be recognised that in some situations an Officer will consider it his/her duty to submit a report on a particular matter. In these circumstances, an Officer will always be fully responsible for the contents of any report submitted in his/her name. Similarly, a Member will also be fully responsible for that part of any report submitted in his/her name. Any issues arising between a Member and an Officer in this area should be referred to the Chief Executive for his resolution. Where individual Members wish to place an item on a Cabinet agenda, they should notify the Chief Executive in accordance with Part 4 Section 4 of the Constitution.

4.3 In relation to action between meetings, it is important to remember that the Council's Constitution allows not only for decisions (relating to the discharge of any of the Council's functions) to be taken by the Cabinet, other Committees of Council or an Officer, but also allows for an individual Cabinet Member to take a non-key decision.

4.4 It must be remembered that Officers within a Service are accountable to their Service Head and/or the Deputy Chief Executive, and ultimately to the Chief Executive, and that whilst Officers should always seek to assist any Member, they must not, in so doing, go beyond the bounds of whatever authority they have been given by their Service Head or the Deputy Chief Executive. Officers should also refer to Part 3 (Responsibility for Functions) and Part 7, Section 1 (Officers' Code of Conduct) in the Council's Constitution for clarification about the bounds of their responsibility.

5. **UNDUE PRESSURE**

5.1 A Member should not apply undue pressure on an Officer to do anything which he/she is not empowered to do, or which is against the Officer's professional judgement, or to undertake work outside normal duties or normal hours.

5.2 Similarly, an Officer must not seek to influence an individual Member to make a decision in his/her favour, nor raise personal matters relating to his/her job, nor make claims or allegations about other employees, except in accordance with any agreed Council procedure or in accordance with law. Members who receive any such approach from an Officer should advise the Chief Executive immediately.

6. **CRITICISM / COMPLAINTS**

6.1 It is important that there should be mutual courtesy between members and officers.

6.2 Members and officers should not criticise or undermine respect for each other at Council meetings or at any other meeting they attend in their capacity as a Member or officer, or in any other public forum.

6.3 Members should not raise matters relating to the conduct or capability of an individual officer or officers collectively at meetings or in any other public forum. Any such complaints should be made to the Chief Executive.

7. **SUPPORT SERVICES TO MEMBERS AND PARTY GROUPS**

7.1 Previously, the only basis on which the Council could lawfully provide support services (e.g. stationery, typing, printing, e-mail, internet, photocopying, transport, etc.) to Members was to assist them in discharging their role as Members of the Council. However the current Code

of Conduct does allow limited private use of Council resources by Members provided that when using or authorising the use by others of the resources they must -

- (i) act in accordance with the Authority's reasonable requirements; and
- (ii) ensure that such resources are not used improperly for political purposes (including party political purposes)

Any uncertainty about compliance with these requirements should be referred to the Council's Monitoring Officer for determination.

7.2 The Democratic Support Section in Governance should be the first point of contact in all aspects relating to Member support.

8. MEMBERS' ACCESS TO INFORMATION AND TO COUNCIL DOCUMENTS

8.1 Members are free to approach the appropriate Service to provide them with such information, explanation and advice as they may reasonably need in order to assist them in discharging their role as Members of the Council. This can range from a request for general information about some aspect of a Service's activities to a request for specific information on behalf of a constituent. Such approaches should be directed to the Service Head or nominated representative. If Members wish to visit officers, they should contact the Service Head to make arrangements whenever possible.

8.2 With respect to the legal rights of Members to inspect Council documents, these are covered partly by statute and partly by the common law.

8.3 Under Section 100F of the Local Government Act 1972, any Member may inspect any document in the possession or control of the Council which contains material relating to any business to be transacted at a meeting of the Council, Cabinet, a Committee or Sub-Committee. This right applies irrespective of whether the Member is a member of the relevant committee, and extends not only to reports but also to background papers.

However, the right does not apply if a document discloses "exempt" information as defined in Schedule 12A of the Local Government Act 1972, unless the information falls within paragraph 3 (the financial and business affairs of any particular person), except to the extent that it relates to any terms proposed by or to the authority in the course of negotiations for a contract, or within paragraph 6 (that the authority proposes to give a notice or order under any enactment, by virtue of which conditions or requirements are imposed on a person). These exceptions mean that a Member's right of access to information under the Local Government Act 1972 is slightly wider than the public right under that Act.

8.4 The common law right of Members is much broader and is based on the principle that any member has a prima facie right to inspect council documents so far as his/her access to the documents is reasonably necessary to enable the member to carry out his/her duties as a member. This is referred to as the "need to know" principle. If a Member is a member of Cabinet or a committee, then he/she has the right to inspect documents relating to the business of Cabinet or the committee. If a Member is not a member of the relevant Committee, then he/she has to demonstrate why sight of the document is necessary to enable the performance of his/her duties as a member. This could be by reference to the role as ward Member. Members have no right to a "roving commission" to examine documents of the Council. Mere curiosity is not sufficient. If the Member's motive for seeing the documents is indirect, improper or ulterior, then there would be no right of access at common law.

