

Public Document Pack

Standards Committee

Wednesday, 21st December, 2022

6.00 pm

Meeting Room A

AGENDA

1. **Welcome and Apologies**
2. **Minutes of the Previous Meeting**
Minutes of Previous Meeting **2 - 4**
3. **Declarations of Interest**
Declarations of Interest **5**
4. **Register of Member Interests**
Report - Member Interests Dec 2022 **6 - 9**
5. **Local Government (Disqualification) Act 2022**
Report - Local Government (Disqualification) Act 2022. **10 - 12**
Dec 2022
6. **New Council Values & Behaviours**
Report - New Values Behaviours **13 - 25**
App A Protocol on Member Officer Relations
7. **Complaints Update**
For the Deputy Director of Legal & Governance to give a verbal update on the complaints received regarding Members conduct.

Date Published: 13th December 2022
Denise Park, Chief Executive

Agenda Item 2

STANDARDS COMMITTEE

Wednesday, 28 September 2022

PRESENT – Councillors, Parwaiz Akhtar (Chair), Ali, Casey, Connor, Desai, Salton, N Slater, and Whittingham .

ALSO PRESENT - Alan Eastwood, Paul Fletcher and Daniel Wilde

OFFICERS – Asad Laher, Corinne McMillian, Fiona Eastwood, Shannon Gardiner

RESOLUTIONS

1 Welcome and Apologies

The Chair welcomed everyone to the meeting.

Apologies were received from Cllr Samim Desai and Miranda Carruthers-Watt.

2 Declarations of Interest

RESOLVED – There were no Declarations on Interest received.

3 Minutes of the Previous Meeting

RESOLVED – That the minutes of the previous meeting held on 29th June 2022 were agreed and signed as a correct record.

4 Review Code of Conduct

A report was submitted to the Standards Committee for the Members to consider the new Council values and behaviours and to review the Members Code of Conduct.

The Localism Act 2011, Section 27, requires relevant authorities to promote and maintain high standards of conduct by members and co-opted members of the authority. To assist, it must adopt a Code of Conduct for Members that is consistent with the Nolan principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership. The Code must also cover provisions to regulate “disclosable pecuniary interests” and “other interests” which non-disclosable pecuniary interests.

The Council adopted a new Code at its meeting on 30 August 2012 and since then there have been minor amendments approved following recommendations by the Standards Committee. The Committee also considered the LGA draft Model Code of Conduct 2020 at its meeting on 20 July 2020 and the recommendations made in the Committee on Standards in Public Life report on local government ethical standards, in January 2021.

The Committee agreed not to adopt the LGA Model Councillor Code of Conduct 2020 but to update the local Code of Conduct, and update the local Arrangements for dealing with Complaints about the Code of Conduct for

Members reflecting the Committee on Standards in Public Life best practice recommendations.

The Standard's Committee's role and function as delegated by the Council is contained in the constitution. It includes assisting councillors and co-opted members to observe the Code of Conduct. The Committee also has a function to monitor the operation of the Council's standards arrangements and make appropriate recommendations to the Council as it considers appropriate with respect to the maintenance and review of the Code, together with such other codes, procedure, protocol or guidance as the committee considers appropriate.

The Council has recently developed its organisational values: *Trust, Respect, Ambition, Collaboration and Kindness*. Work is currently being undertaken to cascade and embed these values across the organisation, and the review of the Code could also include adding these values to the General Principles (also known as the Nolan principles) that underpins the obligations under the Code. A special Member Training session has been arranged for 12 October 2022 that will present the Council's organisational values and behaviours, and how it underpins the Code and relates to the Standards arrangements adopted by the Council.

RESOLVED – That the Members Code of Conduct would be reviewed and recommend any amendments after the Members had attended the training session on 12th October 2022.

5 Blackburn with Darwen Borough Council Values

Fiona Eastwood, HR Manager, delivered a presentation to the Committee on the Council's new values and behaviours.

It was noted that the Behaviour Framework needed to be updated therefore employee voice champions were consulted from across Council services, surveys were conducted to engage with more colleagues and feedback was considered which largely reflected the discussions throughout the workshops and demonstrated how positively the values and behaviours had resonated with colleagues.

The employee voice champions started the programme in January 2022 and attended work shop programmes to decide on the new values and behaviours for the Council. The new values and behaviours were 'Trust, Respect, Ambition, Collaboration, Kindness'. The words put together make 'TRACK'.

RESOLVED - That the presentation be noted.

6 Discussion on any proposed changes to the Code of Conduct

It was noted that the discussion on any proposed changes to the Code of Conduct would be deferred to the next Standards Committee after the Values and Behaviours Members training took place on 12th October.

