



## **BROMSGROVE DISTRICT COUNCIL**

### **MEETING OF THE STANDARDS COMMITTEE**

**THURSDAY 9TH JANUARY 2014 AT 6.00 P.M.**

**COMMITTEE ROOM, THE COUNCIL HOUSE, BURCOT LANE, BROMSGROVE**

**MEMBERS:** Councillors: M. A. Sherrey (Chairman), M. A. Bullivant (Vice-Chairman), D. W. P. Booth, B. T. Cooper, S. J. Dudley, C. M. McDonald, R. J. Shannon, C. J. Spencer and L. J. Turner,

Parish Councils' Representatives: Mr. J. Cypher and Mr. I. A. Hodgetts

Observer – Deputy Parish Councils' Representative (non-voting co-opted): Mrs. K. May

### **AGENDA**

1. To receive apologies for absence and notification of substitutes
2. Declarations of Interest  
  
To invite Councillors to declare any Disclosable Pecuniary Interests or Other Disclosable Interests they may have in items on the agenda, and to confirm the nature of those interests.
3. To confirm the accuracy of the minutes of the meeting of the Standards Committee held on 10th October 2013 (Pages 1 - 6)
4. Monitoring Officer's Report (Pages 7 - 10)  
  
To receive a report from the Monitoring Officer on any matters of relevance to the Committee.

5. Parish Councils' Representatives' Report

To receive an oral report from the Parish Councils' Representatives on any matters of relevance to the Committee.

6. Localism Act 2011 - Standards Regime - Dispensations (Pages 11 - 16)

To consider the granting of a number of general dispensations under s33 of the Localism Act 2011.

7. Review of Local Protocol on Relations between Members and Member-Officer Protocol (Pages 17 - 42)

To review the attached Local Protocol on Relations between Members and the Member-Officer Protocol and consider whether any changes are required to these.

8. Work Programme (Pages 43 - 48)

To consider the future Work Programme of the Committee.

9. To consider any other business, details of which have been notified to the Head of Legal, Equalities and Democratic Services prior to the commencement of the meeting and which the Chairman, by reason of special circumstances, considers to be of so urgent a nature that it cannot wait until the next meeting

10. To consider, and if considered appropriate, to pass the following resolution to exclude the public from the meeting during the consideration of item(s) of business containing exempt information:-

Should it prove necessary, in the opinion of the Chief Executive, to exclude the public from the meeting at any point during the proceedings in relation to any item(s) of business on the grounds that either exempt and/or confidential information is likely to be divulged, the following resolution(s) will be moved:

"That under Section 100 I of the Local Government Act 1972, as amended, it/they involve the likely disclosure of exempt information as defined in Part I of Schedule 12A to the Act, as amended, the relevant paragraphs of that part being (...to be specified by the Chairman at the meeting), and that it is in the public interest to do so.", and/or

"That under Section 100 A of the Local Government Act 1972, as amended, it/they involve the likely disclosure of confidential information which would be in breach of an obligation of confidence."

K. DICKS  
Chief Executive

The Council House  
Burcot Lane  
BROMSGROVE  
Worcestershire  
B60 1AA

30th December 2013



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- Meeting Agendas
- Meeting Minutes
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## **BROMSGROVE DISTRICT COUNCIL**

### **MEETING OF THE STANDARDS COMMITTEE**

**THURSDAY, 10TH OCTOBER 2013 AT 6.00 P.M.**

PRESENT: Councillors M. A. Sherrey (Chairman), M. A. Bullivant (Vice-Chairman), S. J. Dudley (During Minute No's 12/13 to 17/13) , C. M. McDonald, C. J. Spencer and L. J. Turner

Parish Councils' Representative: Mr. I. A. Hodgetts

Officers: Mrs. C. Felton, Mrs. S. Sellers, Ms. D. Parker-Jones and Ms. R. Cole

#### 10/13 **APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors D. W. P. Booth and B. T. Cooper, Parish Councils' Representative Mr. J. Cypher and Deputy Parish Councils' Representative Mrs. K. May.

Mr E. M. Nock, Independent Observer, also submitted his apologies for the meeting.

#### 11/13 **DECLARATIONS OF INTEREST**

No declarations of interest were received.

#### 12/13 **MINUTES**

The minutes of the meeting of the Standards Committee held on 11th July 2013 were submitted.

**RESOLVED** that the minutes be approved as a correct record.

#### 13/13 **MONITORING OFFICER'S REPORT**

The Monitoring Officer (MO) introduced her report and in doing so confirmed that no Member complaints had been received during the period July to September 2013.

Members heard that the Member Development Steering Group had met the previous evening. It had been agreed with the Group Leaders that additional training sessions would take place during the current municipal year for Overview and Scrutiny, Planning and Chairmanship Skills. An anticipated training programme for Members for the 2014/15 Municipal Year had also been established, which it was hoped would be agreed shortly.

Group Leaders had been asked to encourage their Members to attend training sessions, with the Chairmanship Skills training having been determined a mandatory element.

Full Council's approval on 25th September 2013 of the Standards Committee's recommendation on the minor change to the Arrangements for Handling Standards Complaints in relation to complaints referred to the Police by the MO was noted.

**RESOLVED** that the contents of the report and the additional updates provided by the Monitoring Officer at the meeting be noted.

14/13 **PARISH COUNCILS' REPRESENTATIVES' REPORT**

Mr Hodgetts advised that he had nothing to report to the Committee.

**RESOLVED** that the position be noted.

15/13 **LOCALISM ACT 2011 - STANDARDS REGIME - BUDGET SETTING DISPENSATION**

Members received a report which sought the granting of a general dispensation under s33 of the Localism Act 2011 to enable Members with a Disclosable Pecuniary Interest (DPI) to participate and vote in the Council's budget setting process.

The Monitoring Officer advised that a general dispensation was being sought to ensure that Members were protected should any question arise as to whether or not they could participate and vote in the budget setting process.

The request followed a similar report to Members in November 2012 at which point the Committee granted general dispensations in relation to the setting of the Council Tax, Members' Allowances and Members' speaking rights, where Members may otherwise have a DPI which would preclude them from participating and voting in these matters. The general dispensations granted were subject to Members lodging a formal written request for dispensation as and when they were considering any relevant business at meetings.

The caveat detailed in the report in relation to the budget setting dispensation under section 106 of the Local Government Finance Act 1992, that any Member who was 2 months (or more) in arrears with their Council Tax payments could not participate in any Council meeting concerning the budget, was noted. In the event that any Members were affected by the provisions of section 106, the statutory rule that they be barred from taking part in the budget decisions would prevail and any general dispensation granted by the Standards Committee would therefore not apply.

The legislative requirement for Members to make a request in writing for dispensation at the time of considering any budget setting business at meetings remained.

It was also noted that any general dispensations granted by the Standards Committee applied to district councillors only and that the parish councils were required to administer their own dispensations.

**RESOLVED**

- (a) that subject to the caveat detailed in paragraph 3.11 of the report (and as noted in the preamble above) in relation to Members who are 2 months or more in arrears with their Council Tax payments, a dispensation under Section 33 (2) of the Localism Act 2011 to allow all Members to participate in and vote at Council and committee meetings when considering setting the budget be granted;
- (b) that the dispensation referred to at (a) above take effect on receipt of a written request from Members for a dispensation and where Members may have a Disclosable Pecuniary Interest in the matter under consideration, which would otherwise preclude such participation and voting; and
- (c) that the dispensation referred to at (a) above be valid until the first Standards Committee meeting after the District Council elections in 2015.

16/13 **REVIEW OF THE NEW STANDARDS REGIME UNDER THE LOCALISM ACT 2011**

Further to Minute No. 8/13 of the meeting of the Committee held on 11th July 2013, Members received a presentation from Officers on a Review of the new Standards Regime under the Localism Act 2011.

The new regime had been in place since 1st July 2012 and it was the Standards Committee's role to promote and maintain high standards of conduct amongst Members, and to monitor the operation of the Members' Code of Conduct.

Officers detailed the key elements of the old regime which had incorporated highly prescriptive procedures for the processing of complaints. All complaints had been required to go through an Assessment Sub-Committee stage, with a resulting high number of cases being referred for formal investigation. Sanctions for failure to follow the Code of Conduct had included the suspension and disqualification of Members.

The main elements of the new regime were then highlighted, which it was noted included a far more flexible complaints process and opportunity to seek the local resolution of complaints. Independent Persons had been introduced who acted in a consultative role for the Monitoring Officer, Members and the Standards Committee in the event of a complaint requiring a hearing.

A total of 14 complaints against Members had been received under the new regime. These comprised 12 district councillor complaints against other district councillors, 1 parish councillor complaint against another parish councillor and 1 member of the public complaining about a parish councillor. All bar one of the complaints had been resolved by the Monitoring Officer

under local resolution, with the final complaint having been resolved via local resolution following a formal investigation. Accordingly, no final determination hearings had been required under the new regime.