- 8.5 A Member has the same rights of access to information under the Freedom of Information Act 2000 as any member of the public. A request must be in writing and describe specifically the information requested. The exemptions set out in the Act would be applied whoever is requesting the information. Once information has been made available in response to a Freedom of Information request, it becomes public.
- 8.6 From a procedural point of view, if a Member makes a request for information that is not routine, the request should be made to the relevant Service Head, who will consider first whether all the information would be made available as a matter of course to a member of the public making a similar request. If so, the information will be provided to the Member.
- 8.7 If the request is such that the information would not automatically be provided to a member of the public, the Service Head will consider whether the information can be provided under Section 100F of the Local Government Act 1972 or under the common law “need to know”. The Service Head should consult with the Deputy Chief Executive and should seek advice from the Monitoring Officer. The final determination as to whether there is a “need to know” will be made by the Monitoring Officer. The Overview and Scrutiny Committee may hold the Monitoring Officer to account in accordance with Rule 14 of the Overview and Scrutiny Procedure Rules.
- 8.8 If neither Section 100F nor the “need to know” are met, then the request will be dealt with as a Freedom of Information Act request, but without the need for the Member to make a specific FOI request. The FOI request will be dealt with in the normal way with advice from Legal Services. This may result in the information being provided in part, with an exemption applying to the remainder, or the request being refused in its entirety as a result of an exemption. The Member will be informed that the request has been considered under the Freedom of Information Act and that there is a right of internal review which will be carried out by the Monitoring Officer. Following such a review, the Member will be advised of the right to pursue the matter with the Information Commissioner.
- 8.9 Any information provided under the Freedom of Information Act can be made public by the Member. Information provided under the “need to know” will be provided with the caveat that it is provided to the Member in his/her capacity as Member, and is only to be used for the purpose of exercising his/her functions, and should not be made public.
- 8.10 The Code of Conduct provides that a Member must not disclose information given to the Member in confidence by anyone, or information which the Member believes, or ought reasonably to be aware, is of a confidential nature except where
- the Member has the consent of a person authorised to give it;
 - the Member is required by law to do so;
 - the disclosure is made to a third party for the purposes of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
 - the disclosure is reasonable and in the public interest and made in good faith and in compliance with the reasonable requirements of the authority. These are set out in Part 7 Section 3 of the Constitution.

9. **CORRESPONDENCE**

- 9.1 Correspondence between an individual Member and an Officer should not normally be copied (by the Officer) to any other Member. Where exceptionally it is necessary to copy the correspondence to another Member, this should be made clear to the original Member.

9.2 Official letters on behalf of the Council should normally be sent out over the name of the appropriate Officer, rather than over the name of a Member. It may be appropriate in certain circumstances (eg representations to a Government Minister) for a letter to appear over the name of a Member, but this should be the exception rather than the norm. Letters which, for example, create obligations or give instructions on behalf of the Council should never be sent out over the name of a Member.

10. INVOLVEMENT OF WARD COUNCILLORS

10.1 Whenever a public meeting is organised either by the Council or where the Council has been invited to attend, to consider a local issue, all the Members representing the ward or wards affected should as a matter of course be invited to attend the meeting. Similarly, whenever the Council undertakes any form of consultative exercise on a local issue, the Ward Members should be notified at the outset of the exercise. In addition, whenever significant Council organised events or works or other activity are taking place in a locality, all the Members representing the ward or wards should as a matter of course be notified. Ward Members should be copied into correspondence relating to particular ward issues, save where the correspondence is confidential and/or includes personal information about a third party.

11. MEETINGS WITH THIRD PARTIES

11.1 On occasions, Members may be approached by individuals or companies who have proposals affecting the area or functions of the Council, and which they wish to discuss with Members. Members are reminded that, as individual Members, they cannot commit the Council to any contract or other agreement or course of action. Members are advised to make this clear to any third party with which they may have contact. Should Members be asked to attend a meeting with third parties, they are recommended to arrange for the meeting to take place at Council offices and with a relevant officer present. This will enable the officer to explain to the third party the proper decision making process, and will protect Members against any subsequent claim by the third party. Normal routine activities are not intended to be subject to this recommendation.

11.2 More detailed guidance about meetings relating to planning issues is set out in the Protocol on Planning in Part 7 Section 5 of the Constitution

12.. MEDIA RELATIONS

12.1 The Council has agreed Press and Media Guidelines which set out the Council's procedures for dealing with the press and media. The guidelines are subject to review from time to time, and can be found in Part 7 Section 7 of the Constitution.

13. ARBITRATION

13.1 The Protocol is intended to act as a guide for both Members and Officers. The Deputy Chief Executive and/or Service Head should deal with difficulties that arise in the first instance with the Member(s) concerned. The Monitoring Officer and then the Chief Executive should then consider any continuing difficulties.

13.2 Serious difficulties or breakdowns in relations that cannot be resolved through the above route should be referred to the Standards Committee for determination in accordance with the protocol. This will be very much a last resort. Every effort should be made to resolve difficulties at any early stage.