RESOLVED – That the item would be deferred until the next Committee meeting

7 Complaints Update

The Monitoring Officer, Asad Laher, updated the committee on complaints that had been received since June 2022.

It was noted that there were no complaints.

RESOLVED – That the update be noted.

Signed:

Date:

Chair of the meeting
at which the minutes were confirmed

DECLARATIONS OF INTEREST IN ITEMS ON THIS AGENDA

Members attending a Council, Committee, Board or other meeting with a personal interest in a matter on the Agenda must disclose the existence and nature of the interest and, if it is a Disclosable Pecuniary Interest or an Other Interest under paragraph 16.1 of the Code of Conduct, should leave the meeting during discussion and voting on the item.

Members declaring an interest(s) should complete this form and hand it to the Democratic Services Officer at the commencement of the meeting and declare such an interest at the appropriate point on the agenda.

MEETING: **STANDARDS COMMITTEE**

DATE:

AGENDA ITEM NO.:

DESCRIPTION (BRIEF):

NATURE OF INTEREST:

DISCLOSABLE PECUNIARY/OTHER (delete as appropriate)

SIGNED :

PRINT NAME:

(Paragraphs 8 to 17 of the Code of Conduct for Members of the Council refer)



REPORT OF:	The Monitoring Officer
TO:	Standards Committee
ON:	21 December 2022

SUBJECT: Register of Members' Interests - New process

1. PURPOSE OF THE REPORT

To consider the legal framework applicable to the registration and declaration of member interest, and consider the new digital process for submitting and updating the Register of Members' Interests.

2. RECOMMENDATIONS

The Committee is asked to:

- note the legal framework for the requirement to register interests, and consider the new digital process for submitting and updating the Register of Members' Interests.
- recommend to Council of the digital process for submitting and updating the Register of Members' Interests registering, as outlined in the report.

3. LEGAL FRAMEWORK

The current legal framework relating to members interests and standards is set out in the Localism Act 2011 ('the Act'). Under the Act Councils are required to:

- to promote and maintain high standards of conduct by its members, and;
- adopt a code dealing with the conduct that is expected of its members.

In relation to the Code of Conduct ('the Code'), the requirement is simply that a council's code is consistent with the following principles:

- Selflessness;
- Integrity;
- Objectivity;
- Accountability;
- Openness;
- Honesty; and
- Leadership

These principles are recognised as the Nolan Principles of standards in public life.

The Act also requires councils to ensure that its code includes such provisions the council considers appropriate in respect of the registration and disclosure of both:

- Pecuniary interests; and

- Interests other than pecuniary interests.

Pecuniary interests and the specific requirements are set out in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012. The list of those matters coming within the definition of a Disclosable Pecuniary Interest (**DPI**) is contained in Part 2 of the adopted Code (contained in Part 5, section 1 of the Constitution).

The Localism Act 2011 requires Members to notify the Monitoring Officer within 28 days of becoming a Member of any Disclosable Pecuniary Interests (DPIs). In addition, if a Member is present at a meeting and they have a disclosable pecuniary interest in any matter to be considered or being considered at the meeting, which is not yet registered, they must notify the Monitoring Officer of the interest within 28 days. These requirements are set out in the Code. The Codes also outlines that it is a criminal offence to:

- fail to notify the Monitoring Officer, of any DPI within 28 days of election.
- fail to disclose a DPI at a meeting if it is not on the Register of Members' Interests.
- fail to notify the Monitoring Officer within 28 days of a DPI that the Members' Interest has been disclosed at meeting but is not on the Register of Members' Interests
- participating in any discussion or vote on a matter in which the Member has a DPI,
- knowingly or recklessly providing information that is false or misleading in notifying the Monitoring Officer of a DPI or in disclosing such interest to a meeting.

The criminal penalties available to a court are to impose an unlimited fine and disqualification from being a councillor for up to 5 years.

4. THE COUNCIL'S ARRANGEMENTS

The Council adopted a Code of Conduct in August 2012 in accordance with the Act, and since then some minor amendments have been made. The current version of the Code is published on the Council's website and is also contained in Part 5, section 1 of the Constitution.

In relation to the Register of Members Interest, Members are asked to complete a form adopted by the Council in 2012, which are then collated, scanned and published on the Council's website. In accordance with the legal requirements referred to above, Members are also advised to notify and update any changes to the register immediately. Such changes could include change of employment/office/trade, change of ownership or interest in land, new sponsorships, membership of bodies, gifts/hospitality etc.