From an Officer perspective the Monitoring Officer (MO) stated that the positives of the new regime were the more flexible approach to complaint handling, with less need for committee meetings and hearings, whilst retaining the ability to investigate formally where necessary. The early resolution of less serious complaints, together with the role of the Independent Persons and the pan-Worcestershire Code of Conduct which enabled consistency for dual-hatted Members were also seen as having worked well.

The less positive elements included the poor drafting of the new legislation and lack of detailed government guidance for this, including the need for dispensations, which had caused uncertainty. The definitions of interests were not as clear as under the old code, with the register of interests form being less comprehensive than before. The requirement for the declaration of interests in relation to spouses/partners had also not been welcomed, particularly by some parish councillors.

The MO asked Members whether there were any changes that they wished to see to the regime and the arrangements which were currently in place.

A discussion ensued regarding the current reporting of locally resolved complaints and the limited information which the Committee received in relation to such complaints, which it was felt could call into question whether complaints were being dealt with in a fair manner.

The MO stated that when the new regime was established the Committee had agreed that it only wished to receive information on the number of complaints received and whether these had been resolved locally or referred for formal investigation. It was anticipated that any emerging complaint trends might also be reported to Members over a period of time.

The MO advised that Members could, if they so wished, put forward a recommendation to full Council requesting that additional information in relation to the substance of any locally resolved complaints be referred to the Committee for monitoring purposes. This would entail general complaint information only and not the names of any parties to a complaint.

A Member requested whether the MO was able to provide any details of the complaints received under the new regime to date. The MO responded that a large proportion of the complaints had been linked to how Members addressed each other and inter-Member relationships.

It was queried whether any additional complaint information which might in future be provided would be publicly available. The MO confirmed that this would be public information as it would be reported in the regular MO reports to the Committee. A concern was raised that it might be possible to work out the identity of a subject Member from the additional information provided, and



the fact that a complaint had been made against a Member might be used in a negative way against that Member for political purposes.

The MO commented that as the complaints in question would already have been resolved locally between the parties concerned, any reporting of these would be a matter of fact only which would be useful for monitoring purposes. Accordingly, the issue of whether a complaint had been dealt with fairly would not arise as there would not have been local resolution otherwise. The reason for the Committee receiving such information would be to monitor any complaint trends which might, for example, give rise to Member training needs. The MO would also be looking at Member training needs as part of her role and would seek the views of the Independent Persons on any relevant Member training issues.

The referral of complaints generally to the Committee was raised. Concern was expressed by one Member that if a complaint was resolved locally then it was effectively not a complaint. The MO advised that this was contrary to the current agreed Arrangements for Managing Standards Complaints and the MO's role in dealing with complaints under those Arrangements. Any such changes to the Arrangements would require a recommendation to full Council to change the agreed system of local resolution and the role of the MO. It was further noted that the MO's role in attempting to resolve complaints locally in the first instance was undertaken in full consultation with the Independent Persons.

Members requested that it be acknowledged and formally noted that the MO had done a very good job in managing the standards complaints under the new regime given the high level of resolution involved. The MO advised that this could not have been done without the assistance of the Group Leaders.

The MO stated that she would now contact the Group Leaders regarding the Committee's discussions and recommendation in relation to the future reporting of complaints, to ascertain if there was anything that they wished to feed into the discussions on this at full Council. She added that it might also be helpful for the Group Leaders to attend future meetings of the Committee.

### **RECOMMENDED**

- (a) that the Monitoring Officer in future provide information to the Standards Committee on the general nature/substance of locally resolved complaints in order for the Committee to monitor any complaint trends; and
- (b) that, subject to the approval of (a) above, the Monitoring Officer seek to provide such information in relation to all locally resolved complaints received since the introduction of the new standards regime.

### 17/13 **WORK PROGRAMME**

The Monitoring Officer (MO) introduced the Work Programme and in relation to the review of the protocols on Member-Officer and Member-Member relations scheduled for the 9th January 2014 meeting, asked whether Members would be happy to receive an Officer presentation similar to that

given for the review of the new standards regime item. Members agreed with this approach and to undertake the protocol reviews in a group environment.

It was further noted that a dispensations report for outside bodies would also be referred to the January meeting as the Group Leaders had indicated that some of their Members would need to apply for such dispensations.

**RESOLVED** that, subject to the comments detailed in the preamble above, the Work Programme be approved.

The meeting closed at 6.52 p.m.

Chairman

## BROMSGROVE DISTRICT COUNCIL

### **STANDARDS COMMITTEE**

9th January 2014

#### MONITORING OFFICER'S REPORT

Relevant Portfolio Holder	Councillor Mark Bullivant
Portfolio Holder consulted	Yes
Relevant Head of Service	Claire Felton, Head of Legal, Equalities and Democratic Services and Monitoring Officer
Wards affected	All Wards
Ward Councillor consulted	N/A
Non-Key Decision	

#### **1. SUMMARY OF PROPOSALS**

- 1.1 This report sets out the position in relation to key matters which are of relevance to the Standards Committee.
- 1.2 A report of this nature is presented to each meeting of the Committee to ensure that Members are kept updated as to any relevant developments.
- 1.3 Any further updates arising after publication of this report will be reported orally by Officers at the meeting.

#### **2. RECOMMENDATIONS**

**That the Committee note the report and comment on any aspects of this, as appropriate.**

#### **3. KEY ISSUES**

##### **Financial Implications**

- 3.1 There are no financial implications arising out of this report.

##### **Legal Implications**

- 3.2 The Localism Act became law on 15th November 2011. Chapter 7 of Part 1 of the Localism Act 2011 introduced a new standards regime effective from 1st July 2012. The Act places a requirement on authorities to promote and maintain high standards of conduct by Members and co-opted (with voting rights) Members of an authority. The Act also requires the authority to have in place arrangements under which allegations that either a district or parish councillor has breached his or her Code of Conduct can be investigated, together with arrangements under which decisions on such allegations can be made. The Relevant Authorities (Disclosable Pecuniary Interests)

## **STANDARDS COMMITTEE**

**9th January 2014**

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Regulations 2012 were laid before Parliament on 8th June 2012 and also came into force on 1st July 2012.

### **Service / Operational Implications**

#### **Member Complaints**

- 3.3 During the period October to December 2013 two complaints were received; one against a District Councillor and one against a Parish Councillor. The Monitoring Officer is currently dealing with the two complaints and no conclusion has yet been reached on either of these.

#### **Member Training**

- 3.4 At the last meeting of the Committee it was noted that Member development sessions on Planning, Chaining Skills and Overview and Scrutiny were to be arranged.
- 3.5 The Planning training took place on 26th November 2013 and was attended by 19 (District) Councillors. Topics covered were:
- National Planning Policy Framework;
  - Viability and economics;
  - Greenbelt and greenfield – what's the difference, including brownfield sites and brownfields in the greenbelt;
  - Site visit protocols; and
  - Call in Procedures.
- 3.6 Chairmanship Skills training has been arranged and is due to be held in January.

### **Customer / Equalities and Diversity Implications**

- 3.7 Any process for managing standards of behaviour for elected and co-opted councillors must be accessible to the public. It is therefore proposed that an impact assessment will be carried out on the complaints process when established, to ensure accessibility.
- 3.8 In addition, it is proposed that the new arrangements will be publicised on the Council's website and that Officers will work to ensure that members of the public are made aware of the process for making a complaint through all existing community engagement events.

**STANDARDS  
COMMITTEE**

9th January 2014

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4. **RISK MANAGEMENT**

The main risks associated with the details included in this report are:

- Risk of challenge to Council decisions; and
- Risk of complaints about elected Members.

5. **APPENDICES**

None

6. **BACKGROUND PAPERS**

Chapter 7 of the Localism Act 2011.

**AUTHOR OF REPORT**

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## STANDARDS COMMITTEE

9th January 2014

### LOCALISM ACT 2011 – STANDARDS REGIME – DISPENSATIONS

Relevant Portfolio Holder	Councillor Mark Bullivant
Portfolio Holder Consulted	Yes
Relevant Head of Service	Claire Felton, Head of Legal, Equalities and Democratic Services and Monitoring Officer
Ward(s) Affected	All Wards
Ward Councillor(s) Consulted	N/A
Non-Key Decision	

#### 1. SUMMARY OF PROPOSALS

To consider the granting of a number of general dispensations under s33 of the Localism Act 2011 to enable Members to participate and vote in the matters detailed in Appendix 1 to this report.

#### 2. RECOMMENDATIONS

The Committee is asked to RESOLVE that

- 1) **the Standards Committee consider granting dispensations under Section 33 (2) of the Localism Act 2011 to allow those Members listed in the appended table to participate in and vote at Council and committee meetings; and**
- 2) **the dispensations referred to at 1) above be valid until the first Standards Committee meeting after the municipal elections in 2015.**

#### 3. KEY ISSUES

##### Financial Implications

- 3.1 None.