14. **REVIEW OF PROTOCOL**

- 14.1 The protocol is intended to provide Members and Officers with guidelines to determine their roles and their relations with each other.
- 14.2 It is intended to be a “live” document and will be reviewed from time to time to reflect changing circumstances. The Standards Committee is the lead Committee.
- 14.3 Members or Officers with queries about the Protocol should contact the Council’s Monitoring Officer.

Part 7, Section 6

Protocol on Member/Officer Relations

1. INTRODUCTION

- 1.1 The purpose of this protocol is to guide Members and Officers in their relations with one another, to define their respective roles and to provide guidance for dealing with particular issues that may most commonly arise or cause concern.
- 1.2 However, given the variety and complexity of such relations, this protocol does not seek to be either prescriptive or exhaustive. It is hoped that the general approach set out in the protocol will serve as a guide in dealing with other issues that may not be specifically covered.
- 1.3 The protocol also seeks to reflect the principles underlying the respective Codes of Conduct which apply to Members and Officers. The shared object of these Codes is to enhance and maintain the integrity of local government and they therefore demand very high standards of personal conduct.

2. ROLE OF MEMBERS AND OFFICERS

- 2.1 Both Members and Officers are servants of the public and they are indispensable to one another, but their responsibilities are distinct. Members are responsible to the electorate and serve only so long as their term of office lasts. Officers are responsible to the Council as a whole, and they are accountable to the Chief Executive. Their job is to give advice to Members and the Council, and to carry out the Council's work under the direction and control of the Council and Cabinet, and the various Committees.
- 2.2 The Council's Constitution sets out the clear distinction between the roles of Members and Officers. Members will perform roles on the Cabinet, and on the Regulatory and Overview and Scrutiny and other Committees, in addition to sitting as members of the full Council. They may also represent the Council on outside bodies. Officers are employed by and serve the whole Council, and are accountable to the Chief Executive. They provide support to the executive, scrutiny and regulatory functions of the Council, providing impartial advice and implementing the decisions of the Council, the Cabinet and Committees. They may also make decisions under powers delegated to them.
- 2.3 Members should not get involved in the day to day operational management of services. Equally, Officers should not get involved in politics.
- 2.4 Officers are responsible for advising on and implementing policies, and for the delivery of services in the manner that they consider is most appropriate given their managerial and professional expertise. Members would not be expected to be involved in the detail of implementation, but can expect reports on progress, and in certain circumstances, at Overview and Scrutiny meetings, can require Chief Officers to account for their decisions.
- 2.5 It is appropriate, however, for Members to propose initiatives and ideas about how things can be done better. It is essential that existing ways of doing things are challenged and reviewed. This needs to be done in a professional and constructive environment. The Constitution sets out the procedures for both the Cabinet and Overview and Scrutiny to review existing policies and bring forward new policy initiatives. The procedural rules also set out the process for Officer involvement with the Cabinet, the Regulatory Committees and the Overview and Scrutiny.

2.6 Mutual respect between Members and Officers is essential to good local government. It is important in all dealings between Members and Officers that both should observe reasonable and consistent standards of courtesy and that neither party should seek to take advantage of their position. Close personal familiarity between individual Members and Officers can damage this relationship and prove embarrassing to other Members and Officers.

2.7 The general obligations in the Members' Code of Conduct include a requirement to treat others with respect, and not to do anything which compromises or is likely to compromise the impartiality of those who work for or on behalf of the authority. There is also a requirement for Members in making decisions to have regard to any advice provided by the Council's Section 151 Officer and the Monitoring Officer. Any allegation by an officer that a Member has failed to comply with the Code of Conduct will be dealt with under the Standards Committee's procedure for dealing with Code of Conduct complaints. As with any such complaint, the first stage will be for the Monitoring Officer to seek to resolve the matter informally.

3. OFFICER ADVICE TO GROUPS OF MEMBERS

3.1 It is common practice for political groups to give preliminary consideration to matters of Council business in advance of such matters being considered. As an example, the Council's monthly Notice of Forthcoming Key Decisions will identify the Key Decisions that the Cabinet will be considering. Individual Members and/or groups of Members may properly call upon Officers to support and provide factual advice to their deliberations. The support provided by Officers can take many forms, ranging from a briefing meeting prior to a committee meeting, to a presentation to a full group meeting. Briefing of political groups should only be undertaken by the Chief Executive, or Service Heads, or otherwise with the approval of the Chief Executive, and any information provided to the group will not as a matter of routine be passed on to other groups. However, briefing information provided to a political group, whether or not it contains confidential information, may, at the written request of that group, be passed by the relevant officer to other groups also.

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3.2 Certain points must, however, be clearly understood by all those participating in this type of process, Members and Officers alike. In particular:

- (a) Officer support in these circumstances must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of a 'political' nature. Officers are not expected to be present at meetings, or parts of meetings, where matters of political business are to be discussed.
- (b) Similarly, where Officers provide information and advice to a group of Members meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the Cabinet, Overview and Scrutiny or other Committee meeting when the matter in question is considered.