At its meeting on 22 March 2022, the Committee were informed of a new process for Members to register their interests. This is through Council's Mod.Gov system, which has a facility for registering interests for each Member, which is then published in a table format. Many councils are already using the Mod.Gov system to register and publish their Member interests. This system has now been set up by the Governance team and is accessible for Members to complete and update their interests without requesting a paper form.

In order to assist Members, the Monitoring Officer has put in place arrangements for individual Members to receive guidance when registering their interests, as soon as they are elected to office. The completed register of interest would then be published via the Mod.Gov system. In addition, all members would be requested to notify the Monitoring Officer of any changes, and update the register of interest through the Mod.Gov system. An annual reminder will also be sent to all Members to review the register and update any changes.

The Government has published a guide for councillors, '*Openness and transparency on personal interests*' (see web link below), which Members can refer to as well as seek specific guidance from the Monitoring Officer

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/240134/Openness and transparency on personal interests.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/240134/Openness_and_transparency_on_personal_interests.pdf)

5. RATIONALE

The Committee has a role in promoting and maintaining high standards of conduct and make appropriate recommendations to Council in this regard. This includes monitoring all relevant procedures and processes.

6. LEGAL IMPLICATIONS

The Localism Act 2011 ("the Act") places the Council under a duty to promote and maintain high standards of conduct for members (and co-opted members). This was delegated by the Council in August 2012 to the Standards Committee. Under the Constitution, the Standards Committee also has a role in assisting councillors (and co-opted members) to observe the Members Code of Conduct, and make appropriate recommendations to the Council with respect to:

- promoting and maintaining high standards of conduct and
- the provision of training, guidance and assistance for Members in relation to the Members' Code of Conduct.

The Act also requires local authorities to adopt a Code of Conduct that is consistent with the 'Nolan' principles, and include provisions to regulate pecuniary and other interests. In addition, the Act requires the Monitoring Officer to establish a register of members' interests for each authority within their area. Therefore, for parish councils, the district or unitary authority's Monitoring Officer must ensure that every parish council's register is available for inspection within the principal authority' and, if the parish council has a website, the parish council must ensure that the register is accessible on their website.

The legal requirements for registering interests are referred to in section 3 on this report ('Legal Framework').

7. POLICY IMPLICATIONS

A good governance framework in local authorities is necessary to promote and maintain high ethical standards, and to ensure public confidence. In this regard and for transparency and compliance with legislation, the Council must ensure it has sound systems in place for the registration of member's interests.

8. FINANCIAL IMPLICATIONS

None.

9. CONSULTATIONS

The Committee has a role in promoting and maintaining high standards of conduct. Following consideration at Committee, recommendations will be made to Council to approve any changes to the process for registering interests

Chief Officer/Member

Contact Officer: Asad Laher, Deputy Director – Legal & Governance and Monitoring Officer.

Date: 7th December 2022

Background Papers: None



REPORT OF:	The Monitoring Officer
TO:	Standards Committee
ON:	21 December 2022

**SUBJECT: Local Government (Disqualification) Act 2022
Changes to disqualification criteria for Councillors**

1. PURPOSE OF THE REPORT

To inform the Standards Committee of the new grounds for disqualification from being elected to, or being a member of, a local authority that have been introduced by the Local Government (Disqualification) Act 2022.

2. RECOMMENDATIONS

The Committee is asked to note the report.

3. BACKGROUND

The Local Government (Disqualification) Act 2022 ("the Act"), which came into force on 28 June 2022, introduces new grounds on which a person is disqualified from being elected to, or holding, certain positions in local government in England, including the position of councillor.

The Act updates the disqualification criteria for local authority Members to explicitly disqualify individuals who are subject to relevant notification requirements or orders due to sexual offences such as Sexual Harm Prevention Orders and Sexual Risk Orders from standing for or remaining in office.

Previously a Councillor would be disqualified from standing for election or holding public office if they had been convicted of any offence and had received a sentence of imprisonment (suspended or not) for a period of no less than three months or more in the five-year period before the relevant election.

Recently new offences and sentencing regimes were implemented, meaning that some sexual offences, registration on the Sex Offenders Register and other offences such as anti-social behaviour do not result in a custodial sentence, e.g. they might require a notification or an Order may be made. Therefore, Councillors convicted of offences, which previously would have resulted in disqualification, were able to retain their role if elected or run for election even if recently convicted.

The Act updates the disqualification criteria so that sexual offences that had unintentionally fallen out of the scope of the disqualification criteria were brought back into scope. The disqualification introduced by the Act does not operate retrospectively. Therefore, it does not disqualify a person who became subject to any relevant notification requirements or a relevant order before on 28 June 2022.

