

**Public Document Pack
SOUTHEND-ON-SEA CITY COUNCIL**

Standards Committee

Date: Tuesday, 15th October, 2024

Time: 2.00 pm

Place: Committee Room 6 - Civic Suite

Contact: Tim Row (Principal Democratic Services Officer)

Email: committeesection@southend.gov.uk

A G E N D A

- 1 Apologies for Absence**
- 2 Declarations of Interest**
- 3 Constitution Review Stage 2 Review of initial drafts of Parts 5 and 6 of the Work Programme (Pages 3 - 94)**

TO: The Chair & Members of Standards Committee :

Councillor K Robinson (Chair),

Councillors P Collins (Vice-Chair), K Buck, J Courtenay, J Moyies, K Murphy, S Nadeem,
M O'Connor and M Terry

COPY FOR INFORMATION to other Group Leaders

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Meeting: Standards Committee
Date: 15 October 2024
Classification: Unrestricted
Key Decision: No
Title of Report: Constitution Review Stage 2 Review of initial drafts of Parts 5 and 6 of the Work Programme

Executive Director: Claire Shuter
Report Author: Susan Zeiss
Executive Councillor: Cllr Daniel Cowan, Leader of the Council

1. Executive Summary

- 1.1. At the meeting of Standards Committee on 7 October 2024, Committee agreed and reserved for final recommendation to Council considered Part 1 (Summary and Explanation and Public Participation) and Part 2 (The Council) of the proposed new constitution for Southend-on-Sea City Council.
- 1.2. In addition, Committee considered initial drafts for Part 3 (Committees) and Part 4 (The Executive and Joint Arrangements) of the proposed new constitution for Southend-on-Sea City Council.
- 1.3. Committee debated and reviewed the provisions presented by Officers for these Parts 3 and 4 and requested amendments and adjustments to be drafted for review at this meeting.
- 1.4. Committee deferred consideration of Part 5 (Overview & Scrutiny) to the meeting on 15 October 2024.
- 1.4.1. Committee also agreed to consider Part 6 (Councillors) which includes the:
 - Role of Councillors and Office Holders
 - Code of Conduct for Councillors
 - Arrangements for Dealing with Complaints against Councillors
 - Protocol on Member/Officer relationships
 - Scheme of Member Allowancesat this meeting.
- 1.5. This work constitutes the ongoing Stage 4 (Drafting) of the agreed Work Programme.

2 Recommendations

It is recommended that Committee:

- 2.1 Notes the amended timeline for the Work Programme, as agreed by the Chair and attached as Appendix A to this report;
- 2.2 Notes the summary of suggested drafting amendments made by Committee (with annotations from our external advisors, Anthony Collins) its meeting on 7 October was not ready in time for publication of this report and will be circulated to Members of the Cttee and published with the report on 22 October;
- 2.3 Considers the first draft of Part 5 (Overview and Scrutiny) of a new proposed constitution for Southend-on-Sea City Council as set out in Appendix B to this report and directs officers as to any amendments and/or additions it wishes to be drafted for further review at the next meeting of Committee on 12 November 2024;
- 2.3 Considers the first draft Part 6 (Councillors) of a new proposed constitution for Southend-on-Sea City Council as set out in Appendix C to this report and directs officers as to any amendments and/or additions it wishes to be drafted for further review at the next meeting of Committee on 12 November 2024;
- 2.7. Agrees that officers bring the amended drafts of Parts 3 and 4 of the Work Programme for further consideration and agreement by Committee to its next meeting to be held on 22 October 2024.

3. Background

- 3.1. Standards Committee agreed at its meeting on 16 July 2024 to recommend to Council that the constitution follow the style and format of the modern style constitution, where the sections are grouped into themes which follow the functions of the council.
- 3.2. Officers have therefore divided all the required component parts of a constitution including both those required by law and those over which the Council has a discretion into parts as described in the work programme. First drafts of suggested new provisions will be brought before Committee in sequence, first for direction as to the requested drafting of provisions and thereafter at a following meeting, for that drafting to be approved by Committee for onward recommendation to Council.
- 3.3. Due to the concentrated nature of the work required to redraft the constitution, the Chair agreed to convene an additional meeting of Standards Committee on the 18 November, so as to still be able to meet the deadline for approval of the proposed new constitution by Council on 12 December 2024. Officers have therefore amended the indicative timeline for the agreed Work Programme to include the additional meeting as well as amended the allocation of work to each meeting. The amended timeline is attached at **Appendix A** to this report.

3.3. As part of the ongoing work of the Committee to review the constitution, this report brings before Committee for consideration:

3.3.1. Suggested provisions for the constitution and working of the Council's Committees which constitutes Part 5 (Overview and Scrutiny) of Stage 4 of the Work Programme and which are contained in **Appendix B** to this report; and

3.3.2. Suggested provisions for the constitution and working of Councillors which makes up Part 6 (Councillors) of Stage 4 of the Work programme and is contained in **Appendix C** to this report, namely:

- Role of Councillors and Office Holders
- Code of Conduct for Councillors
- Arrangements for Dealing with Complaints against Councillors
- Protocol on Member/Officer relationships
- Scheme of Member Allowances

4. Reasons for Decisions

4.1. Council agreed on 13 June 2024 to undertake a complete review and rewrite of its constitution.

5. Other Options Considered

5.1. The Council must have a constitution by law. Not having a complaint constitution is not an option that can be followed.

5.2. The option to amend the existing constitution in part only was discounted as it presented to great a risk of inconsistencies and inaccuracies remaining in the document. In addition, the style and format of the existing constitution required complete revision and modernisation, which would be difficult to achieve if only some parts were amended.

6. Financial Implications

6.1. At this stage there are no additional financial implications from the proposals contained within this report.

7. Legal Implications

7.1. It is a requirement of the Local Government Act 2000 that the Council has a constitution, there is a risk that the constitution in its current form may give rise to legal challenges about the Council's governance framework and decision-making procedures.

8. Equalities

8.1. There are no known Equalities impacts at this stage.

9. Consultation

9.1. Consultation with Members will be undertaken through the Standards Committee, which is a cross-party committee of Council, as well as engagement and training sessions with all councillors. The Committee will also invite suggestions and contributions from all councillors in advance of the Committee considering draft provisions.

9.2. There will be consultation with officers through engagement with all services through the drafting, decision-making and training processes.

10. Appendices

10.1 **Appendix A:** Amended Timeline

10.2 **Appendix B:** Initial draft of Part 5 (Overview & Scrutiny)

10.2. **Appendix C:** Initial draft of Part 6 (Councillors)

11. Report Authorisation

11.1

This report has been approved for publication by:		
	Name:	Date:
S151 Officer	Joe Chesterton	
Monitoring Officer	Susan Zeiss	
Executive Director(s)	Claire Shuter	
Relevant Cabinet Member(s)	Cllr Daniel Cowan	

Southend City Council Constitution Review High Level Timeline

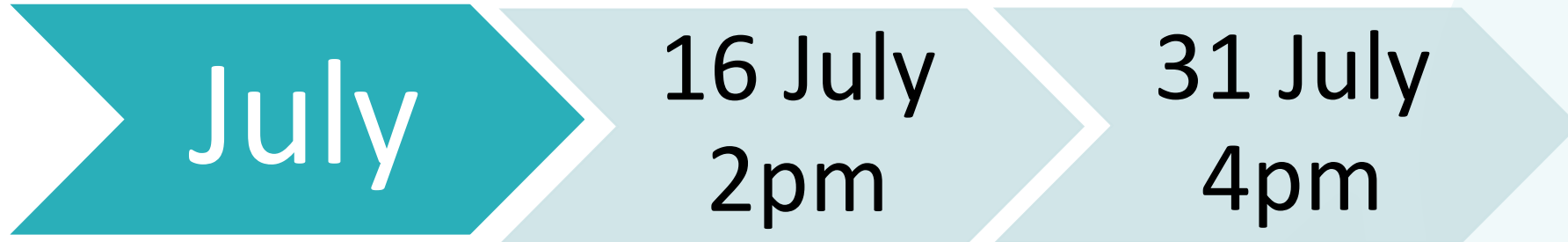
Standards Committee

16 July 2024 (Amended 7 October 2024) v2

Constitutional Review – key meeting dates



Constitutional Review – work programme July



DATE	TASKS	WORK PROGRAMME STAGE
<ul style="list-style-type: none"> 16 July 	<ul style="list-style-type: none"> Principles Work programme Structure and format 	<ul style="list-style-type: none"> STAGEs 1 - 3
<ul style="list-style-type: none"> 31 July 	<ul style="list-style-type: none"> Review 1st Draft of Part 1 Review 1st Draft of Part 2 	<ul style="list-style-type: none"> STAGE 4



Constitutional Review – work programme

August



DATE	TASKS	STAGE
All August	<ul style="list-style-type: none"> • Prepare 2nd Draft Part 1 • Prepare 2nd draft Part 2 • Prepare 1st Draft Part 3 • Prepare 1st draft Part 4 • Prepare 1st draft Part 5 	Stage 4 Drafting



Constitutional Review – work programme

September

September

10
September
4pm

DATE	TASKS	STAGE
10 September	<ul style="list-style-type: none"> • Agree 2nd Draft Part 1 • Agree 2nd Draft Part 2 	Stage 4 Drafting

Timeline Key



Constitutional Review – work programme

October

October

7 October
4pm

15 October
2pm

22 October
2pm

DATE	TASKS	STAGE
7 October	<ul style="list-style-type: none"> • Agree 2nd Draft Part 1 • Agree 2nd Draft Part 2 • Review 1st Draft Part 3 • Review 1st Draft Part 4 	Stage 4 Drafting
15 October	<ul style="list-style-type: none"> • Review 1st Draft Part 5 • Review 1st Draft Part 6 	Stage 4 Drafting
22 October	<ul style="list-style-type: none"> • Agree 2nd Draft Part 3 • Agree 2nd Draft Part 4 	Stage 4 Drafting

Timeline Key



Constitutional Review – work programme

November

November

12
November
2pm

18
November
2pm

27
November
4pm

DATE	TASKS	STAGE
12 November	<ul style="list-style-type: none"> Review 1st Draft Part 7 Agree 2nd Draft Part 5 Agree 2nd Draft Part 6 	Stage 4 Drafting
18 November	<ul style="list-style-type: none"> Agree 2nd Draft Part 7 Financial Procedure Rules Contract Procedure Rules Check Links to <ul style="list-style-type: none"> - Petition Scheme - Probity in Planning - Executive/Scrutiny Protocol 	Stage 4 Drafting
27 November	<ul style="list-style-type: none"> Wrap Up and Revision <ul style="list-style-type: none"> - Plain English 	Stage 5

Timeline Key



Constitutional Review – work programme

December



14

DATE	TASKS	STAGE
TBC	All Councillor Briefing/Training	STAGE 5
12 December	Approval by Council	STAGE 5

Part 5 OVERVIEW AND SCRUTINY

Section

- 1 Overview and Scrutiny Arrangements
- 2 Overview and Scrutiny Committee Procedure Rules

1. OVERVIEW AND SCRUTINY ARRANGEMENTS

Purpose

- 1.1 Every council operating an executive model has to have an overview and scrutiny function (Scrutiny) At the annual meeting of the full Council, the number of Committees, their Terms of Reference and the number of seats required to perform the scrutiny function for the forthcoming year will be approved.
- 1.2 The Council currently has appointed three Overview and Scrutiny Committees: People, Place, and Policy and Resources.
- 1.3 Developing a constructive relationship between the Cabinet and Scrutiny is fundamental to effective scrutiny and will occur by;
 - Facilitating the identification, prioritisation and delivery of key strategic issues Scrutiny Annual forward plans;
 - Promoting early involvement in the decision-making process and avoiding the need for “Call-in”;
 - Adopt a “cards on the table” approach with regular communication and sharing of information but balanced with a respect for confidentiality when required; and
 - Acceptance of the need for Scrutiny to have an independent mindset and responsibility for the role.
- 1.4 The success of this model lies in Scrutiny being “member led”. This means that the Scrutiny agenda will be set by Scrutiny members but also means that Councillors are accountable for its success. This will require the proactive engagement and commitment of both the Cabinet and Scrutiny as well as the Officers that support them.
- 1.5 This section gives more details about the Council’s Overview and Scrutiny Committees and the rules which govern how they work. These rules are at times written in formal language because of the statutory basis for the Overview and Scrutiny Committees. If you have specific questions our Democratic Services Team will be happy to help you.
- 1.6 The membership, chair and quorum requirements for the Overview and Scrutiny Committees are as set out in the below table.

Membership, Chair and Quorum

Number of Members	17
Substitute Members Permitted	Yes
Political Proportionality Rules Apply	Yes
Appointment / Removal of Members	Group Leader or Independent councillor
Restrictions on Membership	The Mayor and Cabinet Members may not be members
Restrictions on Chair and Vice Chair	These may where possible be sought from Councillors not in the majority groups.
Quorum for Meetings	¼ of membership subject to a minimum of three members
Number of Ordinary Meetings Per Council Year	[]
Sub committees and working groups	permissible

Scrutiny Principles

1.7 The Overview and Scrutiny Committees are committed to the developing of a respectful relationship between themselves, the Cabinet and external partners. The work of the Overview and Scrutiny Committees is underpinned by the following seven principles:

- (a) To contribute to sound decision making in a timely way by holding Councillors and key partners to account as a 'critical friend'.
- (b) Contribute to and reflect the vision and priorities of the Council.
- (c) Enable the voice and concerns of the public to be heard and reflected in the Council's decision making process.
- (d) Engage in policy development at an appropriate time to be able to influence the development of policy.
- (e) To be agile and able to respond to changing and emerging priorities at the right time with flexible working methods.
- (f) For Scrutiny to be a Councillor led and owned function which seeks to continuously improve through self-reflection and development.

- (g) Drive improvement in public services and strategic decision-making

1.8 In addition to the principles set out at paragraph 1.6 above, in conducting its proceedings a Scrutiny Committee will have regard to the following:

- (a) At all times, while conducting its business in a tenacious matter, to do so with respect, equity, fairness, dignity and with regard to the principles of natural justice.
- (b) To ensure that all Scrutiny Committee members are given the opportunity to contribute to and speak at Scrutiny Committee meetings and to ask questions of those attending.
- (c) To conduct its business in a consensual, open, responsible and transparent manner across political divides and to avoid expressing views based purely on political considerations.
- (d) To conduct its business so as to maximise its efficiency.
- (e) Not to seek to hold Officers and non-Cabinet members to account for decisions taken by Cabinet members.
- (f) To recognise that any question of officer discipline which may arise is to be dealt with through the appropriate employment procedures.

Overview and Scrutiny Functions

Scrutiny

1.9 Within their agreed remit each Overview and Scrutiny Committee can:

- (a) Review or scrutinise decisions made or actions taken in connection with the discharge of any of the functions which are the responsibility of the Cabinet;
- (b) Make reports and/or recommendations to the Council or Cabinet with respect to the discharge of any functions which are the responsibility of the Cabinet;
- (c) Review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are not the responsibility of the Cabinet;
- (d) Make reports and / or recommendations to the Council or Cabinet with respect to the discharge of any functions which are not the responsibility of the Cabinet;
- (e) Make reports or recommendations to the Council or the Cabinet on matters which affect the Council's area or the inhabitants of that area.
- (f) Exercise the right to call-in, for reconsideration of executive decisions made but not yet implemented by the Cabinet / Leader/ Cabinet member or relevant senior Officer;

- (g) Work to ensure that communities are engaged in the Scrutiny process; and consider and implement mechanisms to encourage and enhance community participation in the development of policy options.
- (h) Promote equality and diversity across all of its work and the work of the Council.