3.3 Officers must respect the confidentiality of any group discussions at which they are present in the sense that they should not relay the content of any such discussion to another group of Members, unless specifically requested to do so.

3.4 Any particular cases of difficulty or uncertainty in this area of Officer advice to groups of Members should be raised with the Chief Executive or, in his absence, the Council's Monitoring Officer, who will discuss them with the relevant Group Leader(s).

4. OFFICER/MEMBER RELATIONSHIPS

- 4.1 It is clearly important that there should be a close working relationship between Cabinet members and Committee members, including their Chairmen, and the relevant Chief Officers. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question an Officer's ability to deal impartially with other Members.
- 4.2 Whilst the Cabinet Leader and Committee Chairmen will routinely be consulted as part of the process of drawing up agenda items for a forthcoming meeting, it must be recognised that in some situations an Officer will consider it his/her duty to submit a report on a particular matter. In these circumstances, an Officer will always be fully responsible for the contents of any report submitted in his/her name. Similarly, a Member will also be fully responsible for that part of any report submitted in his/her name. Any issues arising between a Member and an Officer in this area should be referred to the Chief Executive for his resolution. Where individual Members wish to place an item on a Cabinet agenda, they should notify the Chief Executive in accordance with Part 4 Section 4 of the Constitution.
- 4.3 In relation to action between meetings, it is important to remember that the Council's Constitution allows not only for decisions (relating to the discharge of any of the Council's functions) to be taken by the Cabinet, other Committees of Council or an Officer, but also allows for an individual Cabinet Member to take a non-key decision.
- 4.4 It must be remembered that Officers within a Service are accountable to their Service Head, and ultimately to the Chief Executive, and that whilst Officers should always seek to assist any Member, they must not, in so doing, go beyond the bounds of whatever authority they have been given by their Service Head. ~~Officers should also refer to Part 3 (Responsibility for Functions) and Part 7, Section 1 (Officers' Code of Conduct) in the Council's Constitution for clarification about the bounds of their responsibility.~~

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- 5.1 A Member should not apply undue pressure on an Officer to do anything which he/she is not empowered to do, or which is against the Officer's professional judgement, or to undertake work outside normal duties or normal hours.
- 5.2 Similarly, an Officer must not seek to influence an individual Member to make a decision in his/her favour, nor raise personal matters relating to his/her job, nor make claims or allegations about other employees, except in accordance with any agreed Council procedure or in accordance with law. Members who receive any such approach from an Officer should advise the Chief Executive immediately.

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- 6.1 It is important that there should be mutual courtesy between members and officers.
- 6.2 Members and officers should not criticise or undermine respect for each other at Council meetings or at any other meeting they attend in their capacity as a Member or officer, or in any other public forum.
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7. SUPPORT SERVICES TO MEMBERS AND PARTY GROUPS

7.1 Previously, the only basis on which the Council could lawfully provide support services (e.g. stationery, typing, printing, e-mail, internet, photocopying, transport, etc.) to Members was to assist them in discharging their role as Members of the Council. However the current Code of Conduct does allow limited private use of Council resources by Members provided that when using or authorising the use by others of the resources they must -

- (i) act in accordance with the Authority's reasonable requirements; and
- (ii) ensure that such resources are not used improperly for political purposes (including party political purposes)

Any uncertainty about compliance with these requirements should be referred to the Council's Monitoring Officer for determination.

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8.1 Members are free to approach the appropriate Service to provide them with such information, explanation and advice as they may reasonably need in order to assist them in discharging their role as Members of the Council. This can range from a request for general information about some aspect of a Service's activities to a request for specific information on behalf of a constituent. Such approaches should be directed to the Service Head, Service Manager or other nominated representative. If Members wish to visit officers, they should contact the Service Head or Service Manager to make arrangements whenever possible.

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8.3 Under Section 100F of the Local Government Act 1972, any Member may inspect any document in the possession or control of the Council which contains material relating to any business to be transacted at a meeting of the Council, Cabinet, a Committee or Sub-Committee. This right applies irrespective of whether the Member is a member of the relevant committee, and extends not only to reports but also to background papers.

However, the right does not apply if a document discloses "exempt" information as defined in Schedule 12A of the Local Government Act 1972, unless the information falls within paragraph 3 (the financial and business affairs of any particular person), except to the extent that it relates to any terms proposed by or to the authority in the course of negotiations for a contract, or within paragraph 6 (that the authority proposes to give a notice or order under any enactment, by virtue of which conditions or requirements are imposed on a person). These exceptions mean that a Member's right of access to information under the Local Government Act 1972 is slightly wider than the public right under that Act.

Further details, including information about the particular rights of Overview and Scrutiny members, are set out in the Access to Information Rules in Part 4 Section 2 of the Constitution.

8.4 The common law right of Members is much broader and is based on the principle that any member has a prima facie right to inspect council documents so far as his/her access to the documents is reasonably necessary to enable the member to carry out his/her duties as a

member. This is referred to as the "need to know" principle. If a Member is a member of Cabinet or a committee, then he/she has the right to inspect documents relating to the business of Cabinet or the committee. If a Member is not a member of the relevant Committee, then he/she has to demonstrate why sight of the document is necessary to enable the performance of his/her duties as a member. This could be by reference to the role as ward Member. Members have no right to a "roving commission" to examine documents of the Council. Mere curiosity is not sufficient. If the Member's motive for seeing the documents is indirect, improper or ulterior, then there would be no right of access at common law.