Candidates for election to local government must declare they are not disqualified from standing using prescribed 'Consent to Nomination' forms at nomination. The briefing highlights that it is a criminal offence to make a false statement on nomination papers.

4. THE NEW DISQUALIFICATION & IMPLICATIONS

The Act introduces a new disqualification, inserted as Section 81A of the Local Government Act 1972. Under that section a person is disqualified from being elected to, or being a member of, a local authority in England if the person is subject to:

- a) any relevant notification requirements, or
- b) a relevant order.

“Relevant notification requirements” means the notification requirements of Part 2 of the Sexual Offences Act 2003 (or equivalent requirements applying in the Channel Islands or the Isle of Man).

“Relevant order” means:

- a) a sexual harm prevention order under section 345 of the Sentencing Code;
- b) a sexual harm prevention order under section 103A of the Sexual Offences Act 2003;
- c) a sexual offences prevention order under section 104 of that Act;
- d) a sexual risk order under section 122A of that Act;
- e) a risk of sexual harm order under section 123 of that Act; or
- f) certain equivalent legislation to the above applying in the devolved nations, the Channel Islands or the Isle of Man.

A person who is subject to any *relevant notification requirements* referred to above is not to be regarded as disqualified until:

- a) the expiry of the ordinary period allowed for making an appeal or application against the conviction, finding, caution, order or certification in respect of which the person is subject to the relevant notification requirements, or
- b) if such an appeal or application is made, the date on which it is finally disposed of or abandoned or fails because it is not prosecuted.

Similarly, a person who is subject to a *relevant order* referred to above is not to be regarded as disqualified until:

- a) the expiry of the ordinary period allowed for making an appeal against the relevant order, or
- b) if such an appeal is made, the date on which it is finally disposed of or abandoned or fails because it is not prosecuted.

Consequential changes to the rules for administering elections have also been including to the prescribed 'Consent to Nomination Form'. Candidates are now required to declare when standing that they are not disqualified under the newly inserted Section 81A of the Local Government Act 1972.

The Local Government Association (LGA) has issued a briefing on the Act, and providing an overview of the legislation's background and its implications for councils and councillors:

5. RATIONALE

The Committee has a role in promoting and maintaining high standards of conduct by Elected Members and co-opted members. In doing so, the Committee should consider other matters, which are relevant to the ethical governance of Elected Members.

6. LEGAL IMPLICATIONS

There are no specific legal implications arising from this report. The issues referred to in this report will assist the Council in complying with its obligations under section 27 of the Localism Act 2011.

7. POLICY IMPLICATIONS

The LGA briefing states that the Act is “essential in ensuring that the public continues to have confidence in their elected representatives and local democracy”.

8. FINANCIAL IMPLICATIONS

None.

9. CONSULTATIONS

The Government in 2017 consulted on proposals to update the disqualification criteria for councillors to bring them into line with both modern sentencing practice and the values and high standards of behaviours the electorate have a right to expect of the elected members that represent them. In October 2018, the government issued a summary of responses to that consultation and gave a commitment to seek to legislate to ensure that the disqualification criteria would be amended to also include individuals who are subject to either the notification requirements set out in the Sexual Offences Act 2003 (commonly known as ‘being placed on the sex offenders register’) or a Sexual Risk Order made under section 122A of the Sexual Offences Act 2003.

Chief Officer/Member

Contact Officer: Asad Laher, Deputy Director – Legal & Governance and Monitoring Officer.

Date: 7th December 2022

Background Papers: None



REPORT OF:	The Monitoring Officer
TO:	Standards Committee
ON:	21 December 2022

SUBJECT: New Council Values & Behaviours

1. PURPOSE OF THE REPORT

To consider the new Council values and behaviours and review of the Protocol on Member/Officer Relations.

2. RECOMMENDATIONS

The Committee is asked to consider the new Council values and behaviours and review of the Protocol on Member/Officer Relations (**Appendix A**), and recommend any amendments to full Council for approval.

3. BACKGROUND

The Protocol on Member/Officer Relations ("the Protocol") is contained Part 5, Section 3 of the Constitution. Its purpose is stated in paragraph 1.2 as: *"...to guide Members and Officers of the Council in their relations with one another"*.

The Protocol covers the respective roles and responsibilities of Elected Members and Officers, the legitimate expectations of each other, and specific guidance on a number of issues that commonly arise, including an 'Advice Note for Elected Members/Officers involvement in respect of family members and social care matters.' Some of these expectations reflect the principles underlying the Code of Conduct for Members ("the Members' Code") and the Officer Code of Conduct ("the Officer Code"). The shared object of these codes is to enhance and maintain the integrity of local government and the Codes, therefore, demand very high standards of personal conduct. Although the Members Code has been subject to some amendments since its formal adoption in 2012 following recommendations by the Committee, the Protocol has not been reviewed for some time.