1.10 The Overview and Scrutiny Committees will also each carry out these specific roles in relation to their work area:

- (a) Review and scrutinise the decisions made by and performance of the Leader / Cabinet / Cabinet member or Officers in relation to individual decisions;
- (b) Review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and / or particular service areas;
- (c) Question the Leader and all Cabinet members and senior Officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
- (d) Scrutinise the work of partnerships and partnership bodies in the local area;
- (e) Make recommendations to the Cabinet / Leader / Cabinet member, Council or partners, arising out of the Scrutiny process;
- (f) Question and gather evidence from any person (with their consent where appropriate).

Overview - Policy Review and Development

1.11 An important part of the Scrutiny function is also to;

- (a) Review current policies and strategies and make recommendations to the Leader / Cabinet and Council;
- (b) Undertake in depth analysis of policy issues and options to assist the Council and the Leader / Cabinet in the development of its budget and policy framework;
- (c) Consider matters referred to them by the Leader / Cabinet and report to the Leader / Cabinet with proposals and/or options;
- (d) Question members of the Cabinet and /or Committees and senior Officers from the Council about their views on issues and proposals affecting the area; and
- (e) Liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working; and
- (f) Consider the impact of policies to assess if they have made a difference

- (g) In performing the overview function above, a Scrutiny Committee will review Council and Cabinet policies and recommend to the Council and Cabinet:
 - (i) Whether new policies are required.
 - (ii) Whether existing policies are no longer required.
 - (iii) Whether existing policies require amending, updating or developing.
 - (iv) Whether existing policies may be made more effective.

Review of External Organisation Performance

1.12 A Overview and Scrutiny Committee will establish arrangements for its review of the performance of relevant external organisations, known as Partner Authorities, which affect the Council's functions and services. The Overview and Scrutiny Committees will consider providing the report to Council or Cabinet before notifying in writing to the relevant partner the report or recommendations.

Scrutiny of Education Matters

1.13 The People Committee carries out the functions of the designated Education Scrutiny Committee. When sitting as an Education Scrutiny Committee it shall include in its membership the following representatives:-

- (a) 1 (one) representative from the Church of England Diocese;
- (b) 1 (one) representative from the Roman Catholic Diocese;
- (c) 3 (three) Parent Governor Representatives.

1.14 These co-optees will receive agendas and reports relating to all items being considered by the People Committee, but may vote only on matters pertaining to education matters and not on any other matters considered by the People Committee at the same meeting, though they may speak on these items.

Scrutiny of Health and / or Adult Social Care

1.15 The People Committee with responsibility for health and / or adult social care will have the following additional functions:

- (a) To review and scrutinise any matter relating to the planning, provision and operation of health and / or adult social care services.
- (b) To review and scrutinise the impact of the Council's service and key partnerships on the health and / or adult social care of residents.
- (c) To respond to consultations on any proposal for a substantial development or variation of health and / or adult social care services.
- (d) To positively and proactively scrutinises NHS functions in the Council area.

1.16 The People Committee includes in its membership a representative from Healthwatch and any other co-opted members required by law

Scrutiny of Crime and Disorder

1.17 In accordance with s19 of the Police and Justice Act 2006 the Place Committee will carry out the statutory responsibilities to scrutinise crime and disorder issues by:

- (a) Reviewing or scrutinising decisions made, or other action taken in connection with the discharge by the responsible authorities of their crime and disorder functions;
- (b) Making reports or recommendations to the local authority with respect to the discharge of those functions.

1.18 Crime and Disorder functions are (i) the strategy for the reduction of crime and disorder in the area (including anti-social and other behaviour adversely affecting the local environment); (ii) the strategy for combatting the misuse of drugs, alcohol and other substances in the area; (iii) the strategy for the reduction of re-offending in the area and; the strategy for preventing people from becoming involved in serious violence in the area, and reducing instances of serious violence in the area.

Scrutiny of Flood Risk Management

1.19 The Place Committee shall review and scrutinise the exercise by risk management authorities of flood risk management functions or coastal erosion risk management functions which may affect the local authority's area. Cabinet Functions

1.20 The Overview and Scrutiny Committees may review the Cabinet's performance of its executive functions and where necessary recommend to the Cabinet or the Council:

- (a) Whether any action should be taken to improve the economy, efficiency and effectiveness of these functions;
- (b) Whether any action should be taken to improve the co-ordination of the functions within the Council or the functions of other persons or bodies;
- (c) Whether any functions should be performed in another way or by another person or body;
- (d) Whether the performance of the function should cease.

Budget Framework

1.21 The Leader / Cabinet and Overview and Scrutiny Committees will agree a process for the scrutiny of the annual budget and Council Tax setting.

Referrals from the Council or the Cabinet

1.22 The Overview and Scrutiny Committees will consider where possible any matter referred to them by the Council or the Cabinet and recommend any appropriate action. The Cabinet may request a Scrutiny Committee to look at topics to assist and inform Cabinet decision-making.

1.23 The following matters will automatically be referred for inclusion in the workplan if agreed by the Scrutiny Committee of:

- (a) Draft policies, plans and strategies which are to be recommended to the Council or the Cabinet for approval;
- (b) The draft budget which is recommended to the Council by the Cabinet.

1.24 In reviewing draft policies, plans strategies and the draft budget, a Scrutiny Committee will in particular consider:

- (a) Whether any appropriate criteria has been used;
- (b) Whether consultation (if any) responses and engagement conclusions have been taken into account;
- (c) Whether the decision is in accordance with the Council's policy framework;
- (d) Whether the decision is within the powers of the Council;
- (e) Whether the decision is lawful;
- (f) Whether the decision contributes to the efficient, effective and economic performance of the function in question.

Members Right of Reference to a Scrutiny Committee

1.25 A member of a Overview and Scrutiny Committee, or a Sub-committee of that Committee or another Councillor may refer a matter to the Overview and Scrutiny Committee that is relevant to its functions and not an excluded matter.

1.26 The member must give notice in writing of the referral to the Scrutiny Officer stating the reasons for the request and proposed outcome.

1.27 The Scrutiny Officer will consider if the referral is relevant to the functions of the Overview and Scrutiny Committee and if so, decide which Overview and Scrutiny Committee should receive the referral and will include the referral on the agenda for the next scheduled meeting of the relevant Overview and Scrutiny Committee for debate. If the Overview and Scrutiny Committee decides not to take any action the Overview and Scrutiny Committee must notify the Councillor of its decision, and the reasons for it. If however, the Overview and Scrutiny Committee include the matter in their work programme and makes a report or recommendation to the Council or the Cabinet then a copy of that must be provided to the Councillor who originally referred the matter.

Scrutiny Ways of Working

Scrutiny Committee Business

1.28 An Overview and Scrutiny Committee will consider any business in accordance with its Terms of Reference and included in an agenda for its meeting.

1.29 In conducting its business, an Overview and Scrutiny Committee may:

- (a) Undertake in depth analysis of a policy issue;

- (b) Receive briefings and presentations on issues under consideration;
- (c) Undertake research, community and other public engagement, particularly in the analysis of policy issues and possible options;
- (d) Consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
- (e) Hold inquiries, workshops, public meetings and conduct public surveys;
- (f) Invite advisors and assessors to assist them;
- (g) Question Cabinet members, Deputy Cabinet members and seek their views on issues and proposals affecting the Council's area;
- (h) Question senior Officers, and where appropriate suppliers and seek their professional views on issues, and / or their decisions and performance either in relation to service plans or in relation to particular decisions, initiatives or project;
- (i) Liaise with national, regional or local external organisations operating in the Council's area so as to ensure that the interests of local people are enhanced by collaborative working;
- (j) As part of any investigation, review and scrutinise the decisions made by, and performance of, the Cabinet, Cabinet members and senior Officers as regards both individual decisions and over time;
- (k) Question and collect evidence from any other person (with their consent) and invite witnesses to attend Scrutiny Committee meetings, proceedings or events.

1.30 The People Committee with responsibility for health and / or adult social care may call for information and explanations, questions and proposed plans from health and / or adult social care providers, and invite the senior managers of such service providers to attend meetings and give evidence.

Annual Scrutiny Work Plan

1.31 Each Overview and Scrutiny Committee must agree at its first meeting of a municipal year an annual work plan that takes into account:

- (a) The Council's corporate plans and priorities for the year;
- (b) Consultation with the relevant Cabinet member or members;
- (c) Consultation with the Chief Executive and relevant Executive Directors;
- (d) The desirability of making provision for the consideration of items of business within the remit of the Scrutiny Committee but not in the work plan arising during the year (an "unplanned scrutiny item"); and
- (e) Advice from the Scrutiny Officer on any matter.

1.32 Each scrutiny work plan will include a delivery plan and timetable. The plan must have regard to the Council's resources to deliver the plan and have flexibility to account for unforeseen events.

Agenda Setting Meetings

1.33 Agenda setting meetings will be held 6 (six) weeks in advance of each Overview and Scrutiny Committee meeting. These meetings will be attended by the relevant Overview and Scrutiny Committee Chair and Deputy Chair, relevant Executive Directors, Democratic Services support officer and Scrutiny Officer. Invitation may be extended to relevant Cabinet members as required.

1.34 The agenda for meetings will be agreed in accordance with the order set out in the Overview and Scrutiny Procedure Rules set out below.

Overview and Scrutiny Committee Pre-meetings

1.35 Pre-meetings of all Overview and Scrutiny Committee members may be held to ensure formal meetings are an effective use of available time by ensuring there is a shared understanding of the business of the meeting, including time allocations for items. The Chair may be able to give an indication of how they may be minded to address any procedural issues.

1.36 It is essential that pre-meetings do not involve any debate of the scrutiny topics at the meeting to ensure compliance with the Access to Information Rules set out under Part 1 of this Constitution. .

Sub-committees and Working Groups

1.37 The appointing Overview and Scrutiny Committee ("Parent Committee") will agree the terms of reference for any sub-committee or working group including but not limited to:

- (a) The terms of reference and intended outcome;
- (b) Its membership and support arrangements;
- (c) Arrangements for its meetings; and
- (d) A time limit for its recommendations to be submitted to the Parent Committee.

Monitoring and Tracking

1.38 Findings and recommendations of Overview and Scrutiny Committees, panels or similar will be circulated to all Scrutiny Committee members and the Leader and Cabinet.

The Scrutiny Officer

1.39 The Scrutiny Officer supports members and has the following statutory duties:

- (a) To promote the role of the Council's Overview and Scrutiny Committees;
- (b) To provide support to the Council's Overview and Scrutiny Committees and their members; and

- (c) To provide support and guidance in relation to overview and scrutiny functions to Councillors, the Cabinet and Officers.

Annual Report

- 1.40 Each scrutiny work plan must be submitted to the next available full Council meeting for endorsement.
- 1.41 Each Overview and Scrutiny Committee Chair will report on progress of the scrutiny work plan of their Overview and Scrutiny Committee to full Council every six months and will submit an Annual Report on progress and outcomes to the Annual General Meeting.

Reports from Overview and Scrutiny Committees to Cabinet

- 1.42 All Overview and Scrutiny Committee reports will be notified to the Cabinet for consideration. This affords the Cabinet an opportunity to discuss the report and its recommendations with the Overview and Scrutiny Committee (if necessary) before the report and the Cabinet's views are submitted to the Council as necessary for its consideration. Every effort will be made to avoid undue delay. As the reports / recommendation must be responded to within two months.
- 1.43 Where a Overview and Scrutiny Committee cannot agree on a single, final report to the Cabinet then one minority report may be submitted to the Cabinet with one majority report.
- 1.44 All representations from an Overview and Scrutiny Committee to a Cabinet member regarding their responsibility, whether made verbally or in the form of a report, letter, email or other written format, must be formally reported to the Cabinet by the Cabinet member concerned, either verbally or in writing, when the relevant item is being considered. Overview and Scrutiny Committees must clearly identify that such a representation is a formal representation.

Ensuring Cabinet Considers Scrutiny Committee Reports

- 1.45 Where appropriate, before submitting a report to the Cabinet, an Overview and Scrutiny Committee may prepare a draft report to allow the relevant Cabinet member and the Chief Executive to comment on emerging themes and recommendations. The relevant Cabinet member and relevant Officers are able to attend the meeting of the Overview and Scrutiny Committee where the draft report is considered.
- 1.46 Once an Overview and Scrutiny Committee report on a matter which is a responsibility of the Cabinet has been finalised it will be included on the agenda of the next available Cabinet meeting unless the subject of the report is due to be considered by the Cabinet within two weeks of the report being finalised. In such a case the report will be considered when the Cabinet considers the subject of the report.
- 1.47 Where for any reason the Cabinet does not consider an Overview and Scrutiny Committee report at its next scheduled meeting or within four weeks of the report being submitted for the Cabinet's consideration, the Monitoring Officer may call a meeting of the Council to review the matter and make a recommendation to the Cabinet.

1.48 The Cabinet will respond to the report and recommendations within four weeks and then provide updates to the relevant Overview and Scrutiny Committee on the implementation of the recommendations if required. Upon receipt of the Cabinet updates the relevant Overview and Scrutiny Committee will review the progress towards the implementations of the recommendations.

Reference to full Council

1.49 Each Overview and Scrutiny Committee should decide when it would be appropriate to submit reports for wider debate, taking into account the relevance of reports to full Council business, as well as full Council's capacity to consider and respond in a timely manner. Such reports would supplement the annual report to full Council on the Overview and Scrutiny Committee's activities and raise awareness of ongoing work

1.50 An Overview and Scrutiny Committee may refer a matter to Council if, in their opinion:

- (a) It is contrary to the Policy Framework; or
- (b) It is contrary / not wholly consistent with the Budget Framework; or
- (c) The Overview and Scrutiny Committee disagrees with the Monitoring Officer / Chief Finance Officer's view that the decision is legally and / or financially compliant.

Power to Require Attendance of Councillors and Officers to Answer Questions

1.51 An Overview and Scrutiny Committee or a sub-committee may require the Leader and Cabinet and Officers to attend before it to answer questions. It is the duty of the Leader and Cabinet or Officer to comply with a request to attend the meeting.

1.52 All Councillors and Officers will comply with the Council's Scrutiny Protocol in the discharge of and response to this power and will comply with the following principles:

- (a) The relevant Cabinet member and Executive Director will attend all Overview and Scrutiny Committee meetings relevant to their responsibilities and answer all questions where possible;
- (b) All requests will be made through the Scrutiny Officer or their nominee and will provide the reasons for the request and the matters on which the Cabinet member or Officer will be questioned;
- (c) The Chief Executive will seek to ensure the most appropriate Officers attend meetings to answer questions but may propose alternative attendees to ensure compliance with the order in paragraph (d) below;
- (d) Requests will be made in the following order:
 - The relevant Cabinet member or members;
 - The Chief Executive or relevant Chief Officer or Officers;
 - To relevant professional specialist or Head of Service; and

- (e) Requests will be proportionate and respect Officers' and members' other work commitments and right to a private life.

1.53 A Councillor or Officer may not be asked or obliged to answer any question which

- (a) Falls outside the Overview and Scrutiny Committee's remit or falls within the remit of another Committee or body;
- (b) May be relevant to any disciplinary or other action that may be taken against them by the Council; or
- (c) They would be entitled to refuse to answer in or for the purposes of proceedings in a court in England and Wales.

Attendance by Others

1.54 An Overview and Scrutiny Committee or sub-committee may invite people other than the Councillors and Officers referred to above to address them, to discuss issues of local concern and / or answer questions including members of the public and expert witnesses.

Matters within the Remit of More than One Overview and Scrutiny Committee

1.55 Where a matter for consideration by an Overview and Scrutiny Committee also falls within the remit of one or more other Overview and Scrutiny Committees, the decision as to which Overview and Scrutiny Committee(s) will consider it will be determined by the Monitoring Officer in consultation with the Chairs of the relevant Overview and Scrutiny Committees.

Scrutiny Co-ordinating Group

1.56 The Chairs and Deputy Chairs of the Overview and Scrutiny Committees may meet with the Scrutiny Officer (and other Officers as they see fit) to ensure the effective administration of overview and scrutiny and its work programme. The meetings are not formal and have no decision making powers.