##### Legal Implications

- 3.2 Section 33 of the Localism Act 2011 provides that Dispensations can be granted in respect of Disclosable Pecuniary Interests (“DPI”).
- 3.3 Section 33 (1) requires that a Member must make a written request for a dispensation.
- 3.4 Section 33 (3) provides that a dispensation must specify the period for which it has effect and that period may not exceed 4 years.

**STANDARDS  
COMMITTEE**

9th January 2014

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**Service / Operational Implications**

- 3.5 Under s31 (4) of the Localism Act 2011 a Member who has a DPI in a matter under consideration is not permitted to participate in the discussion or vote on the matter unless s/he has first obtained a dispensation under s33.
- 3.6 The consideration of whether to grant a dispensation under s33 has been delegated to the Standards Committee.
- 3.7 Section 33 (2) includes a number of situations where a dispensation can be considered, but should be granted "only if, after having regard to all relevant circumstances" the Committee considers that one of those situations applies.
- 3.8 The statutory grounds under s33 (2) for the granting of a dispensation are where the authority –
- “(a) considers that without the dispensation the number of persons prohibited by section 31(4) from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business,
  - (b) considers that without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business,
  - (c) considers that granting the dispensation is in the interests of persons living in the authority’s area,
  - (d) if it is an authority to which Part 1A of the Local Government Act 2000 applies and is operating executive arrangements, considers that without them dispensation each member of the authority’s executive would be prohibited by section 31(4) from participating in any particular business to be transacted by the authority’s executive, or
  - (e) considers that it is otherwise appropriate to grant a dispensation.”
- 3.9 The Monitoring Officer considers that if Members were minded to grant these dispensations that they may wish to do so on the basis that each time a Member wishes to exercise the exemption that they first discuss the matter under consideration with the Monitoring Officer to ensure that the dispensation is appropriate in the context of the decision being taken.

**Customer / Equalities and Diversity Implications**

- 3.10 None.



**4. RISK MANAGEMENT**

The granting of general dispensations by the Committee will, subject to receipt of a written request from Members for such a dispensation, clarify, for the avoidance of any doubt, Members' ability to participate in and vote at Council and committee meetings on certain matters as part of the Council's decision-making process.

**5. APPENDICES**

Appendix 1 – table of Dispensations.

**6. BACKGROUND PAPERS**

Section 33 of the Localism Act 2011.

**AUTHOR OF REPORT**

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Tel: 01527 881429

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APPENDIX 1

Member(s)	Relevant DPI	Reason for dispensation
Cllr Sean Shannon and Cllr Elaine Shannon	Director of BHI (Bromsgrove Housing Initiatives) / spouse of Director of BHI	To allow participation in debates concerning housing issues; it is considered that it would be in the interests of the public to allow Members with knowledge of housing issues to contribute to any relevant debates.
Cllr Margaret Buxton, Cllr Rory Shannon, Cllr Luke Mallett and Cllr Chris Bloore	Officer for Unison or spouse/partner to officer for Unison	To allow participation in debates concerning employment / staffing issues in relation to the authority.
Cllr Del Booth, Cllr Margaret Sherrey, Cllr Roy Clarke, Cllr Rod Laight, Cllr Peter Lammas and Cllr John Ruck	The Artrix Holding Trust (Bromsgrove Arts Development Trust)	To allow participation in debates concerning the Artrix theatre generally but not in relation to funding issues.
Cllr Jonathan Boulter, Cllr Janice Boswell, Cllr James Brogan, Cllr June Griffiths and Cllr Caroline Spencer	The Artrix Operating Trust (Bromsgrove Arts Centre Trust)	To allow participation in debates concerning the Artrix Theatre generally but not in relation to funding issues.
Cllr Luke Mallett	Employee of the British Heart Foundation	To allow participation in debates or decisions regarding health improvement or public health and well-being generally.
Cllr James Brogan and Cllr Jonathan Boulter	Employees of Health Trusts	As above

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### LOCAL PROTOCOL ON RELATIONS BETWEEN MEMBERS

#### 1. INTRODUCTION

- 1.1 The Council will best serve the interests of local people if there are clear arrangements between the Members and Political Groups represented on the Council. The interests of local people will also be best served if the working relationship between Members of all Political Groups is characterized by mutual respect, informality and trust, whilst recognizing the need for healthy and constructive political debate within a vibrant democratic process. Such a relationship will mean that Members will speak to one another openly and honestly whilst political differences will be aired in an appropriate manner and not personalized.
- 1.2 This Protocol is intended to facilitate such a working relationship and to help Members to perform effectively. This Protocol gives guidance on Members' roles and on what to do on the occasions when things go wrong.
- 1.3 This Protocol must be read in the context of the Council's Constitution, the Members' Code of Conduct and the Officer-Member Protocol.
- 1.4 The Council will formally adopt this Protocol and a copy will be issued to all Members and Senior Officers.

#### 2. INTERPRETATION

- 2.1 In this Protocol "Member" includes all elected Members of the Council and all non-elected Members of any Committee (including the Standards Committee and any Overview and Scrutiny Task Group) (or any Sub-Committee) irrespective of whether or not they have any voting rights.

#### 3. GUIDING PRINCIPLES

- 3.1 In their dealings with one another, Members will:
  - (a) serve only the public interest;
  - (b) behave properly and not place themselves in situations where their honesty and integrity may be questioned;
  - (c) make decisions on merit;

## PART 19

- (d) be open about (and be prepared to give reasons for) their actions;
  - (e) promote equality by not discriminating against any person;
  - (f) treat each other with dignity and respect, accepting a strong presumption that everyone is acting in good faith, and show courtesy in all meetings and contacts, both formal and informal;
  - (g) uphold the law;
  - (h) seek to ensure that the Council uses its resources prudently;
  - (i) promote and support all these general principles by example, and act in a way that secures or preserves public confidence in local government; and
  - (j) respect the decisions and authority of the Chair and Vice-Chair of the Council.
- 3.2 In their dealings with one another, Members will also uphold the Members' Code of Conduct. The following provisions of the Code are particularly relevant to relations between Members:
- (a) paragraph 3(1) of the Code:  
"You must treat others with respect"
  - (b) paragraph 5 of the Code:  
"You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute."

## 4. POLITICAL DIFFERENCES AND PERSONAL CRITICISM

- 4.1 This Protocol is not intended to restrict or discourage legitimate, political debate. However, it is also in the interests of local people that there is a working relationship between Political Groups. That working relationship will be assisted if it is supported by a clear set of guidelines and it is these that this Protocol is intended to provide. The relationship between the Political Groups will also be supported if all Members adhere to high standards of courtesy and mutual respect in their dealings with one another.

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- 4.2 As with their relations with officers in their dealings with fellow Members, it is important that robust debate of the issues at stake does not deteriorate into personal criticism of another person who holds a different point of view. Courtesy and civility must be maintained at all times.
- 4.3 Members' integrity should not be questioned in public in any media nor should they be subject to any name-calling or abuse. Questioning a fellow Member's integrity is a particularly serious matter and must never occur unless there is very clear documentary evidence to substantiate any allegation made, and even in these circumstances it will rarely be appropriate to question a Member's integrity publicly without first pursuing other established procedures which are available for the investigation of allegations of ethical misconduct. The principles contained in this paragraph must be adhered to in meetings of the Council, the Cabinet and any Committee meeting, or any other meeting at which members of the public or third parties are present. This principle must also be observed in all dealings with the press and other media which should not under any circumstances be used to undermine or personally criticize fellow Members whether or not those Members are named or identified in any press or other media article or briefing.

### **5. RELATIONSHIPS BETWEEN NEIGHBOURING WARD MEMBERS**

- 5.1 Members contacted by a constituent of a Fellow Member's ward should refer the constituent to the appropriate Ward Member unless:
- (a) the Ward Member is absent or otherwise unable to deal with the query. In such cases the Members should ensure that the matter is referred to the Ward Member as soon as possible; or
  - (b) the Ward Member has expressly consented.
- 5.2 Members should not hold surgeries or open sessions within the ward of a Fellow Member unless that Member has given prior express consent to the proposal. This provision shall not apply in the six weeks before a District Council election.

### **6. MEETINGS BETWEEN GROUP LEADERS**

- 6.1 The Leader of any Group may request a meeting with the other Group Leader(s) (or Deputy Group Leader(s) in cases where the issue relates to a complaint/concern about a Group Leader) at any reasonable time to discuss issues relating to current and/or forthcoming Council business.

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The Group Leaders will use all reasonable endeavours to meet as soon as is reasonably practicable thereafter.