At its meeting on 28th September 2022, the Committee considered a review of the Member's Code and were presented with the work undertaken in relation to the Council's organisational values: *Trust, Respect, Ambition, Collaboration, Kindness (TRACK)*. A special Member Training session was arranged to be held on 12 October 2022 to present that Council's organisational values and behaviours, and it was resolved by the Committee to consider the review of the Code in conjunction with these Council's values and behaviours after the training session.

At the training session it was stated that these values and behaviours had been cascaded to all staff who are committed to them in all aspects of their work, and in particular when engaging with customers, other officers, Elected Members, and external and partner organisations.

It is also noted that the principle, “*Respect for Others*” has been incorporated into the Members Code with an explanation: “*Members should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the authority’s statutory officers, and its other employees.*”

As well as reviewing the Members Code, the Committee could also consider the adoption of Council’s Values and Behaviours as a reciprocal understanding in their engagement with officers. In doing so, the Committee could suggest recommendations to the Protocol. Such recommendations could include incorporation of the ‘TRACK’ values and behaviours in the Protocol.

The Standard’s Committee’s role and function as delegated by the Council is contained in the constitution. It includes assisting councillors and co-opted members to observe the Code of Conduct. The Committee also has a function to monitor the operation of the Council’s standards arrangements and make appropriate recommendations to the Council as it considers appropriate with respect to the maintenance and review of the Code, together with such other codes, procedure, protocol or guidance as the committee considers appropriate.

4. RATIONALE

The Standards Committee has a role to promote and maintain high standards of conduct by councillors and co-opted members, and to assist councillors and co-opted members to observe the Members Code of Conduct. It also has the role to maintain and review a Code of Conduct for Members of the Council. There is also the Protocol on Member/Officer Relations, which the Committee can review in conjunction with the Council’s organisational values and behaviours.

5. LEGAL IMPLICATIONS

The legal framework is in relation to the Members Code of Conduct. The current Council Code of Conduct and complaint processes was adopted in line with the Council’s obligations under section 27 (2) of the Localism Act 2011 and complies with the requirements under section 28 of the Act. Any recommendations for revisions to the current Code of Conduct would be subject to approval by full Council.

In addition, the Protocol on Member/Officer Relations reflect the principles underlying the Code of Conduct for Members and as such the Committee may review the Protocol in conjunction with the Council’s values and behaviours. Any recommendations for amendments to the Protocol would be subject to approval by full Council.

The Standard's Committee's role and function as delegated by the Council is contained in the constitution. It includes assisting councillors and co-opted members to observe the Code of Conduct. The Committee also has a function to monitor the operation of the Council's standards arrangements and make appropriate recommendations to the Council as it considers appropriate with respect to the maintenance and review of the Code, together with such other codes, procedure, protocol or guidance as the committee considers appropriate.

6. POLICY IMPLICATIONS

The Member's Code of Conduct the Officer Code of Conduct and the Protocol on Member/Officer Relations forms part of the Council's governance framework, and are necessary to promote and maintain high ethical standards, and to ensure public confidence. The Protocol guides Members and Officers of the Council in their relations with one another in such a way as to ensure the smooth running of the Council.

7. FINANCIAL IMPLICATIONS

None.

8. CONSULTATIONS

The Standards Committee regularly reviewed the Council's arrangements for promoting and maintaining high standards of conduct. It has previously considered the LGA Model Code and the recommendations contained in the Committee on Standards in Public Life report on local government ethical standards, and recommended changes to the Code. The Council's values and behaviours have been adopted following extensive consultation with staff across all service areas. A Member Training session on 'New Values & Behaviours' was held also on 12 October 2022, which also discussed the Council's values & behaviours with Elected Members.

Chief Officer/Member

Contact Officer: Asad Laher, Deputy Director – Legal & Governance and Monitoring Officer.

Date: 6th December 2022

Background Papers: None

Section 3 Protocol on Member/Officer Relations

A. INTRODUCTION

1. Purpose of the Protocol

- 1.1 An effective working relationship between members and officers is critical to the successful operation of the Council's business and to maintaining confidence in the machinery of local government in Blackburn with Darwen.
- 1.2 The purpose of this protocol is to guide members and officers of the Council in their relationships with one another. It is not intended to be prescriptive or comprehensive and seeks simply to offer guidance on some of the issues, which most commonly arise.