2. OVERVIEW AND SCRUTINY COMMITTEE PROCEDURE RULES

Overview and Scrutiny Committee Proceedings

Who may sit on an Overview Scrutiny Committee?

- 2.1 An Overview and Scrutiny Committee will comprise no more than seventeen members, but the number of seats on a given Overview and Scrutiny Committee may vary depending on its remit and workload. The composition of the Overview and Scrutiny Committees will be politically proportionate.
- 2.2 All Councillors except Cabinet members and Deputy Cabinet members may be members of an Overview and Scrutiny Committee. Substitutes on Overview and Scrutiny Committees are permitted. However, no Councillor may be involved in scrutinising a decision in which they have been personally involved or made by close friends or relatives.
- 2.3 All Overview and Scrutiny Committee members must maintain an awareness of potential conflicts of interest to ensure such conflicts are managed and familial links between Cabinet and Scrutiny responsibilities including where members stand down from the Cabinet and move to a Scrutiny role, and vice-versa are considered. No Scrutiny Overview and Scrutiny Committee member may be a member of or appointed to a Cabinet working group falling within the scope of the Overview and Scrutiny Committee to which they have been appointed.

Co-optees

- 2.4 Any Overview and Scrutiny Committee may co-opt any person who is not a Councillor to be a member of the Overview and Scrutiny Committee either as standing member of the Overview and Scrutiny Committee or on a time limited basis. A co-opted member cannot vote but is able to contribute to the debate and provide their insights. The Committee should seek advice from the Scrutiny Officer before appointing any co-opted members.

Who Chairs the Scrutiny Committee Meetings?

- 2.5 At each Annual General meeting of Full Council the Overview and Scrutiny Committee Chairs and Vice Chairs shall be appointed, both of whom shall hold office for a year or until their successors are elected or appointed.
- 2.6 If both Chair and Vice-Chair are absent from a meeting, a Chair for the meeting will be elected. The person presiding at the meeting may exercise any power or duty of the Chair.
- 2.7 No person shall hold the office of Chairman or Vice-Chair unless they are a member of the Overview and Scrutiny Committee in question and are also a Councillor of the Council.

Scrutiny Committee Meetings

- 2.8 An Overview and Scrutiny Committee should normally meet at least four) times each year although additional meetings may be called as and when required.
- 2.9 A meeting may be called by the Chair of the relevant Overview and Scrutiny Committee or by any three members of the Overview and Scrutiny Committee or by the Scrutiny Officer if they consider it necessary.
- 2.10 Wherever possible an Overview and Scrutiny Committee meeting will be webcast.
- 2.11 The Overview and Scrutiny Committee will consider the following business:
- (a) Minutes of the last meeting;
 - (b) Declarations of interest;
 - (c) The consideration of any matter referred to the Committee for a decision relating to the Call-in of a decision;
 - (d) Responses of the Cabinet to any reports of the Committee;
 - (e) Any item proposed under paragraphs 1.24 to 1.27 of the Scrutiny Committee Arrangements above as a 'Councillor Call for Action';
 - (f) The business otherwise set out in the agenda for the meeting.
- 2.12 In the event of disagreement as to the inclusion of the agenda item, the Committee shall decide on the inclusion at its next available meeting.

Scrutiny Committee Meeting Procedure

- 2.13 Where the Overview and Scrutiny Committee is considering the review or development of a policy in accordance with paragraph 1.11 of the Overview and Scrutiny Committee Arrangements above it may request the attendance at the meeting of;
- (a) Any Councillor;
 - (b) Any other elected or co-opted member;
 - (c) The Head of Paid Service (Chief Executive), any Chief Officer and / Executive Director to explain any matters within their remit;
 - (d) With their consent, those others it considers appropriate including but not limited to residents, relevant stakeholders and the members or officers of other public bodies.
- 2.14 In such a case the meeting will be conducted in accordance with the following principles:
- (a) That the matter is conducted fairly with all Overview and Scrutiny Committee members afforded the opportunity to ask questions and all attendees afforded the opportunity to speak and contribute.
 - (b) That those assisting the Overview and Scrutiny Committee by giving evidence be treated with respect and courtesy.

- (c) That the matter be conducted in such a manner as to maximise the efficiency of the investigation or review.

- 2.15 Where a Councillor or Officer is required to attend a meeting of an Overview and Scrutiny Committee under this provision, the Chair of that Overview and Scrutiny Committee will inform the Scrutiny Officer.
- 2.16 The Scrutiny Officer will notify the person whose attendance is sought in writing giving not less than ten working days' notice of the meeting in question.
- 2.17 The Scrutiny Officer's notice will inform the Councillor or Officer of the nature of the agenda item on which they are required to attend and give an account and whether any papers are required to be produced for the Overview and Scrutiny Committee. Where the Overview and Scrutiny Committee will require a report, sufficient notice will be given for the preparation of the report.
- 2.18 Where, in exceptional circumstances, the Councillor or Officer is unable to attend the meeting on the required date, then in consultation with the Councillor or Officer the Overview and Scrutiny Committee will arrange an alternative date for their attendance, or where the Councillor or Officer is unable to attend, they may nominate another person who is able to speak on the topic in question.

Rights of Overview and Scrutiny Committee Members to Documents

- 2.19 In general, a member of an Overview and Scrutiny Committee will have access to information in accordance with the [Access to Information Procedure Rules](#) set out under Part 1 of this Constitution.
- 2.20 Additionally, for the purpose of fulfilling the scrutiny function, a member of an Overview and Scrutiny Committee is entitled to a copy of any document which:
 - (a) Is in the possession or under the control of the Cabinet; and;
 - (b) Contains material relating to:
 - (i) Any business that has been transacted at a meeting of a decision making body of the Council;
 - (ii) Any decision that has been made by an individual member of Cabinet in accordance with the Executive Arrangements set out under Part 4 of this Constitution; or
 - (iii) Any decision that has been made by an Officer in accordance with the Executive Arrangements.
- 2.21 Where a member of an Overview and Scrutiny Committee requests a document which falls within paragraph 2.20 the Cabinet must provide that document as soon as reasonably practicable and in any case no later than ten clear days after the Cabinet receives the request.
- 2.22 No member of an Overview and Scrutiny Committee is entitled to a copy:

- (a) Of any such document or part of a document detailed under paragraph 2.20 which contains exempt or confidential information unless that information is relevant to:
 - (i) An action or decision that that member is reviewing or scrutinising; or
 - (ii) Any review contained in any programme of work of such a committee or sub-committee of such a committee; or
- (b) Of a document or part of a document detailed under paragraph 2.20 containing advice provided by a political adviser or assistant.

2.23 Where the Leader determines that a member of an Overview and Scrutiny Committee is not entitled to a copy of a document or part of any such document detailed under paragraph 2.20, for a reason set out in paragraph 2.22, the Leader must provide the Overview and Scrutiny Committee with a written statement setting out their reasons for that decision.

2.24 Members of an Overview and Scrutiny Committee may within the limits of its budget (if any), commission research or advice (including from external organisations) to assist in any deliberations and may request that a budget for such work is provided.

2.25 Overview and Scrutiny Committees will also have access to background information from a range of sources including but not limited to:

- (a) Council plans, strategies and policies;
- (b) The four month Forward Plan of work for the Cabinet;
- (c) All documents listed on the Council's Policy Register;
- (d) Business Unit plans;
- (e) External Audit Management Letters;
- (f) Internal and External Audit Plans and Reports;
- (g) Legislation and Government guidance;
- (h) Government Reports and National Studies;
- (i) National performance and comparative information e.g. CIPFA statistics;
- (j) Complaints;
- (k) Community plans and processes;
- (l) Cabinet or Cabinet Member papers;
- (m) Representations from the Community (Individuals, Community Groups, Councillors, Community Boards, Residents, Surveys, etc.);
- (n) Research published by other organisations or commissioned by any of the Overview and Scrutiny Committees;

- (o) Evidence from expert witnesses at the Overview and Scrutiny Committees' request;
- (p) Copies of minutes and papers received by any internal Council advisory board or group.

Right of Speakers

2.26 Any person required to attend and give evidence at an Overview and Scrutiny Committee meeting is entitled to see the public and background papers made available to the Overview and Scrutiny Committee and any other relevant papers or information which are not public at the same time if the Monitoring Officer decides it is appropriate. Such papers or information may include but are not limited to:

- (a) External Audit Management Letters;
- (b) Internal and External Audit Plans and Reports;
- (c) National performance and comparative information (i.e. CIPFA statistics);
- (d) Research published by other organisations or commissioned by other Committees of the Council.

2.27 Wherever possible anyone asked to speak at the meeting will be given access to the statements of those who have already spoken to the Overview and Scrutiny Committee, but not those who have yet to do so.

2.28 Those in receipt of the papers will respect confidentiality of all confidential and / or exempt information included in them.

2.29 Except insofar as the papers include confidential and / or exempt information and as considered appropriate where the public and press have been excluded, those papers submitted to the Overview and Scrutiny Committee by anyone speaking at a meeting of the Overview and Scrutiny Committee will become public documents once the speaker has concluded their evidence.

2.30 Those speaking at a meeting are entitled to request for their comment a copy of any draft minutes or other record taken of their contribution to the meeting. If the speaker considers that the draft minutes or record of their contribution is not accurate, they are able to make a written request asking that a correction be submitted at the next meeting of the Overview and Scrutiny Committee.

Rights of Councillors to Attend an Overview and Scrutiny Committee Meeting and Speak

2.31 Any Councillor who is not a member of an Overview and Scrutiny Committee may attend a meeting of that Committee and speak if permitted to do so by the Chair.

Questions

Questions on Notice

2.32 Subject to Rules 2.33 and 2.34, a Councillor may ask the Chair of an Overview and Scrutiny Committee a question on any matter relevant to their terms of reference and responsibilities.

Notice of Questions

2.33 A Councillor may ask a question under Rule 2.32 if either:

- (a) They have given notice of the question in writing or by electronic mail no later than midday five working days before the day of the meeting to the Monitoring Officer; or
- (b) The question relates to urgent matters, they have the consent of the Chair or councillor to whom the question is to be put and the content of the question is received by the Monitoring Officer in writing or by electronic mail by **9.00 a.m. on the day of the meeting.**

Content of Questions

2.34 Questions under Rules 2.32 (insofar as is relevant) must, in the opinion of the Chair:

- (a) Not be unreasonable;
- (b) Contain no expressions of opinion;
- (c) Relate to matters on which the Council has or may determine a policy;
- (d) Not relate to questions of fact;
- (e) Not require the disclosure of confidential or exempt information;
- (f) Not relate to a matter which is purely of personal concern to an individual or family members.

2.35 Rejected questions will be returned to the questioner with the reasons for rejection.

Time Allowed for Councillor Questions at Overview and Scrutiny Committees

2.36 The number of questions and the total time allowed for consideration of such questions submitted under Rule 2.32 shall be determined by the Chair.;

Record of Questions

2.37 The Monitoring Officer will send a copy of any question received to the Chair of the Overview and Scrutiny Committee to whom it is to be put. Copies of all questions will be available to all Councillors and the public attending the meeting. After the meeting, copies of the questions asked at the meeting and the responses will also be available on the Council's website with the minutes for the relevant meeting.

Number of Questions

2.38 At any one meeting no Councillor may submit more than one question and no more than one question may be asked on behalf of one organisation.

Order of questions

2.39 Questions from Councillors received in accordance with Rule 2.32 will be asked in the order determined by the Chair.

Response

2.40 An answer to a question submitted under Rule 2.32 may take the form of:

- (a) A direct verbal answer;
- (b) Where the desired information is in a publication of the Council or other published work, a reference to that publication; or
- (c) Where the reply cannot conveniently be given verbally, a written response will be provided no later than five working days after the meeting.

Referral of Question

2.41 Unless the Chair decides otherwise, no discussion will take place on any question, but any member of the Overview and Scrutiny Committee may move that a matter raised by a question be referred to Council, Cabinet or the appropriate Committee or sub-Committee as necessary. Once seconded, such a motion will be voted on without discussion.

Rights of the Public to Attend a Overview and Scrutiny Committee Meeting and ask Questions

2.42 The public may ask questions at Overview and Scrutiny Committee meetings on items set out in the agenda for that meeting.

Time Allowed for questions

2.43 The total time allowed for asking questions under Rule 2.42 shall not, without the consent of the Chair, exceed ten minutes with each question limited to three minutes per question.

Notice of Public Questions

2.44 A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the Monitoring Officer no later than midday five working days before the day of the meeting. Each question must give the name and address of the questioner.

Number of Public Questions

2.45 At any one meeting no member of the public may submit more than one question and no more than one question may be asked on behalf of one organisation.

Scope of Public Questions

2.46 The Monitoring Officer may reject a public question if in their view it:

- (a) Is not about a matter for which the Council has a direct responsibility or which affects the Council's area;
- (b) Is defamatory, frivolous or offensive;

- (c) Is vexatious or abusive;
- (d) Is substantially the same or similar to a question which has been put at a meeting of the Council or Committee in the past six months;
- (e) Requires the disclosure of confidential or exempt information;
- (f) Is lengthy, or is not a question;
- (g) Relates to a matter which is of purely personal concern to an individual or family members;
- (h) Relates to court action or threatened court action between the Council and the questioner or group with which they are connected;
- (i) Is a request for compensation;
- (j) Contains a statement which is untrue;
- (k) Is an unintelligible question;
- (l) Relates to a matter on which the Council has, or may, determine a policy.

2.47 If not rejected by the Monitoring Officer the Overview and Scrutiny Committee Chair will decide how a public question will be dealt with.

Duration of Meeting (Overview and Scrutiny Committees Only)

2.48 After two hours from the commencement of the meeting, including any period that the meeting may have been adjourned, an Overview and Scrutiny Committee may pass a resolution to continue the meeting for up to fifteen minutes.

2.49 At the end of this fifteen minute period, or if such a resolution is not passed, the Chair of an Overview and Scrutiny Committee shall dispose of the remaining business by conducting a vote on any item(s) immediately without further debate or by deferring consideration to a future meeting.

4. THE CALL-IN PROCEDURE

4.1 "Call-in" is the process by which an Overview and Scrutiny Committee exercises its statutory right to scrutinise executive decisions that have been made but not yet implemented. The relevant decision maker must consider any recommendations made by the Overview and Scrutiny Committee before the decision can be implemented.

4.2 When a decision is made by the Cabinet or an individual Cabinet member, or an executive decision made by an Officer with delegated authority, or any Committee under joint arrangements, the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the Council normally within two working days of being made. The Chair of the relevant Overview and Scrutiny Committee will be sent copies of the records of all such decisions within the same timescale.

4.3 That notice will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of three working days

after the publication of the decision, unless either the decision has been certified as urgent and requires implementation urgently or a Call-in request has been received by, at the latest, 5.00pm on the third working day after the decision has been made in accordance with Rule 2.67. If a Call-in request is received the decision will not be implemented until the Call-in process is complete.