- 6.2 Group Leaders may invite a fellow Member to be present at these meetings. Actions agreed at these meetings will be minuted or otherwise recorded (unless the Group Leaders agree otherwise). The record of the meetings may be made by an officer appointed by the Monitoring Officer who, if not present for the whole meeting, will be invited in to record the agreed outcomes and actions.
- 6.3 These provisions may all be varied by agreement between the Group Leaders.

### **7. MEMBERS' ACCESS TO INFORMATION AND TO COUNCIL DOCUMENTS**

- 7.1 This is covered in the Council's Constitution in the Access to Information Procedure Rules and in the Member- Officer Protocol.
- 7.2 Members may share with other Members of the Council (but not third parties) exempt information unless expressly prohibited from doing so by the person or body providing the information, but must ensure that any recipient Member is aware that the information may not be disclosed to any party outside the Council.

### **8. WHEN THINGS GO WRONG**

- 8.1 From time to time the relationship between Members may break down or become strained. Whilst it will always be preferable to resolve matters informally through conciliation, if necessary by the Group Leaders, this is not always possible. Where this is the case, and a Member considers that another Member has acted in breach of this Protocol, the following procedure will be followed.
- 8.2 If attempts at resolving matters informally have not been successful where a Member considers that another Member has acted in breach of this Protocol, the following procedure will be followed:-
  - (a) the Member must make a written complaint to the other Member and copy that complaint to Group Leaders. This must specify all incidents that the complainant intends to raise and set out the alleged breach of this Protocol;



## PART 19

- (b) the Member who has been complained about shall (within 10 working days) respond in writing to the complainant and copy that response to Group Leaders;
  - (c) Group Leaders shall (within 10 working days (or as soon thereafter as is reasonably practicable)) meet to discuss the complaint. If they both consider that the complaint is unreasonable, frivolous, or vexatious, that shall be the end of the matter. If they both consider that the complaint is of a purely technical or minor nature, they may invite the Member who has been complained against to make a written apology, in a form (and within a timescale) agreed between the Group Leaders. Once that apology has been made that shall be the end of the matter unless the Member subsequently acts in a manner at variance with that apology;
  - (d) if either Group Leader considers the complaint is of a more serious nature than mentioned in the previous paragraph, or if the Member complained against fails to give the requisite apology, the Group Leaders shall agree a suitable course of action;
  - (e) both the Complainant and the Member complained about shall be advised in writing by the Group Leaders of their decision;
  - (f) a Complainant may at any time withdraw a complaint by notice in writing to the other Member and copy that notice to Group Leaders.
- 8.3 Exceptions may be made to the procedures outlined in paragraphs 7.2 above if to do otherwise would conflict with the Council's policy on "Whistle blowing" or potentially prejudice a criminal investigation (whether in progress or reasonably contemplated in the future).

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## MEMBER - OFFICER PROTOCOL

### Introduction and Principles

- 1.1 The purpose of this Protocol is to guide Members and Officers of the Council in their relations with one another in such a way as to ensure the smooth running of the Council.
- 1.2 Given the variety and complexity of such relations, this Protocol does not seek to be either prescriptive or comprehensive. Its objectives are
  - To promote trust, openness, fairness and honesty by establishing some ground rules
  - To define roles so as to clarify responsibilities (i.e. who does what), avoid conflict and prevent duplication or omission
  - To secure compliance with the law, codes of conduct and the Council's own practices
  - To lay down procedures for dealing with concerns by members or officers.

Although the protocol offers guidance on some of the issues which most commonly arise, it forms part of the Council's Constitution and as such must be followed by Members and Officers. It is hoped, however, that the approach which it adopts to these issues will serve as a guide to dealing with other circumstances. Except as specifically set out in this Protocol, questions of interpretation will be determined by the Monitoring Officer unless the particular provision requiring interpretation relates to a matter to be determined by the Chief Executive.

- 1.3 This Protocol is to a large extent a written statement of current practice and convention. It seeks to promote greater clarity and certainty. If the Protocol is followed it should ensure that Members receive objective and impartial advice and that Officers are protected from accusations of bias and any undue influence from Members.
- 1.4 It also seeks to reflect the principles underlying the Code of Conduct which applies to Members. These are:
  - Selflessness – serving only the public interest
  - Honesty and integrity – not allowing these to be questioned
  - Not behaving improperly
  - Objectivity – taking decisions on merit
  - Accountability – to the public; being open to scrutiny
  - Openness – giving reasons for decisions
  - Personal judgement – reaching one's own conclusions and acting accordingly
  - Respect for others – promoting equality; avoiding discrimination; respecting others (member/member as well as member/officer)

- Duty to uphold the law – not acting unlawfully
- Stewardship – ensuring the prudent use of the Council's resources
- Leadership – acting in a way which has public confidence

These principles underpin this protocol. They will also be reflected in a new national code of conduct for employees due in the near future, on which the Office of the Deputy Prime Minister began a consultation in August 2004. Until such time as the national code appears, officers are bound by the Council's own code of conduct for staff and, in some cases, by their professional associations. The purpose of this code is to enhance and maintain the integrity (real and perceived) of local government and the Code, therefore, demands very high standards of personal conduct.

- 1.5 This Protocol should be read in conjunction with the Members' Code of Local Government Conduct, the Council's Constitution and any guidance issued by the Standards Committee and/or Monitoring Officer. The protocol has been approved by the Council's Standards Committee, which will monitor its operation and which is responsible for reviewing the practical application of the Protocol, and making suggestions for its improvement and development. Breaches of the protocol by a member may result in a complaint to the Standards Board for England if it appears the Members' Code of Conduct has also been breached. Breaches by an officer may lead to disciplinary action.

### **The Role of Members**

- 2.1 Members have a number of roles and need to be alert to the potential for conflicts of interest which may arise between the roles. Where such conflicts are likely, Members may wish to seek the advice of senior colleagues, the relevant senior officer(s), and/or the Monitoring Officer.
- 2.2 Collectively, Members are the ultimate policy-makers determining the core values and priorities of the Council and approving the authority's policy framework, strategic plans and budget.
- 2.3 Members represent the community, act as community leaders, and promote the social, economic and environmental well-being of the community, often in partnership with other agencies.
- 2.4 Every elected Member represents the interests of, and is an advocate for, his/her ward and individual constituents. He/she represents the Council in the ward, responds to the concerns of constituents, meets with partner agencies, and often serves on local outside bodies.
- 2.5 Some Members have roles relating to their position as members of the Executive, overview and scrutiny committees, or other committees of the Council.
- 2.6 Members of the Executive may have individual delegated powers, but will often work closely with officers in relevant departments in preparing policies and

decisions which are subsequently approved by the Executive. Although Executive members may, to a significant extent, determine matters within their portfolios, the implementation of their decisions is the responsibility of officers.

- 2.7 Members serving on overview and scrutiny committees monitor the effectiveness of the Council's policies and services, develop policy proposals and examine community issues. They also monitor service provision by other bodies insofar as it affects the District, e.g. local health service provision.
- 2.8 Members who serve on other committees and sub-committees collectively have delegated responsibilities, e.g. deciding planning applications, licensing applications and other quasi-judicial matters, which by law are excluded from the remit of the Executive.
- 2.9 Some Members may be appointed to represent the Council on local, regional or national bodies. Guidance for Members on their participation with external bodies is contained within the protocol "Guidance for Members on Outside Bodies".
- 2.10 As politicians, Members may express the values and aspirations of the party political groups to which they belong, recognising that in their role as members they have a duty always to act in the public interest.
- 2.11 Members are not authorised to instruct officers other than in the circumstances set out below, and should take care to ensure that their conduct is not open to misinterpretation in this regard. Instructions may legitimately be given:-
  - Through the formal decision-making process;
  - To request the provision of consumable resources provided by the Council for members' use
  - Where an Executive Member is indicating to a Senior Officer the way in which policies and decisions might be prepared, but any such instruction given must not compromise an officer's professional judgement and must not be inconsistent with the Council's established policies and procedures
  - Where staff have been specifically allocated to give support to a member or group of members; and
  - In the case of political assistants
- 2.12 Members are not authorised to initiate or certify financial transactions, or to enter into a contract on behalf of the Council.
- 2.13 Members must avoid taking actions which are unlawful, financially improper, or likely to amount to maladministration. Members have an obligation under their code of conduct to have regard, when reaching decisions, to any advice provided by the Monitoring Officer or the Chief Financial Officer.
- 2.14 Members must respect the impartiality of officers and do nothing to compromise it, e.g. by insisting that an officer change his/her professional advice.