2. Status of the Protocol

- 2.1 This Protocol has been endorsed by the Council's Standards Committee and approved by Council.

3. Roles and Responsibilities – Elected Members

- 3.1 Members are elected democratically. It is their policies, ideas and decisions which people vote for. Members set the core values of the organisation, agree a policy framework, set the corporate goals and promote the Council in all its work. Members are also the key channels of democratic accountability and scrutiny ensuring that Officers uphold the values of the organisation and deliver those policies that have been determined by the organisation. Members are the advocates for their constituents and deal with individual casework. Members are responsible for making the most senior appointments in the Council through the Chief Executive and Chief Officer Employment Committee.
- 3.2 Members are responsible to the electorate and serve only so long as their term of office lasts.

4. Roles and Responsibilities - Officers

- 4.1 The role of officers is to deliver services according to the policies and requirements set by Members, to draft policy proposals which accord with the overall framework set by members, to give professional advice in the course of policy development and to manage the organisation.
- 4.2 Directors are responsible for appointments of staff below Chief Officer level. Officers are accountable to their Director. They work to the instructions of their Director and not to individual members - whatever office a Member might hold.

B. LEGITIMATE EXPECTATIONS

1. What members can expect of officers

Members can expect officers:

- To do their job effectively and efficiently
- To strive to provide services which offer best value
- To behave in a manner which accords with the standards set by the Council
- To be helpful, respectful and courteous
- To assist members in carrying out their role as elected members (but not in any party political or campaigning activity, or with private business)
- To deal with members' enquiries fairly and efficiently
- To be open and honest with members.
- To work with all members equally and fairly
- To act lawfully
- To give advice or recommendations based on reasoned options
- To ensure that members have all the information necessary to make informed judgments
- To maintain confidentiality where it is proper for them to do so
- Not to canvass members or otherwise seek to gain favour from them for personal or career advantage
- To have regard to social hours and generally to be sensible about contacting members at potentially inconvenient times, unless in an emergency or otherwise agreed.
- To remember that they are employed by Blackburn with Darwen Council as a whole and not by any part of the Council or individual member

2. What officers can expect of members

Officers can expect members:

- To accept that officers are accountable to their Manager
- To be helpful, respectful and courteous to officers
- Not to become involved in the day to day management of the Council
- To accept that officers act independently of political bias
- To fully consider advice and recommendations for the purpose of making informed judgments
- Not to ask officers to breach Council policy or procedures, or to act unlawfully, or outside the terms of their job
- Not to exert influence or pressure, or request special treatment,
- Not to request unauthorised access to resources or information held by the Council
- To treat officers in a reasonable manner
- To be open and honest with officers
- To act lawfully and to maintain confidentiality when appropriate to do so
- To remember that Officers have a duty to support all parts of the organisation
- To respect that officers have private lives and not to contact them outside normal working hours, or at home, unless in an emergency, or if the officer is officially working from home, or otherwise agreed.

C. SPECIFIC GUIDANCE

1. Officer/Member relationships

Personal relationships

- 1.1 It is clearly important that Senior Officers should have a close working relationship with Executive Members, opposition Group Spokesmen, Scrutiny Committee Chairmen and other senior officers. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the individual's ability to deal impartially with others.
- 1.2 Members must not sit on a Council body or assume an Executive role responsible for any officer with whom they have a close personal relationship.

Members' Constituency Role & Individual Officers

- 1.3 A member may be asked for advice and support by an officer who is one of their constituents. Officers are entitled to seek such assistance in the same way as any other member of the public. However, members should be careful not to prejudice the Council's position in relation to employment matters in respect of an officer.

Dealings with Junior Officers

- 1.4 Members, as citizens, will deal routinely with junior officers of the Council. However, when acting as Councillors, members should take care not to place junior officers in a difficult position for example by seeking information from them which is not in the public domain or by requesting special treatment for themselves or another person.

Giving Instructions to Officers

- 1.5 Members should not give instructions to staff unless they are authorised to do so under the Council's Constitution. Any such instructions should be addressed to the relevant Chief Officer.

Complaints about officers or services

- 1.6 Members have the right to criticise reports or the actions taken by officers, but they should always:
 - avoid personal attacks on officers
 - ensure that criticism is constructive and well-founded.
- 1.7 Members should avoid undermining respect for officers at meetings, or in any public forum including through the press. This would be damaging, both to effective working relationships and to the public image of the Council. It would also undermine the mutual trust and courtesy that is an essential element of a well run authority. It is important to note that this requirement is not intended to prevent members from undertaking polite but robust and probing scrutiny of the work of Officers.
- 1.8 Complaints about officers or Council services should be made to the Director of the service where the member feels the fault lies.