- 4.4 A decision may only be Called-in once and a decision may not be Called-in where the substance of the decision has already been subjected to scrutiny by an Overview and Scrutiny Committee unless there have been substantial changes to the decision or where the Chief Finance Officer has certified that a delay in the implementation of a decision will result in significant additional cost to the Council.
- 4.5 The grounds for a Call-In Request are:
- (a) The decision has not been made in accordance with this Constitution, Council policies or Council procedures and processes;
 - (b) The decision is outside of the Council's policy framework or the budget approved by the Council;
 - (c) The decision is outside of the powers of the Council;
 - (d) The decision is unlawful.
- 4.6 Once a recommendation for a decision is published, any member of the relevant Overview and Scrutiny Committee may ask to see the papers to be considered (except insofar as they contain confidential or exempt information) and take preliminary advice from Officers supporting the Overview and Scrutiny Committee about the implications of the decision.
- 4.7 At least 15% (fifteen per cent) (rounded up) of Councillors representing the number of councillor seats on the Council must notify the Monitoring Officer within three working days of the publication of the decision of an intention to request the Overview and Scrutiny Committee to examine the decision and of any requirement for the attendance by a Cabinet member or any Officer by way of a Call-in Request. Within two working days of the notification of the Call-in request the same number of Councillors must confirm whether they wish to proceed with the Call-in Request and if so, provide the required details via the Call-in request form.
- 4.8 The Monitoring Officer will decide whether the Call-in Request is valid in accordance with paragraph 4.9 below within two working days. Once validated a Call-in Request will be treated as a Call-in Notice.
- 4.9 The Monitoring Officer will determine the Call-in Request to be invalid if:
- (a) It relates to a matter which is to be determined by the Council or a Committee of the Council;
 - (b) It relates to a decision of the Cabinet / Cabinet member taken as a matter of urgency and the Chair of the appropriate Overview and Scrutiny Committee or such other person as detailed in the urgency rules had

been consulted or an Overview and Scrutiny Committee had previously agreed the need for urgency;

- (c) It relates to a matter where the associated report has already been considered by an Overview and Scrutiny Committee;
- (d) If it has not been made in accordance with this procedure;
- (e) It is not completed correctly;
- (f) It does not identify the decision;
- (g) It does not detail a valid ground for Call-in;
- (h) It does not provide clear written reasons why one of the valid grounds for Call-in applies;
- (i) It is not signed by the required number of Councillors;
- (j) The Call-in form is received after the specified deadline;
- (k) The reason for the Call-in is unclear or does not relate directly to the decision specified on the Call-in Request form;
- (l) The reason for the Call-in is a question, the answer to which can be found in the report relating to the decision which is being Called-in;
- (m) The Call-in is being used as a party-political tool.

4.10 A Call-in may only be withdrawn by notification in writing or electronically submitted to the Monitoring Officer from all the Councillors who requested the Call-in.

4.11 Once the deadline for requesting and determining the validity of Call-in has passed, the Monitoring Officer will inform all Councillors of the Call-in and will arrange for it to be considered at the next meeting of the appropriate Overview and Scrutiny Committee. The agenda for that meeting will show the written reasons given for the Call-in, the Councillors who signed the Call-in, and enclose the relevant documents.

4.12 The relevant Overview and Scrutiny Committee shall discuss the Call-in Notice at its next regular meeting or at a special meeting whichever is sooner provided that the required five clear days' notice of the meeting can be given.

4.13 At least two of the Councillors who Called-in a decision must be present at the meeting of the Overview and Scrutiny Committee considering the Call-in and at least one of whom will present their reasons for Call-in at the meeting. If at least two Councillors do not attend, the Call-in will fail.

Call-In Notice

4.14 At the meeting where the Overview and Scrutiny Committee is considering the Call-in Notice it should first take advice as to whether the request to Call-in the decision is valid, consider whether there is a case for the decision to be Called-In and whether any further information is required by hearing from one of the Councillors who signed the Call-in Request form (and witnesses) and the decision maker who will explain the reasons for

the decision. Once the Overview and Scrutiny Committee has considered the evidence provided during the meeting they will decide whether to uphold or reject the Call-in Notice.

- 4.15 If, following discussion, the Overview and Scrutiny Committee agrees that the matter should be Called-in they may proceed either to examine the decision at that meeting or adjourn to investigate the decision at another meeting. Upon Calling-in a decision, a Overview and Scrutiny Committee may recommend to the Cabinet, Cabinet member or Officer as appropriate:
- (a) Whether the decision should be reconsidered and if so, they can also recommend an alternative decision, actions or options or what matters or issues should be considered;
 - (b) That they are satisfied with the original decision;
 - (c) Whether any future action should be taken in light of a decision so as to ensure the better implementation of that decision;
 - (d) Whether any further action should be taken in light of that decision so as to improve the manner or quality of future decision making; or,
 - (e) The Overview and Scrutiny Committee may refer the matter to full Council.

Consideration of Decision on Acceptance Call-In Notice

- 4.16 The Overview and Scrutiny Committee will have at its disposal the information which has been submitted to the Cabinet, Cabinet Member or Officer who made the decision They can require the relevant Cabinet Member(s) or Officer, and appropriate other Officers to attend the meeting to answer questions about the decision. If the Overview and Scrutiny Committee accepts the original decision by the Cabinet, Cabinet Member or Officer, it becomes immediately effective.
- 4.17 If the Overview and Scrutiny Committee makes a recommendation to the Cabinet, Cabinet Member or Officer to amend a decision, this will be considered by the Cabinet at its next meeting or by the Cabinet Member, or Officer as soon as reasonably practicable. If the decision taker requires more time to consider, the Overview and Scrutiny Committee's recommendations the time may be extended by the Chair of the Overview and Scrutiny Committee after agreement by one other member of the Committee.
- 4.18 If the Cabinet, Cabinet Member or Officer disagree with the recommendation of the Overview and Scrutiny Committee to amend a decision they will inform the Overview and Scrutiny Committee. {In such circumstances, the Overview and Scrutiny Committee may refer the matter to the next meeting of the Council for decision. In these circumstances the Council will have before them the views of both the Overview and Scrutiny Committee and the decision maker. If the Cabinet, Cabinet Member or Officer decides further work needs to be done, they may defer the item for this to be carried out.}

- 4.19 If the decision taker is, after reconsideration, not able to make changes to the decision in accordance with the Overview and Scrutiny Committee's concerns the decision taker shall write to the Committee setting out the reason why they are unable to accede to the Overview and Scrutiny Committee's concerns.
- 4.20 If Scrutiny makes a recommendation to full Council it has no power to make decisions in respect of a Cabinet decision unless it is contrary to the Policy Framework, or contrary to or not wholly consistent with the Budget. Unless that is the case, the Council will refer any decision to which it objects back to the decision making person or body, together with the Council's views on the decision. That decision making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the Cabinet, a meeting will be convened to reconsider the decision within five working days of the Council's referral. Where the decision was made by an individual Cabinet member or Officer, they will reconsider the decision within five working days of the Council's referral.

The Call-In of Urgent Decisions

- 4.21 Any executive decisions which are urgent in accordance with the provisions of [] set out under Part [] of this Constitution are not subject to Call-in.
- 4.22 The records of such decisions will reflect the reasons for urgency and state that therefore they are not subject to Call-in.
- 4.23 The Chair or Vice-chair of the appropriate Overview and Scrutiny Committee must agree the need for urgency unless the Overview and Scrutiny Committee has already given its approval to a decision being taken urgently so that Call-in does not apply. In the absence of the Chair or Vice-chair of the appropriate Overview and Scrutiny Committee, the agreement of the Mayor or Deputy Mayor must be obtained.
- 4.24 Any reports on which urgent decisions have been made are to be reported to Overview and Scrutiny Committee for it to understand the need for urgency, but this will not delay implementation of the urgent decision itself.

Part 6 COUNCILLORS

Section

- 1 The Role of Councillors and Office Holders
- 2 The Code of Conduct for Councillors
- 3 Arrangements for Dealing with Complaints against Councillors
- 4 Protocol on Councillor / Officer Relations
- 5 The Scheme of Councillors' Allowances

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1. THE ROLE OF COUNCILLORS AND OFFICE HOLDERS

Role Profile and Responsibilities for all Councillors

(see also Part 2, section 2 of this Constitution)

Responsibilities

Councillors are expected to:

- 1.1 To be at the centre of community life:
 - (a) To spend time out and about learning about the communities that they represent, supporting their residents, working with local organisations (such as GPs, schools, police, local businesses and voluntary organisations) to develop a shared understanding of local issues and ensuring that communities make the most of all the opportunities available to them;
 - (b) To build good working relationships and earn the trust and respect of local partners, other Councillors and Officers;
 - (c) To be an active member of local networks and partnerships, for example by acting as a school governor;
 - (d) To communicate regularly with their community including communicating Council policy and decisions.
- 1.2 Contribute actively to the formation and scrutiny of the Council's policies, budgets, strategies and services.
- 1.3 Act as a 'corporate parent' to the Council's looked-after children and care leavers.
- 1.4 Represent effectively the whole community with a special duty to their constituents, including those who did not vote for him or her.
- 1.5 Represent the Council on outside bodies as required.
- 1.6 Participate constructively in the good governance of the Council area.
- 1.7 Fulfil the statutory and locally determined requirements of an elected councillor of a local authority. To comply with all relevant codes of conduct, regulations, protocols and procedures, and participate in those decisions and activities reserved for the full Council.

Key Tasks

- 1.8 Attend and participate effectively as a member of any Committee to which the Councillor is appointed.
- 1.9 Participate in the activities of any outside body to which the Councillor is appointed, providing two-way communication between the organisations, and reporting as required to the Council. To develop and maintain a working knowledge of the Council's policies and practices in relation to that body and of the community's needs and aspirations.
- 1.10 Participate in the scrutiny or performance review of the services of the Council, including where the Council so decides, the scrutiny of policies and budgets, and their effectiveness in achieving the strategic objectives of the Council.

- 1.11 Participate in any advisory group to which the Councillor is appointed.
- 1.12 Participate, as appropriate, in consultation with the community and with other organisations
- 1.13 Develop and maintain a working knowledge of the Council's services, management arrangements, organisation and activities, powers, duties, and constraints.
- 1.14 Contribute constructively to open government and democratic renewal through active encouragement to the community to participate in the governance of the Council's area.
- 1.15 Maintain professional working relationships with all Councillors and Officers.
- 1.16 Undertake training as required.
- 1.17 Identify and participate in opportunities for further development and training as a Councillor and keep abreast of developments in national and local government.

Additional Responsibilities

The Leader

Responsibilities

- 1.18 Ensure efficient and effective services, where they are relevant to the needs of the community and the responsibility of the Council, in the short, medium and long term.
- 1.19 Provide visible political leadership in relation to residents, stakeholders and partners in the overall co-ordination of policies, strategies and service delivery affecting the locality.
- 1.20 Lead the Cabinet in its work to develop the Budget and Policy Framework.
- 1.21 Lead the development of local and regional strategic partnerships.
- 1.22 Ensure the appropriate representation of the Council on key outside bodies where these relate to executive functions and are not reserved to full Council.

Key Tasks

- 1.23 Provide leadership to the Council and its political administration, and lead the presentation of the recommendations, plans, policies and decisions of the Cabinet and the Council;
- 1.24 Represent the Council's political and strategic decision making in the community and in discussions with regional, national and international organisations and others in order to pursue matters of interest to the Council and its communities and to keep the Council and the Cabinet informed accordingly.
- 1.25 Appoint members of the Cabinet and allocate Cabinet portfolios.
- 1.26 Develop and maintain good working relations and effective channels of communication with the Chair of each Overview and Scrutiny Committee;
- 1.27 Direct, manage and chair meetings of the Cabinet and to take responsibility, individually and / or collectively for any specific Portfolio, including providing a political lead in

proposing new policy, strategy, budget and service standards and reviews, as well as acting as spokesman for the Council.

- 1.28 Meet regularly and provide policy direction to the Chief Executive, Executive Directors and other senior Officers (with or without the Cabinet) to consider and recommend action within approved policies and strategies.
- 1.29 Consider the development and training needs of the Cabinet and Councillors generally and arrange for training sessions or suitable briefings as appropriate.
- 1.30 Receive and act as appropriate upon representations from Councillors, the public, organisations and senior Officers;
- 1.31 Promote good working relationships across the Political Groups that make up the Council.

Cabinet Members / Portfolio Holders

Responsibilities

- 1.32 Take responsibility within the Cabinet on the basis of collective decision making and such individual delegation that may apply, for a Portfolio of services or functions of the Council.
- 1.33 Input into the Cabinet any information, intelligence or factors considered relevant to the issues under consideration by the Cabinet.
- 1.34 Contribute actively through the Portfolio and membership of the Cabinet to the formation, implementation, monitoring and scrutiny of the Council's policies, budgets, strategies and services.

Key Tasks

- 1.35 Participate in the Cabinet and to implement agreed policies by taking responsibility individually and / or collectively for any Portfolio allocated by the Leader, including proposing new policy, strategy, programming, budget and service standards, and leading performance review.
- 1.36 Develop a clear understanding and in depth knowledge of the respective Portfolio, the scope and range of the relevant services for which he/she is responsible and an awareness of current agreed policies and budgetary implications in respect of those services.
- 1.37 Consult and communicate with all Councillors, Officers, key partners and the community as appropriate to ensure policies, strategies, budgets and decisions are well informed and that Council policies are widely understood and positively promoted.
- 1.38 Ensure that the Council is briefed at the appropriate time on significant issues within the respective Portfolio – i.e. those which have financial or other major resource implications or which will result in a change to established policy.
- 1.39 Act as spokesman for the Council and answer and account to the Council and the community on matters within the Portfolio.

- 1.40 Work closely with the Chief Executive, Executive Directors and other senior Officers responsible for the services within the Portfolio and the relevant Overview and Scrutiny Committee Chair.
- 1.41 Work with Officers on the implementation of agreed plans, policies and programmes within the Portfolio and inform the Cabinet of progress and performance.
- 1.42 Participate in scrutiny or performance reviews of services as requested by an Overview and Scrutiny Committee.
- 1.43 Represent the Council and the Cabinet in the community and elsewhere as required by the Leader.

Deputy Cabinet Members

- 1.44 To support the Cabinet Member in their roles and responsibilities as detailed above.
- 1.45 To deputise and attend meetings and briefings in place of the Cabinet Member.

The Mayor

Responsibilities

- 1.46 Uphold and promote the purposes of the Constitution and to interpret the Constitution when necessary.
- 1.47 Preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community.
- 1.48 Ensure that a meeting of the Council is a forum for the debate of matters of concern to the local community and the place at which Councillors are able to hold the Cabinet to account.
- 1.49 Promote public involvement in the Council's activities.
- 1.50 Be the conscience of the Council and act impartially.
- 1.51 Attend such civic and ceremonial functions as the Council and / or the Mayor deems appropriate and take precedence at formal occasions.
- 1.52 Ensure that the dignity of the office of Mayor and the Council is maintained at all times.

Key Tasks

- 1.53 Chair all meetings of the full Council.
- 1.54 Chair major consultation meetings organised by the Council, as appropriate.
- 1.55 Set the standard of conduct to be expected from all Councillors.
- 1.56 Help represent the Council in the community and in discussions with regional, national and international organisations and others.
- 1.57 Attend functions appropriate to the position of Mayor of the Council.
- 1.58 Act as host to visiting Royalty, civic dignitaries and other important visitors.

1.59 Meet with relevant Officers to ensure the receipt of appropriate advice to enable effective decisions.

DRAFT

2. THE CODE OF CONDUCT FOR COUNCILLORS

Introduction

- 2.1 The role of councillor across all tiers of local government is a vital part of our country's system of democracy. It is important that, as councillors, we can be held accountable and all adopt the behaviours and responsibilities associated with the role. Our conduct as an individual councillor affects the reputation of all councillors. We want the role of councillor to be one that people aspire to. We also want individuals from a range of backgrounds and circumstances to be putting themselves forward to become councillors. As councillors, we represent local residents, work to develop better services and deliver local change. The public have high expectations of us and entrust us to represent our local area, taking decisions fairly, openly, and transparently. We have both an individual and collective responsibility to meet these expectations by maintaining high standards and demonstrating good conduct, and by challenging behaviour which falls below expectations.
- 2.2 Importantly, we should be able to undertake our role as a councillor without being intimidated, abused, bullied, or threatened by anyone, including the general public.
- 2.3 This Code for Conduct for Councillors (Code) has been designed to protect our democratic role, encourage good conduct and safeguard the public's trust in local government.