### **The Role of Officers**

- 3.1 Officers are responsible for giving advice to Members to enable them to fulfil their roles. In doing so, officers will take into account all available relevant factors.
- 3.2 Under the direction and control of the Council (including, as appropriate, the Executive and committees), officers manage and provide the Council's services within the framework of responsibilities delegated to them. This includes the effective management of employees and operational issues.
- 3.3 Officers have a duty to implement decisions of the Council, the Executive and committees which are lawful and which have been properly approved in accordance with the requirements of the law and the Council's constitution, and duly minuted.
- 3.4 Officers have a contractual and legal duty to be impartial. They must not allow their professional judgement and advice to be influenced by their own personal views.
- 3.5 Officers must assist and advise all parts of the Council. They serve the Council as a whole. They must always act to the best of their abilities in the best interests of the authority as expressed in the Council's formal decisions.
- 3.6 Officers must be alert to issues which are, or are likely to be, contentious or politically sensitive, and be aware of the implications for Members, the media or other sections of the public.
- 3.7 Officers have the right not to support Members in any role other than that of member, and not to engage in actions incompatible with this protocol. In particular, there is a statutory limitation on senior officers' involvement in political activities.

### **The Relationship: General Points**

- 4.1 Both Councillors and Officers are servants of the public and they are indispensable to one another, but their responsibilities are distinct. Councillors are responsible to the electorate and serve only so long as their term of office lasts. Officers are responsible to the Council. Their job is to give advice to Councillors and the Council, and to carry out the Council's work under the direction and control of the Council, the Executive, their committees, and subcommittees.
- 4.2 At the heart of the Code, and this Protocol is the importance of mutual respect, confidence, and trust. Member/Officer relationships are to be conducted in a positive and constructive way. Therefore, it is important that any dealings between Members and Officers should observe standards of courtesy and that neither party should seek to take unfair advantage of their position or seek to exert undue influence on the other party.

- 4.3 A key element in the relationship is a recognition of and a respect for each other's roles and responsibilities. These should be reflected in the behaviour and attitude of each to the other, both publicly and privately. Informal and collaborative two-way contact between Members and officers is encouraged, but personal familiarity can damage the relationship, as might a family or business connection. Members and officers should inform the Monitoring Officer of any relationship which might be seen as unduly influencing their work in their respective roles. Inappropriate relationships can be inferred from language/style. When attending formal meetings, officers and Members should use formal forms of address to each other – e.g. Members should be addressed as "Councillor XX" or "Chairman", while Officers should be addressed as "Mr. XX" or "Mrs. XX". A greater level of informality may be appropriate in other circumstances, e.g. a one to one between a Head of Service and their respective Cabinet Member but it is safer to err on the side of formality..
- 4.4 It is not enough to avoid actual impropriety. Members and officers should always be open about their relationships to avoid any reason for suspicion and any appearance of improper conduct. Where a personal relationship has been disclosed, those concerned should avoid a situation where conflict could be perceived. Specifically, an officer should not sit on a body or participate in any decision which directly affects the officer on a personal basis. Members are bound by the Code of Conduct which contains a similar restriction.
- 4.5 A Member should not raise matters relating to the conduct or capability of an Officer in a manner that is incompatible with the objectives of this Protocol. This is a long-standing tradition in public service because an Officer has no means of responding to such criticisms in public. If a Member feels he/she has not been treated with proper respect or, courtesy or has any concern about the conduct or capability of an Officer, and fails to resolve it through direct discussion with the Officer, he/she should raise the matter with the respective senior officer. The senior officer will then look into the facts and report back to the Member. If the Member continues to feel concern, then he/she should raise the issue with the Chief Executive who will look into the matter afresh. Any action taken against an Officer in respect of a complaint will be in accordance with the provisions of the Council's Disciplinary Rules and Procedures.
- 4.6 An Officer shall not discuss with a Member personal matters affecting himself/herself or matters relating to the conduct or capability of another Officer or to the internal management of a Section/Division. This does not prevent an officer raising on a personal basis, and in his/her own time, a matter with his/her ward member.
- 4.7 Where an Officer feels that s/he has not been properly treated with respect and courtesy by a Member, he/she should raise the matter with his/her senior officer or the Chief Executive as appropriate, especially if they do not feel able to discuss it directly with the Member concerned. In these circumstances the senior officer or Chief Executive will take appropriate action either by

approaching the individual Member and/or group leader or by referring the matter to the Monitoring Officer in the context of the Council's Code of Conduct.

- 4.8 With the exception of political assistants, officers work to the instructions of their senior officers, not individual Members. It follows that whilst such officers will always seek to assist a Member, they must not be asked to exceed the bounds of authority they have been given by their managers. Except when the purpose of an enquiry is purely to seek factual information, Members should normally direct their requests and concerns to a senior officer, at least in the first instance.
- 4.9 Officers will do their best to give timely responses to Members' enquiries. However, officers should not have unreasonable requests placed on them. Their work priorities are set and managed by senior managers. Members should avoid disrupting officers' work by imposing their own priorities. Members will endeavour to give timely responses to enquiries from officers.
- 4.10 Members and officers should respect each other's free (i.e. non-Council) time.
- 4.11 Members seeking advice, information, or support from officers should as a normal rule make contact firstly with the Head of Service for the department in question, and although the Head of Service may refer the matter to another officer care should be taken to ensure that the other officer is supported in whatever manner may be required. In the event that officers receive direct contact from Members and are uncertain how to respond, they should immediately seek advice from their own Manager or Head of Paid Service. It is acceptable for a custom-and-practice arrangement to develop whereby Members approach other officers direct, but all parties should take care to ensure that the Member, the Officer, and the Head of Service are content with the arrangement.

**The Relationship: Officer Support to Members: General Points**

- 5.1 Certain statutory officers – the Chief Executive, the Monitoring Officer and the Chief Financial Officer – have specific roles and these are addressed in the Constitution. Their roles need to be understood and respected by all Members.
- 5.2 The following key principles reflect the way in which the Council's staffing body generally relates to Members:
- all officers are employed by and accountable to the authority as a whole;
  - support from officers is needed for all the authority's functions including Full Council, Overview and Scrutiny, the Executive, individual Members representing their constituents etc;
  - the authority will seek to avoid potential conflicts of interest for officers arising from the separation of the Executive and Overview and Scrutiny role; and
  - all officers will be provided with training and development to help them support the various Member roles effectively and to understand the Council's structures.



- 5.3 On occasion, a decision may be reached which authorises named Officers to take action between meetings following consultation with a Member or Members. It must be recognised that it is the Officer, rather than the Member or Members, who takes the action and it is the Officer who is accountable for it.

**The Relationship: The Council as Employer**

6.1 Officers are employed by the Council as a whole

6.2 Members' roles in employment matters are limited to

- The appointment of specified posts as defined in the Council's Officer Employment Procedure Rules and Scheme of Delegation
- Approving human resources policies and conditions of employment; and
- Hearing and determining appeals

Members should not act outside these roles.

6.3 If participating in the appointment of officers, members should

- Remember that the sole criterion is merit (other than in the case of political assistants, where political considerations may apply)
- Never canvass support for a particular candidate
- Not take part where one of the candidates is a close friend or relative
- Not be influenced by personal preferences, and
- Not favour a candidate by giving him/her information which is not available to other candidates

6.4 A member should not sit on an appeal hearing if the appellant is a friend, a relative or an officer with whom the Member has had a working relationship.

**The Relationship: Officer Support to Members and Party Groups**

7.1 It must be recognised by all Officers and Members that in discharging their duties and responsibilities Officers serve the Council as a whole and not any political group, combination of groups, or any individual Member of the Council.

7.2 There is now statutory recognition for party groups and it is common practice for such groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant Council decision-making body. Officers may properly be called upon to support and contribute to such deliberations by party groups but must at all times maintain political neutrality. All Officers must, in their dealings with political groups and individual Members, treat them in a fair and even-handed manner.

7.3 The support provided by Officers can take many forms. Whilst in practice such Officer support is likely to be in most demand from whichever party group is for the time being in control of the Council, such support is available to all party groups.

- 7.4. Certain points, must, however, be clearly understood by all those participating in this type of process, Members and Officers alike. In particular:
- Officer support must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of party business. The observance of this distinction will be assisted if Officers are not present at meetings or parts of meetings, when matters of party business are to be discussed;
  - Party group meetings, whilst they form part of the preliminaries to Council decision making, are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings do not therefore rank as Council decisions and it is essential that they are not interpreted or acted upon as such; and
  - similarly, where Officers provide information and advice to a party group meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice when the matter in question is formally considered by the relevant part of the Council.
- 7.5 Special care needs to be exercised whenever Officers are involved in providing information and advice to a party group meeting which includes persons who are not Members of the Council. Such persons are not bound by the Council's Code of Conduct (in particular, the provisions concerning the declaration of interests and confidentiality) and for this and other reasons, Officers must not attend and/or give advice to such meetings and Members should not ask officers to do so.
- 7.6 Officers must respect the confidentiality of any party group discussions at which they are present and, unless requested to do so by that party group, should not relay the content of any such discussion to another party group or to any other members. This must not prevent an officer providing feedback to other senior officers on a need-to-know basis.
- 7.7 Members must not do anything which compromises or is likely to compromise an officer's impartiality. The duration of an officer's attendance at a party group meeting will be at the discretion of the group, but an officer may leave at any time if he/she feels it is no longer appropriate to be there.
- 7.8 An officer accepting an invitation to the meeting of one party group shall not decline an invitation to advise another group about the same matter. He/she must give substantially the same advice to each. An officer should be given the opportunity of verifying comments and advice attributed to him/her in any written record of a party group meeting. No Member will refer in public or at meetings of the Council to advice or information given by officers to a party group meeting.
- 7.9 An officer who is not a senior officer shall not be invited to attend a party group meeting, but a senior officer may nominate another officer to attend on his/her behalf. It is recommended that a Group wishing to invite any officer to address

it must seek the approval of the relevant Corporate Director before approaching the officer.