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8.7 If the request is such that the information would not automatically be provided to a member of the public, the Service Head will consider whether the information can be provided under Section 100F of the Local Government Act 1972 or under the common law "need to know". The Service Head should consult with the Monitoring Officer. The final determination as to whether there is a "need to know" will be made by the Monitoring Officer. The Overview and Scrutiny Committee may hold the Monitoring Officer to account in accordance with Rule 14 of the Overview and Scrutiny Procedure Rules.

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8.9 Any information provided under the Freedom of Information Act can be made public by the Member. Information provided under the "need to know" will be provided with the caveat that it is provided to the Member in his/her capacity as Member, and is only to be used for the purpose of exercising his/her functions, and should not be made public.

8.10 The Code of Conduct provides that a Member must not disclose information given to the Member in confidence by anyone, or information which the Member believes, or ought reasonably to be aware, is of a confidential nature except where

- the Member has the consent of a person authorised to give it;
- the Member is required by law to do so;
- the disclosure is made to a third party for the purposes of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or

- the disclosure is reasonable and in the public interest and made in good faith and in compliance with the reasonable requirements of the authority. These are set out in Part 7 Section 3 of the Constitution.

9. CORRESPONDENCE

- 9.1 Correspondence between an individual Member and an Officer should not normally be copied (by the Officer) to any other Member. Where exceptionally it is necessary to copy the correspondence to another Member, this should be made clear to the original Member.
- 9.2 Official letters on behalf of the Council should normally be sent out over the name of the appropriate Officer, rather than over the name of a Member. It may be appropriate in certain circumstances (eg representations to a Government Minister) for a letter to appear over the name of a Member, but this should be the exception rather than the norm. Letters which, for example, create obligations or give instructions on behalf of the Council should never be sent out over the name of a Member.

10. INVOLVEMENT OF WARD COUNCILLORS

- 10.1 Whenever a public meeting is organised either by the Council or where the Council has been invited to attend, to consider a local issue, all the Members representing the ward or wards affected should as a matter of course be invited to attend the meeting. Similarly, whenever the Council undertakes any form of consultative exercise on a local issue, the Ward Members should be notified at the outset of the exercise. In addition, whenever significant Council organised events or works or other activity are taking place in a locality, all the Members representing the ward or wards should as a matter of course be notified.

- 10.2 If an individual contacts the Council about a general Council service, for example leisure, food safety, taxi licensing or a housing benefit or council tax issue, such contact is unlikely to be a ward issue, as the address of the individual is unlikely to be significant to the particular contact or complaint. In these circumstances, officers will not generally involve the ward councillor.

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- 10.3 If an individual contacts the Council about a location related issue, for example noise from particular premises, difficulties with refuse collection in a particular street, an overhanging tree, or uneven access to council housing accommodation, then, unless the issue is "de minimis" and can be resolved at once, the ward councillors will be advised of the problem and what action is being or has been taken to resolve it. It should be possible to do this on a general basis and without revealing the identity of the individual who has raised the issue. The details of the individual will not be passed on to ward councillors without the individual's consent.

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- 10.4 In no circumstances will correspondence from an individual, or from a third party representing an individual, be disclosed to a ward councillor if it is marked confidential or contains personal data. If, in these circumstances, an officer is of the view that a ward councillor's involvement would be valuable or that there is a need for the ward councillor to know of the issue, and it is not possible to do so in general terms without disclosing confidential or personal information, then the relevant individual's consent will first be obtained.

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- 10.5 If an individual has sought assistance from one ward councillor in a multi-member ward, and an officer is in contact with that ward councillor who is acting on the individual's behalf, information about the issue will not be shared with another ward councillor without the consent of the individual or the ward councillor who first raised the issue.

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11. MEETINGS WITH THIRD PARTIES

- 11.1 On occasions, Members may be approached by individuals or companies who have proposals affecting the area or functions of the Council, and which they wish to discuss with Members. Members are reminded that, as individual Members, they cannot commit the Council to any contract or other agreement or course of action. Members are advised to make this clear to any third party with which they may have contact. Should Members be asked to attend a meeting with third parties, they are recommended to arrange for the meeting to take place at Council offices and with a relevant officer present. This will enable the officer to explain to the third party the proper decision making process, and will protect Members against any subsequent claim by the third party. Normal routine activities are not intended to be subject to this recommendation.
- 11.2 More detailed guidance about meetings relating to planning issues is set out in the Protocol on Planning in Part 7 Section 5 of the Constitution

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- 12.1 The Council has agreed Press and Media Guidelines which set out the Council's procedures for dealing with the press and media. The guidelines are subject to review from time to time, and can be found in Part 7 Section 7 of the Constitution.