Definitions

- 2.4 For the purposes of this Code:
- (a) A "councillor" means a member or co-opted member of a local authority or a directly elected mayor.
 - (b) A "co-opted member" is defined in section 27(4) of the Localism Act 2011 "a person who is not a member of the authority but who is:
 - (i) A member of any committee or sub-committee of the authority, or;
 - (ii) A member of, and represents the authority on, any joint committee or joint subcommittee of the authority;and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee.
 - (c) "local authority" includes county councils, district councils, London borough councils, parish councils, town councils, fire and rescue authorities, police authorities, joint authorities, economic prosperity boards, combined authorities and National Park authorities.

Purpose of the Code

- 2.5 The purpose of this Code of Conduct is to assist you, as a councillor, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you. It is also to

protect you, the public, fellow councillors, local authority officers and the reputation of local government. It sets out general principles of conduct expected of all councillors and your specific obligations in relation to standards of conduct. The LGA encourages the use of support, training and mediation prior to action being taken using the Code. The fundamental aim of the Code is to create and maintain public confidence in the role of councillor and local government.

General Principles of Councillor Conduct

- 2.6 Everyone in public office at all levels; all who serve the public or deliver public services, including ministers, civil servants, councillors and local authority officers; should uphold the Seven Principles of Public Life, also known as the Nolan Principles.
- 2.7 Building on these principles, the following general principles have been developed specifically for the role of councillor. In accordance with the public trust placed in me, on all occasions:
- I act with integrity and honesty
 - I act lawfully
 - I treat all persons fairly and with respect; and
 - I lead by example and act in a way that secures public confidence in the role of councillor.
- 2.8 In undertaking my role:
- I impartially exercise my responsibilities in the interests of the local community
 - I do not improperly seek to confer an advantage, or disadvantage, on any person
 - I avoid conflicts of interest
 - I exercise reasonable care and diligence; and
 - I ensure that public resources are used prudently in accordance with my local authority's requirements and in the public interest.

Application of the Code

- 2.9 This Code applies to you as soon as you sign your declaration of acceptance of the office of councillor or attend your first meeting as a co-opted member and continues to apply to you until you cease to be a councillor.
- 2.10 This Code of Conduct applies to you when you are acting in your capacity as a councillor which may include when:
- You misuse your position as a councillor;
 - Your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a councillor.
- 2.11 The Code applies to all forms of communication and interaction, including:

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

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

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

Standards of Councillor Conduct

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

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

General Conduct

1. RESPECT

As a councillor:

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

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

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

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

In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any

conversation or interaction in person or online and report them to the local authority, the relevant social media provider or the police. This also applies to fellow councillors, where action could then be taken under the Code and local authority employees, where concerns should be raised in line with the local authority's councillor- officer protocol.

2. BULLYING, HARASSMENT AND DISCRIMINATION

As a councillor:

2.1 I do not bully any person.

2.2 I do not harass any person.

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

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient.

Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

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

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

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

3. IMPARTIALITY OF OFFICERS OF THE COUNCIL

As a councillor:

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

Officers work for the local authority as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a

report that they have written. However, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

4. CONFIDENTIALITY AND ACCESS TO INFORMATION

As a councillor:

4.1 I do not disclose information:

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

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

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

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

5. DISREPUTE

As a councillor:

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

As a Councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on

you, other councillors and/or your local authority and may lower the public's confidence in your or your local authority's ability to discharge your/its functions. For example, behaviour that is considered dishonest and/or deceitful can bring your local authority into disrepute.

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

6. USE OF POSITION

As a councillor:

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

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

7. USE OF LOCAL AUTHORITY RESOURCES AND FACILITIES

As a councillor:

7.1 I do not misuse council resources.

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

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

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

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

These are given to you to help you carry out your role as a councillor more effectively and are not to be used for business or personal gain. They should be used in accordance

with the purpose for which they have been provided and the local authority's own policies regarding their use.

8. COMPLYING WITH THE CODE OF CONDUCT

As a councillor:

- 8.1 I undertake Code of Conduct training provided by my local authority.
- 8.2 I co-operate with any Code of Conduct investigation and/or determination.
- 8.3 I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.
- 8.4 I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.

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

9. PROTECTING YOUR REPUTATION AND THE REPUTATION OF THE LOCAL AUTHORITY.

9.1 Interests

As a councillor:

I register and disclose my interests.

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

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

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

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

10. GIFTS AND HOSPITALITY

As a councillor:

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

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

THE SEVEN PRINCIPLES OF PUBLIC LIFE

The Seven Principles of Public Life are:

Selflessness

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

Integrity

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

Objectivity

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

Accountability

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

Openness

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

Honesty

Holders of public office should be truthful.

Leadership

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

REGISTERING INTERESTS

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

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

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

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

Non-participation in case of disclosable pecuniary interest

4. Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests as set out in Table 1, you must disclose the interest, not participate in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a ‘sensitive interest’, you do not have to disclose the nature of the interest, just that you have an interest. Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest. **Table 3 (Standard Dispensations)** details the disclosable pecuniary interests in respect of which dispensations ordinarily apply as standard.
5. [Where you have a disclosable pecuniary interest on a matter to be considered or is being considered by you as a Cabinet Member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it.]

Disclosure of Other Registerable Interests

6. Where a matter arises at a meeting which **directly relates** to the financial interest or wellbeing of one of your Other Registerable Interests (as set out in **Table 2**), you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion

or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

Disclosure of Non-Registerable Interests

7. Where a matter arises at a meeting which **directly relates** to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in **Table 1**) or a financial interest or well-being of a relative or close associate, you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise, you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.
8. Where a matter arises at a meeting which **affects**:
 - (a) Your own financial interest or well-being;
 - (b) A financial interest or well-being of a relative or close associate; or,
 - (c) A financial interest or wellbeing of a body included under Other Registrable Interests as set out in **Table 2** you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied:
9. Where a matter (referred to in paragraph 8 above) affects the financial interest or well-being:
 - (a) To a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;
 - (b) A reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest you may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation.

If it is a 'sensitive interest', you do not have to disclose the nature of the interest.
10. [Where you have an Other Registerable Interest or Non-Registerable Interest on a matter to be considered or is being considered by you as a Cabinet member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it.]

The table below sets out the explanation of Disclosable Pecuniary Interests as set out in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012.

Table 1. Disclosable Pecuniary Interests

Subject	Description
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	<p>Any payment or provision of any other financial benefit (other than from the council) made to the councillor during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a councillor, or towards his/her election expenses.</p> <p>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.</p>
Contracts	<p>Any contract made between the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the council</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p>
Land and property	Any beneficial interest in land which is within the area of the council. 'Land' excludes an easement, servitude, interest or right in or over land which does not give the councillor or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners (alone or jointly with another) a right to occupy or to receive income.

Licences	Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer.
Corporate tenancies	<p>Any tenancy where (to the councillor's knowledge):</p> <ul style="list-style-type: none"> (a) the landlord is the council; and (b) the tenant is a body that the councillor, or his/her spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.
Securities	<p>Any beneficial interest in securities* of a body where:</p> <ul style="list-style-type: none"> (a) that body (to the councillor's knowledge) has a place of business or land in the area of the council; and (b) either — <ul style="list-style-type: none"> (i) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or, (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the councillor, or their spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners have a beneficial interest exceeds one hundredth of the total issued share capital of that class.

*'director' includes a member of the committee of management of an industrial and provident society.

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

Table 2. Other Registerable Interests

You must register as an Other Registerable Interest:

- (a) Any unpaid directorships;
- (b) Any body of which you are a member or are in a position of general control or management and to which you are nominated or appointed by your authority;
- (c) Any body:
 - (i) Exercising functions of a public nature; or,
 - (ii) Directed to charitable purposes; or
 - (iii) One of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union) of which you are a member or in a position of general control or management.

Table 3. Prejudicial Interests in Other Registerable Interests Subject to a Standard Dispensation

You will not be regarded as having a prejudicial interest in any business of your authority in respect of any Other Registerable Interest:

- (a) where that business relates to:
 - (i) another local authority of which you are also a member;
 - (ii) another public authority or body exercising functions of a public nature in which you hold a position of general control or management;
 - (iii) a body to which you have been elected, appointed or nominated by your authority, but only in the circumstance where the sole purpose of participating is to make representations, answer questions or give evidence relating to the business at the request of the Leader, Cabinet, Cabinet Member or Committee Meeting;
 - (iv) your role as a school governor, unless it relates particularly to the school of which you are a governor; or
 - (v) your role as a member of a National Health Service Board or governing body;
- (b) except that no dispensation described in sub-paragraph (a) above will apply where the business to be transacted at the meeting is the determination of any regulatory approval, consent, licence, permission or registration (for example, determination of an application for planning permission or consent or licence under the Licensing Act 2003).

3. ARRANGEMENTS FOR DEALING WITH COMPLAINTS AGAINST COUNCILLORS

3.1 [Space Saver]

Draft arrangements currently a separate document for consideration. Draft arrangements taken / adapted from LCC constitution.

DRAFT

4. PROTOCOL FOR COUNCILLOR / OFFICER RELATIONS

Purpose

- 4.1 This Protocol provides guidance on how Councillors and Officers can and should work together effectively to deliver positive outcomes for the Council's residents, businesses and communities. It seeks to apply the seven principles of public life (the "Nolan Principles") into practice.
- 4.2 This Protocol is not a set of rules. It provides guidance on best practice on how Councillors and Officers can meet the standards of public life and comply with their respective obligations detailed in the Code of Conduct for Councillors, as set out above under section 2, and the Employee Code of Conduct set out under Part 7 of this Constitution.
- 4.3 A breach of a Protocol set out below may be evidence that Councillor or Officer has breached a provision of their respective code of conduct.
- 4.4 The Protocol supplements and does not seek to replace the Council's existing policies, and should be considered in conjunction with the codes of conduct, and other rules set out elsewhere in this Constitution.

The Nolan Principles

- 4.5 The Council's ethical framework is underpinned by the Seven Principles of Public Life also called the Nolan Principles which apply to anyone who is a public office holder. This Protocol aims to implement the Nolan Principles as follows:

Nolan Principle	Indicative Behaviour
Selflessness	Ensuring Councillors and Officers work together for the public benefit
Integrity	Avoiding in appropriate influence on Officers' activities and the delivery of services
Objectivity	Officers act impartially and fairly between Political Groups and they are not asked or pressured to act otherwise by Councillors
Openness	Councillors are aware of their rights to information and their obligations in respect of confidential information. Officers respect Councillors rights to information and the limits of such rights with regards to confidential information, and personal data

Accountability	Complying with this Protocol – a breach may be evidence of a breach of the Code of Conduct for Councillors / the Employee Code of Conduct as applicable
Honest	Councillors and Officers are truthful
Leadership	Councillors and Officers treat each other, and all persons with respect, and actively support and demonstrate the upholding of the Nolan Principles

Overview of Councillor Officer Relations

4.6 All Councillors and Officers are public servants with complementary but different roles and responsibilities. All Councillors and Officers work to achieve the common aim of delivering services and policies that improve the lives of the Council's residents, workforce and businesses, all of whom will benefit from effective working relationships between Councillors and Officers.

4.7 This Protocol aims to create an understanding of:

- The different roles of Councillors and Officers;
- The boundaries between Councillors and Officer; and
- The expectations both Councillors and Officers can have of each other.

understanding these factors will enable Councillors and Officers to conduct themselves in accordance with the Nolan Principles and avoid dispute. The Protocol also sets out below how to deal with disputes appropriately.

4.8 This Protocol should not be considered as formal advice. Councillors and Officers should contact the Monitoring Officer if they require specific advice.

Councillor and Officer Roles

4.9 The below table is a guide to the main differences between the roles and responsibilities of Councillors and Officers.

Councillors	Officers
Status	
<p>Elected by residents every four years</p> <ul style="list-style-type: none"> • Can resign but cannot be dismissed; • Can be disqualified in limited circumstances; 	<p>Employees of the Council</p> <ul style="list-style-type: none"> • Have a contract of employment; • Can resign or be dismissed.

<ul style="list-style-type: none"> Up to nine Councillors appointed by the Leader to form the Cabinet – the Council's principal decision making body. 	
<p>No formal management</p> <ul style="list-style-type: none"> May be subject to Political Group control and discipline Accountable to all residents and the local electorate 	<p>Line-managed by Officers</p> <ul style="list-style-type: none"> Officers are managed, by and report to, a more senior officer; Chief Executive is the Council's 'head of paid service' and ultimately responsible for all Officers.
<p>Subject to the Code of Conduct for Councillors</p> <ul style="list-style-type: none"> Must comply with duties and obligations set out in the Code, including as regards the declaration of interest, and gifts and hospitality 	<p>Legal rights under employment law</p> <ul style="list-style-type: none"> Employment rights provided under law and the Councils internal policies / procedures; Subject to the Employee Code of Conduct, and terms and conditions of employment.
Role	
<p>Strategic decision makers</p> <ul style="list-style-type: none"> Leader and Cabinet set the Council's political direction, corporate vision, objectives, strategies and policies; 	<p>Advisors</p> <ul style="list-style-type: none"> Provide professional advice to Councillors to ensure best, value, financial and legal compliance; Deliver services in accordance with priorities agreed by Councillors;
<p>Overview of operational delivery</p> <ul style="list-style-type: none"> Overview and Scrutiny of the operational delivery of services by Officers 	<p>Operational delivery</p> <ul style="list-style-type: none"> Responsible for the operational delivery of services; Accountable to Councillors for effective delivery of services.
<p>Regulatory and governance decision making</p> <ul style="list-style-type: none"> As members of Committees, Councillors determine regulatory matters, and 	<p>Regulatory enforcement</p> <ul style="list-style-type: none"> Officers enforce regulatory decisions and the implementation of policy; Ultimately report to the Chief Executive.

<p>maintain an overview of finance, governance and risk;</p> <ul style="list-style-type: none"> • Councillors cannot make decisions individually. 	
<p>Political representative</p> <ul style="list-style-type: none"> • Councillors have an overtly political role and are usually a member of, or aligned with, a Political Group 	<p>Political neutrality</p> <ul style="list-style-type: none"> • Officers must remain politically neutral at all times; • Some roles are politically restricted meaning the post holder cannot be politically active in their private life.

Statutory Officers

4.10 A number of Officers have a personal, statutory responsibility to ensure the proper conduct of the Council’s administrative, staffing, legal and financial affairs.

4.11 The table below details the Council’s “Statutory Officers” and their statutory responsibilities.

Statutory Officer	Statutory Responsibility
Head of Paid Service (Chief Executive)	Responsible for the management of the Council’s Officers and the delivery of statutory services
Monitoring Officer	Responsible for the Council’s governance and compliance with the law.
Chief Finance Officer (Section 151 Officer)	Responsible for the Council’s financial affairs and ensuring the Council sets a balanced budget.
Director Adult Social Services	Responsible for the safeguarding of vulnerable adults. There is an equivalent Councillor role.
Director of Children’s Services	Responsible for the safeguarding of children. There is an equivalent Councillor role.

Personal Conduct and Behaviour

4.12 When Councillors and Officers treat each other with respect it is likely to foster good working relationships and improve efficiency. The underlying principle for Councillor-Officer relations is mutual respect for each other’s roles, especially where differences of

opinion and approach arise. This includes having mutual respect for the different pressures on Councillors and Officers. Mutual respect means:

- Valuing each other's different expertise and knowledge, e.g. Councillors will generally know their Wards better than Officers;
- Avoiding a blame culture
- Avoiding tone and language in communications that is critical of individual Officers or Councillors;
- Zero tolerance of bullying or harassing behaviour;
- Councillors understanding that Officers, especially junior Officers, cannot respond or "answer back" to a Councillor's criticism of them, especially in public;
- Avoiding unreasonable deadlines or excessive demands on each other;
- Remembering the importance of public perception. The public rightly expect high standards from Councillors and Officer, and do not expect them too rude or publicly critical of each other.

Political Neutrality

4.13 A key difference between Councillors and Officers is their political involvement. Whilst Councillors are elected as the candidate of a Political Group or as an Independent Councillor, Officers must remain politically neutral at all times in all aspects of their work.