7.10 In relation to budget proposals:

- the Executive Cabinet shall be entitled to confidential discussions with Officers regarding options and proposals. These will remain confidential until determined by the Executive Cabinet or until published in advance of Committee/Council meetings, whichever is the earlier; and
- the opposition groups shall also be entitled to confidential discussions with Officers to enable them to formulate alternative budget proposals. These will remain confidential until determined by the respective opposition groups or until published in advance of Committee/Council meetings, whichever is the earlier.

7.11 It must not be assumed by any party group or Member that any Officer is supportive of any policy or strategy developed because of that Officer's assistance in the formulation of the policy or strategy.

7.12 Any particular cases of difficulty or uncertainty in this area of Officer advice to party groups should be raised with the Chief Executive who will discuss them with the relevant group leader(s).

**The Relationship: Officer Support: The Executive**

8.1 It is clearly important that there should be a close working relationship between Executive Members and the Officers who support and/or interact with them. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the Officer's ability to deal impartially with other Members and other party groups.

8.2 Executive Members will take collective decisions in accordance with the constitution and will not otherwise direct staff except in such circumstances as may be permitted by the Scheme of Delegations.. Senior officers will be responsible for instructing staff to implement the Executive's decisions.

8.3 In addition to individual members of the Executive, senior officers have the right to submit papers to the Executive as a whole or to individual Executive members for consideration. Whilst Executive Members will routinely be consulted as part of the process of drawing up proposals for consideration or the agenda for a forthcoming meeting, it must be recognised that in some situations an officer will be under a professional duty to submit a report. Similarly, a senior officer will always be fully responsible for the contents of any report submitted in his/her name. This means that any such report will be amended only where the amendment reflects the professional judgement of the author of the report. This is to be distinguished from a situation where there is a value judgement to be made. Any issues arising between an Executive Member and a senior officer in this area should be referred to the Chief Executive for resolution in conjunction with the Leader of the Council.

- 8.4 Senior officers and Executive members shall agree mutually convenient methods of regular contact. Before taking any formal decisions, the Executive will seek appropriate professional advice including that of the Monitoring Officer and Chief Financial Officer, and will not direct officers in the framing of recommendations.
- 8.5 Before any formal decisions with a financial implication are taken by the Executive, the Chief Financial Officer and the senior officer(s) for the service(s) concerned must be consulted. This is to ensure that those officers who are budget holders:
- are aware of the proposed decision
  - have had the opportunity to offer advice, and
  - are subsequently able properly to authorise the financial transactions needed to implement decisions.
- 8.6 An individual Executive member who is minded to write or commission a report about a matter within his/her portfolio must ensure that those other members and officers who need to know of the matter are so informed. There is a particular requirement to involve other Executive members on cross-cutting issues.
- 8.7 When making decisions, Executive members must state the reasons for those decisions. The written record of the decisions must include the reasons.
- 8.8 Where functions which are the responsibility of the Executive are delegated to Officers or other structures outside the Executive, the Executive will nevertheless remain accountable to the Council, through Overview and Scrutiny Committees, for the discharge of those functions. That is to say, the Executive will be held to account for both its decision to delegate a function and the way that the function is being carried out. Officers taking decisions under delegated powers must consider the advisability of informing the relevant Executive member(s) of their intentions in advance when the matter to which the decisions relate is likely to be sensitive or contentious, or has wider policy implications.
- 8.9 Officers will continue to work for and serve the local authority as a whole. Nevertheless, as the majority of functions will be the responsibility of the Executive, it is likely that in practice many Officers will be working to the Executive for most of their time. The Executive must respect the political neutrality of the Officers. Officers must ensure that, even when they are predominantly supporting the Executive, their political neutrality is not compromised.
- 8.10 In organising support for the Executive, there is a potential for tension between senior officers and Cabinet Members with portfolios. All Members and Officers need to be constantly aware of the possibility of such tensions arising and Officers and Members need to work together to avoid such tensions and conflicts existing or being perceived.

**The Relationship: Officer Support: Overview and Scrutiny**

- 9.1 Chairmen and other leading overview and scrutiny members shall maintain regular contact with the officer(s) providing the principal support to the overview and scrutiny function. In consultation with chairmen, it shall be the responsibility of those officers to ensure that those who need to know of matters being considered or for possible future consideration are so informed.
- 9.2 An overview and scrutiny committee or its chairman acting on its behalf may require officers to attend overview and scrutiny meetings. Regard must be had to the provisions of the Council's Overview and Scrutiny Procedure Rules in respect of the periods of notice which must be given about such attendance. Members should not normally expect junior officers to give evidence. All requests should be made to senior officers in the first instance.
- 9.3 It is recognised that officers required to appear before an overview and scrutiny committee may often be those who have advised the Executive or another part of the Council on the matter under investigation. In these circumstances, the officer may have a conflict of interest. Both members and officers need to consider the severity of the conflict. If deemed appropriate, research and advice may be sought from external sources.
- 9.4 Subject to 9.3 above, officers should be prepared to justify advice given to the Council, the Executive, or other committees, even when the advice was not accepted. Officers must also be prepared to justify decisions they have taken under delegated powers.
- 9.5 In giving evidence, officers must not be asked to give political views.
- 9.6 Officers should respect Members in the way in which they respond to Members' questions.
- 9.7 Members should not ask questions of officers or other witnesses in a way which could be interpreted as harassment. Neither should they ask about matters of a disciplinary nature. It is not overview and scrutiny's role to act as a disciplinary tribunal in relation to the actions of Members or officers. Neither is it the role of officers to become involved in what would amount to disciplinary investigations on a Panel's behalf. This is the Chief Executive's function alone in relation to staff, the Monitoring Officer's and the Standards Committee as regards the conduct of Members. This means:
- Whilst overview and scrutiny may seek to establish the facts about what occurred in the making of decisions or implementing of Council policies, their questioning should not be directed to the conduct of individuals in such a way that there is the implication of allocating criticism or blame;
  - In these circumstances, it is for the Chief Executive to institute a formal enquiry, and overview and scrutiny may ask (but not require) him/her to do so.
- 9.8 Overview and scrutiny proceedings must not be used to question the capability or competence of officers. Chairmen and Members need to make a distinction

between reviewing the policies and performance of the Council and its services, and appraising the personal performance of staff. The latter is not an overview and scrutiny function.

- 9.9 Overview and scrutiny should not act as a 'court of appeal' against decisions or to pursue complaints by individuals (Councillors, Officers, or members of the public) as other procedures exist for this. Some of these are internal, e.g. the Corporate Complaints Procedure, and others are external/statutory, e.g. Commissioner for Local Administration or appeal to the Courts. That said,
- Overview and scrutiny may investigate the manner in which decisions are made
  - They can comment on the merits of a particular policy affecting individuals.
- 9.10 It would be unfair to invite someone to appear before a Panel without telling them in general terms what they will be asked, or not giving them adequate time to prepare. Overview and scrutiny Members ought to provide written questions ('Indicative Topics') beforehand, so that the answers can form the basis of the questioning and discussion. In addition, speakers ought to be told the general line that further questioning is likely to take. Questioning should not stray outside the subject area that the Panel had previously indicated.

### **The Relationship: Officer Support: Regulatory Committees**

- 10.1 The appropriate senior officers will offer to arrange regular informal meetings with chairmen, vice-chairmen, and spokesmen of regulatory committees and sub-committees.
- 10.2 Senior officers have the right to present reports and give advice to regulatory committees.
- 10.3 Members of a regulatory committee or sub-committee shall take decisions within the remit of that committee or sub-committee, and will not otherwise instruct officers to act.
- 10.4 At some regulatory committee or sub-committee meetings, a resolution may be passed which authorises a named officer to take action between meetings in consultation with the chairman. In these circumstances it is the officer, not the chairman, who takes the action and is responsible for it. A chairman has no legal power to take decisions on behalf of a committee or sub-committee, neither should he/she apply inappropriate pressure on the officer.

### **Local Members and Officers**

- 11.1 To enable them to carry out their ward role effectively, Members need to be fully informed about matters affecting their ward. Senior officers must ensure that all relevant staff are aware of the requirement to keep local Members informed, thus allowing Members to contribute to the decision-making process and develop their representative role.