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STANDARDS COMMITTEE**Openness and Transparency on Personal Interests -
A Guide for Councillors****25th April 2013****Report of the Monitoring Officer****PURPOSE OF REPORT**

To advise members of revised guidance on interests, issued by the government.

This report is public

RECOMMENDATIONS

(1) That the revised Guidance be noted, and circulated to all city councillors and parish councils within the district.

1.0 Introduction

- 1.1 Following the implementation of the Localism Act 2011, the government issued in August 2012 a guide for councillors on interests. A revised version has now been issued, and a copy is attached to this report for members' information.
- 1.2 The guidance confirms the government's view that all councillors are required to register their disclosable pecuniary interests, notwithstanding the fact that the strict wording of the Localism Act 2011 can be interpreted as meaning that the requirement applies only following the election of a councillor after the coming into force of the Act.
- 1.3 The revised guidance sets out the government's view that councillors who have registered a beneficial interest in land do not thereby have a DPI when the Council considers setting the council tax or precept. This has been the subject of much legal argument, and members will recall that, based on her understanding of the law, the Monitoring Officer previously advised that it would be safer for councillors to obtain the protection of a dispensation in these circumstances. .

2.0 Proposal Details

- 2.1 The revised Guidance is attached to this report, and it is the Monitoring Officer's intention to circulate it to all city councillors, and to all parish councils

within the district.

3.0 Details of Consultation

3.1 There has been no consultation.

4.0 Conclusion

4.1 The Committee is asked to note the revised Guidance.

CONCLUSION OF IMPACT ASSESSMENT

(including Health & Safety, Equality & Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)

None directly arising from this report.

LEGAL IMPLICATIONS

The government document is guidance only. Any legal interpretation of the Localism Act 2011 would be a matter for the courts.

FINANCIAL IMPLICATIONS

None directly arising from this report.

OTHER RESOURCE IMPLICATIONS

Human Resources:

None

Information Services:

None

Property:

None

Open Spaces:

None

SECTION 151 OFFICER'S COMMENTS

The Section 151 Officer has been consulted and has no further comments.

MONITORING OFFICER'S COMMENTS

The report has been prepared by the Monitoring Officer in her role as adviser to the Standards Committee.

BACKGROUND PAPERS

None

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Department for
Communities and
Local Government

Openness and transparency on personal interests

A guide for councillors

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The Guide

This guide on personal interests gives basic practical information about how to be open and transparent about your personal interests. It is designed to help councillors, including parish councillors, now that new standards arrangements have been introduced by the Localism Act 2011¹.

Why are there new rules?

Parliament has abolished the Standards Board regime and all the rules under it. It has done this because that centrally-imposed, bureaucratic regime had become a vehicle for petty, malicious and politically-motivated complaints against councillors. Rather than creating a culture of trust and openness between councillors and those they represent, it was damaging, without justification, the public's confidence in local democratic governance.

The new standards arrangements that Parliament has put in place mean that it is largely for councils themselves to decide their own local rules. It is essential that there is confidence that councillors everywhere are putting the public interest first and are not benefiting their own financial affairs from being a councillor. Accordingly, within the new standards arrangements there are national rules about councillors' interests.²

Such rules, in one form or another, have existed for decades. The new rules are similar to the rules that were in place prior to the Standards Board regime. Those rules, originating in the Local Government Act 1972 and the Local Government and Housing Act 1989, involved local authority members registering their pecuniary interests in a publicly available register, and disclosing their interests and withdrawing from meetings in certain circumstances. Failure to comply with those rules was in certain circumstances a criminal offence, as is failure to comply in certain circumstances with the new rules.

Does this affect me?

Yes, if you are an elected, co-opted, or appointed member of:

- a district, unitary, metropolitan, county or London borough council
- a parish or town council
- a fire and rescue authority
- a transport or other joint authority
- a combined authority or an economic prosperity board
- the London Fire and Emergency Planning Authority

¹ The Guide should not be taken as providing any definitive interpretation of the statutory requirements; those wishing to address such issues should seek their own legal advice.

² The national rules are in Chapter 7 of the Localism Act 2011 and in the secondary legislation made under the Act, particularly in The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 (S.I. 2012/1464).

- the Broads Authority
- a National Park authority
- the Greater London Authority
- the Common Council of the City of London
- the Council of the Isles of Scilly

How will there be openness and transparency about my personal interests?

The national rules require your council or authority to adopt a code of conduct for its members and to have a register of members' interests.

The national rules require your council's code of conduct to comply with the Seven Principles of Public Life, and to set out how, in conformity with the rules, you will have to disclose and register your pecuniary and your other interests. Within these rules it is for your council to decide what its code of conduct says. An illustrative text for such a code is available on the Department's web site.³

Your council's or authority's monitoring officer (or in the case of a parish council the monitoring officer of the district or borough council) must establish and maintain your council's register of members' interests. Within the requirements of the national rules it is for your council or authority to determine what is to be entered in its register of members' interests.

What personal interests should be entered in my council's or authority's register of members' interests?

Disclosable pecuniary interests, and any other of your personal interests which your council or authority, in particular through its code of conduct, has determined should be registered.