4.14 For Councillors, the political neutrality of Officers means:

- Not asking Officers about their political views or discussing with them local or national party political matters;
- Not attempting to draw Officers into criticising a Councillor or Political Group;
- Respecting Officers' obligation to advise different Political Groups equally;
- Not making allegations of bias against Officers, especially in public, or because an Officer's advice does not agree with the position of a Councillor or their Political Group;
- Not accusing Officers of having ulterior or malign motives. The Council and Officers have to make difficult decisions with finite resources and very often these will leave some residents or Councillors dissatisfied. It is wholly inappropriate to make unsubstantiated allegations of corruption, political bias or incompetence in such circumstances. Any concern should first be raised with the Monitoring Officer on a confidential basis. If need be, the dispute resolution process set out below can be implemented.
- Not copying in Officers, Councillors or citizens into correspondence with Officers, particularly where Councillors are critical of Officers or the Council. Where a dispute between Councillors and Officers arises, the dispute resolution process set out below must be implemented.

4.15 Political neutrality for Officer means:

- Providing balanced advice and equal facilities to all Political Groups, and ungrouped Councillors;
- Providing advice and support to the Council's political administration and delivering the Council's policies, but not to the wider Political Group from which the administration is formed;
- Not bringing personal politics into their work;
- Not being improperly influenced by Councillors to change their mind on any matter that affects a political matter, and not advising on the basis of political expediency;
- Raising concerns with, or seeking advice from, the Monitoring Officer.

Support to Political Groups

- 4.16 A key part of a Councillor's role is to act as a political representative. Officers can provide support to Councillors in their capacity as a political representative, provided that in doing so an Officer is not breaching their duty of political neutrality.
- 4.17 The Council's political administration will almost invariably be formed by the Political Group with a majority on the Council. Officers are required to advise and implement the political policies of the administration, and provide additional support to the Leader and Cabinet (the Executive) to reflect the status of the Leader and Cabinet. A key feature of a successful, functioning local authority is the executive and senior management having close and effective working relationships.
- 4.18 It is an Officer's duty to act in the Council's interests. This means advising where political commitments are not in the Council's overall interests or will not deliver best value, i.e. "speaking truth to power". If differences between Officers and Councillors cannot be resolved through the below dispute resolution procedure, they should be referred to the Council's Chief Executive who will consult with the relevant statutory officers.
- 4.19 Officers' additional support to the administration does not however extend to, and must not be confused with, support to the majority Political Group.
- 4.20 Political Groups are an important but informal part of the Council's political architecture. They have no decision making role and exist to allow those with the same political or similar political views to join together to ensure representation on the Council and its Committees, and other bodies. A key feature of a successful, functioning local authority is good working relationships and interaction between all Political Groups and Officers.
- 4.21 It is important that the Political Groups are treated fairly and with equity, but also that they are not considered or viewed as part of the formal decision making structure of the Council. This means:

For Officers

- Ensuring relevant senior Officers director and / or the Chief Executive is aware of and has approved a briefing to a Political Group;

- Providing an equal opportunity of access to briefings and advice on the same matter to all Political Groups;
- Withdrawing from Political Group meetings when political matters are discussed;
- Being open and transparent about Political Group briefings or meetings, but not disclosing confidential Political Group discussions;
- Avoiding briefings which could be used in a forthcoming election campaign.

For Councillors and Political Groups

- Directing requests for briefings to the Chief Executive or relevant Executive Director;
- Accepting that any briefing will be offered to all Political Groups and Councillors, and not seeking to prevent this;
- Not asking Officers about political matters or political implications;
- Accepting that Officers will feedback comments made in a Political Group meeting to senior Officers (but not other Political Groups unless consent is provided);
- Informing Officers if a Political Group meeting includes non-Councillors so Officers can consider the disclosure of information;
- Respecting confidentiality where information is provided on a confidential basis.

4.22 It must be remembered that it is the role of Officers to facilitate governance by the administration, not to facilitate the opposing of the administration by the opposition Political Groups.

Councillors' Ward Work

4.23 Councillors carry out vital work as community leaders in their Ward. They are often the only voice available to residents. Officers must respect this and provide Councillors with support in their constituency work but Officers and Councillors must acknowledge and accept that there are limits to the support that Officers can provide.

4.24 Individual Councillors cannot make decisions on behalf of the Council or instruct Officers in their work. This means:

For Councillors

- An expectation that Officers will respond to enquiries in accordance with the Council's policies, or explain why there is a delay;
- An expectation that Officers will inform and consult them Ward matters in accordance with the Council's policies;
- Not instructing an Officer to do something – and not taking offence if they refuse;
- An expectation that Officers will provide reasons as to why a request or query cannot be met;

- Not ‘shooting the messenger’ and criticising Officers where a request has been declined;
- Requesting that query or request be escalated if unhappy with response, but accepting the final decision once it has been made.

For Officers

- Treating all Councillor queries and request equally, including opposition Councillors;
- Meeting the Council’s standards for response time and explaining when doing so is not possible;
- Providing reasons with responses to Councillors;
- Escalating matters where a Councillor is not satisfied with a response.

Personal Relationships and Privacy

4.25 Whilst it is beneficial for the Council if Councillors and Officers are able to interact and be friendly, professional standards must be maintained, especially when members of the public or other stakeholders are present. Councillors and Officers often undertake their duties at very different hours and Councillors may also have ‘day jobs’ during the working week. Maintaining professional relationships means:

- Officers using formal titles such as “Leader” or “Councillor” when addressing Councillors and in correspondence, especially in formal or public settings.
- Councillors and Officers taking care when socialising with each other. Whilst it is not unlawful to do so, the public perception of such relationships may be negative.
- Declaring any close or intimate relationships between Councillors and Officers (e.g. family, partner) to the Monitoring Officer and taking necessary steps to avoid any conflicts of interest either under the respective codes of conduct for Councillors and Employees. (personal information will held in confidence).
- Councillors and Officers respecting each other’s private lives and work-life balance when making request and in their communications.

The Employment of Officers

4.26 Officers are employees of the Council and ultimately answerable to the Chief Executive (as the head of paid service). The Chief Executive has ultimate responsibility for the delivery of services by the Council, and the performance and conduct of Officers. This means:

- Councillors, including the Leader and Cabinet, accepting that they cannot direct the work of individual Officers or manage services;
- A Councillor who is concerned about an Officer’s performance or conduct, referring their concerns to the Officer’s line manager;

- Councillors accepting that they cannot be involved in any formal action taken against individual Officers except where a Councillor is a witness of fact in the matter;
- Officers not asking Councillors to support them in any employment dispute with the Council, except if where a Councillor is a witness of fact in the matter;
- Councillors not lobbying on behalf of individual Officers where they are subject to a formal course of action or applying for a position.

Councillors' Rights of Access to Information and Confidentiality

4.27 Councillors have rights of access to information held by the Council in accordance with Access to Information Procedure Rules set out under Part 1 of this Constitution elsewhere provided for in this Constitution and under the law.

4.28 A Councillor's rights of access to information are not unrestricted, and are not always the same. Councillors remain bound by confidentiality in respect of information which is deemed exempt or confidential in accordance with Schedule 12A of the Local Government Act 1972. Councillors also remain subject to the requirements of the Data Protection Act 2018, the Freedom of Information Act 2000, the Environmental Information Regulations 2004, and all applicable law.

The Common Law Right to Information and the 'need to know'

4.29 Councillors' rights of access to information under the common law have now largely been incorporated into various statutes. However, the decisions of judges over the years (case law) have developed the principle of 'the need to know' in respect of common law rights to information. As such, a Councillor's rights of access to information under the common law (as under statutory law) is not unrestricted. The key elements of the 'need to know' principle are:

- The common law right of access to information does not permit 'fishing expeditions' or the 'trawling' of information;
- Councillors have a right of access to information to the extent that their having the information is reasonably necessary in the performance of their duties as an elected councillor;
- The 'need to know' will vary according to a Councillor's particular role. For example, a member of the Audit and Governance Committee would be expected to have a greater 'need to know' detailed financial information than other Councillors;
- Councillors must be able to demonstrate their 'need to know' and must seek access to information in good faith;
- Councillors can only use the information in pursuance of their official duties: they cannot use it for political or personal purposes;

- The refusal of access to information may take into account the affect, or potential affect, on third parties of the disclosure of the information;
- Information disclosed on a confidential basis remains confidential, and the Councillor is under a legal duty to maintain such confidentiality.

The Disclosure of Confidential Information

4.30 As detailed above, Councillors remain bound by a duty of confidentiality under the common law, and in accordance with the provisions of various statutory law, in respect of confidential information and 'personal data'. The disclosure of confidential information or personal data may result in:

- Legal or regulatory action being taken against the Council, and / or against the Councillor personally;
- A complaint against the Councillor being made under the Code of Conduct for Councillors;

4.31 Councillors should seek confidential advice from the Monitoring Officer if they consider it may be necessary to disclose confidential or otherwise restricted information.

Dispute Resolution

4.32 Whilst the purpose of this Protocol is to limit them, on occasion disputes between Councillors and Officers will arise.

4.33 Concerns as to the performance or conduct of Officers will be dealt by their line managers in accordance with the Council's internal policies and procedures.

4.34 Where complaints are appropriately submitted against Councillors under the Code of Conduct for Councillors, they will be dealt with in accordance with the Council's Arrangements for Dealing with Complaints Against Councillors. The Code and the Arrangements are set out respectively under section 2 and section 3 above of this Part 6 of the Constitution.

4.35 Except where the above applies, where disputes and differences between Councillors and Officers cannot otherwise be resolved, their resolution will be sought through the procedure set out below.

Councillor Issues with Officers

4.36 Councillors should first seek to resolve any issues they have with Officers, with Officer's immediate line manager.

4.37 Councillors should avoid the public and personal criticism of the Officer – it is likely to escalate rather than resolve the problem, and may result in complaints being made under the Code of Conduct for Councillors;

4.38 Councillors should avoid 'copying-in' third parties on correspondence about problems with an Officer – particularly other Councillors and external parties;

4.39 Councillors must not make unsubstantiated against Officers and must support their position with evidence;

- 4.40 Where it is not possible to resolve the matter with the Officer's line manager, a formal complaint should be submitted to the relevant Executive Director;
- 4.41 Councillors must respect the decision of the line manager dealing with the matter, whether or not any further action has been taken, and the nature of any such action.
- 4.42 Councillors must accept that other than as a witness of fact, they have no right to be involved in any disciplinary process or action taken against an Officer.

Officer Issues with Councillors

- 4.43 Junior Officers are not expected to seek to resolve issues with Councillors without the support of their line manager(s).
- 4.44 Where problems between Officers and Councillors cannot be resolved informally, Officers may submit a complaint against a Councillor under the Code of Conduct for Councillors.
- 4.45 If they are a member of a trade union, Officers are entitled to seek advice and representation from their trade union.
- 4.46 Officers should seek advice from the Monitoring Officer.

Whistle-blowing and the Reporting of Wrongdoing

- 4.47 Councillors or Officers concerned about corruption, fraud, an abuse of office or other such wrongdoing should report their concerns to the Monitoring Officer in the first instance, or use the Council's whistleblowing policy if applicable.

5. THE SCHEME OF COUNCILLORS' ALLOWANCES 2023 / 2027

- 5.1 The Scheme of Councillors is reviewed and renewed every four years by the Independent Remuneration Panel, or as and when new positions are required to be included in the Scheme.

Type of Allowance	Allowance Per Annum
Basic Allowance ("BA") (for all elected Councillors x 51)	£ 10,400
Special Responsibility Allowances ("SRA")	
Note: The below SRAs are paid in addition to BA, but no Councillor shall be entitled to payment of more than one SRA regardless of the number of remunerable posts they hold. If a Councillor holds more than one post which attracts an SRA, it will be assumed they will be paid the higher SRA.	
Leader	£36,400
Deputy Leader	£18,720
Cabinet Member (other than Leader and Deputy)	£14,560
Mayor ¹	£15,600
Deputy Mayor ¹	£ 3,640
Leader of the largest opposition Political Group	£10,400 (If two main opposition groups are equal in size, each group leader will be paid an additional 100% of BA.)
Leader of other opposition Political Groups	£ 2,600 (But if opposition group has less than 4 members then this SRA is not payable.)
Deputy Leader of largest opposition Political Group	£2,600 (But if opposition group has less than 17 members, namely one third of the Council, then this SRA is not payable.)

Chairs of Scrutiny Committees (x 3)	£7,800
Vice-Chairs of Scrutiny Committees (x3)	£520
Chair of Planning / Development Control Committee	£10,700
Vice-Chair of Planning / Development Control Committee	£ 2,600
Chair of Audit & Governance Committee	£ 2,600
Chair of Regulatory Committee Chair of Regulatory Sub-committees	£6,240
Vice-Chair of Regulatory Committee Vice-Chair of Regulatory Sub-committees	£5,720
Chairs of Appeals Committee A and Appeals Committee B (x 2)	£2,600
Vice-Chairs of Appeals Committee A and Appeals Committee B (x 2)	£498
Chair of General Purpose Committee	£3,640
Chair of Standards Committee	£0
Chair of Health & Wellbeing Board	£ 0

Co-opted Members Allowance	
Audit & Governance Committee	£1,300
Scrutiny Committees	£312
Independent Persons	

Independent Persons (Re. Member Standards Regime)	£1,300
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Dependants' Carers' Allowance	
Basic "sitters" allowance	To be linked to the National Living Wage
Specialist carers	Maximum rate claimable set at hourly rate charged by Southend-on-Sea City Council Social Services Department for a Home Care Assistant
Booking fees	Actual up to £10.00
1.	<p>Councillors and Co-opted Members shall be entitled to claim for the care of dependents in accordance with the rates for the Dependants' Carers' Allowance set out above, subject to the following provisions:</p> <ul style="list-style-type: none"> (a) Payments shall be claimable in respect of children up until their fifteenth birthday or in respect of dependants where there is medical or social worker evidence that care is required. (b) The Council reserves the right to require evidence that there is a reasonable need for the level of care in respect of which a claim is made. Councillors / Co-opted Members seeking to claim an allowance to cover the cost of professional or specialist carers should first seek the approval of the Director (Legal and Democratic Services). (c) A claim will be reimbursed where it is a reasonable requirement of the market that a booking fee is payable and that a rate is payable for each person cared for. (d) The allowance shall be paid as a reimbursement of actual incurred expenditure against receipts. If receipts are unavailable the payment will be made through the Council's payroll and be subject to tax and national insurance contributions. (e) When there is more than one Councillor / Co-opted Member in a household, only one claim can be made in respect of each person cared for. (f) The paid carer cannot be a member of the immediate family or household.