11.2 This requirement is particularly important:

- During the formative stages of policy development, where practicable
- In relation to significant or sensitive operational matters
- Whenever any form of public consultation exercise is undertaken, and
- During an overview and scrutiny investigation

Issues may affect a single ward but where they have a wider impact, officers should ensure that all relevant Ward Members are informed.

11.3 Whenever a public meeting is organised by the Council to consider a local issue, all the Members representing the wards affected should be invited to attend the meeting as a matter of course.

11.4 If a local Member intends to arrange a public meeting on a matter concerning some aspect of the Council's work, he/she should inform the relevant officer. Provided that the meeting has not been arranged on a party political basis:

- An officer may attend and
- The meeting may be held in Council-owned premises

No such meetings should be arranged or held in the immediate run-up to Council elections (i.e. from the date on which Notice of Election is issued).

11.5 Whilst support for Members' ward work is legitimate, care should be taken if staff are asked to accompany Members to ward surgeries. In such circumstances:

- The surgeries must be open to the general public, and
- Officers should not be requested to accompany Members to surgeries held in the offices or premises of political parties.

11.6 Officers must never be asked to attend ward or constituency political party meetings.

11.7 It is acknowledged that some Council staff (e.g. those providing dedicated support to Executive members) may receive and handle messages for Members on topics unrelated to the Council. Whilst these will often concern diary management, care should be taken to avoid Council resources being used for private or party political purposes.

11.8 In seeking to deal with constituents' queries or concerns, Members should not seek to jump the queue but should respect the Council's procedures. Officers have many pressures on their time. They may not be able to carry out the work required by Members in the requested timescale, and may need to seek instructions from their managers.

**Members' Access to Information and to Council Documents**

- 12.1 This part of the protocol should be read in conjunction with the Access to Information Rules in the Council's constitution. Regard should also be had to the provisions of the Freedom of Information Act, and the rights of Members described in this section of the protocol are supplementary to their rights as members of the public under that Act.
- 12.2 Members have the ability to ask for such information explanation and advice as they may reasonably need in order to assist them in discharging their role as a Member of the Council. This can range from a request for general information about some aspect of the Council's activities to a request for specific information on behalf of a constituent. Where information is requested on behalf of a third party, it will only be provided if:
- It is in the public domain, and
  - the Data Protection Act does not prevent disclosure
- 12.3 Every member of the Executive, an overview and scrutiny committee, and/or any other committee or sub-committee, has a right to inspect documents about the business of that overview and scrutiny committee, other committee or sub-committee or the Executive. In relation to business of the Executive, by virtue of Regulation 17 of the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000:
- where there is a meeting (e.g. Cabinet) and there is a document which is in the possession/under the control of the Executive relating to the business to be conducted at that meeting, that document shall be available for inspection;
  - there are exceptions for exempt and confidential material and any document that contains advice provided by a political advisor or assistant.
- 12.4 A Member who is not a member of a specific overview and scrutiny committee, other committee or sub-committee, or the Executive may have access to any document of that specific part of the Council provided:
- He/she can demonstrate a reasonable need to see the documents in order to carry out his/her role as a member (the "need to know" principle), and
  - The documents do not contain "confidential" or "exempt" information as defined by law.
- 12.5 The exercise of the "need to know" principle depends upon an individual Member being able to demonstrate that he/she has the necessary 'need to know'. In this respect a Member has no right to 'a roving commission' to go and examine documents of the Council. Mere curiosity is not sufficient. The crucial question is the determination of the 'need to know'. This question must initially be determined by the particular senior officer whose Division holds the document in question (with advice from the Head of Legal & Democratic Services). In the event of dispute, the question falls to be determined by the Head of Paid Service



- 12.6 A member should obtain advice from the Monitoring Officer and/or Head of Legal & Democratic Services in circumstances where he/she wishes to have access to documents or information:
- Where to do so is likely to be in breach of the Data Protection Act, or
  - Where the subject matter is one in which he/she has a personal or prejudicial interest as defined in the Members' Code of Conduct.
- 12.7 Any Council information given to a Member must only be used by the Member for the purpose for which it was requested, i.e. in connection with the proper performance
- 12.8 Whilst the term 'Council document' is very broad and includes for example, any document produced with Council resources, it is accepted by convention that a Member of one party group will not have a 'need to know' and therefore a right to inspect a document which forms part of the internal workings of another party group.
- 12.9 Members and officers must not disclose information given to them in confidence without the consent of a person authorised to give it, or unless required by law to do so. When requested to do so, officers will keep confidential from other Members advice requested by a Member.
- 12.10 Further and more detailed advice regarding Members' rights to inspect Council documents may be obtained from the Head of Legal & Democratic Services.

### **Media Relations**

- 13.1 Local authorities are accountable to their electorate. Accountability requires local understanding. This will be promoted by the Authority, explaining its objectives and policies to the electors and rate-payers. In recent years, all local authorities have increasingly used publicity to keep the public informed and to encourage public participation. Every Council needs to tell the public about the services it provides. Increasingly, local authorities see this task as an essential part of providing services. Good effective publicity aimed to improve public awareness of a Council's activities is, in the words of the Government, to be welcomed.
- 13.2 Publicity is, however, a sensitive matter in any political environment because of the impact it can have. Expenditure on publicity can be significant. It is essential, therefore, to ensure that local authority decisions on publicity are properly made in accordance with clear principles of good practice. The Government has issued a Code of Recommended Practice on Local Authority Publicity. The purpose of the Code is to set out such principles. The Code affects the conventions that should apply to all publicity at public expense and which traditionally have applied in both central and local government. The Code is issued under the provisions of the Local Government Act 1986 as amended by the Local Government Act 1988 which provides for the Secretary of State to issue Codes of Recommended Practice as regards the content,

style, distribution and cost of local authority publicity, and such other matters as he/she thinks appropriate. That section requires that all local authorities shall have regard to the provisions of any such Code in coming to any decision on publicity. The following is extracted from the Code:-

*“The period between the notice of election and the election itself should preclude proactive publicity in all its forms of candidates and other politicians involved directly in the election. Publicity should not deal with controversial issues or report views, proposals or recommendations in such a way that identifies them with individual members or groups of members. However, it is acceptable for the authority to respond in appropriate circumstances to events and legitimate service enquiries provided that their answers are factual and not party political. Members holding key political or civic positions should be able to comment in an emergency or where there is a genuine need for a member level response to an important event outside the authority’s control. Proactive events arranged in this period should not involve members likely to be standing for election.”*

- 13.3 All formal relations with the media therefore must be conducted in accordance with the Council’s agreed procedures, with the law on local authority publicity, and with the Government’s Code of Recommended Practice on Local Authority Publicity.
- 13.4 Press releases or statements made by officers must promote or give information on Council policy or services. They will be factual and consistent with Council policy. They must not be used to promote a party group.
- 13.5 Officers will keep relevant Members informed of media interest in the Council’s activities, especially regarding strategic or contentious matters. Likewise officers will inform the Council’s Press Officer of issues likely to be of media interest, since that unit is often the media’s first point of contact.
- 13.6 If any Member is contacted by, or contacts the media, on an issue, he/she should
- Indicate in what capacity he/she is speaking (e.g. as Portfolio Holder, as Ward Member, on behalf of the Council, or on behalf of a party group)
  - If necessary (and always when he/she would like a press release to be issued), seek assistance from the Council’s Press Officer and/or relevant senior officer, except in relation to a statement which is party political in nature, in which case the statement should not be issued under the Council’s name
  - Consider the likely consequences for the Council of his/her statement (e.g. commitment to a particular course of action, image, allegations of jumping to conclusions or pre-determining a decision)
  - Never give a commitment in relation to matters which may be subject to claims from third parties and/or are likely to be an insurance matter
  - Consider whether to consult other relevant Members

- Take particular care in what he/she says in the run up to local or national elections (i.e. from the date on which Notice of Election is issued) to avoid giving the impression of electioneering, unless he/she has been contacted as an election candidate or as a political party activist

### Correspondence

- 14.1 Correspondence between an individual Member and an Officer should not normally be copied (by the Officer) to any other Member. Where exceptionally it is necessary to copy the correspondence to another Member, this should be made clear to the original Member. In other words, a system of 'silent copies' should not be employed.
- 14.2 Official letters on behalf of the Council should normally be sent in the name of the appropriate Officer, rather than in the name of a Member. It may be appropriate in certain limited circumstances (e.g. representations to a Government Minister) for a letter to appear in the name of a Cabinet Member or the Leader, but this should be the exception rather than the norm. Letters which, for example, create legal obligations or give instructions on behalf of the Council should never be sent out in the name of a Member, Executive or otherwise. The Chairman of the Council may initiate correspondence in his/her own name.
- 14.3 When writing in an individual capacity as a ward Member, a Member must make clear that fact.

