

## **Part 6      COUNCILLORS**

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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.

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## **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 Registrable 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"> <li>(a) the landlord is the council; and</li> <li>(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.</li> </ul>
Securities	<p>Any beneficial interest in securities* of a body where:</p> <ul style="list-style-type: none"> <li>(a) that body (to the councillor's knowledge) has a place of business or land in the area of the council; and</li> <li>(b) either — <ul style="list-style-type: none"> <li>(i) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or,</li> <li>(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.</li> </ul> </li> </ul>

\*'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:

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



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

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

### 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.

<b>Statutory Officer</b>	<b>Statutory Responsibility</b>
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
<b>Basic Allowance ("BA")</b> (for all elected Councillors x 51)	£ 10,400
<b>Special Responsibility Allowances ("SRA")</b> <b>Note:</b> 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 <sup>1</sup>	£15,600
Deputy Mayor <sup>1</sup>	£ 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

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

Independent Persons (Re. Member Standards Regime)	£1,300
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<b>Dependants' Carers' Allowance</b>	
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"> <li>(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.</li> <li>(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).</li> <li>(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.</li> <li>(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.</li> <li>(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.</li> <li>(f) The paid carer cannot be a member of the immediate family or household.</li> </ul>

## 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>
<p><b>3.</b></p>	<p><b>Claiming and Payment of Travelling &amp; Subsistence Allowances (Out of City Approved Duties)</b></p>
	<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) <b>can only claim allowances for travel undertaken and for subsistence costs actually incurred.</b></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 <b>otherwise it will not be paid.</b></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>
<p><b>4.</b></p>	<p><b>Travelling and Subsistence Allowances Rates (Out of City – Approved Duties only)</b></p>
	<p><b>Travelling Allowances</b></p> <p><b>(a) Car</b></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>(b) Motor Cycle</b></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><b>(c) Bicycle</b></p> <p>i. This is payable at 20p per mile.</p> <p><b>(d) Public Transport</b></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><b>(e) Air Travel</b></p> <p>i. Councillors and Co-opted Members who travel by air should only claim an economy or budget fare.</p>
<p><b>5.</b></p>	<p><b>Subsistence Allowances</b></p> <p>The following subsistence allowances apply subject to the conditions set out further below:</p> <p><b>(a) Breakfast Allowance</b></p> <ul style="list-style-type: none"> <li>• Need to be at venue before 11:00am £7.20</li> </ul>

	<p><b>(b) Lunch Allowance</b></p> <ul style="list-style-type: none"> <li>• Need to be at venue between 12 noon and 2:00pm £9.70</li> </ul> <p><b>(c) Evening Meal Allowance</b></p> <ul style="list-style-type: none"> <li>• Need to be venue after 7:00pm £12.02</li> </ul> <p><b>(d) Overnight Subsistence</b></p> <ul style="list-style-type: none"> <li>• Need to be at venue overnight – London / LGC Conferences B&amp;B: £124.97</li> <li>• Need to be at any other venue overnight – any other location B&amp;B: £109.56</li> </ul> <p><b>Conditions applicable to all subsistence allowances</b></p> <p>The following conditions apply to the above subsistence allowances:</p> <ol style="list-style-type: none"> <li>i. 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.)</li> <li>ii. 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.</li> <li>iii. 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.</li> </ol>
	<p><b>Schools Appeals Panel Members</b></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 identity 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 identity;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 Officer 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.