Officers and Whole Council

- 1.9 Officers are required at all times to serve the whole Council and will need to exercise judgement in fulfilling this obligation. Members must recognise this obligation on officers.
- 1.10 Directors are responsible for the contents of all reports submitted in their name. The advice contained in such reports is independent and members must not seek to suppress or amend any aspect of such advice.

2. Support to Members and Party Groups

Equipment, accommodation and staff resources

- 2.1 Members are provided with ICT (information and communication technology) equipment and support services (e.g. diary management, correspondence handling, stationery provision, typing, printing, photocopying and research support) to enable them to better perform their policy and constituency role as elected members.
- 2.2 Members are also provided with accommodation sufficient for their needs and facilities for holding meetings with their constituents.
- 2.3 Members should not normally use – and officers should not provide - such equipment and support services in connection with party political or campaigning activity or for purposes not related to Council business.
- 2.4 Where it would otherwise cause undue inconvenience the Council may permit Members to use equipment for personal as well as Council business. This permission may extend to the use of Personal Computers, mobile phones etc. Members who use such equipment on personal business must abide by any specific conditions attached to such usage including conditions as to payment.
- 2.5 All requests for support which require staff resources will be subject to the request not being unreasonable, not placing undue demands on resources and there being sufficient resources available to meet the request.
- 2.6 Officer support which is made available is to be used to support Council business only and not for general party political activities.

Officers and Political Party Group Meetings

- 2.7 It is usual practice for officers to provide support for individual party groups and there is a common understanding that the Chief Executive and Directors will ensure that such support is provided. However, no individual Officer can be *required* to attend a political group meeting or to write a report for such a meeting.
- 2.8 Officer support to individual political groups must not extend beyond providing information in relation to matters of Council business. Officers must not be involved in advising on matters of party business. Officers should not be expected to be present when matters of party business are being discussed.
- 2.9 Special care needs to be exercised whenever officers are involved in providing information and advice to a party group meeting which includes persons who

are not members of the Council. Officers are more likely to feel unable to attend such meetings. Where they do attend they may not be able to provide the same level of information and advice as they would to a member only meeting and in certain circumstances may feel constrained to refuse to give advice.

- 2.10 When Officers attend such meetings the members present are responsible for the proper behaviour of non Councillors present.
- 2.11 Officers will respect confidentiality in respect of issues discussed at Group meetings.

Meetings with Individual Members

- 2.12 Group leaders, Executive Members, Committee Chairs and Vice Chairs and Opposition Spokespersons are entitled to private and confidential briefings from a Director on matters of policy which have already been or may be discussed by the Council or which are within its decision-making process. Normally such briefings will be organised on a Portfolio basis but separate meetings may be arranged with individual Directors where appropriate.
- 2.13 Officers will respect confidentiality in respect of issues discussed at such meetings.

3. Information Sharing

Local Information

- 3.1 It is essential that members should be fully informed about matters on which they may be required to make decisions or which affect their Wards.
- 3.2 Directors must ensure that all relevant staff are aware of the requirement to keep local members informed of issues affecting their ward and that the timing of such information allows members to contribute to any proposed decisions.
- 3.3 If a public meeting is organised by the Council to consider a local issue, all the members representing the Wards affected should be invited to attend the meeting.
- 3.4 Similarly, whenever the Council undertakes any form of consultative exercise affecting a particular Ward or Wards, the local Ward members should be notified at the outset of the exercise.

Information Sharing with Individual members or Political Groups

- 3.5 Individual members may request any Director to provide them with factual information. There is much information which will be freely shared with members. However, if a Director considers the cost of providing the information requested - or the nature of the request - to be unreasonable, he/she may decline to provide that information unless the Member establishes a legal right to that information. Any requests made for information shall be kept confidential.
- 3.6 The legal rights of members to information are contained within statute, the Constitution and in common law. The law in relation to information sharing is

complex. This section provides an overview of some key principles. It is not intended to be a detailed examination of the specific legal provisions.