### Access to Premises

- 15.1 Officers have the right to enter Council land and premises to carry out their work. Some officers have the legal power to enter property in the ownership of others.
- 15.2 Members have a right of access to Council land and premises to fulfil their duties. When making visits as individual Members, Members should
- Except in the case of visiting The Council House, and wherever practicable, notify and make advance arrangements with the appropriate manager or officer in charge;
  - Comply with health and safety, security and other workplace rules;
  - Not interfere with the services or activities being provided at the time of the visit.

### Use of Council Resources

- 16.1 The Council provides all Members with services such as IT,, printing and photocopying, and goods such as stationery and computer equipment, to assist them in discharging their roles as Members of the Council. These goods and

services are paid for from the public purse. They should not be used for private purposes or in connection with party political or campaigning activities.

- 16.2 Members should ensure that they understand and comply with the Council's own rules about the use of such resources, particularly
- Where facilities are provided in Members' homes at the Council's expense
  - In relation to locally-agreed arrangements, e.g. payment for private photocopying; and
  - Regarding ICT security
- 16.3 Members should not put pressure on staff to provide resources or support which officers are not permitted to give. Examples include::
- Business which is solely to do with a political party
  - Work in connection with a ward or constituency party political meeting
  - Electioneering
  - Work associated with an event attended by a Member in a capacity other than as a member of the Council
  - Work in connection with another body or organisation where a Member's involvement is other than as a Member of the Council
  - Support to a Member in his her capacity as a councillor of another authority

### **Interpretation, complaints and allegations of breaches**

- 17.1 This part of the protocol should be read in conjunction with the Council's Confidential Reporting Code.
- 17.2 Members or officers with questions about the implementation or interpretation of any part of this protocol should seek the guidance of the Monitoring Officer.
- 17.3 A Member who is unhappy about the actions taken by or conduct of an officer should:
- Avoid personal attacks on or abuse of the officer at all times
  - Ensure that any criticism is well-founded and constructive
  - Never make a criticism in public, and
  - Take up the concern with the officer privately.
- 17.4 If direct discussion with the officer is inappropriate (e.g. because of the seriousness of the concern) or fails to resolve the matter, the Member should raise the issue with the officer's manager or the relevant senior officer.
- 17.5 A serious breach of this protocol by an officer may lead to an investigation under the Council's disciplinary procedure. Members may not themselves undertake investigations under the Council's disciplinary procedure and such investigations must be undertaken solely by the Head of Paid Service or other officer acting under his/her direction.

17.6 An officer who believes a Member may have acted other than in accordance with this protocol or the Members` Code of Conduct should raise his/her concerns with the Monitoring Officer, who will consider how the complaint or allegation should be handled. At a minor level, this may be no more than informally referring the matter to the leader of the relevant party group, but more serious complaints may be referred to the Standards Board for England.

**Conclusion**

18.1 Mutual understanding, openness on these sort of sensitive issues, and basic respect for each other are the greatest safeguard of the integrity of the Council, its Members and Officers.

18.2 This Protocol was first adopted by the Council as part of the Constitution on 5<sup>th</sup> July 2005 and revised in September 2006..

18.3 Copies of the Protocol will be issued to all Members as part of the Constitution upon election.

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**WORK PROGRAMME**

Relevant Portfolio Holder	Councillor Mark Bullivant
Portfolio Holder Consulted	Yes
Relevant Head of Service	Claire Felton, Head of Legal, Equalities and Democratic Services and Monitoring Officer
Wards Affected	All Wards
Ward Councillor Consulted	N/A
Non-Key Decision	

**1. SUMMARY OF PROPOSALS**

Members are requested to consider the future Work Programme of the Standards Committee.

**2. RECOMMENDATIONS**

**That, subject to any amendments made to it by the Committee, the Work Programme be approved.**

**3. KEY ISSUES****Financial Implications**

- 3.1 There are no financial implications associated with the contents of this report.

**Legal Implications**

- 3.2 There are no legal implications associated with the contents of this report.

**Service / Operational Implications**

- 3.3 Under the Localism Act 2011 the Council has a duty to promote and maintain high standards of conduct by elected Members and co-opted Members (with voting rights), at both district and parish level. A new Standards Committee was therefore established in July 2012 to enable the Council to discharge its duties in this regard.
- 3.4 A Work Programme is beneficial to the Committee for the following reasons:
- (a) to ensure the Committee is fulfilling its roles and functions in accordance with the Council's Constitution and any prevailing legislation; and

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- (b) to enable Officers to be proactive in supporting the Committee and for the Committee to be equally proactive in introducing change to ensure the Council is an ethical organisation, which promotes and maintains high standards of conduct of Members, and is an organisation which relates to the community and which continually strives to improve the service it provides.
- 3.5 The Work Programme is attached at Appendix 1. The Committee's Terms of Reference, which were approved by Full Council on 19th June 2012, are attached for Members' information at Appendix 2.
- 3.6 The Work Programme will appear as a regular item on all Standards Committee agendas.
- 3.7 Officers will update the Work Programme, as appropriate, in between meetings, where necessary in consultation with the Chairman of the Committee. Any changes to this will be reported to the next meeting of the Committee, as appropriate. Members of the Committee are welcome to contact Officers at any time with suggestions for the Work Programme.
- 3.8 The Work Programme is linked to the Council's Improvement Objective.

## **Customer / Equalities and Diversity Implications**

- 3.9 In terms of customer implications, a Work Programme will assist in informing Members, Officers and the public of the work being undertaken by the Committee in ensuring that the Council is an ethical organisation, which is well managed and is proactively working towards improvement.

## **4. RISK MANAGEMENT**

There are no risk implications associated with the contents of this report.

## **5. APPENDICES**

Appendix 1 - Standards Committee Work Programme  
Appendix 2 - Standards Committee Terms of Reference

## **6. BACKGROUND PAPERS**

None.



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7. **KEY**

Not applicable.

**AUTHOR OF REPORT**

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**APPENDIX 1**

**STANDARDS COMMITTEE WORK PROGRAMME**

[Note: Any items that it is proposed should be removed from the Work Programme are denoted by a strikethrough, with any new additions and/or rescheduled items appearing in bold italics.]

<b>Meeting date</b>	<b>Item(s) for consideration</b>
3rd April 2014	<ul style="list-style-type: none"><li>• Annual Review of the Operation of the Standards Committee.</li><li>• Calendar of meetings 2014/15.</li></ul>
July 2014 (2014/15 Municipal Year meeting dates to be set)	<ul style="list-style-type: none"><li>• Election of Chairman for the ensuing municipal year</li><li>• Election of Vice-Chairman for the ensuing municipal year</li><li>• Dispensations report (for Council Tax Setting, Budget Setting, Members' Allowances, Members' Speaking Rights and Outside Bodies – to go to the first meeting of the Committee following District Council Elections)</li></ul>
October 2014 (2014/15 Municipal Year meeting dates to be set)	
January 2015 (2014/15 Municipal Year meeting dates to be set)	
Item(s) for future meetings – date(s) to be determined	
<p>Note: All meetings of the Committee will include regular items such as:</p> <ul style="list-style-type: none"><li>• Minutes of previous meeting;</li><li>• Monitoring Officer's Report;</li><li>• Parish Councils' Representatives Report;</li><li>• Relevant Member complaint and/or investigation updates; and</li><li>• Work Programme.</li></ul>	

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**APPENDIX 2  
STANDARDS COMMITTEE TERMS OF REFERENCE**

<p>Terms of Reference</p>	<p>The Standards Committee will have the following roles and functions:</p> <ul style="list-style-type: none"><li>a. promoting and maintaining high standards of conduct by Councillors and any co-opted members of Council bodies;</li><li>b. assisting the Councillors and co-opted members to observe the Members' Code of Conduct;</li><li>c. advising the Council on the adoption or revision of the Members' Code of Conduct;</li><li>d. monitoring the operation of the Members' Code of Conduct;</li><li>e. advising, training or arranging to train Councillors and co-opted members on matters relating to the Members' Code of Conduct;</li><li>f. granting dispensations to Councillors and co-opted members from requirements relating to interests set out in the Members' Code of Conduct;</li><li>g. dealing with any report from the Monitoring Officer following an investigation into a complaint concerning the Members' Code of Conduct;</li><li>h. considering and determining allegations that a Councillor or co-opted Councillor may have failed to follow the Code of Conduct and where a breach of the Code is established impose sanctions as delegated by Full Council or make recommendations as to any sanctions to the appropriate person or body.</li><li>i. the exercise of g – h above in relation to the Parish Councils in the Council's area and the members of those parish Councils;</li><li>j. monitoring, and reviewing the operation of the Protocol on Member-Officer relations;</li><li>k. monitoring and reviewing the operation of the Protocol on Member-Member Relations.</li></ul>
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