Any other of your personal interests which you have asked the monitoring officer, who is responsible for your council's or authority's register of members' interests, to enter in the register.

What must I do about registering my personal interests?

Under your council's code of conduct you must act in conformity with the Seven Principles of Public Life. One of these is the principle of integrity – that '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 declare and resolve any interests and relationships.**'⁴

³ <https://www.gov.uk/government/publications/illustrative-text-for-local-code-of-conduct--2>

⁴ <http://www.public-standards.gov.uk/about-us/what-we-do/the-seven-principles/>

Your registration of personal interests should be guided by this duty and you should give the monitoring officer who is responsible for your council's or authority's register of members' interests any information he or she requests in order to keep that register up to date and any other information which you consider should be entered in the register.

All sitting councillors need to register their declarable interests. Any suggestion that you should tell the monitoring officer about your pecuniary interests only in the immediate aftermath of your being elected is wholly incompatible with this duty, with which you must comply.

If you have a disclosable pecuniary interest which is not recorded in the register and which relates to any business that is or will be considered at a meeting where you are present, you must disclose⁵ this to the meeting and tell the monitoring officer about it, if you have not already done so, so that it can be added to the register. You must tell the monitoring officer within 28 days of disclosing the interest. For this purpose a meeting includes any meeting of your council or authority, of its executive or any committee of the executive, and of any committee, sub-committee, joint committee or joint sub-committee of your authority.

If you have a disclosable pecuniary interest which is not shown in the register and relates to any business on which you are acting alone, you must, within 28 days of becoming aware of this, tell the monitoring officer about it, if you have not already done so, so that it can be added to the register. You must also stop dealing with the matter as soon as you become aware of having a disclosable pecuniary interest relating to the business.

When you are first elected, co-opted, or appointed a member to your council or authority, you must, within 28 days of becoming a member, tell the monitoring officer who is responsible for your council's or authority's register of members' interests about your disclosable pecuniary interests. If you are re-elected, re-co-opted, or reappointed a member, you need to tell the monitoring officer about only those disclosable pecuniary interests that are not already recorded in the register.

What are pecuniary interests?

A person's pecuniary interests are their business interests (for example their employment, trade, profession, contracts, or any company with which they are associated) and wider financial interests they might have (for example trust funds, investments, and assets including land and property).

⁵ If the interest is a sensitive interest you should disclose merely the fact that you have such a disclosable pecuniary interest, rather than the interest. A sensitive interest is one which the member and the monitoring officer, who is responsible for the register of members' interests, consider that disclosure of its details could lead to the member, or a person connected to the member, being subject to violence or intimidation.

Do I have any disclosable pecuniary interests?

You have a disclosable pecuniary interest if you, or your spouse or civil partner, have a pecuniary interest listed in the national rules (see annex). Interests or your spouse or civil partner, following the approach of the rules under the 1972 and 1989 Acts, are included to ensure that the public can have confidence that councillors are putting the public interest first and not benefiting the financial affairs of themselves or their spouse or civil partner from which the councillor would stand to gain. For this purpose your spouse or civil partner includes any person with whom you are living as husband or wife, or as if they were your civil partner.

Does my spouse's or civil partner's name need to appear on the register of interests?

No. For the purposes of the register, an interest of your spouse or civil partner, which is listed in the national rules, is **your** disclosable pecuniary interest. Whilst the detailed format of the register of members' interests is for your council to decide, there is no requirement to differentiate your disclosable pecuniary interests between those which relate to you personally and those that relate to your spouse or civil partner.

Does my signature need to be published online? Won't this put me at risk of identity theft?

There is no legal requirement for the personal signatures of councillors to be published online.

Who can see the register of members' interests?

Except for parish councils, a council's or authority's register of members' interests must be available for inspection in the local area, and must be published on the council's or authority's website.

For parish councils, the monitoring officer who is responsible for the council's register of members' interests must arrange for the parish council's register of members' interests to be available for inspection in the district of borough, and must be published on the district or borough council's website.

Where the parish council has its own website, its register of members' interests must also be published on that website.

This is in line with the Government's policies of transparency and accountability, ensuring that the public have ready access to publicly available information.

Is there any scope for withholding information on the published register?

Copies of the register of members' interests which are available for inspection or published must not include details of a member's sensitive interest, other than stating that the member has an interest the details of which are withheld. A sensitive interest is one which the member and the monitoring officer, who is responsible for the register of members' interests, consider that disclosure of its details could lead to the member, or a person connected to the member, being subject to violence or intimidation.

When is information about my interests removed from my council's register of members' interests?

If you cease to have an interest, that interest can be removed from the register. If you cease to be a member of the authority, all of your interests can be removed from the register.

What does having a disclosable pecuniary interest stop me doing?

If you are present at a meeting of your council or authority, of its executive or any committee of the executive, or of any committee, sub-committee, joint committee, or joint sub-committee of your authority, and you have a disclosable pecuniary interest relating to any business that is or will be considered at the meeting, you must not:

- participate in any discussion of the business at the meeting, or if you become aware of your disclosable pecuniary interest during the meeting participate further in any discussion of the business, or
- participate in any vote or further vote taken on the matter at the meeting.