Travelling & Subsistence Allowances (Out of City Approved Duties Only)

2. Councillors (including Co-opted Members) are entitled to claim travelling and subsistence allowances in accordance with section 3 at the same rates as apply to Council Officers (see details in sections 4 and 5 below) in connection with, or relating to, one or more of the following **Approved Duties** which are undertaken or take place **outside** the City of Southend-on-Sea:
- (a) Attendance as the Council's appointee or nominee (or substitute) at the meeting of any body to which the Council makes appointments or nominations (or any committee or sub-committee of such a body) provided that no such allowances are payable by the body concerned.
 - (b) Attendance as the Council's appointee or nominee (or substitute) at the meeting of any body to which the Council makes appointments or nominations (or any committee or sub-committee of such a body) provided that no such allowances are payable by the body concerned.
 - (c) Attendance at a meeting, the holding of which is authorised by the Council (or a Committee, Sub-committee or Joint Committee), provided that:
 - (i) it is a meeting to which members of at least two political groups have been invited; and;
 - (ii) no such allowances are otherwise payable in respect of that meeting.
 - (d) Attendance at a meeting, the holding of which is authorised by the Council (or a Committee, Sub-committee or Joint Committee), provided that:
 - (i) it is a meeting to which members of at least two political groups have been invited; and
 - (ii) no such allowances are otherwise payable in respect of that meeting.
 - (e) Attendance as the Council's nominee (or substitute) at a meeting of any association of authorities of which the Council is a member e.g. the Local Government Association provided that no such allowances are payable by the association concerned.
 - (f) Attendance at such other meetings, conferences, presentations, training events, etc where it is in the interests of the Council that the Councillor / Co-opted Member attends and such attendance is approved in advance by:
 - (i) Council, Cabinet or a Committee; or

	<p>(ii) The Chief Executive or the Director of Legal Services.</p> <p>No travelling or subsistence allowances are payable to Councillors (or Co-opted Members) in connection with, or relating to, any duties which are undertaken or take place within the City of Southend-on-Sea – the Basic Allowance already reflects in-City travel and subsistence costs.</p>
3.	Claiming and Payment of Travelling & Subsistence Allowances (Out of City Approved Duties)
	<p>a) Councillors (including Co-opted Members) are entitled to receive payment of travelling and subsistence allowances in accordance with the rates as detailed below. Councillors (incl. Co- opted Members) can only claim allowances for travel undertaken and for subsistence costs actually incurred.</p> <p>b) Councillors (including Co-opted Members) are responsible for completing their own travel and subsistence claims on the official form which Internal Audit shall prescribe and should be sent to the Head of Democratic and Electoral Services.</p> <p>c) Claim forms must be submitted by the 15th day of the following month for which a claim relates otherwise it will not be paid.</p> <p>d) Claims are liable for checking as they are processed by the Payroll team and Councillors / Co-opted Members may be contacted if Payroll has any queries.</p>
4.	Travelling and Subsistence Allowances Rates (Out of City – Approved Duties only)
	<p>Travelling Allowances</p> <p>(a) Car</p> <p>i. A car allowance is payable at 45p per mile (up to 10,000 miles), 25p per mile thereafter (such allowance to also apply to electric/hybrid vehicles) and subject to the following conditions:</p> <p>ii. Return car mileage is calculated by reference to the shortest practicable route from the Councillor’s / Co-opted Member’s normal place of residence to the point at which the approved duty is performed.</p> <p>iii. Mileage can be claimed for a car in which a Councillor / Co-opted Member is being driven by a family member or friend - provided that person is not also submitting a mileage claim for the same trip.</p>

	<p>iv. A passenger supplement rate shall apply, payable at 5p per mile, per passenger (up to a maximum of four passengers).</p> <p>v. Any travel claim should reflect actual trips undertaken. The claim form should record the date, start and finish times, start and finish points of the journey, purpose of the journey, and actual mileage or other travel expense for each journey. Journey distances can be checked via the AA web site – and if there are special reasons why a longer route was taken then these should be stated on the form.</p> <p>vi. A Councillor / Co-opted Member using their own car and claiming mileage must ensure that they hold a current driving license and have current motor insurance that permits the use of the vehicle for Council business and indemnifies the Council against 3rd Party claims.</p> <p>(b) Motor Cycle</p> <p>i. This is payable at 24p per mile and the conditions in (a) i to vi above for car allowances apply.</p> <p>(c) Bicycle</p> <p>i. This is payable at 20p per mile.</p> <p>(d) Public Transport</p> <p>i. Councillors and Co-opted Members who travel by public transport can claim the relevant bus fare or second class rail fare. First class travel or taxis should only be used in exceptional circumstances. Whenever first class rail or taxi fare is claimed, the reason for such should be stated on the claim form.</p> <p>ii. Wherever possible receipts or the ticket should be accompanied the claim. Where no receipt is provided, claims will be subject to tax and National Insurance deductions.</p> <p>(e) Air Travel</p> <p>i. Councillors and Co-opted Members who travel by air should only claim an economy or budget fare.</p>
<p>5.</p>	<p>Subsistence Allowances</p> <p>The following subsistence allowances apply subject to the conditions set out further below:</p> <p>(a) Breakfast Allowance</p> <ul style="list-style-type: none"> • Need to be at venue before 11:00am £7.20

	<p>(b) Lunch Allowance</p> <ul style="list-style-type: none"> • Need to be at venue between 12 noon and 2:00pm £9.70 <p>(c) Evening Meal Allowance</p> <ul style="list-style-type: none"> • Need to be venue after 7:00pm £12.02 <p>(d) Overnight Subsistence</p> <ul style="list-style-type: none"> • Need to be at venue overnight – London / LGC Conferences B&B: £124.97 • Need to be at any other venue overnight – any other location B&B: £109.56 <p>Conditions applicable to all subsistence allowances</p> <p>The following conditions apply to the above subsistence allowances:</p> <ol style="list-style-type: none"> To qualify for reimbursement, the Councillor / Co-opted Member must be away from their normal place of residence for a minimum of four hours. (This time period applying to the time spent in travel, to and from, and attendance at the Approved Duty.) There must be no meal provided at the location where the Approved Duty is performed, either by the Council or the organisers of the event. The Councillor / Co-opted Member should attach a receipt to their expenses claim form to show that a meal or other subsistence was purchased. Where no receipt is provided, claims will be subject to tax and National Insurance deductions.
	<p>Schools Appeals Panel Members</p> <p>Schools Appeals Panel (Admissions and Exclusions) members shall be entitled to receive travelling and subsistence allowances payable at the same rates that are applicable to elected Councillors and Officers.</p>

Scheme of Councillors' Allowances Scheme: Additional Terms and Conditions

5.2 The Basic Allowance includes:

- 5.2.1 A sum for in-City travel and subsistence;
- 5.2.2 The reasonable use of the internet – see paragraphs 10.2 and 20.2 of the Internet and Electronic Mail Code of Practice; and,;
- 5.2.3 The cost of postage, stationery and minor items of office equipment (not printing cartridges and paper).

5.3 Other Facilities:

- 5.3.1 In addition to Councillors' Allowances, the Council provides various facilities to Councillors in order that they may carry out their duties effectively. These include computer equipment and telephone facilities and business related call charges.
- 5.3.2 The Council also offers all elected Councillors a free car park pass for use in four Council car parks: Civic Centre Underground, Civic Centre East, Beecroft Lower and University Square, when undertaking official duties on behalf of the Council. Elected Councillors must sign a declaration confirming that they will abide by the conditions of use of the car parks. . Any breach of such conditions will result in the pass being withdrawn.
- 5.4 Pensions:
- 5.4.1 Elected Councillors are not entitled to join the Local Government Pension Scheme by virtue of the Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014.
- 5.5 Implementation of the Members' Allowances Scheme:
- 5.5.1 The Independent Review Panel (IRP) recommended that this revised scheme be applied from 1st August 2023.
- 5.6 Forgoing Allowances:
- 5.6.1 Regulation 13 of the Local Authorities (Members' Allowances) (England) Regulations 2003 provides that a Councillor may, by notice in writing given to the Proper Officer of the Authority (the Chief Executive), elect to forgo their entitlement or any part of their entitlement to allowances.
- 5.7 Indexation:
- 5.7.1 This Councillors' Allowances Scheme came into effect on 1st August 2023 and is subject to Indexation as follows:
- (a) Basic Allowance, SRAs and Co-optees' Allowances and Independent Persons Allowance
 - Indexed to the annual percentage salary increase for local government staff (at spinal column 43) to be implemented from the start of the municipal year, rather than financial year, for which year it is applicable. The first date for indexation for the purpose of this Scheme is therefore May 2024.
 - (b) Mileage Allowance
 - Updated by reference to the rates which apply to Officers as set by HMRC.
 - (c) Subsistence Allowance
 - The day subsistence allowance and overnight subsistence allowances should be indexed to the same percentage increase

that may be applied by the Council to Officer day and overnight subsistence rates.

(d) Dependants' Carers' Allowance

- Child care rates are indexed linked to the National Living Wage.
- Specialist Care Allowance are index linked to the hourly rate charged by Southend-on-Sea City Council, Social Services Department for a Home Care Assistant.

5.8 Questions

- 5.8.1 All questions on the provisions, interpretation and application of the Councillors' Allowances Scheme should be referred to the Head of Democratic and Electoral Services.

3. ARRANGEMENTS FOR DEALING WITH COMPLAINTS AGAINST COUNCILLORS

1. Introduction

- 1.1 The Localism Act 2011 requires the Council to adopt arrangements for dealing with complaints against Councillors submitted under the Code of Conduct for Councillors (Code) set out above at section 2, and complaints submitted against town councillors in the Council's area under the code of conduct applicable to them.
- 1.2 In these Arrangements the term "Councillor" means an elected councillor or co-opted member of the Council or any town council in the Council's area. The term "Code" means the code of conduct applicable to that Councillor.
- 1.3 These Arrangements apply to all complaints submitted against Councillors under the Code.
- 1.4 The Localism Act 2011 also requires the Council to appoint at least one Independent Person, whose views must be sought before decision is taken to investigate a complaint, and whose views can be sought by the Council at any other stage of dealing with a complaint under these Arrangements. A Councillor against whom an allegation has been made can also consult an Independent Person. The same Independent Person would not usually assist the Council and the Councillor against whom the complaint has been submitted.
- 1.5 The appointment of Independent Persons takes place at a meeting of full Council following an open recruitment process. The Council has appointed [two] Independent Persons.
- 1.6 The Council's Monitoring Officer is responsible for dealing with complaints submitted under the Code. The Monitoring Officer may nominate another Officer of suitable experience and seniority to carry out any of the functions detailed in these Arrangements, or may appoint an external specialist to do so.
- 1.7 The Code applies to all elected Councillors and co-opted members of the Council when they are acting in that capacity. Complaints must be submitted to the Council's Monitoring Officer. The Monitoring Officer can only consider complaints where the Councillor is acting in their capacity as a Councillor in the circumstances of the complaint. The Code does not apply to the acts or omissions of Councillors in the course of their private lives.
- 1.8 If a complaint alleges a failure to comply with the rules about 'Disclosable Pecuniary Interests' or other potential criminal offences the Monitoring Officer will consider whether the matter should be directed to the police, if s/he considers there are reasonable grounds to believe that a criminal offence may have occurred.

2. Stage 1: The Submission of a Complaint and The Initial Assessment

Submitting a Complaint

- 2.1 The complaint must be:
 - 2.1.1 Submitted in writing;
 - 2.1.2 Include the identity of the person submitting the complaint (the Complainant) unless there are substantial reasons not to do so;
 - 2.1.3 Clearly identify those elements of the Code alleged to have been breached;
 - 2.1.4 Provide information and evidence that substantiates the allegations made; and,
 - 2.1.5 Outline the form of resolution the Complainant is seeking.
- 2.2 The Complainant should use the correct Complaint Form which is available from the Council's website or the Monitoring Officer.
- 2.3 If the Monitoring Officer considers that the complaint does not include sufficient information, the Complainant will be asked to provide the additional information required, and the complaint may not be accepted until that information is received, and may be rejected if the information is not provided as requested.
- 2.4 The Monitoring Officer will consider a request by a Complainant or witness to keep their identity confidential (from the member against whom the complaint has been made and / or others). As a principle of natural justice it is expected that the identity of the Complainant will be made known to the Subject Councillor, and as such the Monitoring Officer will only grant a request for anonymity in exceptional circumstances where:
 - 2.4.1 The Complainant has good reason to believe that they are at risk of physical harm if their identify is disclosed;
 - 2.4.2 The Complainant is an Officer who works closely with the Subject Member and they are afraid of the consequences to the employment or of losing their job if their identity is disclosed.

In such circumstance the matter may be dealt with in accordance with the Council's whistle-blowing policy and / or under the Protocol on Councillor / Officer Relations;
 - 2.4.3 The Complainant has a serious health condition and there are medical risks associated with the disclosure of their identify;the Monitoring Officer will notify the Complainant of their decision.
- 2.5 The Monitoring Officer may decline to progress the complaint if the Complainant does not agree to the disclosure of their identity.

3. Initial Assessment

3.1 In consultation with the Independent Person the Monitoring Officer will consider the complaint and make a decision as to whether it warrants further action, having regard to the following criteria:

- (a) Whether the complaint has been submitted within three months of the alleged misconduct unless there exceptional circumstance as to why it has been submitted later (e.g. the complaint concerns allegations of bullying, harassment etc);
- (b) Whether the complaint is against one or more named serving Councillors or co-opted members of the Council;
- (c) Whether the Subject Councillor was in office at the time of the alleged conduct;
- (d) Whether the Subject Councillor was acting in their capacity as an elected councillor in the circumstances of the complaint;
- (e) Whether the alleged misconduct was not a matter of the Subject Councillor's private life;
- (f) Whether the complaint is trivial or about the Complainant's dissatisfaction with a Council service or a decision of the Council, Cabinet, Committee or Officer;
- (g) Whether the complaint is malicious, vexatious or politically motivated to 'tit-for-tat';
- (h) Whether the complaint is the same or similar to a complaint that has already been investigated, and there is nothing further to be gained by progressing it;
- (i) Whether the complaint clearly identifies the elements of the Code the Subject Councillor is alleged to have breached;
- (j) Whether the information / evidence submitted in support of the complaint is sufficient;
- (k) Whether, if proven, the complaint would constitute a breach of the Code;
- (l) Whether the Subject Councillor has already accepted making an error and apologised;
- (m) Whether, in all the circumstances and in consideration of the resource and cost implications of progressing the complaint, it is in the public interest to progress the complaint.

3.2 The Monitoring Officer will notify the Subject Councillor of the complaint and may provide them with a copy of the complaint and seek their initial response as part of the initial assessment.

- 3.3 If the Monitoring Officer determines that the complaint is about an Officer or the provision of a Council service, it will be referred to the relevant service do be dealt with in accordance with corporate complaints procedure, and will not be considered under the Arrangements.
- 3.4 The Monitoring Officer will dismiss complaints where there on the face of it there is insufficient evidence of a breach of the Code, or considers that no further action is warranted
- 3.5 The Complainant will be notified in writing providing reasons for the decision. There is no appeal process for decisions taken by the Monitoring Officer on the initial assessment of complaints.

4. Stage 2: Informal Resolution

- 4.1 [In consultation with the Independent Person] if the Monitoring Officer decides that the complaint warrants investigation s/he will seek to resolve the complaint informally without undertaking an investigation by way of a Local Resolution. This may involve:
 - 4.1.1 The Subject Councillor accepting that their conduct was unacceptable, and providing an explanation and written apology;
 - 4.1.2 The Subject Councillor agreeing to undergoing relevant training;
 - 4.1.3 Mediation between the Subject Councillor and the Complainant facilitated by the Independent Person; or,
 - 4.1.4 Any other form of remedial action considered appropriate.
- 4.2 If the Complainant and the Subject Councillor accept Local Resolution, informs no further action will be taken except that the Monitoring Officer:
 - 4.2.1 Will ensure any actions arising from the Local Resolution are completed; and,
 - 4.2.2 If so, will inform both the Complainant and Subject Member that no further action will be taken on the complaint, and record the outcome and report it to the next meeting of the Standards Committee.
- 4.3 Where a Local Resolution has been rejected or has not been successfully achieved or where the Monitoring Officer considers that it is not appropriate, the Monitoring Officer, in consultation with the Independent Person, will determine whether to proceed to a formal investigation, or whether no further action is warranted having regard to the circumstances of the complaint.

5. Stage 3: Investigation

The Public Interest

- 5.1 If the Monitoring Officer determines that an Informal Resolution is not appropriate or it is not accepted by the Complainant or the Subject Councillor, or having been accepted it is not successfully achieved, the Monitoring Officer will consider whether or not it is

in the public interest to investigate the complaint taking into account and balancing the following factors:

- 5.1.1 The seriousness of the alleged breach;
- 5.1.2 The level of culpability alleged against the Subject Member, including if it is alleged the Subject Member, or their partner (as defined in the Code), or a relative or close associated benefitted directly or indirectly from the alleged breach;
- 5.1.3 What harm if any is alleged to have been caused to the Complainant or others;
- 5.1.4 What is the impact on the wider community of the alleged breach;
- 5.1.5 Is an investigation and a potential hearing before the Standards Committee a proportionate response to the complaint, taking into consideration the time, resource and cost implication.