- 3.7 In summary, as members of the public, members have the right to see agendas, reports and background papers relating to meetings of the Council and its Committees even where they are not members of the Committee in question. However, this right does not extend to seeing papers which contain confidential or exempt information such as information relating to individual service users or information which is commercially confidential.
- 3.8 Under the Council's Constitution these same rights apply to matters to be dealt with by the Executive Board. In addition members have the right to see other documents which relate to business to be transacted at Committee or the Board. Certain confidential and exempt information is excluded from this right.
- 3.9 Members also have a right to see information relating to any decision of an individual Executive member once the decision has been made. Once again certain confidential and exempt information is excluded from this right.
- 3.10 Members have a right to inspect any Council documents so far as access to the document in question is reasonably necessary to enable the member to perform his/her duties as a member of the Council. This is commonly known as "the need to know" principle. It is for the Director of the Department which holds the document in question, to determine whether an individual member has a need to know. The Director may consult the Deputy Director, Legal & Governance in particular cases of difficulty.
- 3.11 In many cases a need to know can be presumed. However, where members wish to see documents containing confidential information, that request will need to be specifically justified if the information is to be provided.
- 3.12 Where confidential information has been shared it must only be used by the Member for the purpose for which it was provided (i.e. in connection with the proper performance of the Member's duties as a Member of the Council). It should not be circulated without the approval of the relevant Director. Failure to comply with this rule may breach the Code and, in certain circumstances may be a criminal offence.
- 3.13 There are separate rules which give members the right to information about the Council's finances.

Information Sharing and Scrutiny

- 3.14 Scrutiny Committees have additional rights to information which are set out in the Access to Information and Decisions and Attendance at Public Meetings Rules within the Constitution. Briefly these rules enhance individual members' rights so as allow the Committee to have access to documents which contain information where that information is relevant to an action or decision which is being scrutinised or is within the Committee's work programme. This provision allows the Committee to have access to confidential or exempt information.
- 3.15 When a decision has been subject to call in, the relevant Director should produce a pack of the documents relevant to the decision which may be accessed by members of the Scrutiny Committee. Where that pack would be

very large the Director should attempt to identify the most important documents and draw Members attention to these.

4. Correspondence

- 4.1 Correspondence, including e-mails, between an individual member and officer, should not normally be copied by the officer to any member, unless the member who initiated the correspondence copied it to other members in which case the officer should normally copy his correspondence to those other members.
- 4.2 Members can expect Officers to treat their correspondence with the utmost discretion. However, Officers and particularly more junior officers may need to seek advice on answering Members' queries and Directors need to be able to monitor the quality of information being supplied. For that reason correspondence may, where necessary be copied by an Officer to his /her Manager, Director, the Director of Finance, the Deputy Director, Legal & Governance, or the Chief Executive but should not normally be circulated more widely.

5. Members roles in representing individual citizens

5.1 Members should not normally appear before a quasi-judicial body administered by the Council to represent an individual citizen. Note separate arrangements are in place to facilitate representation for Planning & Highways Committees.

5.2 If a Member proposes to attend a meeting between an officer and a citizen, they should advise the appropriate Chief Officer in advance of this intention.

6. Members involvement in respect of Family members and social care matters

6.1 In the event that any Member's relative becomes the subject of any Policies/Procedures/Applications related to the conduct of the Council's social care responsibilities the following protocol is to be observed to allow the member to fulfil their family role aside other citizens of the Borough whilst ensuring they do not compromise their role as Councillor's.

- 1 The Member should notify the Monitoring Officer or relevant Chief Officer (DCS or DASS) and may ask for advice or clarity.
- 2 The Member must not seek to influence the Officers/Members who are conducting the proceedings on behalf of the Council – and approved processes will be followed in the same way as for any other citizen of the Borough. (See Code of Conduct references in Guidance – Appendix A).
- 3 At all times during and after the conclusion of the matter, the Member must behave in accordance with The Code of Conduct.
- 4 Dependent upon the particular circumstances of the matter and the legislative framework, the respective Chief Officer may or may not be able to share further information with the Member involved.
- 5 Dependent upon the nature of the matter, a member may request to be temporarily relieved of individual portfolio or committee/sub-committee responsibilities should they identify a potential conflict of interest.

Further information is available via a Guidance note for Members from the Monitoring Officer approved by the Standards Committee on 8th January 2015 and is attached as Appendix A to this Protocol.

7. Public statements and dealings with the media

- 7.1 Officers responding to requests from the media must do so in accordance with the corporate media protocol.
- 7.2 Officers will not assist in party political publicity and all publicity issued by the Council will abide by the provisions of the Local Government Act 1986 and the Code of Conduct issued under the Local Government Act 1988.
- 7.3 When making public statements on matters affecting the Council officers should follow the following principles:
- Statements should be made without political bias;
 - Statements should not be made where they could reasonably be regarded as bringing the Council into disrepute;

Officers should not normally express a view in public as to decisions which members ought to take. This principle does not, of course, prevent officers giving professional advice to decision making bodies. It is also not intended to prevent officers giving advice in respect of planning applications and similar matters.