These prohibitions apply to any form of participation, including speaking as a member of the public.

In certain circumstances you can request a dispensation from these prohibitions.

Where these prohibitions apply, do I also have to leave the room?

Where your council's or authority's standing orders require this, you must leave the room. Even where there are no such standing orders, you must leave the room if you consider your continued presence is incompatible with your council's code of conduct or the Seven Principles of Public Life.

Do I need a dispensation to take part in the business of setting council tax or a precept?

Any payment of, or liability to pay, council tax does not create a disclosable pecuniary interest as defined in the national rules; hence being a council tax payer does not mean that you need a dispensation to take part in the business of setting the council tax or precept or local arrangements for council tax support.

If you are a homeowner or tenant in the area of your council you will have registered, in accordance with the national rules, that beneficial interest in land. However, this disclosable pecuniary interest is not a disclosable pecuniary interest in the matter of setting the council tax or precept since decisions on the council tax or precept do not materially affect your interest in the land. For example, it does not materially affect the value of your home, your prospects of selling that home, or how you might use or enjoy that land.

Accordingly, you will not need a dispensation to take part in the business of setting the council tax or precept or local arrangements for council tax support, which is in any event a decision affecting the generality of the public in the area of your council, rather than you as an individual.

When and how can I apply for a dispensation?

The rules allow your council or authority in certain circumstances to grant a dispensation to permit a member to take part in the business of the authority even if the member has a disclosable pecuniary interest relating to that business. These circumstances are where the council or authority considers that:

- without the dispensation so great a proportion of the council or authority would be prohibited from participating in that business as to impede the council's or authority's transaction of that business,
- without the dispensation the representation of different political groups dealing with that business would be so upset as to alter the likely outcome of any vote,
- the granting of the dispensation is in the interests of people living in the council's or authority's area,
- without the dispensation each member of the council's executive would be prohibited from participating in the business, or
- it is otherwise appropriate to grant a dispensation.

If you would like your council or authority to grant you a dispensation, you must make a written request to the officer responsible for handling such requests in the case of your council or authority.

What happens if I don't follow the rules on disclosable pecuniary interests?

It is a criminal offence if, without a reasonable excuse, you fail to tell the monitoring officer about your disclosable pecuniary interests, either for inclusion on the register if you are a newly elected, co-opted or appointed member, or to update the register if you are re-elected or re-appointed, or when you become aware of a disclosable pecuniary interest which is not recorded in the register but which relates to any matter;

- that will be or is being considered at a meeting where you are present, or
- on which you are acting alone.

It is also a criminal offence to knowingly or recklessly provide false or misleading information, or to participate in the business of your authority where that business involves a disclosable pecuniary interest. It is also a criminal offence to continue working on a matter which can be discharged by a single member and in which you have a disclosable pecuniary interest.

If you are found guilty of such a criminal offence, you can be fined up to £5,000 and disqualified from holding office as a councillor for up to five years.

Where can I look at the national rules on pecuniary interests?

The national rules about pecuniary interests are set out in Chapter 7 of the Localism Act 2011, which is available on the internet here:

<http://www.legislation.gov.uk/ukpga/2011/20/part/1/chapter/7/enacted>

and in the secondary legislation made under the Act, in particular The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 which can be found here:

<http://www.legislation.gov.uk/uksi/2012/1464/contents/made>

Annex A

Description of Disclosable Pecuniary Interests

If you have any of the following pecuniary interests, they are your **disclosable pecuniary interests** under the new national rules. Any reference to spouse or civil partner includes any person with whom you are living as husband or wife, or as if they were your civil partner.

- Any employment, office, trade, profession or vocation carried on for profit or gain, which you, or your spouse or civil partner, undertakes.
- Any payment or provision of any other financial benefit (other than from your council or authority) made or provided within the relevant period in respect of any expenses incurred by you in carrying out duties as a member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992. The relevant period is the 12 months ending on the day when you tell the monitoring officer about your disclosable pecuniary interests following your election or re-election, or when you became aware you had a disclosable pecuniary interest relating to a matter on which you were acting alone.
- Any contract which is made between you, or your spouse or your civil partner (or a body in which you, or your spouse or your civil partner, has a beneficial interest) and your council or authority –
 - under which goods or services are to be provided or works are to be executed; and
 - which has not been fully discharged.
- Any beneficial interest in land which you, or your spouse or your civil partner, have and which is within the area of your council or authority.
- Any licence (alone or jointly with others) which you, or your spouse or your civil partner, holds to occupy land in the area of your council or authority for a month or longer.
- Any tenancy where (to your knowledge) –
 - the landlord is your council or authority; and
 - the tenant is a body in which you, or your spouse or your civil partner, has a beneficial interest.

- Any beneficial interest which you, or your spouse or your civil partner has in securities of a body where –
 - (a) that body (to your knowledge) has a place of business or land in the area of your council or authority; and
 - (b) either –
 - 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 you, or your spouse or your civil partner, has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

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

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