The Appointment of an Investigating Officer

- 5.2 Where the Monitoring Officer determines that an investigation should proceed, s/he will appoint an Investigating Officer to undertake the investigation. The Investigating Officer may be an appropriately senior and experienced Officer or officer of another local authority, or an external investigator.

Notification

- 5.3 The Monitoring Officer will notify the Complainant and the Subject Councillor that the complaint has been referred for formal investigation, detailing:
 - 5.3.1 The identify of the Investigating Officer;
 - 5.3.2 The investigation procedure;
 - 5.3.3 That the Complainant and the Subject Councillor should have no contact with each other, and should not seek to improperly influence or interfere with the investigation, or the determination of the complaint by any means.

6. The Conduct of the Investigation

- 6.1 The Investigating Officer will:

Collate sufficient information to determine whether there is sufficient evidence upon which a finding may be made that:

 - 6.1.1 The Code applies in the circumstances of the complaint, and if so,
 - 6.1.2 The Subject Councillor breached the Code as alleged.
- 6.2 On the completion of the investigation the Investigating Officer will prepare a draft report of their findings for the consideration and comment of the Monitoring Officer, Complainant and the Subject Councillor.

7. Production of Documents, Information And Explanations

- 7.1 The Investigating Officer will decide whether or not it is necessary and proportionate to interview the Complainant and / or the Subject Councillor, and any witnesses they may have put forward to support their account. The Investigating Officer may also seek to interview or obtain information from any third parties they consider as being of potential assistance to the investigation.
- 7.2 The Investigating Officer (and any person authorised on his/her behalf) is authorised to:
- 7.2.1 Make such enquiries of any person or organisation and request any person or organisation to provide any document or information which is in their possession or control, or provide any explanation, as the Investigating Officer considers necessary for the purposes of carrying out the investigation;
 - 7.2.2 Require the Council to provide any document which is in its possession or control which the Investigating Officer thinks necessary for the purposes of carrying out the investigation;
 - 7.2.3 Request any person to meet with them or otherwise provide any information, document or explanation as the Investigating Officer considers necessary for the purposes of carrying out the investigation.

8. Representation

- 8.1 The Complainant, Subject Councillor or any other person interviewed by the Investigating Officer may arrange to be accompanied at their own expense by a solicitor, trade union representative or friend.

9. Interviews and Interview Transcripts

- 9.1 It is expected that interviews will be conducted remotely via MS Teams, Zoom or a similar remote conferencing platform. The interviews will be recorded. A 'platform generated' transcription of the interview will be produced and a copy provided to the interviewee. A copy of any notes taken by the Investigating Officer during an interview will not be provided to the interviewee or any third party.

10. Additional Breaches of the Code

- 10.1 If, in the course of the investigation, the Investigating Officer becomes aware of any other matter which appears to her/him to be evidence of a different or additional breach of the Code by the Subject Councillor, the Investigating Officer shall inform the Monitoring Officer and provide them with any supporting information.
- 10.2 In consultation with Independent Person, the Monitoring Officer will decide:
- 10.2.1 Whether or not the additional matter should be investigated in accordance with these Arrangements;

- 10.2.2 Whether or not an investigation of the additional matter should be undertaken by the same Investigating Officer, or if a different Investigating Officer should be appointed for the purpose;
- 10.2.3 If the additional matter is to be investigated, notify the Subject Member accordingly in accordance with these Arrangements.

11. Termination of the Investigation

- 11.1 The Investigating Officer may terminate their investigation at any time where they are satisfied that they have sufficient information on which to make their findings and report to the Monitoring Officer.

12. Draft Report

- 12.1 On completion of the investigation the Investigating Officer will prepare a draft report setting out:
 - 12.1.1 Details of the allegation;
 - 12.1.2 The relevant provisions of the Code;
 - 12.1.3 The relevant provisions of any statute or case law (if appropriate);
 - 12.1.4 The Subject Member's initial response to notification of the allegation (if any);
 - 12.1.5 The relevant evidence obtained during the investigation;
 - 12.1.6 A list of any documents relevant to the matter;
 - 12.1.7 Details of any persons interviewed and their account, and any persons who otherwise provided information and details of any such information;
 - 12.1.8 Details of those persons or organisations from whom information was sought but not obtained, or otherwise did not cooperate with the investigation;
 - 12.1.9 The Investigating Officer's findings of fact and reasoning as to whether or not the evidence is sufficient for a finding to be made that:
 - (a) The Code applies in the circumstances of the complaint, and if so,
 - (b) The Subject Councillor breached the Code as alleged.
- 12.2 The Investigating Officer will circulate the draft report to the Monitoring Officer, Complainant and the Subject Councillor for their consideration and comment within fourteen days.
- 12.3 Having taken into account any comments on the draft report received from the Complainant and / or Subject Councillor, the Investigating Officer will prepare a final report for submission to the Monitoring Officer.

13. Final Report

13.1 The Monitoring Office will consider the Investigating Officer's final report. If the Monitoring Officer is not satisfied with the conduct of the investigation or the report, they may ask the Investigating Officer to consider taking further steps and / or reconsidering their report.

13.2 Once the Monitoring Officer is satisfied with the investigation and / or the final report, the Monitoring Officer will determine on the basis of the report whether or not there is sufficient evidence for a finding to be made that:

- (a) The Code applies in the circumstances of the complaint, and if so,
- (b) The Subject Councillor breached the Code as alleged.

Actions on the Final Report

No Breach

13.3 In consultation with the Independent Person if the Monitoring Officer determines that there is insufficient evidence for a finding to be made as at paragraph 13.2 (a) and / or (b) above, s/he will write to the Complainant and the Subject Councillor notifying them of the decision, and that no further action will be taken, and enclosing a copy of the final report.

13.4 The Monitoring Officer will record the outcome of the matter and report it to the next meeting of the Standards Committee.

13.5 The Monitoring Officer will provide a copy of the decision notice to the Subject Councillors Political Group Leader if the Subject Councillor is a member of a Political Group.

13.6 If the complaint concerns a town councillor, the Monitoring Officer will provide a copy of the decision notice to the clerk of the relevant town council.

Breach

13.7 In consultation with the Independent Person, if the Monitoring Officer determines that there is sufficient evidence for a finding to be made as at paragraph 13.2 (a) and (b) above, s/he will write to the Complainant and the Subject Councillor notifying them of the decision, and will either:

13.7.1 Seek to resolve the matter informally, through a resolution agreed between the Complainant and the Subject Councillor, taking into account the findings of the Investigating Officer; or,

13.7.2 Refer the matter to for a hearing of the Hearing Sub-committee of the Standards Committee.

14. Stage 4: Referral to The Hearing Sub-committee

14.1 Where the Monitoring Officer has referred the matter to the Hearing Sub-committee of the Standards Committee for a hearing to determine the complaint.

- 14.2 Where possible, the hearing shall be convened within three months of the Monitoring Officer's referral.
- 14.3 It is expected that a hearing of the Sub-committee will be heard in public. A hearing or part thereof may be held in private where information which will be disclosed at the hearing is exempt or confidential in accordance with Schedule 12A of the Local Government Act 1972.
- 14.4 The Monitoring Officer will convene a hearing of the Hearing Sub-committee to consider and determine the complaint, and will notify the Subject Councillor, the Investigating Officer the complainant and any witness at least fourteen days prior to the hearing of:
- 14.4.1 The date, time and location of the hearing;
 - 14.4.2 The agreed facts of the complaint;
 - 14.4.3 The disputed facts of the complaint;
 - 14.4.4 The identify of any representative of the Subject Councillor or Investigating Officer who will attend the hearing;
 - 14.4.5 The identify of any witnesses who will give evidence at the hearing;
 - 14.4.6 The decisions of the Hearing Sub-committee made at any pre-hearing meeting;
 - 14.4.7 Any proposed amendments to the hearing process set out below.

15. Stage 5: The Hearing

- 15.1 A hearing of the Hearing Sub-committee shall be an inquisitorial process intended to obtain information and clarify facts and issues on which the Hearing Sub-committee may make a determination as to whether or not the Code applied to the Subject Councillor in the circumstances of the complaint, and if so, whether the Subject Councillor breached the Code as alleged.
- 15.2 The hearing is not a court or tribunal. The hearing shall be conducted in accordance with the principles of natural justice and Article 6 of the European Convention on Human Rights, but the strict rules of evidence shall not apply and the cross-examination of the Subject Councillor, Investigating Officer or any witness shall not be permitted.
- 15.3 The Hearing Sub-committee shall make findings of fact on the 'balance of probabilities' which means something is more likely than not.
- 15.4 The Hearing Sub-committee shall be advised by the Monitoring Officer or a legal advisor and may seek advice at any time during the hearing process or while considering their decision. Any advice provided to the Hearing Sub-committee shall be shared with the Subject Councillor and the Investigating Officer if they are present at the hearing.

15.5 The provisions of this section 15 shall take precedence over the Committee Procedure Rules set out under Part 3 of this Constitution.

Preliminary Matters

15.6 The preliminary matters of the hearing shall be:

15.6.1 Appointment of a chair;

15.6.2 Confirmation of quorum;

15.6.3 Declarations of interests;

15.6.4 Introductions;

15.6.5 Whether the hearing or any part of it is to be held in private;

15.6.6 If applicable, whether to proceed in the absence of the Subject Councillor.

Absence of the Subject Councillor, Investigating Officer, Representative or Witness

15.7 The chair shall seek confirmation from the Monitoring Officer as to:

15.7.1 The notification of the hearing to the Subject Councillor; Investigating Officer, representative or witness;

15.7.2 Any indication received from the Subject Councillor, Investigating Officer, representative or witness of their intention to attend or not attend the hearing; and,

15.7.3 If the Subject Councillor, Investigating Officer, representative or witness indicated their intention to attend the hearing, whether any notification or explanation for their absence has been received and when.

15.8 The Hearing Sub-committee will then determine whether in all the circumstances the hearing should be adjourned, or should proceed in the absence of the Subject Councillor, the Investigating Officer, representative or witness.

The Investigating Officer's Presentation

15.9 The Investigating Officer shall present their report and their findings, and with the permission of the Hearing Sub-committee, may call witnesses to give evidence.

15.10 The Hearing Sub-committee and / or the Subject Councillor may ask questions of the Investigating Officer or any witness they have called on matters relevant to any dispute of fact.

15.11 The Hearing Sub-committee may ask the Investigating Officer clarification questions.

The Subject Member's Case

15.12 The Subject Councillor will then be invited to present their case and with the permission of the Hearing Sub-committee may call witnesses to give evidence.

15.13 The Hearing Sub-committee and / or the Investigating Officer may ask questions of the Investigating Officer or any witness they have called on matters relevant to any dispute of fact.

15.14 The Hearing Sub-committee may ask the Subject Member clarification questions.

Final Submissions

15.15 The Hearing Sub-committee will invite the Investigating Officer and the Subject Councillor to submit any final representations

Introduction of New Evidence

15.16 The Investigating Officer, the Subject Councillor and any witnesses shall not be permitted to introduce new arguments or new evidence at the hearing unless the Hearing Sub-committee is satisfied that in the circumstances in the whole, there are exceptional reasons for doing so.

Determination of the Complaint

15.17 The Hearing Sub-committee shall retire with the Independent Person to consider the determination of the complaint. Any advice provided by the Monitoring Officer during to the Hearing Sub-committee's during the private session shall be shared with the Subject Councillor and the Investigating Officer.

15.18 The Hearing Sub-committee may reconvene the hearing to ask further questions of the Investigating Officer and / or the Subject Councillor during the course of the deliberations, and if they are present, the other party will be afforded the opportunity to respond to the question and the answer given.

15.19 The Hearing Sub-committee shall make a finding as to:

15.19.1 Whether the Code applied to the Subject Councillor in the circumstances of the complaint; and if so,

15.19.2 Whether the Subject Councillor breached the Code.

15.20 The hearing will be reconvened for the chair to announce the Hearing Sub-committee's findings and reasons for the findings. [The chair may state that full reasons for the findings will be provided in writing subsequently.]

Finding of No Breach

15.21 If the Hearing Sub-committee determines that the Code did not apply to the Subject Councillor in the circumstances of the complaint, or it did apply but the Subject Councillor did not breach the Code as alleged, the matter will be concluded and no further action shall be required except as regards those matters set out under paragraphs 15.28 to 15.30 below.

Finding of Breach

15.22 If the Hearing Sub-committee determines that the Code applied to the Subject Councillor in the circumstances of the Complaint, and that the Subject Councillor breached the Code as alleged, the Hearing Sub-committee shall further determine whether or not to impose a sanction on the Subject Councillor. The Hearing Sub-committee may invite representations from the Investigating Officer and the Subject

Councillor as to any sanction, if any, which should be imposed, and / or may also take legal advice from the Monitoring Officer or legal advisor.

15.23 The Hearing Sub-committee shall retire with the Independent Person to consider and determine whether to impose any sanctions on the Subject Councillor, and the form of the sanctions.

15.24 The hearing will be reconvened for the chair to announce the sanctions, if any, to be imposed on the Subject Councillor and the reasons.

Available Sanctions

15.25 The Hearing Sub-committee may impose one or more of the sanctions detailed in the appendix to these Arrangements.

Recommendations to the Council

15.26 The Hearing Sub-committee shall consider whether or not it should make any recommendations to the Council with a view to the promotion of high standards of conduct and compliance with the Code amongst elected Councillors and co-opted members of the Council.

Decision Notice

15.27 The Monitoring Officer shall prepare for the approval of the chair a decision notice detailing the complaint, the findings of the Hearing Sub-committee and reasons; any sanctions imposed and the reasons, or that the Hearing Sub-committee determined that no sanctions should be imposed and the reasons.

15.28 The decision notice will be sent to the Complainant, the Subject Councillor and the Investigating Officer, and will be published in accordance with the Access to Information Procedure Rules set out under Part of the Constitution.

Publicity

15.29 If the Hearing Sub-committee decides that the matter should be published, it may do so by placing its findings in one or more newspapers circulating in the Council's area.

Reporting to Council

15.30 The matter will be detailed in the annual report of the Standards Committee to full Council.

Appeal

15.31 There is no right of appeal against the decisions or findings of the Hearing Sub-committee.

SANCTIONS FOR A BREACH OF THE CODE OF CONDUCT FOR COUNCILLORS

The Hearing Sub-committee may impose upon a Councillor found to have breached the Code one or more of the following sanctions:

- Censure or reprimand the Councillor;
- Publish its findings in respect of the Councillor's conduct;
- Report its findings to the Council for information;
- Recommend to the Councillor's Group Leader (or in the case of an ungrouped councillor, recommend to the Council and or a relevant Committee) that the Councillor be removed from any or all Committees or Sub-Committees of the Council;
- Recommend to the Leader of the Council that the Councillor be removed from the Cabinet, or removed from particular Portfolio responsibilities;
- Recommend to the Council that the Councillor be replaced as Leader;
- Recommend to a Group's secretary or appropriate official that the Councillor be replaced as Group Leader;
- Instruct the Monitoring Officer to (or recommend that a parish or town council) arrange training for the Councillor;
- Recommend to the Council that they Councillor be removed from all outside appointments to which they been appointed or nominated by the Council;
- Withdraw (or recommend a parish or town council withdraw) for a specified period, facilities provided to the Councillor by the Council as a computer, website and/or email and internet access; or
- Exclude (or recommend that a parish or town council exclude) the Councillor from the Council's offices or other premises, for a specified period, with the exception of meeting rooms necessary for attending Council, Cabinet, Committee and Sub-Committee meetings.

The Hearing Sub-committee has no power to suspend or disqualify the Councillor, or to withdraw basic or special responsibility allowances. Sanctions (with the exception of censure) may start immediately or up to six months after the Hearing Sub-committee's determination if Hearing Sub-committee prefers.

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